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**SANTA FE**

**BOARD OF COUNTY COMMISSIONERS**

**REGULAR MEETING**

**January 31, 2006**

Harry Montoya, Chairman  
Virginia Vigil, Vice Chair  
Paul Campos  
Jack Sullivan  
Michael Anaya

SFC CLERK RECORDED 03/22/2006

**SANTA FE COUNTY**  
**REGULAR MEETING**  
**BOARD OF COUNTY COMMISSIONERS**

**January 31, 2006**

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 10:00 a.m. by Chairman Harry Montoya, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Following the Pledge of Allegiance and State Pledge, roll was called and indicated the presence of a quorum as follows:

**Members Present:**

Commissioner Harry Montoya, Chairman  
Commissioner Virginia Vigil, Vice Chairman  
Commissioner Paul Campos  
Commissioner Jack Sullivan  
Commissioner Mike Anaya

**Members Absent:**

[None]

**V. Invocation**

An invocation was given by John Michael Salazar of the County Manager's office.

**VI. Approval of the Agenda**

- A. Amendments**
- B. Tabled or withdrawn items**
- C. Consent Calendar: Withdrawals**

GERALD GONZALES (County Manager): Thank you, Mr. Chairman. The proposed changes from the staff level are as follows: If you look at the Consent Calendar, which is Section XII. Under Subsection C, which should be about page 5 at the very end, item number 20 has been withdrawn. Moving onto the next section on the same page, Staff and Elected Officials' Items, under E, Water Resources Department, there's a request to table item

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E. 2, that's the approval of the extension of the Santa Fe County water service area to the Santa Fe Canyon Ranch development.

Then on the next page under Matters from the County Manager, we've requested tabling item 2, that's the deferred compensation resolution. We're working out some legal issues there. Then there was an addition of item number 4, discussion and possible direction on the RFP for the federal lobbyist. And those are the only changes from the staff level, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Any changes from any of the Commissioners? Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. I would like to see if we could move item IX. D. to before IX. A. I know under Presentations we have employee of the quarter and a recognition of Paul Griffin and of Ben Serber. I was wondering if maybe we could move those three, A, B, and C right after the resolutions. That way we can hear those.

CHAIRMAN MONTOYA: Okay. Any other changes?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: As far as item XIII. B. 2, request approval for the extension of a www water service agreement to Santa Fe Canyon Ranch development, there's a request to table. I'm not sure what the cause or the need for tabling is but I notice there's a lot of public interest in this case expressed and I thought perhaps it would be best to have at least a short presentation today instead of a tabling. So I throw that out for discussion.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya, then Commissioner Vigil.

COMMISSIONER ANAYA: I would like to ask our Manager who requested the tabling.

MR. GONZALEZ: Mr. Chairman, there's a letter. I don't know if all of you have seen your copy but we tried to get it to all of you. The request came from Rosanna Vazquez, the attorney representing, apparently, the Santa Fe Canyon Ranch development. She was asking for tabling until the February 28<sup>th</sup> administration meeting.

COMMISSIONER ANAYA: Thank you, Gerald. And I would think that if the applicant is requesting tabling I don't have a problem tabling it. Thank you, Mr. Chairman.

COMMISSIONER VIGIL: Further clarification, Gerald. What was the basis for the request for the tabling?

MR. GONZALEZ: Mr. Chairman, Commissioner Vigil, just to read it into the record, the letter simply said, I'm requesting - the request for approval of the extension of the Santa Fe County water service area to Santa Fe Canyon Ranch development be tabled until the February 28<sup>th</sup> administrative meeting. Thank you, Very Truly Yours. That was the only information that was contained in the request.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I would prefer to have a basis for it but about that we can only make assumptions. I'm in agreement with Commissioner Anaya. If the applicant

has made a request I'm perfectly willing to comply with that request.

CHAIRMAN MONTOYA: Gerald.

MR. GONZALEZ: Mr. Chairman, we do have Ms. Vazquez present if anyone wants. I believe she'd be willing to respond to any questions.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I'm okay with the tabling, Mr. Chairman, if that's necessary to get some of the issues clarified that were in the packet.

CHAIRMAN MONTOYA: Okay. As am I, so I think we'll go ahead and leave that on for tabling until February 28<sup>th</sup>. Any other changes?

COMMISSIONER SULLIVAN: Do you want to do withdrawals now?

CHAIRMAN MONTOYA: Yes. Right now.

COMMISSIONER SULLIVAN: Mr. Chairman, just one item, XII. C. 11.

CHAIRMAN MONTOYA: XII. C. 11 under Consent will be pulled. All right. Any other changes?

COMMISSIONER CAMPOS: Mr. Chairman, I'd like to just get a couple of questions answered about XII. C. 16, the lighting agreement with DOT.

CHAIRMAN MONTOYA: Okay, so XII. C. 16 will be pulled also. Any others?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Move for approval as amended.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: Motion by Commissioner Anaya, second by Commissioner Vigil.

**The motion to approve the agenda as amended passed by unanimous [5-0] voice vote.**

**VII. APPROVAL OF MINUTES**

**A. Special Study Session on Affordable Housing, December 13, 2005**

COMMISSIONER ANAYA: So moved.

CHAIRMAN MONTOYA: Motion by Commissioner Anaya.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Second, Commissioner Campos. Any discussion?

**The motion to approve the December 13<sup>th</sup> affordable housing meeting passed by unanimous [5-0] voice vote.**



**VII. B. December 13, 2005**

COMMISSIONER ANAYA: So moved.

CHAIRMAN MONTOYA: Motion by Commissioner Anaya.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Second, Commissioner Campos. Any discussion?

The motion to approve the December 13<sup>th</sup> regular meeting passed by unanimous [5-0] voice vote.

**VIII. MATTERS OF PUBLIC CONCERN – NON-ACTION ITEMS**

CHAIRMAN MONTOYA: Is there anyone who would like to address the Commission at this time? Okay, three people – would you please come up here to the front and state your name for the record please.

GARY MILLER: Thank you, Mr. Chairman. My name is Gary Miller, a resident of Vista Ocaso, adjacent to La Pradera, which is item XIII. B.2 on your agenda today. I understand that item will be for deliberation and vote only, but a point of concern has arisen over the road realignment in the proposed development that only came to light as a result of the last meeting on January 10<sup>th</sup>, which I understand the Commission has requested the County Attorney for an opinion on.

Briefly, the road realignment was requested by the neighbors of Vista Ocaso unanimously, although there were other questions about development. But it was a unanimous request that we made to the developer of La Pradera and they conceded to that request. So it was our feeling that if any development there should be approved that that road realignment should be placed where it was represented in the Highway Corridor in the master plan amendment that was approved by the EZA last year in July of 2005. The gravity of my statement, I do have a little further illumination here if I may approach I'll just give you a copy. *[Exhibit 1]*

CHAIRMAN MONTOYA: Is this the letter you sent to us.

MR. MILLER: Yes. There was just an additional cover letter.

CHAIRMAN MONTOYA: Dated January 30<sup>th</sup>.

MR. MILLER: Yes.

CHAIRMAN MONTOYA: And you have additional information with regard to that?

MR. MILLER: Yes. It was just with regard to the fact that the residents of Vista Ocaso were not clear from the postings on the meeting on the 10<sup>th</sup> that the road realignment was an issue. They understood that it was just an academic matter of approving the individual plats for those phases.

CHAIRMAN MONTOYA: Okay. Go ahead and provide us that information and we'll review it prior to. Okay, next. Thank you, Gary.

GAIL SIMONSON: My name is Gail Simonson. I live in Vista Ocaso neighborhood. Good morning. This afternoon you'll be considering the partial approval of La Pradera housing development adjacent to our neighborhood. In addition to other items, the location of Dinosaur Trail and its use for access to La Pradera is still an issue. Vista Ocaso neighborhood came to an agreement with the developer that the access to La Pradera development would not use the current Dinosaur Trail road through our neighborhood. They agreed to the new location that bordered I-25, extending the newly paved section of Dinosaur Trail that serves Phase 1 of La Pradera. They agreed that the current Dinosaur Trail would become a dead end. They agreed to a buffer between our two communities that we consider to be the minimum acceptable and which Vista Ocaso neighborhood wants to keep.

Our neighborhood wants a route that will keep traffic through the existing neighborhood to a minimum in order to keep traffic noise in our neighborhood at a more acceptable level, provide for safer pedestrian use, reduce wear and tear on our privately maintained and funded road, and protect the rural character of our neighborhood as set out in the Community College District Plan. Thank you.

CHAIRMAN MONTOYA: Thank you, Gail. Next, please.

BOB WILBER: My name is Bob Wilber and I'm also a resident of the Vista Ocaso Subdivision. And I was also a member of the committee appointed by our neighborhood association to negotiate with Gardner and Associates on the impact of La Pradera, phases 2 through 4. We met several times last winter and spring and discussed the number and location of lots, the location and width of the buffer zone between La Pradera and Vista Ocaso, the location of La Pradera's sewage treatment plant, the road network, trails, and other matters. We didn't get as large a buffer as wanted, but we compromised on that in return for a reduction of the number of lots in La Pradera, 2 through 4, and construction of a new road near the freeway corridor to divert traffic from the Vista Ocaso segment of Dinosaur Trail, which our neighborhood association constructed and maintains.

As I recall, it was also agreed that the Vista Ocaso segment would become a dead-end road with a school bus turn around at the end. I don't recall any discussion about the new bypass road being placed within the I-25 corridor and the requirement for a variance to do that, nor do I remember that being discussed with the Extraterritorial Commission when they approved the master plan amendment for La Pradera.

I attended that meeting and if it was discussed I just don't remember it. It appears to be an oversight to me, and I recommend you postpone your decision today and ask the developer to consider moving the bypass road to the southern edge of the I-25 buffer, and I recognize that in making that recommendation that it may require some rearrangement or deletion of some of the lots that were originally included in the master plan. Thank you.

CHAIRMAN MONTOYA: Thank you, Bob. Next.

ROBERT ROMERO: Mr. Chairman, members of the Commission, I'm Robert Romero. I'm a resident of La Cienega. I'm also president of the La Cienega Valley Association and I sit on the La Cienega Mutual Domestic Water Association board. I came here to address a matter of public concern in regards to our community, in regards to this water line extension.

We're concerned that these water line extensions are going out to undeveloped areas of the county before considering the areas that have been developed, like areas around the racetrack area, Mutt Nelson Road, and Remuda Ridge.

These areas are being subdivided through family transfers, and they're subject to La Cienega watershed conditions. These conditions state that individuals subdividing their lots down below the minimum lot size through family transfers are subject to connect to the County water system when it comes within 200 feet. We are concerned that this is not happening. Our associations have made several requests to the County for the County to extend their lines to these developed areas, and we would like the County to consider this before extending and sprawling their utility out to undeveloped areas of the county.

These areas in particular have a very great impact on our springs, our acequias, our wells there in the area of our mutual domestic, our supplemental wells for our acequias as well. We're not necessarily opposed to the County supplying water to this particular request, but if it's going to be coming from the aquifer it really doesn't make any sense to continue to pump the aquifer. If it's imported water I think it would have the support of the community. But if the County's going to continue to drill wells, what's the difference between the County's water system drilling a well and the developer? It really is not much difference.

I don't want to take too much time. I know the item's been tabled and I really hope that our community's concern is taken into consideration when you guys all make this decision. Thank you.

CHAIRMAN MONTOYA: Thank you, Robert.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: A question for Mr. Romero. I've gotten some calls from residents in La Cienega concerned about this development. One is to size, two is to impact on the rest of La Cienega, issues like that. What do you hear, Mr. Romero?

MR. ROMERO: I'm trying to stay open-minded. I do sit on the advisory committee to the Commission. It's recognized that the property owners have a certain right to develop their property, but we did develop a community plan and I hope the Commission and members of the advisory committee consider the plan as this project moves forward. I think the developers are willing to work with the community. They have shown that through their various meetings through the community. Yet we see developments being proposed and then they land up taking a different direction. So we've got to kind of follow this through and see how it pans out. But right now as it stands, I guess the density that's being proposed, it's kind of preliminary, it basically threatens to double the size of our community's population if it stands as it's proposed. But it's real preliminary now to really say whether it's going to sit with the community or not. So I don't know, really, how much more to respond to that.

COMMISSIONER CAMPOS: That's fine, Mr. Romero. I appreciate your comments.

CHAIRMAN MONTOYA: Thank you, Robert. We appreciate it and we'll take your comments into consideration as well, definitely. Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, thank you. I want to thank Robert Romero for coming and sharing his views, and that is one of the issues that we are trying to continue doing is trying to extend our water line into the community, just trying to extend the water lines in the community and not go past them and serve other people yet. But we are working on that and I know our water guy is here and I've talked to him several times on how we can - there's things in the books where people have been calling and wondering when the County water is going to come to their particular home. So those are things that we need to look at.

Mr. Chairman, if I could, I'd like to just recognize one of our representatives in the audience, Representative Larry Larranaga and his lovely wife is here. And Mr. Chairman, I noticed that our Judge Miera is in the back over there. Thank you for being here. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. We have one other item for public concern. Go ahead and come up, David.

DAVID SCHUTZ: Thank you, Mr. Chairman, members of the Commission. I'm David Schutz and I am the planning consultant for the project that Robert spoke to earlier. He's correct. We have been meeting with the La Cienega community over the last several weeks to discuss the various concerns that they have raised regarding water impact, density and the like. We are proposing to develop a sustainable community out there, employing the latest technologies and the highest standards of sustainable communities. The use of solar energy, splitting the graywater and the black water systems, reusing all of our water, up to 1300 acres, we're proposing 800 acres of open space, clustered housing.

We are proposing housing for teachers, housing for the elderly, housing for police officers, housing for firefighters, housing for nurses, to try and meet the housing needs of the middle class that's currently being squeezed out of this community and commuting from Rio Rancho. So we're very sensitive to all of those needs. We propose to bring imported water into the community to recharge the aquifer. So we continue to meet with La Cienega residents. We've had four meetings to date; we're going to have another one very soon. Many of the concerns that they've raised are very valid concerns, and I assure you, I assure the Commission that we will not move forward until we've made every effort to address these concerns and that we're responsible in what we're doing.

This Commission approved the La Cienega Community Plan several years ago and it calls for certain requirements in regard to density and zoning and land use. We will comply with that plan. We have embraced that plan. We are not in violation; we are in total compliance with the plan. We've been working with Robert. We've been working with his father. We've been working with all of his immediate neighbors. We've been going door-to-door talking to people, and we hope that they will join us at the appropriate time at this Commission meeting down the road in support of this project because of what we're doing. And we hope this project to be a model, a showcase development for future development in Santa Fe County, not only in Santa Fe County but for the city as a whole. And that's our intent and that's where we're going. Just wanted to clarify that.

And the reason we tabled, we asked for table on this is because we have yet to work out all of the issues with the folks out there and we wanted you to get a clearer picture of where we were coming from before you made such an important decision. Thank you.

CHAIRMAN MONTOYA: Thank you, David. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Schutz, just one quick question since you're here today. I appreciate your comments. I was a little confused and maybe you'll help me understand the development. The proposal that I read indicated that you wanted the water service lines extended and that County water would only be used to provide water for the affordable housing within the development and that existing onsite wells would be used in phase 1 for the rest of the development. Is that still the plan?

MR. SCHUTZ: Well, the final water development program hasn't been fully ironed out. There are some in La Cienega, there's a certain faction in La Cienega would prefer that we transfer our water rights - we have existing water rights on the property, to the County so that the County could serve us for the affordable housing and for the market rate houses. There's another faction of the community that doesn't want us to transfer the water rights to the County. So we're working through that to try to develop an acceptable program. I must tell you that we are in the process of purchasing and have under contract, or have already purchased Rio Grande, pre-1907 Rio Grande water rights and we hope for that water to be delivered through the Buckman Diversion project so that we can serve the community with imported water. And if we are successful in our split-plumbing program, we will be able to actually recharge the groundwater with imported water. So we'll have a zero effect - we'll actually have a water surplus effect on the local aquifer.

We plan to take treated graywater and bring it to drinking water standards. That water will then be available to the community for the acequias, to supplement the acequias or for irrigation needs. The other thing that I'm very excited about, Commissioner, is we're working with Mr. Romero in trying to develop a program under which we would terminate all of the septic tank contamination problems in the area by tying them into our wastewater treatment facility. So we would eliminate the continued contamination of the aquifer by providing them with a wastewater treatment facility and then we would clean that water up and return it back to them. And so we're very excited about that program. We are making some inroads and we are working very closely with them.

COMMISSIONER SULLIVAN: Well, we'll get into that of course when we review the application. I just, on the surface, was a little confused about it didn't seem to make a lot of economic sense to do an extension of the County water system and only use that to supply 30 percent of the residents there, if we're going to provide lines and fire hydrants and storage and wet water it seemed like it should either be all or nothing. You're either on wells or you're on the County water system. I couldn't see the rationale of doing both there. But we can get into that later if you're still evaluating that.

MR. SCHUTZ: We are.

COMMISSIONER SULLIVAN: Thank you.

CHAIRMAN MONTOYA: Okay. Let's move on. Any other individuals who'd

like to have an issue with the Commission.

PAUL DURAN: Mr. Chairman, Commissioners, I don't have any issues but I do have just one thing I'd like to say. Several years ago we went to Arizona as a Commission and checked into the aquifer injection program and the way that they treated their effluent, and that process was used to increase the community's capacity to use their water resource. And I don't know what's happened over the last two or three years but I really think that that aquifer injection program needs to be moved along and we need to talk to the City because they're the ones that obviously own the wastewater treatment facility.

But that would be one way of managing our resource and I think it's important that we pursue that. The BCC is going to be one source of water for us but it's not going to be the only source, and I think that this aquifer injection program, we need a kick-start on that again and start moving forward on it. That's all. Thank you.

CHAIRMAN MONTOYA: Thank you, Commissioner Duran. If we could do that, Gerald.

MR. GONZALEZ: Mr. Chairman, members of the Commission, anything you say that you'd like staff to do, we'll do. It may take sooner or later, but we'll get there eventually.

CHAIRMAN MONTOYA: Okay. Thank you.

#### **IX. MATTERS FROM THE COMMISSION**

##### **D. Resolution No. 2006-5. A Resolution Dedicating the Camino de Jacobo County Housing Site as the "Jacob D. Martinez Community Housing Site" (Commissioner Anaya)**

COMMISSIONER ANAYA: Thank you, Mr. Chairman. If I could have Mr. Martinez come forward and his wife and family, come sit in the front pew over here. I know we've got a lot of family members out there. Raise your hands.

A resolution dedicating the Camino de Jacobo County Housing Site as the Jacob D. Martinez community housing site.

Whereas, Commissioner Jacob D. Martinez, a family man, with wife Anna Marie and four children, Mario, Jacob, Gerard and Maria; and

Whereas Commissioner Martinez is a graduate of St. Michael's College, University of New Mexico, St. John's College, attended San Jose State College and the University of College; and

Whereas Commissioner Martinez was the first Hispanic graduate to receive a masters degree from St. John's College; and

Whereas, Commissioner Martinez is a World War II veteran and retired Brigadier General in the New Mexico National Guard; and

Whereas, Commissioner Martinez has been a model citizen of Santa Fe County; and

Whereas, Commissioner Martinez was Santa Fe County Commission from 1978 to 1982; and

Whereas, Commissioner Martinez was instrumental in acquiring the money necessary to build the Jacobo housing site; and

Whereas, Commissioner Martinez has strived in education and coaching to provide for the well-being of numerous children in Santa Fe County, with particular emphasis on sports and education that provide the opportunities for youth; and

Whereas, Commissioner Martinez have provided guidance and vision to numerous boards and organizations throughout Santa Fe County and the state of New Mexico; and

Whereas, Commissioner Martinez has been named Coach of the Year numerous times throughout the state of New Mexico; and

Whereas, Commissioner Martinez has been named Who's Who in the West, listed as a prominent American, and has received over 20 awards in his lifetime from sports to education to military honors; and

Whereas, it is appropriate to memorialize Commissioner Martinez' valuable contribution to our community.

With that, Mr. Chairman, I'd like to make a motion to adopt this resolution.

CHAIRMAN MONTOYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: I second that motion, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Motion and a second. Discussion?

**The motion to approve Resolution 2006-5 passed by unanimous [5-0] voice vote.**

COMMISSIONER ANAYA: Now, therefore, be it resolved by the Board of County Commissioners of the County of Santa Fe that the Camino de Jacobo community housing site, located at 52 Camino de Jacobo, Santa Fe, New Mexico, be dedicated and be known as the Jacob D. Martinez Community housing site. Approved, adopted and passed, on this day, January 31, 2006, by the Board of County Commissioners. Congratulations.

Who would like to say some words first? Jose?

JOSE MORFIN: Good morning, Commissioners, distinguished guests, all friends of Jake, I'm sure. I don't know who doesn't know him in this city and this county. Back in 1976, 30 years ago - I can't believe how fast time flies - while I was attending Northern New Mexico Community College, my first year there, I was going down the hallway one day and ran into this gentleman that apparently knew me and stopped by and said hello and not knowing that this man was going to become a great influence in my life back then. Jake Martinez back then was the basic education director for Northern New Mexico Community College.

That year, in getting to know Jake a little bit, Jake encouraged me to run for the student body council, which I did, was successful, and that's how I started out in politics. So Jake, this is where I am now and this is who you were part of making me be here

today. But because of Jake's great influence on my life, and not only my life but throughout the years, what I've seen what he's done for many people in the community, and not only for people but for the community itself with all the great service and dedication that he has had during this time, I stand here and give testimony that with people like Jake on this planet, people like me that probably, if I had not met him at that point in my life, I really don't know where I might be today.

But because of his influence in encouraging me to get an education, to go out and volunteer for the community, to do things for other people, I've been able to do that for the last 30 years and I thank my lucky stars and my higher power, who I choose to call God that he was able to put Jake there in my path. Jake, I just wanted to let you know that in being at a conference last April I ran into Commissioner Mike Anaya, who by the way is my Commissioner in my district and a little plug - Mike, you do a really great job. Continued success. But him and I sat down and I was explaining to Commissioner Anaya a little bit about Jake and I had known that Camino Jacobo, when the housing complex had been established, was because of Jake Martinez. And I thought Jake's getting a little bit older, a lot wiser, but a little bit older, so I thought what is there that we can do in order to make sure that Jake's name will be around for many, many years to come.

And so we discussed it, and thank you, Commissioner, for listening to me and for putting this on today. Jake Martinez, thank you for being an influence in my life. And you know what? My family, myself and all my friends, and I know this community, thank you so very much.

GERARD MARTINEZ: Chairman Montoya, Commissioner Anaya, thank you very much. Commissioners Campos, Sullivan and Vigil, on behalf of my mother, Anna Maria Socorro Valencia de Martinez, also known as Mary, my brothers Mario, Jake, Jr., my favorite sister Maria, myself and our entire family, I want to thank you for this momentous event in our family's history. My father served as County Commissioner along side Mr. Rudy "Froggy" Fernandez, Sam Garcia, the late Bennie Chavez and the late John "Bouncer" Sena in the late 1970s to early 1980s.

They created and continued a legacy of affordable and senior housing, indigent care, land use, a new jail, sheriff's and deputy's safety needs, a judicial complex, which we now know has outgrown its capacity, and of course, roads. And you know, there will always be issues about roads and there will never be enough roads and never enough paved roads or roads that fall apart during bad weather. But their accomplishments were many and they're actions and the regard and care for the citizens they serve, much like the responsibilities you have exemplified. One example of this too, in this courthouse, right behind you, a commissioned piece by Frederico Vigil was put up during this Commission time, and that's part of the legacy they visually see and that you are in front of every time you are here to govern.

These were leaders of service and vision. Commissioner Martinez served as a board member and president of the New Mexico Association of Counties, and also served as a board member of the National Association of Counties. One of my favorite stories, he was



one of the local leaders here. He was once called to Washington, DC by then newly elected Ronald Reagan as part of 50 elected officials from throughout the country, and briefed about how Reaganomics was going to help the country.

Following the meeting, the CBS news reporter asked my father what he felt about the president's initiatives. All these people were coming out and just praising him. Commissioner Martinez stated, "It doesn't work for the people I serve." And my father knew the people he served. So did the people that served along with him that provided that leadership. My father and the previous Commissioners knew their constituencies and worked hard to provide and improve the basic services and the local impact of a changing society and growth.

My father's actions in support of youth, seniors and basic citizen needs are attributes that are rarely exemplified in our current political climate. While many speak of these issues, my father and his fellow leaders achieved them. But when it comes to youth, now that's my father's forte. He still believes in our future and the promise young people possess. My father bestowed that hard work and dedication result in success. He helped with the first Little League and Babe Ruth baseball in Santa Fe. His decades of high school coaching and teaching helped develop great athletes and students, in particular, the 1966 Pecos Panthers state championship team. The only state championship for the Pecos basketball program to this day.

His forty years as a senior counselor and board member at Boys State helped inspire many of our current and past leaders, locally, statewide and in the region. Harry, you were one of my father's shining starts. Jose, you are too. In fact, I nicknamed Jose the Nambe son of the family. There are young men and women and some in their middle years in this room that were in some way helped by my father. Commissioner Martinez provided leadership for adult basic education, migrant education, prison education, Department of Transportation education, and as an administrator of Northern New Mexico Community College. He served on the state Parks and Recreation Commission under Governors Campbell and Cargo. And as you know, the list of his accomplishments can go on.

The Jacob D. Martinez community housing site, to have my father's name next to the word community is very much appropriate, and I thank you. My siblings and I grew up learning and observing my father and his better half - believe me when I say better half, our mother - support and involve us in the community. My parents have now been married for over 55 years, and yes, we have submitted an application to run for sainthood because my mother has had to put up with my father for so long.

Whether it was through my father's endless hours of coaching and teaching or my parents' dedication to our Catholic faith and what that truly means, and the Sociedad Colonial Española de Santa Fe members are here today, the Crucillos. And St. John's soup kitchen, helping found that program, again to name a few. They set an example rarely witnessed these days. The naming of Camino de Jacobo some years back soon led the south side location of the Boys and Girls Club. My father was very proud to see that that facility there was on him namesake street.

Now this community housing site, it is more than an honor for him and my family and my mother. We thank you for this honor and the perpetuation of the dedication and leadership my father provided to this governing body. Muchas gracias.

COMMISSIONER ANAYA: And we are going to do a little dedication party over there at the site, at 12:30, so you're welcome to join us. Commissioner, would you like to say a few words?

JACOB D. MARTINEZ: Thank you, Commissioners, Mr. Chairman, members of this body. I just want to say thank you to all my friends, people who have been here. I see one guy here, one of the first guys I coached in high school, and one of the last guys I coached. You're trying to tell me something, Bill.

But I do want to thank you. I think I've been in this room before, Mr. Chairman. Quite a few nights here. Thank you very much for your consideration on behalf of my family, myself, and all my friends, I do want to thank you very much. Especially you, Commissioner Anaya. You represent a very good district, you know. And you too, Commissioner Sullivan. Because at one time when we had three, your district was my district, and I hope you're taking care of my people down there.

COMMISSIONER ANAYA: Thank you, Commissioner.

CHAIRMAN MONTOYA: He continues to inspire me to this day.

## **X. PRESENTATIONS**

### **A. Employee of the Quarter**

MR. GONZALEZ: I'm going to have Brian come up and begin the presentation, Mr. Chairman, since he's doing the honors for one of his employees.

BRIAN BACA (Deputy Assessor): Mr. Chairman, Commissioners, ladies and gentlemen, good morning. It pleases me today to bring forward an employee who has been awarded Employee of the Quarter, and what's so pleasing to me today is that it's one of the employees of the Assessor's office. So I would like to thank appraiser Leonard Vigil to come forward. I would also like his immediate supervisor, Mr. Daniel King, our chief appraiser to come forward as well.

Leonard, on behalf of the County of Santa Fe and the Assessor's office, I'd like to present you with this certificate, recognizing you as Employee of the Quarter, for the fourth quarter of 2005. Congratulations. A job well done.

Mr. Chairman, Commissioners, Benito Martinez, our County Assessor was not able to be here today, therefore I was able to speak with him early this morning and he also wanted to express his sincere thanks and his congratulations to you Leonard for a job well done. Your efforts have not gone unrecognized. Again, on behalf of Benito, thank you. I also have Daniel King, who is Leonard's immediate supervisor and I believe he would like to say a few words.

DANIEL KING (Chief Appraiser): Mr. Chairman, members of the

Commission, there are many good employees in Santa Fe County. For Mr. Vigil to be selected amongst one of them as Employee of the Quarter is a great honor. It's not only a great honor for him, it's a great honor for myself and the Assessor's office. We take a lot of pride. Leonard, he has done a lot of accomplishments to help him to succeed in office. He's taken additional education courses. He always lends himself out to take additional tasks. It's not necessarily required of him as an appraiser, and that makes him a great asset to the Assessor's office. One of the biggest assets that he has is not helping so much himself to succeed, it's how much he helps myself to succeed in office, the office to succeed and the County in general to succeed. Everyone around him, he makes a great personal effort to help everybody have a certain amount of success in the tasks and assignments they have to accomplish on a daily basis.

I personally knew what a great asset he was to me. I believe the office knew what an asset he was to our office, and hopefully over the past I've expressed it so hopefully he realizes what kind of asset he was to our office. With this nomination, now everybody knows. This is just wonderful for Leonard Vigil and our office.

I want to thank the Commissioners, HR, everybody else involved in selecting him as Employee of the Quarter. I'd like to thank him personally to helping me to succeed in office. Thank you.

CHAIRMAN MONTOYA: Thank you, Daniel. Leonard, would you like to say anything?

LEONARD VIGIL (Appraiser): I'd just like to say a few things. I'd just like to say thank you to Brian and to my supervisor Daniel King, and to Benito Martinez and all the Commissioners, and to my fellow appraisers out there who work extremely hard for Santa Fe County. Thank you everyone.

CHAIRMAN MONTOYA: Congratulations, Leonard, and great job.

MR. BACA: Mr. Chairman, Commissioners, he's truly an asset to Santa Fe County. Thank you.

MR. GONZALEZ: Mr. Chairman, Commissioners, anytime you want to feel good about working here at Santa Fe County just walk up to Leonard and talk to him. He'll give you a lift.

CHAIRMAN MONTOYA: Congratulations, Leonard.

**X. B. Recognition of Ben Serber, Chairman of the Lodgers' Tax Advisory Board for 20 Years of Dedication and Service to Santa Fe County**

TERESA MARTINEZ (Finance Department): Mr. Chairman, members of the Commission, it is my honor and my pleasure to introduce to you today Mr. Ben Serber, many of whom you already know. We would like to recognize Ben today for 25 years of service, in his latter years, chairman of the Lodgers' Tax Advisory Board. Ben has been a huge asset to the board, brought a wealth of experience, advertising

experience. He served as the director of marketing for the Sears Roebuck Company in Chicago, retired to Santa Fe where he was quickly recruited to be the advertising director for the *New Mexican* and did marketing work also for Susan Kay's and other numerous accounts.

Ben also served on the Occupancy Tax Advisory Board for the City for eight years. He is retired I believe now, for good, and he is a veteran of World War II and the Korean War, an avid golfer, and brought many, many jokes to the board regarding the sport. Ben was and will continue to be a very professional, knowledgeable and helpful person. We applaud him, his accomplishments and his dedication and years of service to Santa Fe County. We'd like to present to him today a plaque that reads Santa Fe County appreciates your dedication and years of service as chairman of the Lodgers' Tax Advisory Board, Ben Serber, 1980 to 2005. Thank you.

BEN SERBER: Mr. Chairman, I'm the real Ben Serber. And 25 years on the board and 24 years as chairman, I was not looking to make any records as a volunteer. I was just lured by the fact that the board kept promising to double my salary every two years, which did not happen. Seriously, I'm proud. It was a pleasure and a privilege to serve. We had many accomplishments over the period of 25 years. We were able to make hundreds of recommendations and suggestions to the board and in my experience, only two were challenged. And now that I don't have to worry about an increase in salary, our recommendations were better.

I want to leave you in good hands. A couple of volunteer board members are here. I'd like them to be recognized. Florenceruth Brown and Florence Jaramillo. Would you stand please? Also the professional efforts of our agency, Impressions. Russ Roundtree, does a lot of advertising, and most of all, our magnificent staff assistant, Teresa Martinez. Thank you so much for the privilege, and as I said, I leave you in good hands and with lots of money in two accounts.

COMMISSIONER ANAYA: Mr. Chairman, I would like to thank you for all your time, Mr. Serber, and I thought maybe we were going to hear a golf joke. A clean one.

CHAIRMAN MONTROYA: Congratulations, Ben.

**X. C. Recognition of Paul Griffin, Budget Administrator and Sharon Vigil, Budget Analyst by the New Mexico Department of Finance & Administration, Local Government Division**

SUSAN LUCERO (Finance Director): Thank you, Mr. Chairman. On behalf of the New Mexico Department of Finance and Administration, Local Government Division, we would like to recognize the budget division of the Finance Department, which is under the direction of Paul Griffin, our budget administrator, and with the support and assistance of Sharon Vigil, our budget analyst, and Maricela Quintana, our support person.

And these individuals have worked and dedicated many countless hours to a quality work product that was clearly recognized by the Department of Finance and Administration, and I believe this is our budget's division's fifth straight year – fourth straight year. Oh, I was trying to give them a little bit more. Fourth straight year of receiving this award from the Local Government Division.

It is a very intriguing document in that there is so much quality work put in here and I think that is testimony to the award and certificate of merit as recognized by the Department of Finance and Administration. So with that, I'd like to ask you to extend your congratulations to Paul Griffin, Sharon Vigil, and Maricela Quintana.

MR. GONZALEZ: Paul, by the way, Mr. Chairman, members of the Commission, is the one who has me rewrite the Manager's introduction to the budget every year just to make sure that it reads fresh, clean, and he's the one who does the template drafting, so he does a great job and makes that much easier for me as the County Manager. Thank you, Paul, and thanks to all of you.

COMMISSIONER VIGIL: I'd like to say a few words about our Finance Department before they all rush out. I would just like to thank this opportunity to thank all of the diligent workers who sit behind desks and crunch the numbers and work with them. I would like to recognize them because having had the history here with Santa Fe County and being here when we had qualified audits, and worked with Commissioners and staff to restore the integrity to our Finance Department to get those good audits, and to move forward, not only to restore that integrity need through bare audits, but to start getting awards.

Mr. Chairman, I think we're at a place where I have a strong sense of pride in our Finance Department. Congratulations, all of you who work and don't always get recognized by us. I welcome the opportunity for DFA to recognize you. Thank you for all the hard work you do in Finance.

CHAIRMAN MONTOYA: Thank you. Commissioner Anaya.

COMMISSIONER ANAYA: I completely agree with what Commissioner Vigil said.

CHAIRMAN MONTOYA: Okay. Thank you.

**IX. A. Discussion and Direction Concerning County Housing Needs and Program (Commissioner Montoya) [Exhibit 2]**

CHAIRMAN MONTOYA: I asked that this be placed on the agenda to discuss, I guess, a concern that I have in terms of the consistency, as I see it, in terms of needing some sort of direction in our County housing program. We have not had a meeting – Gerald, when was the last meeting with our County Housing as a board?

MR. GONZALEZ: I believe it was mid-summer some time, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. So probably a little over six months. And

I think there had been some discussion at one point about having a separate board appointed by this Commission that would oversee the County Housing Authority and the program. And I just wanted to throw that out for discussion and see what the thoughts are of the Commission. Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. Right now, I don't get to participate in the Housing. I feel that it would be – in order for me to participate I think it would be good to have a board. That way, the board, we can kind of give it to them and let them kind of control what goes on in the housing. I do know about the rest of the Commission. We're very, very busy and we can't put a lot of our time in that particular area. I think if we had a board to oversee that then I think that it would help out our County and our housing needs. And plus, I would again get to participate in the housing. So thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, I am in agreement with Commissioner Anaya. I am perfectly willing to consider a Housing Board to assist us. We did that in the area of health. We have a very active and strong participating Health Policy and Planning Commission who has been able to focus on those issues and I think part of the reason why we haven't had a focus is because we haven't had the assistance of a community volunteer board. I know there are many people who are particularly interested in that who would be willing servants. So I'm in agreement with Commissioner Anaya's statement and I'd like that to be an item of consideration for a future discussion.

CHAIRMAN MONTOYA: Okay. Thank you, Commissioner Vigil.  
Commissioner Sullivan.

COMMISSIONER SULLIVAN: I'm not quite clear. Is the issue who is on the board or the fact that you brought up that the board just has been inactive?

CHAIRMAN MONTOYA: Probably more that it's been inactive, and also does not allow Commissioner Anaya to participate in any way. So those are –

COMMISSIONER SULLIVAN: Okay. Because my understanding is that that's a federal requirement as a part of HUD, and whether we agree with it or not, and I believe a formal inquiry was made to HUD about that particular issue and the legal response came back that because of the brother relationship he couldn't participate on the board. I'm certainly willing to support sending back another letter asking again. But I think the other point is more to the issue that we do have to have more involvement in the housing program, particularly now when we're looking at so many alternatives. We're looking at the possibility of using the funds that we have currently in the bank as a result of the sale of public housing. We're looking at affordable housing and all of those programs need to be on the table and we need to take full advantage of them.

CHAIRMAN MONTOYA: So are you in favor of looking at another board that we would appoint then, or would you want to remain –

COMMISSIONER SULLIVAN: I'd like to discuss it. I'd like to discuss it. I felt that it's useful to have the Commissioners involved in the decision making, but I also

agree as you've brought up that we haven't had frequent meetings. So I'm not sure that creating another board does what we want to accomplish but I'm certainly willing to listen to the pros and cons.

CHAIRMAN MONTOYA: Okay. Commissioner Campos.

COMMISSIONER CAMPOS: Thank you, Mr. Chairman. I'm neutral on that suggestion. I don't know what the right answer is right now without having an evaluation from staff. I think what you're suggesting is that we create a separate entity, the housing authority with its own board which would be separate and apart from the Board of County Commissioners. I think that was one idea that was floating around a year ago or so. So I think that's - are you proposing that? Creating a separate -

CHAIRMAN MONTOYA: Well, whether it would be a separate board but reporting to the Commission. The Commission would still have the final say-so in terms of any recommendations, just as Commissioner Vigil explained the way the HPPC is working, the DWI oversight, the Planning Council, it would be in that vein that I think I would suggest that we look at.

COMMISSIONER CAMPOS: An advisory board of some sort.

CHAIRMAN MONTOYA: Correct.

COMMISSIONER CAMPOS: Okay. I'm willing to listen to the arguments.

CHAIRMAN MONTOYA: Okay, so Gerald, could we get that and have that as, either as a discussion or presentation item on our next agenda?

MR. GONZALEZ: Certainly we can, Mr. Chairman, members of the Commission. I know Robert Anaya and I have discussed this. I know one of the issues that has occurred recently that probably takes some energy in terms of trying to organize Housing Board meetings has been the energy that's gone into the Affordable Housing Ordinance, and as we move into this area where we sort of have what's now I think a three-headed or a three-tiered approach to housing by the County. On the one hand we've got homeowner housing that's currently being run, that program, through the Housing Department. Then we have the - maybe it's four-headed. We have our own rental housing that's also being run through the Housing Department. Then we have the Section 8 housing, and now we have the housing program that will need to be administered in conjunction with the Affordable Housing Ordinance.

So we've got some complications that we need to take a look at, but we'll be glad to come back, make that an agenda item and provide you with some additional background and perhaps some suggestions from the staff level.

CHAIRMAN MONTOYA: Okay. Thank you, Gerald.

**IX. B. Discussion of DWI Forfeiture Ordinance (Commissioner Montoya)**

CHAIRMAN MONTOYA: I'd like to ask Sheriff Solano to come up on this. This is going to be for information, discussion purposes at this point. I think the

Commission has wanted to get information on some of the pros and cons of implementing this type of an ordinance through a few DWI community forums that have been held. This has actually been one of the proposed ordinances that the County has been asked to consider and in working with this with Sheriff Solano, compiled some information, again for discussion purposes. So Sheriff Solano, would you please lead is in this.

GREG SOLANO (County Sheriff): Thank you, Mr. Chairman, Commissioners. I have a short presentation, but when I got here I was going to start out talking about how no matter where you go, you run into somebody whose life has been affected by DWI. I was just made aware that Coach Jacob Martinez was struck by a drunk driver some years ago. So it's kind of apropos that we end up discussing this on the same date he was here and I'm glad he was still here to be with us today to give him that award.

I want to introduce some people that are here in support of this. We have members of the DWI Planning Council. The chairman, Sgt. Ken Johnson, the vice chairman, Alan Wheeler, member Glenn Wierenga and board member Paul Romero. And then Santa Fe County DWI Coordinator, Rebecca Beardsley, and finally, somebody who'd like to say a few words also at the end of this presentation. I'm very proud to have somebody here who's known as the father of the interlock law, Dr. Richard Roth. I handed out some copies of the presentation but we have it on the board also.

The purpose of the proposed DWI Forfeiture Ordinance is to remove the instrument repeat drunk drivers use to harm our citizens. We often arrest people who use things like guns or knives in commission of crimes and when they get out of jail, we don't hand them their gun back when they walk out the door. Currently, especially with repeat drunk drivers when they get out of jail, really all they have to do is go down to the local tow yard and pay the \$75 or \$80 fee and they drive off in their car again. And that is even if they don't have a drivers license to drive. Even if their license has been revoked, they can go pick up their vehicle and drive out.

We have some statistics here on DWI and it shows Santa Fe, New Mexico in US for 2003, which is the latest year that we have statistics. And in Santa Fe in 2003 we had 12 deaths related to DWI and 343 injuries related to DWI. We had 889 people who were involved in crashed in DWI, and 1,619 DWI arrests. Now, the average breath alcohol content of people that were arrested was .16, which is two times the current legal limit in New Mexico. There's some costs there that are pretty astronomical. \$105 million is the cost to Santa Fe alone. Over \$100 billion in the US. But really the costs that we really have to look at that we cannot put any price on is the lives that we've lost in reference to DWI.

I brought this program forward or this idea forward. I first looked at it in 2003 and at the time, we didn't know if the community was ready for an ordinance like this. And then I was at the death scene, the scene where Judith Scasserra-Cinciripini was killed on Old Santa Fe Trail on July 27<sup>th</sup>, and I'll never forget the look on her husband's face when myself and the chaplain, Jose Villegas went up to him on the road and told him that it was his wife that was laying in the street, up the road on Old Santa Fe Trail. I'm very



emotional about that, even when I think about it today. I've told many a person that their loved ones are dead but that night was one of the most emotional ones that I've ever seen. That's when I decided that the time was right to bring this ordinance forward.

We have some good news on DWI. The fraction of DWI offenders who are rearrested after two years has been reducing. In 1993 we had about 23 percent of DWI offenders were rearrested within two years of their first arrest. In 2003 we've dropped that down to about 14 percent. So there is some good news about DWI. If you look at the percent rearrested within two years, there's been a 46 percent reduction in the amount of people being arrested for their fifth DWI, and this is from 2000. A 40 percent decline in people being arrested for their fourth DWI. A 39 percent decline in people being arrested for their third DWI and a 32 percent reduction for people being arrested on their second DWI, and a 26 percent reduction on people being arrested for their first DWI.

So the good news is that we've had reductions. The bad news is that we're still making a lot of arrests and we're still having a lot of deaths and accidents. So what's involved in the proposed ordinance? The ordinance is similar to the one first implemented by the City of Albuquerque. That was later challenged all the way to the Supreme Court of New Mexico, and in April 24, 2002, in a decision that the Supreme Court had, they upheld the forfeiture cases on the third and subsequent DWIs. In the ordinance, a motor vehicle may be declared a nuisance and subject to forfeiture if it is - and there's a typo here, and this is under our County ordinance that we're proposing, the vehicles would be subject to forfeiture if the vehicles are operated in an unincorporated area of the county by a person who has been convicted of two prior driving while intoxicated offenses, and is arrested for a third and subsequent offense, or if the person is in a vehicle that's operated in the unincorporated areas - that's another typo - by a person whose license is revoked as a result of one or more convictions for driving while intoxicated or revoked as a result of driving while intoxicated arrest.

Under the ordinance, and this is probably one of the most controversial portions of this ordinance, is many people will come and talk about if you have a family member who is using their car, and it's the only car for the whole family, or they're borrowing their grandma's car, or a friend's car, and maybe the person who loaned them the car didn't know that the person driving it either had a revoked license for DWI or had multiple DWIs, in those circumstances, the County and the owner can make an agreement to return the vehicle to the owner paying for the vehicle to be booted for 30 days with an immobilization boot. So this is done at their property, wherever their home is, we boot their vehicle for 30 days. The cost of the boot is paid by the owner and they also sign an agreement. So to assist the truly innocent family or innocent owner, the ordinance includes a provision to allow an innocent spouse or family member to have an immobilization device - a boot - to be installed on the vehicle for 30 days in lieu of the forfeiture.

If the family member agrees to keep the vehicle out of the hands of the offenders, innocent owners such as lenders or owners who can prove they did not know the driver was revoked can get their car back without having to install the boot. The boot agreement

would state that if the offender is caught driving that particular vehicle in either an impaired state or driving in on a revoked license for DWI, the owner agreed to voluntarily surrender the vehicle to the County.

So what we're telling the owner is, okay, we believe you. You say that this car - you didn't know that your hijito or your friend had three DWIs prior or had a revoked drivers license, so we're going to give you the car back and you sign this agreement that if you loan the car to them again, and they are caught either DWI or with the drivers license revoked again, you automatically forfeit the car. So it gives them a second chance to follow the law and not loan the vehicle out anymore.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Explain the boot. I don't understand the boot, Sheriff.

SHERIFF SOLANO: I should have put a picture up there, and some of you may be familiar because it's used often when you're illegally parking in some areas, but it's a large metal device that you place around the wheel, and it locks on so the vehicle can't drive because the wheel can't turn.

COMMISSIONER ANAYA: Thank you.

CHAIRMAN MONTOYA: All right. Sheriff.

SHERIFF SOLANO: If an agreement is not reached after being seized, the owner may then request a hearing before a hearing officer who will determine if the County has probable cause to seize the vehicle. If probable cause is not determined, the vehicle will be returned to the owner. Now, if probable cause is determined by the hearing officer, the forfeiture action proceeds to district court where a district court judge will make the final decision. If the vehicle is sold at auction, the fees obtained from auctions and/or immobilization will be used to administer the program. Any excess fees will be used for DWI prevention and treatment.

So we did an analysis on DWI forfeiture ordinance and the number of vehicles that we could expect to seize. In 2004 is where this comes from, we made 351 DWI arrests and we're expecting this year's total to be right around the same. Now, we looked at a few months from last year, 2005, and extrapolated how many arrests we would probably make, which like I said would be around the same average, and how many vehicles of those would qualify for seizure, and then out of that, how many are third or subsequent DWIs, and how many would be just driving on a revoked license. Going from that estimate we looked at we would probably seize 138 vehicles in a year. Out of those, 78 would be third or more subsequent DWIs and 60 would be driving on a revoked license that had been revoked for DWI. So that gives you an idea of how many vehicles would probably be seized if we passed this ordinance.

Next I have a slide that shows the outcome of those seized vehicles. And what we did was we took the numbers from Albuquerque. UNM did a study that was updated in 2004, in August of 2004, and using the numbers from the UNM study we found - we

took the averages from those, from the Albuquerque area and extrapolated those numbers from our 138 seizures. So once again, we'd have approximately 138 vehicles seized, approximately 50 vehicles would receive the 30-day boot and then would be returned to the owners. Approximately 43 would be returned either to the owner or a lien holder, and approximately 45 vehicles would be sold at auction. Those are estimates for a full year in Santa Fe County.

So the next slide looks at our estimated program costs.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: If I might ask a question with regard to these statistics, Sheriff Solano, these statistics are strictly within the county and this ordinance would be restrictive only within the jurisdiction of the county. Am I correct?

SHERIFF SOLANO: That is correct.

COMMISSIONER VIGIL: Do you know if the City is considering enacting a similar ordinance?

SHERIFF SOLANO: They have asked for a copy of our ordinance to consider, and they asked me to appear at the Public Safety Committee meeting, which I did, a little over a month ago. At that time our ordinance wasn't ready and so I expect that probably at the next Public Safety Committee or within the next couple I'll be back to go over this ordinance with them. They are interested. I do know that at least one City Councilor has called me and expressed an interest in carrying the ordinance forward in the City.

COMMISSIONER VIGIL: Thank you. And just to further clarify, when these arrests are made, these DWIs, they are made in the county. None of this data represents city arrests.

SHERIFF SOLANO: That is correct.

COMMISSIONER VIGIL: Thank you very much.

SHERIFF SOLANO: The total number of arrests in 2003 where most of these stats came from within the entire county, including tribal, State Police, City, is actually 1,619 arrests.

COMMISSIONER VIGIL: Thank you. Thank you for that clarification. Thank you, Mr. Chairman.

SHERIFF SOLANO: So our estimated program costs, and this is what it would cost to do this program, it's estimated at this time, we would need an impound lot and the impound lot - this is without the cost of land, we're looking at a couple of areas that possibly the County already has land so we would not have to purchase land. But if we have the land already and we're looking at putting up an impound lot with about 150 vehicles, the cost would be about \$100,000. That includes basecourse for the lot, security fencing - and this would be the type of fencing that also has the slats in it so you really couldn't see in it - lighting and security. And the security we put in there were cameras.

The cost of 50 boots is \$15,000. So the first part here is capital expenses which

would be about \$115,000 in the first year of the program. Then we estimated the yearly recurring expenses. A hearing officer, which would be contract, would be \$18,000 per year, and that would be probably an attorney who would be contracted to do the hearings; a full-time deputy at the rank of corporal to oversee the program, which would be \$39,000; and a part-time County attorney which would be about \$20,000; the towing fees, an average of \$75 per tow, and it would be less in some areas of the county and more in other areas of the county, depending on how far away we're towing the vehicles from, and that would be about \$10,350 per year. The auctioneer takes 15 percent is the average, and the average sale is estimated to be about \$2,000 per vehicle. So the auctioneer cost would be about \$13,500. So the total recurring expenses are expected to be \$100,850 for a total in the first year of \$215,000.

On the next sheet I have what we call offsetting revenue, and I learned term from Susan, she's out right now, when we were dealing with the jail. But offsetting revenue versus the cost. The towing fees, and we didn't estimate that every vehicle we would recover towing fees from, so we did an estimate based on the numbers of course also from Albuquerque. And Albuquerque charges \$95 per vehicle on the tow right now. So the yearly estimated offsetting revenue on that would be \$6,650. The owner pays the cost of booting the car and currently in Albuquerque they charge \$650 per vehicle for booting it for the 30 days. So the revenue from that, offsetting revenue would be \$32,500. The storage lot fees at \$10 per day would come out to about \$7,000. The cars sold at auction, and that's going back to that number of 45 vehicles at approximately \$2000 would come out to \$90,000. Hearing costs - we put a pretty low number there because we're not sure how that would work, if somebody requests a hearing and they win at the hearing or lose at the hearing, so I put in \$1,000 on that, for a total offsetting revenue of approximately \$137,150.

So in year one, with the \$215,850 cost, our offsetting revenue per year of \$137,150, in year one we would run a deficit for lack of a better word, I guess, of \$78,700. And if this continued the trend in year two, we should be able to, the program should be able to be self-sufficient and actually have offsetting revenue, a positive total of \$58,450.

The next slide, it was taken from a study, that same University of New Mexico study that was updated in August of 2004, and actually has been going on for a couple of years, and in that study they used Santa Fe, Sandoval and Valencia counties as a comparison group, and took the number of DWIs from April 2001 to July 2002 and then they compared that to Albuquerque's cases where they had 700 forfeitures. And they looked at the number of vehicles that were booted for 30 days and returned to the owner, the rearrest rate after one year was ten percent. The number of vehicles that were seized and forfeited, the rearrest rate after one year was 12 percent. And in the number of vehicles that were seized and returned with no penalty whatsoever, the rearrest rate was 14 percent.

So you can really see a correlation between the penalties that they had and the

rearrest rates. In the comparison group, which is Santa Fe, Sandoval and Valencia counties during this time period, we had a rearrest rate of 17 percent.

So, in conclusion, this program should be self-funded in two years, Santa Fe could see a five to seven percent decrease in repeat offenders when compared with Albuquerque's post-ordinance statistics. We'd be adding another tool in both the County's and the citizens' toolbox to combat DWI. And I just want to expound on that a little. Not only is it a tool for law enforcement and if you properly publicize it and get it out in the public that this ordinance is in effect and that people could lose their cars, but it really is a good tool for families when the wife or grandmother or somebody asks to borrow their car, who they know has had DWIs, it gives them the opportunity to say, Look, I can't afford to lose the car. Or the wife to say, We can't afford to lose the family car. I'll go pick you up. I'll go drop you off. Or, You can't take the car. You don't have a driver's license and we can't afford to lose the car.

So we're really giving families a tool that they can use to help combat repeat DWI offenders.

A *New Mexican* online poll that was taken right after the death of Judith Scasserra-Cinciripini was the number one change in the law requested by those polled was a forfeiture law, local forfeiture ordinance.

Now, the state, a little over a year ago, looked at a statewide forfeiture ordinance. They had a committee that looked at it and the committee came back and said that they felt that on a statewide level, the program would be too burdensome and hard to run on a statewide level. The recommendation was that the state assist local entities in doing these type of ordinances and that these things would best be handled at the local level. And that was also a quote that came out of that UNM study and also I have a copy of the state recommendations.

In this ordinance we're asking for a July 1, 2006 implementation date, if you agree that this is what's best for Santa Fe County. That would allow time for budgeting, hiring, construction of the lot, working out a hearing officer, ironing out any bugs that need to be done, things like that. So I do know that Dr. Roth would like to say a few words, but just on my conclusion, I really think that the time has come for us to take some of these things into local hands, into our local hands and work on these issues locally. Often we've relied, and pretty much for the most part right now, we strictly rely on state laws and state ordinance to handle the DWI program. We do have our local DWI coordinators and prevention and those things, but as far as laws to deal with DWIs, we pretty much rely on the state and I really believe that it's time that locally we take these matters into our own hands and show the citizens that we want to make a difference on DWI, that maybe I won't have to tell another husband that his wife is lying in the road. Thank you.

CHAIRMAN MONTOYA: Thank you, Sheriff. Dr. Roth.

MR. GONZALEZ: Mr. Chairman, while he's stepping to the podium, I just wanted to point out that Jose Villegas, our County chaplain would have appeared here also in support but he had a scheduling difficulty and I wasn't able to give him a time certain

when he could appear here.

CHAIRMAN MONTOYA: Okay. Thank you, Gerald, for that information.

Dr. Roth.

RICHARD ROTH: Mr. Chairman and Commissioners, I first want to just express my appreciation for those of you who serve in the public interest on my behalf as a citizen. I became a citizen lobbyist in retirement about eight years ago, looking for something to do and now I've become the ignition interlock spokesperson in New Mexico where we have the best ignition interlock laws in the world and we're being asked about how our laws are working, not only in the United States but in Europe also.

If this were a stand-alone ordinance I might not be a strong supporter of it because it sounds kind of draconian. But because of the other laws that are in place, specifically the ignition interlock laws, this isn't the first thing that happens to a person who drives drunk. Even when a person is driving on a license revoked for DWI. Because the other alternatives that are available to every person who drives after drinking and endangers himself and other members of our community, the other alternatives include an opportunity to drive anywhere, anytime with an installed ignition interlock and an ignition interlock license. That is an option that's available to everyone in New Mexico who is revoked for DWI, so that there is an opportunity and many of you know of friends and associates who have taken advantage of that opportunity.

We have installed already 8,000 ignition interlocks in New Mexico. The people that drive those vehicles can't operate them unless they have had nothing to drink. This ordinance kicks in only when people either do not take advantage of that option for them when they're revoked, or that mandate to them when they are convicted for drunk driving. Our present state law mandates one year of interlock for everyone convicted for the first time of DWI. Two years of interlock for everyone convicted for the second time, and when they become third offenders, if they're convicted it is a three-year mandate interlock for that person, and if they become a fourth offender it's lifetime interlock. And commensurate revocation period.

So because this ordinance just kind of backs up those offenders who haven't taken advantage of other opportunities to be able to drive a vehicle legally in New Mexico when they're sober, I strongly support it. I think the most important thing that you should not neglect with respect to this ordinance is to do a good bit of publicity about it even before it kicks in, because this is the sort of ordinance that will affect more people to whom this does not apply than the people to whom it does apply, that they actually have it applied to them. It is the sort of thing that we call a general deterrent sanction. It will affect me because I don't want my vehicle taken away after drinking, and other people in the community who really don't want to lose their vehicle.

So because of a strong potential for general deterrence, I urge you to spend some money, get some publicity so that the public is aware of what will happen to them if they transgress this ordinance and endanger the public by driving after drinking. And I thank you and I'd be happy to answer any questions that you might have.

CHAIRMAN MONTTOYA: Thank you, Dr. Roth. Commissioner Vigil, then Commissioner Anaya.

COMMISSIONER VIGIL: Thank you. Thank you, Sheriff Solano for bringing this ordinance forward and thank you Mr. Roth. I appreciate all the work that you've done at the legislature. Having been a prosecutor of DWIs I'm very much in tune to the problem and where we've come today with that. There was a point in time where we couldn't even get the accurate reporting for how many offenders were repeat offenders through our reporting system, so we really have come a long way.

I have two major concerns. I'm a strong advocate for stronger laws regarding DWIs. I think our community has come a long way because of them. One of them, and Sheriff Solano, you may want to comment on this. I think it's really critical that we bring in the City on this ordinance, because one of the things I foresee is a Sheriff's officer does have jurisdiction within the city limits to arrest for DWI, but if he makes one arrest one night in the county boundaries, and that arrestee is subject to the forfeiture laws, and two hours later he makes an arrest for a DWI within the city boundaries and that city resident is not subject to the forfeiture laws I have a concern about that sense of inequity. So I think it's really critical that we work very closely with the City with regard to this. I don't perceive that the City would not be open to this and I understand there's already been some preliminary discussion. But that level of inequity, just because of jurisdictional boundaries is something that I think needs to be addressed.

I also am really concerned, and I'm so glad that the City of Albuquerque has enacted this DWI ordinance and that it's gone to the Supreme Court and come back with a favorable decision, because when I first heard about it I wondered whether or not there were pre-emption issues here. But a major concern, and I'd like some comment because we're going to go forth with discussion and consideration of this and I'm seriously going to consider it, one of the issues that I'd really like addressed, Sheriff Solano, that I think you're sensitive to, and I'm not too sure who we need to bring in on this, is that the kind of laws that we enact sometimes with the best of intentions bring on a lot of social injustices. Who is this law affecting? Is it people below the poverty line? Is it people who are in minorities? What is the percentage of affectation this law is having on the social economy of the City of Albuquerque? I would like that piece of information before I move forward on that. And that's it, Mr. Chairman. Thank you, Greg and thank you Mr. Roth. I appreciate all the work you've done.

CHAIRMAN MONTTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. My question is, I know we have a DWI Council here, some of them. Did the whole DWI Council act on this particular presentation and have they seen this whole presentation?

SHERIFF SOLANO: I made a presentation before them but we didn't have the ordinance completely drafted. But I know they had a discussion. Can anybody answer that question for him?

REBECCA BEARDSLEY (DWI Coordinator): Mr. Chairman,

Commissioners, as Sheriff Solano said, he did do a presentation on a couple of occasions and Sgt. Johnson has kept us updated on the progress of this ordinance. Since it is not in its final format we have not officially done a resolution to support this but we have supported it in theory. We have also gotten a lot of information from the programs in Albuquerque and we do believe that it would be beneficial to Santa Fe County. We do realize that there may be some issues as you cited, Commissioner Vigil, about the city versus the county, and we have had discussions with the City police and it does look like if our ordinance does go through they are very favorable in terms of picking it up for the city as well.

COMMISSIONER VIGIL: That's good to know.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: How about the Health Policy and Planning Commission? Have they reviewed this particular item yet?

MS. BEARDSLEY: Mr. Chairman, Commissioner, they have not seen this particular presentation but we have presented it to them in terms of our DWI Planning Council updates and we have told them about the ordinance and have told them that we are supporting it, and they have also in theory supported it as well.

COMMISSIONER ANAYA: Thank you. Mr. Chairman, I'd like to see that both the DWI Council and the Health Policy and Planning Commission look closely at that. I know those people are the experts that deal with these issues every day and I'd like for this plan to go before them before it comes back to us so I can hear exactly what their issues and concerns are, even though I know that they would support it, but I don't know if they have seen this particular document. And I also want to thank the Sheriff and staff for bringing this forward. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman. I think we've come a long way in the state's introduction of the interlock device statutes. What I think we're dealing with here is an ordinance that really probably will have, as Greg alluded to, more effect on the family than it will on the individual. What experience I've had with the issue is when someone has this disease, the threat of losing their vehicle is not much of a threat. Even the threat of killing someone is not much of a threat. They continue on and drive intoxicated or under the influence of drugs.

It's part of the disease that we need to control through treatment. But there are some very positive aspects to this ordinance that look to the families and say that much as the school districts have done now in making the parents responsible for truant students, making families aware that by being a participant in a DWI offense by virtue of using their vehicle they may have some consequences imposed on them. So I think there are some positive areas there, but I think we need to be sure that we take a hard look at the fact that is this going to be a positive step to stop the inebriated driver. An interlock is. They have to activate that in order to operate the vehicle. Yes, there are ways of getting around it but in general it's been apparently quite successful. We need to say would someone who is about to take a chance and get arrested for the third time for DWI, is the threat of this



ordinance going to stop them?

And if it's not, then we need to consider specifically the effects on the family. And if it helps the family, as Sheriff Solano says, I think there are aspects to this that are going to help the problem. It's one of many things that we need to look at to try to deal with the problem. Thanks.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Thank you, Mr. Chairman. I think the evidence that's been presented is compelling to show that there will be deterrence. Clearly not all people will be deterred. There are some that will never be deterred, but I think once the word gets out that they will lose their vehicle, a lot of people will think two, three, four times about this. Also, people who have an ownership interest in the car will think about this very carefully. So I feel that the evidence presented is sound and I think this would be an effective way of dealing with the very serious problem that we do have.

CHAIRMAN MONTOYA: Thank you, Commissioner Campos. I'll just add that I think that one of the things that we always look at is how does this constitutionally - how it's looked at, how it's directed. The one thing that we do know is that this does not violate any of the double jeopardy clauses of the United States or the New Mexico constitutions, or the statutory double jeopardy provisions. I think it's been stated that one of the things that we're trying to do is to protect the health and safety of the citizens of Santa Fe County. And this is what we're doing, is essentially putting forward an abatement ordinance, an abatement nuisance of motor vehicles of people who desire to or continue to or continue to willingly drive while intoxicated and this is an ordinance that, again, it's summarized in the Sheriff's remarks that this is a component. This is not a cure-all. This is not a magic bullet that's going to take care of everything in terms of DWI. But this is just another piece in our toolbox where we have a screwdriver, we have a hammer, now we have a little bit, a power drill to add to our repertoire of what we have regarding DWI and the things that we're trying to do to deal with it.

I would, I think, like to see this move forward as well. I think it's been very well thought out in terms of what the Sheriff has presented to us. I think in terms of the self-sustaining element, we see that after two years it becomes a program that is going to be self-sustaining. We're not going to be having to subsidize it through the general fund or through other funds that we have currently. I think the investment is up front. Are we willing to make that investment of \$215,000 to again protect the health and safety of our citizens of Santa Fe County? And I think in terms of stopping DWI, I think Commissioner Campos, you said it well. This is something that is going to get people to think before they get behind the wheel. Do I want to lose my vehicle? I've already got two arrests. Do I want to risk a third? And quite frankly, the social consequences may be in the family, may be on loved ones, but the reality is that there has to be some responsibility taken by that individual and until they can take their self responsibility then we're helping to again give them some choices in terms of providing them the opportunity to make that decision that they're not going to drink and drive again, and we're also protecting the public. So I think

in terms of the discussion, we probably – I would like us to consider this, maybe next month.

Sheriff, do you have any recommendations in terms of final time lines, in looking at this? I know you recommend a July 1<sup>st</sup> start date.

SHERIFF SOLANO: Mr. Chairman, Commissioners, the County is preparing mid-year budget right now, going through the mid-year budget process, and then shortly thereafter will start preparing for the new budget. So this is probably a very good time to bring it forward. Finance has not looked at these figures so I need to get it to Finance and have them look at it. But I would think that around this time next month we should be able to come back to you.

CHAIRMAN MONTTOYA: Okay. Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, questions for our attorney. Mr. Ross, you've reviewed this ordinance, do you think it's ready for notice and publication?

STEVE ROSS (County Attorney): Mr. Chairman, Commissioner Campos, the version that's in your packet is in its final form, as far as I'm concerned.

COMMISSIONER CAMPOS: So it's ready to go.

MR. ROSS: Yes.

CHAIRMAN MONTTOYA: So we'll bring it forth next month after having had Health Policy and Planning Review, DWI Planning Council review and we'll hopefully move forward on it. Commissioner Campos.

COMMISSIONER CAMPOS: Are we in a position today to move to publish title and general summary and set a hearing for a date certain? Mr. Ross?

MR. ROSS: Mr. Chairman, Commissioner Campos, this was on the agenda as a discussion item, so we'll need to more particularly advertise that if you want to move forward beyond this phase.

COMMISSIONER CAMPOS: I would like that to occur. That we put it on the agenda for action in the near future.

CHAIRMAN MONTTOYA: Can we put it on the next meeting agenda?

MR. ROSS: Mr. Chairman, that might be a good idea to get it rolling because of course the first step in the process is authorization to publish and then publishing. Then after that, three, four weeks later we can consider the adoption of the ordinance.

CHAIRMAN MONTTOYA: Okay. So February 14<sup>th</sup> we'll have it on for action then?

MR. ROSS: If we want to move forward that's probably the next step. We can certainly make that meeting.

CHAIRMAN MONTTOYA: Okay. Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, did we want this particular item to go to the DWI Planning Council and the Health Policy Planning Commission prior to coming here?

CHAIRMAN MONTOYA: Yes. And that's what I clarified.

COMMISSIONER CAMPOS: Prior to coming to us for final decision. That won't slow down the process of notice and things like that.

CHAIRMAN MONTOYA: Right. Correct. Sheriff, thank you very much.

SHERIFF SOLANO: Mr. Chairman and Commissioners, thank you very much. I thank everybody who came by. And I also was remiss in recognizing the new head of our Traffic Division who helped me greatly with all of this, Cpl. Joe McLaughlin.

**IX. C. Resolution No. 2006-6. A Resolution in Support of Legislation for Enacting the Land, Wildlife and Clean Energy Act During the 2006 Legislative Session (Commissioner Montoya) [Exhibit 3]**

CHAIRMAN MONTOYA: This is in your packet. If there are any clarifying questions that need to be answered, I have with us in the audience Edward Archuleta and also Paul Olafson. If not I would move for approval of this resolution.

COMMISSIONER ANAYA: Second.

COMMISSIONER CAMPOS: I have a quick question.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Archuleta, as far as the County is concerned, let's say the County decides to build a new structure for a County building of some sort and wants to make it energy efficient, would it be eligible for grants or loans under this legislation?

EDWARD ARCHULETA: Commissioner Campos, I'm not sure about that. The component of the Clean Energy part in here is more for alternative energy for like solar energy, wind energy, biomass. I'm not really sure if it will apply for public buildings like this. But it's something I could look into and let you know.

COMMISSIONER CAMPOS: Because we are looking at biomass for certain of our buildings, solar for certain of our buildings. We're looking at alternative fuel sources to warm and cool our buildings. So that was just something I was interested in.

MR. ARCHULETA: I'll take a look at that and get back to you on that.

COMMISSIONER CAMPOS: Great. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Any other questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: I'd like to get the rest of the resolution, please.

CHAIRMAN MONTOYA: Page 2, yes.

COMMISSIONER SULLIVAN: I think probably all the Commissioners need it. We don't have the full resolution in our packets.

COMMISSIONER VIGIL: Mr. Chairman, while we're waiting on that.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Ed, how are these funds going to be dispersed?  
Do we know?

MR. ARCHULETA: Mr. Chairman, Commissioners, there's going to be a committee of nine - excuse me, it's up to 13 now, 13 individuals appointed by the governor who will be reviewing the applications on a quarterly basis. So any non-profit organization, any local government, the City or County or the state, can submit an application to this board, and then they're going to be reviewing them and determining them on a yearly basis who is going to be getting the monies. Santa Fe County, specifically COLTPAC will be able to apply for matching funds for the program.

COMMISSIONER VIGIL: Do you know what the criteria for review and allocation is? Do we have that yet?

MR. ARCHULETA: Mr. Chairman, Commissioner Vigil, no. Those will be drafted if this legislation is passed by the legislature and signed by the governor, then the Secretary of Energy, Minerals and Natural Resources will write the rules and regulations on how the projects will be reviewed.

COMMISSIONER VIGIL: Thank you, Mr. Chairman. Thank you, Ed.

CHAIRMAN MONTROYA: Thank you, Commissioner Vigil. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Now that I have the second page, the proposed act that the resolution talks about would establish a dedicated annual state revenue source for conservation programs to which counties may apply. What would be that dedicated revenue source?

MR. ARCHULETA: Mr. Chairman, Commissioner Sullivan, the source that we're looking at is something that's been on the books since 1953. It's called the Oil and Gas Conservation Tax. It brings in about \$19 million a year to the state coffers. We're hoping to tap into about \$10 million, have \$10 million of that \$19 million earmarked for this program. So the \$10 million would be spread throughout the state. In the legislation, there is also capacity for revenue bonding. So that could actually up the amount to approximately \$17, \$18, maybe even approximately \$19 million a year. But definitely at least \$10 million would be set aside for this program.

COMMISSIONER SULLIVAN: And what is that \$19 million in revenues from the Oil and Gas Conservation Tax been used for before now?

MR. ARCHULETA: Mr. Chairman, Commissioner Sullivan, right now that money goes into the general fund. Originally, when it was started in 1953 it went for oil and gas reclamation, basically to clean up old oil fields. Over the years though, the legislature took that money, the full \$19 million and put it into the general fund, and they give about \$1.9 million a year for oil and gas reclamation, but the bulk of it just goes into the general fund.

COMMISSIONER SULLIVAN: And the \$1.9 million is only for reclamation of oil and gas sites?

MR. ARCHULETA: Yes, sir.

COMMISSIONER SULLIVAN: Not for open space and trails and so forth. The only other thing I would comment on is the biggest problem we have is in any open space or trails is administration and maintenance. Would this, since it's a dedicated revenue source, would any of these funds apply towards the maintenance of these facilities?

MR. ARCHULETA: Mr. Chairman, Commissioner Sullivan, yes, the money could be used for management.

COMMISSIONER SULLIVAN: It could be used for annual –

MR. ARCHULETA: Right now, the governor wants most of the money to go for acquisition, but we were able to put language into the bill to allow for management also.

COMMISSIONER SULLIVAN: Everyone is all excited about purchasing land and granting money and preserving open space and then the maintenance and operation and continued cost issues – insurance, liability, parking and so forth, gets unfortunately forgotten.

MR. ARCHULETA: Right. I'm very familiar with that. It's a problem that COLTPAC has run in to.

COMMISSIONER SULLIVAN: Right. So there is some provision in this legislation that that could be addressed?

MR. ARCHULETA: Yes.

COMMISSIONER SULLIVAN: Okay. Good. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Thank you, Commissioner Sullivan. Any other questions? Discussion? We have a motion and a second.

**The motion to approve Resolution 2006-6 passed by unanimous [5-0] voice vote.**

CHAIRMAN MONTOYA: And just for the record, Edward Archuleta is with Eco-Consulting. Thank you, Edward for being here.

MR. ARCHULETA: Thank you, Commissioners, I'm going to testifying on the bill this afternoon and I will let them know that Santa Fe County has adopted this resolution.

CHAIRMAN MONTOYA: Absolutely. Thank you.

**IX. E. Resolution No. 2006-7. A Resolution Supporting the Preferred County Alignment for the Railrunner Commuter Railroad from Albuquerque to Santa Fe (Commissioners Anaya & Sullivan)**

COMMISSIONER ANAYA: Thank you, Commissioner. As you know, the governor, the Mid-Region Council of Government, the Department of Transportation are working on putting a rail to go from Belen all the way up to Santa Fe. I met with, along

with Commissioner Sullivan, met with some concerned citizens where this rail is going to run through and it seems like they had some concerns about it breaking up some large pieces of ranch land, and we just wanted to maybe give the Department of Transportation and the Mid-Region Council of Government an alternative route if possible. Commissioner Sullivan, if you want to add to that. Jack, if you want to add.

JACK KOLKMEYER (Planning Director): Thank you, Commissioner Anaya, Chairman Montoya. And by the way, congratulations on your first meeting. I look forward to a fruitful year with you too. Appreciate that.

This map was prepared as a result of a number of meetings we had had with the San Marcos Planning Committee and various staff members as this original alternative proposed by the Department of Transportation came forward. The map was prepared by Beth Mills from our staff and also with us in the audience is Hugh Nazor with the San Marcos Association and the San Marcos Planning Committee.

There's a couple of issues as all this commuter train stuff starts to come forward. One is that the discussions with DOT, we've had quite a few of them. There have been a lot of different community meetings and presentations. But it's been very difficult for us to communicate to the DOT that sometimes the County issues that we are looking at are different than theirs, especially who actually gets served by this commuter train. The state has recently started talking about transit oriented development, TODs, and even though they discuss that and bring that up, their alignment really bypasses some of the areas where we're looking at either trying to have development be more concerted or in areas where we don't want development to occur.

So as a result of that we thought it would be really appropriate that the County start laying at least some options on the table so that when these things become finalized we can all look at them and say, Well, have you taken into account such and such. We know that these alignments, no matter what they are, would be subject to change, probably at some point in the future also, but at least we wanted to put a couple of things on the table for the DOT to consider.

The other thing that the DOT themselves have been talking about is the need for us to have alternative means of transportation in and out of our community in this area in the case of emergencies, for example. Our alignment here, I'll just go through it briefly for you in a minute, but one of our alignments shows a closer association, for example, with the National Guard and the state pen. And one of the reasons for doing that is of course those are also generators of a lot of employment and may of those people are now living in Albuquerque could use this train, but also if there was an emergency, what better way for us to have a link-up in fact between the National Guard and a rail service that wouldn't depend on the highway for us to get in and out in the case of an emergency.

So having said those two things, of course there's a third element that's also part of this discussion, not part of our discussion today but it's the future role of what we're going to do with the Eldorado commuter train, but that's a different subject than today. Let me just point out on the large map that's up there, this purple shaded area, this was the

original proposal of the DOT, to go through this area that's largely - there's nothing there, but it presented a couple of issues for the San Marcos group and for the planning staff, and that is that in this area throughout here it's the Bonanza Creek Ranch, which is not only one of the last working ranches in the area but also is the site of one of the state's largest film activities there with the movie sets that are out there. By taking this alignment through there, it would have really split that ranch in half, at least for this portion, and made it very difficult for that movie set to continue in operation. Ironic that the governor is pushing both the film-making industry and commuter rail at the same time and has had kind of an effect that we think wasn't looked at quite carefully enough.

It also really bypassed the Community College District where we'd like to see if there's going to be commuter service. We'd like to see it go up through there, because these will be our future populations over the next ten, fifteen, twenty years. And also then that it would hook into the existing rail line which is right here, in a way that also had access to some of the population in the future that was over there. So this is the state alignment. This is the proposed County alignment. We've shown two potential sites for depots, one right here, on Route 14 that would serve the state pen and the National Guard area, and another one up here where eventually the road going up to the northeast connector, I guess we still call it, up in that area, and also future developments in the Community College District and Rancho Viejo partnership would have access to a depot site here.

So that's what we're proposing and so you understand that we're not really taking - this isn't a real aggressive stance with the DOT. It's really to say as we did in the resolution here, that the final agreed upon alternative must also take into account needs and concerns of the San Marcos planning district and large undeveloped ranch lands such as Bonanza Creek Ranch and Rancho Viejo Partners as well as future developments proposed for the Community College District. So we're just really asking that the DOT in future deliberations take a look at these concerns and secondly, that the proposed County alignment simply be considered by the DOT. So that's the substance of the resolution. I'll be happy to answer any questions and we have Beth and Hugh Nazor here also if they'd like to make comments or you'd like to ask them questions. Thank you.

CHAIRMAN MONTOYA: Okay. Any questions from the Commission?  
Commissioner Vigil.

COMMISSIONER VIGIL: Jack, was this preferred alignment taken to the Transportation Policy Board?

MR. KOLKMEYER: This preferred alignment was taken to the San Marcos Planning Committee, was discussed with Commissioner Anaya and Commissioner Sullivan, but not to the Transportation Policy Board, because I believe the Transportation Policy Board - of the MPO?

COMMISSIONER VIGIL: Yes.

MR. KOLKMEYER: Doesn't have - does it have jurisdiction in the Five-Mile?

CHAIRMAN MONTTOYA: Yes.

MR. KOLKMEYER: So, no, we did not take it to them. Is that correct, Beth?

BETH MILLS (GIS Planner): The Transportation Planners from both the MPO and the City were at the table helping us draft this, draft the alignment that you see in front of you. So I don't -

MR. KOLKMEYER: It didn't go to the committee, but their planners worked on this alignment with us.

COMMISSIONER VIGIL: Therefore I guess you can conclude that it hasn't gone to the Metropolitan Transportation Policy Board.

MR. KOLKMEYER: No, it has not.

COMMISSIONER VIGIL: Okay. I just have a concern. I think all alignments should be considered and certainly I want to respect the possibility of bringing this into consideration. Aren't there other communities out there? Perhaps even Eldorado who has gone through a planning process, that should also have a voice in preferred alignments?

MR. KOLKMEYER: Commissioner Vigil, there's actually been a series of meetings and discussions that Eldorado has already been involved in because their concern is the alignment that would use the existing track that came through down here and up through Eldorado, which has now been eliminated as far as we know from the DOT. Their concern, when some of the Eldorado citizens met with us at the Regional Transit District about this alignment, had to do with whether people were going to be able to take the commuter train from Santa Fe to the airport in Albuquerque. And again, that's something beyond the scope of this. This was to really focus on - another reason why I guess we didn't go to the MPO, a lot of this is outside of the Five-Mile. So their jurisdiction was only there. We needed to take a look at an alignment that really had to do more with the County and county communities rather than the portions within the EZ and the Metro area.

But I think there's other mechanisms for answering some of the other community questions that don't have to deal with this alignment, would be my response to your question.

COMMISSIONER VIGIL: Thanks, Jack. Does this alignment impact the planning process that will be starting or perhaps even is underway in the Galisteo area?

MR. KOLKMEYER: The community planning process that we're starting in the Galisteo area is keeping their eye on this, but again, it would be of more concern to the Galisteo area if this alignment - we're following this stuff in the press these days about how much costs are escalating all of a sudden. It's not unlikely that this might be too expensive and they'd have to go back to the existing line. If they did, to use the existing line for their commuter train, then that's where the community of Galisteo would be impacted again and then we'd have to have probably a series of discussions with DOT about that alignment. But this one doesn't impact the Galisteo area. In fact, what it does for all the communities in this area is continues in our efforts to try to push the alignment



more into the urbanizing part of the greater City of Santa Fe area.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Does staff have a recommendation?

MR. KOLKMEYER: This is the staff recommendation, Commissioner.

COMMISSIONER VIGIL: Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Kolkmeier, I think MPO does have jurisdiction and I think MPO did vote to go along with the proposed DOT alignment.

MR. KOLKMEYER: That's correct.

COMMISSIONER CAMPOS: I have no problem with the County adopting this resolution, but would it be wise to take this back to the MPO, asking the MPO to amend it's previous recommendation, based on new information that the County wants to present.

MR. KOLKMEYER: Commissioner Campos, you're correct. They did approve the preferred alignment of the state. Again, I think that - I don't know where the Five-Mile line runs to. We didn't put that on there, but I don't believe that they have jurisdiction over this whole proposed alignment. Again, to me, that's part of the problem is that the County should have an opinion also. We could go back and do that, but because they've already adopted the DOT alignment, I guess it's kind of six of one, maybe half a dozen of the other. But my question would be do we want to have a County opinion, even over and above that point of view?

COMMISSIONER CAMPOS: I think we should and I recommend that we go with this resolution. But I'm thinking that we could go further by actually trying to influence the MPO. We have three or four members on the MPO here on the County Commission to alter the MPO recommendation, I think that would have more weight with the DOT and with the process.

MR. KOLKMEYER: I think that's a great suggestion, Commissioner. How would you like to do that? Should we approve this resolution today, then take it to them and say we've done this and we'd like for you to support us, or should we wait on this and go to them? I'm afraid that might get a little lengthy and kind of dilute the importance of this.

COMMISSIONER CAMPOS: We can do this today, and then we can take it to the MPO and say this is what we think as a County, and then we would like to reconsider our prior recommendation. Because it will draw out some comments from DOT and we'll see if there's any real major objections or problems with the County proposed route.

MR. KOLKMEYER: That's a good suggestion and we can do that. The other important thing here is of course they're going to go forward with the environmental studies now on an alignment and that's again our concern is we wanted to get some alternatives on the board for them to look at. So we'll follow that advice if that's what you'd like

COMMISSIONER CAMPOS: And we need to do it rapidly, because if they start doing their assessment within the corridor -

MR. KOLKMEYER: Without this alignment.

COMMISSIONER CAMPOS: Without this alignment suggestion we'll be excluded from the git-go.

CHAIRMAN MONTOYA: Yes. Commissioner Anaya.

COMMISSIONER ANAYA: Move for approval.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN MONTOYA: Motion by Commissioner Anaya, second by Commissioner Sullivan. Discussion? Commissioner Vigil.

COMMISSIONER VIGIL: One more question. Did you take into consideration our business park?

MR. KOLKMEYER: Commissioner Vigil, yes, we did. If you look at the original DOT alignment, which is the red line down here, this is our business park here. So again, this was pretty far removed from - in fact this is the Community College District outline here. And again we felt by pushing it up further, we're closer to the business park. We're also right in the - still in the heart of the State Land Office piece in case some kind of a development continues to move down the pike with them. The prison's across the street and the National Guard is there so it moves it more up into that area where we're looking at our own economic and housing development issues.

COMMISSIONER VIGIL: Thank you.

CHAIRMAN MONTOYA: Okay, any other discussion. We have a motion and a second.

**The motion to approve Resolution 2006-7 passed by unanimous [5-0] voice vote.**

MR. GONZALEZ: Mr. Chairman, just before we break, we recognized Ben Serber, who's going off the Tax Advisory Board, the Lodgers' Tax, but we have Florenceruth Brown who has been proposed for the incoming replacement sitting there. I think it would not take too long to do her the courtesy of just moving through that before we break for lunch.

CHAIRMAN MONTOYA: Okay. Thank you for that, Gerald.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Nazor, who has been working quite extensively on this San Marcos district and this alignment, is here and I think he just had one or two comments that he would like to make. He's been sitting here this morning through the whole meeting so if it's not too much trouble, Hugh, if you have just a couple of comments.

HUGH NAZOR: Mr. Chairman and Commissioners who are still here -

COMMISSIONER SULLIVAN: Remember, once the sale has been made –

MR. NAZOR: Oh, yes. I thank you very much. I'd just like to point out that in this 40,000 acre planning district, 14,000 acres do belong to Rick Hughes of the Bonanza Creek Ranch. He was very much against the original alignment. He is willing to have the alignment go through this property on the new alignment. I'd like to thank you all for a prior decision to give to the County Manager the request to come up with an alternative alignment. I think this one suits us all. I'd like to point out also that the 14,000 acres in the Bonanza Creek Ranch is the last effective open space in this entire 40,000-acre district, immediately to the south of the Community College and the high density zone that you have planned. And we want to preserve the viewsheds as you drive south on 14, I'm sure all of you are aware to look to the right. You can see the Cerrillos Hills and the Ortiz Mountains and this will last only as long as we have the cooperation of the owner of that 14,000 acres in developing his ranch in such a way that we keep the most important viewsheds and open space, which will benefit the entire county. Speaking for the San Marcos planning district, we are very much in favor of this, as is Rick Hughes and thank you again.

CHAIRMAN MONTOYA: Okay. Thank you.

**XI. COMMITTEE APPOINTMENTS/REAPPOINTMENTS AND RESIGNATIONS**

**B. Request Authorization to Approve the Lodgers' Tax Advisory Board Members Recommendation to Appoint Mrs. Florenceruth (Flossie) Brown as Chair of the Lodgers' Tax Advisory Board**

TERESA MARTINEZ: Mr. Chairman, members of the Commission, I'd like to introduce, although she probably needs no introduction, Florenceruth Brown, goes by Flossie. The Lodgers' Tax Advisory Board is currently recommending her for the chair seat of the board and she brings to the County a wealth of information. For those of you that don't know, she had her own private practice, she worked for the Attorney General's office as the Assistant Attorney General, and she's also worked for Health and Environment, the Child Support Enforcement Bureau, and currently owns, or is the business partner if you will, the Santa Fe Skies RV Park, located in the county on Highway 14.

So the Lodgers' Tax Advisory Board would like to recommend Flossie for the chair's position, and she's here today for questions if there are any.

COMMISSIONER VIGIL: Move to approve, Mr. Chairman. I know Flossie. I've worked with her. She's also a hearing officer and I think she'll be an excellent addition to the Lodgers' Tax. I move to approve Flossie as the replacement for the membership and the vacancy at the Lodgers' Tax Board.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Motion Commissioner Vigil, second Commissioner Campos. Any discussion, questions?

**The motion to appoint Flossie Brown chair of the Lodgers' Tax Advisory Board passed by unanimous [4-0] voice vote. [Commissioner Anaya was not present for this action.]**

CHAIRMAN MONTOYA: Congratulations, Flossie. Volunteer, right?

FLOSSIE BROWN: I'm so short. But of course, when I started practicing law in this courtroom, there weren't any microphones. So I can still, I think, come up with my courtroom voice. Thank you, Gerald, thank you. Virginia, Commissioner Vigil, and my Commissioner, Jack Sullivan. Thank you very much. I would like to commend the absolutely superb staff support we have had from Teresa Martinez, with back-up from Sam Montoya, and Franklin Downe has also attended meetings ever since he's been here, and we're very pleased and thankful for that. We will hope to continue to serve the County and make proper advisory opinions to you. Thank you very much.

CHAIRMAN MONTOYA: Thank you, Flossie. Okay, we're at 12:25. What are the wishes of the Commission? Consent Calendar, maybe?

COMMISSIONER SULLIVAN: Mr. Chairman are we going to break to go to that dedication? Isn't it at 12:30?

CHAIRMAN MONTOYA: It's at 12:30.

COMMISSIONER SULLIVAN: On Airport Road.

COMMISSIONER VIGIL: Mr. Chairman, I, however, will quickly motion to approve the Consent Calendar, minus those items that have been set aside for discussion.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN MONTOYA: Motion by Commissioner Vigil, second by Commissioner Sullivan.

## **XII. CONSENT CALENDAR**

### **A. Budget Adjustments**

- 1. Resolution No. 2006-8. A Resolution Requesting a Budget Increase to the Impact Fee Fund (216) for Expenditure in FY-06 for the Agua Fria Fire District in the Amount of \$140,000 to Purchase a Brush Truck (Fire Department)**
- 2. Resolution No. 2006-09. A Resolution Requesting a Budget Increase to Fund (222) to Carry Forward Prior Year Cash Balance in the Amount of \$750,000 to be Expended in FY-06 on Four New Regional Ambulances (Fire Department)**
- 3. Resolution No. 2006-10 A Resolution Requesting an Increase to**

the State Special Appropriations Fund (318) for a Legislative Appropriation Awarded to the DWI Program / Teen Court with an Operating Transfer to the Alcohol Programs Fund (241) to Correct Resolution 2005-188 / \$33,250 (Health & Human Services Department)

4. Resolution No. 2006-11. A Resolution Increasing the Budget of the Health & Human Services Department by \$450,190 of Memorandum of Agreement Funds for the Care Connection (Health & Human Services Department)
5. Resolution No. 2006-12. A Resolution Requesting an Increase to the Housing Enterprise Fund (517) to Budget Insurance Recovery Revenue for Expenditure in Fiscal Year 2006 \$8,674.68 (Housing Department)
6. Resolution No. 2006-13. A Resolution Requesting an Operating Transfer from the GOB Series 2005 Fund (330) to the Capital Outlay GRT Fund (213) to Reimburse the County for Funds that Were Advanced for the Purchase of Water Rights/\$752,736.97 (Water Resources Department)

**B. Professional Service Agreements**

1. Request Authorization to Award a Professional Services Agreement to the Highest Rated Offeror in Response to RFP # 26-1807-CORR/RH (MS) to Provide Dental Services for Inmates Housed at the Adult Detention Facility (Corrections Department)
2. Request Ratification and Approval of Amendment No. 2 to Professional Services Agreement #26-1814-ADF/RH with Medical Staffing Network (MSN) to Provide Temporary Nursing Staff within the Santa Fe County Adult Detention Facility (Corrections Department)
3. Request Authorization to Accept and Award a Professional Services Agreement to the Highest Rated Offeror in Response to RFP No. 26-0810-FD/RH to Provide Engineering and Design Services for the Underground Water Storage Facility Located at the Eastern Region 2 Hondo Fire Station (Fire Department)
4. Request Authorization to Execute Professional Services Agreement #26-1202-SD/MV with the Santa Fe Animal Shelter & Humane Society to Provide Animal Care Services \$118,000 (Sheriff's Office)
5. Request Authorization to Execute Amendment No. 5 to Professional Services Agreement #25-0042-SD for Animal Care Services with the Santa Fe Animal Shelter & Humane Society

**\$7,229 (Sheriff's Office)**

**C. Miscellaneous**

- 1. Request Authorization to Purchase a 75-foot Pierce Aerial Fire Truck from the City of Santa Fe to be Provided to the Santa Fe County Fire Department, La Cienega Volunteer Fire Dept., in the Amount \$150,000 (Fire Department)**
- 2. Resolution No. 2006-14. A Resolution Requesting Retroactive BCC Approval to Sell an Old or Outdated Fire Apparatus that is Being Retired from the Santa Fe County Fire Department to Rio Arriba County (Fire Department)**
- 3. Request Approval of Resolution No. 2006-15. A Resolution Authorizing Santa Fe County to Submit an Application to the NM Department of Finance and Administration, Local Government Division, to Participate in the Local DWI Grant and Distribution Program (Health & Human Services Department)**
- 4. Request Approval of a Local DWI Program Distribution and Grant Application for Fiscal Year 2007 in the Amount of \$855,342 for the DWI Program (Health & Human Services Department)**
- 5. Request Approval of Resolution No. 2006-16. A Resolution Authorizing Santa Fe County to Submit an Application to the NM Department of Finance and Administration, Local Government Division, to Participate in the DWI Detoxification Grant for the Care Connection (Health & Human Services Department)**
- 6. Request Approval of a DWI Detoxification Grant Application for Fiscal Year 2007 in the Amount of \$300,000 for the CARE Connection (Health & Human Services Department)**
- 7. Request Approval of a Memorandum of Understanding Between Santa Fe County and the NM Department of Finance and Administration, Local Government Division for Fiscal Year 2007 for the DWI and CARE Connection Programs (Health & Human Services Department)**
- 8. Request Approval of a Health Assurances and Cooperative Agreement Between Santa Fe County and the NM Department of Health for Fiscal Year 2007 for the DWI and CARE Connection Programs (Health & Human Services Department)**
- 9. Request Approval of Local DWI Distribution and Grant Statement of Assurances with the NM Department of Finance and Administration, Local Government Division (Health &**

- Human Services Department)
10. Request Approval of Amendment #1 to NM Department of Finance and Administration, Local Government Division Grant #GF-LGD-05-28 Amending the Due Date of the Final Report and Bill for a Legislative Appropriation for Teen Court in the Amount of \$35,000 (Health & Human Services Department)
  11. Request Approval of Amendment #1 to Project Agreement #05-RF-01-P09 Between the NM Department of Transportation, Traffic Safety Bureau, and Santa Fe County Moving \$9,000 from the Commodities Line Item to the Personnel Services Line Item for the Ignition Interlock Pilot Project (Health & Human Services Department) ISOLATED FOR DISCUSSION
  12. Request Approval of Memorandum of Understanding Between the City and County of Santa Fe for Services Provided on Behalf of the Extraterritorial Zoning Commission and Extraterritorial Zoning Authority (Finance/ Legal Department)
  13. Request Approval of Agreement Between Santa Fe County and Interfaith LEAP Concerning ADA Improvements and Lease of Office Space \$15,000 (Project & Facilities Management Department)
  14. Request Authorization to Enter into Three (3) Five-Year Lease Agreements with Wagner Equipment Company for the Lease of Road Maintenance Equipment (Public Works Department)
  15. Request Approval of a Memorandum of Understanding with the City of Santa Fe Solid Waste Management Agency to Conduct the Annual Household Hazardous Waste Day (Public Works Department)
  16. Request Authorization to Enter into a Lighting Agreement with the New Mexico Department of Transportation (NMDOT) for Lights on State Road 502 at the West Entrance to Pojoaque High School in Jacona (Public Works Department) ISOLATED FOR DISCUSSION
  17. Request Authorization to Enter into a Funding Agreement with the Tiempos Lindos Subdivision AKA Jimenez Subdivision for Surface Improvements to County Maintained Roads (Public Works Department)
  18. Resolution No. 2006-17. A Resolution Requesting Authorization to Surplus Heavy Equipment in Accordance with State Statutes (Public Works Department)
  19. Request Authorization to Accept and Award a Price Agreement to the Lowest Cost Bidder in Response to IFB #26-1207-SD/MV

**to Provide Uniforms for the Santa Fe County Sheriff's  
Department (Sheriff's Office)**  
**20. Request Approval of the MOU with the City of Santa Fe,  
Which Would Allow us to Access the Fiscal Year 2006 JAG  
Funds (Sheriff's Office) WITHDRAWN**

**The motion to approve the Consent Calendar excluding items C. 11 and 16 passed by unanimous [4-0] voice vote. [Commissioner Anaya was not present for this action.]**

CHAIRMAN MONTROYA: Okay, now what do we want to do?

COMMISSIONER CAMPOS: If we're going to break for lunch until what time should we break. Maybe 2:00?

CHAIRMAN MONTROYA: I'm for 2:00. Is that okay with the other members? Okay, we will recess and reconvene at 2:00.

[The Commission recessed from 12:30 to 2:10.]

**IX. F. Discussion and Possible Action Authorizing Negotiation of a Joint Resolution of Santa Fe County and the City of Santa Fe whose Terms would (i) Call for a Moratorium on Development in Areas Proposed for Annexation Pending Development of an Annexation Plan by the Regional Planning Authority, and (ii) Call for Enactment of the Appropriate Moratorium Ordinances within the Jurisdiction of the Extraterritorial Zoning Authority and (as necessary) the Board of County Commissioners (Commissioner Sullivan)**

COMMISSIONER SULLIVAN: Mr. Chairman, this item, you have a couple of documents that were put on the desk in front of you and one was just the resolution from the City of Santa Fe having to do with the Las Soleras project where they were asking for the County to refrain from taking any actions on the Las Soleras project until the annexation issue had been addressed by the Regional Planning Authority. This issue came up last week at the EZA and Carol Robertson Lopez, Councilor Lopez was there and advocating very strongly for that and of course, from the County's side of course we were saying we're glad to hear you say that because we've been pushing for the same thing for some time and the City's been moving forward on annexation proposals. My concern, and I think it's a justifiable one, is that the annexation issue is still out there in front of us and the County needs to participate in it. We need to be players in the decision process and that's what the RPA is supposed to be doing.

Unfortunately, that's not working. The other item that's in front of you is a map that looks like this, and this may not be the most recent one but that's a proposal of the

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areas that the City is proposing to annex in order of their priority. Now, this has been tweaked somewhat, but by and large it involves some 14,000 acres of area immediately adjacent to the city, including Las Soleras and other areas primarily located inside the 599/I-25 highways.

What I have on this Matters from the Commission agenda is discussion and possible action authorizing negotiation of a joint resolution of Santa Fe County and the City of Santa Fe, that is to say we would both need to be in agreement on this, whose terms would 1) call for a moratorium on development in areas proposed for annexation pending development of an annexation plan by the Regional Planning Authority, and 2) call for enactment of the appropriate moratorium ordinances within the jurisdiction of the Extraterritorial Zoning Authority, and as necessary, the Board of County Commissioners.

I really think what we need at this point is a time-out. We're getting into the situation where the applicants are going to one entity and then to the other, it appears, seeing where they can get the best deal, and in some cases, at least according to the testimony we had from Las Soleras folks at the EZA meeting, we're throwing out the door several years of very hard work that they had done to try to come up with an acceptable plan. I think this is going to continue to happen, this tug and pull and unless we seriously get into annexation discussions with the City within a given time frame it's going to continue to happen. We're going to continue to drag along and deal with this on an issue by issue basis and not on an overall annexation basis. I really feel annexation should involve how can residents best be served, most economically and for the best use of the tax dollar.

And we haven't gotten to that yet in the annexation discussion in the RPA. We've dealt with it on a project by project basis and we're never going to get anywhere that way in my opinion. So this is up for your thinking on can we think about a time-out period where these areas designated by the City in their annexation plan would be put on the back burner for a given period of time allowing the RPA to agree, to debate, to discuss with developers, with the public at large, the pros and cons of annexation in each of these areas and to come up with a joint recommendation. I don't - I haven't been able to think of any better way to force this issue to happen. That's what IX. F is all about.

CHAIRMAN MONTOYA: Okay, let's have some discussion.

Commissioner Campos.

COMMISSIONER CAMPOS: I read your proposal last week, Commissioner Sullivan. I didn't find any real compelling argument but I found that there are a lot of pitfalls including litigation if we declare a moratorium for a long period of time. We have a situation with the City - the City is not interested in talking to us about annexation. They're pursuing their own annexation policy and they're going to continue to do that. They haven't come to the table except because there was a possibility that Las Soleras no longer wanted to be with them because they'd be sitting there for about three years without any water.

I don't see that there's any serious commitment from the City to have a dialogue

about annexation. I don't see it and I don't this would change it. I think it would just create a situation where we're likely to be sued in a big way. We're likely not to have any insurance coverage for this type of litigation. I just don't find a compelling argument at this point. Thank you, Mr. Chairman.

CHAIRMAN MONTROYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, Commissioner Sullivan, I have to agree with Commissioner Campos, and I guess I have some preliminary questions. Enacting a moratorium is a serious step for any authority and Steve, aren't there standards that need to be applied? Aren't there benchmarks that are required for moratoriums?

MR. ROSS: Mr. Chairman, Commissioner Vigil, you and I being lawyers remember all the takings jurisprudence that developed in the seventies and eighties, that was developed by the US Supreme Court and a great deal of litigation resulted over so-called temporary takings, the first one being that church in I think it was Glendale, California, which was restricted from operating for a certain period of time. The litigation developed over a period of years in the Lake Tahoe area. Probably two-thirds of the case law from the United States Supreme Court came out of the Lake Tahoe area. And up until now, I believe the longest moratorium that has been approved by the Supreme Court as not being a taking was two years.

So I would caution that if there is any kind of a moratorium considered that it be strictly limited in duration and that it be focused on a specific problem so as to avoid any kind of takings litigation. Commissioner Campos is right. We don't have any insurance for that kind of stuff.

COMMISSIONER VIGIL: Thank you, Mr. Chairman. I would just caution that we even consider these kinds of options. I think we're exposing ourselves not only to an incredible amount of liability, but alerting the community in a way that I don't believe we should with regard to these kinds of issues. I see, and my legal mind tells me that there's a conflict in laws with regard to this. I think the Subdivision Act would be enforced over this. I foresee quite a bit of litigation and I'm just wondering, Commissioner Sullivan, if you got legal review for this request before you brought it forth to the Commission.

COMMISSIONER SULLIVAN: Mr. Chairman, the answer to that is yes.

COMMISSIONER VIGIL: And did Legal, what was Legal's position at that time?

COMMISSIONER SULLIVAN: I think it was the same as you just heard. It was that the longest that moratoriums have been upheld by the court is two years. I feel that the work of the RPA could be completed in less time than that, and I did solicit Mr. Ross' assistance in drafting this agenda item. Now, I think that the issue of - it is true, the City has been unwilling to work with us on annexation, and this would be a joint resolution. That is to say, we would not take any action with regard to it, unless the City was willing to take equal action. It would be a joint resolution.

We need to have a compelling force to get us to the table. The particular Las Soleras project got the City to the table and suddenly realizing that there were two sides to

the annexation question. And we have as you can see on this map, about 18 other areas that the City is also considering. Now, we can either be a part of that dialogue or not. And I suggest this for discussion, to offer it out to the City and say this is how we will set a work agenda with everyone participating, just as we've done in the affordable housing arena with everybody participating, understanding that we have a problem.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, my response to that is if the City does join they'd be exposed to the same litigation. I agree with Commissioner Sullivan's intent on coming together to resolve annexation and having it done jointly, but I think to impose a moratorium is the illegal route. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. I really don't see a problem with the way the developers are coming to the County. They've gone to the City; it didn't work. They're coming to the County. I'm not saying it's going to work but at least we get an opportunity to hear it and see what their plans are. If we impose a moratorium I'm afraid that it's going to end up something similar to the Eldorado moratorium and it's gone on and on and on and hasn't - we haven't put a stop to that, which I'd like to see that move forward eventually.

But in terms of working with the City, I've always been willing to work with the City and I think all of us have been willing to work with the City and if we say that we're going to work like we've always said, it never happens. So I kind of tend to disagree with you, Commissioner Sullivan. I think they have every right to come to us so we can hear their plan. Thank you.

CHAIRMAN MONTOYA: Okay. So what are the wishes of the Board? Any further action or any further discussion on this?

COMMISSIONER SULLIVAN: Mr. Chairman, I would just remind the Board that on February 11<sup>th</sup> the RPA, I think that's a Saturday, has a work session, an all-day work session scheduled, a facilitated work session, to discuss what the role in the future of the RPA will be, how we are going to achieve these goals, the two goals that are still in the joint powers agreement with the Regional Planning Authority, that being an annexation plan and a zoning plan. I throw this out as a suggestion. I solicit your suggestions on how we can establish an arena, a forum, a venue, where all the parties are working equally and we have a deadline and we have input from the public in coming to a solution. Otherwise, I think that we will simply be on the outside looking in as the City does proceed to the Boundary Commission and annexes the areas that it deems appropriate to annex.

I'd like to have some say in that if I could, representing a district that includes some of those areas. This is one suggestion. I certainly solicit any others from any of the Commissioners.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I would suggest that we not have this

discussion until after the February 11<sup>th</sup> meeting. At that point we're going to know whether the City Councilors on the RPA are serious about moving forward with the RPA or not. Right now we don't know. There are two Councilors who aren't showing up. Let's just see. I don't think - I really disagree with you, Jack. I don't think these folks, even after Las Soleras, they want to have a serious conversation. They haven't gotten religion as you said the other night. They have not. So I'd like to see what happens at the RPA discussions on the 11<sup>th</sup>.

CHAIRMAN MONTOYA: Okay. So maybe we can bring this up after the February 11<sup>th</sup> meeting and our next meeting will be the 14<sup>th</sup> so maybe discuss it at that time.

COMMISSIONER SULLIVAN: That would be fine.

**IX. G. Publication of Title and General Summary of an Ordinance Prohibiting Heavy Truck Traffic on Agua Fria (Commissioner Vigil)**

COMMISSIONER VIGIL: Mr. Chairman, members of the Commission, I brought this issue up. I believe it was in the November meeting. It came to my attention through the Agua Fria Planning Group and the Agua Fria Development Review Committee, and many of the members of Agua Fria. Ten years ago, the City of Santa Fe enacted an ordinance prohibiting heavy traffic through Agua Fria. However, that was restricted to the city limits. This community has been in wonderment as to why the County hasn't enacted a similar ordinance and it only makes sense to me to move forward with the same ordinance that the City has enacted within their limits, extended to the county.

The question was brought up at that time if in fact this ordinance affected heavy truck traffic for businesses that actually live there and it doesn't. All of those uses are exempted. So I have asked that this be brought forth for publication of title and general summary, and that we move forward with reviewing the ordinance and take testimony on it, and perhaps after we've received the appropriate testimony, be able to take action on it.

CHAIRMAN MONTOYA: Is that a motion, Commissioner?

COMMISSIONER VIGIL: I so move.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER ANAYA: Second.

CHAIRMAN MONTOYA: Second by Commissioner Anaya. Discussion?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Commissioner Vigil, have you talked to staff about this and what they would recommend?

COMMISSIONER VIGIL: I certainly have, Mr. Chairman, Commissioner Campos. I've spoken to Sheriff Solano. I've spoken to James Lujan, who I believe has actually conducted a traffic study with that and certainly Robert Griego who's been engaged in the Agua

Fria Planning Committee is aware of this issue and is aware of the request coming from the residents of the Agua Fria community. The only resistance I guess that I have heard is from Sheriff Solano who said it was difficult to enforce this kind of ordinance, but he said it was no more difficult to enforce this kind of ordinance than it is for the City Police officers to enforce the ordinance in the City's jurisdiction, or for the County's Sheriff's Department to enforce heavy traffic through Caja del Rio and other areas that we've created authority for.

COMMISSIONER CAMPOS: And Mr. Lujan, from his perspective, what were his comments?

COMMISSIONER VIGIL: I believe he can speak for –

CHAIRMAN MONTOYA: Would you like to give us that perspective, Mr. Lujan?

COMMISSIONER CAMPOS: I had asked Commissioner Vigil on this road weight restriction, as far as trucks, as far as trucks –

COMMISSIONER VIGIL: Heavy truck use, whether you'd been consulted and what you're opinions were.

JAMES LUJAN (Public Works Director): Yes, Commissioner Vigil did consult us and asked us – we have just started putting some of the thoughts together. We looked at the City's ordinance and we're going to space it off of some of that information. I don't have a stance for it right now because I haven't done enough research on it, but we're going to start putting it together for her and for the people. We've had concerns from a lot of residents calling my department about heavy truck traffic and what we can do about it. So we'll bring it forward to the Commission to see what you guys want to do with it.

COMMISSIONER CAMPOS: You'll probably have to have a rerouting plan for some of those trucks, wouldn't you?

MR. LUJAN: There's alternative routes now, and they're starting to use them as we move forward with South Meadows and get those other roads built. County Road 62, different roads that they're using. There are alternative routes. We have already looked at that, and we will present that at the time of the testimony.

COMMISSIONER CAMPOS: So you're prepared in the near future to make an evaluation?

MR. LUJAN: Yes, sir.

COMMISSIONER CAMPOS: Thank you, sir.

CHAIRMAN MONTOYA: Any other discussion? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I don't have anything in my packet on this. Does anybody else?

COMMISSIONER VIGIL: No.

CHAIRMAN MONTOYA: No, I don't.

COMMISSIONER SULLIVAN: So we're approving a title and general summary of something we don't have?

CHAIRMAN MONTOYA: Steve, have we received this in past packets?

MR. ROSS: Mr. Chairman, I didn't understand your question.

CHAIRMAN MONTOYA: Did we receive information on this in previous packets?

MR. ROSS: There is a copy of the City ordinance floating around and it floated into our office last week. What we're analyzing is – you know the City is a home rule municipality, so they get to basically make up the rules as they go along. We are governed by statute. So what we're trying to determine is whether what the City has come up with is okay for counties also to do. But I looked at the City's ordinance. It's fairly simple, fairly matter of fact. Sorry you don't have a copy in front of you.

COMMISSIONER SULLIVAN: I don't – I'm not opposed to considering an ordinance for this, but I do feel that we should be consistent with the staff recommendation that if we publish title and general summary we have something – we have a draft ordinance to publish from, to look at. So I think we should get a draft from the staff that they feel is acceptable and review it and if we like it, then publish title and general summary. Otherwise, what are we publishing? What's the direction to staff to publish? The City ordinance or what? I think we need something to publish.

CHAIRMAN MONTOYA: Point well taken. Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, thank you. I agree with Commissioner Sullivan but I also agree with Commissioner Vigil in terms of what she's trying to bring forward. But I did have some questions and you did answer them. There is a lot of businesses in that area. You've got Dahl Electric, Ulibarri Sand and Gravel, Montoya Trucking, Electric Supply, Hope Lumber, the concrete companies, the wrecking services and the list goes on and on. After speaking with the Sheriff, he was telling me that this would be hard to enforce, so that's something that I would like the Sheriff's Department or the Public Works Department in terms of how are we going to enforce this? Do they have special license plates? Do they have a tag? I think that it would be difficult, but I do understand what that community is going through, and you would understand it more than I do, but I do understand that they're just tired of those heavy trucks traveling on those roads. It affects the buildings that are next to it, especially the churches or any other buildings. But I guess there's a lot of unanswered questions that need to be answered. That's all I had, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. We have a motion and a second. Any more discussion?

**The motion to authorize publication of title and general summary failed by 1-4 voice vote with Commissioner Vigil casting the sole aye vote.**

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: So I guess are we going to put it back on the agenda?

CHAIRMAN MONTOYA: I think with Commissioner Sullivan's suggestion that we have the information included in our packet, the revised ordinance. I would feel comfortable with that. Commissioner Campos.

COMMISSIONER CAMPOS: And also the evaluation of staff and the Sheriff.

CHAIRMAN MONTOYA: Yes.

COMMISSIONER CAMPOS: So at that point we can make a decision whether we want to direct staff to do this, as opposed to having staff doing a lot of work and then coming up here and we deciding that maybe we don't want to do that.

#### **IX. OTHER MATTERS FROM THE COMMISSION**

COMMISSIONER SULLIVAN: I just have two quick items, Mr. Chairman, and one is I wanted to recognize for the record the passing of Coretta Scott King today, or last night, who was the widow of Martin Luther King, and behind every famous man there's a woman who made things happen and Mrs. King was that woman in the civil rights battles. So I just wanted to be sure that that was recognized from the Commission.

And the other is a very minor question to Gerald. Gerald, it appears that we've stopped televising the EZA meetings and the RPA meetings. Can we get those restarted again? I'd like to get the public up to speed on what those committees are doing.

MR. GONZALEZ: I'll check on that. I don't know what the slip-up was. The RPA may have been disorganization more than anything else, trying to figure out where it is and what it's doing. But I'll check on both of those.

COMMISSIONER SULLIVAN: Okay. Thank you.

CHAIRMAN MONTOYA: Thank you, Commissioner Sullivan. Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, I have a question for I guess Gerald. Gerald, I had an item requested to be placed on the agenda and it was removed and I never learned about it until I contacted your office yesterday. It was an item that came to mind that I thought was necessary to bring forth to the Commission based on the Association of Counties presentation. What is the procedure? Who makes the decision to remove items from the agenda, particularly when they're requested by a Commissioner?

CHAIRMAN MONTOYA: Commissioner Sullivan does.

COMMISSIONER SULLIVAN: I had one removed too, so I'm with Commissioner Vigil on this one.

MR. GONZALEZ: Usually it's the Commission itself unless there's some reason that it's impossible from the staff standpoint to be able to respond to it. I don't know what the item was.

COMMISSIONER VIGIL: It was on emergency preparedness.

CHAIRMAN MONTOYA: Commissioner Vigil, you made a request -

COMMISSIONER VIGIL: The request came through Gerald's office.

MR. GONZALEZ: I think the problem there, Commissioner, may have been the medical difficulties that Roman had with respect to his son, because I know he had that on his plate. We had discussed it early. I didn't notice that it had been dropped off or I would have

made sure that it was on there, but I know he had mentioned it to me before his son was hospitalized. So I apologize for that. That was as far as I know, just a mistake on our part, not keeping track of it and making sure that it appeared on that. We try to keep notes as we're going through this and I'm taking my notes and Roman is taking his as well and we try to pull them all together and try to make sure we don't lose track of the items that you want on the agenda and somehow we missed that. So that was my failure. My apologies, and I'll make sure we get it back on.

COMMISSIONER VIGIL: Thank you. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil, maybe a suggestion for that is that I will be meeting with Gerald before every BCC meeting to review the agenda. If there are items that any Commissioner would want on there if you would let me know as well. That way I'm aware when I'm reviewing the agenda that I have those items. So if you want to let me know I would be glad to kind of serve as a mediator between what's on there and what may not be on there and make sure that things do get on there that you want on there. Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, I don't think that this Board would tell the Manager if some Commissioner had something on the agenda to take it off. I really don't think - I didn't know if that was the case.

COMMISSIONER VIGIL: No.

COMMISSIONER ANAYA: They probably just, like you said, forgot. When one of the Commissioners want something put on the agenda I think it's usually put on.

COMMISSIONER VIGIL: That was my experience.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, I agree with your suggestion. I think the chair has to play a key role in the management of the meetings. If you have every Commissioner throwing something into the agenda at any time they wish, the agendas can get pretty bloated and unmanageable and time-consuming. Our mornings we're spending in basically kind of - we're doing a lot of things that aren't really business. We spend a lot of time to take the pictures and all that stuff, and I would hope we could do less of that. I would also suggest that we look at maybe ending the meetings no longer than 8:00. It's hard to be functional after 8:00 at night.

I think we've got to get our agendas tighter, more focused, and we should - we're going to have a very grueling agenda today if we don't move at a quicker pace and if we don't all cooperate in that movement.

CHAIRMAN MONTOYA: Commissioner Campos, I appreciate that comment, and that was exactly the intent that I suggested we do it that way. Because I think it is my role and my job to help kind of facilitate things along and move them so that we don't get stuck and if there's something on an agenda item that may of question then I would certainly communicate that with each of the Commissioners. Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. I think that part of our job as being County Commissioner, as much as some of us think that we are wasting time,



I think that it's important for us to recognize the people that do well in our community. So I would hope that those would never be an issue, Mr. Chairman, and never be taken off the agenda because it is important - and I will stress it again - that if it wasn't for people like Commissioner Martinez, we probably wouldn't be here today. He has put things on and moved the County forward. So I would hope that we would not overlook those when it comes to recognition of our community leaders.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Quick response. I don't disagree that recognition is important but perhaps we could have a meeting once a quarter, every couple of months, that would be dedicated to the recognition process of our employees and members of our community that have done important things. But I would rather not do one at every meeting. I'd like to get our regular meetings really efficient, really down pat, then we could have a special meeting if we all wanted to, to do this recognition. Because I agree it's important. I'm just saying we need a new way of moving our meetings.

CHAIRMAN MONTOYA: Okay. We're still under Matters from the Commission. Commissioner Anaya, do you have anything?

COMMISSIONER ANAYA: James, could you just kind of brief me on the Calle Debra Bridge and where we are with that and are we ever going to get it - I know we'll get it finished. I just want to make sure that we're on top of it.

MR. LUJAN: Mr. Chairman, Commissioner Anaya, we have been working on that one on weekends. We have been behind. I'm trying to do some paving. We have completed the extension of a culvert. All I'm waiting for is a guardrail to put in. They have been having some trouble, both us and the supplier of the guardrail. He hasn't been able to get out there, but we do have it scheduled and I hope to wrap it up by the end of next month.

COMMISSIONER ANAYA: They're going to put those rustic-looking guardrails on there?

MR. LUJAN: We're going to use - it's called post and cable. Not the rustic.

COMMISSIONER ANAYA: Oh, post and cable.

MR. LUJAN: Like they have on I-25 going to Pojoaque, because of the speed limit. We don't have enough room for the guardrail so I went to [inaudible] and the speed limit in there is 25 so that should work for that also.

COMMISSIONER ANAYA: Okay, James. Thank you. Mr. Chairman, I had more stuff but I think I'll pass till next meeting.

CHAIRMAN MONTOYA: Okay. Commissioner Campos.

COMMISSIONER CAMPOS: I'll pass to next meeting.

CHAIRMAN MONTOYA: Okay. So will I.

**X. D. Presentation by Intera of the Preliminary Results on Aquifer Characteristics from the Hydrologic Modeling (Water Resources Department)**

STEPHEN WUST (Water Resources Director): Thank you, Mr. Chairman. I'd first like to start this by introducing our new County Hydrologist, because she will be taking the lead on playing with this model and tweaking it as we go along. It's Karen Torres. She comes to us from the Office of the State Engineer, where she worked in the Water Rights Division, so she has some good experience in the very areas that we're looking at as we proceed in our conjunctive use strategy. She's also going to be the lead on the well drilling program as we move ahead with the model.

This is the results, and we say, I think we said in the caption, preliminary results because it is a model, a computer model and those things are always getting tweaked and new data come in and we can adjust things and make them more accurate. So it's an ongoing process. This was derived from a contract from February of last year when the County recognized that it needed a comprehensive way to look at areas for possible groundwater sources to work in conjunction with our Buckman Direct Diversion surface water source. We hired Intera who do a lot of modeling, big and small, and I must say to the Commission that I think we got our money's worth.

This is the best model for this area. Not unusual, usually models build on each other and the latest is often the greatest, and this is significantly so. This, for example, is the first model to use geologic modeling as part of the hydrologic modeling input. It has added extra layers and you'll see that in one of the slides. It is much more comprehensive. It uses much more recent data and much more comprehensive data than anything before. As an extension of this, I think I heard something about the Eldorado moratorium was mentioned earlier. The Eldorado Area Water and Sanitation District is already moving to get out an RFP to have someone basically play with this model in detail for their area. So it's already being planned to assist other water systems.

This model was done in collaboration with the City of Santa Fe and Claudia Borchert, who is with the City, who is a project manager on their side is here today. CDM was their contractor; Intera was ours. What you're seeing here is the final results that Intera's put out. The collaboration went to a certain stage but since the City and the County are using them for different purposes, Intera finalized it for the County's purposes. The other thing you'll note here, and this is something specific to the County, is that the Commission asked that other factors be looked at besides just the hydrologic properties, such as nearness to population centers, nearness to our infrastructure.

Intera has come up with a bias-neutral way to show those factors and how they may affect the overall picture of potential well locations. They're also going to show you some first round selection of potential well locations. That's not a final product but something just to get people looking at good areas. We have three public meetings arranged as part of this contract that will come in the next few months, based on Commission input for this first look at the final

product.

Cindy Ardito is here from Intera and she will be doing the presentation. Karen and I will also of course be here through the whole thing for questions or comments.

CHAIRMAN MONTOYA: Thank you, Stephen. Cindy.

CINDY ARDITO: I'm Cindy Ardito, senior hydrogeologist with Intera. Thank you. Thank you, Stephen, for the introduction. I'm pleased to be here today to talk about the results. I know that we've had a little bit of delay associated with getting the results out, but I think everybody's going to see today that we've come a long way. It's been an interesting and complicated project but we've got some good results here and I want to run through this and I hope it's a level at which it provides useful information to you. Please stop me at any time if something doesn't make sense or you want to ask questions along the way.

Here is what I want to talk about today. Just a quick project status, talk a little bit about model development, but not much because we did spend some time on that at the last meeting where I went through the collaboration process, the various data sources that we employed to get to where we are today. What I'm going to really focus on is how we went through the decision analysis approach to come up with proposed well locations, and then the results of the analysis, assuming that the wells are put in these places and then pumped. What does that mean in terms of potential impacts in the area? And again, questions any time, I'm happy to take.

The project status cascade, we talked about last time we made our presentation to you, in July of last year. I'm not going to spend any time there. We've also constructed the model - if you recall we built from a USGS flow model that was in existence by Maquedo and Waziolich and we restructured it to cover the area of interest and looked at new and existing information on aquifers, well locations, water quality, and we've also been looking at the map. We've mapped the current and proposed water and wastewater utilities. That's one of the factors in the decision.

So where we are right now is once we get the model complete, which we're very close to, we will be installing the model and training Karen Torres to use it. I'm working with her so that she can use it for ongoing County concerns. We are making the recommendations, the initial ones today, but we have a little bit more work to do, and you'll see in front of you there the list of criteria, which I'm going to spend some more time later, so I won't do that right now. Today, I'm presenting to you the results of the model, and again, there's going to be some more tweaking, but in general we feel pretty comfortable with the areas that we've come up with. And then we still have the public meetings to do.

Again, I'm not going to spend much time on the model development but as Stephen already pointed out I think one of the really great aspects of the development of this model is the geologic model that was used to basically come up with the parameters, the hydraulic flow parameters that are used in the MODFLOW model and tie it back to the geology that we understand today. A lot of work has been done by USGS Bureau of Geology and we've been able to incorporate that and use it to help build the appropriate model for flow in the area. And here's just an example of one of the cross sections in the model. What's great about the GMS model is that we can, now that we've built it, we can easily update it with new information. We

can take cross sections at any part of the model area that we want to and take a look at what we believe to be there, and it provides a great framework for moving forward and incorporating new information, which happens constantly.

One of the things that we have just recently completed is the calibration of the model, and basically, what that is that once you build the flow model and you start making predictions with it, you want to understand how well that model predicts to what is observed in actual data that's being collected, water levels from wells, particularly. What you see here are simulated water levels at various points within the models, versus observed water levels. And you can see that it's a fairly straight line. There is some scatter which is always the case. There's a rule of thumb in our business that if your root mean square of the residuals of the observed heads is less than 10 percent of the change in head across the model that you're doing pretty well. Our current calculation shows us at about five percent. So we're well within what's considered industry standard if you will, for calibration.

This one was based on the steady state calibration, which is – basically what that is is we look at water levels that were pre-development, before pumping began in earnest in the county and see how we predict those sort of initial state conditions, if you will. And then we look at more recent data that has been collected during times of pumping. And in both cases again, we're well within that rule of thumb of matching, if you will. And it's this part of the calibration that gives you an indication of how well this model predicts what might happen if you pumped at various places within the model domain. So this is an important one because that's one of the primary uses, I think, the County has for this model, which is to plunk a well down in some portion of the model area and pump it at various rates and understand what the potential impacts might be.

We also – another thing you look at is – this is called the hydrograph and we picked a few wells. We've got many more of these but I picked a few example wells. This is the Alto well. What you see on the blue line is the model prediction. The pink squares are actual data. This is given again, in comparison of how well the model behaves in terms of predicting actual measurements. And they'll – certainly, it won't predict everything but what's important to see here is that it is capturing the fluctuations that are being shown by the real data. And that's important to note.

A couple other wells, we don't have a lot of data for some of them. This is Santa Fe-2-B in the city's – actually, this is a piezometer, a Buckman piezometer, and we only have data out in the early time there, but at least we're pretty close to predicting once pumping has started.

This is the Buckman #7, and again, we only have limited data but the patterns are similar, which is what you look for. Here's an Eldorado well that again, there's definitely scatter but you can see some mimicking of the pattern there.

Moving on from there, so we've built a model to simulate water flow in the area, and what we want to also look at, what the County asked us to do was to develop a decision analysis component of this that would enable us to not only look at the best aquifers and best locations based on hydrogeology, but to consider some other factors. Certainly sustainable

water supply relates to the best hydrogeology, but also minimizing impact to existing users, minimizing users to streams and springs, which is a big issue in the county, and then cost. Cost is always a factor that has to be considered.

So basically, we refer to this decision analysis as a well site suitability analysis if you will. Again, looking at these various criteria, this is the attributes of those criteria, which are areas of favorable hydrogeology, existing population distribution, existing infrastructure, existing wells that we certainly don't want to be impacting. Where are all the domestic wells? Where are all the streams and springs? And then areas of known groundwater contamination – water quality was another factor we were asked to take a look at.

So based on those decision criteria and the attributes, we came up with a series of layers that we are superimposing on each other to come up with a score for an area. And I'm going to walk through that now. The first one we'll look at is the areas of favorable hydrogeology. And how we define that is high permeability, so you can get a lot of flow to a well, and also thickness. You might have high permeability such as in some of the axial gravels in the Rio Grande, but they're not very thick so you might not sustain a pumping rate for very long. So both those things working together are what constitutes favorable hydrogeology.

The aquifers in the areas that we believe are of the most interest, based on these criteria, are the Ancha, which is a member of the Tesuque but a more permeable member – thinner but much more permeable, so it's considered a very viable aquifer; the Espinazo; and the Galisteo. And I'm going to show you – we've used all the data we've collected in our geographic information system, our GIS, to map out where these aquifers are, and then based on their thickness, we've colorized – we've made a color code, if you will, to portray areas where there is no Ancha, which is red, or there's a lot of very thick Ancha, which would be green. So moving from that color spectrum, red is bad, green is good, that's what you're going to see as we flip through the various aquifers.

This is a map of the Espinazo, this is the Galisteo, and this is the Tesuque. And then what we did is we compiled all those aquifers together and made a composite aquifer thickness, and then normalized those data so that we could look at relative areas that are favorable. Again, red is bad; green is good. And this is for sort of all of the aquifers taken together. So that constitutes one of our layers.

In moving through that, another thing that we looked at was distance to populated areas, and that gets a little bit into the cost factor. We want to have wells that aren't so far away from people that it costs too much to get the water to them. And again, this is a normalized distribution that is shown here, so that you're dividing by the greatest distance and you're multiplying by 100 and you're coming up with a scale of zero to hundred, red being bad, green being good in terms of distance from most populated areas.

Here we looked at – so you can kind of get a feel for how we did this and we did it for all the various layers. I won't spend a lot of time on this because I know we're pressed for time here. This one shows the existing and proposed – you'll see right here, this is proposed. This is the proposed Buckman line there. So that's not actually there yet, but we understand that it will be. We used the same approach to develop the layer. Here we have water supply wells and

what we refer to large water right holders. So distance, not being too close to these wells is another criterion we're concerned about, supply wells being the big pumpers at the City of Santa Fe, Eldorado, Los Alamos and then large water right holders is everybody that's on the OSE's water data base that has more than 10 acre-feet per year of water right that they're pumping. Mutual domestics are also included here. And again, red is bad; green is good.

This is I think a pretty impressive graphic here, the domestic wells; there's lots of them. They're everywhere. We did the same kind of analysis for domestic wells. And then we looked at distance to streams. We don't want to be so close to a stream that we're going to cause pumping to cause too much water to be pulled out of the stream. That would obviously be not a good thing. And then we also looked at springs, and they're labeled here some of the ones that we've all been hearing about, and again, perform the same type of normalized analysis.

This is distance to groundwater contamination. These were data that we obtained mostly from Peggy Johnson, Bureau of Geology, made a map of all the known contamination sites, so this would be leaking underground storage tanks and various things like that, known issues. And you can see the locations of those sites in blue. And we did the same kind of normalized analysis here.

And then we summed all those things together, basically, and we came up with a composite score for all those various issues of concern and we normalized them and came up with the map that you see before you there. And then based on that, we decided that a promising well site area would be one that has a score of greater than 75 out of 100. We also looked at property ownership, because obviously, we can't just go drill a well anywhere, depending on where the property is and who owns the property. So what you see here, areas in blue are areas where the scores were greater than 75. You'll see the various land ownership designators there. So the one, two, three and four are again, these are sort of our first cut at deciding, now, this would be an important area to look at, based on favorable hydrology and all the other criteria.

We also know, based on the land ownership map that these are state or federal land where there would be - I'm sorry, private land, where there would be opportunities to potentially install the wells. So we picked these first locations, and then used the model. So now we've got a location, a MODFLOW model, we can pump those wells. Sorry, let me back up a second. We did a cross section through areas 1 and 2, then another cross section through areas 3 and 4, just to give you a feel for what the geology looks like in the subsurface. We assumed 1000-foot wells for the analysis. That doesn't mean we couldn't go deeper. It's just we picked a number there that seemed reasonable to at least take a first look at.

You'll see these areas, wells number 1 and 2 are both in the Tesuque. However, well number 1 has to go through a significant amount of Cerros del Rio volcanics before it gets to the Tesuque. And then if you look at - this is again well locations 3 and 4, as you can see, as you move south, the geology gets a lot more complicated and there's a lot more uncertainty. Well number 4 is within the Rio Grande axial gravel within the Tesuque, and then well number 3 taps into the Espinazo at the thousand-foot level. If we went 2,000 feet we could also tap into the Galisteo, both of which we consider to be potentially good aquifers.

So we took those four well locations and we pumped them for 24 hours a day, seven days a week for forty years, at 60 gpm, or 100 acre-feet per year, just to take a look at what the stresses would be and what the impacts might be. Well number 1 we were only able to pump it 80 acre-feet, again, because it's limited in terms of the amount of Tesuque that it actually taps into, but still viable at the 80 acre-feet level. And then just to summarize some of the critical things that we looked at in the model results were impacts to spring flow, stream depletion and then draw-down at the nearest well, because these are things that we can measure with the model and are obviously problematic should the occur.

In all cases, we were far enough away from critical springs that there was none or negligible impact, if you will, impact to springs. Stream depletion – we did have some, particularly in well number 4, which is the one that is partly in the Rio Grande axial gravels, but still, if you consider that we're pumping 24 hours a day, seven days a week at 60 gpm for 40 years, 30 acre-feet, it's a pretty small amount, in number 4. And the others are much less than that or negligible. And then draw-down at existing wells, again, was either negligible or very small – less than a foot after this 40 years of continuous pumping.

So that, in a nutshell, covers it in terms of our first analysis, and I'm happy to entertain any questions. I hope that wasn't too fast. It's a lot of information and again, I'm happy to answer any questions.

CHAIRMAN MONTOYA: Okay. Any questions for Cindy? Commissioner Campos.

COMMISSIONER CAMPOS: Quick question. You said you need additional information, additional work to be done?

MS. ARDITO: Mr. Chairman, Commissioner Campos, what I mean by that is we have taken a first analysis of this. We have some calibration issues. There's some issues within the model that we want to spend a little bit more time on. However, the things we have left to do sort of fall in the arena of basically truing things up if you will. The general areas are not going to change. We feel pretty comfortable with the locations we've come up with. What could happen and what may happen, based on information we get in the public meetings is that we may want to think about weighting some of those decision criteria. In other words, we may find that there are concerns that are more important than others and we don't want to treat them equally, which is what we've done here. And that could influence where those well locations are.

We are planning on presenting this information at the Española Basin Technical Advisory Group, and as I said, geologic information is coming constantly, new information that might cause a tweaking. But again, in general, we're very comfortable with the results as they stand right now. Does that answer your question?

COMMISSIONER CAMPOS: Also, what's your time line?

MS. ARDITO: Our time line, we are ready to go to public meeting now, and I think Stephen and I just need to work out a schedule. I think – correct me if I'm wrong, but the plan is to have three sort of back-to-back meetings in various places throughout the county, and then based on that input and whatever input we get from the Commissioners, we'll finalize

the recommendations. I'm thinking within the next month or two we could be completely finished with this phase of the work. It depends on how difficult it is to get these public meeting set up.

COMMISSIONER CAMPOS: You've been working with CDM?

MS. ARDITO: We have.

COMMISSIONER CAMPOS: Sharing data?

MS. ARDITO: We have.

COMMISSIONER CAMPOS: Is there going to be a consensus model or are we going to have different models, one for the City and one for the County?

MS. ARDITO: We certainly hope not. Where we are right now, Intera, because of our time line with the County, had to move forward to finish the calibration. We gave everything that we've done to CDM, both the steady state model files and the transient model files. I think they got all of those files right before the holidays. To date we've received a few comments from them on the steady state model. They have not commented on the transient model. Originally, they were going to complete some of the calibration process also, but again, we had to basically get to where we - I know we were already behind the schedule that the County wanted so we had to sort of move forward on our own to get the rest of the way.

So, I know CDM has made some comments about things that they have a few concerns with but our plan and our hope is to come up with one model. I think everybody realized that's in the best interest of both the City and the County.

COMMISSIONER CAMPOS: Again, what's your time line on the consensus model?

MS. ARDITO: I think again that's within the next two months.

COMMISSIONER CAMPOS: We can get it within the next two months?

MS. ARDITO: I think so, if it's going to happen. Because again, we've got a working model right now and I guess if I could think worst case, if the City comes up with technical problems with the model that we can't resolve, then I guess that could force a divergence. But I don't anticipate that. We've been working side by side. CDM has been informed of everything that we're doing. We have been marching along just in the interests of time a little bit independently on this last phase. So I'm hoping that they'll take the model and review it and give us comments at least. But in general, that's where we stand.

COMMISSIONER CAMPOS: Okay. Thank you. Thank you, Mr. Chairman.

CHAIRMAN MONTROYA: Any other questions? Comments? I want to thank you, Stephen, also. I know I've been waiting for this. It's been alluded to, different moratoriums that have been in effect or want to be put in place and I think this is certainly something that's going to help us in determining exactly where we need to go. In terms of the public hearings, what are you expecting from the public hearings, and specifically, where are you planning on doing them?

DR. WUST: Mr. Chairman, my approach was to wait on the results of the model and basically try to stress our public meetings for those areas that seem to be most favorable to wells, because I would suspect those are the folks that would be most interested in



seeing what we have in mind. So based on these results it's looking, as a first cut in Eldorado, Rancho Viejo area, because one location is right between those. One would be down towards La Cienega, because that number 4 is to the south. And then one up to the northwest of the city, probably closer to the city than up in the Pojoaque Valley because that location was in that area. So basically, that's how I'm looking for those three areas.

CHAIRMAN MONTOYA: So Eldorado, La Cienega, and the northwest area, being possibly Pojoaque?

DR. WUST: Possibly. Mr. Chairman, some of it will have to do with where we can get a location that will give us enough space that will draw in the people that most likely will be interested. So it could be La Campanas, could be Pojoaque. But certainly one to the north, one to the south and one to the southwest, because those look like the three major areas, and that's what we were concentrating on to try to get this out to those areas that look favorable.

CHAIRMAN MONTOYA: Okay. And then the information you're hoping to get from those public hearings is -

DR. WUST: Mr. Chairman, the information will be a sense of what the community thinks about. I'd say more this approach than the specifics of the models because certainly, most members of the public, even I can't look at a model and start to tweak all the details of it. That requires a lot of expertise. But certainly get a sense if the community feels that this is a good approach and they're reasonably happy with how we went about it. I remember one of the tenets of the Commission when we went into this contract was we wanted to proceed on this well location selection in a transparent manner so people could see how we did it all along and could see our decision process was open. That's why I'd like to get feedback from the public, if they feel that we've done this in an honest and forthright manner and we're communicating with them and letting them know everything that we're doing. So that they see that we're getting a real basis for why we're picking the areas we're picking.

CHAIRMAN MONTOYA: Okay. Very good. Thank you again and Commissioner Sullivan.

COMMISSIONER SULLIVAN: I did just have one question for Cindy. Again, thanks for your work on this. You mentioned water quality parameters and I saw a slide showing the hazardous waste sites or so forth. In the water quality parameters did you consider the parameters that are now in effect under the new Safe Water Drinking Act?

MS. ARDITO: Commissioner Sullivan, we did. Unfortunately, there's not a lot of data in the areas that we're interested in the proposed well locations, but we have again the database that Peggy Johnson put together for the New Mexico Bureau of Geology, and we looked at that and then again there was no information - arsenic, uranium - I guess you're talking about those naturally occurring contaminants if you will. We may need, when we get down to that next phase where they're going to pick the exact spot on the ground, there might be an opportunity to look a little more into whether the Environment Department has additional information that we just haven't had time to dig up yet. But in terms of low-hanging fruit, if you will, databases that are already existing for that kind of information, there isn't data exactly

in the areas that we're interested in, that we have found yet. So we looked at the contaminants. The contaminant databases are much better, for obvious reasons. There's a lot more available that's accessible.

COMMISSIONER SULLIVAN: You mean like underground storage tanks.

MS. ARDITO: Underground storage tanks, Superfund sites, those kinds of things.

COMMISSIONER SULLIVAN: So part of the next phase might be to get some additional information because I know in a number of cases out there, a lot of consulting engineers have experience with wells, consultants like John Shomaker and others who have been doing well evaluations throughout the area for several years have pumping information on arsenic and these metals.

MS. ARDITO: Right. And the Shomaker data, for instance, we did get, but again it wasn't in the exact areas that we were interested in. But to be frank, some of the time that we might have spent on things like that, we've taken out with the collaboration process that really wasn't planned for or budgeted for. That was a very time-consuming process. So some of the things that we might have spent a little bit more time on did suffer for that reason. But it doesn't mean that we can't pick that up in another phase. But mostly, again in these areas that we're interested in, there's not a lot of information that exists.

DR. WUST: Mr. Chairman, if I may add an addendum to that, that would come into play – you asked earlier what we're looking for from the public, also what we're looking for from the Commission, as Cindy talked about, all these factors were given the same weight in this first run. If the Commission decided that areas of contamination was one of the critical components then it would be worth spending some time getting more detail, but probably, we'd get a better answer just giving more weight to that particular factor. If the Commission decided that contamination was not as critical a factor as, say, distance to existing infrastructure, then because more weight is being applied to that other factor that's where we'd spend more of our time on getting certain kinds of details. It kind of comes down to – especially in terms of contamination, if you've got a great well, but you have to put a treatment unit on it, is that more important to you than getting an area with absolutely no contamination but not being necessarily as good a producer. Those kinds of – that's the weighting factors that we're going to be looking at. So that will kind of dictate how we go about where we really put our time looking at some of the details.

COMMISSIONER SULLIVAN: Mr. Chairman, I just asked that because the new regulation that seems to be most troublesome to the mutual domestics and other systems is the arsenic level, which has dropped significantly from 50 to 10 micro-milligrams per liter. And a lot of community wells – some community wells – I don't want to say a lot – some community wells are experiencing trouble with that and trouble in meeting that. So I would be concerned in drilling a well or ultimately ending up in one of the four areas drilling a well and then finding that we had to treat for arsenic, which can be a fairly expensive undertaking, particularly when you're there alone and you can't just do it by diluting it somehow and making someone else drink the arsenic.

So I think some of those parameters, and I know there's been a lot of discussion amongst the Environment Department and others about the timetable for testing and my understanding is that's not even going to take place until 2007. But even so, once we make a large expenditure in terms of construction and transmission mains and things like that, I think we want to avoid also having the problems of treatment and monitoring that some of those parameters would require. So to me it's a fairly important factor, I think even more so than cost, because I think over time, cost, as long as you're in the general area where you know population is occurring or exists, that cost can be amortized over the future users and will end up being fairly reasonable.

But it ain't cheap to fool Mother Nature. And that's the harder part of it, making sure you've got quality drinking water. So those are the thoughts that I'd offer.

CHAIRMAN MONTOYA: Okay. So we'll expect a report then the first meeting in March?

DR. WUST: Mr. Chairman, I'm going to get together now with the Planning guys who know how to do these community meetings and set some up and we're going to try to have those done in the next couple of months. So we'll shoot for March, but with the vagaries of trying to get public meetings, I'd like to say we're going to be moving on that right away. We didn't want to try to set those until after we presented to the Commission in case the Commission had certain ideas or approaches that they wanted us to try to take, and if I'm hearing you right, the big approach you want us to take is get it done. And if you're okay with the locations that we set out then we'll start moving on those right away.

CHAIRMAN MONTOYA: Okay. All right. Thank you again. Appreciate it.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Question. Steve, are you also working on updating the 40-year water plan, and will this information be a part of that updated version?

DR. WUST: Mr. Chairman, Commissioner Vigil, I am and it will. This is one I can name of about six or seven things that are in flux right now. The San Juan/Chama contract is one, our partnerships is one, and all those are going into the update of the 40-year water plan. This is a significant one because this is part of our conjunctive use strategy, which is a critical component of our 40-year water plan. So it most certainly is going in there.

COMMISSIONER VIGIL: Thank you.

CHAIRMAN MONTOYA: Okay. And welcome, Karen Torres to Santa Fe County. Glad to have you from OSE.

**IX. COMMITTEE APPOINTMENTS/REAPPOINTMENTS AND RESIGNATIONS**

**A. Appointment of the Probate Judge**

CHAIRMAN MONTOYA: Who's going to lead this discussion? Gerald?

MR. GONZALEZ: Do I lead it or become the target of it? One or the other.

CHAIRMAN MONTOYA: Do you want to be the judge?

MR. GONZALEZ: Not this time, but thanks. Thanks but no thanks, as they say. After doing our best to decipher and comply with the direction that we had at the last BCC meeting, what we did was prepare a matrix and I can walk you through the matrix with the different components of it. In terms of trying to really sort it out I think it's important just to see what the pieces of it are and how it fits together and then at that point maybe we can narrow the number of choices down to something you feel comfortable with.

If you look at the matrix in front of you, we looked at the backgrounds of the people that were there. Five of those who submitted their information were attorneys and then there was one other who had past experience as a probate judge. As you'll see in a little but that person is also running for probate judge. But anyone, if you look at those who've had prior probate experience there are a total of seven. If you look at those who are running for probate judge, we have two who are running and one who is unknown and the remainder are not.

Now there are a couple of different ways of parsing this out, but if we look just at the attorney applicants who probably would be able to hit the saddle a little better in terms of their not having attending the NMAC training that was recently given for probate judges and have a little more familiarity with the area. Then we've narrowed down the group to those five attorneys. If you eliminate the attorney who is running for the probate position then you've dropped yourself down to a total of four attorneys who have probate experience. Then you can rank those in terms of what their overall legal experience is. In ranking them that way, of those attorneys who have probate experience who are not running for probate judge the one with the longest experience is Ronald Boyd, but we did not receive a resume from that person. He's an attorney with 32 years of general practice here in Santa Fe.

The second longest running experience would be Francis Mathew, Frank Mathew, who is also not running for probate judge. Then the next person with the next longest legal experience would be Diane Orozco-Garrett, followed by the fourth person who would be Barbara Ann Michael. So that's sort of a quick and dirty way of looking at it. If you want to add back in whoever is running for probate judge then of course that field expands to a total of six candidates. But I thought four was at least close to the three we were trying to shoot for as a target and if you do them by total experience time then you can narrow that down even further.

CHAIRMAN MONTOYA: So, based on the criteria that were requested when this went out for advertisement, the one who would rank number one pending - and I don't know what the thoughts are of the Board, whether they're running for probate or not, would be Francis Mathew.

MR. GONZALEZ: Yes. Certainly of the folks we have the most detailed information on. As I said, with Ronald Boyd we have no resume.

CHAIRMAN MONTOYA: Okay. Discussion. Commissioner Campos, then Commissioner Sullivan.

COMMISSIONER CAMPOS: I guess the first question is whether it matters if the candidate is running or not. To me, that's the first issue. An example, what if we had a

probate situation where someone resigned after a year and there were three years left on the term. Let's say we could anticipate two or three opponents or candidates for this office, but it's three years out - I think at that point we would be looking for the most qualified judge. In this situation, we're 10, 11 months out. So it's a substantial amount of time. The time these folks have in this next 10 or 11 months, if we have someone and then replace them, we're going to lose that experience and knowledge that they had gained over 10, 11 months. So that's the first question. That's my analysis.

CHAIRMAN MONTOYA: The question is whether they're running for probate judge or not. Commissioner Campos says no. Commissioner Vigil.

COMMISSIONER VIGIL: I think at our last meeting I went to great lengths to express my position on it truly mattering. I think we're impeding on the electorate when we select some candidates. I think in effect, what we actually do is give a particular candidate an unfair advantage for that position. I think more and more, the trend is not to do that. I know the City avoided doing that in their appointment of a municipal judge. The governor's office avoided that in their appointment of a State Treasurer. It is my position that it would be difficult for us to make a judgment call on who the better candidate was from those who are running for office. We have two particular ones here, Mark Basham and Lily Gonzales, both of whom bring excellent, excellent references for that position. How we could select one over the other would be very difficult for me to do.

As a result of that, I think we need to seriously consider neutralizing this position, appointing a candidate who is highly qualified and who is not interested in running for this position, and when the election is held, the electorate should be the voice of who that probate judge is.

CHAIRMAN MONTOYA: Thank you, Commissioner Vigil. Commissioner Anaya.

COMMISSIONER ANAYA: I agree.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Gerald, I had a question. Mr. McFarlane, he is also an attorney -

CHAIRMAN MONTOYA: Before we move on to that, Commissioner Sullivan, do you agree or disagree with Commissioner Campos? And the question being if they're running for probate or not should not matter.

COMMISSIONER SULLIVAN: I think that given the fact that we have a good candidacy of folks, anyone of whom you could pit against the other if you were really trying to compare resumes. I think it makes sense to err on the side of picking at least someone who doesn't think they're going to run. It doesn't preclude them from running; they may just love the job and they're going to run and we can't withhold that right for them to do that. But I think given the list that we have here that we can find a candidate that can meet Commissioner Vigil's requirements as well.

CHAIRMAN MONTOYA: Okay, now your question.

COMMISSIONER SULLIVAN: My question was two-fold. One was, in

looking at the resume of Mr. McFarlane, we've been talking about attorneys who've had probate experience. I see his says he's had probate experience. His says, yes, he has probate experience and I see from his resume that he's a member of the state bar of Georgia and a graduate from Brown University and the Walter F. George School of Law. So I guess - is he not considered an attorney because he's not a member of the New Mexico Bar? Is that your thinking?

MR. GONZALEZ: That was the reason for narrowing it, because he wouldn't have had an opportunity to practice as an attorney doing probate here in New Mexico.

COMMISSIONER SULLIVAN: Okay. I was impressed the fact that he was an Eagle Scout. I like that.

CHAIRMAN MONTOYA: Was that one of the criteria?

COMMISSIONER SULLIVAN: I think that's not a bad criterion. The other criterion that I notice we didn't talk about but I noticed one of the candidates indicates that they are fluent in Spanish. Bilingual didn't seem to be one of the requirements, but it seems like that may be of some importance. I noticed that Diana Orozco-Garrett indicates that she was fluent in Spanish and has experience as a justice of the peace in Dallas County and a licensed attorney in Texas and New Mexico. So she seemed to have some good experience as well. She would be, I guess third on your list. But you didn't look at that, or did you not feel that based on what our probate judge does that that's particularly important.

MR. GONZALEZ: The only place where that issue seemed to surface was when former judge Ann Yalman asked me to review the wedding vows that she does in Spanish. Other than that, as far as I know those issues didn't come up. I think all the forms are done in English and she didn't indicate that there were ever any problems from that standpoint.

COMMISSIONER SULLIVAN: Okay. Thanks.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. I don't feel that you have to be an attorney to be a probate judge. I think we have enough attorneys in Santa Fe County. We have two up here, two over there.

MR. GONZALEZ: And some of them have kids.

COMMISSIONER ANAYA: But I think that Commissioner Sullivan hit a good point and that is somebody that is bilingual. For instance, take Charlie Dalton, he's bilingual and he's been around the judicial system for many, many years. He's a former City Police officer. So, I wasn't - when I first came into the County Commission seat, I wasn't an expert at the County Commission. I don't think I am now. But if you have somebody that has a willingness to learn and wants to do that, then I think it's no problem to learn to be a probate judge, learn to be anything you want to be. So I don't really stress the emphasis on being an attorney for this position. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Any other thoughts?

COMMISSIONER ANAYA: With that I'd make a motion to put Charlie Dalton in as probate judge.

CHAIRMAN MONTOYA: There's a motion by Commissioner Anaya.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Could we have nominations instead of motions?  
Then with the nominees we could select and vote and take the person with the highest votes?

CHAIRMAN MONTOYA: Sure. Why don't we do that? So that's a nominee.  
Are there any other nominations?

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil, then Commissioner Sullivan.

COMMISSIONER VIGIL: I nominate the highest qualified candidate  
recommended to us, and that's Frank Mathew.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I'd nominate Mr. McFarlane.

CHAIRMAN MONTOYA: Okay. Any other nominations? Hearing none,  
we'll close the nominations and start with – what? Each one? All those voting in favor of the  
appointment of Charles Dalton, signify by saying aye.

COMMISSIONER ANAYA: Aye.

CHAIRMAN MONTOYA: Okay, there's one. For Francis Mathew?  
[Commissioners Vigil, Campos and Montoya voted for Mr. Mathew.

COMMISSIONER CAMPOS: That's three.

CHAIRMAN MONTOYA: So the new appointee for probate judge will be  
Francis Mathew?

COMMISSIONER CAMPOS: Do we need to make a motion?

CHAIRMAN MONTOYA: Steve, do we need make a formal motion to  
appoint?

MR. ROSS: Mr. Chairman, it wouldn't hurt, to make it absolutely clear.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I move that we appoint Francis J. Mathew as the  
replacement to Ann Yalman for the interim period of the remaining of her electorate period  
through 2006.

CHAIRMAN MONTOYA: Okay, we have a motion by Commissioner Vigil.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Second by Commissioner Campos. Any other  
discussion?

**The motion to appoint Francis J. Mathew as interim probate judge passed by  
unanimous [5-0] voice vote.**

CHAIRMAN MONTOYA: Congratulations to Francis Mathew for the next  
eleven months for sure, right?

**XI. C. Resignation of DWI Planning Council Member, Ron Garcia of New Vistas**

COMMISSIONER CAMPOS: I would move that we accept Mr. Garcia's resignation.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: There's a motion by Commissioner Campos, second by Commissioner Vigil. Any more discussion?

**The motion to accept Ron Garcia's resignation from the DWI Planning Council passed by unanimous [5-0] voice vote.**

**XII. C. 11. Request Approval of Amendment #1 to Project Agreement #05-RF-01-P09 Between the NM Department of Transportation, Traffic Safety Bureau, and Santa Fe County Moving \$9,000 from the Commodities Line Item to the Personnel Services Line Item for the Ignition Interlock Pilot Project (Health & Human Services Department)**

COMMISSIONER SULLIVAN: Mr. Chairman, this item has to do with DWI and a program that we have that I was not aware of regarding an interlock pilot project. I just wanted to get a briefing from the staff about this. I see that it involves \$10,000 for personnel services and \$10,000 for commodities and again, not knowing anything about it I wanted to know what personnel services and what commodities we obtain from this contract.

MS. BEARDSLEY: Mr. Chairman, Commissioners, this is a grant that we received from the Department of Transportation. It's the amount of \$20,000 and it's for an ignition interlock pilot project. It was originally set up to allocate \$10,000 for commodities and \$10,000 for personnel services, and this pilot was set up specifically to track ignition interlock installations and violations for the magistrate and municipal court vendors.

Once we got into the program we realized that we had all the equipment and supplies that we needed for this individual, so what this amendment does is it moves \$9,000 from the commodities line item to personnel services. So essentially what it does is it pays the salary for the individual who is tracking the ignition interlocks.

COMMISSIONER SULLIVAN: So this is not a pilot program of getting people to try interlocks or voluntarily, or anything like that. It's a program for tracking those that have been required to install them to see whether they did or not. Is that it?

MS. BEARDSLEY: Mr. Chairman, Commissioner Sullivan, that's correct. When the ignition interlock law went into place, the Department of Transportation was charged with tracking the individuals that had been charged with DWI to find out how many of them were actually installing the ignition interlock, how many were actually installing the ignition



interlock, how many violations they were having, how many people were reporting to have it done and so on and so forth.

COMMISSIONER SULLIVAN: And the results from this, do they then go back to the judge for disciplinary action or what happens to the results?

MS. BEARDSLEY: Mr. Chairman, Commissioner Sullivan, what happens is the individual comes into our office and they technically register with somebody, with the individual that was hired to do this project. What he does is he facilitates the coordination between the client and the interlock provider. So then the individual goes down to the ignition interlock provider, has the item installed in their vehicle and then the provider reports back to our office if there are any violations. When they're trying to start their vehicle, if there's any detection of alcohol it will generate a violation which comes back to our office. We then contact the magistrate or the municipal judge, depending on which court it came from, and we let them know that this individual has had violations on their ignition interlock. Usually, when an individual is sentenced, they're supposed to have zero - it's a zero tolerance law, so that they are to have no lock-outs and no violations for the duration of the ignition interlock being installed on their vehicle.

So then we would report back to the judges and then the individual is called into court, and at that time the judge has the discretion whether to go ahead and extend the ignition interlock time period, put them in jail, maybe refer them for more extensive treatment or whatever it is they decide they want to do. So that's what this pilot project does. The individual from our office, we report back to the Department of Transportation on a monthly basis to let them know how many individuals we're tracking, what the violations are that we're seeing, and whether we are coordinating with the magistrate or the municipal courts.

This ignition interlock pilot is due to be - it expires now at the end of March and we're not sure whether it will be renewed or not. We had already been tracking the information in our office for the magistrate offenders prior to this ignition interlock pilot being put into place. It was for that reason that we were chosen as the site to be the pilot since we already had the mechanism in place.

COMMISSIONER SULLIVAN: Thank you. That answers the question.

CHAIRMAN MONTOYA: Okay. Could we have a motion?

COMMISSIONER SULLIVAN: Move for approval.

CHAIRMAN MONTOYA: Motion by Commissioner Sullivan.

COMMISSIONER ANAYA: Second.

CHAIRMAN MONTOYA: Second, Commissioner Anaya. Any other discussion?

**The motion to approve item XII. C. 11 passed by unanimous [5-0] voice vote.**

**XII. C. 16. Request Authorization to Enter into a Lighting Agreement with the New Mexico Department of Transportation (NMDOT) for Lights on State Road 502 at the West Entrance to Pojoaque High School in Jacona (Public Works Department)**

COMMISSIONER CAMPOS: Mr. Chairman, this is a request authorization to enter into a lighting agreement with New Mexico DOT. As you all know, the County has to pay for the electricity on all these contracts. I had talked to Mr. Lujan a little bit and I asked him to update me on the situation as far as using electrically efficient appliance, bulbs, luminaires, etc. I'd like for you to comment, Mr. Lujan.

MR. LUJAN: Mr. Chairman, Commissioner Campos, yes, this is a lighting agreement for luminaries and driver feedback signs at the Pojoaque west entrance. There's ten luminaires and they approximately use, we pay about \$100 a month for these. As we replace - these are not - these are 400 watt high pressure sodium. As we replace lights for luminaires we have been going to a more efficient bulb. We're also working - I think the question you were concerned about, if it was a traffic signal, we're looking at switching out to LEDs but we're going to have to implement it over the course of years through budget to change out the traffic signals that we do have. So we're working with that also.

But these ones are just the luminaires and the LEDs are already on the driver feedback signs. I found that out after we spoke earlier.

COMMISSIONER CAMPOS: Do you know how much we pay every month for electricity for all of these contracts with DOT?

MR. LUJAN: Right off the top of my head, I don't have that. I could get it to you. I don't have the number right now.

COMMISSIONER CAMPOS: You don't have a ballpark on it? Is it significant? Into the thousands of dollars?

MR. LUJAN: It's a significant amount, yes.

COMMISSIONER CAMPOS: Okay. That's the only question I had for Mr. Lujan, so I would move that we authorize the entrance into this lighting agreement with the DOT.

CHAIRMAN MONTOYA: Okay, motion by Commissioner Campos.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN MONTOYA: Second, Commissioner Sullivan. Any other discussion? Commissioner Anaya.

COMMISSIONER ANAYA: Yes. Thank you, Mr. Chairman, James, and I know that the Department of Transportation had a sample of the LEDs lighting and they were wanting the counties and the municipalities to change at least the red bulbs. Correct?

MR. LUJAN: Correct.

COMMISSIONER ANAYA: Because that's what's used the most.

MR. LUJAN: The highest use.

COMMISSIONER ANAYA: And they last longer and they save electricity, so

we're looking at that.

MR. LUJAN: Yes. There's a task force. The Santa Fe Energy Task Force, and I'll provide you a copy that was done, and that's what we're looking at. But we have to phase in the fixtures. The fixture has to be changed. So over the course of the next few years in my budget I will be requesting that we start changing some of them out.

COMMISSIONER ANAYA: Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: You're welcome. We have a motion and a second. Any other discussion?

**The motion to approve XII. C. 16 passed by unanimous [5-0] voice vote.**

### **XIII. STAFF AND ELECTED OFFICIALS' ITEMS**

#### **A. Health & Human Services Department**

- 1. Approve Fiscal Year 2007 Sole Community Provider Funding for Española Hospital, Holy Cross Hospital, Los Alamos Medical Center, and St. Vincent Hospital**

STEVE SHEPHERD (Health and Human Services Director): Mr. Chairman, Commissioners, does anybody need another copy of this? It is not in the packet. We sent it out a day late. The fiscal year 2007, Santa Fe County has received requests for sole community provider in the amount of \$27,620,730. This is the base request. We did request that the hospitals ask for a one-month extension to turn in their approved requests. Those would be due right around February 15<sup>th</sup>.

On the second page staff has given a recommendation, and I'll go over them one by one. Española Hospital, they requested \$675,000. It is our opinion that the Human Services Department will approve no more than \$421,456 for Española Hospital.

Holy Cross Hospital in Taos has requested the same amount they have every year -- \$20,700.

Los Alamos Medical Center, they requested \$47,687. We're estimating with the factor that we're using, \$47,188.

St. Vincent Hospital, the largest hospital request is \$26,877,343. Staff recommendation is \$26,621,369, for a total staff recommendation of \$27,111,541.

It's staff's recommendation that we approve staff's request. I stand for any questions.

CHAIRMAN MONTOYA: Any questions for Steve?

COMMISSIONER ANAYA: Move for approval.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN MONTOYA: Motion for approval by Commissioner Anaya, second by Commissioner Sullivan. Any discussion? Steve, I have one question. Regarding the request from Española and the recommendation, it's pretty significant in terms of the disparity between the two, what was requested and what's recommended. St. Vincent's is pretty close to

what they're requesting and what you're recommending. Why the disparity between the two in terms of -

MR. SHEPHERD: To be honest with you, I think St. Vincent Hospital has requested pretty close to what we're estimating that the Human Services Department will approve. Why Española Hospital is asking for \$270,000 more than what they received this year - it's our opinion that they're not going to get more than approximately four percent. And that would be - I'm not exactly sure.

CHAIRMAN MONTOYA: So four percent is the increase that they'll get from 06 to 07.

MR. SHEPHERD: In our discussions with the Human Services Department, that's what they're looking at right now, something similar to last year. Last year averaged 3.85 percent.

CHAIRMAN MONTOYA: Is that what St. Vincent's is getting also?

MR. SHEPHERD: We used the same factor for all the hospitals in the staff recommendation.

CHAIRMAN MONTOYA: So 3.85 percent -

MR. SHEPHERD: We jumped it up to four percent this year. Between last year and this fiscal year it was 3.85 percent. So we just made it an even four percent and applied it to all hospitals.

CHAIRMAN MONTOYA: That requested more than what we have. So only Española and St. Vincent's.

MR. SHEPHERD: And to be honest with you, Commissioner Montoya, if you wanted to approve the \$675,000 you could, but I think they're going to get around \$420,000.

CHAIRMAN MONTOYA: Whether we approve it or not.

MR. SHEPHERD: Correct. Human Services will make the final call, probably about a month or two from now on what they're actually going to do. Mr. Chairman, I'd like to note that Mr. Valdez and Mr. Doxtater are here in case there are any questions you have for them.

CHAIRMAN MONTOYA: Okay. Any other questions? We've got a motion and a second.

**The motion to approve the Sole Community Provider recommendations passed by unanimous [4-0] voice vote. [Commissioner Campos was not present for this action.]**

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: While the St. Vincent folks are here and Steve is here, Steve, could you remind us of the date and time and place of the conference that we're going to have with St. Vincent's board of directors?

MR. SHEPHERD: Mr. Chairman, Commissioner Sullivan, there will be a joint meeting of the Board of County Commissioners and the St. Vincent Board at 2052 South

Galisteo at the Santa Fe County Health and Human Services building, February 8<sup>th</sup> at 2:30. That is an open meeting.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Could you give that to Jennifer so she can put that on my schedule.

MR. SHEPHERD: Yes.

COMMISSIONER SULLIVAN: Did you say 2:30 or 2:00?

MR. SHEPHERD: It might be at 2:00. I could have that wrong. It may be at 2:00.

COMMISSIONER SULLIVAN: I wrote down 2:00 but I could have written it wrong.

MR. SHEPHERD: No, I think you're probably right. I think it's 2:00 to 4:30, February 8<sup>th</sup>.

COMMISSIONER VIGIL: Mr. Chairman, that's also what I have on my calendar, based on an e-mail. Did you say it was at the Department of Health building on Galisteo?

MR. SHEPHERD: It's the Santa Fe County Health and Human Services building.

COMMISSIONER SULLIVAN: It's the CARE Connection building, right?

MR. SHEPHERD: That's the CARE Connection building.

COMMISSIONER SULLIVAN: It's the CARE Connection building.

MR. SHEPHERD: And just as a sidelight we'd be happy to let you peek in on the construction that's going on with the sobering center.

CHAIRMAN MONTOYA: great. Thank you. Thank you, Alex, for being here. Thank you, Rick.

**XIII. B. Land Use Department**

**1. Request Authorization to Publish Title and General Summary of an Ordinance Amending the Santa Fe County Land Development Code (Ordinance No. 1996-10) As Amended, to Add a new Section 5 to Establish an Overlay District and Development Standards for the Santa Fe Metro Area Highway Corridor District**

ROBERT GRIEGO (Senior Planner): Good afternoon, Mr. Chairman, Commissioners, included in your packet is some background and summary materials in regard to the proposed ordinance. In addition, there is a draft proposed ordinance, and I also want to distribute the map for the overlay district at this time [*Exhibit 4*], and I'd also like to bring in up on the screen. I'd like to ask Rob to see if he can bring it up for us on that.

Mr. Chairman, Commissioners, this item was brought before the Board last year and

we clarified some of the process and procedures for bringing this ordinance forward. The Santa Fe Metro Area Highway Corridor Ordinance will be an overlay district in order to implement the Santa Fe Metro Area Highway Corridor Plan, which was adopted by the Board of County Commissioners in 2000. This is for areas outside the city and outside of the EZ Two-mile area, which has not completed a community district plan.

I'd like to bring your attention to the map. You can see the area if you begin - the Highway Corridor is the area along 599. On the map you have the gray area is the EZ, Two-mile, the dark gray area is the City of Santa Fe. I would like to bring your attention to the top portion of the map, that is the area of the scenic corridor subdistrict, which is outside of the EZ. The EZ you can see here in the gray. There is already an ordinance in place for the EZ area. The remainder of the Highway Corridor outside of the EZ is the area in yellow there. There's a couple of blank spots you can see and these were areas that the Board did not include in the Highway Corridor, within the scenic corridor district.

Here you have the Redevelopment District. There was a separate planning process going forward for the Redevelopment District. That process will be ongoing at the completion of the Highway Corridor Ordinance. So there has been planning in place but this will be planned separately as a district plan, as opposed to a Highway Corridor Ordinance. Below here you have the rest of the scenic corridor district, the area here in yellow, below the Redevelopment District along 599 until you get to the commercial gateway district. The commercial gateway district is along 599 all the way to I-25.

The commercial gateway district was identified in the Highway Corridor Plan and the areas of the commercial gateway are in orange here and along the other side of I-25, south side of I-25. The La Cienega corridor subdistrict is the area that is more of a yellow, which the original La Cienega scenic corridor included the entire area within La Cienega on both sides of the highway. But the La Cienega area has already had its community plan and ordinance adopted by the Board, so the area is not included in this Highway Corridor Ordinance. In the same way the area which is the Community College District is also not included as part of the Highway Corridor special overlay district. So that is basically the area that we're talking about for the Highway Corridor Ordinance.

CHAIRMAN MONTOYA: Any questions for Robert?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just one. This is publishing title and general summary, so there will be public hearings and so forth, two public hearings I assume to follow this.

MR. GRIEGO: Mr. Chairman, Commissioner Sullivan, that's correct.

COMMISSIONER SULLIVAN: I would just bring up an issue on page 3 which has already come up in the Community College District, and that's under the definition of required setback, which is up at the top of the page under G. The required setback is defined as being a required setback from highways and shall not contain parking or structures but may contain pedestrian paths and trails. And again, remembering that these corridor setbacks were

based on a noise study contour, I would just suggest that in addition to parking, which is obvious. You don't want parking lots in there and the noise and the pollution that comes from those, that also new roads be included in that. You obviously have to have a road to get to the parking structure, so if you don't have a parking structure you wouldn't need a road, but there may be other situations that roads would come into play and that would increase the noise level in the setback. So that would be my suggestion on that 5.4.G.

CHAIRMAN MONTOYA: Okay. Any other questions, recommendations?

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Commissioner Sullivan, would you please repeat that suggestion?

COMMISSIONER SULLIVAN: Sure. Are you at the point there, G, line 5 through 9 on page 3. And I'm suggesting that in the last paragraph that it read "The required setbacks from highways shall not contain roads, parking, or structures, but may contain pedestrian paths and trails." I said new roads. I don't know whether new roads or roads would be the right way to define it. If there are roads that are already there then they need to be grandfathered in. What I'm trying to prevent is the construction of new roads that would contribute to the noise and the pollution.

COMMISSIONER VIGIL: And Mr. Chairman, Commissioner Sullivan, if a new road was required and it was brought forth for approval and perhaps it was the most viable alternative for the design, and it was possible to consider that with one of the issues I know I've spoken to you about, the noise abatement component in it, is your recommendation going to prohibit that from coming forth?

COMMISSIONER SULLIVAN: Mr. Chairman, Commissioner Vigil, I wouldn't think so, I think like any of our ordinances when an applicant proposes a variance to the ordinance, we hear it and we rule on it in any individual case given a baseline of data is what we'd like to see. But if there's a compelling reason that there needs to be a road there, and maybe there's an attenuation to the noise problem, perhaps through berms or other landscaping or things of that nature that might correct it, I would think that we would certainly want to hear that variance request.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Robert, do you have a response to that recommendation at all, based on the work that you've done on this ordinance?

MR. GRIEGO: At this time I do not, Commissioner Vigil. I think that Commissioner Sullivan's point that there might be existing roads there that would definitely have to be grandfathered in, because there are some roads adjacent to the frontage roads there that are existing. I hadn't thought through the road issue and I will get with the other planner who did the 285 corridor district to see what the issue was there and maybe we can do a comparison.

COMMISSIONER VIGIL: I think I would like a staff evaluation of that recommendation before we include it as an amendment, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Any other comments? If not, what's the pleasure of the Board? Staff recommendation is to request the publishing. Correct?

MR. GRIEGO: Mr. Chairman, that is correct.

COMMISSIONER SULLIVAN: Mr. Chairman, I was just going to move to publish with the amendment that I suggested so that it would be out there before the public for comment. If, based on the staff's recommendation it was deemed not appropriate to put it in there, then we wouldn't put it in there. I just think you want get as much as you can out in front of the public so that they can have a chance to review it.

CHAIRMAN MONTOYA: Okay, I have a motion by Commissioner Sullivan with the amendment on page 3 on item G.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Second by Commissioner Campos. Any discussion?

**The motion to authorize publication of title and general summary of an amendment to the Highway Corridor Ordinance passed by majority 4-1 voice vote with Commissioner Vigil voting against.**

CHAIRMAN MONTOYA: So that is going to be published, then we'll have – when is the public hearing scheduled, Robert?

MR. GRIEGO: I will plan on having a community meeting in February and then bringing it forward to the CDRC and to the Board of County Commissioners – we're looking at March and April for that.

CHAIRMAN MONTOYA: Thank you. Appreciate it. Jack, thank you.

- XIII. B. 2. EZ Case #S 02-4324. La Pradera Subdivision Phases II-VI – Gardner Associates, LLC, (John McCarthy) Applicant, Oralynn Guererortiz, Agent, Request Preliminary Plat and Development Plan Approval for Phases II-VI of La Pradera Subdivision which will Consist of 157 Residential Lots on 94 Acres. This Request Also Includes Final Plat and Development Plan Approval for Phases II and III, which will Consist of 97 lots. The Property is Located Along Dinosaur Trail in the Community College District, within Sections 17 & 18, Township 16 North, Range 9 East (2-Mile EZ District, Commission District 5) FOR DELIBERATION AND VOTE ONLY**

VICKI LUCERO (Zoning Director): Gardner Associates, LLC, (John McCarthy) applicant, Oralynn Guererortiz, agent, request preliminary plat and development plan approval for Phases II-VI of La Pradera Subdivision which will consist of 157 residential lots on 94 acres. The applicant is also requesting final plat and development plan approval for



Phases II and III, which will consist of 97 lots. The property is located along Dinosaur Trail in the Community College District, within Sections 17 & 18, Township 16 North, Range 9 East Two-Mile EZ District, Commission District 5.

A motion was made by Commissioner Sullivan to grant preliminary plat and development plan approval for Phases II through VI with staff conditions. The vote ended in a tie, with Commissioners Sullivan and Campos voting in favor of the motion, and Commissioners Anaya and Montoya voting against the motion. Commissioner Vigil was not present. Therefore this case is being heard for deliberation and vote only.

On December 8, 2005, the EZC met and acted on this case. The decision of the EZC was to recommend preliminary plat and development plan approval for phases II through VI, and final plat and development plan approval for phases II and III. The applicant is requesting preliminary plat and development plan approval for phases II through VI consisting of 157 lots and final plat and development plan approval for phases II and III, consisting of 97 lots.

This application was reviewed for access and traffic, water, wastewater, fire protection, solid waste, terrain management, open space, landscaping and archeology.

Recommendation: Staff concludes that there are still outstanding issues regarding water allocation and water assignment. Staff also feels that the issues regarding traffic control at Rancho Viejo Boulevard and Dinosaur Trail have been addressed, and also the relocation of Dinosaur Trail was a discussion that was brought up at the BCC meeting. We were also waiting a new response from the State Engineer which I will hand that out to you in just a few minutes. *[Exhibit 5]* We feel that the issues regarding the water should be addressed prior to final development plan approval. Therefore staff recommends preliminary plat and development plan approval only for Phases II through VI, subject to the conditions are recommended by the EZC. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Thank you, Vicki. Gerald.

MR. GONZALEZ: Mr. Chairman, members of the Commission, I need to convey the information that probably within the last half-hour or so we had hand-delivered from the representatives of the Santo Niño Regional Catholic School a proposed submission in which they're trying to ask the - at least the way I read it, ask the Commission to reopen the record to take additional evidence concerning creating a roundabout at the Dinosaur Trail and Richards Avenue intersection. Obviously, this matter is here simply for consideration based on the record that was previously made. I just wanted to let you know that that had occurred and make sure that you had all the information on your plates as you move forward with this.

The record, as far as I understand it has been closed on this proceeding, so it would take some special action on the part of the Commission to reopen the record and take this into account. The other risk, I suppose is that if you do that then maybe you have to reopen the record as a whole and that also carries with it some attendant difficulties.

CHAIRMAN MONTOYA: Okay. Thank you for that information, Gerald. Again, this is deliberation and vote only. Any discussion on this? And the previous motion which Commissioner Vigil was not present for Vicki, could you please restate that?

MS. LUCERO: Mr. Chairman, the motion that was made at the last meeting

was to grant preliminary plat and development plan approval for Phases II through VI with staff conditions.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Ms. Lucero, is that consistent with staff recommendation?

MS. LUCERO: Mr. Chairman, Commissioner Campos, that is consistent with staff recommendation.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Vicki, has any progress been made with regard to the water service agreement and with regard to any of the outstanding issues that you had at the last meeting?

MS. LUCERO: Mr. Chairman, Commissioner Vigil, it's my understanding that the applicants are going to be coming forward in March before the BCC for a water service agreement. I don't know the specific details. The County Hydrologist might be able to expand on that.

CHAIRMAN MONTOYA: Steve, can you answer that question?

DR. WUST: Mr. Chairman, Vicki probably wasn't here when I introduced the County Hydrologist so I'm here as the Water Resources Department Director. But yes, I've been in communication with the applicant and the scheduling is to move forward with the water service agreement for Commission approval in the March administration meeting. They've also shown me the water rights they want to be utilizing for that. And the look from us is that they look pretty good and they're in-basin.

COMMISSIONER VIGIL: What are the other outstanding issues, Vicki?

MS. LUCERO: Mr. Chairman, Commissioner Vigil, I believe that was the only outstanding issue that remained to be addressed as far as staff was concerned. The Public Works Department has responded regarding the intersection at Rancho Viejo Boulevard and Dinosaur Trail. That seems to have been addressed, and as I mentioned, the State Engineer, we were awaiting a response which I have just handed out.

COMMISSIONER VIGIL: Okay. I think that's the last of my questions.

CHAIRMAN MONTOYA: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: I haven't had a chance to read this yet but I think my original motion is still the proper one, to accept staff's recommendation for preliminary approval. This January 9<sup>th</sup> letter from the State Engineer still states a negative recommendation. It takes them a little while to go through and see what the issues were before, the issues on the water were, that they did not have enough water rights transferred for the first two phases that they wanted final plat approval for. And we've had discussions as well about the road in the corridor. That's, I think, still an outstanding issue that should be addressed at the next stage. So I would encourage the Commission to move forward with the staff recommendation.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. So that I'm clear, we're leaving out the final plat and development plan approval for Phase II and III. I know that Commissioner Sullivan didn't include that in his - but that's what the applicant wanted. Correct?

MS. LUCERO: Mr. Chairman, Commissioner Anaya, that's correct. That's what the applicant was requesting.

COMMISSIONER ANAYA: And I'm sorry for not following, but tell me again - and I know one of them is the State Engineer, but tell me again why they're asking for this and why we're denying it.

MS. LUCERO: Mr. Chairman, Commissioner Anaya, the only outstanding issue remaining is water, as far as staff's review. The water rights haven't been transferred. The Utilities Director had just mentioned that everything looks good like it's in order and I know that they're on the agenda for the BCC meeting in March to have this completed, and that was the reason we were only recommending preliminary at this time.

COMMISSIONER ANAYA: Okay, so everything is in line but staff's not recommending because you don't have it with you.

MS. LUCERO: Right. Because the transfer hasn't occurred as of yet.

COMMISSIONER ANAYA: And I'm sorry. It's getting late in the evening, but Steve, you said that everything was in line and it's going to be in the next meeting?

DR. WUST: Mr. Chairman, Commissioner Anaya, it's not for the total amount of water. Out of about 18 feet - I'm off on my numbers a little bit - they're short about 3, 3.5.

COMMISSIONER ANAYA: Three and a half acres.

DR. WUST: Yes. That's what the water service agreement in March is to come forward is to finish off that total. They're already gotten assignment of most of that water.

COMMISSIONER ANAYA: It's coming back now. Thank you, Mr. Chairman.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I do believe this development is ready to move forward. There's just some last minute things that need to be done. I think I have assurances from what staff has told us that we could actually move forward with this. I would not vote with the motion that was placed there for the majority vote. I would vote against the motion, and with that I think it would die. I don't know what the procedure would be. I suppose we would have to reconsider a motion.

CHAIRMAN MONTOYA: Which we could do at this point.

COMMISSIONER VIGIL: Right.

CHAIRMAN MONTOYA: So does anyone want to make another motion?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I just have a question for staff. Ms. Lucero, did

staff change its position from the last meeting, based on information that Dr. Wust presented?

MS. LUCERO: Mr. Chairman, Commissioner Campos, staff would maintain the same recommendation.

COMMISSIONER CAMPOS: Which would be –

MS. LUCERO: Preliminary only until the water service agreement is in place.

COMMISSIONER CAMPOS: And why is that important? Do you think these agreements all have to be final before we finish this out?

MS. LUCERO: That's correct. That's common procedure.

COMMISSIONER CAMPOS: And is that a significant issue that you consider important in the public interest?

MS. LUCERO: Yes, Commissioner Campos.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Was there a motion and a second?

CHAIRMAN MONTOYA: No.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think that Commissioner Vigil said that she wouldn't vote in favor of the motion that was on the floor at the last meeting.

CHAIRMAN MONTOYA: Correct.

COMMISSIONER SULLIVAN: So that motion has now been reconsidered. The agenda item is for deliberation and vote on that motion. So when we move forward and vote on that motion, that will conclude this agenda item. If Commissioner Vigil votes no, then that motion will die. The published agenda item is for deliberation and vote on that motion. So that's the motion.

MR. ROSS: Mr. Chairman, there is no motion on the table at this point. We have to have a new motion. That last motion failed under our rules of order. So we have to have a new motion no matter what it is. Even if the motion is the same motion that was made last time and failed, we still need to have a new motion at this time and have a new vote.

COMMISSIONER SULLIVAN: My understanding, Mr. Chairman, was in our rules of order, when a motion fails, that that motion is brought back to the next meeting. Now, what you're saying is different from that. So your opinion, Mr. Ross is that the whole issue, the whole development is brought back for another vote.

MR. ROSS: Mr. Chairman, all we're here to do is to vote on the evidence that was presented last time. So we would need a new motion today. The motion last time failed two-two. So it needs to come back for a new motion today, pursuant to our rules of order. If we can't get a motion through today then it's deemed denied.

COMMISSIONER SULLIVAN: Okay. I guess that's different from my recollection. I'll certainly take the opinion of our legal counsel. In the past we've always voted on the motion that was tied. I would just again remind everyone, and I think you're cognizant of, that we have an important precedent here about encroachment into the Highway Corridor.

And if we move forward without that being resolved – and I don't know what the resolution to that is – it could be, as I said, some noise attenuation, a number of things. Without that being resolved, we've opened a door to other encroachments in the Highway Corridor and that's a concern of mine. Thank you.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I agree with Commissioner Sullivan. That's an issue that's outstanding. I'm not sure how staff would evaluate it. Staff has stayed away from that issue so far. But as a precedent-setting issue, if we started putting all our roads out on the setback – I'm not sure on that. And secondly, staff still believes that we should wait, that there's a significant issue and that we should be patient. Staff, they're our experts, so I would go along with staff. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I just wanted to ask Vicki or Dolores. Is there an outstanding issue?

DOLORES VIGIL (Land Use Administrator): Mr. Chairman, Commissioner Vigil, we have made an evaluation regarding the buffer issue and Highway Corridor setback. We've been talking about it among staff. We've also forwarded our evaluation to Legal and we've come up with an evaluation stating that the open space zone allows accessory but not primary buildings. Since open space zones are crossed by existing or planned roads in a number of places in the Community College District, living, mixed or traffic priority roads are allowed to be constructed within open space. The type of road sections would be determined by its location and function relative to adjacent zones of development. In the open space standards section, the criteria for property to be considered open space for the purpose of meeting the 50 percent requirement includes setbacks required by the Highway Corridor standards or other ordinances. The land area where roads are constructed could not be counted towards 50 percent open space. The trails could be counted.

I would also like to state that we do have within the Highway Corridor Ordinance, and we have approved the east-west connection that was approved through the Oshara project, and I believe that's within the setback, in the buffer area.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Is it your conclusion then that isn't an outstanding issue then?

MS. VIGIL: My conclusion is that it's not a building and it is a road, and it's not an accessory structure either. And if you'd like us to maybe find the section that Commissioner Sullivan has been referring to and dig further we would be more than happy to do that, but this is what we've come up with.

COMMISSIONER VIGIL: Thank you.

MS. VIGIL: You're welcome.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, so I'm confused. So did you say

that it's okay? Staff's opinion is that it's okay to have the road, and it's not a building?

MS. VIGIL: Yes, Commissioner Anaya, that's correct.

COMMISSIONER ANAYA: Thank you. Mr. Chairman, I move that we approve the request for preliminary plat and development plan approval for Phases II and VI for La Pradera Subdivision, which will consist of 157 residential lots on 94 acres. Also includes the final plat and development plan approval of Phases II and III, which will consist of 97 lots.

CHAIRMAN MONTOYA: Okay. So we have a motion. I'll second for discussion.

COMMISSIONER VIGIL: Discussion, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: With regard to the water service agreement, I guess I need some assurances of where we are with that. Who can give me a summary of that? Is that you, Steve?

CHAIRMAN MONTOYA: And Steve, along with that question, how much more water are we talking about?

DR. WUST: Mr. Chairman, Commissioner Vigil, the applicant is here, so they could probably give you more specific numbers. Again, it was a few acre-feet as I recall. Where we are is the applicant actually has come forward looking at getting a water service agreement. But there are several in the pipeline, so it's just one we're trying to schedule so we don't hit the Commission with a whole bunch of water service agreements at once. There's one tonight as a matter of fact, Komis. So when looking at the scheduling, we just place in on the schedule for March so we can kind of space these out. But it's going to be the standard water service agreement, the language we've been putting in that the County Attorney has worked on to get a template and so as we go along on these things, they're becoming pretty standardized. So I'm confident that certainly by the March meeting we should have a final one without any difficulty.

COMMISSIONER VIGIL: And again, Steve, how many acre-feet are we talking about?

DR. WUST: If you don't mind, Mr. Chairman, Commissioner Vigil - 2.67.

CHAIRMAN MONTOYA: 2.67 additional acre-feet?

DR. WUST: Additional. Yes. Over and above what they already have assigned.

CHAIRMAN MONTOYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Any other discussion? Commissioner Sullivan.

COMMISSIONER SULLIVAN: That was - there's no change from that at the last meeting and the issue that I brought up was, well, why didn't they just go final plat on Phase I and the answer was that's not what they wanted. They wanted Phase I and II. So we have an ordinance that says you have your water in place and you receive final plat approval. They haven't complied with that ordinance. So I feel that that's the reason why staff is making the recommendation.

The other issues of the corridor are still there. I think staff needs to get the response

from Legal because I believe when they do they'll find out that the section that they're quoting with regard to buildings being not allowed in the corridor is not a part of the ordinance that applies to the Community College District. So I would like to get a legal response to the staff's response if we could. So I think those two issues still leave us at preliminary. That doesn't slow anything down as far as I know, if we're coming forward for the water service agreement next month, they can't move forward until the March water service agreement anyway.

CHAIRMAN MONTOYA: Is that a question for Legal?

COMMISSIONER SULLIVAN: No, it was just a statement.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I have a question for the applicant, whoever's representing them. Is that you, Ms. Vazquez? Ms. Vazquez, I guess I'm struggling with whether or not the applicant would be harmed if we didn't delay this until the water service agreement came before us and we were able to do the final approval then. Do you have a response to that?

ROSANNA VAZQUEZ: I do, Mr. Chairman, Commissioner. The reason we've requested final for this is a couple of reasons. First of all, we have been in line for a water service agreement for some time. We made a request a while back. This Commission was not hearing water service agreements for a long period of time, and consequently, that's why now you're getting one every month, because now you're actually hearing water service agreements. So we were scheduled to go in March, and we agreed to that March deadline way before any of this issue occurred.

Secondly, this application was submitted for amended master plan back in April of last year, you might recall. Actually, January, February of last year. We stopped the process. We worked with the neighbors. We made a bunch of changes to the amended master plan because of the concerns neighbors had, and you approved it back last year in early summer. We began construction on this development, Commissioners, and unfortunately, we were stopped. So we have had delay after delay on this project, and we're asking for this, not because we want a special favor, because we've already started the process. There's been an intent to dedicate the water rights already. The water rights are in the process now with the Office of the State Engineer. Approximately 50 acre-feet is in a joint application with the County of Santa Fe for the transfer process. So we're actually one step farther along than just getting a water service agreement.

And because of the delays on this project, I believe it's a reasonable request, Commissioner, because we cannot record this plat until this water service agreement is approved, and we cannot go forward with any further building for Phase II until all of that is done, and we should have that done by March. It faces two more months of public hearings. It faces the noticing costs. The development has very, very expensive off-site costs because of the improvements that we've agreed to do. So that's really why. We've been in the works and working very closely with staff and with the neighbors on this project.

COMMISSIONER VIGIL: I recall that, Mr. Chairman and I appreciate it. I actually used this project as a model, coming forth before the Commission, because of all the

open space and the water recirculation and all the innovative pieces to it. Now, could you just answer for me, you mentioned that you were stopped. Why were you stopped?

MS. VAZQUEZ: Mr. Chairman, Commissioners, back in the summer of 2005 we were - there was a concern about safety with regards to the Dinosaur Trail/Richards Avenue intersection. You might recall that that was the intersection that we were required to move down, away from the I-25 interchange because of safety concerns. That was our original master plan that was approved. The plat has been recorded and the financial guarantee has been filed. There was a concern about traffic with regard to that road. And there was a request that a traffic light be put in there immediately. We were called into this meeting and we said, Well, we've got some options. We'll work with the County. We have some options. There's a letter in the file. Public Works can respond to this, or Land Use, where we said, Sure. We will either pay for the light up front. If there's such a concern, we'll pay for the light up front, but if we don't get plat approval and master plan approval for the next two phases, County, you have to reimburse us. That was the first option.

The second option was, sure, we'll give you our money up front. If there's a concern about safety, we will give you the money up front to pay for the light; you guys put it in. The third option was we'll enter into any sort of agreement you want with Oshara and with anybody and we'll put up our money. Those were the options. We were given a letter later at that point that we had to stop construction there. That was done, I believe it was in January of 2005. We had already started construction. We had acquired the easement. We had a contract with our contractor for the building of that.

CHAIRMAN MONTOYA: Excuse me. Who stopped you?

MS. VAZQUEZ: We received a letter from the County.

CHAIRMAN MONTOYA: From what department?

MS. VAZQUEZ: It was Public Works.

CHAIRMAN MONTOYA: Public Works? James, can you respond to what happened there that Public Works stopped this development for 12 months?

MR. LUJAN: Mr. Chairman, members of the Commission, what we did is we stopped the intersection construction because of sight distance and we didn't want the intersection opened until we could install a traffic signal because of the sight distance. And we issued a permit in December to continue construction. They have moved it down. They are ready to proceed with the traffic signal and build that intersection.

CHAIRMAN MONTOYA: Okay. Thank you. Commissioner Vigil, I'm sorry. You still have the floor.

COMMISSIONER VIGIL: Ms. Vazquez, did you complete your testimony on my question?

MS. VAZQUEZ: Sure. Mr. Chairman, Commissioners, just one last point. We sent the letter, we were willing to do whatever we needed to do for that traffic signal. And we did get the go-ahead order in December 2005. When we got it, our bid increased by \$60,000 just for that portion of the road. So there's been delays and there's been requests. We've come before you in good faith, tried to work with the neighbors in the county all across the way. Our



letter saying we'd put that light in is further evidence of that, Commissioner, and we're just asking you to give us the final approval. We will not record the plat until that water service agreement is approved. It saves us two more months of hearings and the County is protected because this will not get recorded until that water service is obtained. Thank you.

COMMISSIONER VIGIL: And Mr. Chairman, Ms. Vazquez, based on the request that our County Manager just stated to us, that the Santo Niño de la Paz community is wanting to be a part of the issue on the roundabout. What is your response to that?

MS. VAZQUEZ: Mr. Chairman, Commissioner Vigil, I will call Father Jerome if I need to. Unfortunately, that condition that was put in was a condition of Phase I, which is already recorded. The intersection was what this Commission approved for Phase I and that's what was stopped early. That's where the traffic signal was going to be. But if we need to sit down and talk to them about it, we've already begun construction on it. We've submitted the plans, the guarantee. Everything is in place to go forward with it. Unfortunately, we're at a later point and I think James can talk to you a little bit more about that.

COMMISSIONER VIGIL: That's sufficient. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Any other discussion? We do have a motion and a second on the floor. Commissioner Sullivan, on that motion.

COMMISSIONER SULLIVAN: Just a clarification, Ms. Vazquez, what you said about the 12 months of delay. On the traffic signal itself, was that not a condition of the second and future phases, the actual signal?

MS. VAZQUEZ: You're absolutely right, but we offered to do it up front.

COMMISSIONER SULLIVAN: I understand that you offered to do it up front, but in terms of the delay - you're just now requesting final plat approval for that phase, so the signal was, as I recall, a part of the conditions for master plan for the next phases, and that condition was that La Pradera would pay for and install the traffic signal. Is that correct?

MS. VAZQUEZ: Mr. Chairman, Commissioner, let me clarify that, because you're right. What we approved for -

COMMISSIONER SULLIVAN: You can't clarify it if I'm right.

MS. VAZQUEZ: What we were approved for in the original master plan was to move down Dinosaur Trail -

COMMISSIONER SULLIVAN: No, no. I'm talking about the second phases, not the original phases.

CHAIRMAN MONTOYA: Commissioner, let her finish her comment. You asked her a question.

MS. VAZQUEZ: I'm trying to answer it.

COMMISSIONER SULLIVAN: I just asked her if what I had said was right and she said, Yes, it was. That the traffic signal was a part of the second phase. I think the traffic signal is an excellent idea. I'm glad to see them moving forward with it, and I'm just clarifying that there can't be 12 months or 11 months of delay because that signal was a condition of Phase II. That's all. I'm not quite sure what the delay has to do with the issue here.

The issue is whether there are still some outstanding questions that staff needs to

investigate. I think the water is still one and I think the road in the corridor is another. You heard Mr. Wilber talk this morning about the fact that, yes, they had met with the neighbors about moving the road, but at no time did they ever advise the neighbors that the road would be moved into the Highway Corridor. So his recommendation was that it be moved somewhere else. Now, whether that's viable or not, I don't know, but there are still some issues that need to be wrapped up on this and that's evident, I think.

CHAIRMAN MONTOYA: Okay. We have a motion and a second. I'm going to call for a vote.

**The motion to approve preliminary plat and development plan approval for Phases II-VI of La Pradera Subdivision and final plat and development plan approval for Phases II and III, passed by majority 3-2 voice vote with Commissioners Sullivan and Campos voting against.**

**XIII. C. Public Works Department**

**1. Resolution 2006-18. Request Approval of a Resolution Accepting a Portion of Cerro del Alamo For County Maintenance**

ROBERT MARTINEZ (Deputy Public Works Director): Mr. Chairman, Commissioners, the residents of the C.R. Mayfield Subdivision are requesting that the BCC accept a portion of Cerro del Alamo for County maintenance. Cerro del Alamo is a dirt road beginning at the intersection of Los Pinos Road, which is County Road 54, and ending at the intersection with Sunset Road. It's a total distance of 0.6 miles.

Public Works conducted an evaluation of Cerro del Alamo and have concluded that the road does not meet County standards. There are currently \$130,000 of legislative appropriations for the paving improvements of this road. The residents have provided the subdivision plat and it has been determined that there are sufficient easements to comply with County standards. Public Works is recommending that if this road is accepted for maintenance that the paving improvements must be completed prior to Public Works assuming maintenance. I stand for questions.

CHAIRMAN MONTOYA: Questions for Robert? Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, thank you. So Robert, are you saying that with this money that they got, that the residents got through the legislators, it goes through the County, but you would contract that out, and then after the contractor was finished, then we would maintain it?

MR. MARTINEZ: Mr. Chairman, Commissioner Anaya, that is correct.

COMMISSIONER ANAYA: Okay. Thank you.

CHAIRMAN MONTOYA: Okay, any other questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Do we have a map of where this is?

MR. MARTINEZ: Mr. Chairman, Commissioner Sullivan, we did not provide

you with a map, but it is down County Road 54 in the general vicinity of Sunrise Springs.

COMMISSIONER ANAYA: Right across from Sunrise Springs.

CHAIRMAN MONTOYA: So this is in the La Cieneguilla area around there?

MR. MARTINEZ: Mr. Chairman, in the La Cienega area.

CHAIRMAN MONTOYA: La Cienega area.

MR. MARTINEZ: That's correct.

COMMISSIONER SULLIVAN: So then the \$130,000 then brings it up to County standards. What are the County standards for this road?

MR. MARTINEZ: Mr. Chairman, Commissioner Sullivan, County standards would probably be six inches of basecourse but there's sufficient funding for paving improvements.

COMMISSIONER SULLIVAN: So no curb and gutter.

MR. MARTINEZ: Mr. Chairman, Commissioner Sullivan, that is correct. It is a rural type of roadway.

COMMISSIONER SULLIVAN: Thank you.

COMMISSIONER VIGIL: Move to approve.

COMMISSIONER ANAYA: Second.

CHAIRMAN MONTOYA: Motion by Commissioner Vigil, second by Commissioner Anaya to approve the recommendation of staff.

COMMISSIONER VIGIL: The resolution accepting Cerro del Alamo for maintenance purposes as a County Road.

CHAIRMAN MONTOYA: So, Robert, as I understand it then, these improvements will be made prior to us taking over the road maintenance.

MR. MARTINEZ: Mr. Chairman, that is what we're recommending.

CHAIRMAN MONTOYA: Any other discussion?

**The motion to approve Resolution 2006-18 passed by unanimous [5-0] voice vote.**

COMMISSIONER ANAYA: Mr. Chairman, I just want to commend Gilbert Vigil, who was a strong supporter of this and who worked very hard with the County and the legislative delegation to receive this funding. I know they'll be happy in the Mayfield Subdivision. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Thank you, Commissioner Anaya. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, just one follow-up on that last agenda item that we passed. I would like to ask staff legal to continue the review of the memo that Land Use sent, because there are still other phases of that La Pradera subdivision that will be coming to the Commission for approval, so we might as well get that issue resolved once and for all, rather than speculating.

**XIII. D. Project & Facilities Management Department**

**1. Resolution No. 2006-19. A Resolution For Approval of a Lease Between the City of Santa Fe and the County for the Esperanza Shelter (Project and Facilities Management Department)**

JOSEPH GUTIERREZ (PFMD Director): Mr. Chairman, members of the Commission, in front of you is a lease with the City. The City has plans to lease a piece of property, apparently  $\frac{3}{4}$  of an acre, which is on Rufina Street to the County for a dollar a year for 25 years. And the only purpose of the lease would be for the County to sublease this property to Esperanza. Esperanza has worked with the City in terms of finding a suitable location for their administrative offices, and they pretty much have negotiated this agreement. In the audience I have Ellie Elsinie who is chairman of their board, and I have K.C. Quick who is the director of Esperanza. I stand for questions, Mr. Chairman.

CHAIRMAN MONTOYA: Okay, any questions for Joseph on this lease agreement? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Joseph, what is the advantage, other than only having to pay \$25 over 25 years of leasing it versus purchasing it from the City? Or is it possible to purchase it from the City?

MR. GUTIERREZ: Mr. Chairman, as far as I know, they never made the offer to the County in terms of a purchase, only a lease. And originally the intention was the lease was going to be with Esperanza, but in order to facilitate the dollars that the County has and to put up a structure there, they changed that lease with Esperanza to lease it to the County which is another public body.

COMMISSIONER SULLIVAN: Would it benefit us to look into purchasing it or not?

MR. GUTIERREZ: Mr. Chairman, I have not worked with the City and have not investigated that option. I guess the other areas we're looking at – obviously, I've been involved with other issues in Public Works and judicial. I can pursue that at this point. I would think that entering into the lease does not negate the ability for us to at some point purchase the land if we can work out an agreement.

COMMISSIONER SULLIVAN: I just wondered if, obviously, if we purchased it then we would lease it to Esperanza, but then there would be some more continuity there after 25 years and in particular if they wanted to make improvements to the building other than what they might get from grant funds or from the legislature. There could be an issue about improving leased property that might prevent them from getting a loan to do that. I'm just not sure whether that's investigated. I have no problem with approving the lease. I think we ought to look at the viability of purchasing it as well, as you say, during the lease term. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Any other discussion? Is there a motion?

COMMISSIONER VIGIL: Mr. Chairman, I move to approve.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN MONTOYA: Motion by Commissioner Vigil, second by Commissioner Sullivan.

**The motion to approve Resolution 2006-19 passed by unanimous [5-0] voice vote.**

**XIII. E. Water Resources Department**

**1. Request Approval of Water Services Agreement for Komis Land Company, LLC**

DR. WUST: Mr. Chairman, thank you. This is for a water service agreement for the Komis Land Company. Actually, you're getting the final final version in front of you right now. *[Exhibit 6]* I'll explain the changes that came from the packet. There were just a couple, one large and several typos.

COMMISSIONER SULLIVAN: There's a mention of 45 acre-feet. I hope that was one of them.

DR. WUST: I'm going to talk about that. This is one similar to Pearson that was approved a couple of months ago, that there was a master plan and preliminary development plan approved a few years ago and part of the provisos of that approval was that they would get a water service agreement, and they moved ahead on that. At one point, the Commission made a change to the standard water service agreement that said that water rights would be transferred to the Buckman Direct Diversion project. The request came in from the applicant and staff is in agreement on this that to reinsert the language that says to location of the County's choosing or something similar to that. Basically, a place that the County decides on. And the reason for that is their water rights are in-basin and in-basin rights are very valuable, and they lose a lot of their value when they get transferred to Buckman or to anywhere on the Rio Grande.

So we thought it would be – it still allows us to look at the Buckman but by having language in there that says a place of the County's choosing it gives us the opportunity that if we have a well location that we think in-basin would have a good place to bring water rights this would give us that flexibility.

That's one of the reasons that the water service agreement is coming now instead of having been signed off on with the previous approval. I will note that Legal took the opportunity, since it's coming forward again with some changes to put it into the standard template that the Commission has requested we try to get all our water service agreements into and so you'll see this one mimics most of the more recent water service agreements. The big change on this from the packet, and actually from the preliminary development plan approval is the amount of water. I believe it was in the realm of 32 acre-feet when it came through under the preliminary development plan. This one is 45 ½. And the reason is, I've had some discussions with the planner for Komis, one of their representatives, and they went through and took a new look at the water budget and feel that the original water

budget as presented to the Commission for master plan and preliminary development plan was underestimated and they believe that 45 ½ acre-feet is more realistic in terms of their estimation of a water budget, which they'll modify for the final development plan, but in the meantime, wanted to make sure the water service agreement matched what they believe is the water budget they think more realistically represents their development.

Certainly, if when final development plan comes along, if the Commission changes that water budget then certainly that will reflect in our delivery commitments to them. Again, the other changes were mainly typographical and I don't know what all the details are. Steve Ross is here and he's been working on this with a legal representative for Komis so he could answer any detailed questions if you like.

CHAIRMAN MONTOYA: Okay. Any questions for Steve? Steve, what is your recommendation?

DR. WUST: Mr. Chairman, my recommendation is that we could approve this, that it was already voted as part of their preliminary development plan to get a water service agreement and I think it's - I would recommend that we go ahead with a water service agreement and I think if we have some issue with the water budget we could work that out in the final development plan. But I agree with the applicant that we want to make sure that the water service agreement - it certainly doesn't go to that underestimation of a potential water budget.

CHAIRMAN MONTOYA: Okay. Thank you. We have staff recommendation. Commissioner Campos.

COMMISSIONER CAMPOS: Question for Mr. Komis. Would you just tell us a little bit about your master plan, refresh my recollection as to is it commercial? Mixed use? What is it? Could you step up and just tell us?

MS. VAZQUEZ: Hello, Mr. Chairman, Commissioners. The Komis master plan, originally approved in 1997 was for his entire property. That original master plan was denied. We came back in with a master plan for the 50-some acres that is close to the intersection at 599 and I-25. It's commercial development.

COMMISSIONER CAMPOS: All of it?

MS. VAZQUEZ: All of that portion of it was. Yes. It had a large amount of conditions of approval, many off-site infrastructures. We needed to address some State Highway Transportation issues with the intersection. We needed to address the frontage road. So we have worked diligently in the last few years to try to get a compromise as to what it is that the State Transportation wants with regard to that.

It is all commercial in this phase. It is the entire master plan and that's what's been approved for preliminary.

COMMISSIONER CAMPOS: And you resolved issues with DOT?

MS. VAZQUEZ: We've resolved everything. Yes, sir.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN MONTOYA: Discussion? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I don't remember

anywhere near this amount of acre-feet of water and Mr. Wust says originally it was 32. I assume that's the basis of the master plan approval. My concern is 45 is a lot more than 32. We just had a lengthy discussion over three acre-feet of water. I'm assuming, and Mr. Wust, correct me if I'm wrong, this 45.64 acre-feet is going to come from the County's allocation of water from the City, the 375 temporary City water agreement.

DR. WUST: Mr. Chairman, Commissioner Sullivan, at this point, yes, it would.

COMMISSIONER SULLIVAN: Okay. So the Commission has a resolution giving priority to projects for water utilizing – giving priority to projects utilizing that temporary water for those that have affordable housing. Is there any affordable housing in this project?

DR. WUST: Mr. Chairman, Commissioner Sullivan, this is a commercial property; it does not.

COMMISSIONER SULLIVAN: So there's no affordable housing. Now, they're calling this phase 1 here, but phase 1 is apparently the whole thing. Is that it? All 45 acre-feet, which used to be 32 acre-feet?

MS. VAZQUEZ: Mr. Chairman, Commissioner, the preliminary plan and the master plan had no phases. It had two separate sections of land that were across the street from each other where a major arterial was going to go through. There is only one phase in this project.

COMMISSIONER SULLIVAN: Okay. So just as I said, this is for the whole thing. So there's not a phasing in here. My concern is this. I think we can certainly utilize a portion of these. The last one we did was for a couple acre-feet for a commercial development. I have a concern committing 45 acre-feet. Remember, we only started with 275 of that and 100 of it's been committed to Rancho Viejo already for a complete commercial development, which obviously is not going to develop out overnight and probably not by 2009 when the Buckman Diversion comes on line and they'll be able to utilize those water rights that they transfer to Buckman.

So I'm a little concern that we've got a one-phase, one-shot project here that we're going to make a whole commitment of 45 acre-feet. I would be a lot more comfortable if the project could move forward as it was master planned, but that we only committed some reasonable amount of acre-footage, whatever it was, fifteen, twenty, twenty-five, to the project, because I don't see them needing all of that immediately. If you look further down in paragraph B under item 3, page 3, it says the County at present cannot supply the needs of subsequent phases to the project beyond phase 1, which is our standard language, but this is it. This is the whole project. We're providing water for the whole project.

So I guess that given that I'd like to conserve that temporary water agreement with the City, particularly for use in affordable housing and we're just reaching the end of that ordinance now, and pursuant to the resolution that we have on this, I really think that we ought to be able to make a commitment to less than 45 acre-feet.

CHAIRMAN MONTROYA: Okay. Anything else? Commissioner Campos.

COMMISSIONER CAMPOS: Ms. Vazquez, you said this was an interim solution. How much time are you talking about?

MS. VAZQUEZ: I'm sorry -

COMMISSIONER CAMPOS: Did you say this was an interim solution? That eventually you're going to transfer in-basin, but temporarily you're going to use the bridge water that we have with the City?

MS. VAZQUEZ: Mr. Chairman, Commissioner, this is one of the projects that you looked at a couple years ago. It had a specific condition of approval that it be tied to County utility.

COMMISSIONER CAMPOS: I understand that. Maybe I misunderstood.

MS. VAZQUEZ: I'm confused about your question.

COMMISSIONER CAMPOS: We have how many acre-feet of water on an interim basis before the Buckman comes on? Is that what we're talking about, Dr. Wust? Maybe you can clarify that issue for me. Maybe I'm missing something.

DR. WUST: Mr. Chairman, Commissioner Campos, we have 375 acre-feet on top of our 500. That's the bridge - a good word for it - before Buckman comes on line.

COMMISSIONER CAMPOS: So the 375 is where this water is going to come out of. This 45.64 acre-feet.

DR. WUST: Mr. Chairman, Commissioner Campos, that's where that commitment would come out of.

COMMISSIONER CAMPOS: That's for an interim period of time?

DR. WUST: Mr. Chairman, Commissioner Campos, no it's not. We're not going to cut off the water. It's just that when Buckman comes on line, that will be the supply of that 375 acre-feet of water instead of additional 375 acre-feet of water from the City.

COMMISSIONER CAMPOS: But you're talking about in-basin transfer. Isn't Mr. Komis proposing to provide in-basin water?

DR. WUST: Mr. Chairman, Commissioner Campos, it's the difference between water and water rights. The water primarily would come from Buckman Direct Diversion and we're working on water rights for that. However, because of our conjunctive use strategy as stated by the hydrologic model that was presented earlier, we're going to have a number of wells in the basin for when the river's running low or dry and we need some groundwater to supplement our supply, and that's a good place to be bringing water rights, so we'll have it available when the wells need to pump. So it's not a direct correlation between where the water rights go and where the water comes from for the development. It's just managing our two portfolios, one being the water rights - getting them to the right places, and one being managing our water supply to make sure that we have sufficient water supply from diverse sources.

COMMISSIONER CAMPOS: Your report says basically Komis is proposing to contribute in-basin water rights to Santa Fe County. Is that true?



DR. WUST: Mr. Chairman, Commissioner Campos, that's correct. That's the water rights you're looking at.

COMMISSIONER CAMPOS: How many acre-feet?

DR. WUST: 45 ½.

COMMISSIONER CAMPOS: These are in-basin?

DR. WUST: Yes. Zafarano is one of them and I forget the other names.

MS. VAZQUEZ: Ralph Neil and [inaudible ] water rights. And just for purposes of clarifying the record, I went through the file in Land Use and these original water rights had been evaluated by Estevan Lopez when he was the Land Use Administrator in his term. He's reviewed them and we've also given them to Legal and the County Attorney now. They're adjudicated. They're great.

CHAIRMAN MONTROYA: All 45 acre-feet?

MS. VAZQUEZ: Yes. They're all great water rights.

COMMISSIONER CAMPOS: Thank you, Mr. Chairman. Mr. Gonzalez, this raises a big issue for us and that's the issue of using water to promote affordable housing. Now, Buckman Diversion may come on 2009, who knows? It's kind of out there. This is a large amount of water. It might affect our ability to promote our affordable home ordinance that we're talking about now. We have to have some criteria to judge these things. We're going to be hit from all sides by people who want water service agreements and aren't we compromising our ability to really do affordable housing on that major ordinance that we've been working on for a year or two or three?

MR. GONZALEZ: Is that a question? Well, I think there's a balancing to be done and when Steve talks about managing portfolios I think that's important. As we know, with respect to in-basin water rights, the price of those has been going up. If we're going to look at alternatives to simply taking our water off the Buckman system and/or the 500 acre-feet to come out of the City, then obviously, we're going to have to have a balanced portfolio in the long run that allows us to do that. And I think that's part of the considerations from a staff standpoint that we're looking at. As long as for the time being we're able to manage the water that we do have available in order to support the affordable housing that seems to be coming on line, then that's an important consideration. But at the same time we've got to keep the long term in mind as well as we move forward.

COMMISSIONER CAMPOS: Do you think we need a staff evaluation on that issue, or is that the staff evaluation that you just made?

MR. GONZALEZ: Well, that's an out of the County Manager's head staff evaluation. If we want a little more formalized evaluation long term, so that we can sit and look at these things, we can do that. That evaluation I would suggest needs to take into account having a mix of water rights available, a mixed portfolio that's balanced across the board, doesn't just consider what's coming out of the BDD or the 500 acre-feet coming out of the City, but also takes a look at how we're going to develop a portfolio that allows us to do additional water production in other portions of the county, using a portfolio that allows us to offset. That's one of the considerations I think that's important from an overall

standpoint. We can do that. We can come back to you. I'd be glad to do that.

COMMISSIONER CAMPOS: Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Okay, I have a couple of questions. As I see it, Steve or Gerald, they're requesting 45 acre-feet; they're giving us 45 acre-feet of in-basin. Isn't that a wash?

MR. GONZALEZ: It might be more than a wash in some respects, depending on how you balance it. In-basin water rights currently - I would guess the price to be anywhere between \$50,000 and \$70,000. I've heard as high as \$70,000 an acre-foot. If you take 45 acre-feet and multiply them by anywhere from \$50,000 to \$70,000, that's a pretty big number.

CHAIRMAN MONTOYA: So the other thing that this is potentially doing - it could be a wash, it could be a benefit to the County then, is what I hear you saying.

MR. GONZALEZ: Potentially, yes.

CHAIRMAN MONTOYA: Potentially.

MR. GONZALEZ: That's why I wouldn't be averse to doing an analysis and taking a look at a balanced portfolio.

CHAIRMAN MONTOYA: So then based on that then, and your comment, we're also diversifying our portfolio? Is that correct, Steve or Gerald?

DR. WUST: Mr. Chairman, that's correct. Again, because we're looking at a groundwater source in the future to supplement or to use conjunctively with our surface water Buckman project. We're going to need water rights for those wells and the water rights we have at Valle Vista, for example, are declining. That's the way they were set up. They decrease over time. We have some from the Hagerman well, if that goes through, but they're here and there and they're getting more scarce and more valuable. So the opportunity to have some is beneficial to us because being a government entity, we have a little more flexibility in being able to get water rights, but not have to put them to immediate beneficial use. So it's not that we have to start pumping that well immediately if we can acquire some water rights. We can use them as part of our 40-year plan.

CHAIRMAN MONTOYA: So we're giving up 45 San Juan/Chama, right? Gaining 45 in-basin. Is there anything that restricts us from using the 45 in-basin for affordable housing?

DR. WUST: Mr. Chairman, we're not giving up anything. We're adding to, in essence. There's nothing that - if we're delivering a water supply, we can use it for anything we want, although we have to bear in mind that unless we want to drill a well and say it's an additional water source on top of the 875 that we're getting from the City now, just more water, then we can't apply it because - right now, we only have, in terms of water supply, 875 acre-feet to commit. That's all we have so this 45 ½ would be out of that 875 total, and the fact that we're getting in-basin rights does not add to that supply unless, again we acquire a well or drill a well or use one of the available wells and say we're going to bring those rights to that well and actually pump more water from that particular well. Until then we don't have an additional water supply.

CHAIRMAN MONTTOYA: Right. But it doesn't preclude us to say we're going to use whatever water rights we have in-basin, San Juan/Chama, for affordable housing.

DR. WUST: Mr. Chairman, I believe if I hear what you're saying, if the Commission decided that any in-basin rights would go to wells, being in basin they would need to go to wells -

CHAIRMAN MONTTOYA: I mean for affordable housing.

DR. WUST: Yes, we would use that water to apply towards affordable housing. We could certainly do that.

CHAIRMAN MONTTOYA: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, now, I don't think the question is are the in-basin rights better or worse than the others, than Rio Grande rights. I think the question is schedule here. For example, under III.B, Water rights transfers, it says, The customer shall transfer water rights described in Exhibit E. Now it doesn't say when. Mr. Ross, when will those be transferred?

MR. ROSS: Mr. Chairman, Commissioner Sullivan, we normally expect that the transfer of ownership will take place soon after the execution of the agreement. That's been the pattern. And then if there's a transfer needed, then we get those documents signed as well but that obviously takes several years.

COMMISSIONER SULLIVAN: Well, I don't know if they're going to transfer them all at once or what they're going to do here but there's no time line here. And we're committing 45 acre-feet of this temporary water that we have from the City. In other agreements that I've seen we've said You have until the Buckman Diversion opens, at which time that 375 acre-feet goes away and you better have all your water rights transferred there. Now, we do talk about the Buckman Diversion here, and the County, if they don't obtain a suitable alternate water supply - but I'm a little concerned that we don't have a time line here and that time line should be attached to their own phasing.

In other words, if they want to build something that needs ten acre-feet of water, then they should have transferred to us ten acre-feet of water. When they go further and they want 20 acre-feet of water, they need 20 acre-feet of water, then they should have transferred to us 20 acre-feet of water. I'm seeing this as an open-end commitment.

MR. ROSS: Mr. Chairman, Commissioner Sullivan, if you take a look at III. C. 1, the first sentence, it says that The applicant, upon execution of the agreement, prepare and submit an application for the transfer of the water rights. That's transfer of ownership as well as any transfer we might direct in the second sentence. So that doesn't mean two or three years or when the Buckman Diversion is up and running, it means within a few weeks at the outside after execution of the agreement. It means pretty quick.

COMMISSIONER SULLIVAN: Pretty quick. Okay. So Ms. Vazquez, what's the schedule here? How quickly will this 45 acre-feet be needed. They have to build facilities. They're going to build commercial. Is it all going to be needed by next year?

MS. VAZQUEZ: Mr. Chairman, Commissioner, should this water service

agreement be approved, we'll begin the transfer process. We have to come in for final development plan approval where you look at our water budget, and then we would begin. We're looking at some time, probably spring, summer, 2007.

COMMISSIONER SULLIVAN: I mean all of it though. Will you need all 45 acre-feet by 2007?

MS. VAZQUEZ: Mr. Chairman, Commissioners, it's kind of a difficult question to gauge because it really is independent on who your users are going to come in. My experience has been with a lot of these commercial developments is you get users in - like a brewing company, for example. Good economic development for this county. They want an area where they can build and development. They need a certain amount of water. So depending on their needs and the needs of people who are coming in, it's sort of really hard to tell, and that was really why we wanted the water service agreement for the full 45 acre-feet. And we are willing to transfer these. If you want, I'll start the application process tomorrow should this be approved.

COMMISSIONER SULLIVAN: It's not whether I want it, it's what you're committing to in this agreement.

MS. VAZQUEZ: We can commit to that.

COMMISSIONER SULLIVAN: Well, I'm glad because it's written down here and you'll be signing it. But if you can understand what I'm saying. It seems to me that if 45 is what ultimately is agreed and you don't even have final development plan yet, that there should be a parallel progression of approval of phasing of this project with the water here. Otherwise, we're tying up 45 acre-feet during this interim period, and I'm sure that it's better for the salability of your project, to sell to another landowner or developer or a commercial entity, but it's also a big chunk into our 375 acre-feet of water that we're parsing out, hopefully very logically and particularly with some emphasis on affordable housing which we don't have here.

Is the applicant acceptable to a modification here that would state that the deliveries would start, that the County - in essence defining phase one as one half of the delivery amount ultimately anticipated here, i.e., 22 ½ acre-feet, defining that as phase 1, so that the County's not committing more than that amount, at which time the applicant may come back and request an amendment to the water service agreement for the balance?

MS. VAZQUEZ: May I ask a question, Commissioner Sullivan, of staff? I believe, and if staff could correct me, that would preclude us from going forward for final development approval for the entire development. Is that true?

COMMISSIONER SULLIVAN: It didn't on La Pradera, why should it make any difference here? It was approved without all the water rights. What's the difference? It shouldn't make any difference.

JOE CATANACH (Technical Division Director): I think the response by Commissioner Sullivan is probably the way to look at it. It's almost case-by-case anymore.

CHAIRMAN MONTROYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think the floor is with Ms. Vazquez. I

was just asking if that would be acceptable to this agreement being 22 ½ acre-feet with an added proviso that the applicant may come back for an amendment to the agreement for the remaining of whatever phases are approved. We don't even know what the real, final water budget is, and we don't know what it's going to look like until we get final plan.

MS. VAZQUEZ: So, Commissioner Sullivan, would the water service agreement be for the full 45, with a proviso that only a certain portion is used in the next couple years, or are you just limiting the water service agreement to half of the water rights?

COMMISSIONER SULLIVAN: That's another way of looking at it. We could look at it that way. I think that way is a little more complicated. I'm just saying that moving it to half of the water rights, with the proviso that the remainder, as needed, an addendum, an application may be made for an addendum which will not be unreasonably withheld, or refused, provided that the addendum is consistent with the approved final development plan. Do you understand what I'm saying.

MS. VAZQUEZ: I do. My concern is that to divide up the water rights, because of the way they've been purchased, might be a little bit difficult in the transfer process.

COMMISSIONER SULLIVAN: Okay, how are they purchased?

MS. VAZQUEZ: Well, they were purchased in different bulk.

COMMISSIONER SULLIVAN: What are the blocks?

MS. VAZQUEZ: Six acre-feet, 13 ½, and 28.

COMMISSIONER SULLIVAN: Okay so six and 13 ½ is 19 ½. How about that?

MS. VAZQUEZ: I don't know if we'd be comfortable with 19 ½, but I want to work with you on this.

COMMISSIONER SULLIVAN: How about 28?

CHAIRMAN MONTROYA: I see Mr. Komis shaking his head no. So are you saying no, you would not want to do that, to what Commissioner Sullivan is suggesting?

MS. VAZQUEZ: I think we want to work with you and I have a solution. And that solution would be for the water service agreement to be for the full 45 acre-feet, and we put a phasing schedule, we attach the phasing schedule as an exhibit to the back, as to when we can use that water. That way, Santa Fe County would get all of these basin water rights. We could get them transferred to the County. The County could then pick a point of diversion and we would be done with it. Then we would be able to go forward with final. In final plat approval, we'll have to do a schedule too, in terms of construction and building. And we could deal with it that way. And I think, Commissioner Sullivan, that would achieve your concern with regards to the water.

And Mr. Chairman, I just have one more point and that is I know that this is a lot of water and I know that there is a limited supply of 375. And we are not coming to you on a whim. We have been working on this project since 97. We in 2004 came to you and

we said, Look, we can't transfer these rights. What are we going to do? You asked us to sit down with staff and work with staff on an allocation policy. We did that. In 2004, we spent the last six months of that year putting an allocation policy to address these concerns, Commissioner Sullivan, because we understood that these are issues. So I don't want it left in your mind that we're coming over here, asking, grabbing a bunch of water. We have been waiting to try to get this water and work with you and if my suggestion works for you, I think we can work out a phasing schedule that would be amenable to Mr. Komis, and to the County, and we could get these water rights into the County's hands. They're very valuable basin rights.

County Manager Gonzalez was quoting \$70,000 per acre-foot. When we were going through Suerte, I contacted somebody and they told me that ditch rights were worth \$70,000 per acre-foot for sale in this basin. These rights are very difficult to find now, and if you're going to do a conjunctive management strategy I think it would work.

This County also should look at some economic development and this is a commercial area that could provide some economic development for the area, right at the corner of I-25 and 599.

CHAIRMAN MONTROYA: Steve, did you have a comment?

DR. WUST: Thank you, Mr. Chairman. As the person that's got to deliver the water, I just want to make a comment that in previous agreements, as is in this one, it basically says, be advised that we can only commit enough water to get you through phase 1, and if you want anything past that you have to wait on the Buckman project. If, for example, it came through that we'd committed to 25 acre-feet of water right now, saying, well, you'll get another 20 when you need it, that's a commitment. For example, in three years, Buckman's not on line and Mr. Komis is ready to move ahead with the additional 20 acre-feet and we've committed all of it, or we're using all of it because we put it for affordable housing or subdivisions or other commercial properties, whatever it is, we don't have the water anymore, water that we committed to.

So the language would have to be clarified very specifically, and I don't know the legal stuff about getting a liability that if we take water rights but then don't have the water to deliver in three years time, we could be in real trouble. So the way I would look at it is just if we're saying, even if you only need 20 now and 20 in a couple of years, I've got to take that whole 45 off my water supply portfolio because I know before Buckman comes on line I may have to deliver it. So I can't commit it to anyone else. And again, the way we've always handled this in the past is just said to the applicant, if you agree that you can't get another drop past whatever the first amount is until Buckman comes on line, if it's delayed, well then you're delayed. But it didn't sound like that was part of this proposal. But the way I have to look at is if that water is being considered prior to Buckman coming on line, I have to consider it committed prior to Buckman coming on line.

CHAIRMAN MONTROYA: Steve, does this agreement contain language that addresses Dr. Wust's concerns?

MR. ROSS: Well, because this is drafted now to provide a commercial development with adequate water for the entire development it differs from prior agreements. He's right. Prior agreements, we've been committing only to what folks can use until Buckman is up and running, but I didn't understand there was any way to - because of the way the plan and plat were approved by this body there wasn't really any way to divide the thing into phases and to use the usual language. So that's why it's before you the way it is. If the applicant has offered to do something about that and make a proposal, it's certainly something we can do, more along the lines of what we've done before with the residential subdivision.

CHAIRMAN MONTOYA: Commissioner Sullivan, does their suggestion of a phasing schedule address your concerns? Their willingness to do it?

COMMISSIONER SULLIVAN: I think it could, yes. I think it could. But again, Mr. Wust makes a good point that from an administrative standpoint, he has to bank all 45, no matter what happens. And so we're committed to the 45 with regards to the phasing. It represents 12 percent of our whole water allocation from the City for one project, and a commercial project at that. I'd rather see the applicant come back with a phasing and saying, Okay, we understand what you're saying. We understand that that 375 is temporary until 2009, realistically speaking, by 2009 we'll only need x-amount of acre-feet - we'll call that phase 1.

Then, this agreement reads just like they all read. Anything after phase 1 is not doable until we get Buckman online. Anything before phase 1, we're committing part of our 375. That's an awful big chunk of water to go into a commercial development in such a short time frame. Rancho Viejo has been trying to develop commercial for years out there and all it's got is one building. So I'm just not persuaded that we're going to see buildings flying up overnight needing 45 acre-feet of water. It's just a lot of water is my whole problem. Maybe there's some way that we can work that out.

CHAIRMAN MONTOYA: Okay. Commissioner Anaya. And I'd like to entertain a motion after this.

COMMISSIONER ANAYA: I think this is a win-win situation for the developer and Santa Fe County from the testimony that I'm hearing. I think the County would lose out on 45.5 acre-feet of in-basin water rights that are worth \$70,000 per acre-foot. So I just think that at this point in time, to me it sounds like a good deal for both sides. I know that it's a large amount of water that we're dealing with, but in the long run, I think this is a good step for Santa Fe County. So with that, I'd like to make a motion to approve this water service agreement with Komis Land Company, LLC.

CHAIRMAN MONTOYA: Okay. We have a motion.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: Second by Commissioner Vigil. Discussion?  
Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, Ms. Vazquez, Commissioner Sullivan suggested something to you, making a condition, Buckman Diversion becoming

operational. Does that work in any way for you? Can you come up with a way to help us out with affordable housing and we can help you out with making it contingent on Buckman Diversion water coming online?

MS. VAZQUEZ: Mr. Chairman, Commissioners, with regard to the issue of affordable housing, Commissioner Campos, the original master plan that Komis brought forward in 97 had some residential on it. It wasn't approved at that time and the master plan was limited to what you have before you. So we probably will be coming in with a master plan for the rest of that development and it will have some - we make a commitment to comply with the ordinance of 30 percent at that point.

COMMISSIONER CAMPOS: What I'm asking is something more along the lines that Commissioner Sullivan suggested. Take so much now and so much once Buckman - is there any way that would work for Mr. Komis and the development?

MS. VAZQUEZ: Mr. Chairman, Commissioner, realistically, in talking to my client, there is going to be some phasing that we're going to need to do. That was why I suggested the approach that I gave you, is because I think that we can come up with a decent phasing schedule -

COMMISSIONER CAMPOS: Scheduling does not work for us. As Dr. Wust said, we have to bank that water. It's there in the bank. It's locked up. It's in a lock box.

MS. VAZQUEZ: But we pay fees on it. We're paying you for it, to keep it. So I can confer with my client on that. I would prefer the approach where we do a phasing schedule, only because, Commissioner Campos, only because Mr. Komis has been waiting for a long time on this. And we have worked with the County every step of the way. You asked us to sit down and do an allocation policy. We sat down with staff in 2004 and put it together. You asked us to send it to Buckman in the original water service agreement, we contacted the City of Santa Fe to see if they would do a joint application on the Buckman. We've been working every step of the way to try to resolve all these issues. So I can confer with my client a little bit more, but I'd like you to think about my phasing schedule approach.

COMMISSIONER CAMPOS: I don't think the phasing schedule really helps us at all, but what I would suggest is, we're going to have to take a dinner break right about now. Maybe at 6:30, if you could sit down with Dr. Wust and we could talk about this a little bit more.

MS. VAZQUEZ: May I have a moment, just one moment? Because Mr. Komis actually has an appointment too at 6:30. I just need one moment with my client.

CHAIRMAN MONTTOYA: So, Commissioner Anaya, could you just restate your motion? Is it as published?

COMMISSIONER ANAYA: Yes, my motion was to - you want me to restate it?

CHAIRMAN MONTTOYA: It was just as published?

COMMISSIONER ANAYA: Published.



MS. VAZQUEZ: Mr. Chairman, Commissioner, I spoke to my client. Because of the value of these water rights and because of the time frame, we would like to go forward with the initial proposal that I have suggested and you have my commitment that I will work with staff on that, but we would request the 45 acre-feet and the water service agreement. Thank you.

CHAIRMAN MONTOYA: Okay. So I have a motion and a second. Any further discussion?

**The motion to approve the water service agreement with Komis Land Company passed by majority 3-2 voice vote with Commissioners Sullivan and Campos voting against.**

PETER KOMIS: I just wanted to thank the Commission. Thank you very much for your consideration today. This has been a project that the Komis family has worked on in excess of one decade. We've worked on it for 13 years. Every obstacle that the County wanted me to do or every requirement the County wanted me to do, I did. In 1997, I came to this room before that honorable Commission and all of my neighbors, and I'm talking unanimous, signed petitions in my favor. Gloria Mendoza, Vioma Trujillo and Jose Villegas, who usually oppose developments came and spoke in my favor. So I'm just telling you I did everything that the Commission wanted me to do and I've worked diligently with my attorney, with County staff, and I just wanted to thank you for voting for this project.

CHAIRMAN MONTOYA: Thank you, Peter.

COMMISSIONER CAMPOS: Mr. Chairman, can we take a dinner break.

CHAIRMAN MONTOYA: We have a request from Commissioner Campos to take a dinner break. Along with that dinner break, would you consider Matters from the County Attorney.

COMMISSIONER CAMPOS: Executive session?

CHAIRMAN MONTOYA: Executive session. Okay, so we have a motion by Commissioner Campos to go into executive session –

COMMISSIONER CAMPOS: Where we're going to discuss items outlined in a, b, and c, and number 2.

**XIII. G. Matters from the County Attorney**

**1. Executive Session**

- a. Discussion of Pending or Threatened Litigation**
  - b. Limited Personnel Issues**
  - c. Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights**
- 2. Consideration and Possible Action on the Second Amendment to the Water Rights Purchase Agreement by and Between Larry Vigil et al. and Santa Fe County (\$200,000)**

**Commissioner Campos moved to go into executive session pursuant to NMSA Section 10-15-1-H (2, 7 and 8) to discuss the matters delineated above. Commissioner Vigil seconded the motion, which passed upon unanimous roll call vote with Commissioners Anaya, Campos, Sullivan, Vigil and Montoya all voting in the affirmative.**

[The Commission met in executive session from 5:30 to 6:30.]

**Commissioner Anaya moved to come out of executive session having discussed only the matters outlined in the agenda, and Commissioner Vigil seconded. The motion passed by unanimous [4-0] voice vote. [Commissioner Campos was not present for this action.]**

**XIII. E. 3. Request Approval of the Extension of the Santa Fe County Water Service Area to the Second Half of the Las Soleras Development, Cerrillos Road to Richards Avenue Area**

DR. WUST: Thank you, Mr. Chairman. This is a request to extend a water service agreement boundary, the Las Soleras area. This is not a request – I know there's been some confusion in the questions I get asked from the public and the press – not a request to extend our water lines, or for a water service agreement at this time. However, in order to proceed with that discussion, a development must be within the boundaries of our water service area. Otherwise, we basically don't even talk about a potential water service agreement. The Las Soleras area – and I submitted a whole bunch of these larger format colored maps. I hope you all got one in the packet. That's probably the best way to summarize what's going on. The Las Soleras area is basically bounded by Governor Miles, Richards, Interstate 25 and Cerrillos Road. The southern half, which is in blue hatched on your map, is already within the water service area boundary. It was approved at a previous time.

You can see on that map also where our master meter is along Cerrillos Road. It's down

near the lower left-hand corner of that map. The request is for the red hatched portion, to include that in the water service area. The developer is going forward with a master plan, which I believe is going to the EZC in February. Vicki Lucero is here from Land Use in case you had some questions on the development itself. I'm not up to total speed on all the development aspects. So basically, this is just a request for the water service area, just so the Commission knows, because there are some jurisdictional lines there, on other properties. The applicant provided another map. I have a copy for Legal and one for the Clerk that has the specific survey directions and all the legal type of information so it can be specified exactly where those boundaries are. And I stand for questions.

CHAIRMAN MONTOYA: Any questions for Dr. Wust. Okay. Your recommendation again, Dr. Wust?

DR. WUST: Mr. Chairman, my recommendation, since half of this development is already within the water service area boundary and because we cannot even discuss the issue without having a water service area boundary there, I would recommend that it be included. I will mention, because this was a question that was asked of me by a Commissioner earlier this week, that one of my criteria, when I look at those things, for water service area extensions, I primarily look at just a couple things: Are they adjacent to an existing water service area boundary? Are they near our existing infrastructure? And do they have a development plan that's ready to go? All those are yes in this instance, which is why for the water service area I look at that. Then the Commission can certainly discuss other issues about whether this is an area they'd like to see in our water service area and things like that. But my criteria, just to look and make sure they fit the qualifications, if you will, of us being able to extend our boundary without much issue.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Another important criterion I think is are they within the growth area, because that's where we want to focus our attention and our development and this, as I understand it, is in the 1999 general plan as a growth area, Las Soleras.

DR. WUST: Mr. Chairman, Commissioner Campos, I would agree with you. That gets into whether – the criteria I mentioned are whether I bring the request forward. Somebody that's not anywhere service area I would try to convince them not even to request it. But yes, that's definitely a criterion when you ask me whether I think it's a good idea or not. This is in a growth area. It's growing now and it's a designated growth area. So I think it's a good idea, as well as just bringing the request forward.

COMMISSIONER VIGIL: Move to approve.

CHAIRMAN MONTOYA: Okay. We have a motion.

COMMISSIONER CAMPOS: Second. I have a question.

CHAIRMAN MONTOYA: Commissioner Campos with a second. You still have the floor.

COMMISSIONER CAMPOS: Let's say we extend anywhere, hypothetically, a

water service boundary, and later we decide that it's wasn't a good idea. Could we rescind that action? I don't know if we've ever done that. But assuming there's no customers.

DR. WUST: Mr. Chairman, Commissioner Campos, that's a legal question, but before Steve answers, I will say that this is not a commitment for water service.

COMMISSIONER CAMPOS: I understand that. No, I understand that. That's clear. You made that very clear.

CHAIRMAN MONTOYA: Mr. Ross. Steve.

MR. ROSS: Mr. Chairman, Commissioner Campos, there's nothing in our ordinances that I'm aware of that prohibits you from reconsidering a service area boundary at some point in the future if it becomes obvious that it's no longer needed or impractical.

COMMISSIONER CAMPOS: Okay. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I sat in on the EZA meeting last week for Commissioner Anaya, and the residents of Nava Ade and their homeowners group, whom I represent as District 5 constituents, were there in force, indicating that this developer had misled them and had gone around behind their backs to get a more favorable plan that has less open space and more commercial than they had negotiated with the developer over several years. They were extremely upset and I think this is just one more vehicle to provide the leverage to prohibit or to remove the incentive for the developer to work with those residents. I think when there's a plan there's no requirement that there be a service area right now. There's no requirement that there be a water service agreement right now.

It's just one more foot in the door. We lose our leverage in terms of negotiating for a good master plan if we do want to keep this area in the county. If it's not going to be annexed. So in terms of the constituents that I represent, to a person, they are opposed to this because of the failure of the developer to act in good faith, based on their testimony. So I could not support this at all.

CHAIRMAN MONTOYA: Okay. Any other discussion? There's a motion and a second.

**The motion to approve extending the water service area to include the second half of Las Soleras passed by majority 4-1 voice vote with Commissioner Sullivan casting the nay vote.**

**XIII. F. Matters from the County Manager**

**1. Resolution No. 2006-20. A Resolution Calling for Regional Cooperation to Preserve Jobs and Revenue for Northern New Mexico Following the Award of the New Los Alamos National Laboratory Contract**

MR. GONZALEZ: Thank you, Mr. Chairman, members of the

Commission. This resolution simply implements the forward motion of the discussions that we're having with Los Alamos County about possible GRT sharing in the wake of their potential GRT windfall, given the change in the operating structure at the lab. Rio Arriba County has already adopted a similar resolution. Los Alamos County is obviously doing that. We have the City of Española and I understand the City of Santa Fe are also going to be adopting similar resolutions. But basically, what we're doing, in addition to saying that we're committing to engaging in the process of carrying forward the dialogue, we're also asking that the governor and the legislature hold off on earmarking any of that additional GRT until we the local governments have had an opportunity to come up with a plan and propose that.

The GRT itself, the increases are not likely to begin to hit anyway until the next legislative session, right around that time, if that soon, depending on how quick the transition at the lab takes, but currently, we're not anticipating that it would be until that time anyway. So any sort of pre-emptive action by the legislature or the governor to try and earmark those monies would not have fruition until we finally got to the next fiscal year. Or the next calendar year, rather.

CHAIRMAN MONTOYA: Okay. Any questions for Gerald?

COMMISSIONER VIGIL: Move to approve.

CHAIRMAN MONTOYA: Motion by Commissioner Vigil.

COMMISSIONER ANAYA: Second.

CHAIRMAN MONTOYA: Second by Commissioner Anaya. Any discussion? I'll just say that I think this is a good idea, and I'm glad that we're doing this. Too many times, and it's evident now in the legislature that our fighting for our fire tax, or trying to get that impact fee allocated back to counties, trying to get our DWI distribution back. Once it goes into the state general fund it's gonzo. And this is a way of hopefully preventing that and allowing counties their due diligence in terms of what they deserve and what we should have so that we can do the jobs that we're supposed to do and not shortchange our constituents. So it's a great idea.

**The motion to approve Resolution 2006-20 passed by unanimous [5-0] voice vote.**

**XIII. F. 3. Request Approval of Public Improvement District Guidelines**

MR. GONZALEZ: Thank you, Mr. Chairman. These guidelines, if I can reach back a little bit of time, I think it was probably about nine months ago or so, there was some discussion with the Commissioners on trying to put together a set of guidelines that could apply to future public improvement districts that might come forward for County approval. As you know, that's a process that's required, and given some changes in the law, it appeared likely, and probably is still likely to some extent, that we'll start seeing

more of these kinds of transactions coming forward to the County.

So the Manager's office made a request to our bond counsel, Peter Franklin, to prepare a set of guidelines that you could consider. If you find them okay, then adopt them, or if you want to tinker with them, fine. Peter may want to add a little bit more background to what I've just outlined, because he's the one that did drafting and understands the nuts and bolts of what you have in front of you.

**CHAIRMAN MONTOYA:** Peter.

**PETER FRANKLIN (Bond Counsel):** Thank you, Mr. Chairman. Thank you, Gerald. I think it probably makes sense just to say a little bit about the genesis of guidelines, the sort of guideline effort since the PID Act was passed. For better or worse, I drafted the PID statute and one of the things the statute is is sort of a wish list for developers. It provides for all kinds of potential projects and potential powers in aid of development that in fact once you get to the ground level and try to do a project as a PID financing are really not necessarily very realistic.

So one of the things that the guidelines attempts to do is provide local governments with some guidance as to what sorts of projects are likely to be financially feasible, and that way, really set the bar high enough so that the types of projects that the County is going to be looking at are potentially feasible projects instead of kind of pie-in-the-sky, who-knows-what projects, which on the bare face of the statute might be allowable.

**CHAIRMAN MONTOYA:** Any questions for Mr. Franklin, for Peter.

**COMMISSIONER VIGIL:** I have.

**CHAIRMAN MONTOYA:** Commissioner Vigil.

**COMMISSIONER VIGIL:** Mr. Franklin, what is the difference between a PID and a special assessment district?

**MR. FRANKLIN:** Mr. Chairman, Commissioner Vigil, the basic difference is the statutory requirements. They're really pretty distinct. The special assessment district can be used for a fairly narrow set of improvements, and they are all financed by what are called special assessments. The special assessments are essentially an allocation of the specific benefits that the improvements bring to each of the properties within the district. And they can't exceed the special, direct benefit applicable to each of those parcels. The process for getting a special assessment district in place and to do a financing is complicated. It basically requires about five public hearings. And the PID statute was an attempt to do something similar but more flexible and with a more streamlined approval process.

**COMMISSIONER VIGIL:** And the PID does require a referendum, correct?

**MR. FRANKLIN:** Those requirements are somewhat complex. What it requires is either consent of 100 percent of the affected property owners, or a petition of at least 25 percent of the owners, and then a referendum of at least 75 percent.

**COMMISSIONER VIGIL:** Okay.

**MR. FRANKLIN:** So far, if I may, the two PIDs which have been formed in New Mexico so far, I have been involved with both of them, and which have issued

bonds were created with 100 percent consent.

COMMISSIONER VIGIL: Okay. It's sounding to me from your testimony that PIDs can be used for a broader array of services, infrastructure. Can these districts be used for enhanced services?

MR. FRANKLIN: Correct.

COMMISSIONER VIGIL: They can?

MR. FRANKLIN: Let me just say very briefly what enhanced services are. Those are services that are not otherwise provided by the local government jurisdiction.

COMMISSIONER VIGIL: And how do you make that distinction? And the reason I ask is I have been working with people in the northwest quadrant to look at the alternative of PIDs for providing salaries for paramedics and EMTs. Would those be considered enhanced services, since currently we don't have those services in that area?

MR. FRANKLIN: Mr. Chairman, Commissioner Vigil, I believe they would. The question of whether you can use the PID to pay the salaries, I'm not sure I would formulate it quite that way, but basically, to create a PID to provide a revenue stream to enter into a contract to provide additional staffing or to provide an outside service provider is what's allowed.

COMMISSIONER VIGIL: Are there any other counties in the state that have PIDs or municipalities?

MR. FRANKLIN: Mr. Chairman, Commissioner Vigil, the City of Albuquerque created the first PID called Ventana West. The City of Rio Rancho created the second one and is next Wednesday supposed to hear a petition on the third one. The City of Las Cruces has a petition before it which has been conditionally approved and then hasn't moved forward so far. The Town of Edgewood is looking at a PID. They're sort of popping up like mushrooms.

COMMISSIONER VIGIL: And here in Santa Fe, Rancho Viejo is a special assessment.

MR. FRANKLIN: Yes, Mr. Chairman, Commissioner Vigil. Rancho Viejo is a property taxing county improvement district, which came about as an amendment to the County's Special Assessment District Act. And in some ways it is more similar to a PID than the special assessment district that I described to you. In other ways -well, I'll just leave it at that.

COMMISSIONER VIGIL: Thank you.

MR. FRANKLIN: There's some lessons to be learned from the Rancho Viejo experience as you probably are aware of.

COMMISSIONER VIGIL: Thank you.

CHAIRMAN MONTROYA: Okay. Any other questions for Mr. Franklin? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I didn't know we were working on this. I've got some familiarity with one that has some similar provisions in Goodyear, Arizona. Looks like this came from Goodyear, did it? Or maybe Goodyear's

came from yours.

**MR. FRANKLIN:** Mr. Chairman, Commissioner Sullivan, we looked at the Goodyear. The Goodyear came first. In fact the PID statute borrows fairly heavily from the Arizona community facilities district statute.

**COMMISSIONER SULLIVAN:** What I would like to do, rather than take the Commission's time to go through these questions – and I have a number of them here – would be to meet with Mr. Franklin separately and go through them with him and have him bring this back with those questions addressed. I know it's late at night and I have at least ten or fifteen questions that have to do with tax rates and some of the other language that's in here. The assessment rates and so forth that I think may work for Goodyear but may not work for Santa Fe County for a couple reasons. But I want to hear Peter's feedback on that and if there's no super rush on this, I'd like to just sit down with him and do that and then we can take this up at the next administrative meeting.

**CHAIRMAN MONTOYA:** Okay. Any objection to Commissioner Sullivan not asking 15 questions right now?

**COMMISSIONER ANAYA:** No objection.

**COMMISSIONER CAMPOS:** Do we have a timetable on this thing? Is there a problem waiting another month.

**MR. FRANKLIN:** Not as far as I'm concerned, Commissioner.

**JACK HIATT (Deputy County Attorney):** At 7:00, not as far as I'm concerned either. There is a subdivision in the pipeline that has submitted documents, thinking and anticipating the County would adopt guidelines, and these are simply guidelines, for the staff to bring PIDs before the Commission. I'm not aware of Commissioner Sullivan's questions so I'm not sure. And I think it's probably a really good idea. But a part of this is so we don't ever get into another ATC where we are utilizing Peter's time when we're not sure if this is going to pass. We don't have necessarily the money in advance. This is one of the real joys of this thing is we're going to get the money in advance to pay for our outside counsel to look at these. But there is something in the pipeline coming along. I understand what the Commissioner is saying. If it's possible, could we put it on the land use calendar for next month, if that's agreeable. I assume the two of you could meet within the next two weeks.

**COMMISSIONER SULLIVAN:** Oh, certainly. That's okay with me. I'm always concerned about jamming up the land use agenda because that goes so late at night and this is clearly an administrative item. If that's what the Commission would like to do, I'm sure we can do that. I just have a lot of questions here that I think are pertinent as a result of the meeting we had down in Goodyear a couple years ago with a financial officer that deals with these in the communities there.

**MR. HIATT:** Well, we've already turned the check over to Susan in terms of the advance fees on this so I'm not worried about how we're going to pay for Peter's time. I'm thinking of just advancing the project. And if it doesn't work in two weeks we can move it to the administrative calendar.



COMMISSIONER SULLIVAN: Well, let me - I can certainly commit to meet with Peter if he's available within two weeks. If we haven't gotten to a point where there's something to bring forward then we could bring it forward at the admin meeting.

MR. HIATT: That sounds fine.

CHAIRMAN MONTOYA: Could I just ask though, whatever amendments are made or changes, if you could maybe italicize, highlight, put them in Braille or something.

MR. HIATT: Chairman Montoya, yes.

**XIII. F. 4. Discussion and Possible Direction on the RFP for the Federal Lobbyist**

MR. GONZALEZ: Mr. Chairman, as you know, John Michael Salazar has been working on this item. The Commission has been provided with the additional information which I think we've put in front of you just for discussion purposes. I think last time we had talked about this as maybe even a potential tradeoff from the budget standpoint with the potential review of the adult facility, just because of the cost of the item, where we are in the budget process. But it's in front of you.

JOHN SALAZAR (Special Projects Coordinator): Mr. Chairman, we're just asking for direction whether the Commission would like for us to go forward in procuring a federal lobbyist.

CHAIRMAN MONTOYA: Okay. Discussion? Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. I'd like to see us go forward with this to see if we can get some possible funding from our federal government. And I look at this and I think the only thing that we would have to change is when we would receive it because it's way back in November, the date. But we could change that. But other than that, I saw it. It looks good, and I would like to see us move forward. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: John, or anyone, have we had any feedback from our congressional delegation? Jeff Bingaman's office or anybody, about how they view the value of these lobbyists?

MR. SALAZAR: Mr. Chairman, Commissioner Sullivan, we haven't. I can contact their office and get some information.

COMMISSIONER SULLIVAN: I personally would like to get some input from Terry Brunner from Jeff Bingaman's office or Tom Udall's office. There's a couple of caveats that I see in doing this. One is that basically, in terms of the presentations that they've made to us before about these, basically what these lobbyists go after is what they call the earmarked funds. And as we probably all know, the earmarked funds are the funds that get slipped into congressional authorization bills and don't require a vote. They are the

perks -

COMMISSIONER VIGIL: Pork

COMMISSIONER SULLIVAN: The pork. The perks and pork. Now, I've also heard and read lately that that practice is coming under scrutiny as a result of the congressional lobbyists reform legislation that's going on now, having to do with the guilty pleas recently of the lobbyists, and that there may be more daylight as to these projects that are funded through this mechanism. So that's a concern I have, and I'd like to hear what our congressional delegation has to say about that, what they think is down the horizon.

The other thing, and again this is taking information from the lobbyists who made presentations to us is typically the money that comes from these lobbying efforts nowadays have a 30 to 50 percent matching requirement. And that's typical for this earmarked legislation. We would have to match it. Certainly smaller communities can't match it; the County would have to match it. If we wanted to get funding for the Cañoncito waterlines or something such as that, we might get money from it, but then again we might also be required to fund the other half of it. So I think that needs to be explored.

And then the other issue is that when we deal in these federal monies, we have to build up our own staff to administer them. These federal monies require a great deal of oversight. They also require environmental studies to go with them, and as we've seen in the Buckman project, the environmental studies tend to rule our lives and there seems to be no end to them. And sometime you literally use up all your money doing the studies and then you run out of money. So these - the saying is that there's no free lunch and with this federal money, there's no free lunch. There's a lot of strings that come with this.

The City has a consultant under contract who is a lobbyist who is specifically working on the Buckman project. So we don't need to really focus this effort on the Buckman project. This would be, I think, other projects. We wouldn't want to conflict with what they're doing on the Buckman project. So we would really need to know what projects they would anticipate us getting and what the monies could be used for. Our biggest problem, second to capital improvements, is operational costs. And again, typically, these monies are not available for operational costs, only for capital improvement costs. So we kind of dig ourselves a little bit further and further into the hole. Things have changed in the last decade at the feds. We have a war going on. We have devastation in New Orleans that they've just appropriated \$80 billion to deal with. That's billion. We've seen on issues even like the rail proposal that the governor has where he's saying now, or he's reminding - Domenici is reminding us that the authorization is contingent on after three years, it being self-sufficient. That means that if the rail goes forward we're going to have to have taxing districts to tax to keep it going, that the feds won't go beyond three years to support the rapid rail. That's going to be a heavy burden if that carries forward.

So there's a lot of strings that go with these things that I'd like to know about and probably our congressional delegation is the first place since they're there full time to help us out. Those are some of the questions I had, Mr. Chairman.

CHAIRMAN MONTTOYA: Okay. Thank you. Commissioner Vigil.

COMMISSIONER VIGIL: Most of those questions, I think, can be fashioned as we design the RFP. What is your take on that, Gerald? I heard questions about whether or not there has to be matching dollars. Questions of whether or not there's only allocation of capital funds. I think, when I've seen RFPs sent out for federal lobbyists, the RFP has been broad enough where we are asking the lobbyist to assist us with locating grants for particular services. What it is we want can be designed within the RFP. Is that your understanding of that, Gerald?

MR. GONZALEZ: I think there's a fair amount of ability to be able to put the feet to the fire for those who would be coming forward and proposing by asking them how they would address each of these questions. That could be part of the RFP, require them to make a proposal outlining how they would deal with these questions, how they think the funding could be used, whether operating monies could be acquired by the County for certain kinds of projects, which projects and those kinds of things. To the extent we can, of course we'll try and get information out of the congressional delegation. But I do agree that the RFP could be structured to try and get answers to some of these questions.

CHAIRMAN MONTTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Skeptical. I don't think we should do it. I agree with what Commissioner Sullivan said. Things have changed dramatically since 9/11, since Katrina, Iraq. There isn't a lot of federal money. They do come with strings. They require matching. They're limited. I'm not very interested. I don't think we're going to get much. I think if we can get some guidance from our congressional folks, that would be a good idea.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: May I ask Commissioner Campos, guidance with regard to whether or not it would be beneficial to us to hire a lobbyist or guidance as to what they can provide in terms of funding? I'm not sure.

COMMISSIONER CAMPOS: We've had this discussion a number of times and at times I think our congressional delegation has told us that you likely don't need lobbyists because we can do a lot of this ourselves for you. That's why we're there. I remember some of that discussion. I don't know who else was on the Commission then.

COMMISSIONER VIGIL: The only problem I have with that is while there is good intentions, if you're not having someone bird-dogging funding or allocating funds to Santa Fe County for particular purposes, and that's true even of the state legislature, that's where we start falling short. So I actually find lobbyists to be incredibly beneficial. It's been my experience, and it still is my experience that the more seasoned the lobbyist is the more likely he is to be successful, both on the state level and the federal level, only because the process of budgeting and allocating funding, both on the congressional and the state level is at such a rapid pace that you do need someone protecting it, making sure that

funding stays within certain bills or being able to identify exactly what bills funding can be sought after.

A congressman himself, with the best of intentions may have difficulty doing that. So I see a lobbyist as an assistance to our congressional delegation.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Keep in mind, Commissioner Vigil, that we have had a prior bad experience with a supposedly first rate lobbying group that we hired, four, five, six years ago. They produced us with nothing. We terminated the contract because there was absolutely zero, I think, or very little that we got.

COMMISSIONER VIGIL: I also want to balance that with the fact that we did have some success with a prior lobbying firm. So I think there's a lot of explanations for why we've had success with one lobbying firm and not success with another one. I think if we're really clear and delineate what our needs are and are able to hire a lobbyist who knows where to go and how to get for us, I think we can tap into a source that we just haven't been able to on a consistent basis. I think the City of Santa Fe is having success with their lobbyist. They hire their lobbyist annually, repeatedly. They recognize the benefit of it, and our congressional delegation does want to be able to bring funding to their constituents. But they get their requests from a variety of sources and Santa Fe County not having a presence there, I think puts us on the backburner.

COMMISSIONER CAMPOS: Can you point to specifics where the City has been successful?

COMMISSIONER VIGIL: Well, my understanding, about six or seven years ago with, I think it was the Ferguson Group, I'm not sure who their lobbyist was, but through the Ferguson Group they received funding for solid waste management, was my understanding, and for Buckman Diversion. I don't know exactly. I just recall having an experience through meetings with the City of Santa Fe on that.

COMMISSIONER CAMPOS: It would be wise to talk to them to see what kind of success you're getting, how much you're paying.

CHAIRMAN MONTOYA: Okay. I just have a couple of comments and then we'll take a second stab at this. I guess about ten minutes ago President Bush started his state of the union address and there is no more pork; he's cutting it all, which is going to make it even more difficult.

COMMISSIONER SULLIVAN: You're not going to get anything.

CHAIRMAN MONTOYA: And I guess the question I have first of all, and it's also a concern, is do we have the money in the budget to hire, I think we're projecting \$120,000 for this. Is that correct?

MR. SALAZAR: It would be \$120,000, Mr. Chairman. I would have to defer the question to Susan Lucero. Roman Abeyta told me to bring up that we are in the process of hiring a jail consultant and that's going to be over \$100,000.

CHAIRMAN MONTOYA: That's going to be over \$100,000?

MR. SALAZAR: Yes, Mr. Chairman.

CHAIRMAN MONTOYA: Susan, do we have it in the budget?

MS. LUCERO: Mr. Chairman, members of the Board, at this time we'd have to look to our contingency fund for both of these contracts and I have had some limited discussion with Roman on those estimates. So we're looking in the neighborhood of \$200,000 to \$250,000 for these two contracts. If we can negotiate them lower. I understand the highest rated offeror for the lobbyist did come in at a high rate. We'd have to negotiate quite a bit down in order to afford both of those. But that is where we'd go, to contingency.

CHAIRMAN MONTOYA: How much do we have in our contingency fund right now?

MS. LUCERO: Well, as soon as we get reimbursed from the NMFA for the Paramount property, we'll be back closer to \$1.1 million, somewhere there. Right now we're down to I think \$200,000 left.

CHAIRMAN MONTOYA: That's not very much.

MS. LUCERO: It's tight. A little tight. But we're still waiting for the final paperwork from NMFA and then we can put that into the works.

CHAIRMAN MONTOYA: Okay. Those were my questions. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman. Good questions. Let me suggest another alternative. I think that our lobbying efforts in Washington - I think our lobbying efforts in the state are very useful. One on one, particularly because you have part-time legislators that are only there for 30 or 60 days. When each of us went back, I think, into DC and along with the Mayor and the City contingent, I was favorably impressed by the firm that they had hired to focus on the Buckman project. I think they're tracking that as best they can and I do believe that they've, for the City, have gotten the City some of the planning monies that they've been using for this, to the tune of a couple million dollars. Now, whether they can take the credit for that or our congressional delegation, I'm not sure which.

But as an alternate to going out to another RFP, one idea might be to partner on this with the City, to take a smaller chunk of dollars, work with the City, perhaps, so that we're using the same lobbyist. We're going to DC for the same purpose, which is specifically - at least at this point in time our number one priority which is money to get Buckman going, and maybe that would only cost us \$50,000 instead of \$120,000. And at the same time perhaps in so doing be able to evaluate that consultant as a potential for expanded services the following year, something of that sort.

I just - I think one lobbying effort on the behalf of Santa Fe, particularly for water projects, which is one of the big things we're going after, would work better in DC. So that's an alternative, perhaps, is to sit down with the new mayor Santa Fe whoever that might be and say, look, your lobbying efforts, we'd like to support those, we'd like to be a part of that, and how can we structure that to do that? So there's another thought to throw out.

CHAIRMAN MONTOYA: Okay. Any other thoughts? Commissioner Vigil.

COMMISSIONER VIGIL: I have a thought to trump that thought. And Susan, I don't know if you have the recollection of our experience when we did that. Both the City and the County hired the same lobbying firm and I think there was a focus for Buckman Diversion and water projects. Do you have that experience?

MS. LUCERO: Mr. Chairman and Commissioner Vigil, the only one I do remember was the Ferguson Group and I do remember successful lobbying on behalf of SWMA as you mentioned, and I think through EPA funding, and I think because it was so specific to the need there. But I don't have any other history on the other groups.

COMMISSIONER VIGIL: And I think there was – so long as we have joint projects with the City, it's probably a more fruitful decision to have a joint lobbyist. However, when it came to the point that the County was looking for some funding that was a separate project from the City and we had the same lobbyist, the lobbyist was getting direction from both the City and the County on projects that at the time, I think were competing with each other.

So it does create a benefit. It is a cost benefit if you have a joint lobbyist, but you have to have that lobbyist lobbying for joint projects. Thank you, Mr. Chairman.

COMMISSIONER CAMPOS: Last thought.

CHAIRMAN MONTOYA: Last thought.

COMMISSIONER CAMPOS: Commissioner discretionary funds. How about that?

COMMISSIONER VIGIL: All spent.

CHAIRMAN MONTOYA: Gonzo.

COMMISSIONER CAMPOS: Okay. That's it. That settles the question. No money.

COMMISSIONER VIGIL: I have a question.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: And I'm not sure if this is for you, John, or perhaps for you, Gerald, if you've had an opportunity. When Roman brought forward the piece of information for us to keep in mind that we're also hiring a jail consultant. Is that something that there's a concern about, that if we move forward, that we should probably move forward either with the jail consultant or with the federal lobbyist?

MR. GONZALEZ: Mr. Chairman, Commissioner Vigil, I think the concern was just that, one, because of the state of the contingency fund, but two, because of the joint costs of doing both that we just needed to think carefully whether we need to look at different timing and should we prioritize one over the other.

MR. SALAZAR: Or possibly funding both.

COMMISSIONER VIGIL: Thank you, Gerald.

CHAIRMAN MONTOYA: Okay. So where do we want to go?  
Commissioner Anaya.

COMMISSIONER ANAYA: Okay. Well, I want to go home. Mr. Chairman, thank you. I'd like to see us move forward with this and give the staff direction to take this RFP and run with it and see what we come back with and draft it, as Commissioner Vigil said, for specific areas of what we might need. We could possibly get millions of dollars with just spending the \$120,000. I don't know that. But I do know that we're not going to get if we don't ask. So that's what I would like to do, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. So is that a motion?

COMMISSIONER ANAYA: It's a motion, yes.

CHAIRMAN MONTOYA: A motion to go ahead and put this out to solicitation for a proposal then.

COMMISSIONER ANAYA: Yes, sir.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER VIGIL: I'll second that.

CHAIRMAN MONTOYA: A motion and a second. Further discussion?

**The motion to go out for bid on a federal lobbyist passed by majority 3-2 voice vote with Commissioners Campos and Sullivan voting against.**

CHAIRMAN MONTOYA: I'm in favor of seeing what we come back with.

COMMISSIONER CAMPOS: Keep in mind, Mr. Chairman, you've also been very strong about having someone at the jail.

CHAIRMAN MONTOYA: Exactly.

COMMISSIONER CAMPOS: We can't do everything, and the jail certainly seems to be a higher priority. We've got to get that in order.

CHAIRMAN MONTOYA: I agree.

COMMISSIONER CAMPOS: We're just getting it off the ground now.

COMMISSIONER VIGIL: This doesn't commit us to the money, does it?

CHAIRMAN MONTOYA: Right. Now.

COMMISSIONER VIGIL: It just allows the RFP process to go in place and find out what the prospects are.

COMMISSIONER SULLIVAN: I would - let me ask for a clarification. Should we just simply wait on this until the election, the City election is over. Five weeks before we do this. I think there are going to be changes in City Hall. I know there's going to be changes at City Hall. I think this is something that our staff ought to discuss with the new City staff at the City Hall on the direction. We have the motion to go ahead on the RFP. I understand that. That's the democratic process, but I would really like to just at least have Gerald discuss this with the new Mayor and the new, if there is one, City Manager and staff and tell them what we're planning to do, why we're planning to do it, see what their plans are with regard to their lobbyist. I'd just like to - we're five weeks away from that - to have that kind of coordination if we could. Could we get that sense from the Commission, or do we want to just get this thing out and put it tomorrow

morning in the newspaper?

COMMISSIONER VIGIL: My only concern – Mr. Chairman.

CHAIRMAN MONTROYA: Commissioner Vigil.

COMMISSIONER VIGIL: Commissioner Sullivan, is that there is an appropriation time line through Congress and I think we're running really close to that time line. If you don't get in there when those budget hearings start and when the bills start getting drafted and sent out and debated, you're not going to have an opportunity for funding and I think any further delay would be sabotaging our own intent.

COMMISSIONER SULLIVAN: Mr. Chairman, I think that's a good point. When we went last time it was in late summer and they said, we're just now at the end of the appropriations cycle. So I'm not too familiar with how those cycles go, but it seemed to be focusing on like June or July, because I remember the cherry blossoms were gone and it was June and that seemed to be – we were right at that time line. So I don't know. I just feel that we could be well served by coordinating this with the City and getting more bang for the buck or at least getting their thoughts on the RFP and their horror stories and learning from it. Put it out tomorrow morning.

CHAIRMAN MONTROYA: It will probably get to the point where we may get that opportunity to discuss it with them. I think it's going to probably take that long just to get it back, reviewed, and then we probably will be able to have that discussion. I mentioned my concerns and I think they're kind of in line with what Commissioners Sullivan and Campos have outlined as well, but I also would like to see if it's something that's feasible. So, okay, we'll go with that. Thank you, John.

**XIII. F. 5. Update on Various Issues**

MR. GONZALEZ: The only other thing that I had, Mr. Chairman, I just wanted to advise the Commission, I know that Commissioner Vigil is aware of it and Commissioner Anaya, because he was sitting in committee at the time, and you may also may have heard some of the same discussion from capital outlay committees about coming up with letters of agreement for non-profits who may receive potential appropriations or be the beneficiaries of potential appropriations for capital outlay. That's all I had, Mr. Chairman.

**XIII. G. 2. Consideration and Possible Action on the Second Amendment to the Water Rights Purchase Agreement by and Between Larry Vigil et al. and Santa Fe County (\$200,000)**

MR. ROSS: Yes, Mr. Chairman. This is the second amendment to the water rights agreement between Mr. Vigil and ourselves and it provides for the County acquiring just a little over 23 acre-feet of pre-1907 Middle Rio Grande water for the sum of



\$200,000. And if you would, the agreement is made out to the signature of the County Manager. In your motion to approve this agreement it would be good if you would propose to delegate to him the authority to sign that agreement.

COMMISSIONER VIGIL: So moved.

CHAIRMAN MONTOYA: Okay. There's a motion by Commissioner Vigil.

COMMISSIONER CAMPOS: Second.

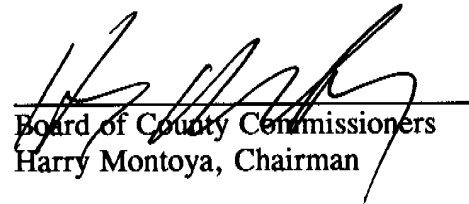
CHAIRMAN MONTOYA: Second, Commissioner Campos, Discussion?

**The motion to approve the second amendment to the water rights agreement with Larry Vigil passed by unanimous [5-0] voice vote.**

**XIV. ADJOURNMENT**

Chairman Montoya declared this meeting adjourned at approximately 7:25 p.m.

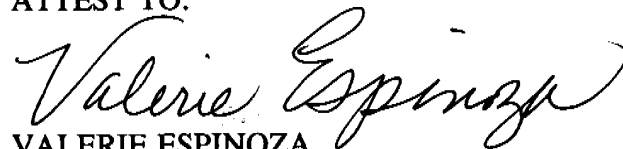
Approved by:

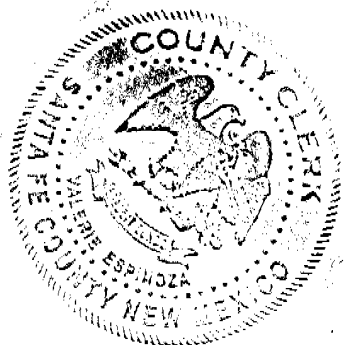
  
Board of County Commissioners  
Harry Montoya, Chairman

Respectfully submitted:

  
Karen Farrell, Commission Reporter

ATTEST TO:

  
VALERIE ESPINOZA  
SANTA FE COUNTY CLERK



SFC CLERK RECORDED 03/22/2006

Gary Miller  
6 Prairie Vista Road  
PO Box 23491  
Santa Fe, NM 87502-3491

Board of County Commissioners  
Santa Fe County  
RE: "La Pradera" Proposed Phases 2-6

Monday, January 30, 2006

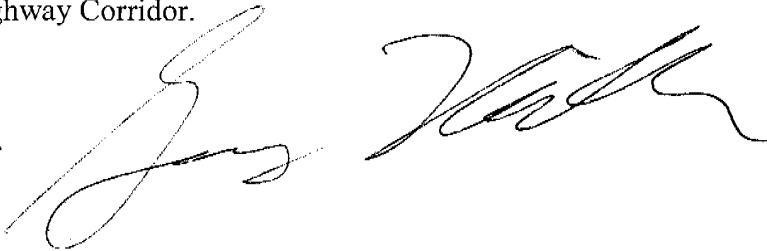
Dear Commissioners,

Please consider the attached letter concerning the proposed road realignment represented in the Request for Master Plan Amendment by La Pradera approved by the EZA in July, 2005. I and many others in the adjacent neighborhood of Vista Ocaso naively presumed that the EZA's approval of the conceptual plan was incontrovertible and that when notices were posted for the meeting on January 10, 2006 concerning the plat approval for Phases 2-6 it was merely a meeting to "academically" memorialize each of the individual phases for recording purposes. I was not able to attend that meeting but other neighbors have apprised me of the minutes of that meeting.

It was not clear to me or any one else in Vista Ocaso I have talked with since the meeting on the 10<sup>th</sup> that the conceptual plan's component of the road realignment could be or, would be, challenged. In the interest of preserving the public trust placed in you by the residents of Vista Ocaso I hope you will bear in mind it was the unanimous request of the neighbors in Vista Ocaso that the applicant, La Pradera, incorporate the road realignment into the Highway Corridor.

Sincerely,

Gary Miller



SFC CLERK RECORDED 03/22/2006

Gary Miller  
6 Prairie Vista Road  
PO Box 23491  
Santa Fe, NM 87502-3491

Board of County Commissioners  
Santa Fe County  
RE: "La Pradera" Proposed Phases 2-6

Monday, January 30, 2006

Dear Commissioners,

I understand the road realignment for the primary access into the proposed phases may now be in question. If this is true, it would disturb me greatly as it was the residents of Vista Ocaso that requested the realignment if any degree of development be approved by the EZA on the subject property. The developer agreed to that request and the realignment was incorporated into the conceptual plan that was submitted and approved by the EZA last year.

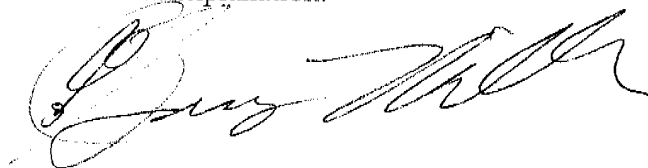
In light of the extensive negotiation between Vista Ocaso and the developer to reach a compromise to the plan, I do not understand why there would be any debate on the realignment now. The CCD Plan calls for respecting existing neighborhoods and access exists within the HC now from Richards Avenue. Why not use that buffer for something as sensible as access into the proposed development to help minimize the impact to Vista Ocaso's privately maintained road?

If the concern is noise level, how much more adverse impact can there really be over the noise level from the freeway? If the concern is the speed of traffic, then mandate controls such as those in other areas for the same purpose. If the concern is over setting some kind of precedent for future development to sprawl to the edge of the freeway, I believe you have an exception in this case given the fact that access into the area already exists from Richards Avenue southwesterly along the freeway up to the currently-approved phase of development (as well as the proposed phases) and that Vista Ocaso is recognized in the CCD Plan as one of only three "existing neighborhoods" within the CCD worthy of "special consideration" with respect to future development.

We all want responsible and conscientious development congruent with the spirit and intent of the CCD Plan. I feel La Pradera is doing its best to honor that intent and comply with the CCDO. If you find reason to refute to any degree the prior EZA approval of the conceptual plan, please be prepared to answer to the many constituent residents of Vista Ocaso that will demand an explanation.

Sincerely,

Gary Miller



SFC CLERK RECORDED 03/22/2006

1-12-06

# Editorials

Re: Matters from the Commission IX A

## Editorials

### Empty Houses A Disgrace

It seems Española's housing department isn't the only federal step-child wrought with problems. Santa Fe County has its hands full trying to manage its Section 8 housing in Santa Cruz, 25 miles from Santa Fe.

While Española suffers from not enough houses and questionable management, Santa Fe County has an abundance of houses, in questionable state. There are 52 houses in the County's Santa Cruz subdivision. Sixteen stand as vacant eyesores in a community neglected by county officials, commissioner Harry Montoya and the housing authority.

Santa Fe County Housing Director Robert Anaya said he's always behind on maintenance. And since the houses lack maintenance, they're not habitable. He said he has five maintenance men but they're kept pretty busy in Santa Fe and that's where the problem lies.

On yet another issue, Northern Santa Fe County is unrepresented. And because Santa Fe County runs almost the length of Española, it's easier for those needing help with housing to just apply with the Española housing authority than add your name to the 300-name list in Santa Fe County.

Conspicuously quiet on the sub-

ject is District I county commissioner Harry Montoya. He should get an earful from Santa Cruz residents when he comes stumping next May. His list of accomplishments in the last four years for his district can fit inside a matchbox. And the worst hit are of course the poorest.

And where is Santa Fe County Manager Gerald Gonzales on this matter? While the housing authority is ultimately responsible to the federal government, the County has a voice in the housing department and how its citizens are served, or not.

This is a disgraceful situation that must be addressed immediately. Sixteen empty houses with a list of 300 families waiting for them is unforgivable. And it's been going on for years.

This appears to be a case of Santa Fe County serving Santa Fe citizens first and leaving the North to use Española services and fend for itself, with no representation. Commissioners, legislators and County officials know where the bulk of the votes are and that's where they focus their "service."

Those 300 families need to become one voice, pool their votes and get on the County Commission agenda. Politicians will always listen to 300 plus votes. That's the only thing they listen to: votes.

### Elections off with A Bang

Española's city elections got off with a great start Tuesday night.

To start the evening's festivities off right, the city clerk decided at the last minute to try something different, as far as candidates signing

enough, Beesley discovered one minute after the deadline time of 5 p.m. that she didn't have city council candidate Cecilia Lujan's packet. Lujan had been sitting with all the other candidates right there in city



### Outside Fur County's C

The Oñate Center in Alcalde opened in 1992, with a later grand opening in 1994, to much fanfare, political speeches and Rio Arriba county commissioner promises. The price tag far exceeded the \$750,000 the state gave Rio Arriba County. When you throw in Don Juan on his bronze pony, it eclipses \$1.2 million.

Then County chairman, state senator and former county sheriff Emilio Naranjo proclaimed more people would come visit the Center than Carlshad Caverns. The hate down sou

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Matthews  
IX



# HB 188: Land, Wildlife and Clean Energy

## The Case for Conservation & Clean Energy in New Mexico



Sandhill Cranes © Ken Stinnett



School children enjoy an outing at Mesilla Valley Bosque State Park © Ken Stinnett



Pecos Sunflower © NM Forestry Division

# N

ew Mexicans overwhelmingly support protecting our land, water, wildlife and air - - now and for future generations. To preserve our quality

of life as New Mexico grows, a coalition of anglers, hunters, land trusts and conservation groups have joined together to propose New Mexico's first wide-ranging and financially sustainable conservation and clean energy program. The proposal does not increase taxes but directs revenue from the extraction of New Mexico's natural resources to finance land and wildlife conservation and clean energy initiatives.

### fast facts

#### Conservation Economics:

- More than \$1 billion is spent annually on wildlife-associated recreation in New Mexico.
- An additional \$1 billion is spent on hiking, camping & skiing.
- New Mexico can secure \$20 million or more annually in matching federal & private funds with a new source of state funding for conservation programs.
- Clean energy results in cleaner skies, improved public health, a sustainable energy future and economic development.
- Between 40-50,000 acres of rural lands are lost to development annually, 10% of which are prime agricultural lands.
- According to the House Joint Memorial 34 study – the state currently funds only 1/4 of New Mexico's conservation needs.

#### The Plan:

- Enacting House Bill 188 -- The Land, Wildlife and Clean Energy Act -- will authorize the use of a portion of the existing Oil and Gas Conservation Tax, originally enacted in 1953, [Section 30-7-1] to fund the program. In FY07, this tax is expected to generate approximately \$10.85 million for the Land, Wildlife and Clean Energy Fund

#### The Funds Will Be Used For:

- increased outdoor recreation opportunities
- solar, wind, biomass and other clean energy projects *(cont'd. on back)*

Did you know that 92% of New Mexicans support the preservation of farming and ranching as a way of life?

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In El Prado, this prime agricultural land is protected by a conservation easement.

© Carolyn Lake

## consider this:

- \* **84% of New Mexicans strongly favor preserving land that protects water quality.\***
- \* **61% support a permanent, stable public fund to protect natural lands, water & wildlife.**
- \* **65% agree that the availability of future energy supplies is a serious problem.\*\***

\* 2004 poll conducted by Fairbank, Maslin, Maulin & Assoc.  
 \*\* National Environmental Trust and NRDC poll

(story cont'd.)

- protecting family farms and ranches by purchasing development rights
- conservation of the state's natural areas for plant and animal habitat
- acquisition of unique and ecologically significant lands

*Note: Purchase of land or development rights shall only be from willing sellers. This gives New Mexico's families an important option to consider as they decide the future of their communities.*



Wind Turbines

© Robert M. Findling

### Program Management:

The fund will be administered by a newly created Land, Wildlife and Clean Energy Board, which will be

comprised of the cabinet secretaries of Agriculture; Energy, Minerals and Natural Resources; the director of the Department of Game & Fish and six public members, appointed by the Governor, representing agriculture and ranching, wind and solar power, energy conservation and efficiency, cities and counties, natural area protection, and wildlife management and conservation.

*Entities eligible to receive grants under the Land, Wildlife and Clean Energy Fund include state and local governments, land grants, tribes, and soil and water conservation districts. Public or private conservation agencies can also receive funds to the extent permissible by law.*



The blessing of the river on San Ysidro Day

© Kim Kunan

## for more information

Edward Archuleta, Eco Consulting  
 (505) 820-7452 (work)  
 (505) 501-0130 (cell)  
[edarchuleta@aol.com](mailto:edarchuleta@aol.com)

Leanne Leith, Conservation Voters New Mexico  
 (505) 992-8683 (work)  
 (505) 710-8406 (cell)  
[leanne@cvm.org](mailto:leanne@cvm.org)



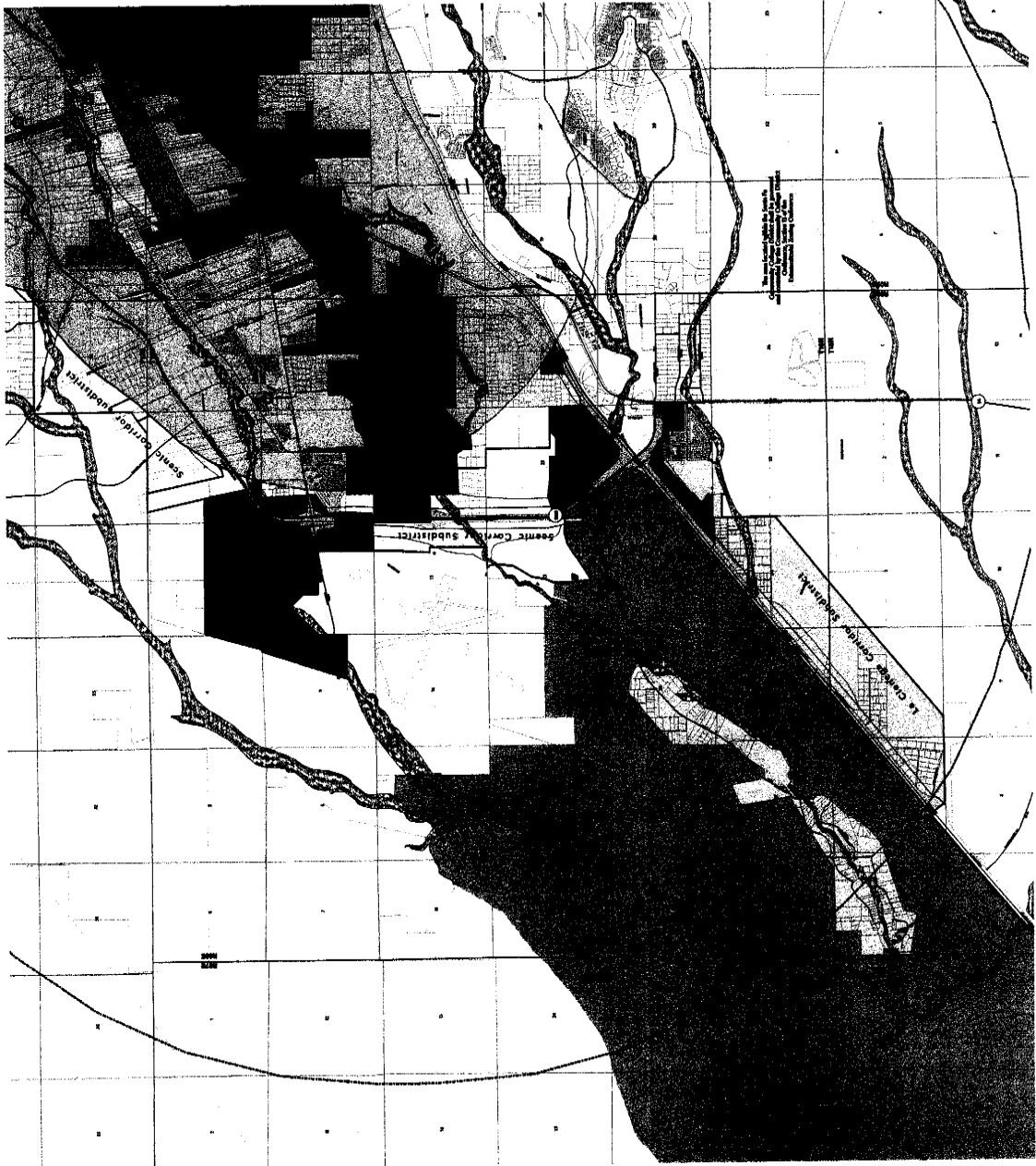
© Ben Bairwell

© Ben Bairwell

## partners:

- Animal Protection Voters
- Audubon New Mexico
- Conservation Voters New Mexico
- Natural Resources Defense Council
- New Mexico Land Conservancy
- New Mexico Wildlife Federation
- Sierra Club, Rio Grande Chapter
- The Nature Conservancy
- The Trust for Public Land
- The Wilderness Society
- Taos Land Trust
- World Wildlife Fund

# Santa Fe Metro Area Highway Corridor Special Overlay District



## LEGEND

- Redevelopment District
- Community Gateway Subdistrict
- Service Corridor Subdistrict
- La Changa Corridor Subdistrict
- Traditional Villages (County Zoning Designation) (State Statute Designation)
- Community College District
- City of Santa Fe
- Recreational Zoning District (RZ-1)
- 100 Year Flood Zones (from FEMA data)
- Registered Setback from ROW
- Dashed Setback from ROW
- Parcel boundaries
- Intermunicipal Zoning District Boundary (IZ-1)
- 5 Mile Intermunicipal Boundary (IZ-5)

DRAFT COPY  
FOR REVIEW PURPOSES ONLY



Scale 1:50,000  
1 inch represents 1,000 feet



This information is for reference only. Santa Fe County assumes no liability for errors associated with the use of these data. Users are advised to verify the accuracy of any information for their own use.



January 18, 2018



JAN 11 2006

**STATE OF NEW MEXICO**  
**OFFICE OF THE STATE ENGINEER**  
**Santa Fe**

John R. D'Antonio Jr., P.E.  
State Engineer

BATAAN MEMORIAL BUILDING, ROOM 102  
SANTA FE, NEW MEXICO 87504-5102  
(505) 827-6120  
FAX: (505) 827-6682

January 9, 2006

Ms. Vicki Lucero  
Development Review Supervisor  
Santa Fe County  
102 Grant Avenue  
P.O. Box 276  
Santa Fe, NM 87504-0276

**CERTIFIED MAIL**  
**RETURN RECEIPT**  
**REQUESTED**

**Anticipated by fax**

**Re: La Pradera Phases II-VI (Preliminary Development Plan) and La Pradera Phases II-III (Final Development Plan)**

Dear Ms. Lucero:

On December 13, 2005 the Office of the State Engineer (OSE) received a request to review additional documentation for the referenced subdivision.

This office has reviewed the proposal for Phases II-VI of La Pradera on December 2, 2004, on January 31, 2005, on May 10, 2005, and on November 18, 2005. Further, this office has reviewed the Master Plan for La Pradera and Phase I of La Pradera on November 10, 2003 and March 9, 2004.

The developer proposes to subdivide 94 acres into 157 residential lots, with sizes ranging between 0.1 and 0.3 acres. The property is located approximately one mile west of Richard Avenue and immediately south of I-25, within Sections 17 and 18, Township 16 North, Range 9 East, NMPM. The developer proposes to obtain water from the Santa Fe County Water Utility.

The OSE has reviewed the proposal pursuant to the Santa Fe County Land Development Code, the Community College District Land Use and Zoning Regulations, and the New Mexico Subdivision Act. It is the opinion of the office that the developer's proposal does not satisfy the requirements of Articles 6.6.1 and 6.4.4 (A) of the County Regulation, and of § 47-6-11.F (1) of the New Mexico Subdivision Act. Therefore, this office hereby issues a **negative** opinion.

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**WATER DEMAND ANALYSIS & CONSERVATION**

The developer has conducted a water demand analysis and has estimated the maximum annual water requirements for each residential lot as 0.16 acre-feet per year, as required for at least the first few years, by the Santa Fe County Hydrologist. The Disclosure Statement and the Restrictive Covenants include water conservation measures that would ensure that the 0.16 acre-feet per year are not exceeded. Therefore, it is the opinion of this office that the proposal satisfies the requirements of Section 6.6.2 of the County Subdivision Regulations.

The total maximum water requirement for Phases II and III (97 lots) has been estimated at 15.52 acre-feet per year (97 lots x 0.16 acre-feet), and the maximum water requirement for Phases II through VI (157 lots) has been estimated at 25.12 acre-feet per year (157 lots x 0.16 acre-feet). The developer has not included in the quantification of the subdivision maximum water demand any amount as a safety factor (distribution system losses, fire protection, etc.). Therefore, the proposal still does not satisfy the requirements of Section 6.6.1 of the County Subdivision Regulations.

**WATER AVAILABILITY**

The developer has indicated that Santa Fe County Water Utility (SFCWU) will supply water to the subdivision. The proposal includes copies of various amended customer contracts for commitment of water services to various developers for various developments. For instance, there is a letter from SFCWU that commits 51.9 acre-feet of water per year to Greer Enterprises, and a letter by Greer Enterprises that states that 8.76 acre-feet (out of the 51.9) will be used for Phase II of La Pradera. There is another letter from SFCWU, which commits 10 acre-feet of water per year to Berridge, and a letter from Berridge (dated September 9, 2003) stating that 7 acre-feet (out of the 10) will be used in conjunction with a certain 34.5 acres of land. These two letters would suggest that 15.76 acre-feet of water per year could be used for La Pradera. This amount would not be sufficient even to cover Phases II and III, if water losses and other safety factors are included in the water budget.

Further, the proposal does not include a letter in which SFCWU states that they are ready, willing, and able and ready to provide the maximum annual water requirement for the subdivision, as required by Section 6.4.4 (A) of the County Subdivision Regulations.

Section § 47-6-11.F (1) of the New Mexico Subdivision Act requires an opinion from the State Engineer to determine whether the subdivider can furnish water sufficient in quantity to fulfill the maximum annual water requirements of the subdivision. The proposal does

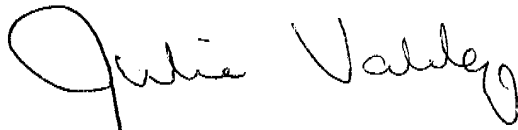
*Ms. Vicki Lucero*  
*January 9, 2006*  
*Page 3 of 3*

*La Pradera Subdivision*

not demonstrate that the developer can provide the maximum amount of water required for Phase II-VI of the La Pradera Subdivision.

If you have any questions, please call me at 505-827-6790.

Sincerely,



Julie Valdez  
Senior Water Resource Specialist

cc: John W. Longworth, Water Use & Conservation Bureau Chief  
OSE Water Rights Division, Santa Fe Office

SFC CLERK RECORDED 03/22/2006



**WATER SERVICE AGREEMENT**

This Water Service Agreement (hereinafter referred to as "the Agreement"), dated January 31, 2006, is made by and between the Board of County Commissioners of Santa Fe County (hereinafter referred to as "the County") and The Komis Land Company, a New Mexico limited liability corporation, (hereinafter referred to as "the Customer").

Deleted: partnership

**I. RECITALS**

**WHEREAS**, the Customer is the owner of certain real property located in Santa Fe County and legally described as set forth in **Exhibit A** attached hereto and incorporated herein by reference (hereinafter referred to as "the Property") which the Customer desires to develop into a subdivision in phases as described on **Exhibit B** hereto, for which Master Plan approval has already been granted (hereinafter referred to as "the Project");

**WHEREAS**, the Property is located within the designated water service area of the Santa Fe County Water Resources Department (hereinafter referred to as "the Department");

**WHEREAS**, the Customer desires the Department to provide water service to the Customer and the Project;

**WHEREAS**, in order to provide water service to the Customer, the Department will be required to extend its water lines and facilities to and within the Property and acquire water rights to support deliveries of water to the Property;

**WHEREAS**, the Customer is the owner of certain water rights described in Exhibit C attached hereto (hereinafter referred to as "the Water Rights");

**WHEREAS**, the Customer is willing to transfer the Water Rights to a point of diversion designated by the County, at no cost to the County;

**WHEREAS**, the Customer intends to develop the Project as soon as all necessary approvals are obtained:

**WHEREAS**, the Customer intends to apply for preliminary and final development plan approval of the Project and this submittal requires a Water Service Agreement, and specific arrangements with regard to the provision of water service to the Project need to be in place prior to approval of the Final Development Plan;

**WHEREAS**, the County has entered into two agreements with the City of Santa Fe that fundamentally change the way water is supplied from the City to the County and provide a different methodology for transfer and "parking" of water rights owned by the County at the City's Buckman Well Field;

WHEREAS, the City/County agreements are known as the "Water Resources Agreement Between the City of Santa Fe and Santa Fe County" and the "Joint Powers Agreement between the City of Santa Fe and the County of Santa Fe Governing the Buckman Direct Diversion Project;

WHEREAS, until the Buckman Direct Diversion is completed, raw water supplies for projects like the Project will be limited by the delivery obligations stated in the Water Resources Agreement, and at this time the Project cannot be fully supplied through this Agreement;

WHEREAS, the Customer wishes to proceed with the Project prior to completion of the Buckman Direct Diversion, and wishes to enter into a Water Service Agreement that will provide for deliveries prior to completion of the Buckman Direct Diversion, and for deliveries to the remainder of the Project after completion of the Buckman Direct Diversion; and

Deleted: Phase I of

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WHEREAS, the County and the Customer desire to enter into a Water Service Agreement to supply the Project and to provide a methodology whereby additional phases will be supplied, and desire to set forth herein their respective covenants and agreements concerning the water service.

NOW, THEREFORE, FOR GOOD AND ADEQUATE CONSIDERATION, the Customer and the County agree as follows:

## II. LINE EXTENSION PROJECT

A. The Customer shall be responsible for the planning, design and construction of the Line Extension Project for the development (described in more detail on **Exhibit D** hereto) in accordance with the Department's Line Extension Policy and other applicable Ordinances, Resolutions and regulations of the County. Engineering plans will be prepared and certified by a Licensed Professional Engineer in the State of New Mexico, and submitted to the County for approval. Construction will not begin until written approval from the County is provided to the Customer.

B. The Customer agrees that the planning, design and construction of the Line Extension Project will adhere to the standards, specifications and criteria established by the Department and will be in accordance with American Water Works Association Standards. It is further agreed that Customer will abide by all the terms and conditions of all applicable Ordinances, Resolutions, regulations and conditions imposed by the County.

C. The cost of planning, designing, constructing and inspecting the facilities required for delivering water from the Department's trunk lines to the Property or for distributing water within the Property to the points of ultimate delivery and use will be determined separately and will be the sole responsibility of the Customer. All planning, design and construction of delivery and distribution facilities will be done in accordance with the line extension policy, as amended. Upon completion of construction of the delivery and distribution facilities, formal written acceptance of that construction by the County is

required. Upon formal written acceptance by the County, the facilities, up to and including any and all meters, shall, to the extent permitted by law, be formally dedicated to the County and will thereupon become the County's property.

D. Upon completion of the delivery and distribution facilities and acceptance by the Department, the Customer will be entitled to delivery of such water and the Department will make such deliveries thereafter, at then-current water service rates. The Customer and the Department agree that the water service rates become effective only on the application by a customer requesting water service.

E. The Customer agrees to pay all costs incurred or charges imposed by the Department related to specific conditions affecting the Department's ability to furnish an adequate and reliable supply of water to the Customer.

F. Upon completion of the Line Extension Project and associated facilities, and after inspection and acceptance by the Department, the Customer agrees to dedicate, at no cost to the County, the water line and associated facilities, easements and real property to the County.

### III. AGREEMENT REGARDING WATER DELIVERY AND WATER RIGHTS

A. **Project Water Needs.** The Project (see Exhibit B) will require total deliveries to the Customer of no more than 45.64 acre-feet per year (hereinafter referred to as "afy") to the Property.

~~Deleted: Phase I of~~  
~~Deleted: t~~  
~~Deleted: Subsequent phases may require an additional approximately 87 afy, to supply the needs of the Project.~~

B. **Water Rights Transfers.** The Customer shall transfer Water Rights described on Exhibit E to the County, in an amount necessary to provide service to the Project. However, the County at present cannot supply the needs of subsequent phases of the Project beyond Phase I (see Exhibit B). Therefore, as specified in Subparagraph IV(C), below, the County's obligation to deliver water to supply subsequent phases of the Project shall be contingent upon the completion of the Buckman Direct Diversion, or, if the Buckman Direct Diversion is not completed, the County obtaining a suitable alternative water source. Once deliveries begin to phases of the Project beyond Phase I, the County will use the remaining Water Rights transferred to the County pursuant to this paragraph to serve subsequent phases of the Project. Once the Water Rights have been transferred as described herein and delivery assured pursuant to Paragraph IV herein, and for so long as this Agreement is in force and has not been terminated pursuant hereto, the Customer shall not use the municipal water supply well it has completed on the Property for any purpose.

#### C. Preparation and Filing of Application.

1. Upon execution of this Agreement, the Customer shall prepare and submit to the County an application for the transfer of Water Rights described on Exhibit E. The Water Rights transferred pursuant to this paragraph shall be transferred to a point of diversion specified by the County. Once the Water Rights are transferred, the Customer shall pay the additional cost, if any, necessary to transfer the Water Rights from the

designated point of diversion to the Buckman Direct Diversion project, or another point of diversion of the County's choosing, at any time, if requested to do so by the County.

2. Concurrent with an application to transfer the Water Rights to the point of diversion, the Customer shall transfer the Water Rights to the County and obtain approval of said transfer through the Office of the State Engineer. The County shall join in such application.

3. Upon the final, non-appealable issuance of an order approving the application, the Customer shall inform the County and provide a copy of the order.

**D. Return Flow Credits.** Any return flow credits that may be approved by the Office of the State Engineer (hereinafter "the OSE") that are associated with the Water Rights described in Subparagraph III.B, above, shall belong the County.

**E. Offsets.** If required by the Office of the State Engineer, the Customer shall acquire and transfer ownership to the County sufficient water rights within an affected tributary system sufficient to offset depletion of the tributary surface flows, as determined by the OSE, and associated with the pumping of the transferred water rights from the diversion point.

#### IV. WATER SERVICE

A. For and in consideration of, and subject to, all of the terms and conditions of this Agreement, and the Customer's fulfillment of its obligations set forth herein, and for so long as the Customer complies with such terms and conditions, the Department shall provide water service by means of individual customer taps and meters to individual customers at the Property. The Department will deliver such water as the Customer requires, suitable in quality for municipal, domestic, industrial use, and at pressures meeting applicable fire-flow requirements. However, the Department shall not be obligated under this Agreement to deliver more water to the Property than the total amount of Water Rights transferred to the County pursuant to this Agreement, or subsequently approved for transfer by the OSE, less 20% to account for necessary additional line capacity and inevitable line losses.

B. Water service from the Department will be provided in accordance with all of the Department's ordinances, resolutions, regulations, conditions and Department policies, and subject to all the established fees, costs and expenses required by such ordinances, resolutions, regulations, conditions and Department policies, as these may be amended from time to time. With respect to the enforcement of these Department regulations, the Customer will be treated in the same manner as similarly situated customers.

C. The County's obligations to deliver water to the Project in excess of that required by the Project (see Exhibit B) shall be conditioned upon either the Buckman Direct Diversion Project becoming operational and capable of delivering water to the Customer or delivery of water by the County from any other suitable alternate water source. In addition, it is anticipated that policies for allocating the wholesale water deliveries provided for in the "Water Resources Agreements Between the City of Santa Fe and Santa Fe County" have

Deleted: Phase I of the

not yet been issued by the Board of County Commissioners, but Customer nevertheless agrees to comply with those subsequently-developed policies so long as no term of such policies shall preclude the actual delivery the needs of the Customer as provided in this paragraph.

D. In the event of a shortage of water supply or an interruption of water supply due to operational constraints, the Department may curtail usage or customers in accordance with County ordinances and regulations. The County shall have no liability for any reduction in water deliveries due to water supply shortages or an interruption of water supply due to operational constraints.

## V. CHARGES AND FEES

A. The Customer agrees to pay the fees and charges associated with the execution and performance of this Agreement and necessary for the provision of water service to the Property, including but not limited to, impact fees, connection fees, inspection fees, and engineering fees as determined by the Department from time to time, including specifically all the costs of the water rights transfers referred to above and any and all costs and attorneys fees resulting from administrative proceedings necessary to achieve a transfer of the Water Rights to the County, and the points of diversion specified herein.

B. The Customer agrees that, beginning upon execution of this Agreement, it will pay a service charge in the amount of Twenty-five Dollars (\$25.00) per dwelling unit per month for each dwelling unit to be constructed. The service charge shall ensure that the County has sufficient delivery capacity in the event the Customer's projected water budget proves to be insufficient to meet the actual water needs of the Property. This service fee will be reduced by \$25.00 each time a meter is installed and made operational at a dwelling unit on the Property. Upon the installation and operation of a meter, the service fee will be replaced by the standard utility rates and charges described in Subparagraph IV.B, above.

C. The Customer's obligation to pay standby fees will cease when a sufficient number of dwelling units and commercial properties have used water for a period of time sufficient for the County to determine whether the approved water budget reflects actual usage in Phase I (see Exhibit B) of the Property. Release of the Customer from its obligation to pay standby fees for all or a portion of the standby capacity will be at the sole discretion of the County but such release shall not be unreasonably withheld. The parties agree to reconsider the need for the continuation of this service charge annually, on or about the date of the execution of this Agreement.

## VI. COUNTY ACTIONS UNAFFECTED

Except as specifically stated in this Agreement, it is expressly understood and agreed to by the Customer that this commitment by the Department to supply the above-stated water service does not in any way bind or obligate the County, or any employee, official, board, agent or other entity thereof, to take any action, including but not limited to: acceptance of any application or other documents for filing; processing of any application or proposal; approval of any kind of land use or development proposal; issuance of any license or permit; or any other

Deleted:

action, whether discretionary, ministerial or otherwise, with respect to any proposal or application or other request by the Customer or anyone on the Customer's behalf concerning the Property of the development thereof. The Customer understands and agrees that the County's obligations as described in this Agreement are totally independent of any other action or decision-making process of the County and have no bearing whatsoever upon the exercise of any authority or discretion of any County official, employee, board, agency or other entity. The Customer is solely and fully responsible for obtaining any and all licenses, permits, approvals or other consents required enabling it to utilize the water committed to be delivered by the County hereunder. Nothing herein constitutes a commitment, promise, assurance or other favorable indication that any such license; permit, approval or other consent will in fact occur or be granted.

## **VII. CUSTOMER GRANTS OF RIGHT-OF-WAY**

A. To the extent that the Customer has the legal right, the Customer agrees to acquire and then grant to the Department, without charge, any and all permanent easements and rights-of-way to run with the land as reasonably required by the Department over and across the Customer's lands for design, engineering, construction, installation, operation, maintenance, repair and replacement of the Department's water system, and the delivery and distribution facilities to be constructed in accordance with this Agreement. Such grants will be made through appropriate plat dedications or instruments recorded in the Office of the County. The parties further agree that the Customer will acquire the right for the Department to locate facilities on the Customer's lands, to the extent possible from the standpoint of cost and engineering feasibility, in a manner that avoids unreasonable interference with the Customer's contemplated uses of its lands, and that complements those contemplated uses, and in accordance with sound construction and engineering standards and practices.

B. It is the understanding of the parties that if other additional rights-of-way and/or easements must be acquired from third parties who are not parties to this Agreement in order to extend service to the Property, acquisition of such rights-of-way and/or easements will be the sole responsibility of the Customer. It is the further understanding and intention of the parties that these other additional rights-of-way will be granted to the Department.

## **VIII. EFFECTIVE DATE AND TERM**

This agreement is contingent upon approval of the County and execution by the Customer, and will become effective upon the later of the two.

## **IX. TERMINATION**

A. Either party may terminate the Agreement for cause based upon any material breach of this Agreement by the other party, provided the non-breaching party will give the breaching party written notice specifying the breach and may afford the breaching party a reasonable opportunity to correct the breach.



B. In the event that the Line Extension Project for the Property has not been initiated within three (3) years of the effective date of this Agreement, the County may terminate this Agreement. However, the County may not exercise this privilege if the Customer is making good faith efforts to perform on the execution of the Line Extension Project, taking into account the conditions existing at the time.

C. In the event the Customer elects not to proceed with the development of the Property for any reason, it will have the right to terminate this Agreement by delivering written notice of termination to the County Manager, with a copy to the County Attorney. The County shall retain all fees and charges paid by the Customer through the date of such notice of termination.

D. In the event this Agreement is terminated for cause, or the Customer elects not to proceed with the development of the Property for any reason prior to the transfer of water pursuant to Paragraph III, above, and elects to terminate the Agreement under the previous paragraph, the Agreement shall terminate and the County shall have no right to the Water Rights whatsoever. However, in the event this Agreement is terminated for cause or the Customer elects not to proceed with the development of all or a portion of the Property following the transfer of Water Rights pursuant to Paragraph III, above, the Customer may: (1) elect to have the Water Rights described on Exhibit D (or the unused portion of the Water Rights in situations where only a portion of the Project will be completed) returned to the Customer, (2) sell the Water Rights (or the unused portion of the Water Rights in situations where only a portion of the Project will be completed) to the County for their-then fair market value; or (3) transfer the Water Rights (or the unused portion of the Water Rights in situations where only a portion of the Project will be completed) to a new water service agreement with the County. All costs associated with returning the Water Rights to the Customer, including any costs involved in transferring the rights from the Buckman Well Field or Buckman Direct Diversion to a point of diversion chosen by the Customer, will be borne by the Customer. The County shall reasonably cooperate with the Customer to facilitate a return of Water Rights by executing any and all documents necessary to effectuate a transfer within a reasonable time.

E. In the event this Agreement is terminated for any reason, nothing herein shall affect the rights of persons living within the Property who have become customers of the Department and owners of lots within the Property but who have not yet become customers of the Department, to continued water service pursuant to the ordinances and resolutions of the County.

F. In the event this Agreement is terminated for any reason, the County will return ownership of any Customer-built equipment or facilities that are, at the time of termination, not being used by the County to support deliveries to customers within the Project, and any rights of way or easements it has acquired pursuant to this Agreement to the Customer in a reasonable and timely fashion. All costs associated with such return of ownership will be the sole responsibility of the Customer.

#### **X. ASSIGNMENT**

The Customer will not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the County, with the exception of the contemplated transfer of the Customer's rights and duties under this Agreement to "Suerte Development Inc." a New Mexico corporation, which assignment and transfer is expressly approved.

#### **XI. INTEGRATION**

This document sets forth the entire agreement by and between the parties hereto concerning the subject matter hereof. No prior agreement or understanding, verbal or written, by and between the parties or their agents will be valid or enforceable to add to or alter any term or provision hereof unless expressly set forth herein, nor will any term or condition of this Agreement be changed or added to in any respect except by a document executed by the parties that expressly amends this Agreement and is approved by the County.

#### **XII. INDEMNITY**

The Customer agrees to defend, indemnify, and hold harmless the County and its Elected Officials, agents, and employees from and against any and all claims, actions, suits, or proceedings of any kind brought against said parties for or on account of any matter arising from the services performed by the Customer under this Agreement. The indemnity required herein will not be limited because of the specifications of any particular insurance coverage in this Agreement. This Subparagraph does not operate to extinguish the Customer's rights to redress under State statutes and common law for negligence on the part of the County.

#### **XIII. BINDING EFFECT**

This Agreement will be binding upon and inure to the benefit of the parties, heirs, and assigns.

#### **XIV. AMENDMENT**

This Agreement will not be altered, changed or amended except by an instrument in writing executed by the parties herein.

#### **XV. APPROPRIATIONS AND AUTHORIZATIONS**

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the County for performance of this Agreement. If sufficient appropriations and authorizations are not made by the County, this Agreement will terminate upon issuance of written notice by the County to the Customer. The County is expressly not committed to the expenditure of any funds until such time as they are programmed, budgeted, encumbered and approved for expenditure by the County. The County's decision as to whether its funds are sufficient for fulfillment of this Agreement will be final.

**XVI. SEVERABILITY**

If any term or conditions of this Agreement will be held invalid or non-enforceable, the remainder of this Agreement will not be affected and will be valid and enforceable to the fullest extent of the law.

**XVII. APPLICABLE LAW**

This Agreement will be construed to be in accordance with the laws of the State of New Mexico.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**THE BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF SANTA FE**

By: \_\_\_\_\_  
Harry B. Montoya, Chair

\_\_\_\_\_  
Date

**ATTEST:**

\_\_\_\_\_  
Valerie Espinoza, County Clerk

\_\_\_\_\_  
Date

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Stephen C. Ross  
Santa Fe County Attorney

\_\_\_\_\_  
Date

**APPROVED:  
SANTA FE COUNTY WATER RESOURCES DEPARTMENT**

By: \_\_\_\_\_  
Stephen Wust, Director

\_\_\_\_\_  
Date

**KOMIS LLC**

By: \_\_\_\_\_  
Peter B. Komis, General Partner

\_\_\_\_\_  
Date

Deleted: Manager . . .

SFC CLERK RECORDED 03/22/2006