

COUNTY OF SANTA FE)
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BCC MINUTES
 PAGES: 63

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 County Clerk, Santa Fe, NM

SANTA FE

BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING

February 26, 2008

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

SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

February 26, 2008

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 10:15 a.m. by Chair Jack Sullivan, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

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

Members Present:

Commissioner Jack Sullivan, Chair
 Commissioner Paul Campos, Vice Chairman
 Commissioner Mike Anaya
 Commissioner Virginia Vigil,
 Commissioner Harry Montoya [afternoon session]

Members Absent:

[None]

V. INVOCATION

An invocation was given by County Clerk Valerie Espinoza.

VI. APPROVAL OF THE AGENDA

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- B. Tabled or Withdrawn Items**

ROMAN ABEYTA (County Manager): Mr. Chair, under X. Matters from the Commission, we added B, which is Discussion and Possible Approval for an Expenditure of Discretionary Fund in the Amount of \$1,000 for the St. Michael's Girls Basketball Team. We also added C, Discussion and Possible Approval for an Expenditure of Discretionary Funds not to Exceed \$1,000 for the Edgewood Satellite Office Ribbon

Cutting Ceremony.

Turning to page 3 of the agenda, under the Consent Calendar, B, Miscellaneous, again page 3, item 11. We are withdrawing, and item 12 has been tabled. Continuing on page 3 under Staff and Elected Official Items, XIII. A. 2, the title and general summary for ratifying an ordinance for the Solid Waste Management Agency that has been tabled. And finally, Mr. Chair, under E, Matters from the County Attorney, item 2, the consideration of the ordinance for oil and gas, the interim ordinance, we have clarified that that will be heard at 2:00 pm this afternoon.

Other than that, there are no further changes from staff.

CHAIRMAN SULLIVAN: Thank you, Roman. Changes from the Board? I don't see or hear any. Then we'll do a motion for the approval of the agenda. This is not going to include the Consent Calendar withdrawals. We'll do that on the next item.

COMMISSIONER ANAYA: So moved.

COMMISSIONER VIGIL: Second.

CHAIRMAN SULLIVAN: Okay, we have a motion from Commissioner Anaya, seconded by Commissioner Vigil to approve the agenda as amended.

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

VII. APPROVAL OF CONSENT CALENDAR

A. Consent Calendar Withdrawals

CHAIRMAN SULLIVAN: What's the pleasure of the Commission on the Consent Calendar withdrawals?

COMMISSIONER VIGIL: I would like item B. 16, discussion.

CHAIRMAN SULLIVAN: Okay.

COMMISSIONER VIGIL: And item B. 11.

CHAIRMAN SULLIVAN: Item B. 11 was just withdrawn by the staff.

COMMISSIONER VIGIL: Oh.

CHAIRMAN SULLIVAN: Isn't that correct?

MR. ABEYTA: That's correct, Mr. Chair. We won't be hearing that today.

COMMISSIONER VIGIL: I'm sorry. I'm looking at my old agenda where I originally read it. So it will be B. 16 and B. 3.

CHAIRMAN SULLIVAN: B. 3. Okay. Commissioner Anaya? Do you have any?

COMMISSIONER ANAYA: No, I don't.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: None today, sir.

CHAIRMAN SULLIVAN: Okay. I'd like to have B. 17 discussed. Okay, so

I'm showing two withdrawals from the Consent Calendar, B. 16 and B. 17. So we can -

COMMISSIONER CAMPOS: And B. 3.

CHAIRMAN SULLIVAN: And B. 3.

COMMISSIONER CAMPOS: I will move to approve all the Consent items except the three withdrawn items.

COMMISSIONER VIGIL: Second.

CHAIRMAN SULLIVAN: Second by Commissioner Vigil. Discussion.

COMMISSIONER VIGIL: I do have a request. I did meet with the Buckman Direct Diversion lead staff person, Rick Carpenter, and I think he was willing to be here today for item 17 if we could contact him and let him know. We will be asking some questions about that.

CHAIRMAN SULLIVAN: Okay. Thank you. All right, then. So we have a motion for the approval of the Consent Calendar, minus three withdrawals.

The motion to approve the Consent Calendar with the exception of items B. 3, 11, 16 and 17 (withdrawn) and item B. 12 (tabled) passed by unanimous [4-0] voice vote. [Commissioner Montoya was not present for this action.]

XII. CONSENT CALENDAR

A. Budget Adjustments

- 1. Resolution No. 2008-29. A Resolution Requesting an Increase to the EMS-Healthcare Fund (232) to Budget prior Fiscal Year 2007 Cash Balance for Worker's Compensation and Property & Casualty Insurance for the Regional Emergency Communications Center / \$38,841 (Community Services Department)**
- 2. Resolution No. 2008-30. A Resolution Requesting an Increase to the General Fund (101) To Budget Proceeds from the Sale of Fixed Assets for Capital Equipment Expenditure in Fiscal Year 2008 / \$49,925 (Growth Management Department)**
- 3. Resolution No. 2008-31. A Resolution Requesting an Increase to the Jail Operations Fund (518) to Budget a Joint Powers Agreement with the City of Santa Fe for the Day Reporting Program/ \$93,000**
- 4. Resolution No. 2008-32. A Resolution Requesting a Budget Decrease to the Detox Programs Fund (242) to Realign the Fiscal Year 2008 Budget with the Actual Amount Awarded Through Value Options for the Care Connection / -\$51,582 (Community Services Department)**
- 5. Resolution 2008-33. A Resolution Requesting an Increase to the Lodger's Tax Advertising Fund (215) to Budget Additional Funds Awarded Through a Cooperative Marketing Grant Agreement with**

the New Mexico Department of Tourism to Provide Advertising and Promotional Services within the State of New México for Expenditure in Fiscal Year 2008/ \$5,000 (Administrative Services Department)

B. Miscellaneous

- 1. Request Approval of the Accounts Payable Disbursements Made for all Funds for the Month of January 2008 (Administrative Services Department)**
- 2. Resolution No. 2008-34. A Resolution Amending the Santa Fe County Road Map and Certifying a Report of the Public Roads in Santa Fe County (Growth Management Department)**
- 3. Request Approval of Amendment No. 3 to Memorandum of Agreement Between Santa Fe County and the City of Santa Fe for the Joint Regional Trails and Open Space Santa Fe River Trail Project Increasing the Funding for the Project by \$112, 714.21 for a Total of \$285,000 (Community Services Department) ISOLATED FOR DISCUSSION**
- 4. Request Approval of Change Order No. 15 for the New Public Works Facility in the Amount of \$84,273.00 for Steel Fabrication (Community Services Department)**
- 5. Request Approval of Amendment No. 1 to Contract #27-0732-PFMD/RM to Provide LEED Commissioning Services for the New 1st Judicial Courthouse Project (\$110,000) (Community Services Department)**
- 6. Resolution No. 2008-35. A Resolution Authorizing the County Manager to Sign Letters to and Purchase Agreements with Property Owners Whose Property is Needed for the South Meadows Extension Project (Legal Department)**
- 7. Request Authorization to Enter in Contract No. 28-0064-CSD/TL (A) for \$324,993.00 with New Image Construction for Renovations to the Tesuque Volunteer Fire Station (Community Services Department)**
- 8. Request Authorization to Enter into Contract No. 28-0064-CSD/TL (B) for \$321,692.96 with New Image Construction for Renovations to the Glorieta Volunteer Fire Station (Community Services Department)**
- 9. Request Authorization to Enter into Contract No. 28-0064-CSD/TL (C) for \$409,653.25 with Vigil Contracting Services for Renovations to the Chimayo Volunteer Fire Station (Community Services Department)**
- 10. Request Authorization to Enter in Contract No. 28-0067-CSD/MS**

- for \$143,805.14 with TLC Plumbing & Utility for Improvements to the Parking Lot at the Vista Grande Library (Community Services Department)
11. Requesting Approval of The "Budget and Financial Policy" to be Adopted as a County-Wide Policy that Applies to Definitions of Budget and Cost, the Budget Preparation Process, Capital Budgeting, County Bonds and Debt, Revenue Definition and Forecasting, Reserves and the Use of Fund Surpluses, and Performance Measurement (Administrative Services Department) WITHDRAWN BY STAFF
 12. Purchase and Closing of 65.58 Acres of State Land (State Land Office Commissioner Pat Lyons) for County Media Park (County Manager) TABLED
 13. Request Authorization to Enter Into a JPA with the City of Santa Fe for the Day Reporting Program at the Youth Development Program. This Program is Funded in Full by the City of Santa Fe (Corrections Department)
 14. Request Authorization to Accept Amendment No. 4 to Agreement No. 25-135-YDP with Aimee Zagon, PA-C to Increase Compensation by \$30,000.00 for the Continuation of Medical Services at the Youth Development Program (Corrections Department)
 15. Request Authorization to Enter into an MOA with the City of Santa Fe and the Santa Fe Solid Waste Management Agency to Jointly Sponsor a One Day Annual Event on April 20, 2008 of a Household Hazard Waste Drop-Off Day at the Solid Waste Transfer Stations (Growth Management Department)
 16. Request Authorization to Enter a Property Lease with the Santa Fe Society of Artists for Lease of the County's Parking Lot of the Administrative Building (Administrative Services Department) ISOLATED FOR DISCUSSION
 17. Consideration and Approval of a Memorandum of Agreement Between the City of Santa Fe and County of Santa Fe for Use of the County Capital Outlay Gross Receipts Tax to Fund the Joint Regional Buckman Direct Diversion Water Project (Mary Helen Follingstad) ISOLATED FOR DISCUSSION

VIII. APPROVAL OF MINUTES

A. January 29, 2008

CHAIRMAN SULLIVAN: I have a couple of typographical changes. Are there any other changes or corrections to those minutes?

COMMISSIONER VIGIL: Move to approve with corrections.

CHAIRMAN SULLIVAN: Okay. Motion to approve with corrections.

COMMISSIONER CAMPOS: Second.

CHAIRMAN SULLIVAN: Seconded by Commissioner Campos, motion made by Commissioner Vigil. Discussion?

The motion to approve the January 29th minutes as corrected passed by unanimous [4-0] voice vote. [Commissioner Montoya was not present for this action.]

IX. MATTERS OF PUBLIC CONCERN - NON-ACTION ITEMS

CHAIRMAN SULLIVAN: If we have anyone in the audience this morning who would like to speak to the Commission on an item which is not on our agenda today, and oil and gas is on our agenda today, you're welcome to come forward.

JOHNNY MICOU: Hi. I'm Johnny Micou. I live at County Road 179-55A. Mr. Chair and Commission, I would just like to turn in our petition for Drilling Santa Fe, if I may to either you or to the County Clerk or the County Attorney.

CHAIRMAN SULLIVAN: That's fine. Turn them into the County Clerk.

COMMISSIONER CAMPOS: What are the petitions about, Mr. Micou?

MR. MICOU: These are petitions that Drilling Santa Fe began last summer. I wasn't going to start really talking about oil and gas but it's about oil and gas drilling in the Galisteo Basin.

COMMISSIONER CAMPOS: Okay.

MR. MICOU: Thank you.

CHAIRMAN SULLIVAN: Okay. You're welcome to testify this afternoon at our hearing on the ordinance Any others in the public who would like to bring forward any issues that are not on the agenda for today? All right. That takes care of that item.

X. MATTERS FROM THE COMMISSION

A. Proclamation Declaring March 4, 2008, as National Heritage Fellowship Day in Santa Fe County (Commissioner Vigil)

COMMISSIONER VIGIL: Thank you, Mr. Chair. I'm really honored to bring forth this resolution and I believe there are two people here from the National

Heritage Foundation and that is Russ Rountree who's president of Impressions Advertising, and Florence Ruth Brown, who is chair of the Lodgers' Tax Advisory Board. I will turn it over to you, Ms. Brown.

FLORENCE RUTH BROWN: Thank you. We are asking that you, the County Commission issue a proclamation setting March 4th as National Heritage Fellowship Day in Santa Fe County. The reason is set forth in the proclamation.

Whereas, the County of Santa Fe has had more individuals awarded National Heritage Fellowships by the National Endowment for the Arts than other regions of the country in the past 25 years of the program; and

Whereas, the National Heritage Fellowships are the nation's highest honor for people working in folk and traditional arts; and

Whereas, these National Heritage Fellowship Award winners have drawn on their ethnic and cultural traditions to contribute generously to our nation's and region's cultural milieu; and

Whereas, the lives of these National Heritage Fellowship Award winners narrate tales of persistence and of stewardship and of creativity; and

Whereas, Santa Fe County wished to honor and recognize individual excellence and the continuance of our rich artistic and cultural heritage; and

Whereas, all New Mexicans should be appreciative that these National Heritage Fellowship Award winners should have chosen to create, to strive for beauty, to honor the past and to teach others what they have learned.

Now, therefore, we the Board of Santa Fe County Commissioners hereby declare March 4, 2008 as National Heritage Fellowship Day in Santa Fe County, in recognition of this important cultural honor, and call upon all citizens to pay tribute to all National Heritage Fellowship Award winners of our county, state and nation.

There will be a luncheon at Rancho de Chimayo hosted by Florence Jaramillo, owner of Rancho de Chimayo and a member of your Lodgers' Tax Advisory Board, honoring all these persons, and the invitation list is available and we have an extraordinary number of great Hispanic and Pueblo artists in northern New Mexico in this county who have been recognized nationally but who we have ourselves not adequately honored and that's why we ask that you come to the luncheon and that you issue the proclamation in honor of all our very fine artists.

Thank you very much.

COMMISSIONER VIGIL: Thank you, Ms. Brown. I would like to take this opportunity to identify who the recipients are of this prestigious award. Irving I. Trujillo, who is the 2007 recipient, who is a weaver from Rio Grande, he's from Chimayo, New Mexico. Actually he's called a Rio Grande weaver. He's from Chimayo, New Mexico. Charles M. Carillo, he's the 2006 recipient. He's a santero. He's from Santa Fe. Esther Martinez is a Native American storyteller. She was also a recipient in 2006. She's a Native American storyteller and she's from San Juan Pueblo. Eliseo and Paula Rodriguez were the 2004 recipients. They're straw appliqué artists. They're from Santa Fe. Roberto and Lorenzo Martinez, 2003 recipients, they're Hispanic musicians. They're from Albuquerque. Ramon Jose

Lopez, in 1997 was a recipient. He's a santero and a metalsmith artist. He's from Santa Fe. Frances Varos Graves was a 1994 recipient. She's Hispanic-American colcha embroiderer. That actually is bedspreads and blankets and hand-woven and hand-stitched. She's from Ranchos de Taos. Emilio and Senaida Romero in 1987, they're Hispanic-American craftsmen in tin embroidery. They're from Santa Fe. Helen Cordero in 1986 is a Native American potter. She's from Cochiti Pueblo. Margaret Tafoya, the 1984 recipient is from Santa Clara. She is a Native American potter. And Cleofas Vigil in 1985 is a Hispanic storyteller from San Cristobal, New Mexico. George Lopez, the final recipient of today is a 1982 recipient. He's a santos woodcarver and he's from Cordova, New Mexico.

So you see, fellow Board of County Commissioners, we have a vast array of artists who represent also a vast array of art from storytelling to tin-working to embroidery, appliqué, all kinds. And I really applaud the Lodgers' Tax Advisory Board for taking on this project. I think it's a wonderful way to recognize these outstanding artists in our community and with that, Mr. Chair, Ms. Brown has read the proclamation. However, we do have a proclamation to present Ms. Brown and Mr. Russell Rountree if he will come forward, I would like for the Commissioners to join me in presenting this to them. This proclamation will also be read at the luncheon on March 4th. You all have an invitation in front of you, at Rancho de Chimayo. Gentlemen, will you join me?

Thank you. With the formalities behind us I just want to announce that I will be emceeding that event and with all this presentation and move we approve the proclamation.

CHAIRMAN SULLIVAN: Motion.

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: Seconded by Commissioner Anaya.

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

X. B. Discussion and Possible Approval for an Expenditure of Discretionary Fund in the Amount of \$1,000 for the St. Michael's Girls Basketball Team (Commissioner Anaya)

COMMISSIONER ANAYA: Thank you, Mr. Chair. This is just to – the girls' basketball team is going to state and they asked if we could help them out with some funding while they're at state. Move for approval.

COMMISSIONER VIGIL: Second.

CHAIRMAN SULLIVAN: Motion, and second by Commissioner Vigil.

Questions, comments?

The motion passed by 3-0 voice vote with Commissioner Campos abstaining. [Commissioner Montoya was not present for this action.]

X. C. Discussion and Possible Approval for an Expenditure of Discretionary Funds Not To Exceed \$1,000 for the Edgewood Satellite Office Ribbon Cutting Ceremony (Commissioner Anaya)

COMMISSIONER ANAYA: Mr. Chair, we are going to have our ribbon cutting ceremony in our extension office in Edgewood, and we are all very excited about it, and this money would help us with that. Move for approval.

COMMISSIONER VIGIL: Second.

CHAIRMAN SULLIVAN: Motion by Commissioner Anaya, second by Commissioner Vigil. Discussion, comments, questions?

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

CHAIRMAN SULLIVAN: And I might mention that there was a good article in the Monday *New Mexican* about the Eldorado satellite office and senior center, for those of you who are interested. A very successful program out there. Okay.

X. OTHER MATTERS FROM THE COMMISSION

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: Not at this time.

CHAIRMAN SULLIVAN: All right. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chair. Just a couple of items. I want to thank all those who participated in the health fair or Health Day at the Agua Fria Community Center. I think the medical mobile van was there and many of the health services that we connect with were there. I understand that the turnout wasn't as expected but they were able to screen a lot of community members and people who learned about it and I'm glad to know that they reached that community and I hope that in the future when they do we can be more inclusive of future outreach on that particular site.

I also want to announce that this past week I participated in a press release for the National Center for Missing and Exploited Children. That is a federal program that connects with local and state governments to promote marketing and public awareness on missing and exploited children. I actually became familiar with this program at a National Association of Latino Elected Officials conference and met with the executive director who has since met with our Attorney General, Mayor Joe Maestas, Mayor David Coss, myself and Mayor Martin Chavez. So she's connected the northern part of New Mexico pretty well. Attorney General Gary King was there to announce the program that he has in particular on this with regard to Internet predators. The National Center for Missing and

Exploited Children will assist Santa Fe County and the City of Santa Fe with posters that we will be distributing with both of our logos creating a public awareness for this in particular. Most of their services for this particular program are in the area of marketing. So I believe Rita Maes will be working with Terri Rodriguez at the City and some of the marketing promotions that can occur in assisting this federal program towards public awareness on this.

And that being – I really want to thank all of those who participated in the New Mexico Legislature. I, as you all know, am there 24/7 and there was a lot of staff who were called at the last minute, requests that were made of Santa Fe County. The Association of Counties, also was a strong participant. And I thought it was a very successful session given the fact that the dollars were not available as have been in the past. I want to particularly thank Rudy Garcia who worked very, very hard this year. He really represented Santa Fe County very well, I thought.

I also want to inform the Commission that I will not be here for the March 11th meeting of the Board of County Commission. I believe that is a land use meeting, but I will be available for the second meeting in March. So that is it, Mr. Chair. Thank you very much for the opportunity.

CHAIRMAN SULLIVAN: Thank you, Commissioner. Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair. I see Stan Holden back there and James Lujan. Recently, Rio Arriba County kind of had some disasters and I just want to know from James and Stan, what we did from Santa Fe County to help out the snow removal up there in Chama, and then there was an accident at a fire station where the chief was killed. Just an update on that.

JAMES LUJAN (Growth Management Director): I believe it was two weeks ago, the first week in February, Public Works was called and we sent five pieces of equipment to Chama and Rio Arriba County. We had 14 personnel working up there. We had our snow blowers and loaders. And we helped the Village of Chama for approximately six days, and Rio Arriba also, helping them clean, and then they sent us home the following week on Tuesday. So we did work through one weekend. I don't have the correct dates, but we did spend approximately seven days there.

COMMISSIONER ANAYA: Okay, James. I want to thank you all for going up there. Roman and James, sending those guys up. I know exactly how those guys felt. That happened to us last year. They were very grateful. They said to let the Commission know, thank you very much. And we did it all with our staff and we used it ourselves. But they did have other contracts. They had contractors working up there. They didn't have a whole lot of funding that they got. Rio Arriba got no funding at all, but the Village of Chama did and they were very grateful. They said to thank you very much.

COMMISSIONER ANAYA: Thank you, James.

STAN HOLDEN (Fire Chief): Specific to the tragedy that occurred in Rio Arriba County and the Brazos Fire Station where the chief was killed, we did make

immediate offers to the Rio Arriba County Fire Marshal's office and let them know what equipment we had available to assist them if and when they need it. We also made available the emergency vehicle technician staff of the department to help them refurbish any of their vehicles that were damaged during the explosion. And then just yesterday, the Santa Fe County Fire Department participated in the funeral procession of the chief as he was interred in the Santa Fe National Cemetery.

COMMISSIONER ANAYA: Thank you, Stan. And again, I want to thank the Manager and staff for helping out in times of need, when our counties really need it. So, again, thank you. Mr. Chair, that's all I have.

CHAIRMAN SULLIVAN: Thank you, Commissioner. One item since we have James here. We talked a month or two ago about the ongoing activities of the Rail Runner and the fact that Santa Fe County has not had the ability to coordinate with them, or the opportunity to coordinate with them and DOT on that and as a result of that we've made some steps towards improving that coordination. And James, could you bring us up to date on that?

MR. LUJAN: Thank you, Mr. Chair. Yes, two weeks ago we hired an engineer on contract to oversee the project, Southwest Designs, and his name is - I drew a blank - Richard Romero. He's a retired highway design engineer and he's been onboard for the last week. What he's doing is he's attending the weekly meetings, putting approximately 15 hours a week in overseeing parts of the construction and doing weekly reports and he'll be getting a monthly report back to the Commission. Every week they have a construction meeting so he attends those and he's also been working - he worked with Doug Sayre last week. They've got a water line that crosses one side of the frontage road to the other side to Las Lagunitas. So we're going to redo that water line and engage it so that when goes under the railroad tracks. So we'll be monitoring that. The Growth Management staff has been looking at the rail stations and we're coordinating all that with them. Judy McGowan has been looking at that, so we're going to stay on top of this Rail Runner completely.

CHAIRMAN SULLIVAN: And then, Mr. Lujan, I see last meeting where we had the DOT representatives. I believe it was Mr. Guerrerortiz was here, I asked him if they had received that packet on emergency response issues, a thick packet that had been prepared by our emergency response team. And he said that they hadn't. And it contained a number of concerns that we had over at emergency response with the Rail Runner, but apparently they hadn't been addressed. They said they had had some training meetings and so forth but they hadn't seen the packet. Have we gotten that to them? Do they have a copy, do you know?

MR. LUJAN: Commissioner, I believe we have. I saw some item in an email to me about that they were working with the Fire Department and looking at some of the items. I believe they did.

CHAIRMAN SULLIVAN: Maybe Chief Holden can give us an answer.

CHIEF HOLDEN: Mr. Chair, we have been contacted by the DOT.

They've responded from the engineering department to the emergency management concerns regarding the Rail Runner, and now we're in the process of responding to their letter to us. In addition, they also held a couple of safety briefings at the site. It was just recently that we participated in it as well. So thanks to the Commission and their involvement, I think the issue has been raised to the level now that they're inviting us in and we're beginning to have those participatory meetings that we need. Thank you.

CHAIRMAN SULLIVAN: Okay. And we'd like to have Mr. Romero involved at those meetings, too, because we need, I think his value would be in following up some of these issues with DOT who tend to make unilateral decisions about them. And we would like to see that made cooperatively rather than unilaterally. So issues of crossover, emergency crossover and things of this nature, which we've been assured will be handled, but the devil is in the details and I like to have more than just the assurance. I like to see it on the drawings. Have we gotten copies of the drawings? Do you know, James?

MR. LUJAN: We have.

CHAIRMAN SULLIVAN: Okay. Because that was another problem, just even getting current copies of the drawings.

MR. LUJAN: Jennifer got most of that for us.

CHAIRMAN SULLIVAN: Good for her. Questions, Commissioner Vigil.

COMMISSIONER VIGIL: This is totally unrelated. Are you done with your line of questioning on this?

CHAIRMAN SULLIVAN: On the Rail Runner. Yes. You just had these guys up here and you want to grill them.

COMMISSIONER VIGIL: Yes, I really welcome the opportunity to give them a hard time. This is a question that is going to become more prevalent and profound. With regard to all the roads that have been affected by the snow, there are a lot of potholes. Do we have a plan in place to start repairing them? I just came down the County portion of Agua Fria Road this morning and I was surprised to see as many potholes as I did.

MR. LUJAN: Mr. Chair, Commissioner Vigil, we do have somebody working on them daily. I will make sure if you have any - if you see them, call them in. We can't get to all of them at once but if they're in a really bad situation we need to get on those immediately. And roads that have heavy traffic we want to get on those first. Currently Public Works is out pothole patching.

COMMISSIONER VIGIL: Okay. Well, this is right in front of the school zone.

MR. LUJAN: On Agua Fria?

COMMISSIONER VIGIL: Actually, yes. Between the school - if you go further down Agua Fria there will be further, but this is a highly trafficked area because of the school zone in front of Agua Fria Elementary all the way to the limits of the county, which is right before Siler Road.

MR. LUJAN: I'll call it in.

COMMISSIONER VIGIL: And I actually think there aren't potholes beyond that. I'm not sure.

MR. LUJAN: Yes, we should probably be doing the San Ysidro Crossing and the school, is the only part that's the old pavement. So I'll call it in right away.

COMMISSIONER VIGIL: Thank you very much. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Thank you, Commissioner. Something I wanted to mention while Stan was disappearing from sight was I'd just call to your attention the newsletter that they put out on emergency services and from the Fire Department, I just went through it recently, and then beyond the content of that newsletter and particularly some interesting thoughts in there that I think all of our departments could look into and that is it isn't about - kind of thinking about I guess a different paradigm, is what the letter was about. It was saying just because we've done it that way for many years, should be still be doing it that way? Is that kind of the thrust of your letter?

CHIEF HOLDEN: Yes, Mr. Chair, that's exactly right. As you certainly know, as the Commission knows, the Fire Department is undergoing some significant changes and we're challenging a lot of the traditions that we've held for a number of years and so we're asking people to be open-minded and think a little bit differently as we go forward.

CHAIRMAN SULLIVAN: And I think that's a direction that we have been taking over the last several years here at the County Commission and the staff and we would ask all staff to take. We're in a new era and generation of things that are happening that we can't address using old tools. I think you mentioned the chest-high rubber boots or something like that. Chicago boots, was it?

CHIEF HOLDEN: Exactly. Chicago boots.

CHAIRMAN SULLIVAN: So we can't address the issues that we have to deal with with Chicago boots. We need new tools. And we're developing those tools. We have to learn how to use them and we have to become comfortable with them.

CHIEF HOLDEN: Exactly.

CHAIRMAN SULLIVAN: I think that's what you were at least telling me when I asked. Thank you for that.

CHIEF HOLDEN: Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Okay, let's move on if there's nothing else under Matters from the Commission. Roman, the report that we had on legislation from the staff. Are you going to discuss that in Matters from the County Manager?

MR. ABEYTA: Yes, Mr. Chair. I'll briefly describe that.

CHAIRMAN SULLIVAN: All right. Fine.

XI. APPOINTMENTS/REAPPOINTMENTS/RESIGNATIONS

A. Reappointments of Ubaldo Gallegos, Bennie Gomez and Richard Sena to the Road Advisory Committee

ROBERT MARTINEZ (Public Works Director): Mr. Chair, Commissioners, the Public Works Department is recommending the reappointment of Ubaldo Gallegos, Bennie Gomez and Richard Sena to the Road Advisory Committee. I stand for questions.

COMMISSIONER ANAYA: So moved.

COMMISSIONER CAMPOS: Second

CHAIRMAN SULLIVAN: Moved by Commissioner Anaya and seconded by Commissioner Campos. Is there discussion? These members have been on the committee – for how long have they served and have they been regular attendees at the meetings?

MR. MARTINEZ: Mr. Chair, Representative Ubaldo Gallegos has already been on the committee for three years. He represents the area up north, which is the Chimayo and La Puebla area. Bennie Gomez also represents an area up north, which is El Rancho and Jacona. He's also been on the committee for three years. And Richard Sena represent the Agua Fria Village, Country Club Estates, Pinon Hills, Puesta del Sol area. He's been on the committee for nine years.

CHAIRMAN SULLIVAN: And how's their attendance?

MR. MARTINEZ: Their attendance is good.

CHAIRMAN SULLIVAN: Okay. Any other questions?

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

XII. CONSENT CALENDAR WITHDRAWALS

B. 3. Request Approval of Amendment No. 3 to Memorandum of Agreement Between Santa Fe County and the City of Santa Fe for the Joint Regional Trails and Open Space Santa Fe River Trail Project Increasing the Funding for the Project by \$112,714.21 for a Total of \$285,000 (Community Services Department)

COMMISSIONER VIGIL: Thank you, Mr. Chair. I think I just wanted the opportunity for staff from our Open Space and Trails, first of all, to specifically identify where these funds are going, and also I'd like an opportunity for you to respond to the question of where we are with COLTPAC, what considerations you may be recommending to the Board of County Commission, in particular because I know the funds themselves have depleted a little bit and it's been such a wonderful program, I really want it to be

sustainable. So with that, I would just ask Colleen, and I think it's, if I remember correctly, the \$112,714 is going to go to what project?

COLLEEN BAKER (Open Space Program Manager): The Santa Fe River Corridor. The item in front of us is an amendment to an existing memorandum of agreement between the City of Santa Fe and Santa Fe County to jointly plan and develop the Santa Fe River Corridor and trails system, specifically from Camino Alire to New Mexico 599. And the amendment is to increase the monies for that project by \$112,714 for a contract that is actually for the planning and design of that entire river corridor. We hope to, out of that contract get final construction plans for the portion of the river from Camino Alire to Siler Road, which is approximately a three-mile stretch, half in the city and half in the county.

The overall planning stretch is approximately eight miles, six miles of which is in the county. That's the scope of the current project with that funding. That funding is coming out of our joint regional gross receipts taxes. It's the portion of the gross receipts tax that is to be spent within the Extraterritorial Zoning area so it will benefit City and County projects. Both the City and the County have identified the Santa Fe River Corridor as one of the primary projects that we'd like to work on together.

COMMISSIONER VIGIL: Okay. So this is strictly design dollars?

MS. BAKER: Yes.

COMMISSIONER VIGIL: So we still need lots of dollars for purchase of easements, correct?

MS. BAKER: Yes, we do.

COMMISSIONER VIGIL: How much of this strip between Camino Alire and 599 has been purchased? Or another way of asking that is how much do we need to purchase?

MS. BAKER: What we need to purchase - we have approximately - within the County six-mile stretch we've acquired approximately two miles of those. So we have another, an additional four miles to acquire. Some of that is Bureau of Land Management land, so we've already talked to them about some kind of joint agreement that we wouldn't actually have to purchase that. The remaining section, maybe 3.5 miles, we're looking at either acquisition of real property or easements for that. Within the city, they have about a two-mile stretch. They have acquired portions of that. I'm not familiar with the exact amount, but they're working actively right now to acquire the easements and I believe they have a good portion of the money they need to do that.

COMMISSIONER VIGIL: Okay. Okay. With regard to other funding sources, what are we looking at and where do we need to look in order to meet the gap in funding that we currently have, because if I recall correctly, this project needed \$3.2 million just for easement purchase. That doesn't include design and build.

MS. BAKER: Right. For just the acquisition of easements we are looking at something on the order of \$3.6 million to acquire approximately three to four miles of that stretch that's left. We've been looking primarily to the state legislative fund and grant

funding for these projects. We do have some bond monies left; not a lot, but some, for trail corridor acquisition, and we also can use some of our joint regional gross receipts taxes. But because of the size of the project, we've been looking towards the state legislature and grant funding to do the best we can to find other monies so that we can even out where we're using the bond monies and the gross receipts tax on the other County properties that we have as well.

The overall project costs we've estimated at approximately \$13 million for the entire corridor from Camino - well, actually from Camino Carlos Rael to 599. It's a large and a long-range project.

COMMISSIONER VIGIL: It's a wonderful project and so far what we've been able to accomplish with the San Ysidro Park has been very welcomed and is a real positive currently impacting our community as a whole. I wonder - and Paul, you may have the background on this too, there are federal dollars available for open space and trails and I know we've received grant monies from federal programs for much of the portions of this project. Are we still pursuing that at all. I know this isn't the best time to pursue it because of the cuts in federal dollars, but there are some earmarked dollars for open space and trails.

MS. BAKER: We are, and actually currently we're engaged with the City as another party, but with the Army Corps of Engineers on an overall watershed study of the Santa Fe River. Right now it's a study. It will give us a little better understanding of the actual flows in the Santa Fe River that the kind of restoration we're working on has to handle. But after the study portion is done it will give us an opportunity to tap into federal funds that the Army Corps of Engineers has access to on something - I believe it's a 70 percent/30 percent match. So we'd only have to contribute 30 percent. So that should open up a door also for us to explore other kinds of federal funding beyond the Environmental Protection Agency grant that we've been looking at.

COMMISSIONER VIGIL: Okay. Thank you, Colleen. The overriding question to this is where are we in terms of our Open Space and Trails dollars? Not only with regard to this project but with regard to countywide open space and trails?

MS. BAKER: I don't have the funds in front of me, but -

COMMISSIONER VIGIL: That's okay. If it's something that you can get me the information on later, I'm fine with that.

MS. BAKER: Okay. We've spent a good portion of the bond money for the acquisition of open space. We do have a set-aside for trail easement acquisition, trail corridor acquisition of approximately \$1.5 million. We set aside that money specifically for acquiring trail easements. And we also have another, I believe, \$600,000 set aside in what we call gateway projects that are in each Commissioner's district and some of those have been spent but there's at least three that have not been spent. So there's a fair amount of money that's been set aside in specific kinds of projects, but the overall monies for the acquisition of the \$20 million, most of that has been spent.

We have approximately \$720,000 coming in on both parts of the gross receipts

taxes. \$720,000 for county-only projects, and \$720,000 for joint regional projects annually coming in for our budget from the gross receipts taxes. So for capital monies we have a budget there.

COMMISSIONER VIGIL: When does this GRT terminate? Does it have the option of being more or is there a sunset clause?

PAUL OLAFSON (Community Projects): I believe that date is 2013, and then I believe the Board has an option to renew that for another ten years, and then another ten years on top of that.

COMMISSIONER VIGIL: Okay. So are we receiving less GRT on this because the overall GRT collections aren't there?

MR. OLAFSON: Mr. Chair, Commissioner Vigil, they are - to date the revenues have been climbing on the GRT and I'm not sure what the current projections and forecast are. I know that they're not going to - depending on the economy and how everything goes. But to date, they've been steady or slightly increased per year.

COMMISSIONER VIGIL: So is the deficit in the bond dollars?

MR. OLAFSON: Commissioner Vigil, yes. The two bonds that were approved in 98 and 2000 that totaled \$20 million, we've spent those down. Either we've spent them or they're allocated for, like Colleen said, trails or the gateway projects.

COMMISSIONER VIGIL: And those terminate -

MR. OLAFSON: They terminate when they're spent.

COMMISSIONER VIGIL: Right.

MR. OLAFSON: Those monies are basically gone. There's a small balance there. So that pot is gone, and then the GRT money will continue to come in.

COMMISSIONER VIGIL: Is there going to be justification for staff to do an analysis as to whether or not to consideration a continuation of those bonds, or however it would be done?

MR. OLAFSON: Commissioner Vigil, we certainly can do that. And I know we've spoken with the County Manager and he asked us to present an overview of the County Open Space program and I think we're scheduling that for the March presentation meeting.

COMMISSIONER VIGIL: Okay.

MR. OLAFSON: And the date, I think it's the 14th or the 16th.

COMMISSIONER VIGIL: Okay. And I appreciate that and I think really, on behalf of the community because this has been an inordinate, extraordinary I guess popular program in our community and I want to make sure that we are doing analysis upfront with regard to how we sustain this, so I'm glad to hear you'll be coming forth on that. I appreciate that. No further questions, Mr. Chair, unless anyone does. I move we approve.

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: We have a motion from Commissioner Vigil, second from Commissioner Anaya to approve item B.3.

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

XII. B. 16. Request Authorization to Enter a Property Lease with the Santa Fe Society of Artists for Lease of the County's Parking Lot of the Administrative Building (Administrative Services Department)

COMMISSIONER VIGIL: Thank you, Mr. Chair. I would just defer to Roman to explain this or I guess Pete is here on behalf of that. I know we try to connect with the artists' community. They've lost a space and they've temporarily, I guess, worked with the County to use our parking space on the weekend. Where are we in terms of really working very closely with them that the parking does not become a problem for County employees, County officials, many of us who come here and work on weekends, and I have a couple of time have not been able to utilize the parking facility based on the artists being here. And that's not to say that's the sole reason for us not to work with them. Perhaps maybe it's a reason for us to receive information as to when the parking is not available.

PETE GARCIA (Administrative Services Director): Mr. Chair, members of the Commission, we just recently completed contract negotiations with the gentleman representing the artists and this is the second year of the program. Last year I think they did it during the months of August and September and this year's been expanded to include more. But Commissioner Vigil, Ish is going to be the coordinator of this and the dates have already been established so we need to communicate that ahead of time [inaudible] But it's been a very successful program. They pay \$500 a day for the use of the parking lot and they have liability insurance in place and all the other requirements. But I will have Ish coordinate, because the dates have already been established so we'll have to coordinate that with staff ahead of time so can use that as parking.

COMMISSIONER VIGIL: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Vigil.

COMMISSIONER VIGIL: Pete, my understanding of this is the artists who used to have parking behind First National Bank are using this parking lot now because the First National Bank is not available. Is that correct?

MR. GARCIA: I believe that - that's my understanding of that.

COMMISSIONER VIGIL: Okay.

MR. GARCIA: I know the [inaudible] are proposing using our parking lot back here, but I believe they did come from -

COMMISSIONER VIGIL: And I have spoken to some of the advocates for this and my understanding from our discussions were that it was intended to be a temporary place for them to locate. Has that changed?

MR. GARCIA: Actually, I think based on the fact that they have increased the dates for this new contract year, I get the impression that they want to use it more. It doesn't seem to be a temporary arrangement as far as I can tell from the demand which has increased the number of dates.

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

CHAIRMAN SULLIVAN: Pete, I had one question on this. When this came up before there was a question about our lease agreement with the Eldorado Hotel where we have staff parking at the Eldorado, and there was mention of the fact that the Eldorado had some agreement with Santa Fe County to utilize the spaces over the weekend in Santa Fe County's lot. When I brought this forward nobody could find that lease or that agreement. Was that ever located?

MR. GARCIA: To my knowledge, Commissioner, no, it wasn't. I can follow up on that. I wasn't aware of that.

CHAIRMAN SULLIVAN: Well, this is what I was told by someone who remembered it as a part of the original deal. So I guess what we - maybe Roman -

MR. ABEYTA: Mr. Chair, we found the agreement and there was no - it was specific about our usage of their parking garage but there's nothing in there about them using our back lot.

CHAIRMAN SULLIVAN: Okay.

MR. ABEYTA: I think that was more of an informal -

CHAIRMAN SULLIVAN: Informal, they were just kind of pointing them over there saying you can park over there for free.

MR. ABEYTA: Because it's open.

CHAIRMAN SULLIVAN: Because it's open on the weekends. Okay. So this does of course prohibit that open parking during the summer.

MR. ABEYTA: Right.

CHAIRMAN SULLIVAN: And I recall also what Commissioner Vigil mentioned, that this was to be a temporary arrangement until the found a more permanent space. I'm trying to think of the name of the fellow that was - Peter Somebody was an advocate of it.

COMMISSIONER VIGIL: He used to be with the Chamber, I guess.

CHAIRMAN SULLIVAN: Okay. Are there any other questions regarding item B. 16?

COMMISSIONER VIGIL: Mr. Chair, I would like some data keeping with regard to this that would give us information as to the benefits we're receiving, any drawbacks we're experiencing, with regard to making this available and what it means to County employees. There are - I have had the experience when I've come here and there is no parking available because we usually keep the arms up and the public uses it for parking and I have to search for parking, but there are also incidents where there have been parked vehicles here overnight that have been impounded that belonged to County officials or County employees and that's an experience to my mind that is somewhat unwelcome.

So I think we have to have some really clear communication in terms of what this use means for the County and those of us who need access to parking on the weekends. So, Pete, if there's a way that Ish, working with them can keep data with regard to any needs that surface with regard to County parking vehicles I'd really appreciate that because that's an issue that sort of glared when this started occurring. I don't know if it's an issue that will continue.

MR. GARCIA: I'll have Ish get that information.

COMMISSIONER VIGIL: Okay. And do we have to renew this annually?

MR. ABEYTA: Mr. Chair, Commissioner Vigil, yes. This agreement expires in October of this year. So next year we would have to come back to the Commission to renew it. May I request that when you do come back for renewal an assessment is brought forth with regard to that request, and to see simply whether or not the fact that we're receiving a benefit from this offsets the need for County vehicles to use the parking lot, or County employees to use the parking lot.

CHAIRMAN SULLIVAN: Is that all?

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

CHAIRMAN SULLIVAN: Okay, we have a motion for approval of item B.

16. Is there a second?

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: Seconded by Commissioner Anaya.

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

XII. B. 17. Consideration and Approval of a Memorandum of Agreement Between the City of Santa Fe and County of Santa Fe for Use of the County Capital Outlay Gross Receipts Tax to Fund the Joint Regional Buckman Direct Diversion Water Project (Mary Helen Follingstad)

CHAIRMAN SULLIVAN: The last item on the Consent Calendar withdrawals is B. 17, and this has to do with the use of County capital outlay gross receipts tax funds for the Buckman Direct Diversion project. And it's an agreement. I asked that we look at this just a minute, between the City of Santa Fe and the County of Santa Fe pursuant to a number of agreements that we have made with the City to share the costs 50-50 on the Buckman Direct Diversion project. And this relates to disbursement of accrued revenues to date in the amount of approximately \$16 million. So having said that, my question to whoever wants to talk about it is - I know the City has spent some money and they've also been the recipient of federal funds for their portion. But my recollection is, having served on the Buckman Board is that the City hasn't spent \$16 million on this

project to date. Is there a commitment on the part of the City for \$16 million also at this point in time, or what's the quid pro quo here?

DOUG SAYRE (Water/Wastewater Operations): Mr. Chair, that's a good question. I don't know that I can answer that specific part of it. I was only here to address - I talked to Rick Carpenter. He apologized but he got called into a meeting and he said he could be here at 11:30 and maybe that question could be posed for his answer later on if you want to. I think he will be here, but he apologized that he couldn't make it at 11:00 and he was going to try to make it here at 11:30. But that specific question I can't answer. We're looking at funding related overall, but I can't tell you - I know the City has expended a considerable amount of money. Maybe you can address them to Rick then.

CHAIRMAN SULLIVAN: I think he just appeared. All right. Let me ask Rick the same question. Is there a companion agreement for the City for \$16 million - committing \$16 million the project.

RICK CARPENTER: Commissioners, no there is not. It's my understanding that [inaudible]

CHAIRMAN SULLIVAN: Well, and we are 50-50 on this, correct?

MR. CARPENTER: That's correct.

CHAIRMAN SULLIVAN: And so where's the City's half?

MR. CARPENTER: We're talking about the \$16 million? My understanding of how this is set up is this is the proceeds generated from the joint tax.

CHAIRMAN SULLIVAN: Right. But our agreement is that the proceeds of the joint tax goes against the County's obligation.

MR. CARPENTER: That's correct. Let me address that [inaudible]

CHAIRMAN SULLIVAN: So if we're ready to transfer \$16 million to the Buckman Board for our part, I was just looking for the City's part.

MR. CARPENTER: I think the question is timing and when does that happen.

CHAIRMAN SULLIVAN: Yes. I think concurrently.

MR. CARPENTER: Right. We got just yesterday a funding plan that we're putting together that identifies all the funding sources for the project and there are numerous funding sources. Some are higher priority than other in terms if they're time sensitive. So we're trying to pick and choose when each funding source needs to come on line. For example there's some bond money the authorization for which will expire in a matter of months. County bond money. So we want to spend that first. So that's an example. But with regard to that \$16 million we want to get that in place because the invoices are going to start coming in on this project, and that's the only source of real money we currently have available to us.

CHAIRMAN SULLIVAN: What about the City?

MR. CARPENTER: The City?

CHAIRMAN SULLIVAN: Does the City have any?

MR. CARPENTER: Currently, they can put in that \$16 million to match the

County's but if we don't need it, or we're going to transfer in say, another \$30 or \$40 million from County bond money, because that's the money that's going to expire soon, then that City bond money would just be sitting in the account, so it wouldn't make sense to transfer it in there.

CHAIRMAN SULLIVAN: So is what you're saying the reason we're transferring this \$16 million is because it's going to expire?

MR. CARPENTER: No, the \$16 million – the design-build contract will come before the BDD Board on March 6th. If the Board chooses to execute that contract the project manager of the City will begin to receive invoices from the design-build contractor maybe six weeks later. And that first invoice is going to be between \$11 and \$12 million. There's no other source of money that I can put my hands on immediately in order to pay that first invoice other than the \$16 million.

CHAIRMAN SULLIVAN: But the City has committed 50 percent for the project, and you can't even come up with \$11 million, or \$16 million, it looks like we've got a long row to hoe here.

MR. CARPENTER: Commissioner, I'm sure the City could come up with \$11 million. The question is when does it make most sense to come up with that \$11 million?

CHAIRMAN SULLIVAN: I think it makes sense that we come up with them at the same time. We're joint partners on the project. Doesn't that seem to make sense? Particularly if your first bill is \$11 million, you want to have money enough for the next bill. How much will the second bill be?

MR. CARPENTER: I think – maybe I'll try a different tack.

CHAIRMAN SULLIVAN: Bring your checkbook, is what I'm saying.

MR. CARPENTER: [inaudible] the bond money, I'm told, that the County currently has in hand, and another bond authorization that expires in November of 08, something on the order of \$40 million, in addition to the \$16 million that we're talking about today. I doubt very seriously that I can spend \$40 million and \$16 million, a total of \$56 million in County money before November. If the City goes and kicks in its half, that makes that an even larger number. [inaudible] for the County to authorize bond money which will then expire.

So we have to spend certain pots of money before others.

CHAIRMAN SULLIVAN: So the \$40 million is going to expire this November?

MR. CARPENTER: I believe so. The authorization for the bond money will expire.

CHAIRMAN SULLIVAN: And so by transferring it to Buckman, to the Buckman Board, we then satisfy that requirement so that it doesn't expire?

MR. CARPENTER: That's what I'm told.

CHAIRMAN SULLIVAN: Well, it just makes me a little nervous that we're drawing down all the County's money first here. It just seems like there ought to be a little

City contribution.

MR. CARPENTER: Commissioner, we have an accounting system in place that tracks who pays what when, so, as I said, when it makes sense for one entity as opposed to another to put money into the account, that will still be tracked.

CHAIRMAN SULLIVAN: When do the City's bonds expire?

MR. CARPENTER: We haven't sold them yet.

CHAIRMAN SULLIVAN: You haven't sold any bonds. When are you going to sell the bonds?

MR. CARPENTER: When the Finance directors of the respective governing bodies tell us that it's time to sell them. I think they're nervous about selling bonds and then having the money sitting around if we're not going to spend it, and/or arbitrage issues that could come into play. I have a report if it pleases the Commission that I can provide to you that shows what we think makes the most sense on how to spend what money when from the three partners, out through 2011.

CHAIRMAN SULLIVAN: Yes, I'd like to see that. Roman or Steve, are there any staff comments that you wanted to add?

MR. ROSS: Mr. Chair, there's a huge matrix that Rick and a number of us have participated in developing and it shows when each party needs to pump in money, and it's like Rick says, there are a number of parameters, including a critical parameter that pertains to the County. The County's order authorization for, I think it's \$46 million worth of water bonds expires in November so those bonds have to be sold before November 2nd. So that's obviously going to dictate that a large block of dollars that are designated for the project gets spent on the County's behalf first, but the PFMSA does set up an elaborate accounting and crediting system so that every party's contribution is credited against their obligations under the agreement which is to pay half the project. So all that stuff is laid out in really incredibly detailed format. I'm sure Mr. Carpenter can get you a copy. It lays it all out in incredible detail.

The City is obviously going to be making a lot of payments on this project later and they're relying on revenue bonding to do that. They don't have a requirement with the revenue bonds to get voter approval so they won't be dealing with potential expiration of authority to sell bonds like the County is. But those bonds are subject to the same requirements, expending five percent of the face value of the bonds within six months and then spending the remainder of it within three years. So those bonds obviously can't be sold too soon, or we'll run afoul of IRS rules. So this matrix lays it all out in incredible detail and I think it will help you to understand what everybody's been working for the last six months or so.

CHAIRMAN SULLIVAN: Okay. Just put our name on the plaque at the top, okay? And some comments about Santa Fe County not anteing up to the project, looks like we're going to be paying half of it.

COMMISSIONER CAMPOS: I have a question for Mr. Carpenter before he leaves, unrelated.

CHAIRMAN SULLIVAN: Okay. Just a second. Another question, Mr. Carpenter.

COMMISSIONER CAMPOS: It's unrelated to this item. Okay. Any further comments, Mr. Sayre?

MR. SAYRE: Mr. Chair, Commissioners, there was one thing that was brought up that we had a wording problem I think on page 2, under funding for the Buckman Direct Diversion. It was requested that we put in a period after joint powers agreement and add "These funds..." And that was a correction in wording.

CHAIRMAN SULLIVAN: What paragraph are you in?

MR. SAYRE: Paragraph 1. A. And it was requested that we put in a change in the agreement.

CHAIRMAN SULLIVAN: At the end of the end of the paragraph?

MR. SAYRE: After joint powers agreement, put in a period, and then start the sentence with "These funds will be disbursed..."

CHAIRMAN SULLIVAN: These funds will be disbursed to the BDD. Okay. And Mary Helen, did you have a comment?

MARY HELEN FOLLINGSTAD (RPA Coordinator): It was just the grammatical change.

CHAIRMAN SULLIVAN: Okay. All right. Let's get this item out of the way and then Commissioner Campos has another question for Mr. Carpenter.

COMMISSIONER CAMPOS: Move to approve.

CHAIRMAN SULLIVAN: Okay, motion for approval. Is there a second?

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: Seconded by Commissioner Anaya.

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

CHAIRMAN SULLIVAN: Okay, Mr. Carpenter, back on -

COMMISSIONER CAMPOS: Mr. Carpenter, back on the Buckman Diversion and contamination issues, any updates on that? I know you were looking at studying the issue. Contamination issues.

MR. CARPENTER: Mr. Chair, Commissioners, we're working on several different levels with regard to the LANL contamination issues. I met, along with others, with upper management at LANL for half the day last week to go over the points that were made in the letter that the BDD Board sent in November to LANL. We were told that a letter in response would be forthcoming that addresses our letter point by point on exactly what LANL plans to do and how they plan to do it and when they plan to do it, in great specificity.

In addition to that we have a fairly pro-active, I think aggressive public relations campaign that we're just now kicking off - flyers, bill-stuffers, and most importantly

several townhall meetings, that's what we're calling them, that the board requested that we organize. And we're planning those right now and expect those in the coming weeks, to be able to start conducting those as well.

COMMISSIONER CAMPOS: As far as the LANL contamination issues, some have suggested it's going to cost a lot of money to remedy the source of the contamination. Is that something that's been discussed as far as resources?

MR. CARPENTER: Mr. Chair, members of the Commission, yes. That was the source of a lot of conversation that we had with management of LANL last week. It's our position that this community should not have to pay any of those monies in order to remedy the situation. Verbally, at that meeting, LANL agreed and also stated that that funding and the sources of that funding would be outlined in the letter that is forthcoming.

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

MR. CARPENTER: Thank you.

CHAIRMAN SULLIVAN: Okay. Any other questions for Mr. Carpenter. Let me just make a clarification on that last motion. I think Commissioner Campos, you made that motion, didn't you?

COMMISSIONER CAMPOS: Yes, sir.

CHAIRMAN SULLIVAN: Was that to approve the agreement as amended?

COMMISSIONER CAMPOS: No. I would remake the motion to approve the memorandum of agreement between the City of Santa Fe and County, as amended per language presented by staff.

CHAIRMAN SULLIVAN: Okay. That's in paragraph 1. A.

COMMISSIONER CAMPOS: Paragraph 1.a.

CHAIRMAN SULLIVAN: Secunder, are you okay with that?

COMMISSIONER ANAYA: Yes.

CHAIRMAN SULLIVAN: Okay, let's redo that vote, please.

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

CHAIRMAN SULLIVAN: Clear up that little administrative issue there.

XIII. STAFF AND ELECTED OFFICIALS' ITEMS

A. Administrative Services Department

1. Review and Discussion of the Monthly Financial Report for the Month of January 2008 Specific to the General Fund

MR. ABEYTA: Mr. Chair, we have provided the monthly report to the Commission in the packet. There is nothing that we have chosen to highlight at this time. We think that so far, what's coming in as far as property tax and transfers out, everything

seems to be so far within the parameters that we are comfortable with. Again, we provide this once a month. If there is a change we will be sure to highlight for the Commission.

CHAIRMAN SULLIVAN: Any questions of staff on the financial report? Okay. And by the way, on that last Buckman item, Roman, could you be sure that that disbursement chart gets into the Commissioners' mailboxes?

MR. ABEYTA: I will, Mr. Chair.

CHAIRMAN SULLIVAN: I'm going to hold them to it. I want to see the other half of that money come in.

XIII. B. Growth Management Department

1. **Discussion and Direction of Santa Fe County Road Advisory Committee Resolution No. 2008-1. A Resolution Supporting a 2008 General Obligation Bond Referendum for Improvements to Existing County Maintained Roads in Santa Fe County (Growth Management Department)**

CHAIRMAN SULLIVAN: Some of the Commission might want to meet Mr. Ed Benrock. You may not have seen him before. Ed, would you like to come up and introduce yourself?

ED BENROCK: Thank you, Mr. Chair and Commissioners. My name is Ed Benrock. I'm on the Road Advisory Committee for Area 11, which is Eldorado.

CHAIRMAN SULLIVAN: Okay. Thank you, Ed. Robert, tell us about this one.

MR. MARTINEZ: Mr. Chair, Commissioners, on November 2, 2004 the residents of Santa Fe County approved a general obligation bond in the amount of \$20 million for the construction of a Public Works facility and improvements to existing County maintained roads. The Public Works Department and the Road Advisory Committee developed a five-year road plan that outlined what roads would be improved by the bond and other funding sources. The BCC adopted this improvement plan in 2005.

Due to increased construction costs for the Public Works facility and increased road construction costs the 2004 general obligation bond was unable to fund all of the projects as described in the plan. The Santa Fe County Road Advisory Committee, at its meeting of February 12, 2008 adopted the attached resolution supporting a general obligation bond referendum in the amount of \$30 million to continue with the improvements to the existing County-maintained roads as designed in the five-year road plan.

I've been told that the best time to go out for another bond referendum would be the general election now coming up in November of 2008. I stand for questions.

CHAIRMAN SULLIVAN: Okay, Robert. Now, I see this is not an action item, so you're bringing it forward for our information now and direction to see about the future of putting it on the agenda for a bond?

MR. MARTINEZ: Mr. Chair, that is correct. This is not an action item. We're just bringing it to your attention that it would be beneficial to the County if another general obligation bond was presented to the voters to continue with our plan.

CHAIRMAN SULLIVAN: And how about staff comment on - Manager's Department comment?

MR. ABEYTA: Mr. Chair, we have been discussing this with the Growth Management Department and what we wanted to do was first of all bring the idea forward to the Board to see if it is something that you would like to pursue. From a staff perspective, we would like to pursue it, because it will allow us to continue making improvements to the County roads and it is in compliance with our roads plan. But again, we didn't want to just have something show up on your agenda requiring you to authorize us going forward with the bond. So staff supports it, and we just wanted to make sure we had a feeling from the Commission as to whether or not you want us to pursue that.

CHAIRMAN SULLIVAN: How much are we short, Robert?

MR. MARTINEZ: Mr. Chair, the \$30 million will improve every single road that is unconstructed on our attached five-year road plan. But it also includes a buffer of about \$2 to \$3 million to compensate for increased construction costs between now and say two or three years. Hopefully this will be sufficient.

CHAIRMAN SULLIVAN: So basically, the chart we have here would take us approximately another \$30 million to complete the projects that you've shown here as still pending.

MR. MARTINEZ: Mr. Chair, that is correct.

CHAIRMAN SULLIVAN: Okay. Other questions for Robert or for Mr. Benrock? Commissioner Anaya and then Commissioner Vigil.

COMMISSIONER ANAYA: Mr. Chair, thank you. Robert, thank you for bringing this forward and thank the Road Advisory Committee for bringing this forward. I think that this is going to be good for our County roads, or great for our County roads if we keep the money in there and use it for our County roads. So I hope that we keep it in there. But I'm all in favor of it, Mr. Chair. Thank you.

CHAIRMAN SULLIVAN: Commissioner Vigil.

COMMISSIONER VIGIL: I am also in favor of it too. I'd like to make that statement up front. I don't know that we have any other source to work on this much-needed basic service for our County. GRIP I isn't listed in this matrix. Can you explain why?

MR. MARTINEZ: Mr. Chair, Commissioner Vigil, GRIP I was strictly for state roads. The GRIP II, if you look on our plan on the first page, we show that we do have some projects that are being funded by GRIP II.

COMMISSIONER VIGIL: What is the status of GRIP II?

MR. MARTINEZ: GRIP II, we have these - we have agreements in place to construct these projects that show the GRIP II funding source. There are four sheets for this plan.

COMMISSIONER VIGIL: I recognize that. Have any of the GRIP II projects, to your knowledge, been funded, started?

MR. MARTINEZ: Mr. Chair, Commissioner Vigil, yes. We have started El Sitio Road, which is County Road 88-A. It was ready to pave approximately two months ago but due to weather we have held off on the paving. County Road 42, the construction plans we will be receiving from Miller Engineering tomorrow. We had some redesign. We will be starting the process for bidding this project out. And that is another GRIP II project.

COMMISSIONER VIGIL: And how does that work, Robert? Once you start the project is it a reimbursement? Tell me how that works. It's such a new program I'm not sure.

MR. MARTINEZ: Mr. Chair, Commissioner Vigil, yes. It is on a reimbursement basis. Now, you can request reimbursements at several points during the project. You don't have to wait until the project is 100 percent complete, but you can receive draw-downs on an agreed amount at certain points of the project.

COMMISSIONER VIGIL: Okay. That's all I have, Mr. Chair.

CHAIRMAN SULLIVAN: Other questions for Robert? I see, Robert that County Road 42 is scheduled to be bid in January of 08. We didn't quite make that.

MR. MARTINEZ: Mr. Chair, yes. As you recall we've had some public meetings regarding County Road 42 and then we did some redesign to address some drainage so we are hoping to start bidding it out here within the next few weeks.

CHAIRMAN SULLIVAN: Okay. Commissioner Campos, any questions?

COMMISSIONER CAMPOS: Not really. Mr. Martinez, you have outlined a number of projects without funding and those are the ones that you're eliminating or making them into second priority?

MR. MARTINEZ: Mr. Chair, Commissioner Campos, that is correct. The ones that say that they do not have any funding, that is what we're hoping that if the general obligation bond is approved then it will fund these projects.

COMMISSIONER CAMPOS: Thank you, sir.

CHAIRMAN SULLIVAN: Mr. Benrock. Come on up and I just want to give you an opportunity to add anything that you wanted to from the Road Advisory Committee.

MR. BENROCK: Like Mr. Martinez said, the Road Advisory Committee is 100 percent in favor of this. The last bond I believe was in 2004 under the five-year plan and the roads have deteriorated somewhat since then. So we would hopefully ask the Commissioners to adopt this resolution, to study it and adopt it and it will be beneficial for the county in the long run, and road improvements. So we certainly encourage the Commissioners to take a look at this and voice their approval.

CHAIRMAN SULLIVAN: Thank you. Commissioner Vigil.

COMMISSIONER VIGIL: Robert, what is the status of South Meadows Road?

MR. MARTINEZ: Mr. Chair, Commissioner Vigil, we are currently wrapping up the design of South Meadows. We are starting to work with property owners for right-of-way acquisition, but at this time there is no funding for the construction phase of South Meadows.

COMMISSIONER VIGIL: Okay. What you have here is, for South Meadows, you consider it to be a \$4.5 million project.

MR. MARTINEZ: Mr. Chair, Commissioner Vigil, that is correct. The engineer's estimate is \$4.5 million.

COMMISSIONER VIGIL: Okay. I was just at an Agua Fria Village Water Association meeting and both the State Representative and Senator of that district were there, at which time they did pronounce that they have allocated, according to them over a million dollars to this project. And I don't see that reflected here. Do we have legislative funding included here?

MR. MARTINEZ: Mr. Chair, Commissioner Vigil, we do not have any legislative funding at this time for South Meadows. As you can see, this Board approved a little over a million dollars from the GRT, the capital GRT for South Meadows, but to date, that is the only funding that we have for South Meadows.

COMMISSIONER VIGIL: Mr. Abeyta, we need to check with the State Representative and the State Senator from that district to identify or reconcile this at some level.

MR. ABEYTA: Okay.

COMMISSIONER VIGIL: Because both of them were fully aware of the project and support it and probably had a sense – and I don't know if dollars have been allocated and reauthorized, or anything of that nature. But let's make sure that the Representative and Senator from this district are onboard with what our books are saying.

MR. MARTINEZ: Mr. Chair, Commissioner Vigil, there have been some smaller legislative allocations that were used for preliminary design but nothing substantial in the amount of a million dollars like you're mentioning. I believe less than \$50,000 is what's been appropriated by the legislature.

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

CHAIRMAN SULLIVAN: Thank you. All right, Commissioner Campos, question?

COMMISSIONER CAMPOS: A question for Mr. Abeyta, and maybe Mr. Martinez. We're talking about new bond monies. Is there discussion about this new money and the new growth areas that we're thinking about establishing in the new Growth Management Ordinance? Because it seems to me that if we're going to be bonding for roads we should be thinking of how these roads are going to work within the new growth areas or within the new growth areas. I'm not sure if that thinking has occurred.

MR. ABEYTA: Mr. Chair, Commissioner Campos, that thinking is starting to occur now. Mr. Martinez is very involved with the Growth Management staff, the Land Use staff in putting together the growth management strategy. There are and have been

discussions regarding this very issue and these roads. These roads would be listed as a priority. We would make sure that these roads do fit within a certain growth area, but I'm confident that the group has been working together on this and what we're proposing fits within the plan that we'll be bringing forward.

COMMISSIONER CAMPOS: Because I think this could be critical. If we're going to have growth areas we're going to have to have infrastructure and road infrastructure is going to be key to making these growth areas work. So I appreciate the conversation. And Mr. Martinez, if you could just maybe call me sometime in the next couple of weeks and have a little discussion.

MR. MARTINEZ: Mr. Chair, Commissioner Campos, I can do that. Staff will be bringing the strategic plan back to the Commission regarding transportation and roads and we are incorporating this five-year plan into the strategic plan. So it is being addressed.

COMMISSIONER CAMPOS: Okay. Great. Thank you, sir.

MR. MARTINEZ: And one other comment. I'm told my Joseph Gutierrez, if approved by the voters, will not have any impact to the residents as far as raising their taxes. Joseph Gutierrez can elaborate on that more if you need.

CHAIRMAN SULLIVAN: All right. Thank you, Robert and thank you, Ed.

XIII. C. Matters from the County Manager

1. Update on Various Issues

MR. ABEYTA: Mr. Chair, a couple of items. First, we distributed a week ago to each of the Commissioners the County's draft legislative report. It's a final report. It's still in draft form because the Governor has until March 5 to act on the bills that have reached his desk. The report we provided you has a breakdown of projected capital outlay funding that Santa Fe County will be receiving in 2008. Some of the highlights briefly, the First Judicial District courthouse, we're expecting \$10,000 for that. The Cañoncito/Eldorado regional water line project, \$10,000. The County Clerk, we're expecting \$50,000 for her imaging program, \$40,000 for County detention facilities, \$120,000 for County public housing improvements, and \$25,000 for County Road 42.

There are other County roads that have received allocations. The Vista Grande Library received some, a senior center in Chimayo. About 33 or 34 projects are listed in this packet that we provided you. We've also listed additional projects in Santa Fe County that are not administrated by the County such as funding that went to the different acequia associations within our boundaries. And then there has been \$7 million allocated for economic development grant fund and also another \$7 million for a film initiative that could potentially be used in Santa Fe County.

In the report we also include bills that may have an effect on Santa Fe County. One of the most – one that we have discussed in our Health Board meeting is House Bill 615, which is the distribution to a sole community provider fund. We are taking a position of opposition to this bill and we will notify the Governor of that today. In regards to the capital outlay funding, I placed a call to the Governor's office last week requesting that he approve the funding that is being recommended. Rudy Garcia is available if you have any questions on any specific projects. We will be providing a detailed final report and analysis to the Commission during the March administrative meeting, because, again, at that time we will know what the governor has done. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Any questions? Commissioner Vigil.

COMMISSIONER VIGIL: Roman, did you want to update us on the joint resolutions that we worked on with regard to the state penitentiary water and wastewater?

MR. ABEYTA: I'll allow Rudy to do that.

COMMISSIONER VIGIL: And any other legislation, Rudy, that you think we need an update on.

RUDY GARCIA (Community Services Department): Mr. Chair, Commissioners, the joint resolution that you asked about was the resolution in regards to the state penitentiary wastewater system facility. We actually introduced the resolution which would actually allow the County to hopefully take over that system. During the process it got changed several times. What we were actually trying to do is go into a long-term lease with GSD up to 99 years. That resolution did – it basically failed because GSD in my opinion didn't feel like they actually wanted to go forward and discuss this with some of the Republican legislature that asked some very detailed questions as to why we wanted to take over this system, what we were doing. We had to explain to them that for the last seven to ten years we've actually been operating this system. We've been putting infrastructure into the system. We have had staff that goes out there on a possibly daily basis, which are the technicians. It just seemed to me in my opinion that GSD didn't really want to engage in battle with some of these Republican Senators that were against this bill or had very detailed questions about it.

So what we agreed to do is actually that did get dropped and we will be creating up to a 24-year lease with GSD and possibly, if the Commission desires to go forward next year for that same legislation to go up to a 99-year lease.

COMMISSIONER VIGIL: And we didn't necessarily agree to that, the discussion for that to be an alternative was had, correct?

MR. GARCIA: Mr. Chair, Commissioner Vigil, yes, that was correct.

COMMISSIONER VIGIL: Does that mean that request would have to come before the Commission for approval?

MR. GARCIA: Mr. Chair, Commissioner Vigil, yes, that's correct.

COMMISSIONER VIGIL: Okay. Thank you.

MR. GARCIA: Like Roman had mentioned, there were some other items in there. House Bill 400, which is actually the Rural Transit District, that did get – there was a

resolution that was passed by the Commission that actually did not move forward. Like Roman had mentioned this is actually a preliminary list. I plan on coming in the next Commission meeting or so and actually giving a detailed list as to what exactly these bills mean, possibly setting up some sort of study session with some of the lead department heads and discuss exactly what these bills mean, hand them out, go over them. So I'll ask Roman if that could be done after the Governor makes his decision.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair. I wanted to thank you, Rudy, for the work that you did at the legislature and for keeping me informed on the issues that I asked you to, and also working with Tasha Young. She was happy that you all were able to hook up and talk about the issues relating to counties, either in support or against, and I think it worked out good. Thanks again.

MR. GARCIA: Thank you.

CHAIRMAN SULLIVAN: And Roman, on the Cañoncito/Eldorado regional water project, the \$10,000 appropriation, there was a letter in the paper the other day from Representative Wirth and he was commenting on an article, a fairly critical article in the paper, in the *New Mexican*, about the Eldorado area not getting its share of funds. It wasn't written by anyone in Eldorado, it was written by a reporter to that area. But in his letter he indicated that there was a reauthorization to that project of \$125,000, to that water line project, is what he said in the letter. I don't know – and then in another list, and I saw \$125,000 listed for Cañoncito, and here I see \$100,000 was for Cañoncito. So I'm not sure what that \$125,000 was, but taking Representative Wirth at his word, we need to check in on that reauthorization because if it is for the water line project, then it costs us \$10,000. then we have \$135,000, which means that we could start the design process for it and get that underway. That was the first I'd heard of it was in that letter in the paper. So Rudy, we might want to check on that as well and check on that reauthorization.

MR. GARCIA: Mr. Chair, I actually saw that article by Representative Wirth and I had the same questions that you did. But I will look into it.

CHAIRMAN SULLIVAN: Yes. Is it for the pipeline project or is it to Cañoncito, which already has \$100,000 authorization? Okay. That was the question I had. All right. Then anything else, Roman?

MR. ABEYTA: The only other thing, Mr. Chair, is we had an update during our Housing Authority meeting by Suby Bowden who is doing our housing project for us. They are requesting a study session, two study sessions with the Commission. One would be scheduled on April 8th, which is the day we have our land use BCC hearing. That hearing starts at 3:00. They are requesting the Commission have the study session from 1:00 to 3:00 on April 8th. And then again on May 13th, same situation, land use BCC meeting starts at 3:00. They would like the Commission to come a couple of hours earlier, from 1:00 to 3:00 that day so we can start narrowing down and possibly pick locations for a housing project.

CHAIRMAN SULLIVAN: Does that sound okay with everybody?

COMMISSIONER VIGIL: That's fine with me, Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos?

COMMISSIONER CAMPOS: I think so. Does that sound like a necessary amount of time?

MR. ABEYTA: Yes. We asked that specific question. She said an hour and a half to two hours should be sufficient if we have both sessions.

COMMISSIONER CAMPOS: Okay.

CHAIRMAN SULLIVAN: So that will be April 8th from 1:00 to 3:00 and then the regular BCC meeting starts at 3:00, and that will be again on May 13th and 3:00 is the regular BCC. Okay. Anything else, Mr. Abeyta?

MR. ABEYTA: That's all, Mr. Chair. Thank you.

CHAIRMAN SULLIVAN: It's now 11:50. What's the desire of the Commission? Would you like to go into executive session now, or would you like to go to lunch and come back and go to executive session before the 2:00 public hearing.

COMMISSIONER VIGIL: How much time do we need in executive?

MR. ROSS: Mr. Chair, Commissioner Vigil, not much. We have mostly updates.

CHAIRMAN SULLIVAN: So maybe we come back at 1:15 for executive session. Does that work for everyone?

COMMISSIONER VIGIL: That sounds good.

CHAIRMAN SULLIVAN: Commissioners? Okay. We will adjourn until 1:15 at which time we'll go into executive session and then the hearing of Ordinance 2008-2 will be at 2:00.

[The Commission recessed at 11:52 and reconvened at 1:18 with Commissioner Montoya joining the proceedings.]

CHAIRMAN SULLIVAN: This regular meeting of the Board of County Commissioners, it's 1:18 and the next item on the agenda is executive session, and at 2:00 we're going to consider Ordinance 2008-2.

XIII. E. Matters from the County Attorney

1. Executive Session

- a. Pending and Threatening Litigation**
- b. Limited Personnel Issues**
- c. Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights**

Commissioner Anaya moved to go into executive session pursuant to NMSA Section 10-15-1-H (7, 2 and 8) to discuss the matters delineated above. Commissioner Montoya seconded the motion which passed upon unanimous roll call vote with

Commissioners Montoya, Sullivan, Vigil and Anaya all voting in the affirmative.
[Commissioner Campos was not present for this action.]

[The Commission met in executive session from 1:18 to 2:05.]

Commissioner Montoya moved to come out of executive session having discussed only the matters outlined in the agenda, and Commissioner Anaya seconded. The motion passed by unanimous [5-0] voice vote.

- XIII. E. 2. Consideration of Ordinance 2008-2. An Emergency Interim Development Ordinance for a Twelve-Month Period Prohibiting Development Approvals for Zoning And Subdivision Maps, Grading, and Building Permits, Non-Conforming Uses, Special and Conditional Uses and Exceptions, Use and Area Variances for Oil, Gas, and Geo-Thermal Drilling and Extraction within the Galisteo Basin Commencing on February 28, 2008, and Terminating on February 27, 2009, and Providing for an Extension to August 27, 2009 if Required in the Legislative Discretion of the Board of County Commissioners, until the Adoption of a General Plan Amendment, a Galisteo Basin Area Plan, a Capital Improvement and Public Services Program, Creation of a Special Improvement District for the Galisteo Basin and Amendments to the Land Development Code, Addressing and Resolving the Health, Safety, Cultural-Historical Archaeological, Fiscal, Economic, Planning, Infrastructure and Services, Groundwater Aquifer, Environmental and the Public Nuisance Impacts of Such Grading Drilling and Extraction [Exhibit 1: Ordinance Text]**

MR. ABEYTA: Thank you, Mr. Chair. I'll actually turn this over to the County Attorney, Steve Ross, to make the staff presentation.

MR. ROSS: Mr. Chair, I thought I'd start with kind of describing where we are right now with this oil and gas issue. We've had two public meetings, this Board had two public meetings, one in Eldorado, one in the south of town on Route 14, on November 15th and December 6th of last year. Those meetings bracketed a meeting of this Board where, on November 27th you proposed an oil and gas ordinance, formally proposed an oil and gas ordinance, which was then released to the public for comment. Simultaneously, as you recall, we adopted a three-month moratorium that expires in just a couple days, on February 28th.

As a result of some of the discussions and a lot of written comments that we received in my office following the release of the draft in late November we promulgated a

second draft of the proposed oil and gas ordinance and scheduled a public hearing for January 7th, which as you recall there was a heaving snowstorm and it didn't actually occur. About the time we were trying to reschedule that Governor Richardson, on January 24th issued an executive order, 2008-4, that imposed a six-month moratorium at the state level, on processing and approval of applications and permits for oil and gas drilling in the Galisteo Basin tax in Santa Fe County. That executive order called for a thorough evaluation of any proposed of any proposed drilling by his executive agencies and including but not limited to the areas of water, environmental issues, economic impacts, historic/cultural impacts, and any ramifications for archeological resources in the area. He ordered in that order that those reports come back by June 24th.

Obviously, when we heard about this we realized that we needed the information that the state was going to develop as a part of the Governor's moratorium, so two weeks ago, this Board proposed adoption of an ordinance which is before us today and which, Mr. Chair, you just recited the caption for, which calls for a 12-month study period on the part of the County. And that's the ordinance that's before you for adoption today. It's a pretty simple ordinance. It's entitled "An Interim Development Ordinance". It's essentially a 12-month hiatus on permitting of any kind of oil and gas development in the Galisteo Basin area of the county.

I've handed out to you a corrected copy of the ordinance. There were some typos, particularly in the caption. Some of the dates were wrong. Just so everybody understands. The proposed ordinance will be a one-year ordinance commencing on February 28th, in two days, and that will coincide with the expiration of the current moratorium ordinance, and it will terminate on February 27th of next year. Although it provides for an extension on the legislative discretion of this body to late August of next year should that be necessary.

During that year the ordinance calls for a number of activities here at the County. Obviously, the first of those activities will be receiving any information that the state develops as a result of the Governor's executive order in analyzing that information, and participating in the state's process as they go through their studies. For example, the state is scheduling and consulting - in consultation with the County. I think this is tentative at this point - day-long meeting at the Community College on the 29th of March when a number of these executive agencies that are participating in these studies will be present along with County and other interested parties to interact concerning the matters that the Governor desires to be studied.

Also, this proposed ordinance calls for the development of a Galisteo area plan which will result in an general plan amendment. We've already started on that process in conjunction with our growth management initiative that's going right now. This ties in very nicely with an already ongoing process. But this ordinance will require that that process be completed one year from now. So it will obviously get a lot more resources and interest from key staff so that we can comply with the terms of the ordinance.

It also calls for a capital improvement and public services program, something the County really hasn't had, but that process - the process of developing that plan will give

us a lot of information about needed capital improvements in the Galisteo Basin and perhaps in the broader context of the county as a whole. The ordinance calls for development of a special improvement district for the Galisteo Basin and appropriate amendments to the general plan and to the Land Development Code. All of these things will tie in nicely with an initiative that many people know about, the amendment of the County's Land Development Code that's been working for two or three years here at the County.

The planning that's anticipated is going to help key staff here at the County identify needs of the proposed oil and gas development, and the ordinance recites this information as well. We need to study police, fire and emergency services, health services, roads, water, stormwater, other necessary infrastructure, probably the electric infrastructure in the area of the proposed oil and gas drilling will become a key element. Also the ordinance calls for this planning process to help us establish a sustainable design, location, use, construction, conditions and standards to protect the public from a whole host of ills that the oil and gas industry brings to an area.

One key change in the proposed ordinance is on the back page and for those of you who looked at the ordinance previously you'll remember the back page is a map of the Galisteo Basin growth management area. In studying - in trying to evaluate where the ordinance should apply, we reasoned that the current planning efforts, of which this is the boundary, made a sensible boundary for the study area that this ordinance calls for. The only problem is that on your copy we've added a blue area on the lower left corner of the exhibit, and that comprises the old Ortiz mine grants, Ortiz grant, and that's been leased for oil and gas development. So the big change from the previous map is we're proposing to include that blue area in the lower left corner in the geographic boundaries of the ordinance to ensure that the current status quo is preserved for at least one year.

So the guts of the ordinance are set forth in Section 3 of the ordinance and Section 4 of the ordinance. Section 3 says that no new applications can be filed with the County for development of oil and gas resources for the period in which the ordinance is in effect, which is one year and possibly one and a half years, or until the work that's described in the ordinance is done and we complete the work plan. Section 4 is instructions to staff as I've just described. There are a number of deliverables that the ordinance calls for, studies, plans, Code amendments, things of the like, all those things need to be done and the ordinance calls for those things to be done.

And then finally, the remaining sections of the ordinance declare an emergency just like we did when we passed the three-month moratorium in November. This ordinance contains a like declaration and we have an emergency clause that dictates that the ordinance take effect immediately upon recordation with the County Clerk's office. With that I'll stand for questions.

CHAIRMAN SULLIVAN: Any questions of Mr. Ross from the Board? Okay, seeing none, we'll move forward. This is a public hearing on this ordinance. We will vote on this ordinance today at the conclusion of the public hearing. A couple of

reminders to folks in the audience: Please turn off your cell phones. If you must use your cell phone we would ask you to go outside or be escorted outside to use it. And also, please do not stand by the door. That's the fire exit. Please find a seat. There are still sufficient seats here up front for anyone who wants to participate in the hearing. Let me first see how many folks would like to speak today. How many folks do we have, if you would raise one hand who would like to speak today? Those of you who represent a group, it would good to have a spokesperson speak. Raise your hands a little higher please. Okay. Thank you very much. We'll try to move things along quickly. I'm not going to set a specific time limit at this time, however, we ask that you keep your comments to a minimum and extended presentations are not needed now. I think we want to hear different views that you wish to bring to the Commission, and also if you have heard a point that has been brought up previously that you agree or disagree with you're certainly welcome to agree or disagree with that point without going through the entire item again. That should move things along as well.

Let me ask for another show of hands. Those of you who are in support – or feel you may be in support of the ordinance as proposed today, would you raise your hand? [Approximately 50 people raised their hands.] Okay. Those of you who are here today who feel you have objections or concerns or questions about the ordinance that's in front of you today, would you raise your hand? [One person raised her hand.] Okay. Thank you. We'll get started in no particular order. Anyone who would like to speak, if you would just seat yourself on the front bench. We don't require you to stand like the City does. Just have a seat at the front and then after you've spoken, if you would just return to the back and let someone else sit down in the front so that they can speak. And when you speak, if you would just give us your name please. Make sure the recorder hears it and understands it, and also please tell us where you live. All right. We'll start from the left side here, the young lady in the blue shirt.

LINDA CORDELL: Thank you very much. My name is Linda Cordell and I'm a member of the Galisteo Basin Archeological Protection Act Coordinating Committee. I live in the City of Santa Fe, however, I participate in the group. And I commend the Commissioners considering the proposal. I support it. The federal protection act for the Galisteo Basin archeological sites – there are 24 sites – was passed in 2004 and signed into law. We are in the process right now as the law requires of doing an assessment of the archeological sites and so that assessment process is going on over the next year, and it's appropriate, I think to be able to share the information that we gain with the County and with the State so that planning can be coordinated, and that would be very difficult if in fact there were drilling going on. So I certainly support this. Thank you.

CHAIRMAN SULLIVAN: Thank you, Linda. Sir, next.

FRED MILDER: I want to thank the honorable Commissioners for allowing the public to speak at this meeting. My name is Fred Milder. I live in Galisteo. I happen to be the closest active water well to one of Tecton's proposed drilling sites. I also happen to be the closest resident to – my family, that is – the closest resident to an archeological

site called the Petroglyph Hills in Galisteo, which currently are honored by physically unprotected. And I've been following and involved in this process since the early meetings that Tecton had and then the meeting that the Commissioners had, the ordinance - commenting on the ordinance, etc.

I would just like to put my whole support behind the current emergency ordinance. Clearly it is essential that when anything that can have as major an impact to an area as oil and gas drilling comes along that in fact the counties have a sane and well thought out plan as to how that activity should be regulated. And clearly, the first thing that needs to be done is to gather information to provide support to inform the Commissioners and then to come up with a plan, and then to vote on a plan so that we know that we have both knowledge going into it as well as the support of the public in general. Again, I want to thank the Commissioners for over the past month doing what appears to be all of the right steps and I encourage you to continue to do that by voting for this emergency ordinance. Thank you.

CHAIRMAN SULLIVAN: Thank you, Mr. Milder. Next speaker, please.

HENRY CAREY: My name is Henry Carey and I'm a county resident. I'm here today representing Lone Mountain Ranch, which is a 29,000-acre property in the south end of the county. And it's an active working ranch. But the perspective that I'd like to talk to you from today is years of experience in federal land management. I'm a forester, have worked for the Forest Service, and have cut my teeth on a lot of the regulatory processes that have been highly controversial. So I've been on the receiving end many times of the mountain of letters that come in for every regulatory change. I know what it means to process those, to understand what the public is saying and to develop a response in law regulation that makes sense. I just understand that it takes time for us to do that job properly and I'm really very happy that the Commission is considering this proposal to make the ordinance drafting process and that timeline fit the magnitude of the job. Thank you again.

CHAIRMAN SULLIVAN: Thank you, Mr. Carey. Next speaker, please.

FRANK HERDMAN: Mr. Chair, members of the Commission, and you know from my prior presentations that I own - I'm sorry, I represent owners of property comprising approximately 6,000 acres within the Galisteo Basin who are very concerned about the proposed oil and gas exploration and other activities in their area. This ordinance that you have prepared is, you know from positions that I've stated before, is very much in a line with what I believe to be the appropriate road map to accomplish the necessary action needed to protect the interests of this area.

I would like to call your attention, however, to what I believe are three very important omissions that could create a possible loophole in this ordinance, which I would suggest that you would draft and correct upon your adoption. If you look at Section 3 you will find that the moratorium is intended to apply to a list of particular permits and approvals. However, not included on that list are three important permits and approvals that exist in your ordinance: development permits, which are liberally applied in the Land

Development Code, and probably more importantly, exploration permits and extraction permits. Your existing mining ordinance, which would be applicable to oil and gas mining, refers to exploration permits and extraction permits. Those three are missing from this list and I fear if they are not included you may be faced with a tangle down the road that you would regret. So I would request that upon your adoption it be amended to include those three, in fact you may want to include language to the effect of any and all permits, consents, and approvals, including but not limited to the ones listed in Section 3, plus the three that I have identified to make sure that virtually everything is covered. Thank you.

CHAIRMAN SULLIVAN: Thank you, Mr. Herdman. Just – the public doesn't have a copy of these amendments but just for your information, development permit is one of the ones that's in the amended section.

MR. HERDMAN: It is in there?

CHAIRMAN SULLIVAN: yes.

MR. HERDMAN: Great. Thank you.

CHAIRMAN SULLIVAN: Okay, next speaker please.

MICHELLE HENRY: Mr. Chair, Commissioners, my name is Michelle Henry. I'm an attorney based in Albuquerque. My address locally is P.O. Box 176, Santa Fe, 87504. I'm here on behalf of Ortiz Mines, Inc. Ortiz Mines is a small, family-owned company. It owns one and only one asset which is the mineral rights, including oil and gas rights, in the Ortiz Land Grant, which is the blue part of that handout that you have. And we are here in support of this ordinance.

I want to tell you thought that I'm concerned that the mineral owners have not been a part of this process. In part, that's our own fault; we've not been coming before you. But we want to be engaged in this process. We would like to be involved in developing the oil and gas ordinance because we too are very concerned about the environment. We think that Santa Fe County has an opportunity to become a leader, some sort of green ordinance where oil and gas is developed in a responsible manner, because we do not want to see the environment harmed.

We also though, unlike maybe some of the other voices that you have heard, are very interested in seeing the resource developed. And so we are looking for a balance. And what we would like to ask from you is two things. The first thing is that there be some sort of stakeholder work group that is developed to try to work through this ordinance in a way that creates that balance. Certainly, the environmental concerns, certainly the concerns about the water – we share those concerns, but also trying to take advantage of the new technology and the better way that oil and gas can be developed now. And if it can be developed responsibly we would like to see it developed because it is, as I said, my client's only asset.

So we would like to be at the table. We'd like to ask for balance, and the other thing we'd like to ask you for and you've probably read the letter that I mailed to you last week, is that we think the scope of the moratorium is too long. It makes sense to line it up with the Governor's moratorium. The studies that you're looking for from the Governor or

from OCD, whoever's preparing those studies, we think that the time period involved in getting those studies done and working through this process, we think that six months or five months or whatever's left of the Governor's moratorium. It's probably appropriate and we don't need to extend this beyond that time. Or at least, let's just go for the same scope as the Governor's moratorium and see where we are when that time period winds down. We think this should not be stopped forever, and we probably need a fire on all of us who are working on developing this oil and gas ordinance. So let's go ahead and get it done. So thank you, Commissioners, for your time, and again, we support the additional time and are looking forward to having a seat at the table to try to develop responsibly. Thank you.

CHAIRMAN SULLIVAN: Thank you, Ms. Henry. Next speaker.

CRAIG WINGATE: Mr. Chair, Commissioners, my name is Craig Wingate. I live at 3261 Highway 14 in the Galisteo Basin, just north of Cerrillos. I want to applaud you all for this proposed emergency interim ordinance. I am in strong support of it. I do believe that the timeframe is reasonable, the 12 months plus the six-month potential extension is what I view to be reasonable for bringing in all of the required studies and doing the individual map overlays, the GIS overlays that required to protect the area.

The one concern that I wanted to bring up related to the ordinance is about the geographic boundaries. I do not have the map that was alluded to by County Attorney Ross, but I'm a little concerned with the scope being limited to Galisteo Basin. It's my understanding that the mineral rights are not necessarily public. We know where the first 65,000 mineral rights leases have been secured by Tecton but we don't necessarily know the full extent and it's not necessarily a matter of public record. So for the protection of the county during this development of the ordinance cycle I would like to recommend that we actually enlarge the area beyond the limited Galisteo Basin to include Santa Fe County oil and gas drilling and exploitation activities within the county. Thank you very much.

CHAIRMAN SULLIVAN: Thank you, Mr. Wingate. Next speaker please.

TERRY SMITH: Thank you, Mr. Chair. My name is Terry Smith. I live at 7408-B, Old Santa Fe Trail. I want to congratulate and thank the Commission for standing up for us. Many of us have been very active in this and it is with a great feeling of appreciation that we see the hard work that you are doing to protect our special place from the inevitable ravages of oil and gas drilling. I would like to echo Mr. Wingate's comment on the notion that perhaps the Galisteo Basin is too small a geography for this special work. I am assuming that this work will be consistent with and integrated with the ongoing comprehensive growth management strategic plan that has been underway for a number of years in the County and that might give the opportunity to broaden the base of the analysis and area that would be considered for protection during the course of the coming year.

As chairman of the board of Santa Fe Conservation Trust, now stepping away from my citizen role, I urge the Commission and the staff to take a hard look at every opportunity you can have to protect the surface area of the conservation easements that are currently recorded in the Galisteo Basin. The Santa Fe Conservation Trust has made maps of those areas available to the staff and we'll continue to work with staff any way we can

to provide you with data that's resulted from a two-year study that we have done of many of the assets in the basin that are addressed in the ordinance.

And finally, just a wacky idea. I assume that there's a likelihood that the County will be faced with some very substantial additional costs beyond the current budget in carrying out this work, and speaking only for me, I believe there are a very large number of people in the county who if sufficiently educated about what is at stake would be prepared to support that work through supporting a special bond issue or special tax to offset the cost of this work, and I personally am prepared to work in every way that I can, given the constraints of my professional life to help move that forward if it becomes necessarily for the County to do such a thing. Thank you.

CHAIRMAN SULLIVAN: Thank you, Mr. Smith. I'm advised by our Finance Department that Santa Fe County does have an accounting code for those who give donations to the County. Seriously. So we're open to that suggestion at any point in time. Yes, sir. Go ahead.

LINDSAY LOVEJOY: Thank you. My name is Lindsay Lovejoy and I'm a resident of Santa Fe County and I'm also a lawyer here in town representing Mr. David Beddow, another resident of Santa Fe County. He'll be appearing before you on other points. I simply wanted to ask the Commissioners who I believe in general are very much on the right track with this ordinance to look at one detail involving the effective date, which is required by Section 3.21.14 of New Mexico statutes, which says that the last date of publication of the ordinance has to be at least 15 days before the effective date. I'm not sure we're meeting that with the process we have now and I would simply ask that the Commissioners make sure that this does not create a defect in this ordinance which is going to be so important to the entire county. Thank you very much.

CHAIRMAN SULLIVAN: All right. Thank you, Mr. Lovejoy.

DAVID BEDDOW: My name is David Beddow. I live at 46 Droege Road in Arroyo Hondo. Last week I formally proposed four amendments. Some of that now has been covered in previous comments. The first was covering the scope of work. I also agree the work should cover the entire county, not just the Galisteo Basin. The second amendment that I proposed requires that the information that is developed in the various and sundry plans and studies that are done are made public so that the public is dealing with exactly the same information that the Commission and the legal staff are dealing with in promulgating the ordinance.

The third amendment that I proposed was a conflict of interest proposal that would cover - which is very, very similar to the conflict of interest provision that is contained in the current Code, covering the Board, that would cover all people that are in the process of promulgating this ordinance. The fourth amendment that I proposed, again, has been covered by other commenters. There needs to be a provision in this ordinance that requires that all plans that are proposed to be implemented and adopted to subsequent ordinances or amendments to the plan or the Code provide for a mechanism of funding the activities that need to take place. Other than that, I fully support the ordinance and I appreciate your

efforts. Thank you.

CHAIRMAN SULLIVAN: Thank you, Mr. Beddow. Next speaker.
Commissioner Anaya.

COMMISSIONER ANAYA: The conflict of interest part, I didn't understand. Could you elaborate on the conflict of interest?

MR. BEDDOW: There is a provision in the Code that covers the mining board that requires that a disclosure of any relationship with an applicant or an industry for a permit be disclosed prior to a person being appointed to a board or functioning as an expert and I think that should apply to everyone. That does not preclude Tecton or the general public from making comments. It should apply, however, to expert testimony on which the Board makes a decision.

COMMISSIONER ANAYA: Thank you, Mr. Beddow. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Thank you. Next speaker.

JOHNNY MICOU: Hello. I'm Johnny Micou. I'm a resident of Santa Fe County at 179 County Road 55-A, and my comments will be brief. Mr. Chair, Commissioners, first of all, Drilling Santa Fe grassroots organization that promotes the protection of county resources, we support the emergency interim ordinance which would prohibit developmental approvals for oil, gas, geothermal, grading, drilling, extraction within the Galisteo Basin for 12 months and provide a six-month extension. We understand that boundaries can be expanded at any time, if I understood correctly at the last meeting, so I think that could satisfy some of these other remarks. We applaud the Growth Management Department who began to engage consultants and attorneys to develop the studies, reports and recommendations concerning the viability and compatibility of oil and gas activity in the Galisteo Basin. Towards this end, we submitted to you this morning, to the County, a petition that supports the actions being directed now by the County Board of Commissioners. As the process goes forward we also support that stakeholders will be included in every step of the planning process in a transparent manner. We agree that decision making should be made public. Thank you for allowing me to talk to you.

CHAIRMAN SULLIVAN: Thank you, Mr. Micou.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Johnny, how many signatures did you send in?

MR. MICOU: At the last count I had 2,600 and I think there's a couple more 300 or 400 now that I didn't get counted before I turned them into you. I went ahead and just turned them in even though I'm still receiving them.

COMMISSIONER ANAYA: Thank you.

CHAIRMAN SULLIVAN: Thank you. Next speaker.

KARIN FOSTER: Good afternoon, Commissioners. My name is Karin Foster. I am actually the attorney for the Independent Petroleum Association of New Mexico. The Independent Petroleum Association or IPANM represents about 230

companies. The average size of our company is 25 employees, of our members, is 25 employees. The majority of my companies are based here in New Mexico. Now, I'm not here today to specifically oppose the ordinance. What I'm here to do is specifically request that we be included in your stakeholder process.

My companies are the smallest oil and gas companies. They employ people that live here in New Mexico, send kids to go to school in New Mexico, who are the next-door neighbors of your surface owners who you heard from just now. We would like to make sure that we are also stewards of the environment and that we also protect the resources of Santa Fe County. If there is oil and gas or minerals here in Santa Fe County, that is a resource that you have that needs to be developed and protected as well. We would like to work with the County and the stakeholders in this group and meet the folks who just spoke to have an open line of communication.

We cannot have inflammatory statements like the County Attorney made earlier, that when oil and gas production comes into your county there are ill health effects that comes with it. There is no science right now to demonstrate that. What I would like to do and what I would like to offer you, as a member of the independent petroleum association is the science. We just finished 17 days of testimony on the pit rule where we spent thousands of dollars on scientists to look at the science and look at the impact on the environment and drilling. We would like to offer that science to you. Okay?

We would also ask that we have a set timeline on this moratorium. I was very concerned when I heard your County Attorney say that the time period could be a year, extended to 18 months, and then extended even further if the scope of work is not completed. The list of work that the County Attorney has laid out for himself is a huge amount of work and we acknowledge that and again, we would like to help you with that amount of work. But we would also ask that there needs to be a set timeline so that we, as oil and gas operators, know that when we can come back into Santa Fe County and invest our money. When we can come back with our rigs, when we can actually start doing development if possible. We would like to have a set time period of when this moratorium is going to end, not [inaudible]

In that light I would agree with the Ortiz Ranch folks, that it should be in line with the Governor's moratorium, or at least a few months beyond that. But not a sliding scale as heard your County Attorney say, because work isn't done and the work - and there is no end date that I can go back and tell my companies about.

I would also ask you to look at the County staff that you have. Do you have the staff and do you have the money in the County right now to start spending money for the scientists to redo, to reinvent the wheel on these studies and everything that oil and gas has done and what the environmental community has done, in evidence that we presented to the OCD. Again, we would like to provide you with that material so you don't have to reinvent the wheel. We'd like to have an open communication and open discussion so that we can provide you with that information.

And then finally, what I would ask is that any moratorium or any ordinance that

you have, that you please make it a balance. Make it a balance based on science and reason, not public outrage, and not folks that really don't understand what the science is all about. I respect their views and I respect their wishes to protect the resources of Santa Fe County, but what we are asking for is a balance, to protect the mineral interests as well as the small business owners in Santa Fe County and the State of New Mexico. Thank you.

CHAIRMAN SULLIVAN: Thank you, Ms. Foster. We encourage all information and I just want to be sure that those who are here understand that this is not a moratorium ordinance. It's an emergency interim development ordinance.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: I had a question for Ms. Foster.

CHAIRMAN SULLIVAN: Ms. Foster, a question.

COMMISSIONER MONTOYA: In terms of the information that you're talking about, the scientific information, is this information that is pertinent to the Galisteo Basin? Or is this information that has been done elsewhere?

MS. FOSTER: The information that was presented at the pit rule hearing - I don't know if you're familiar with the pit rule hearing, Commissioner, that was an OCD rule where they were trying to limit the use of certain pits throughout the State of New Mexico. There was a lot of science and research that was presented for the northwest quadrant, where the San Juan Basin is, and there's a lot of drilling that's going on there, and the southeast corner of New Mexico where there the Permian Basin is.

Now, because there has not been that much drilling done in Santa Fe County we did not present or have any research done in Santa Fe County specifically for that geology. However, I would venture a guess that any science from the northwest corner would be similar to the geology that you would find in Santa Fe.

COMMISSIONER MONTOYA: Okay. Thank you.

CHAIRMAN SULLIVAN: Thank you, Ms. Foster. Thank you, Commissioner. Next speaker, please.

JIM BIANCA: I first of all would like to thank you for this opportunity. My name is Jim Bianca and I reside in Eldorado. I'm chair of the Peace and Social Justice Committee of the Cathedral Basilica, St. Francis Cathedral, and we wish to encourage the Commissioner to approve the emergency ordinance. Importantly we consider the safety of the Galisteo Basin aquifer as well as the interconnecting aquifers to be a moral and social justice issue that will affect the health of all the people, now and in the future.

Unless there is 100 percent proof that the water, air and soil will not be contaminated, we oppose drilling for gas or oil. At a time of climate change and the danger to all people, we call for energy exploration from wind and sun and not from oil and other pollutants. Legislative changes need to be made to existing laws to protect us and future generations from this threat to all life. Especially important to us is the ease with which wastewater from drilling contaminates the land with little prevention from the drilling companies, and the protection given to these companies by existing laws. We thank you.

CHAIRMAN SULLIVAN: Thank you, Mr. Bianca. Next speaker, please.

JAY DILLON: I'm Jay Dillon, and I'm a resident of Santa Fe County.

Again, I echo the thoughts of many of the speakers previous. I definitely recommend a 12-month moratorium or extension of investigation. Two points, one was brought up earlier. One is if there's a possibility of having town meetings in this 12-month period, I definitely would recommend that. I feel that that's an essential part that the public be brought in to the process instead of just informed after. And the second point is to start thinking about what percentage of taxation can be applied to renewable energy in New Mexico when oil and gas extraction does occur, when it does occur, what type of percentage can be secured to the state taxation, to revenue. As I understand it - I've spoken once with the gentleman over there in that department that New Mexico is apparently right now doing seven percent of total energy is coming from renewables, which is phenomenal, but transmission lines are very costly, so it's the expense of putting these things in order, is astronomical. So I'd like to start thinking about what kind of percentage can be applied to alternative energy. Thank you.

CHAIRMAN SULLIVAN: Thank you, Mr. Dillon. Next speaker please.

DAVID BACON: My name is David Bacon. I reside at 54 San Marcos Road West. I do also support the moratorium. Watching this process over time, I think it's important to remember that the power of the County derives from the citizens, not from corporate structure. And I think it's very important in this moratorium to include a comprehensive body of the citizenry - local business, tribes, citizens from each of the districts and non-governmental organization. I think at that point there'll be quite a bit more buy-in and trust of the process. And I think it could be very valuable.

The attorney for the Independent Petroleum Association offered her point of view, scientific point of view. I also was at the Oil Conservation Division hearings and what I heard from Dr. Theo Colburn, who is the leading expert in endocrine disruption and in neurological disrupters from oil and gas was powerful testimony, very powerful.

So within a citizens body I feel we could make the process truly transparent and being in threads of evidence that are just beginning to surface right now. Some of them may appear to be anecdotal but there is a deep and consistent body of knowledge about the health effects of oil and gas on actual living, breathing human beings. Thank you very much.

CHAIRMAN SULLIVAN: Thank you, Mr. Bacon. Next speaker please.

BENNY SHENDO, JR.: Good afternoon, Mr. Chair, Commissioners.

Hello, my name is Benny Shendo, Jr. I'm a life-long resident of northern New Mexico. I am former New Mexico State Cabinet Secretary and currently a candidate for United States Congress in District 3. As we all know the area that we refer to as the Galisteo Basin is a unique place, a mix of residential, small business, ranching, equestrian communities, as well as historical sites, Native Pueblos and open spaces filled with wildlife. What we may not know is that the basin also has the highest concentration of archeological sites in the nation and is widely considered one of the most impressive archeological sites in America.

It is filled with diverse wildlife, plantlife, as well as what many consider to be the most beautiful vistas in all of Santa Fe County. This special place is considered by the National Park Service to be a National Heritage Area. Under this, this uniquely beautiful land is the large and endangered Galisteo Aquifer, which must be vigilantly protected from the risk of being contaminated and possibly destroyed. We cannot let history continue to repeat itself. We all know that drilling for oil inevitably brings air pollution, groundwater contamination and ecological destruction. While it is important that we continue to work towards positive energy solutions for New Mexico, the irreparable damage of oil exploration in this fragile environment and to our real estate, and to the tourism and the art market must be very carefully considered. Therefore I urge you to take all of the necessary time to make sure that we protect our lands and our unique, special way of life here in Santa Fe County. Thank you.

CHAIRMAN SULLIVAN: Thank you, Mr. Shendo. Next speaker. And let me ask the speaker please to limit your comments to the ordinance that's under consideration today. This is very specific, provisions of the ordinance. I'm sure that there are those who have varying opinions on oil and gas and other social issues but we are today debating and dealing with this particular ordinance. So if you could be specific to the ordinance that would move things along and help us a lot. Go ahead, ma'am.

ELIZABETH LOSEE: Thank you. I'm Elizabeth Losee. My address is 635 Applewood Road in Corrales. I'm appearing for the Ortiz Mine, the family-owned business who owns the mineral rights, and the Ortiz Grant, which is now part of the map.

CHAIRMAN SULLIVAN: Okay.

MS. LOSEE: I just wanted, in connection with some of the previous remarks, say that we have information on the approximate 20 wells that have been drilled here in the basin in the past. Approximately 20 wells have been drilled in the past in the basin that we would like to share with the Commission, when we come to the table to have input into this project. Thank you.

CHAIRMAN SULLIVAN: Thank you, Ms. Losee. Next speaker please.

MARK BEDNER: My name is Mark Bedner. I'm a resident of Eldorado and a coordinator for Peace and Justice for Animals. I want to comment the Commission for coming up with this ordinance on the development. Like many of the people who attended the hearings earlier I was concerned that it seemed that the process was being rushed along. I think this will give the Commissioners and the residents of Santa Fe a chance to spend the time necessary to ensure that we maintain our environment for ourselves, for the wildlife in the area. I hope that the Commission is willing to do whatever is necessary to defend whatever ordinance finally comes out at the end of this process.

I was a little concerned about some of the statements made in the public hearing about threats that Tecton or some other company might sue the County. I hope for that reason that you will be willing, if it should come to that, to hire an attorney who would be willing to defend the ordinance. I do commend the Commission for hiring somebody with expertise in the area of development of the County so the County can be properly advised

as to what your rights are so that you can represent the people and be sure that we come to a conclusion that represents everybody in the county, who from these public meetings is clearly overwhelmingly against oil and gas development. So I thank the County for your efforts and I look forward to future public hearings.

CHAIRMAN SULLIVAN: Thank you, Mr. Bedner. Next speaker please.

KIM SORVIG: Mr. Chair, Commissioners, my name is Kim Sorvig. I'm a research associate professor at the University of New Mexico. I also live in the area that Tecton has targeted for the initial exploratory drilling. You've heard me make a lot of sharp comments, both about the oil industry and I regret to say about some of you at some times, but I think we have moved very far past that and I am here today to commend you, not only on what you're doing but on the courage it took to do it. And I want to extend that specifically to Mr. Ross as well because he has been a focal point of all of the criticism and worry the citizens have felt.

As you know, the stakes here are immense. We've been talking with you about having a geographic mapping component to the ordinance, which it appears you are now set to do. But it really takes courage to have a public official go the media, go to the public and say, hey, we're not ready; we need more time. And that's really a great thing. I want to thank you for doing that. Obviously, I'm in support of this emergency moratorium and regulation.

I do want to make one comment about the claim that there is no science. That is in fact true. The reason for it is not what the oil and gas industry would like you to believe. These people, who if you notice have been taking out half and full page ads in the *New Mexican* saying, We're good neighbors. These neighbors have lobbied to exempt themselves from - I can name six federal pollution prevention acts, such as the Clean Water Act, that we all naively expect to protect us from any industry. The only industry that is exempt is oil and gas. As a result of no regulatory pressure they don't adopt the available pollution control technology that exists and that their own studies show save their industry money. I'm not pulling these ideas out of thin air, incidentally. They're from the Natural Resource Defense Council Report that was issued in October of last year.

Into the vacuum that this creates of no science and no studies of health effects on a comprehensive basis they have inserted their own science of the same sort as the scientists, so-called, who accepted \$16 million from Exxon-Mobil to prove that there was no such thing as global warming.

So as we move forward with this, if we need to reinvent the wheel, let's make sure that we do that so that the wheel is a sound one and not one that has been deliberated punctured by hired scientists. Again, I want to thank you so much for the courage and leadership that you are taking in even proposing this ordinance in the face of that kind of intimidation. Thank you.

CHAIRMAN SULLIVAN: Thank you, Mr. Sorvig. Are there any other speakers? [applause] This is a public hearing. It's not a presentation or a theatrical event. [inaudible] or we'll ask you to leave. All right. We'll close the public hearing. Thank you

for your comments and for your courtesy and for your brevity. Comments from the Commission.

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: For Mr. Ross. Mr. Ross, Mr. Herdman raised some issues on page 4, Section 3, suggesting that perhaps additional language was necessary, including exploitation and extraction. Do you have any response to that?

MR. ROSS: Mr. Chair, Commissioner Campos, we included development permit along this – for the same reasons that Mr. Herdman proposed. If we're going to prohibit the issuance of permits we have to make sure we verbalize all the possible permits that oil and gas operation could get. So I think what he suggests, his suggestion concerning exploration permits and extraction permits is a good one. I suggest we include that. I don't think we have any other permits but if you want, we can certainly include catchall language like he proposed as well – issuance of any and all permits pertaining to oil and gas exploration and production to make sure we capture the universe.

COMMISSIONER CAMPOS: I would suggest a broad approach but also including the extraction and the exploration. Mr. Ross, any other issues come to mind hearing public comment?

MR. ROSS: I don't think so, Mr. Chair, Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Manager Abeyta, anything you would add after hearing public comment?

MR. ABEYTA: No, Mr. Chair. There were a lot of statements regarding enlarging the boundary but as stated, we do have language in here that if need be, we can come back to the Commission at any point during this ordinance and enlarge the boundary.

COMMISSIONER CAMPOS: Okay. Mr. Kolkmeier, you're involved in this discussion. Do you have anything to add to the discussion? No? Okay. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Thank you, Commissioner. Commissioner Anaya and then Commissioner Vigil, then Commissioner Montoya.

COMMISSIONER ANAYA: Mr. Chair, Lindsay Lovejoy brought up the effective date, talked about the date. Are we onboard with that?

MR. ROSS: Mr. Chair, Commissioner Anaya, we prepublished this; we're okay.

COMMISSIONER ANAYA: Is that what he was talking about?

MR. ROSS: Yes.

COMMISSIONER ANAYA: Okay. Thank you.

CHAIRMAN SULLIVAN: Is that all, Commissioner?

COMMISSIONER ANAYA: That's it.

CHAIRMAN SULLIVAN: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. And my understanding is there's also an emergency clause in this. Is that correct?

MR. ROSS: Mr. Chair, Commissioner Vigil, that's correct. Both a defect declaration of emergency and a so-called emergency clause that makes it take effect upon recordation, but on its terms, it doesn't take effect until the 28th when the current moratorium expires.

COMMISSIONER VIGIL: I appreciate the fact that the ordinance does have boundaries identified to this particular region because I actually worked for Santa Fe County at the time that we enacted and supported a resolution establishing the Galisteo Basin area as a federally protected area, and I think that's unique in some way in comparison to other areas of the county. If we're able to expand once we've received these assessments then I think we can independently make that decision. But I think this area is unique and because of its uniqueness, its federal designation, we actually need to create a focus preliminarily with that. So I'm okay with keeping the boundaries where they are.

I have a question with regard to the special assessment district. To the extent that this ordinance is inclusive of that, is that going to be specific to a statutory special assessment district? Will it be inclusive of allowing this ordinance and this Commission the opportunity to look at public improvement districts, TIFs, alternative funding? Or is the special assessment district purpose narrower than that?

MR. ROSS: Mr. Chair, Commissioner Vigil, we can look at all of those. The most obvious one is a special assessment district for paying for the cost of oil and gas development as they accrue to the County.

COMMISSIONER VIGIL: Okay. And are special assessment districts the standard response to this or other oil and gas development in the state, Mr. Ross? Are there special assessment districts in those areas or how is that cost handled?

MR. ROSS: Mr. Chair, Commissioner Vigil, no. It's very atypical in the state to even have an ordinance regulating oil and gas development. There are a few cities that have it, no counties to my knowledge.

COMMISSIONER VIGIL: Okay. Just a moment, Mr. Chair, I think I have some other questions here. With regard to the actual percentage of taxation that can be deducted for renewable energy, that's not anything that I'm familiar with the County has any authority over. Is that not state designation of taxation?

MR. ROSS: Mr. Chair, Commissioner Vigil, yes. Of course we operate under the umbrella of all the state taxation statutes. We don't have the authority to create a new tax, for example, or exempt folks from existing state tax. We have limited authority with that. It's all specified in our various statutes.

COMMISSIONER VIGIL: Okay. Thank you. Mr. Chair, I'd also like to take the opportunity to help those citizens throughout Santa Fe County who became active participants in this process from the beginning. There's man citizens whose independent backgrounds, experience, knowledge, caring and passion for what's happening I really appreciated. I actually worked with some of them and hope to continue to be able to do that. I think that their engagement in this process is critical to the success of this project whatever the outcome may be. So I want to thank those people who took the time to meet

with County Commissioners, to meet with staff, to meet with state representatives, to meet with state agency staff and anyone else who was affected by this process and who had information to exchange, I think we have all come to a better place where we can at least gain a better understanding perhaps, some benchmarks, as to where we're going to go.

There are some people, Mr. Chair, that actually took a lot of time out of their own work and experience and families to conduct some independent assessments and studies and coordinate knowledge and share it between and amongst each other. I appreciate that. I appreciate the time that you all took to email. And I'll speak for myself independently, I so appreciated those emails that were personalized. I did not appreciate those emails that were what I call boilerplate, because those kind of just went delete delete delete delete. But those people who took the time to think this through and address the issue from a personal perspective, I really appreciate that and I think we, in this process, I want to thank our County Manager, our County Attorney, Steven Ulibarri, all of the people - our County Clerk too, who got a lot of inquiries with regard to what was going on with these - actually all of the permitting and the documentation of it. It has been truly an educational experience and I think probably the greatest benefit I will have from this is it will help me address the gaps and needs where we need to move forward with regard to enacting an ordinance, moving forward in creating what I think is in the best interest of Santa Fe County. So please, Roman, extend my gratitude to not only the three of you that I mentioned but all the staff, the Land Use staff, who made themselves available to the public.

We're really at a beginning phase. There's still a lot more to go. I think if we keep the lines of communication there, if we maintain respectfulness for each others' positions we can move forward in a much better direction. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: Thank you, Mr. Chair. I too want to thank the people that have been involved in this process over the last few months. Just for some people's information, we have hired an attorney who also happens to specialize in land use, who's written a number of land use ordinances throughout the country regarding these types of specific ordinances, Bob Freilich, Dr. Freilich. So we certainly have counsel and advisement from one of the top individuals in this country. So we certainly have listened in terms of the need to do what has been asked by the residents in this area, the residents in Santa Fe County.

I believe that the reason that we are doing what we're doing as well has been to open up the process so that it is a transparent process and different stakeholders will be at the table. We certainly need to have the information that has been gathered throughout the last couple of months since we implemented the three-month moratorium and now that we're going to the 12-month interim development ordinance to have that type of expertise and make sure that what we have available to us we're able to utilize, and that includes, I believe Ms. Foster and her organization in terms of the information that they may have as well. However, I do have to say that if there's been no geology for the Santa Fe Basin and

this particular Galisteo Basin, we certainly need to take the time that we're doing, which we're doing, to make sure that we get that information along with whatever else they may have in the southeast and the northwest region as well.

So there will be the townhall meetings. There will be a transparent and open process. I just want to thank Frank Herdman and Kim Sorvig and Craig Wingate specifically for the information you gave me in terms of being able to educate myself more in terms of what needs to be done and what needs to be done is what's going to be done. So I believe that we're definitely taking the right path.

I also appreciate the thousands of emails. Johnny, you said you had what? 2276 signatures? Something like that? That's about how many emails I get per day regarding this particular issue. So they're all with you, Johnny. And lastly, the County does have a finite amount of resources that we have dedicated for this particular issue, to make sure that it gets done between the time period that we have given ourselves to do it. So hopefully, with the amount of resources that we have allocated we're going to be able to get through the process and if not, then Terry, we'll take you up on your offer to begin filling that line item on contributing to what we may need in the future. So, again, just thank you all and that's all I have, Mr. Chair.

CHAIRMAN SULLIVAN: Thank you, Commissioner. Let me just add, some individuals I think expressed a desire, both those in the industry and not, for an open process, a transparent process, and that is the intent of this Commission. When I came on the Commission seven years ago one of the first things I did was initiate the televising of County Commission meetings. Prior to that time there had never been County Commission meetings that were televised. So we have continued in that vein and our processes and our community outreach through our land use efforts and our Growth Management Department, you will see throughout the area, the San Marcos area, the northern area, Pojoaque-Tesuque area, all the way down into the Edgewood area that forms Santa Fe County.

So you have our commitment that you will have a transparent process and that you will have a collaborative process, and you will have a process that involves the opinions of everyone being considered and those opinions being considered in a respectful manner. And we are encouraging everyone's input as we move forward.

We have an ordinance in front of us, Board members. What's the wishes of the Board?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: I too also would like to thank the constituents that live in my area, District 3, where the oil and gas is proposed, and the constituents that live around the area. As you all know, the Galisteo Basin is where I grew up. I've stumbled across a lot of those archeological sites as I was hunting deer in that area. So I've tromped all around that area. So I hold that area real close to my heart. I'm not completely against oil and gas, but I am for drilling for oil and gas in the right manner. I don't want

the oil companies to come to us and tell us where they're going to drill. I want them to come to us and we will tell them where to drill, if there's oil and gas there. And if they're going to protect our quality of life and our water and the storage site and the millions or the thousands of animals that live out there.

So, Mr. Chair, as I was listening to the testimony, and again, I thank you all for showing up today. Commissioner Vigil and I were signing birthday cards for County employees. And I was thinking, we want to have a lot more birthdays for all the County employees. And if we don't save our water and save our environment we won't have those birthdays. We won't be signing these birthday cards. So just a little something that we were doing up here if you were curious.

So with that, Mr. Chair, if you're ready for a motion -

CHAIRMAN SULLIVAN: Go ahead.

COMMISSIONER ANAYA: I would like to make a motion to approve this ordinance, this emergency interim development ordinance on oil and gas, with the amendments.

COMMISSIONER MONTOYA: Second.

CHAIRMAN SULLIVAN: Okay. Let me clarify this is Ordinance 2008-2.

The amendments, let me just be sure that I have your motion, Commissioner Anaya, would be to add under the permits, exploration and extraction permits, in addition to development permit that was added, and to add language to the effect, and other applicable permits.

Would that be the correct characterization, Mr. Ross?

MR. ROSS: Yes, Mr. Chair.

CHAIRMAN SULLIVAN: Does that capture your motion, Commissioner?

COMMISSIONER ANAYA: Yes, sir.

CHAIRMAN SULLIVAN: And the seconder?

COMMISSIONER MONTOYA: Yes.

CHAIRMAN SULLIVAN: Okay. Discussion on the motion.

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: I just want to say this is a beginning, but it's going to be a tough job for everybody. Not only for the Commissioners and for staff but for members of the community. It's going to be a tough job. We're going to have to evaluate. We're going to have to plan. We're going to have to create infrastructure and all this is going to be very expensive. And we're not always going to agree. But we will all do our best. We will exercise our best judgment and that's all we can promise you as Commissioners. We will do the best we can to come up with the best ordinance and hopefully establish a model ordinance that other people in this country can follow. And I think that is our goal. And I thank you for being here. I thank staff for the great job, for the great work and I'm excited about this process, even though I know it's going to be tough. I know it's going to be tedious. I know there are going to be nights we're going to be pointing at each other but in the end, I think the community will prevail. Thank you

very much.

CHAIRMAN SULLIVAN: Thank you, Commissioner.

COMMISSIONER VIGIL: That clarification on the motion.

CHAIRMAN SULLIVAN: Clarification on the motion.

COMMISSIONER VIGIL: I'm assuming that the maker of the motion with the amendments included the cleanup language on the amended ordinance that we're reviewing at this point in time, that it included the extension of the boundaries to Ortiz, and the cleanup language identified with the redlines.

CHAIRMAN SULLIVAN: Okay, clarification that the motion includes the ordinance in front of us, which has that boundary extension and the cleanup language. Was that the intent of the maker?

COMMISSIONER ANAYA: Yes, sir.

CHAIRMAN SULLIVAN: And the seconder?

COMMISSIONER MONTOYA: Yes.

CHAIRMAN SULLIVAN: Okay. Other questions?

The motion to approve Ordinance 2008-2 passed by unanimous [5-0] roll call vote, with Commissioners Anaya, Campos, Montoya, Vigil and Sullivan all voting in the affirmative.

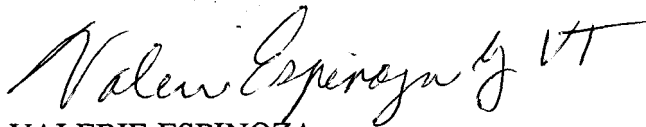
XIV. ADJOURNMENT

Chairman Sullivan declared this meeting adjourned at 3:24.

Approved by:



Board of County Commissioners
Jack Sullivan, Chair



VALERIE ESPINOZA
SANTA FE COUNTY CLERK

Respectfully submitted:



Karen Farrell, Wordswork
227 E. Palace Avenue
Santa Fe, NM 87501



ERK RECORDED 04/15/2008

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

ORDINANCE NO. 2008 - ____

AN EMERGENCY INTERIM DEVELOPMENT ORDINANCE FOR A TWELVE MONTH PERIOD PROHIBITING DEVELOPMENT APPROVALS FOR ZONING AND SUBDIVISION MAPS, GRADING, AND DEVELOPMENT PERMITS, NON-CONFORMING USES, SPECIAL AND CONDITIONAL USES AND EXCEPTIONS, USE AND AREA VARIANCES FOR OIL, GAS, AND GEOTHERMAL GRADING, DRILLING AND EXTRACTION WITHIN THE GALISTEO BASIN COMMENCING ON FEBRUARY 28, 2008, AND TERMINATING ON FEBRUARY 27, 2008~~2009~~, AND PROVIDING FOR AN EXTENSION TO AUGUST 27, 2009 IF REQUIRED IN THE LEGISLATIVE DISCRETION OF THE BOARD OF COUNTY COMMISSIONERS, UNTIL THE ADOPTION OF A GENERAL PLAN AMENDMENT, A GALISTEO BASIN AREA PLAN, A CAPITAL IMPROVEMENT AND PUBLIC SERVICES PROGRAM, CREATION OF A SPECIAL IMPROVEMENT DISTRICT FOR THE GALISTEO BASIN, AND FOR AMENDMENTS TO THE LAND DEVELOPMENT CODE, ADDRESSING AND RESOLVING CONSIDERATIONS OF PUBLIC HEALTH, SAFETY, CULTURAL-HISTORICAL, ARCHAEOLOGICAL, FISCAL, ECONOMIC, PLANNING, INFRASTRUCTURE AND SERVICES, GROUNDWATER AQUIFERS, ENVIRONMENTAL AND THE PUBLIC NUISANCE IMPACTS OF SUCH GRADING DRILLING AND EXTRACTION.

WHEREAS, the State of New Mexico, Office of the Governor, Bill Richardson, has issued an Executive Order 2008-004, dated the 24th day of January, 2008, imposing a five month moratorium on the processing and approval of applications for permits for oil and gas drilling in Santa Fe County and the Galisteo Basin within the County until a fair and thorough evaluation and assessment by all state executive agencies with relevant knowledge and expertise ("Executive Agencies") of state laws, regulations, policies and planning documents is conducted concerning the water, environmental, economic, historic-cultural and archaeological impact of drilling and extraction of oil and gas that would be contrary to the interests of the State of New Mexico and its citizens;

WHEREAS, Executive Order 2008-004 directs that ~~all~~ the Executive Agencies work collaboratively with other governmental agencies, including affected tribal governments and Santa Fe County ("County"), and to provide an opportunity for government entities, including Santa Fe County, to receive and evaluate input from the public in order to formulate public policy and government planning and report back to the Governor by June 24, 2008;

WHEREAS, Santa Fe County has previously adopted Ordinance No. 2007-14, dated November 27, 2007, placing a moratorium on the acceptance and processing of applications to drill an oil or gas well for a period of three months or until the 28th day of February, 2008;

WHEREAS, Ordinance No. 2007-14 declared an emergency affecting the public health, safety and welfare by reason of applications for drilling new oil and gas wells within the Galisteo Basin without adequate planning, health and safety standards for the location, operation and mitigation of the effects of oil and gas drilling and without appropriate provisions in the County's General Plan and Land Development Code to assure that significant irreparable damage to the human and natural environment does not occur;

WHEREAS, the County's General Plan and Article III, Section 5 of the Land Development Code, have inadequate provisions and standards relating to oil, gas, and geo-thermal ~~grading~~, drilling and/or extraction necessary to prevent a catastrophic impact upon the public health, safety, fiscal and economic, environmental, historic-cultural and archaeological, infrastructure and public service provision and protection of property rights emanating from such grading, drilling and extraction activity;

WHEREAS, the County is proposing to prepare and adopt amendments to the General Plan: a new Galisteo Basin Area Plan; a Capital Improvement and Public Services Program (CIP); creation of a special improvement district for the Galisteo Basin; and amendments to the County's Land Development Code necessary to implement such General Plan Amendment, Area Plan, Special District and CIP to guide the location and availability of adequate fire, emergency, police and health services, roads, water and storm water management, water pressure and storm water infrastructure and services, and to establish appropriate sustainable design, location, use, and construction conditions and standards to protect the public from environmental, water aquifer pollution, fiscal, economic, health, safety, historic-cultural and archaeological damage from oil, gas, geo-thermal, rock and mineral grading, drilling and extraction activities;

WHEREAS, the Executive Agencies' reports will not be available until June 24, 2008, and the findings, standards and remedial measure promulgated by such reports will require an additional five months of analysis by the County staff consultants and officials, including preparation and adoption of appropriate provisions into the County's General Plan, Land Development Code and new Galisteo Basin Area Plan, and to establish a new Special Improvement District, Capital Improvement and Public Service Program collectively to implement State and County recommendations;

WHEREAS, the County will require the engagement of planning, fiscal, economic, water, environmental and engineering consultants and attorneys, to analyze and recommend appropriate planning, fiscal, economic, capital infrastructure and public service availability, environmental, water, health and safety goals, objectives, policies, strategies, standards and conditions related to the adoption and implementation of the

General Plan amendments, a new Galisteo Basin Area Plan, Special Improvement District and Capital Improvement and Public Services Program;

WHEREAS, the County will require extensive hearings and workshops to solicit public input, evaluation and recommendations after the County staff consultants and the Executive Agency recommendations are received on or after June 24, 2008, and the adoption of this Interim Development Ordinance is necessary to ~~insure~~ensure the benefits of permitting complete discussion and participation by citizens, concerned groups, developers, operators and property owners who will be affected by consideration of amendments to the General Plan and Land Development Code, adoption of a new Galisteo Basin Area Plan, Special Improvement District and Capital Improvements and Public Services Program, without having a race of diligence with owners filing and submitting applications to grade drill and extract oil, gas, and geo-thermal energy during the formulation and public discussion of the new plans, CIP, Special District and Land Development Code regulations;

WHEREAS, the County requires additional time to identify and/or secure additional dedicated funding for administrative, planning, departmental and special district expenses, attorney's fees, consultant studies, extension of capital improvements and public services, including obtaining financial commitments from the State and other sources;

WHEREAS, given the scope of the issues and areas to be addressed by amendments to the general plan, a new area plan, a capital improvement and public service program creating a special improvement district and implementing amendments to the Land Development Code, twelve additional months, in addition to the initial three month moratorium period, is necessary, essential and reasonable in order to complete a fair and comprehensive planning and public participation process that results in legally and scientifically sound plans, policies and regulations;

WHEREAS, the County may extend the period of time of this Ordinance for a further six months from February 27, 2009, if required to complete and adopt the plans and regulations, after public workshops and hearings;

WHEREAS, County preparation of amendments to the General Plan, the creation of a Galisteo Basin Area Plan, a Capital Improvement and Public Service Program, creation of a special improvement district and amendments to the Land Development Regulations, together with the recommended changes in state statutes, programs and regulations guiding the Executive Agencies pursuant to the Governor's Executive Order, require special protection to eliminate the need for hasty adoption of permanent controls in order to avoid the establishment of non conforming uses or to respond in an ad hoc fashion to specific problems. Instead this Ordinance assures that the planning and implementation process may be permitted to run its full and natural course with widespread citizen input and involvement, public debate and full consideration of all issues and points of view;

WHEREAS, the County has committed necessary staff and outside consultant and legal resources to the development of permanent goals, objectives, policies, strategies and regulations to plan for and protect the Galisteo Basin in order to facilitate its diligent and good faith effort to establish: (1) permanent General Plan Amendments; (2) a Galisteo Area Plan; (3) a Capital Improvement and Public Service Program; (4) creation of a special improvement district and (5) Land Development Code amendments to implement this Ordinance within a reasonable period of time;

WHEREAS, this Interim Development Ordinance constitutes a valid exercise of the County's Zoning and/or police power, consistent with NMSA 1978, § 3-21-1 ("Zoning; Authority of County") and NMSA 1978, § 4-37-1 *et seq.* ("County Ordinances"), and the Smart Growth Environmental and Natural Resource Policies of the General Plan, so that the County may regulate and restrict within its jurisdiction the location and use of buildings, structures and land for trade, industry, residence or other purposes and may prohibit the use of property for purposes declared to be injurious to the health and safety of the community; and

WHEREAS, the Board of County Commissioners has reviewed the Smart Growth, Planning, Water, Environmental, Land Use, Fiscal, Economic, Cultural, Historical, Archaeological and Natural Resource goals, objectives, policies of the existing General Plan and the Land Development Code regulations; the Governor's Executive Order and the findings delineated in this Interim Development Ordinance and further finds that the adoption of this Ordinance will serve compelling county, regional, tribal, state, and federal governmental interests to further protect the health, safety, water aquifers, environment, infrastructure and public services, economic, fiscal, historic, cultural and archaeological resources of the County and the Galisteo Basin and constitutes a comprehensive, rational and appropriate exercise of the County's emergency powers and authority.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY, NEW MEXICO:

Section 1. The area of regulation being enforced by this Ordinance constitutes the area within the red and blue lines shown on the Map of the Galisteo Basin, attached hereto and made a part of this Ordinance as Exhibit "A".

Section 2. During the effective period of this Interim Development Ordinance, the boundaries of the Galisteo Basin Map (Exhibit "A") may be amended by the County by ordinance of the Board of County Commissioners to extend the effective territorial boundaries beyond the Galisteo Basin up to and including the County's full territorial jurisdiction, through the adoption of a new Map replacing Exhibit "A".

Section 3. During the effective period of this Ordinance no new application, nor processing of any existing and filed application, for zoning and subdivision approval, special use permit, development permit, conditional use permit, special exception, non-conforming use, area or use variance, grading, or building permit related to grading,

drilling or extraction of oil, natural gas, or geo-thermal energy, within the boundaries of the Exhibit "A" Map shall be accepted or processed by the County, its staff, departments, commissions, and/or the Board of County Commissioners until the adoption of permanent plans, a capital improvement and public services program, creation of a special improvement district and amendments to the Land Development Code regulations.

Section 4. The County Manager and County Attorney are directed to have the County's Growth Management Department begin immediately to engage county staff and expert consultants and attorneys to develop and focus the Growth Management Department's efforts to develop studies, reports and recommendations relating to the following matters:

A. Consideration of the creation of a legislative overlay zoning district for the territorial area contained within the boundaries of Exhibit "A" for oil, gas, geo-thermal grading, drilling, and/or extraction taking into account comprehensive planning, performance and sustainable environmental standards required to apply the overlay zoning district to a property within the territorial boundaries of Exhibit "A";

B. Amendment of the General Plan and preparation of a Galisteo Basin Area Plan to incorporate goals, objectives, policies and strategies relating to consideration of the location, timing and sequencing of oil, natural gas, or geo-thermal drilling or extraction use, including but not limited to, consideration of potential impacts to water aquifers, environment, health, safety, fiscal, economic, historical-cultural-archaeological resources, and the adequate provision of public facilities and services necessary to support the operation of any such oil, gas, geo-thermal energy grading, drilling and excavation use;

C. Adoption of a Capital Improvement and Services Program implementing the long term goals, objectives, policies and strategies of the General Plan Amendment and Galisteo Basin Area Plan with respect to provision of adequate public facilities and public services over the life of the Plans necessary to service any oil, gas, or geo-thermal, grading, extraction or drilling use;

D. Adoption of amendments to the Land Development Code with respect to establishing sustainable environmental standards and conditions for building, construction, grading, excavation and drilling of oil, gas, or geo-thermal uses; including implementation of the goals, objectives, policies and strategies of the General Plan amendment, the Galisteo Basin Area Plan-, the state Executive Agency and Governor's recommendations and the findings and purposes of this Ordinance relating to health, safety, protection of private property, water aquifers environmental, historical-cultural and archaeological resources; and to assure the adequate provision of public facilities and public services to support the needs generated by oil, gas, or geo-thermal grading, excavation and drilling use.

E. Creation of a special improvement district within the territorial limits of Exhibit "A" for the assessment to oil, gas, or geo-thermal grading, excavation and drilling uses, the cost of providing for the reasonable and proportionate legal, administrative expenses and expert studies; and for the costs of public facilities and services the need for which is generated by such uses; and

F. Any other and further actions necessary to carry out the purposes of this Ordinance.

Section 5. If any section, subsection, sentence, clause, item, change or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

Section 6. All ordinances or parts of any ordinances in conflict with this Ordinance are hereby repealed to the extent of said conflict.

Section 7. An emergency is hereby declared because of the imminent danger to adjoining property owners, water aquifers, environmental, health, safety, fiscal, economic, cultural-historic-archaeological resources; to remedy deficient public facility and services of the County within the Galisteo Basin by virtue of applications to grade, drill and excavate for oil, gas, or geo-thermal uses within the Galisteo Basin.

Section 8. It is necessary for the protection of the public health and safety of the County that this Ordinance take effect immediately upon recordation.

Section 9. This Ordinance will cease to be of effect by February 27, 2009, or for any period of extension for six months thereafter no later than August 27, 2009.

PASSED AND ENACTED THIS 26th Day of February, 2008.

**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY, NEW MEXICO**

By: _____
Jack Sullivan, Chair

ATTEST:

Valerie Espinoza, County Clerk

SEAL

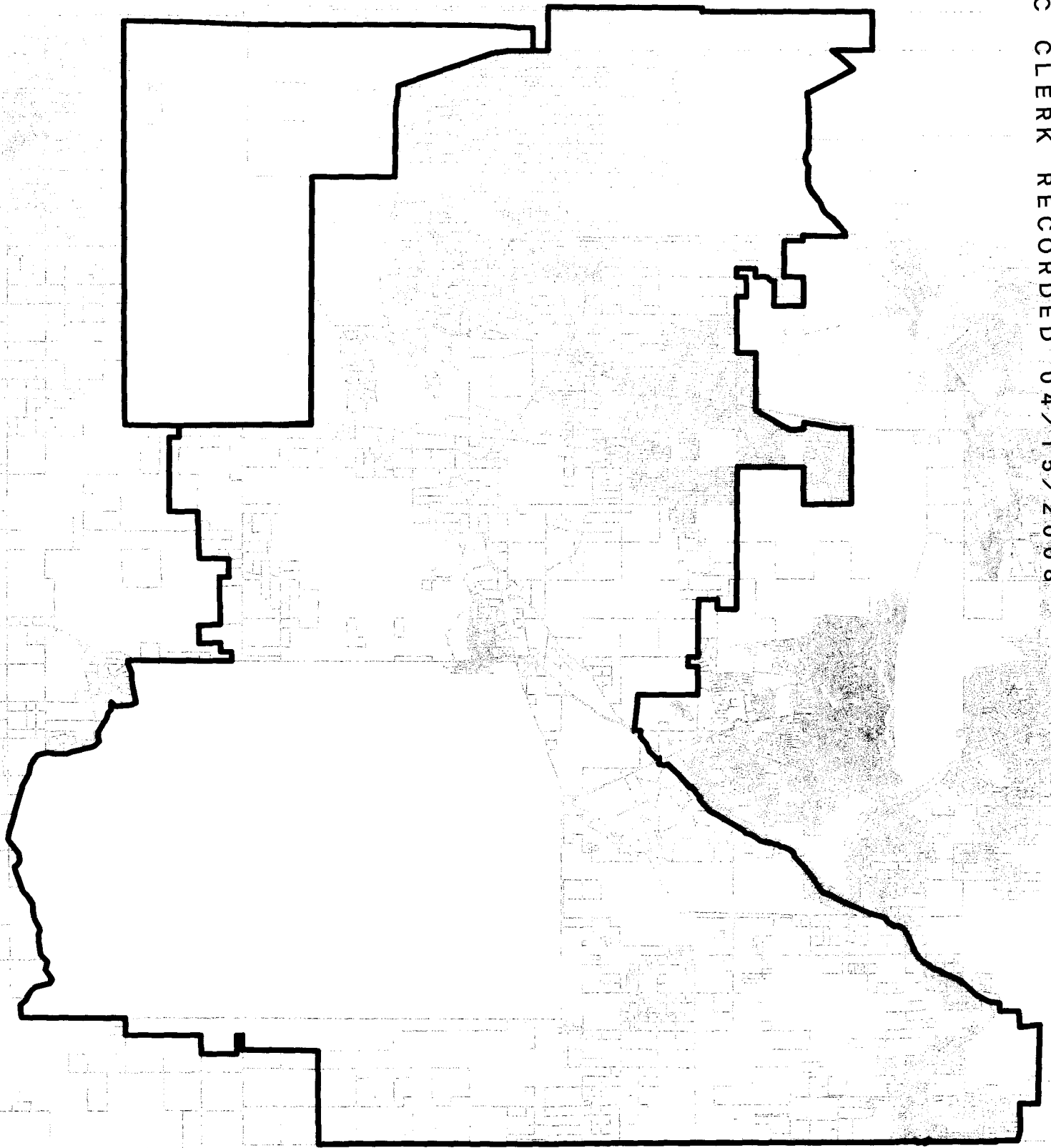
Approved as to form:

Stephen C. Ross

SFC CLERK RECORDED 04/15/2008

Map of the Galisteo Basin

Exhibit A



Legend

Parcels

Components of the Galisteo Basin:

Galisteo Growth Management Area

Ortiz Land Grant

1:220,000

1 inch equals 3.5 miles



February 26, 2008