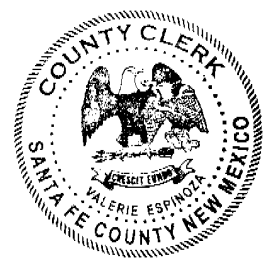


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BCC MINUTES
PAGES: 135

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SANTA FE
BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING
May 30, 2006

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

SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

May 30, 2006

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

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

Members Present:

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

Members Absent:

[None]

V. Invocation

An invocation was given by Eli Ramsdell, Associate Pastor of the Santa Fe Baptist Church.

VI. Approval of the Agenda

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- B. Tabled or withdrawn items**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

JACK HIATT (Deputy County Attorney : Mr. Chairman, Commissioners, thank you. I have several amendments and changes to the agenda, if you will bear with me. I apologize. The three-day weekend made it necessary to make some changes. First of all, on page 1, at the request of Commissioner Sullivan we've added item F, Discussion and possible recommendation of approval of \$350,000 expenditure of Regional Planning Authority.

Commissioner Sullivan has suggested we change that title from possible recommendation to possible approval. Is that correct, Commissioner Sullivan? So that will read possible approval.

Turning now to page 2, under Consent Calendar Budget Adjustments, the last item, item 8, that's really a contract and that should appear under the Miscellaneous items under the Consent Calendar as number 9. So if you would just note that that's number 9 under the Miscellaneous Calendar.

CHAIRMAN MONTOYA: Are you on page 2?

MR. HIATT: I'm on page 2, number 8, under Budget Adjustments. Number 8 really is Miscellaneous number 9. That's where it will appear.

CHAIRMAN MONTOYA: So we're moving it down to X.C. 9.

MR. HIATT: That's correct. Moving to page 4 under XI. C. 2, Project and Facilities Management, item number 2 really should appear under the Public Works, the next heading down, so it would just indicate on your agendas that number 2 under C. is really number 2 under D. That's a Public Works item.

The next issue is under Water Resources. I'm told, Mr. Chairman, that you had wanted to move that. Is that correct, sir?

CHAIRMAN MONTOYA: What are the thoughts of the Commission?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Why do you think it should be moved?

CHAIRMAN MONTOYA: The only reason being is that about three o'clock this afternoon I will be headed to Pojoaque for the dedication for the highway for former Governor Anaya and I'd like to participate that, and I'd like to participate in this discussion as well.

COMMISSIONER CAMPOS: And there may be a lot of folks here in the public to talk about that case. Maybe you can ask for a show of hands to see who's here for that case. Maybe we could move it up to before lunch, unless we expect a lot of people to come at some other point - we don't have a meeting session, do we?

CHAIRMAN MONTOYA: No.

COMMISSIONER CAMPOS: It might be better to do it sooner because there's a lot of folks here for that particular case and that would allow you to participate.

CHAIRMAN MONTOYA: Okay. Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. I'd like to move it up also. Where would we like to move it to, if we move it up?

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I agree.

CHAIRMAN MONTOYA: Okay, could we move it right after Matters of Public Concern?

COMMISSIONER CAMPOS: Before Matters from the Commission?

CHAIRMAN MONTOYA: Yes, before Matters from the Commission.

COMMISSIONER CAMPOS: I have no problem with that.

COMMISSIONER VIGIL: Mr. Chairman, I'm wondering, there's a couple of other items, particularly the water service agreement with Agua Fria. We have representatives from Agua Fria here too. The biomass is something we promised. But I think - I don't know how long it will take but I think because we have significant public here for both of those they should probably be back to back.

COMMISSIONER CAMPOS: Which item are you talking about?

COMMISSIONER VIGIL: IX. B.

CHAIRMAN MONTOYA: Maybe we could move -

COMMISSIONER VIGIL: I think the members for this water service agreement are probably all here. I'm not sure everyone who's here on the Santa Fe Canyon Ranch is here because they were to be considered later on in the agenda. So my feeling is we could really hear the water service agreement first and then the Santa Fe Canyon Ranch.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I would ask the staff if there's any problems that they see, by rearranging the agenda.

MR. HIATT: I see no problem.

COMMISSIONER CAMPOS: Another question, is there anyone out there from Santa Fe Canyon Ranch or anyone else that would have an objection.

[Rosanna Vazquez, agent from Santa Fe Canyon Ranch stated she had no objection and they could be heard following Agua Fria.]

CHAIRMAN MONTOYA: Okay. So then we'll move item XI. D. 1 to after item IX. C. So Biomass will be after the Santa Fe Canyon Ranch.

COMMISSIONER VIGIL: I'm sorry. Mr. Chairman, you're saying the Biomass would be after the Santa Fe Canyon Ranch? I believe that's only a ten-minute presentation and we had required Mr. Sardella to wait a long time, so perhaps we could allow the ten minutes for him as it is on the agenda.

CHAIRMAN MONTOYA: I have two different recommendations. One is to hear the water service agreement and Santa Fe Canyon Ranch successively and now we're looking at changing the order to put the Biomass in between the two water presentations.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: My understanding was that Matters from the Commission were separate in that we were moving these two items after item VIII as separate items and not as Matters from the Commission. I think that's the easiest way of doing it.

COMMISSIONER VIGIL: I'm fine with that.

CHAIRMAN MONTOYA: Okay. So we'll move after Matters of Public Concern item XI. E. 1 and IX. B. Is that clear as mud? Any other changes?

MR. HIATT: Yes, Mr. Chairman. On page 4 still under F. Matters from the County Manager, it's my understanding that item 2, the resolution for the adoption of the state plan for deferred compensation was to be moved up to Matters from the Commission. I don't

know if you were aware of that.

CHAIRMAN MONTOYA: I was not aware of that, no.

MR. HIATT: I don't have any more information, Mr. Chairman.

CHAIRMAN MONTOYA: We'll just leave it where it is.

MR. HIATT: All right. Number 7 under that same category was the discussion and direction concerning the process of the sole community provider supplemental payment on behalf of St. Vincent Hospital. That was added late Friday. On the last page, Mr. Chairman, under Matters from the County Attorney, you'll note an item added late Friday at the request of the County Clerk, consideration and possible action on a resolution imposing the annual liquor license tax upon persons holding state liquor licenses. That was added, Mr. Chairman, because June 1st is the deadline for the Commission to take action.

And finally, the last suggestion for amendment is under Executive Session, the item now labeled as f. should be 4. And the purpose of that, Mr. Chairman, is you'll see that e. is the discussion of the easement on the County property. If in fact the Commission chooses to take action it needs to be in open session as a separate line item, number 4. So f. should be 4. And that's the extent of my suggested amendments.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Move to approve as amended.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: Okay, we have a motion and a second. Any discussion?

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

COMMISSIONER SULLIVAN: How about Consent Calendar?

CHAIRMAN MONTOYA: That was under -

COMMISSIONER SULLIVAN: We didn't talk about withdrawals.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I had a couple of withdrawals under VI. C. Consent Calendar Withdrawals. X. A. 5, B. 1, on page 2. And B. 4, and C. 6.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: If there are no further withdrawals, I would move that the items mentioned by Commissioner Sullivan be removed from the Consent Calendar for discussion separately.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: Motion, Commissioner Campos, second, Commissioner Vigil. Discussion?

The motion to isolate for discussion the four items raised by Commissioner Sullivan passed by unanimous [5-0] voice vote.

VII. APPROVAL OF MINUTES

A. April 19, 2006

COMMISSIONER CAMPOS: Move to approve.

CHAIRMAN MONTOYA: Motion by Commissioner Campos.

COMMISSIONER VIGIL: Are there any changes? If there are I will second that with changes.

COMMISSIONER SULLIVAN: I had one typographical change.

CHAIRMAN MONTOYA: Okay, motion and second with changes.

COMMISSIONER CAMPOS: Okay with the movant.

The motion to approve the April 19th minutes as corrected passed by unanimous [5-0] voice vote.

VII. B. April 25, 2006

COMMISSIONER VIGIL: Move to approve with any change if any. No changes so motion just to approve.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Motion to approve as presented. Second by Commissioner Campos. Discussion?

The motion to approve the April 25th minutes passed by unanimous [5-0] voice vote.

VIII. MATTERS OF PUBLIC CONCERN – NON-ACTION ITEMS

CHAIRMAN MONTOYA: This is the portion of the meeting where if there is anyone from the public that would like to address the Commission with any issue you may come forward at this point. Sir, go ahead and come up.

COMMISSIONER CAMPOS: Make sure that not already part of our agenda.

GARY ROYBAL: I'm Gary Roybal and I'm representing Santa Fe Vending. I'm requesting an answer to some correspondence that I have to the Employees Benefits Committee that they have elected not to respond to me. Basically, the issue is vending machines on County property.

CHAIRMAN MONTOYA: Okay. And you've spoken to whom about this?

MR. ROYBAL: Mario Gonzalez, I believe.

CHAIRMAN MONTOYA: And you have not received any -

MR. ROYBAL: No, there's no response to my correspondence at all at this point.

CHAIRMAN MONTOYA: Okay. Gerald, can we follow up and see what the situation is here and get a response?

GERALD GONZALEZ (County Manager): Be glad to do that, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. If you could give him your questions we'd be glad to get those to you.

CARL DICKENS: Chairman Montoya, I'm Carl Dickens. I'm vice president of the La Cienega Valley Association and I just want to ensure that you and the Commission understand there are a number of people who would like to speak to the request for the extension to the County water service boundary.

CHAIRMAN MONTOYA: Okay, Carl. So noted. Thank you. Any others that would like to address the Commission?

IX. B. Consideration and Approval of Water Service Agreement Between Santa Fe County and the Agua Fria Community Water Association (Commissioner Vigil)

CAROLYN GLICK (Assistant County Attorney): Mr. Chairman and Commissioners, the water service agreement before you, the County is agreeing to deliver up to 36 acre-feet of water per year to the Agua Fria Community Water Association, to commence as of the date the BDD project is operation and infrastructure to deliver the water has been completed. This agreement recognizes a prior determination by the Metropolitan Water Board that found that the Agua Fria Community Water Association was in need of and eligible to receive 36 acre-feet of water per year.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, I just want to preface, and perhaps even identify a little bit of a prologue. I know that Gil Tercero is actually here to address the history of this commitment that this Board made to this community. Mr. Chairman, we're dealing with a traditional historic community that's statutorily defined and was in the jurisdiction of Santa Fe County and will continue to remain within the jurisdiction because annexation cannot occur. This water association that we're dealing has been in existence for quite some time, so much so, that they had been planning and preparing for the future of their delivery system, came to the Board of County Commissioners with a resolution which states well back in - actually the Metropolitan Water Board made a decision in 1990 and the Board of County Commission made a commitment later on. I think it was also in November. It was November 13, 1990 as the agreement says.

My belief on this was that the Board of County Commission made the commitment knowing that it was within their responsibility to assist this community and at the time, there was really no avenue or prospect in sight with how the Board of County Commission could actually assist Agua Fria community. But at this point in time, as we're working through the Buckman Direct Diversion, I think it's really important that we made a commitment to the community and fulfill the previous commitments that have been made based on this agreement.

Mr. Chairman, I think I will let Gil Tercero address the history of this. I also want to inform the Commission that I received a phone call this morning from Senator Nancy Rodriguez who just arrived from out of town, wanted her position stated, has visited with our County Manager repeatedly, and urges us strongly to support this agreement. Mr. Tercero.

CHAIRMAN MONTOYA: Before we do that, are there any questions from the Commission at this point? Commissioner Sullivan.

COMMISSIONER SULLIVAN: I don't know whether - I do have some questions but I think I'd like to hear Mr. Tercero's presentation first and get some background before going into that.

CHAIRMAN MONTOYA: Okay. Gil, go ahead.

GIL TERCERO: Thank you, Mr. Chairman, Commissioners. I believe Commissioner Vigil has stated our mission very accurately in that in 1990, the Board of County Commissioners allocated 36 acre-feet of San Juan/Chama to the Agua Fria Community Water Association as reflected in minutes that we have shown the Commission. I'm not sure if they're in your packet. But again it reiterated in this agreement that staff had drafted for the Commission. We are in the same condition as many other associations, communities throughout the County of Santa Fe where water is precious and we felt like began the process in 1990 getting in line, asking the County to allocate part of its resource of San Juan/Chama water to the community of Agua Fria. We believe that that was accomplished through the action of the Board of County Commissioners at that time.

Subsequently, the County has adopted procedures for the County water plan and agreements for the allocation of this water. We have not followed the procedure to do that and that's what this action or the request for the Commissioners is all about. We want to follow up with the action that was taken by the Commission in 1990 and have a water service agreement between Agua Fria and Santa Fe County and we have met with the County Manager, County Attorneys, the Water Division staff. Several of the issues that were brought up were how exactly physically is the water going to be delivered to Agua Fria. And we have got alternatives, three alternatives, depending on what route the Buckman Diversion system takes through the village. It's going to be in any case somewhere within the vicinity of Agua Fria and within our reach.

We can physically build the lines necessary and the infrastructure necessary to commit to the County system some time in the future. Whether it's 2009 or 2010 if the project is still on schedule as I understand that's the schedule now. We are in a position where we can meet our demands for water today, both physically and legally, in the water rights that we have. But in the future, with the County planning process that we've been involved in and understanding the

growth rates that we will be experiencing in Agua Fria, we know that the demand will fall out of reach of our capabilities as far as water rights are concerned. And that is one of the reasons that we feel it's so important to Agua Fria to be able to partner with the County and purchase water through the Buckman Diversion system in the future. And I would stand for any questions that you might have.

CHAIRMAN MONTOYA: Okay. Any questions? Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Tercero, first of all, Agua Fria will be paying the County for the water, right?

MR. TERCERO: Yes, sir.

COMMISSIONER CAMPOS: And you are working on a master plan for the community?

MR. TERCERO: Yes, sir. As far as master plan, you're talking about the community plan?

COMMISSIONER CAMPOS: Yes, sir.

MR. TERCERO: Yes, sir.

COMMISSIONER CAMPOS: I'm sorry. Yes, it's a community plan. And a good portion of your community and village already has a wastewater connection.

MR. TERCERO: There is, thanks to the County and the state of New Mexico, we've got a sewer line down the majority of Agua Fria Road to service the Agua Fria community. Phase 3 will be completed probably in a couple of years and that would be the final leg of the sewer line.

COMMISSIONER CAMPOS: Okay. I think that's an important factor, but one question I have for our Legal Department, or for you, Mr. Tercero. If we're providing you with water, and if at some point we are able to treat this water, it would be important for the County to have. What is your view on that issue?

MR. TERCERO: As far as treatment and perhaps return flow credits?

COMMISSIONER CAMPOS: Returning it to the County for treatment, if the County is in a position in the future to do that.

MR. TERCERO: The sewer line as it's built right now is hooked on to the City's sewer treatment facility. I would hope that in the future that the City and the County can reach some type of understanding with respect to the utilization of the recycled water, but right now the City is the only -

COMMISSIONER CAMPOS: I understand that right now they're the only ones but I'm saying hypothetically in the future, if the County's in a position to treat this water, what is your position on that issue?

MR. TERCERO: Our position would be that we would like to have the County get credit for the return flow, being that you are the source of this water.

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

CHAIRMAN MONTOYA: Okay. Any other questions for Mr. Tercero?
Commissioner Sullivan.

COMMISSIONER SULLIVAN: Gil, I'm a little bit confused on some of the

history of this. There's no copies in our packet of the agreements that were made. There's just this proposed agreement so we don't have any background on this matter at all in front of us. But as I understand it, the Metropolitan Water Board said that Agua Fria was "in need of and eligible to receive 36 acre-feet of water" but that the allocation should be made to the Public Service Company of New Mexico. And then - so the Public Service Company of New Mexico, which of course ran the Sangre de Cristo Water Company at the time, that water company was then purchased by the City of Santa Fe. And the City of Santa Fe has the lion's share of the San Juan/Chama allocation, as you know. They have over 5,000 acre-feet of San Juan/Chama water or close to 5,000 I think is the number, and the County of Santa Fe has only 375 acre-feet.

Now, it seems that if that commitment were made by PNM, and I'm not saying it wasn't, again because the documents are not here for us to review. It would seem that you should be going to the City, to the Sangre de Cristo Water Company at the City to consummate this agreement. Am I wrong about that?

MR. TERCERO: Logically, you're right, but there's a step there in between where after the Board of County Commissioners approved the allocation of this water and designated the Sangre de Cristo Water Company as the source of delivering that water. That's what agreement was about. Agua Fria entered into an agreement with the Public Service Company to deliver water and we physically connected to the City system at Agua Fria school. We put a master meter and we've been taking water from that source since 1990. That agreement was a 40-year agreement that we had with Sangre de Cristo and then subsequently the City of Santa Fe. It expires in 2030. It seems like a long ways a way but it's not. As far as we're concerned, when that agreement expires, we're not certain that the City will renew it. That's why we want to get in line as county residents, as County customers of the County water system to be able to take water from that source at some point in the future. That's it.

Today we don't need it. But in coming years, whether it be five years or ten years, we will definitely need that water. We are not residents of the City of Santa Fe and we don't believe there is any reason to expect that the City will continue to honor or renew an agreement that they don't need to. I can't speak for that at this point in time. I don't know what position they're going to be in. We are talking to the City right now about the existing contract and whether or not it can be amended or renewed, but we're not certain on that. We're looking at the diversion and how close it's going to go through the village. We believe that is the ultimate source for our future expansion.

Not that we will be totally depending on that. Without that we will not be able to supply the projected demand in the community.

COMMISSIONER SULLIVAN: I guess - and this is a question, Mr. Chairman, for Legal staff. We have in place now - well, let me go back to just one comment, Mr. Tercero. The reason I brought that up is that of course Santa Fe County's policy is that whether there are water service agreements, which we don't do any more. We've now replaced those with a water allocation policy, is that whoever requests this water service has to provide the necessary water rights to offset wherever they're taking it from, whether it's wells or

whether it's the Rio Grande.

So you would have between now and 2030 to figure that out, obviously, but the City does not require that. So if you're a City customer and have that history, it may be more beneficial to the residents of Agua Fria to continue that relationship and to try to solidify that relationship now. I think it's good to look ahead to the future even though it's 24 years from now. And my concern is that there are numerous mutual domestics and there's, for example, the entire Eldorado Water and Sanitation District that we have to deal with as well that are very close to the Santa Fe County line, and they also will be coming in and saying we want so much of the San Juan/Chama water, we want so much of the San Juan/Chama water. And that's why we developed this allocation policy which we just put into place two months ago.

So that's the reason for my asking about that. But Mr. Chairman, Steve, would the allocation policy be the route that we should be going here? Again, I recall your saying that the County does not do water service agreements anymore. We allocate as the requests come in based on the need.

STEVE ROSS (County Attorney); Mr. Chairman, Commissioner Sullivan, the water allocation policy that was recently enacted carves out a place for intergovernmental agreements which is what this is. So those are considered in the current allocation policy to be above the line. So this seems like it could be an appropriate mechanism to do this.

COMMISSIONER SULLIVAN: So we could do the same. So any mutual domestic could come in and request a certain amount of water as well as the Eldorado Water and Sanitation District that has hundreds of acre-feet of water rights, it would be appropriate for them to come in and request a water service agreement from Santa Fe County.

MR. ROSS: Right. They're all political subdivisions. Mutual domestics in particular are political subdivisions. A water and sanitation district of course is a political subdivision of a sort. But any governmental entity could come in and request water above the line and they wouldn't be subject to the application process and the six-month rule and all that that we talked about a couple months ago.

COMMISSIONER SULLIVAN: Okay. So that will help Eldorado I'm sure to know that. Mr. Tercero, where does the 36 acre-feet come from? I see again in this agreement some comment about PNM agreed to provide the association with water service not to exceed 50 percent of their annual requirement, and I assume that means 50 percent of your total usage on your system. Is that how you got at 36 acre-feet?

MR. TERCERO: No, Commissioner Sullivan, the 36 acre-feet was a number that was applied to the allocation from the Metropolitan Water Board. The actual request was for 75 acre-feet at that point in time as reflected in this. We do have copies of the minutes of the Metropolitan Water Board meeting and the Board of County Commissioners which maybe I could give you.

COMMISSIONER SULLIVAN: We can just make some copies. We don't have time to read it now. You can just give it to the Clerk and we'll make some copies.

MR. TERCERO: We will give you copies. As I said the original request was for 75 acre-feet. The Metropolitan Water Board in its wisdom decided to allocate 36 acre-feet.

But I would say I did not know that the County's position with respect to water service agreements was in any way changing to deal with allocation policies. But if it is doing that, I would state that that further strengthens our position in that this allocation was made back in 1990. And that's exactly what it was, an allocation. The original documents by which the Bureau of Reclamation granted water to the City and to the County of Santa Fe, that was the creation of a Metropolitan Water Board to administer that water. They created an allocation policy back then and one of the principle portions of that allocation policy was to recognize the need for service to existing communities. That was contemplating far more than just Agua Fria.

But they realized that a good portion of this water was going to be going towards new development and they wanted to ensure that a certain amount of that water was reserved for existing communities. That's why when we approached the Metropolitan Water Board, they were willing to set aside a percent of their water, ten percent of the County's water for Agua Fria. And I'm sure that other communities would be in that same position. But we did get in line and that allocation was documented. We stand before you to basically ratify the action of the Metropolitan Water Board and the Board of County Commissioners back in 1990. I appreciate the situation that Eldorado is in and hopefully these Commissioners will find solutions to that community's problems as well as all the others.

At this point in time we would like to ask the Commission to focus on the issues surrounding Agua Fria in that we acted properly in 1990 in asking for this allocation. It was granted. We are merely trying to follow up and complete what was started there, knowing that the City and the County are taking steps to physically make it possible to utilize this water, which up until now it hasn't been the case. So it was a moot position. We have at this point in time needed to believe that Agua Fria would be able to physically connect to the County's water system.

COMMISSIONER SULLIVAN: Let me as, Mr. Tercero, the Metropolitan Water Board action says here, in the proposed agreement, indicated that AFCWA was in need of and eligible to receive 36 acre-feet, but that the allocation should be made to the Public Service Company of New Mexico because the board – and I assume that means the Metropolitan Water Board – had not yet adopted an allocation policy statement. So they took an action and the number 36 acre-feet apparently surfaced. And then the next whereas says that the County Commission in November of 1990 approved an agreement with the County and PNM that leased 375 acre-feet to PNM – this doesn't seem to be totally related to this – and then on December 19, PNM and Agua Fria Community Water Association entered into a water service contract whereby PNM agreed to provide the association with water service, not to exceed 50 percent.

Now, those are the three citations that we have. So when you executed your agreement with PNM in December of 1990, did that indicate that they would provide you with San Juan/Chama water or they would just u provide you with water, or they're going to provide you with 50 percent of the water up to 2030? Is that what that agreement says?

MR. TERCERO: That agreement does not specify the 36 acre-feet. That agreement only specifies service, terms and conditions, and the maximum that they will

provide, which is 50 percent of our total use.

COMMISSIONER SULLIVAN: Okay. So I'm not seeing where the County allocated 36 acre-feet to Agua Fria. I'm seeing where the County or the Metropolitan Water Board moved the issue over to PNM, which again was the Sangre de Cristo Water Company. At that time it was a private entity, hadn't been purchased yet. Where - can you help me to understand when and what actions did the Board of County Commissioners take that made this commitment separate from PNM? I'm looking at the Metropolitan Water Board. Now, the Metropolitan Water Board was a joint City/County/PNM entity. And you've opened up a particular page here. Is there something you want me to -

MR. TERCERO: Actually, Commissioner Sullivan, I didn't turn to a specific page, but the Board of County Commissioners are also in that packet. The actions of the Board of County Commissioners -

COMMISSIONER SULLIVAN: I see on the agenda a request approval of a joint agreement between Santa Fe County and Sangre de Cristo Water Company. Is that -

MR. TERCERO: If your copy is in the same order as mine, it's the second page where the Board of County Commissioners acted on this case. The minutes indicate that the presentation was made by Mr. Wilson and the highlighted portion there indicates that part of this water has been allocated to the Agua Fria water system, as you probably know, from the statement made by Mr. Wilson. And then the action of the Commission was affirmative. [inaudible] the 375 acre-feet of San Juan/Chama water, which is what that agreement was about. The County at that time used to lease that water back to the Sangre de Cristo so that Sangre de Cristo could pay the storage fees for this water. Sangre de Cristo had agreed to continue paying storage fees for this water based on annual renewal of this agreement.

COMMISSIONER SULLIVAN: This is Mr. Wilson. This is the hydrologist, Mr. Wilson?

MR. TERCERO: No. He was at that time the County Planner.

COMMISSIONER SULLIVAN: Okay. It says historically, the water company and the City agrees to pay for and not necessarily use, but to pay for the allocation of water. You do this contract on an annual basis so you would have the opportunity at some point in the future and we needed the water. You could decide to take the water into a County water system. So does that mean that the City of Santa Fe owes us 36 acre-feet from the allocation that was made to PNM?

MR. TERCERO: I'm not sure what has subsequently occurred between the County and the City of Santa Fe, but I would say that that would not be the case, that the City of Santa Fe has not taken any of the County 375 acre-feet at this point in time. But I'm not party to any of the discussions or knowledge of what's going on. But the 36 acre-feet is part of that 375 acre-feet and as far as I know that is still the County's part of the San Juan/Chama water.

COMMISSIONER SULLIVAN: Okay, but - well, just to conclude, Mr. Chairman, we're talking now about San Juan/Chama water. We're not talking about allocations under our wheeling agreement, what used to be called our wheeling agreement. We're talking

about San Juan/Chama water. Am I correct, Mr. Tercero?

MR. TERCERO: We right now are talking about the County making a commitment to Agua Fria for 36 acre-feet of water.

COMMISSIONER SULLIVAN: Of San Juan/Chama water?

MR. TERCERO: That was the original source.

COMMISSIONER SULLIVAN: That's what I'm reading in this agreement. Are you in agreement with that? Do you read it the same way?

MR. TERCERO: Yes, Commissioner, I do.

COMMISSIONER SULLIVAN: Okay. Other than water - well, let me ask another question then and that is, does the association have any problem with over the period of time and as these are needed, with paying the necessary - either acquiring the necessary water rights or paying for them, or transferring them to the County? Does that propose any obstacles for you?

MR. TERCERO: Yes, Commissioner Sullivan, it does. That is a major obstacle in that our position would be that this water was acquired for the public good and for service to existing communities and we stood in line back in 1990 for an allocation and it was granted properly. At this point in time we do not feel it would be appropriate to require Agua Fria to acquire water rights for the delivery of water to the village.

COMMISSIONER SULLIVAN: Or anyone, I guess. Any municipality that came in should get the free water.

MR. TERCERO: I can't comment for anyone else. I can speak for Agua Fria. And Agua Fria is an existing community that did what it needed to do back in 1990 to secure the commitment from the County for this allocation. That's our position, that we do not believe that it would be appropriate for the County to require that in order for us to get service from the County that we go out and purchase water rights to dedicate for this use.

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

CHAIRMAN MONTOYA: Any other questions for Mr. Tercero?
Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, just to underscore Mr. Tercero's position on this, I would say really the design of this is for Agua Fria to become a customer of the County system. Would you agree with that, Mr. Tercero?

MR. TERCERO: Yes, Commissioner.

COMMISSIONER VIGIL: Okay. Not unlike how we are a customer in some places with some of the City systems, Mr. Chairman.

CHAIRMAN MONTOYA: Any other questions?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I would like to have a response from our Manager or Attorney on the issue raised by Commissioner Sullivan as to whether this water should come from the City allocation? I think that's a major point that he's arguing. Is that correct, Commissioner Sullivan? Just an analysis of that point.

MR. ROSS: Mr. Chairman, Commissioner Campos, the City has taken the position in recent years at least that it does not supply water outside of the City limits absent a special resolution. I think it's called a Section 7 or something like that, dating from a resolution in the 2002 range. So they've recently taken the position that they don't supply water in areas of the county, and they've actually approached myself and others in the County about some of their major customers out in the county concerning just that issue. Whether we shouldn't be crediting some of our San Juan/Chama allocation or some of the other water rights against those deliveries.

This agreement dates prior to – or this arrangement with the mutual domestic dates from prior to either the City or County water system. It goes back to a day when the Metropolitan Water Board, which was a City/County board, essentially held all of the San Juan/Chama rights on behalf of the City and County customers. The only way to deliver on the obligations that Mr. Tercero has been discussing was through PNM at the time. Now, it just so happens we know what happened to PNM; that system was purchased by the City of Santa Fe. So we're in this kind of strange situation where obligations were made by a City/County board that could only be delivered through a private company that's now owned by the City of Santa Fe. It's kind of an unusual situation and I haven't been spoken specifically to by City representatives about this arrangement, but it doesn't differ from some of the other arrangements that exist of which I have had some conversations. In other words, large customers outside city limits receiving City water. Does that help?

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

CHAIRMAN MONTOYA: Okay. Any other questions? Representative Jim Trujillo is here. Representative Trujillo, do you have anything to add?

JIM TRUJILLO: Thank you very much, Mr. Chairman and members of the Commission. I have been involved with the Agua Fria Community Water System, in their planning and the only question that I have that I'm interesting in them to receive that allocation that was promised by the 1990 County Commission. I think that the Commission should be able to honor that allocation. And like Commissioner Vigil says, they are merely going to be a customer of Santa Fe County. And I think that as long as they have the agreement that they have, I think that the County Commission should honor it.

CHAIRMAN MONTOYA: Thank you, Representative Trujillo. I only have I guess just one question and that's of Steve Wust. Steve, have you taken a look at this agreement and if you could maybe just give me your analysis and recommendation.

STEVE WUST (Water Resources Director): Mr. Chairman, I have looked at it briefly. It was mainly done out of the Legal Department. The one issue that I can foresee on it, and it's an issue that may actually affect the Agua Fria folks, is by defining it being a San Juan/Chama delivery. And the reason I bring that up is that recent events in the environmental impact study have caused the City and the County and Las Campanas partners to look at our operating of the facility, and in essence declare that San Juan/Chama water will only be diverted at certain times of the year and other water will be diverted other times of the year. And I don't want to get Agua Fria into a situation where we say, well, you need water this time

of year but we have no San Juan/Chama water this time of year because of this operating agreement. It's sort of a conflict on how you view the different quantities of water.

So the only thing I would say on this agreement is if we could just make it say a delivery and not specify it as San Juan/Chama water we won't get into this issue down the line because again, we could get into a conflict with the Bureau of Reclamation, they US Fish and Wildlife Service and the US Forest Service by saying to them, we will only divert San Juan/Chama water at certain times of the year to make up for silvery minnow issues or other issues, and then have an agreement with Agua Fria saying, well, we're delivering you San Juan/Chama water. Those two things are not meshing. That's an issue. I don't have any problem at all based on the capacities to say a commitment of 36 acre-feet to the mutual domestic. It's not a delivery problem; it's not a contract problem. But specifying the type of water actually could end up being a legal problem somewhere down the line. So that would be my one recommendation in terms of the agreement as a whole. But in terms of operating or fulfilling the requirements, the utility would have no problem doing that.

CHAIRMAN MONTOYA: Okay.

MR. ROSS: Mr. Chairman, just a note. The agreement doesn't specify where any water is coming from. It's just a wholesale water service agreement. So we could use San Juan/Chama water to deliver water to meet the County's obligations under this agreement, or we could use some of the County's 900+ acre-feet of Middle Rio Grande water. It doesn't specify that this is simply San Juan/Chama water. It's a highly flexible agreement.

CHAIRMAN MONTOYA: So then Steve, where it references San Juan/Chama, is it just referencing it as a potential?

MR. ROSS: That's in the whereases.

CHAIRMAN MONTOYA: Right.

MR. ROSS: Right. And if you look over in the subsequent paragraphs you're not going to see any provision in there that specifies that the water that's delivered pursuant to the agreement must be matched against San Juan/Chama water, because Dr. Wust is right. You have to have a lot of flexibility at the river to decide on any given day what water rights are going to be used to make certain deliveries. So we certainly wouldn't want to get into those kinds of specifics. It certainly wouldn't serve the association because Dr. Wust is right. There might be some issues with San Juan/Chama water at certain times of the year. What have you. And we would always want to be able to have a flexible portfolio of water rights with which to make deliveries so that deliveries can be made.

CHAIRMAN MONTOYA: So then if we're allowing that flexibility with this, then under the whereases, to me it suggests, I guess, that San Juan/Chama will be the source. Should we take out any references to San Juan/Chama?

MR. ROSS: Mr. Chairman, whereas set forth in this case the history of the agreement and the reason for entering into the agreement. They're not contractual. They're just statements that illustrate why you're entering into an agreement but the statements that are in the whereases are not enforceable as contract language. Only the language that appears behind the numbered paragraphs on page 2, 3, and 4 of the agreement are enforceable as contract

language.

CHAIRMAN MONTOYA: Okay.

MR. ROSS: One of the difficulties we had with this agreement is getting the historical context clear and that's another reason that in this case we set it out in such great detail so that people reading this agreement in another ten years would have before them what happened. They wouldn't have to piece it together like we had to.

CHAIRMAN MONTOYA: Okay. Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. First of all, I want to thank Mr. Tercero and Mr. Mier and Mr. Romero and the rest of the people on your board for bringing this back to us so that we could clear this up. It's important that we keep our existing communities alive and well and make sure that they are supplied with water. So I am glad to see that we clarified that when we do have the San Juan/Chama water we use it. If we don't use something else. But I'm in strong support of this and just want to thank you all for bringing that forward and clarifying it. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Thank you, Commissioner Anaya. What are the wishes of the Board?

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I move that this Board of County Commissioners approve the water service agreement between Santa Fe County and the Agua Fria Community Water Association for 36 acre-feet of water delivery.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Motion Commissioner Vigil, second Commissioner Campos. Discussion?

The motion to approve the water service agreement with Agua Fria Community Water Association passed by unanimous [5-0] voice vote.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. I know that most of the people from Agua Fria are filing outside. I really want to particularly thank Senator Nancy Rodriguez, Representative Jim Trujillo, the Water Association and the Planning people who have been engaged in this particular issue. I think in many ways we have a historic decision before us today, Mr. Chairman, because what we actually said is we are going to take care of our existing communities and this community, because of its historical traditional value, has had a lot of experiences from both local and state government, problems with their water rights and many problems that they're trying to recapture right now. It's probably the booming community in Santa Fe, well before New Mexico became a state because it was the one stop on the Camino Real where the connectivity to northern America has existed. So I'm very proud of this community's historic tradition and incredibly, incredibly proud to represent a community that

does so much work to maintain their traditional historic value. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Thank you for your work on that also, Commissioner Vigil. Dr. Wust, before you get started, I just wanted to recognize Bill Heinback who is with the Government Relations Office out of Los Alamos National Laboratory. Bill, thank you for being here this morning. Appreciate it. And I also recognize former Santa Fe County Commissioner Linda Grill. Commissioner Grill, thank you for being here as well.

XI. E. Water Resources Department

1. Request to Extend County Utility Water Service Area to Santa Fe Canyon Ranch

DR. WUST: Thank you, Mr. Chairman. This is an item that's been in front of the Commission a couple of times and tabled. The area near La Cienega known as Santa Fe Canyon Ranch has requested that we extend our water service area to cover their property. There's a map in your packet because it's an irregularly shaped property and it's bounded by other jurisdictions, for example, parts of Santo Domingo Pueblo. So we couldn't just, as before, when you extended the water service area, just extend by section or something like that.

We have a larger map with all the legal survey signs and markers in case this gets passed, so we have all the correct information. You have a simplified map in front of you. This is an area that's being proposed for development. There is a master plan that I believe has been submitted, and they have come and discussed with the County the possibility of providing County water to all or a portion of their development. However, they are not currently within our water service area. In order to have that discussion and to get a letter of commitment or to get on the allocation schedule or any of those other things, they need to first be within the water service area.

So that's the request in front of you today, whether to extend the water service area to cover this property. It is not a commitment for water. It is not any kind of agreement. It just allows us to be able to proceed on those discussions. Because I've had questions from Commissioners when this came before, that is how do I decide whether to bring this in front of you, mainly we look at whether this property is adjacent to existing service area, and it is. Is it adjacent to or near existing infrastructure, and it is. We have infrastructure at Las Lagunitas. And whether they are ready to move ahead on a development plan, which they are. Like I said, they're submitting a master plan.

So with that, the Commission now gets to look at considerations and I'll enumerate a few of those for a policy decision on whether or not to extend the service area, and those considerations would be, is this a designated growth area or an area the Commission would like to see as a growth area? Is this an area that seems to be growing anyway, no matter what we do and we would prefer to have them on the County water system instead of on an independent water system? Or is this an area we would like to eventually see as part of our County water system? So those are some of the considerations.

The County Attorney pointed out to me the new allocation policy also specifies that when one of these requests comes forward, I should relay to you how much we think it would cost to be able to do this service. I had Doug Sayre our engineer work up a quick little summary. You don't have it in your packet. But he looked at about a little over a million dollars, which is mainly having to do with looking at having to build a new storage tank down in that area. Because we have none right now. And with an expanding area we would probably need some additional storage and disinfection units and also upsizing the lines in case we look at that area as a potential growth area and therefore would like to have larger pipes in the future.

However, the thing to know about that number, a little over a million dollars, is that most agreements with new developments, we generally get them to fund most of the infrastructure that's required for their particular development. This would not be as straightforward because things like the storage tank would be required because of the addition of this new development, but it would also service all the surrounding areas, such as Las Lagunitas or La Cienega if we need to supplement their system. So it would be in use for a larger part of the County system. However, its need would be generated by adding on this development.

I know as part of the master plan there's some uncertainty of whether the development wishes to use the County water system 100 percent right at phase 1 or partially in phase 1 or none in phase 1, and I'm not totally up on that right now. Our County Hydrologist is reviewing those things. But none of that is really part of the issue we're looking at in terms of a water service area because we can't even talk about those things if they're not part of our water service area. So it really comes down to whether the Commission feels this is an area that we would like to see our County water system expand to in the future. Most of this development would be serviced after BDD, not before, because we don't have that kind of quantity of water. So this is really a consideration to get the water service area out there to see whether the Commission would like the Water Resources Department to continue to hold discussions with Land Use and the developer to see if that's an area we would like to service as part of the County utility. And with that I stand for questions.

CHAIRMAN MONTOYA: Okay. Any questions for Steve? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Steve, let me ask Steve Ross because I think he may have it handy. Could you read the specific allocation or regulations criteria? What I want to do is be sure that we have in front of us what our regulations say that we should consider in reviewing boundary service extensions.

MR. ROSS: Mr. Chairman, Commissioner Sullivan, our new allocation policy collected a number of different policies that the department has had in place for 20 years into a single document. Among those were the various policies about establishing a service area. It has collected all those policy statements that were made over the years into three separate paragraphs in our new allocation policy. So this is the landscape that we're dealing with now. The policy says an applicant can petition the Board to amend the service area of the department at any time and that's why we're here on such an application.

The policy goes on to say that once an application is made to amend, the department shall analyze the request, and that's what Dr. Wust did over the last week, and shall determine the technical merits of the application and evaluate the cost of providing service within the area requested. The analysis shall be presented to you for consideration. That's just occurred. So in C, this is what you should consider with respect to the application. You're to consider the application itself, the report that Dr. Wust just gave you and the statements of person supporting or opposing the application. The Board may base its decision whether to amend the service area – and this is the important part – on the ability of the County to service the proposed area, the cost of providing such service, the revenue expected to be received as a result of the service so provided and other relevant facts. Essentially, four elements.

COMMISSIONER SULLIVAN: Okay, so then, Dr. Wust, you've given us the cost and what is our ability to serve the area? Do we have the ability to serve it now or would this occur after BDD or when?

DR. WUST: Mr. Chairman, Commissioner Sullivan, for most of the development it would be after BDD. In terms of phase 1, because it keeps shifting at least when it gets to me, I don't know how many units they're proposing and I don't know how many of those units they will be requesting to be on the County water system. They've been looking at a mix and match of their own wells and County system for their affordable housing or a County system for a portion of development. So whether we have the ability to serve even the entire phase 1 at this time, I don't know what that is. Certainly for the whole development it's post-BDD. We've assumed that all along.

COMMISSIONER SULLIVAN: Okay, so on the first criterion, what we're evaluating here or what we're discussing is technical merits. So on the ability to serve, I'm understanding you to say even in phase 1 we don't know if we can. So that's an unknown at this point.

DR. WUST: Mr. Chairman, Commissioner Sullivan, that's correct, because I don't know the size that they would like right now.

COMMISSIONER SULLIVAN: So ability to serve is unknown. Cost is \$1 million and you indicated that that is – the County may have to assume some of that because it may not be all allocable to the developer.

DR. WUST: Correct.

COMMISSIONER SULLIVAN: So the cost – but you don't have that broken down yet.

DR. WUST: Mr. Chairman, Commissioner Sullivan, we couldn't break it down because that's one of those things where we're putting a tank in because of that development but it would serve a lot of that area so we would have to work out what percentage would go to that particular development.

COMMISSIONER SULLIVAN: Okay, then in terms of the revenue to be received, what would the revenue to be received be?

DR. WUST: Mr. Chairman, Commissioner Sullivan, you caught me on that one. I had that and I don't seem to have it at the moment. But it's pretty easy to figure out.

\$5.32 per thousand is what we charge on a rate. We're assuming 5,000 gallons a month for each household because the rate goes up after that, but 5,000 gallons a month is right around .21 acre-feet per year, which is – it's a little higher than what we've been closing in on for a particular development for household use. And then multiply it by the number of units – that's where we start to run into trouble because we don't know how many units would be on the system at any particular time. So that's a pretty quick calculation that one can make to see if you want to get a rough estimate. That's not including the meter charge, which is around \$14 a month.

COMMISSIONER SULLIVAN: Okay, so in order to determine the third criterion which is the revenue we need to know the number of units.

DR. WUST: That's correct, Commissioner Sullivan. Again, I had that. We made an assumption on the number of units but I don't have it with me at the moment. I'm sorry.

COMMISSIONER SULLIVAN: It appears at this point in time that we're dealing with a moving target, that we don't know the number of units yet, at least to make an accurate project. And then the last criterion that Mr. Ross read out was other factors that you felt were compelling or important. Are there any other factors that would make this boundary service extension particularly desirable to the County of Santa Fe or negatively impact the County of Santa Fe?

DR. WUST: Mr. Chairman, Commissioner Sullivan, there are on the positive side, that's an area that we are looking at in that area for potential groundwater sources and this development has wells. We don't know whether they would fit our needs or not. There is a potential water source that if the County acquired the whole system in the future it could potentially acquire a water source in the future. I know there will be a lot of protests on anything happening in this area from La Cienega, whether it's by the County or by the developer, so that's an offsetting consideration about any potential groundwater sources down here. It also would, even though it costs us money, it would upgrade our system down there by adding storage and a disinfection unit and some more infrastructure.

The downside on that, as was discussed in a previous request to extend our water area to La Lomita and a couple of other roads in La Cienega that this is extending our system past the demand. And during that discussion that was brought forth by Commissioner Anaya there seemed to be some hesitation on the part of the Commission to keep extending our system without filling in where the growth areas are. So that was a policy discussion that this Commission has already talked about that would play in here because this would require actually a major extension of our system because there are a lot of units going in here. So that's a pretty major extension of our system.

There's not an issue in terms of the technical ability to do it, either now or in the future, with these upgrades of the infrastructure, so that would be fine. One other thing it would do in terms of our system is that if the Commission looks at extending our system even farther to the southwest, say, either because we have some groundwater sources down in that direction, or surface water sources in that direction, it would narrow that gap where we'd have to build

infrastructure to bring in water from those new sources because it would already be there. It would also allow – and this is a positive or negative depending on how the Commission feels, there will be further requests for water service. Any time we extend our infrastructure, anybody on the new extension or past the new extension requests service because they're now close to our infrastructure, where they weren't before. So that's just a reality of what will happen if we extend our service area. There will probably be additional requests out in that direction.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. Steve, do you have any idea of how much acre-feet of water they would be using or asking for in the future, if this is granted?

DR. WUST: Mr. Chairman, Commissioner Anaya, they're all here so I think they might be able to tell you better numbers what they're actually asking for or what format they're looking at right now in terms of the mix.

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

CHAIRMAN MONTOYA: Okay. Steve, just a couple of questions. Actually, basically, what is your recommendation. That's what we need to consider in terms of this deliberation is what the department's recommendation is on this.

DR. WUST: Mr. Chairman, my recommendation would be to extend the water service area is not a commitment on our part. But I can't even address all the rest of those questions and the Commission can't make decisions on the rest of those questions if they're not in our service area. So basically, what I'm looking at now is if you voted this down today, that's it. We're just not even considering this area. I don't have any problem with considering the area, but if you want me to make a recommendation on these other things, like whether they can mix and match, or whether we want to be serving that area, some of those are policy decisions, but others of those are operational decisions that I don't think we want to look at right at the moment in terms of operating and servicing this area.

I have some issues with one of the proposals of this development to basically have the County supply service to the affordable housing units while they supply service to the market units, and that's just got to do with both operational and kind of how we want to allocate water issues, which are policy. So I'd leave that up to the Commission. But in terms of just extending the water service area so we can have the discussion, again, it doesn't commit us to anything and so I wouldn't have any issue with that. I'm trying not to make policy for you. That's what I've got in trouble for before.

CHAIRMAN MONTOYA: Any other questions?

COMMISSIONER ANAYA: I do.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Yes, you talked about this developer is going to have to put in affordable housing, correct?

DR. WUST: That's correct.

COMMISSIONER ANAYA: And we are supposed to supply water to

affordable housing units, correct?

DR. WUST: That's correct.

COMMISSIONER ANAYA: So if they still go with their project, if this doesn't get approved today and they still go on and they build their affordable units, then eventually we would have to extend the water service area. Or not?

DR. WUST: Mr. Chairman, Commissioner Anaya, and probably County Attorney Ross would be better at specifying the language, but my understanding is that there's no County water service to that area, then there are other incentives. There'd still be affordable housing but there are some other incentives and us supplying water is not a necessity.

COMMISSIONER ANAYA: Okay. I got it. Thank you.

CHAIRMAN MONTOYA: Okay. If the applicant would please come forward.

ROSANNA VAZQUEZ: Good morning. My name is Rosanna Vazquez and I am one of the members of the team that works for Santa Fe Canyon Ranch. And I'd briefly like to introduce the property owners whom you may know. They are Mr. Jim Borrego and his brother Mr. Rick Borrego is not here. Mr. David Schutz is here and both engineers, Oralynn and Patricio Guerrerortiz who have designed the liquid waste system and the water system that would be used for this development.

If I may address your question, Commissioner Anaya, about the amount of water. For phase 1, if the entire development were to be served, if the entire number of units were to be served, it would be 28.65 acre-feet. That would include water for the market rate units, which is a total of 167 homes. That number has stayed consistent. It was submitted in our master plan. It was submitted in our geo-hydro report and it was discussed with staff. It is a total of 167 units for phase 1.

Our request, as Dr. Wust did very explicitly state, was a request for a boundary extension. We've had several meetings with staff with regards to how it is that we would structure our request. Our initial request was for the entire area that you see before you. It was discussed to us by staff that perhaps an option that this Commission could consider would be to serve only the affordable. When that was discussed we thought there would be some mechanical concerns but our engineers felt like we could get that accomplished. We would like a request for water service for the entire area, however. We would prefer that and here's why.

One of the biggest concerns that the La Cienega residents have stated to us, personally and in meetings, is that they're concerned about the use of the groundwater. They're concerned that if we drill wells, we are going to pump those wells and it will have an impact on the ditches, on the acequias and on their own wells. Because of that, the La Cienega code was created to encourage and promote these subdivisions, new subdivisions in the area to go on the County utility system. It was because of this concern, it's not just been articulated with us, Commissioners, it was articulated in your Code, and they encouraged either extension of the boundary for a County utility system, or a community water system.

So we are here before you today requesting that this subdivision be allowed to go forward with this master plan on the County utility system. Commissioners, this is not a question of whether or not La Cienega residents should or should not get water. Nor is this a

question of whether or not this development will go forward, because this development is going to go forward. It will go forward either on wells with this number of units or it will go forward on the County utility system. The owners of this property have been acquiring water rights. They have onsite rights of approximately 30 acre-feet, and they have been in the process of acquiring water rights that are going to be needed to service this entire development. Those water rights, we hope, will be able to transfer to the County utility system and use imported water for this subdivision.

When we submitted the original master plan, we submitted it with, as you can see, approximately over 600 units. We created large tracts of open space, keeping in mind some of the environmental concerns that were addressed in our environmental assessment, and we studied the traffic patterns. An approximately 615-page TIA report was submitted to the County for its review.

Since then what we've done is we've had several meetings with the community with regards to how it is we can address their concerns. And we have submitted a proposal to the Commission two Tuesdays ago, or last Tuesday, excuse me. That new proposal lowers the number of density. It goes from 605 units to 512 and I believe you all got a letter that was given to Joe Catanach with regard to some of these changes. What it does too is it moves the lots in this area right here down away from the northern boundary because there was a concern of some La Cienega neighbors that these lots were too close to the community here. So they've been moved and they've been reduced. The lots that exist there are larger in size. The average density of the proposal that we've given to La Cienega now is one unit per 2.8 acres, which fits into the community itself and the size of lots out there.

Our phase 1 is still 164 units and it's still in relatively the same area as it was before, in that area here. We've agreed to create a community tract. Phase 1 is still this area here. We've agreed with a concern and a need for a community tract to be used for farmers' market, any of the uses that the community might want for that area. We've agreed to set aside that. But the biggest issues that are relevant to your request today really are the creation that this development has done with regards to a wastewater system and a water system. This development proposes a water budget of a .16 per lot. It proposes a lifted waste disposal system that will reclaim the blackwater and be able to use it for all of its landscaping needs. We have proposed to La Cienega that we will create that liquid waste disposal system large enough so that eventually that system can be used by residents of La Cienega.

With regards to the water system, we have designed it in such a way that the lines are big enough to serve the area adjacent to the property if need be and if the County wishes to go forward that way so that we can address some of the concerns that were raised. A couple of months back there was a request by La Cienega to extend the water and I know that that request was denied. And Commissioner Vigil, you brought up earlier in the request for Agua Fria, how do you take care of an existing community? How is it that we can serve an existing community and plan for the future and what this does, is it's planning for the future. It is putting a subdivision on utilities and not mining the aquifer.

But how do you take care of an existing community? I think some of the proposals that

have been forwarded to the neighbors right now take that into consideration. Hopefully creating a liquid waste disposal system that can be used by all, creating a water system with lines big enough that can be extended. We make a commitment and we've made it to the neighbors, and I will verbalize it to you as well, we want to work with the County and the community to see what other ways we can address this. Is it water rights that could be provided? Is it funding for extension of water lines to some of these areas? Is it researching and designing different types of liquid waste disposal systems so we deal with the nitrate problem in La Cienega? Those are issues that we are going to continue to work with the community on and with the County, to solve some of the solutions that La Cienega has.

I want to address quickly the criteria that were set forth. The first criterion was are we near the boundary? Approximately 50 acres of this property is within the boundary of the utility service. The utility service, when it was extended by Las Lagunitas went down section lines, so this area right here is actually within the community water service, the utility boundary area. Is there an ability to serve? Commissioners, the proposal for the master plan for phase 1 is 167 units. The phasing build-out time is five years from the time that we get approval. There are 44 affordable units on that property that would be built out during that time frame too. So what we are requesting for phase 1 within a five-year build-out is 28.65 acre-feet of water, with a water budget of a .16.

Criterion number 3, the revenue expected to be provided. I overheard Dr. Wust's numbers, I want to reiterate that those numbers don't include meter charges. Those numbers do not include the property taxes that would be paid by these homes, and Commissioners, it also doesn't include the fact that any water service agreement that I have had with my clients requires our clients to pay for the water line extension. When we spoke to staff with regards to a tank we were envisioning and we had discussed a 100,000-gallon storage tank. So we can work with staff other storage tank. That has not been discussed with us in the past in our pre-application conferences, but we can provide our fair share of that requirement because we're required to by your line allocation policies.

I think the biggest issue that you have before you under other relevant facts of your criteria is how is this subdivision going to go forward? Will it go forward with wells and groundwater, or will it go forward on imported water? This is not an area that is designated as an urban growth area. Commissioner Campos, I think raised that concern several times. It is, however, an area that is within the confines of the La Cienega or will it go forward on imported water? This is not an area that is designated as an urban growth area. Commissioner Campos, I think raised that concern several times. It is, however, an area that is within the confines of the La Cienega code that is required to have a community water system or a County utility. It is in an area that has been plagued with problems with regards to nitrates in the ground, an overabundance of wells, and an overabundance of family transfers.

The question that is before you is how do you plan for the future, Commissioners? Do you want to plan and extend the boundaries of a utility to allow a subdivision to go forward on imported water, or do you want to allow the use, again, of groundwater in the area? By approving this boundary extension, Commissioners, you are not approving the master plan and

you will hear from many of the residents, concerns with regards to traffic. Concerns with regard to densities, with regards to open space, with regards to protection of the environment in that area, with regards to uses. But that is not the question before you and I ask that, and I submit that if you would like me to answer any of those questions, I would be more than happy to do so after they are raised. But that's not the issue here.

The issue here is how do you plan? How do you plan for the future of a subdivision that will go forward, one way or another? And that's really the question and we ask you to approve the boundary extension. We have the water rights prepared to transfer to the County for use by the County for service to this development. We will continue dialogue with the neighbors and with the County with regards to how it is that this master plan goes forward. We did receive a positive recommendation from Land Use staff on the master plan submittal and that is supposed to be going before the La Cienega Development Review Committee the 1st.

CHAIRMAN MONTTOYA: Okay. Any questions? Commissioner Anaya, Commissioner Vigil, Commissioner Campos.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. Rosanna, you mentioned phase 1 only. Could you tell me about the rest of the phases?

MS. VAZQUEZ: Of course, Mr. Chairman, Commissioners. We are requesting the boundary extension for the entire development. The total number of units for the entire development is 512, and if our water budget is approved at a .16, we're looking at a total of 101, approximately 101 acre-feet of water for use by the development, for the entire development. And keep in mind, we're looking at a 15 to 20-year build-out on this. But this is phase 1, we're looking at a build-out of about five years.

COMMISSIONER ANAYA: You mentioned phase 1 but you didn't tell me about phase 2.

MS. VAZQUEZ: What would you like to know about phase 2?

COMMISSIONER ANAYA: How many phases are there?

MS. VAZQUEZ: There's approximately six phases and phase 2 has 44 units. It has 12 affordables. Phase 3 has 127 units with 33 affordables, phase 4 has 60 units with 16 affordables. Phase 5 has 70 units with 18 affordables, and phase 6 has 40 units.

COMMISSIONER ANAYA: How many affordables?

MS. VAZQUEZ: Thirty percent of that would be 12.

ORALYNN GUERRERORTIZ: All together there's 154. Since the numbers were changed from 605 to 512, I don't think we've done the breakdown correctly for affordables. But the total affordables will be 150.

MS. VAZQUEZ: Mr. Chairman, the reason we haven't done the breakdowns is because this was an offer that was proposed to La Cienega last week. We have not had enough time to digest it. We have not gotten a response back from them, but our master plan that is submitted calls for 605, and that's what we received a recommendation for approval from Land Use on.

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

CHAIRMAN MONTTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: This is just a question for clarification, Ms. Vazquez, when you referenced the La Cienega code, are you actually referencing their adopted plan?

MS. VAZQUEZ: Their adopted plan and ordinance, yes.

COMMISSIONER VIGIL: So I guess this is a question for staff, I'm not sure anyone from Land Use is here. Have we actually incorporated the plan into an ordinance? Does anybody know that? And maybe somebody can get the answer for me. Jack, they have? La Cienega Community plan is in ordinance form. Okay, so that's what you're referencing.

MS. VAZQUEZ: Mr. Chairman, Commissioners, that's correct. And this plan meets the code, the La Cienega code.

COMMISSIONER VIGIL: In what way, Ms. Vazquez?

MS. VAZQUEZ: In every way, with regards to density, uses, water, because we're requesting utility water service. It meets the code in its entirety. It's very sensitive to environmental concerns. We did a substantive environmental assessment for master plan. We were asked by many neighbors, are you going to address these issues now or are you going to address the issues in your environmental assessment? We're going to address them. We will have to when we come forward at preliminary. We've studied it. There are some - the Alamo Creek needs to be protected and preserved. There's some riparian areas around there we will look at.

One of the offers that was made by the owners to the La Cienega neighbors was if there is a need to put onsite a naturalist to keep track of the environment and make sure it was okay, that that was something that we would look into, because it was a concern, a very strong concern of the neighbors that we protect the sensitive ecological system on site.

COMMISSIONER VIGIL: So if I were to sort of make an assessment of the process so far is what you're saying is the water service agreement request is in compliance with the community plan and the ordinance, but in fact you're not representing that the master plan is, are you?

MS. VAZQUEZ: Mr. Chairman, Commissioners, the request for a boundary extension is in compliance with the ordinance, and I am representing to you that we've received a positive recommendation from Land Use that this master plan complies with the ordinance, yes.

COMMISSIONER VIGIL: Thank you.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Ms. Vazquez, if a water extension is not approved, how will this affect your development?

MS. VAZQUEZ: We will go on wells.

COMMISSIONER CAMPOS: And will this affect the number of units that you can put on into that project?

MS. VAZQUEZ: Not initially. For phase 1 it would still be 164. We would submit the master plan for all of them and resubmit the water rights that we have for review. At master plan you don't need to show all of the water. You need to show proposed water and

that's what we would do.

COMMISSIONER CAMPOS: You're saying you would go for how many units? Without a service area extension.

MS. VAZQUEZ: It would be the same.

COMMISSIONER CAMPOS: Exactly the same.

MS. VAZQUEZ: Yes, sir.

COMMISSIONER CAMPOS: You feel that there's no limits to the number that would be used with or without the County system?

MS. VAZQUEZ: Mr. Chairman, Commissioners, up to this point we don't believe that there is. We did do a geo-hydro for this phase 1, even though we're requesting that we get the County utility system. It is the intent of the property owners that we would go forward with the same number of units, yes.

COMMISSIONER CAMPOS: So this doesn't affect your project in any way. You're going to go forward, except you'd go on wells and septic or an alternate system.

MS. VAZQUEZ: It will affect the community, Commissioner, not the project.

COMMISSIONER CAMPOS: I'm asking how it will affect the project.

MS. VAZQUEZ: It will not affect the project.

COMMISSIONER CAMPOS: Okay. Thanks, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: And I'll make this short, Mr. Chairman, so we can get some comments from the public. Ms. Vazquez, in your letter in the packet of January 19, 2006, you say the plan proposes water service for the first phase of development from existing onsite wells. Is that still an operative statement?

MS. VAZQUEZ: Mr. Chairman, Commissioner, there were two options set forth in that master plan; that is one of the options. Either the wells or the County utility system.

COMMISSIONER SULLIVAN: That was not my question, Ms. Vazquez. My question, Ms. Vazquez, let me repeat it, was in your letter of January 19, 2006 -- let me read a little more of it to refresh your memory -- we respectfully request this letter be submitted as a part of the packet material. This team is putting together a master and preliminary plan submittal to the County for March 2006. The plan proposes water service for the first phase of development from existing onsite wells. Water service for the development will transition to the County in the second phase. My question is, the sentence, the plan proposes water service for the first phase of development from existing onsite wells. Is that still an operative statement?

MS. VAZQUEZ: Mr. Chairman, Commissioners, I believe I answered the question. It is one of the options in the master plan that we've submitted.

COMMISSIONER SULLIVAN: Okay. But your letter does not say anything about options.

MS. VAZQUEZ: The master plan changed subsequent to the January 19th letter

COMMISSIONER SULLIVAN: Okay, so could we consider that that phrase is

or is not operable now then, given the subsequent master plan?

MS. VAZQUEZ: Mr. Chairman, Commissioners, we're requesting water for the entire development including phase 1.

COMMISSIONER SULLIVAN: I understand that, Ms. Vazquez. The question is, the sentence says, the plan proposes water service for the first phase of development from existing onsite wells. Is that an operative statement today, now, May 30, 2006?

MS. VAZQUEZ: Mr. Chairman, Commissioners, if we do not get County utility water, it is, yes.

COMMISSIONER SULLIVAN: Okay. Now, you didn't say that in the letter, but you're adding that to that. Is that correct?

MS. VAZQUEZ: I'm not sure. If you give me a minute to finish reading the letter. But I know that -

COMMISSIONER SULLIVAN: Would you go ahead and finish reading it please?

MS. VAZQUEZ: Mr. Chairman, Commissioners, our master plan proposal calls for a request and this request for either service to the entire area, or service for the latter phases. This is not the only letter that was put in your packet. It's not the only letter. It's not the only request. There have been several other requests that were submitted by David Schutz himself requesting water for the development.

COMMISSIONER SULLIVAN: This is the only letter in the packet, Ms. Vazquez. So let me just summarize what I understand you're saying, is that that sentence is not operative anymore. That the plan doesn't propose water service for the first phase of development from existing wells. That your current master plan doesn't specify which it will be. Is that accurate?

MS. VAZQUEZ: Mr. Chairman, Commissioners, again, exactly what I stated before. We're requesting water for the entire development. If there is water for phase 1 in the affordable housing, we will take the water for the entire development. Is there not, we will go forward on the wells for phase 1 and transition in to the utility boundary service for the subsequent phases. That's how it was set out in our master plan. We did an either/or.

COMMISSIONER SULLIVAN: Okay. The other question I had, Mr. Chairman, and that will finish for now is when you responded, Ms. Vazquez, to the issue of the ability to serve the development, your response indicated how much water you're asking for and what your per-unit use was going to be, your water budget. I didn't hear a response to the ability to serve. What is your comment on the ability of Santa Fe County water system and department to serve the development? All I heard was that you were requesting.

MS. VAZQUEZ: Mr. Chairman, Commissioners, having done the last few water service agreements that have been approved by the County and having kept track of how much water is left at the County for service, I do believe there is water to serve this development and that was why I specifically stated that the build-out was a five-year building plan, because in working with the County utility and County Legal with regards to planning the use of the 375 acre-feet of water that you received, one of the tools that the County staff was

trying to use was to figure out on a per-year basis developments were going to use. And they put together a chart on a per-year basis. So I do believe there's sufficient. Commissioner Sullivan, it really is a question for staff, but I know in having worked with them that I believe with this kind of build-out it could be served.

COMMISSIONER SULLIVAN: I just wanted to get your response because the staff response was they didn't feel phase 1 in its entirety could be served. So I wanted to give you an opportunity to rebut that. Thank you, Mr. Chairman.

CHAIR MONTROYA: Okay. Just a couple of questions. Regarding the wastewater system, if that's developed, who's going to be credited with the return flows?

MS. VAZQUEZ: Mr. Chairman, Commissioner, that all depends. If the homeowners have it, the homeowners will get the return flow, if we can get that accomplished. One of the things that we would like to discuss with the County, especially if this liquid waste disposal system, which is set up in an area that should really help the neighbors in La Cienega, if we could work together to create a system that could serve the other areas, it's possible that the County may want to purchase it at a later time. You've entered into agreements with Rancho Viejo and Las Campanas for the purchase of those liquid waste disposal systems in the past with an option for a period of time and a dollar amount, which is a dollar, to purchase those liquid waste disposal systems. We'd be willing to follow in that path as you've done with previous subdivisions and have the County take that over. Then the County would get the return flow credit.

CHAIRMAN MONTROYA: Okay. And then regarding the potential extension of the service line, that one million dollar figure that Dr. Wust referenced, is that something that you would pick up in terms of making sure that the water system is large enough, the lines are large enough to extend it out to where they need to go, and to serve La Cienega residents that currently aren't served, that when they came and requested a line extension, sometime a couple of months ago, that that would be fulfilled also with this extension?

MS. VAZQUEZ: Mr. Chairman, that's a two-part question so let me answer in two parts.

CHAIRMAN MONTROYA: It is. Thank you.

MS. VAZQUEZ: First is the question of the million dollars that was quoted by Dr. Wust. I can't tell you what the numbers are, so don't quote me on any numbers, but I know that the line is over here by the La Cienega exit. So the cost that this developer would have to bear, and it's consistent in all the water service agreements that this Commission has approved, requires the developer to extend the line and pay for the cost of those lines. Whether or not the tank has to be paid for completely by this development is a question. If we're approved for this many lots and at the end, if we're approved for this many lots and we need a tank that size to service it, it's probably going to be part of that cost. I'm not sure at this point. Usually what the staff and developers do together is if there's an oversize you have a line, if it doesn't need to be oversized for this development we split the cost. So we will do what we are required to do by County to pay for what we need to do for this development. And if it means that we've got to kick in some money for the tank to be able to serve other La Cienega

residents, of course, we will definitely look into that and want to work with the County on that. That's one of the issues that we want to continue dialogue with the La Cienega residents. We just don't know exactly what is the best way to help and what is the best way to take care of the existing community. That's one option, Commissioner.

I also want to make clear that what the idea was with this development was to extend the boundary, the utilities, to the line here, extend them so that they could be connected into – with the size of a line that was large enough to be able to connect some of these communities around here. Now, some residents like that and some residents don't, Commissioners. There's a theory that if we extend the line to here, there's a domino effect and everything's going to be developed. And I think that's a concern. But there's also a concern for too many wells in the area and too many septics in the area. So I think that's going to have to be balanced and we'll work with the County on balancing that issue.

The second question with regards to extending the line to people who need it. We have made an offer to the La Cienega residents that we will work with regard to either providing water or a line to serve some of the existing communities. We really don't know which is the best approach and we really don't know what planning process the County has in mind with regard to how do you service these people. So what we're trying to do is create a system that can get hooked into and what we'd like to continue doing is working with County staff and La Cienega to figure out how quickly that can be accomplished and the means by which that could be accomplished, either water rights, money for extension of water lines – I'm not sure, Commissioners, but it is something that we intend to continue going forward with.

CHAIR MONTROYA: Okay. Thank you. At this time, we will take some public comment. Are you going to be the spokesperson? How many people plan to speak? Let me just ask that question. If you'd all please come forward, and I'd ask that you please just state your concern regarding the extension of the water service line. Keep your comments focused on that. I know we ask other questions as a Commission that we needed information on, but if you'd please keep it to that topic which we are discussing today, and that is the extension of the water service line. So Carl.

CARL DICKENS: We appreciate your concern and we will direct it specifically to the water issue. I'm Carl Dickens. I represent the La Cienega Valley Association. I'm vice president of the association. The La Cienega Valley Association has sent the Commission three separate letters opposing the extension of this water service boundary. We continue to maintain that position. I would like to note on record that we have submitted petitions today with 640 signatures of residents in the area opposing the extension of this water service boundary. I also would like to note that those signatures were gathered within a two-week period of time. There is a strong community opposition to this proposed development and water extension.

One of the things that I would like to point out is that at a February 28th meeting of the Commission, about five or six residents asked to have the water boundary extended and it was denied. The Commission at that time addressed a concern, I think it's a community concern too, in that there needs to be a comprehensive water plan for the County. And the other communities that were cited as having problems were Cañoncito, Chupadero and Chimayo as

well as La Cienega that were experiencing water problems.

The La Cienega Valley Association strongly supports the creation of a comprehensive water plan that addressed the needs of rural communities and we are very open to working with those communities to come up with a comprehensive plan before we continue to extend water service boundaries to developers. Thank you.

CHAIRMAN MONTOYA: Thank you, Carl. Next, please. Excuse me just a second, Ray. Commissioner Campos.

COMMISSIONER CAMPOS: I have a question.

CHAIRMAN MONTOYA: Question for Mr. Dickens.

COMMISSIONER CAMPOS: Mr. Dickens, you heard the applicant state very clearly that they're going to proceed regardless and the impact is not on the development but it will essentially be on the community if there is no water and wastewater system. How do you respond to that?

MR. DICKENS: Well, for me it was a threat and it was unusual for me to hear that as a threat. Either you do it this way or we're going to do it the other way. The bottom line is the existing wells can only produce so much water, so you can continue to transfer as many water rights on to that as you want but unless they can produce that, it's really kind of an empty threat. That is something obviously we would take into consideration. We have a very structured process when we have these kinds of decisions and we really get as much community input as we can. Through flyers, through newsletters, through community meetings, and so when you see this 640 people saying no, that has been the combination of a very conscientious community effort to get input from the residents of our community. If this were to go forward we would again go back to the community and come up with a decision and response to that.

COMMISSIONER CAMPOS: Are you saying that the State Engineer might have a hard time approving transfer of water to these wells because of the negative impact on the community?

MR. DICKENS: That would be certainly a possibility.

COMMISSIONER CAMPOS: Okay. Thank you, sir.

CHAIRMAN MONTOYA: Mr. Romero.

RAY ROMERO: Mr. Chairman, members of the Commission, if you would bear with me, I have a bad sinus problem. What I would like to mention to you is - I don't know if you are aware, some of you were not in the last administration, but the County has approved several developments in the area above our springs and on condition that these developments would be served by the County water and they haven't up to date. So one of my concerns, in order to save the springs, they're depleting really bad. We don't have enough water to irrigate our fields, I think the County needs to take into consideration that before you serve any development that you need to start serving these areas above the La Cienega area, the racetrack area, all that area above La Cienega in order to save the springs.

We have no other choice. If you don't protect them for us, we don't have any other choice but to [inaudible] I don't see how we can - it's going to be expensive for us to do that. We need to protect our springs. And the other thing I'd like to mention to you, any more

developments in the area, it's not going to help those springs any. We are [inaudible] in La Cienega that we are going to protest any transfers. We are looking forward - if you help us and protect this water for us in the community. Otherwise we don't have no choice but to go to the State Engineer. That also is expensive. So I ask for your consideration.

CHAIRMAN MONTOYA: Thank you, Mr. Romero. Next, please.

LINDA GRILL: Good morning or good afternoon. I'm not sure which one it is right now.

CHAIRMAN MONTOYA: Afternoon.

MS. GRILL: Chairman Montoya and Commissioners, we really appreciate your listening to us today. We do have a lot of concerns about the water issue in La Cienega. As you know we are a traditional community, historic traditional community. We have a lot of family in our community. Our wells are going down. A lot of our springs have dried out. We would like to see that the existing homes there are served with County water before it's extended any further. But what I have heard here today is that this plan is going forward regardless, whether you extend the water system or you don't.

So [inaudible] if it's going forward, I would rather see that you extend the County water system to that development. And they are saying that they are willing to somehow or another help some of the families there in La Cienega, and I don't have a problem with that. We have a lot of families that need to connect to the County water system. Also, hearing Ms. Vazquez about the plants that they are planning to propose for the development, and if they plan to incorporate part of La Cienega into that plant, I think that would be good for the community of La Cienega, especially on Paseo C de Baca. We already have a County water line that runs to the end of Paseo C de Baca. We appreciate you Commissioners that you voted on it and help to support it. Commissioner Anaya, you are very much aware, rooted in La Cienega. We talk to you often and I talk to some of the other Commissioners also and just do what you feel is proper for our community, that you don't destroy our rural community. We don't want that. Some of us have lived their all our life. We don't want to see it lost. Thank you.

CHAIRMAN MONTOYA: Thank you, Commissioner. Next please.

GENE BOSTWICK: My name is Gene Bostwick and I'm a resident in La Cienega. I want to thank Commissioner Montoya and the other Commissioners for the opportunity to address you because it is an issue of grave concern to everyone in the community and you can hear there are a lot of things that we're trying to deal with to protect our community. I wanted to address some specifics regarding this issue of the water boundary and specifically some things that have been talked about. Commissioner Campos asked a very good question about whether or not this could move forward if they didn't get this water service extension. We really think that is a serious question. They do have a certain amount of water rights on the property but it's question about how much they could increase those water rights based on the hydrology, based on whether or not the State Engineer would allow it, based on whether or not the community would benefit from those things.

So we really frankly do not believe that the potential impact of this development would be nearly as large or as great without County water. So we do feel that it's a very, very

important issue, whether or not you extend water service to this property. We think there are some serious issues with whether or not the – if public policy says whether or not there is the ability to supply this development. We're aware of a number of developments that are already approved that are within the County's water service boundary area. We believe there are over 10,000 lots that potentially could be served within the existing water service boundary area. That seems to be a pretty substantial ability to supply housing, both affordable and regular housing for people and continue to expand with the area that you've already designated and already extended that water service boundary. So, I'm not sure we see a valid reason why extending it to this area is necessary in terms of providing service for new homes or providing service, frankly for more affordable homes.

A large issue we see is that this is not within the County's designated growth area. We've been discussing the County's growth management plan at a number of our meetings and it seems very clear that La Cienega is not in the designated growth area of the County and in fact because it's part of our traditional historic community then it should be afforded protection from growth that the community does not want. So based on that issue we also think that there's a serious question of whether or not as policy you should be extending water to a new area that's within a traditional community where it would promote growth that the community does not want.

We really see this service area extension as the first step in allowing development to take place on this property and if they do not get a service area extension then they have to reconsider their options in terms of how much they can move ahead. I know it's easy to say that they would move ahead with 600 units but there are some serious questions as to whether or not they would ever have the water to do that, and we need to address those on an individual basis. I think former Commissioner Grill makes some very good points about whether or not we move forward and how we best protect this community, but we also know that there are already water lines in place in La Cienega and there is the potential to extend those water rights as Commissioner Anaya brought up on the 28th, the possibility of extending to a small area off Paseo C de Baca. There are a lot of areas which could be served right now which would begin to help our situation with our wells and the water. The area that Mr. Romero points out is an area which again, could have water service extended and begin to make a real impact in helping our community to avoid problems with water without having to increase the density of the community at the level that this kind of project supposes.

So for quite a few reasons we believe that this is not a good idea to extend this service boundary because we think it only furthers the ability for growth in an area where our community doesn't want to see it happen. I just want to make one point. I know Commissioner Vigil asked a question about whether or not it was affirmed that this complied with our community plan and we're going to make very, very clear that as a community, we do not believe that this complies in every way with the community plan. There are certain narrow aspects of that community plan that you have to do from the use of managed water systems. We actually have our own water system for part of the community. But that in no way implies that this entire development meets the whole plan. There are many, many issues where this

development doesn't begin to comply with our community plan and those are issues which we would address in the future when we look at master plan.

I thank all of the Commissioners for giving us the opportunity to address these issues and talk about them a little bit and we look forward to [inaudible]

CHAIRMAN MONTOYA: Thank you, Gene. Okay, questions from the Commission. Oh, one more. Sorry about that.

J.J. GONZALES: Mr. Chairman, Commissioners, I'm J. J. Gonzales, a resident of La Cienega. The County water system was started back in the early 90s with a developer-driven system. The County asked several people that had property to go out in the community and see who could utilize County water. Developers were signed up. They pledged money to build this system. I think after 12 or 15 years of this system being in place, it's time for the County to take control of this water system and not let developers build it to suit their needs.

The water system was connected to the penitentiary to correct problems with the penitentiary overpumping all their wells. They had wells they pumped in violation of their permit. There were well over in violation for over ten years. The State Engineer decided that the best way to stop the violations from overpumping was to extend the water system from Rancho Viejo to the pen. A few years after that the National Guard moved out there. One of the conditions was that the National Guard be on the County water system. And that occurred. They have a big complex out there.

A few years after that, in the early 90s when Las Lagunitas came forward for development, they wanted to build over 300 units. They wanted to build a golf course. With negotiations with the community, they scaled back the development, they asked the County to extend the water system from the penitentiary to their development, and Las Lagunitas paid for that development. The over 100 acre-feet of water they had in their area, they assigned like 16 acre-feet to the County to supply their development. The other 75 acre-feet they retired. They gave all their water rights to the community. They gave a well on their property to the Guicu Ditch Association, and they agreed that the only water that they would use on their development was County water.

They also left a 12-inch line at the southwest corner of their property at the future extension for La Cienega, Entrada La Cienega area, Paseo C de Baca. The residents came in after many years and they finally got enough funds to build that system into Entrada. That system was built and to this day, it helped residents that had poor water quality, that had poor producing wells. It got them onto a County water system with some reliable water, and there was not any area there, because it was County water available that the residents thought that it was necessary to increase development.

At this point the system is in place. It's been extended several times. Now these developers feel that now the system is there for them to use. This is a system that over the years was built by the cooperation of many state agencies. And I think in this area, to serve this massive development, this is a very rugged area. It's got deep canyons, it's got wetlands area, and they have really high density. There's a lot of urban density in this area and that's not

suitable for that remote area. This area is at the very end of what you can consider Santa Fe County. Past that is the La Bajada Hill, the Indian land. This is not the right area for this. There's a lot of areas closer to town that have thousands of acres of undeveloped land that are in proximity of the County water system. And I ask you to deny this extension and properly use your power to control the development. That's the one big important thing about controlling the water system. You people can decide where growth is going to occur. And this area is clearly outside of any growth areas.

Ms. Vazquez claims that part of this area is within the service boundary already. The only thing is they don't tell you that that area is landlocked. There might be a sliver that's within the service area right now, but that area is completely landlocked. There's no access to that area to extend a water system. Ms. Vazquez said that denial of this service area doesn't affect their development one bit. In reality, if this water system extension is denied, they have to go before the State Engineer. That is a lengthy process. There will be numerous protests filed in the hearing, and the process, it's two or three years.

Also, the Buckman Diversion, it's in the planning stages. It's not even built yet. And they talk like they're going to be building out there like master plan approval next month and they talk like they're going to be building out there relatively soon. The reality is there's nothing going to occur out there for several years. So I urge this Commission not to grant this extension. The time isn't right. There's too much time before anything really is determined as far as where the water is going to come from, whether water is going to be available. If you approve something today, that doesn't mean they have water tomorrow. It's reliant on the Buckman Diversion, which isn't even built. And basically, that's all I have to say. Thank you very much.

CHAIRMAN MONTOYA: Okay. Thank you. Now, Dr. Wust.

DR. WUST: Mr. Chairman, if I may provide a couple of updates. Questions came up about both the revenue and the cost. The million dollar figure came from an assumption of what it would cost to extend our system from the existing infrastructure to the edge of the development. It didn't address who would pay for it, just what are all the engineering pieces and what would be the total cost, so that's where that million dollars comes from. It does include a 100,000-gallon tank and also the pipes and the disinfection unit and the rest of it. So all I did was ask Doug Sayre to see what would it cost if somebody had to build something to supply this development only from the edge of the development to our existing infrastructure.

In terms of the revenue, now that I've got some numbers from listening to Ms. Vazquez, based on an assumption of the number of units that she said, using our existing rates of \$5.50 per thousand gallons and a meter charge of \$14 a month per household, and the water budget proposed of .16 acre-feet per year, for phase 1 it gives us a total revenue of \$74,379, and for the whole development of 512 units, a total revenue of \$228,037. Just wanted to provide those figures for you.

CHAIRMAN MONTOYA: Okay. Thank you, Steve. Questions? What are the wishes of the Commission in terms of the request for this extension of the water service line?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: This is a very difficult situation here where you're asking us to extend the water service agreement to a piece of property that doesn't have any homes on it yet. About a month ago we asked to extend a water service agreement or water service to existing homes, which would use about five acre-feet of water, and that was denied by this Commission. This is the first that I have seen exactly what they are trying to do. There's a lot of homes in that area, which I would like to ask the developer to relook at that, because there is a lot of homes.

Do we want – I kind of felt threatened by the developer when they said that they're going to go through with whether it gets approved or not. I think that this Commission better like it or it's not going to get approved. Do we extend the water service agreement and prevent them from pumping water out of that area to supply their homes, or do we extend it and let them transfer their water to the Buckman Diversion s that they can supply it? I don't know yet. It's a lot.

At this time I'm still upset at the fact that we didn't allow the existing residents in the La Cienega area that we already have infrastructure for, that is right there. At this time, I think it's too much too fast. I think that if they want to, if the developer wants to go forward with their water through the State Engineer – I think that this is a rural community, and by putting that out there, that just changes everything. I know the developers, they're good friends, but to me at this time it's too much, too fast. If we can talk about serving the people that are already there then maybe I wouldn't have such a hard feeling over this, but when we say that – if we approve this and we let the developer take water service to our existing residents, to me that doesn't make sense either, because we have the line there. The County has the line in its own – it's right there. Why would we want to have the developer do what we could be doing?

I've heard from a lot of residents out there. I've spent hours at home trying to think how I was going to say this and it just right now doesn't make sense to do that. If we could – I've heard Carl Dickens talk about a comprehensive water plan. I think that's very important and I don't know if the County has done anything about that yet. Ray Romero mentioned stuff about bringing water service to our existing people around the racetrack area. We've been trying to do that. That's important. We need to do that.

Again, this is a hard decision but right now I don't feel that it's right. The developer can continue on, but I think personally that there's a lot of homes there. Thank you, Mr. Chairman.

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

COMMISSIONER SULLIVAN: Mr. Chairman, I think in terms of deliberation that we have just three alternatives. One is to deny the application, the boundary service extension, and I think there's ample justification for that. I don't think the criteria that we view these by has been amply addressed by the applicant and I think probably the staff is constrained by the fact that it's just today learning some of these facts, so it was probably premature to do

so. The second would be to consider a boundary service extension for the first phase. The developer of course is asking for everything at once as is the usual way to do it, but it's obvious that the development is still very preliminary in nature and so they're only required by the County's master plan requirements to show water service for the first phase, first sustainable phase.

So that would certainly be an option. Another option would be for a boundary extension which would specify that County water service be supplied if it's available and that that service be supplied to all dwellings, and that service be supplied sequentially. That is to say eliminating leapfrogging and that in essence the boundary service wouldn't apply until one phase was completed before moving to the next phase, so we don't have the problems that were brought up being on the end of the system and putting in a great deal of infrastructure and having the County maintain a great deal of infrastructure for only one phase, not knowing what may happen in the future.

So I see that as three alternatives that we have to look at this. And the first alternative again, if it's denied, then the applicant of course will be able to move forward with a well plan and will, as has been stated, have to take that to the State Engineer and receive the necessary approvals and conduct the necessary hydrologic studies to do that. And that is of course an alternative. We don't know what the impact would be but we would assume that the State Engineer would not permit impairment of existing well systems.

So those are the three alternatives as I see it.

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

COMMISSIONER CAMPOS: Mr. Chairman, thank you. I think that Commissioner Anaya and I think J. J. Gonzales raised some important issues. Who makes the decision about water extension? Is it a private decision or a public decision? I think they both say it's a public decision. Too often we've had development that just drives the system. I think on this Commission the idea is that the public should drive the system. This is not a growth priority area. It isn't. The County has not decided that it is. And right now, I don't think it should be.

We have priorities and it's the public that sets the priorities of where and how are limited water resources are going to be used and how we extend our very small water utility company. And thirdly, I think there may be a serious water sustainability issue in this area, and there may be a lot of impairment issues that the developer may have difficulty overcoming. Thank you, Mr. Chairman.

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

COMMISSIONER VIGIL: Mr. Chairman, I guess in order to make my decision, because I've heard a couple of potential proposals and I believe we'll probably be making a motion here and I am really curious to have a little bit more information from the developer in terms of the water rights. How many water rights are there there? How many wells?

MS. VAZQUEZ: Mr. Chairman, Commissioners, we have approximately about 30 acre-feet of water onsite for the property. The property owners have purchase Middle Rio Grande water rights also for development of this. They are negotiating with other in-basin rights for use by this subdivision that as you all are aware are much easier and faster process to transfer to the wells. Right now there are three wells on the property and these are not the wells - Mr. Perkins said these wells could not pump the kind of water that would be needed but of course there would be other wells that would be drilled for the purpose of creating a water system for the development.

COMMISSIONER VIGIL: You've also mentioned, Ms. Vazquez, that a preliminary hydrological study had been done. Is that correct?

MS. VAZQUEZ: Mr. Chairman, Commissioners, yes. We submitted a geo-hydro for use by the Land Use Department and the Utility Department to evaluate how much water was underground. We did a two-pronged process in the master plan, Commissioner. We did a request for a boundary extension, but we also did a geo-hydro and that was in case the boundary extension was denied, we would be able to go forward with phase 1 on the wells with our geo-hydro and that was in case the boundary extension was denied, we would be able to go forward with phase 1 on the wells with our geo-hydro. Everyone is correct; we will have to go through the OSE process. That's what we'll have to do if this is denied.

With regards to Commissioner Sullivan's alternatives, we will work - if I didn't make it clear that we'll work with the County and the staff to figure out ways to serve the other areas, the existing neighborhoods. We will try to do that. It's not an easy request. It isn't just extending a line. It isn't just putting a pump station in. It is how and where do people want to get connected. Do they want to lose their autonomy from their wells and who pays not just for the pump station and for the line down Paseo C de Baca but how do we get the individual homes connected onto a system. It's a very difficult question to deal with existing homes.

We have made several proposals of either contributing water rights for use by that. I even put together this little project piece called the neighborhood fund to see how it is that a County and private partnership could deal with some of these issues, because I think it will have to be a public/private partnership to deal with some of these concerns, and it's going to have to go beyond the neighbors, the people who are affected. Those are all very difficult questions and the only way this Commission and staff and us can solve it is by working together and that was our proposal to you, Commissioners. It was our proposal to attempt to work with you on this.

COMMISSIONER VIGIL: Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER VIGIL: Just one more. I have one question for Commissioner Sullivan. Could you, Commissioner Sullivan, state your proposal in a nutshell? A big nutshell.

COMMISSIONER SULLIVAN: She always opens up the box of Pandoras when she asks me a question. I didn't have a proposal, actually, Commissioner Vigil. I just said there were three options and if the Commission felt that denial was appropriate, at least in my judgment, given the information that was made available to this Commission today, I could

support that because I don't think the criteria that were presented were in depth enough to make that service boundary extension. If the Commission felt that it does make sense, as Commissioner Grill said, to set in motion a mechanism for providing public water service to this area, not only for the development but for others who need it, they I saw two more alternatives. One was to just approve the service extension for phase 1. The other was to put in some language that was a little more specific and ask how the whole boundary service extension would be served.

I'll just read you some draft language to tell you what that would be. I'm not promoting that over alternatives. I'm just saying this is the third one. If we were to consider approving the full one, we could say, "The boundary extension shall be granted subject to a condition that each proposed phase of the development use County water service only in sequence, i.e., that approval of each subsequent sustainable phase of the development shall not be sought by any applicant unless and until the previous phase is completed. And further, that the initial phase shall not be served until existing residents along the main line are served."

That means if we're going to do things, do it sequentially, serve everyone from A to Z. Start with A and move down the line to Z and address the issues of residents that did come to the Commission and request service, and I'm sympathetic to that and the reason that I voted not to do that was that we didn't have an allocation policy in place at that time. We do now have those allocation regs in place and those residents and anyone else are welcome to come back and have us look at that issue again. So that would be the third potential.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: And with regard to that, and this question will be addressed I guess maybe to Steve Ross, they're actually asking for 28.65 acre-feet for their first phase. Through our water allocation policy agreement, can we commit to that amount? Wouldn't the allocation policy require us to comply with how many acre-feet per year?

MR. ROSS: Mr. Chairman, Commissioner Vigil, the water allocation policy limits a request for any six-month period to 35 acre-feet. But of course we wouldn't be doing that today. This is just to draw a line on a map to encompass a larger area than we currently serve. Those questions would certainly arise when application were made pursuant to the allocation policy for some wet water, in a give period.

COMMISSIONER VIGIL: Okay. Thank you. No further questions.

CHAIRMAN MONTOYA: Steve, I have a question regarding the status on the geo-hydro report. We've been requesting that for a few years now, in terms of the findings and the recommendations. Where are we in terms of, we've had the three public hearings as I understand. Where are we now? That's the last part of the question. The first part of the question is what did it reveal for this area that's being requested in terms of pumping on wells?

MR. ROSS: Mr. Chairman, the status of it first off is you had a presentation of the final results given by Cynthia Ardito from Intera. That's being put into a written format for the final report, and they're pretty close to getting that done now. The model has been installed on the computer of our County Hydrologist, Karen Torres, and our good fortune is she knows how to use them without much training, and she's been looking in detail at certain areas, not

just this one, but others that we've wanted to examine. So I'll have to come back to you with results for this particular area. There will be two results that you'll see. One is based on just the aquifer characteristics, and if you recall the presentation, they looked at what are good areas for wells, just based on aquifer characteristics, and then what are good areas based on these other factors – closeness to springs, closeness to our own infrastructure and things like that. So there will be two results there.

I remember from the presentations at the public meetings, the full results, that is including all these other factors, made this area not look so good, but looking at it just from an aquifer standpoint, Karen's looking at that right at this moment. She's doing that as part of her review of the hydro report so we didn't have it here for this. But it is being looked and so that will be done before, if it goes forward and they try to present something on the wells. She has reviewed the hydro report. She has a number of questions, mainly the same questions that I hedged on in terms of the revenue that are they looking at a density just from their wells and for the whole thing or for the first phase, or are they going to use the County system and looking at a density for that. So she's teasing that out right at the moment, but she has reviewed the hydro report.

CHAIRMAN MONTOYA: And the reason that I asked that question being how does it impact our utility system as a whole. Because I think we do need to look at it and I think the reality is some of these locations where it may indicate that we need to look at, people are not going to like, period. But I think if we are going to, as has been suggested, take control of the system and of what's going on, then we need to look at how's this going to fit into the big picture. And with that, I'm not sure that I've got enough information to be able to deny or go with any of the other suggestions that have been made her this afternoon.

So I think I would probably like to see that come to a conclusion here relatively quickly, because the reality is the future is dependent on water and that's the reality. If there's going to be enough then we need to know where it's going to be coming from. If we don't, then I don't see how can continue to make these decisions piecemeal which is what we've been doing for the three and a half years that I've been on this Commission. It's been done piecemeal according to what we've been told as opposed to doing some real comprehensive planning in terms of involving, as has been suggested also, public-private partnerships. The reality is we're not going to be able to do it alone, otherwise we'd have put pipes wherever they needed to be at this point if we could afford to do it. So with that, I would entertain a motion. I think we've deliberated on this long enough.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I would move that we deny the service request at this time.

CHAIRMAN MONTOYA: Motion by Commissioner Campos.

COMMISSIONER ANAYA: Second.

CHAIRMAN MONTOYA: Second by Commissioner Anaya. Discussion?

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I'm somewhat in agreement with you. I don't know that we have enough information. I actually would like to go back and study the general plan because I did hear conflicting statements. The residents believe this proposed development nor the water service agreement complies with the ordinance and the La Cienega Community Plan. The agent for the developer states it does. I see that as a conflicting statement.

I also think that the consequences of the decision that we make today have incredible impact on what actually will occur in the future. As Commissioners, at least I as a Commissioner, I'm caught up with the conflict of how do we protect our water resource, and at the same time provide delivery systems that are capable of delivering qualitative water to communities. La Cienega Community, there was an attempt years ago, as Commissioner Anaya has referenced, to try to get a system out there and I do agree with Commissioner Montoya that this isn't a task that can be done solely by government. It really needs to work with private partnerships.

I'm also conflicted by the master plan and I guess I gather I'm going to need to get more information because really and truly, I'm not satisfied that this particular master plan complements the surrounding community, nor am I satisfied that it particularly protects the rural character that is the history of La Cienega. The density is still at question for me. I'm not sure I'm even ready to deny a request. In my mind I'd be more like to want to table this request, only to gain more information. Today's hearing has only brought up more questions for me, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, thank you. I'm not in favor of a motion for tabling because this is a bigger picture issue. The La Cienega issue as to their plan is one issue, but the County has to have a bigger plan as to where growth is going to occur. That's where the linkage is between water and zoning and we haven't done that. Therefore I think it should be denied at this point and not tabled.

CHAIRMAN MONTOYA: Any other discussion?

The motion to deny the request to extend the water service area to include Santa Fe Canyon Ranch passed by majority 3-2 voice vote with Commissioners Montoya and Vigil voting against.

CHAIRMAN MONTOYA: And I would like to again just reiterate that my no on this is because I feel that I don't have sufficient information to make a decision on what is going to be best. What we've done now is in essence said okay, now you all go through the process of the State Engineer. He may or may not allow you to pump wells. Again, we're just kind of in limbo with this whole situation. I agree with Commissioner Campos we do have to look at the big picture in terms of how we're going to address water use and water needs in the future. Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, I actually think looking at the big

picture is considering what the consequences of what this decision will mean and in my mind, the consequences are that the developer will go before the State Engineer. That may delay the project but in fact are we creating the best opportunity and the best consequences for this community by allowing this development to take the risk of going forth with wells, which in fact I think disconnects the development from the community. So the questions are unanswered for me, but I'm willing to comply with the majority of the decision today.

CHAIRMAN MONTOYA: Okay. Thank you. We'll take a lunch intermission till what time? 2:15?

[The Commission recessed from 12:45 to 2:20.]

**IX. A. Biomass Presentation by Mark Sardella (Commissioner Vigil/
Commissioner Campos)**

COMMISSIONER VIGIL: Mr. Chairman, we are going to be hearing about a ten-minute presentation from Mr. Mark Sardella, but I also would like us to move item XI. C. 2. We're not going to have a full Commission after 3:00 and I think that item deserves full Commission hearing.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER VIGIL: If there are no objections.

CHAIRMAN MONTOYA: Mark, do you want to go ahead. We'll give you about ten minutes. Thank you for being patient with us.

MARK SARDELLA: Sure. And I'm glad to be brief. Commissioners, I appreciate the opportunity to at least take a couple of minutes with you this afternoon. I'm Mark Sardella. I'm the executive director of Local Energy, a tax-exempt non-profit working here in the community to help the community develop local energy resources for the purpose of sort of ameliorating some of the hardships of higher energy costs that we've been seeing.

In a couple of minutes, I do want to respect that you have 27 items left on your agenda and this is number 3. I just counted them. I do want to be brief but I also want to ask you something and that is I've spent about two years on the project now during research and education and studies, and a particular project design on a community based energy system and I would like the opportunity to meet with staff and perhaps a couple of you as long as we don't get a quorum together to give a presentation that's in more depth on the research that we did, and I'll tell you a little bit about the research we did.

We're not going to show the video today because that was 29 minutes and I didn't want to take that time, but all of you have a copy. And on your desk is a cardboard sleeve, the sleeves for the video came out a little later than the video itself. If you could match that sleeve with the video I gave you earlier and if you can't find the video just see me and I'll give you another one.

The project is mostly being called the Downtown Biomass District Energy Project, and I think that's a bit of a misnomer. That's what everybody knows it as, as biomass development.

What we're really looking at is community energy development and this is very much analogous to the water discussions you had this morning. Do we use our local water resources? Do we import water? Very much the same types of issues come up with energy. It turns out we're importing 100 percent or 99.5 percent of our energy right now. That's a very dangerous position to be in and there is a considerable amount of local energy that you could generate here and the benefits of doing that are actually considerable.

Let me tell you a little bit about the two-year study that we've been involved in. It involved both an engineering technical feasibility study to see if it would be possible to build a district energy system, a community-based energy system to heat downtown Santa Fe. About 550 businesses and residences. I think you know that we hired a world-renowned biomass engineering firm to determine the feasibility and the cost of that system and we did show technical feasibility on that.

The second component was a fuel availability study. In a 50-mile radius of Santa Fe it turns out there's at least 50,000 tons of waste biomass. This is biomass that's currently being paid to be disposed of, and that's a very important consideration. If you look there on the sleeve to the video that I gave you, there's a picture of a guy in a white pickup truck, loaded with biomass fuel, and he's handing money out the window. He's entering the Caja del Rio landfill and he's paying for the privilege to throw his fuel in the dump so that you can cover your cost of greenwaste disposal. It's considered totally a waste product at this point.

At any rate, we did find about 50,000 tons being paid to be thrown away in the surrounding community. The downtown system would need only about 20,000 tons so there's considerable biomass available. We also did a detailed design of a micro-grid at the Santa Fe Community College. That project, they borrowed the money for. It's about \$1.5 million. They received bids on that. I'll be evaluating those bids this afternoon, in fact, if I get out of here on time, and then hopefully moving forward on that late summer and fall to heat the entire college campus with biomass.

They are already heating the early childhood development center down there with biomass and using that system as part of the vocational training program in biomass technologies that we've developed with them.

The last part of the study was an economic benefit study. And here, this is a very interesting one because currently - I'll give you one statistic from the movie, Santa Fe County residents, including the city actually, city and county, paid about \$31 million last year for their natural gas consumption, most of it for heating their homes. Of that \$31 million, only about \$4.5 million of that expenditure actually stays in the community in the first round of spending, the economic term of first year retention. About \$4.5 million out of \$31 million. So the other \$26.5 million leave town because the money is paid to an investor-owned utility.

So the benefits of building a local community-based energy infrastructure are number one, that you stabilize the price of energy, because you have a more stable resource for the fuel. Right now, prices are skyrocketing 28 percent a year, every year for the last four years. If you could develop some local resources in biomass, and the County, by the way, is the one that has all the biomass. The City is considering the system for its downtown but the fuel would come

from the county, clearly and the surrounding communities. So you have the fuel, you have the fuel resource, and with all the talk we heard this morning of all the things you want to preserve in water, including historic uses and historic acequias, what about the historic tradition of caring for the forest and gathering fuel wood from the forest that we have here.

There was a time there was a boiler man in every building in Santa Fe, and we had a solid fuel-based economy. That actually turned out to be good for labor and good for jobs and good for a whole lot of things like retaining money in the community. So the idea of developing once again and returning to community-based energy as a means of providing jobs and a secure economic future for the community is one that should be considered.

We also did some attempt to quantify it and it turns out the benefits of that, just in terms of the multiplier effect of the money could be in the billions, one to eight billion, depending on how you discount the benefits. That's really all I had. It's kind of hard to summarize it in the ten minutes here that you have on your schedule today, but if we could meet, I've already met with a couple of you and we've talked in these Rancho Viejo solar meetings, which I really appreciate, about these kinds of issues. I think the public improvement district question, the bringing in someone to talk about PIDs as a means of financing community-based energy systems, should be a part of the discussion. Rio Rancho in looking at creating a very limited municipal utility, building a very small energy infrastructure for electricity is looking at the very same thing, this use of PIDs. They're evaluating the use of PIDs too, to build that kind of system.

So I would like for that to enter into the discussion. And finally just from the – and by the way, I didn't mind at all waiting for the water discussions this morning. It was very valuable and a very good education for me. I started jotting down in my notebook, the fact that you've had to deal with water issues, and primarily, these are water scarcity issues and water cleanliness issues and water availability issues, the fact that you've had to deal with these for so long does prepare us for what we're going to be dealing with very soon in energy issues. I think the fact that you've got a little jump on it and you're looking at it now before we enter the Stage 3 energy emergency and so on.

I think you have a lot of creative ideas before you and a lot of things that you've tried. I worked on a few notes just separating out the word energy for water. What about having an energy allocation policy? And I have a Rio Rancho ordinance in front of you, a copy of an ordinance, the one with the triangle graph on the back in the yellow and blue that I can discuss. Transfer of energy rights. What about a furnace retro-fit program for all these people in older homes that have very low efficiency furnaces. Declaring an energy drought. What about energy impact statement when you build new communities, build new developments and talk about all the extension and all the beefing up of substations and so on. You should have an energy impact statement.

Importing energy versus local generation, a very important consideration. Works the same with water as it does with energy. What about creating a community energy trust? What about putting assets into trust under a trust agreement such that they'd be held in perpetuity for the benefit of providing long-term sustainable energy for the residents of

Santa Fe County.

That's about what I have. I have plenty more statistics from the movie. I hope you find the time to watch the DVD. I realize you have a lot of these DVDs stacked up at home with everybody handing you one, but it is a good way boiling down a couple of years of research into a 30-minute presentation. And that's all I have. That's all I'm going to offer you today. But if we could get together on a meeting to start doing workshops and I have been talking, at least in casual discussions with your deputy County Attorney and things like that. We also have a resolution on the Downtown system to begin developing an implementation plan and I would like to start those meetings with you also if you're willing to do that. So with that I just stand for questions if you have any.

CHAIRMAN MONTOYA: Okay. Any questions for Mark. Okay, Mark, thank you again. Appreciate it and go ahead and continue the discussions you've begun and let us know when we need to enter the picture as well.

MR. SARDELLA: Okay. Thank you very much.

XI. F. 2. Resolution No. 2006-85. A Resolution to Adopt the State Plan for Deferred Compensation [Exhibit 1: Deferred Compensation Packet]

VICTOR MONTOYA (County Treasurer): Mr. Chairman, Commissioners, this is Jim Keeler from Nationwide and JoAnn Garcia, Deferred Compensation Manager with PERA.

JIM KEELER: My name is Jim Keeler. I am the program director for the state of New Mexico deferred compensation plan. I'm with Nationwide who is the third party administrator for the state deferred comp plan. In light of the time, we're just going to give you a brief presentation. I've passed out a red participation packet that would go to an employee at the County if the Board were to adopt the plan. Also, the plan document and the investment policy. But what we're going to be referring to today is the short presentation that has the state flag on it, and we'll begin there.

JOANN GARCIA: The state of New Mexico deferred compensation is an eligible deferred compensation plan as defined by Section 457 of the IRS Code. It is a voluntary supplemental tax deferred plan, which is aside from the defined benefit plan. IRS 457 plan id for public employees. The participants are 100 percent vested at all times. Full-time employees, part-time employees and seasonal employees are eligible to participate in the plan. Retirees can maintain their assets in the plan after they retire and when returning to work they can reactivate their account or open a separate account. Contractors are not eligible.

The minimum to participate in the plan is \$10 per pay period. The plan is established pursuant to the deferred compensation act of New Mexico. It follows IRS guidelines and is governed by a plan document. There is PERA board oversight for the deferred compensation plan which means that the PERA board approves any changes that

are made to the plan. There is an investment policy statement which defines the objectives of the plan and establishes the policies and procedures in regards to the plan's investment program.

The PERA deferred compensation plan must go through an RFP process. We have a third party administrator that provides administration, record keeping and education for the plan, an investment consultant that does the performance monitoring, and a stable value fund that's administered by Dwight Asset Management.

MR. KEELER: Our current plan assets are \$274 million. There are 13,000 participants within the state deferred compensation plan, 85 payroll centers, which means other than the state plan, which has obviously many different payroll centers within the plan, there are another 84 payroll centers that have adopted the plan, that is cities, counties and special districts throughout the state of New Mexico. It's very important to point out there's a local, full-service walk-in office in Santa Fe that's staffed from 8:00 to 5:00. Any County employee can walk into the office if they wanted to review their accounts and enroll in the plan. And that's off Calle Medico.

There are four full-time representatives. In Santa Fe we have a full-time representative as well as myself that conduct workshops and one-on-one meetings with participants. There is also a state-specific website and toll-free customer service and voice response system. Nationwide is the third party administrator. We charge a flat fee in this plan. We do not charge a percent of assets. The flat fee is \$14.75 per quarter. It does not matter how much money you have in the plan; that's not going to go up.

The investment consultant that will receive the investments in the plan is Mercer. The current administrator is less any rebates from any 12b-1 fees administrative refunds from the funds that are utilized in the plan. These are credited back to participants. This is done on a quarterly basis and all fees are fully disclosed in any participant's quarterly statement.

Currently there are 16 mutual funds in the plan ranging from international all the way down to stable value so you can build a well diversified portfolio, but there are also five lifecycle portfolios, that are organized using funds from within the core investments but they're booked to help the individual participant diversify their portfolio, and they're tied to employment. This is very important because as the individual becomes closer to retirement the investment option becomes more conservative with them automatically. Especially you see this very popular industry since the downturn of 2000 to 2002 in the market. The lifecycle portfolios are also professionally managed and quarterly rebalanced.

There's also a self-directed brokerage option with Schwab. So there are really three tiers. There's the lifecycle portfolio, there's the mutual funds where you can choose your own funds, or for those that maybe have more investment savvy, can utilize mutual funds in the Schwab self-directed brokerage option.

There's a loan program within the plan for those individuals who have a situation that would be non-financial emergency related where they can borrow from themselves for things like high interest credit cards or college expenses. There's also an advice option. We

utilize Morningstar Clear Future Advice for individuals that want to utilize that on their behalf.

On page 8, you may utilize your deferred compensation dollars for service purchase credits, that's either buying back past service with PERA, military service or air time service. It's a direct roll over to PERA. We've seen a lot of individuals that do utilize that. So it's a direct rollover. Also, you can roll money in from past retirement plans - 457s, 401k's, 403b's and 401a's, as well as IRAs, into your deferred compensation plan. So the funds in the deferred comp plan are accessible upon separation from service. We are not tied to age 59 1/2 like those other plans that I mentioned above, and there is no early 10 percent withdrawal penalty upon separation from service to withdraw your monies from the plan.

So there are three ways to withdraw from plan aside from separation from service or the unforeseeable emergency, a loan, or what is known as de minimus, which means you have less than \$5,000 in your account and have not deferred into the plan for two years or more.

You have one of the top-run deferred compensation plans in the country and it is very important to remember that it does have PERA board oversight, and this plan is available for adoption by the County for County employees. It would be one of three plans. Two plans you currently have, you'd be adding the third plan that would be available to service your employees right away.

CHAIRMAN MONTOYA: Okay. Thank you, Jim and JoAnn.
Commissioner Sullivan.

COMMISSIONER SULLIVAN: What two plans do we currently have and why is this one better than the two we have?

MR. KEELER: Currently you have two plans that are known as annuities. You have one from AIG Valic and one from Nationwide, which is our National Association of Counties plan, which is a standardized national plan that Nationwide uses for counties across the country. What makes this plan different, this is a custom plan. Nationwide is just a third party administrator. You don't have oversight of the plan and its investments. We utilize a third party financial consultant for that from the state plan, and you have different options that are called enhancements, a flat fee compared to a percent of assets.

As an example, if you were to use one percent, as your account grows, your fee continues to grow in a plan that uses a percent of assets versus a flat fee. The flat fee in the state plan stays the same and will not go up whether you have \$100,000 or a million dollars in your plan. Also, we have a three-tiered investment approach and that is the fund-to-fund, the lifecycle, based on retired, your own mutual funds where you choose and build your own plan, or a self-directed brokerage option. Which really helps your employees have the most options available to them, to help plan for their retirement.

COMMISSIONER SULLIVAN: And the other two plans are supervised by whom?

MR. KEELER: Valic is one of your providers and the other one is Nationwide. I'm also with Nationwide, but with the state plan we are a third party administrator under contract. The National Association of Counties plan is a standard plan that Nationwide utilizes for counties across the county. You've currently adopted those two plans.

COMMISSIONER SULLIVAN: In terms of investment performance, which one has done the best?

MR. KEELER: Well, investment performance would be based on what individual investment the employee would choose. If they were in a fixed account - the highest paying fixed account right now amongst the three plans is the state plan. The stable value account is paying 4.3 percent but has no market risk. But there are several choices within the variable category. Asset classes from international, small-cap, mid-cap, large, bonds and balanced, which do fluctuate with the market.

You have a plethora of choice, and what we've seen with the state plan is they've actually gone back to cutting back from the number of funds that you have in the core investments to 16. There are some funds, I'm not saying either Valic or NACo, administered by Nationwide as well, but many of these plans across the country have 50 or more choices and you tend to see a lot of paralysis by the participant that doesn't know what to choose. So they've tried to pare that down. And why you have three tiers is you have tier one for those that just want to pick, the lifecycle portfolios based on your retirement date - here too they can choose their own funds, or if they're very well educated, they have a lot more options available within the brokerage option window at Schwab. So it does depend on the individual choice.

COMMISSIONER SULLIVAN: Thank you.

CHAIRMAN MONTTOYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: I just want to thank our Treasurer and our Legal Department who have worked on this quite a bit. I thoroughly appreciate the opportunity to participate in this deferred compensation plan, not only on a personal level but to provide that option to our employees. And I didn't know whether or not we were required to participate in only one plan. It sounds like you're testifying to the fact that we have the options of three plans. State employees though however, have to participate in the deferred comp plan that PERA awards the RFP to, is that correct?

MR. KEELER: That is correct, and until recently, about two weeks ago, your explanation was correct. PERA, if you were to adopt the deferred comp plan would want that to be the only plan available to you within the entity. But they've since adjusted the resolution, the verbiage to allow for other providers as well.

COMMISSIONER VIGIL: Okay. Good enough. I'm very much in favor of this. I particularly like the fact that you have local representatives. My particular plan right now doesn't and that is a gap for me. And I'm glad to know I can roll over. Mr. Chairman, thank you.

CHAIRMAN MONTTOYA: Your retirement. Okay. Any other discussion?

Do we have a motion?

COMMISSIONER VIGIL: Move to approve the deferred compensation plan with Nationwide.

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

COMMISSIONER ANAYA: Second.

COMMISSIONER SULLIVAN: Is it Nationwide?

COMMISSIONER VIGIL: Yes.

COMMISSIONER SULLIVAN: I thought Nationwide was the one we already had.

MR. KEELER: You do have a plan that's administered by Nationwide, which is NACo, National Association of Counties. Nationwide is also the administrator, independent third party administrator for the state plan as well.

COMMISSIONER VIGIL: Let me clarify that motion - to participate in the state plan/Nationwide.

CHAIRMAN MONTOYA: Okay. Any other discussion?

The motion to approve Resolution 2006-85 passed by unanimous [5-0] voice vote.

CHAIRMAN MONTOYA: Thank you, Jim. Thank you, JoAnn. And thank you Greg Shaffer for bringing it to us, and Victor as well. Thank you.

XI. D. Public Works Department

2. Consideration of Possible Amendments to the Memorandum of Understanding Between the New Mexico Department of Transportation and Santa Fe County for the Northeast Connector from St. Francis Drive to Richards Avenue.

MR. ROSS: Mr. Chairman, members of the Commission as you recall from the last meeting, you instructed me, this is how I took the direction, you instructed me to investigate what the DOT had in mind with the additional sentence on the bottom of page 3, paragraph 9. This is the sentence that provides, the County shall also cooperate with the Department to preserve the Department's right to use the northeast connector for highway purposes if deemed necessary. As you recall, some of the discussion was whether we should insert the word "emergency" in between the words "for" and "highway" and we elected not to do that because the Highway Department had broader intentions than use of the northeast connector for just emergency purposes. That was as a result of the conversation that I had with Deputy Secretary Andreas Villamonte during the meeting when this discussion was occurring. So pursuant to the Commission's direction I scheduled

a meeting and did meet with the Department of Transportation people last Thursday and I found out in pretty great detail what it was they intended with that sentence and it is the following: I think it's what a number of us were speculating it meant.

They intended that the language make it clear that the Federal Highway Department will require that the transfer agreement, transferring the deed of the right-of-way from the federal government to the County government is going to contain language that the Federal Highway Administration can revoke the right-of-way in the event it's needed to address transportation needs identified in the corridor study or subsequent studies. That being said, they also wanted to clarify that any such action would be subject to the approval of the MPO on which you all sit, and that any changes that they identify to the highway system through this corridor study would have to be approved by the MPO. And then the third item they wanted to make sure was clear to us was that the grant of the right-of-way would be contingent on Federal Highway Administration standards.

I think that number one, the grant of the right-of-way is, as a matter of fact, contingent on Federal Highway Administration standards. It's federal land and they're going to make sure they preserve all their discretion in the right-of-way agreement. Moreover, even if that language weren't in this agreement they could take this right-of-way back if they wanted to. After all, the federal government has the plenary authority to do things like that.

So after that meeting, having clarified those three points, and I clarified them in writing in an e-mail back to the Highway folks, I don't see anything really scary in that sentence that we were struggling with last week as written. I actually had recommended in an e-mail to all of you that this item come off the agenda, that there wasn't anything in here that bothered me in this sentence.

CHAIRMAN MONTOYA: So we don't need to take action on this today?

MR. ROSS: That's where we are.

CHAIRMAN MONTOYA: It's good as was done at the previous meeting?

MR. ROSS: Yes, we had a 3-0 vote to approve.

CHAIRMAN MONTOYA: May 9th? Okay.

MR. ROSS: So unless you want to change something or discuss it further, that's basically where we're at.

CHAIRMAN MONTOYA: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Those - you said you had those documented, Steve, in a letter from them?

MR. ROSS: No, I documented it back to them in an e-mail.

COMMISSIONER SULLIVAN: So the terminology that they stuck in here, that they could use the right-of-way for whatever they wanted for highway purposes if deemed necessary, relates just to those four things?

MR. ROSS: Those three things. Yes.

COMMISSIONER SULLIVAN: Three things. And you documented that back to them. And where - are we going to memorialize that in the transfer agreement?

MR. ROSS: The transfer agreement is going to come to you next. And that agreement, I understand is being drafted by the DOT Legal Department as we speak. So we should have that on an agenda pretty soon.

COMMISSIONER SULLIVAN: Because my concern - I understand that we've passed this and I appreciate your getting this resolved in terms of what they mean there. That paragraph 9 is still fairly broad where they say that the department preserves a right to subsequently secure any rights-of-way required for multimodal transportation system, and my personal concern has been that up to this point in time they have done those things unilaterally, MPO or not. So I'm not real comforted by the language that they are going to "keep the County informed" as it shows in the second to last paragraph on page 3. They inform us after the fact. So I guess maybe in the transfer agreement that at least you could write in there "keep the County informed before they do it." Maybe they would agree to that, because quite frankly, there just hasn't been that level of cooperation between the DOT and its decision making and the County.

I'm really concerned that the Community College District, which has a specific set of transportation guidelines is going to be simply overthrown by some technical decisions at DOT and neither Commissioner Vigil nor Commissioner Campos nor any Commissioner, myself or Commissioner Montoya or Commissioner Anaya are going to have any say-so in that. It's just going to be a fait accompli. So those may be harsh words but unfortunately that's what we seen - I've seen - I won't speak as the Commission, to date. So I would just ask that you try to narrow that broad language as much as possible. We want the northeast connector to move forward. We want it to move forward as what it is, which is a two-lane road that provides a relief route, not as a major on-ramp to the Richards Avenue interchange that the DOT has been promoting for the last decade. So I hope that we can continue to narrow their focus. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Thank you. Thank you, Steve. Now we'll move back to page 1 and we will go with some sort of semblance of order here.

COMMISSIONER SULLIVAN: Mr. Chairman, do you want to do the affordable housing before you leave? The regs?

CHAIRMAN MONTOYA: I think it's going to take more than five minutes.

IX. C. Ordinance 2006-7. Consideration and Possible Action on an Ordinance Amending Ordinance No. 2006-4 to Allow the Santa Fe County Fire Department Chief (or Designee) to Issue Burn Permits Under Certain Circumstances and Subject to Certain Conditions (Commissioner Anaya/Commissioner Vigil)

COMMISSIONER ANAYA: Thank you, Mr. Chairman. This just gives the Fire Department the option to allow somebody to burn if they have everything covered.

The other day the movie industry called me and asked me if they could do a burn, just a little campfire out in the Village of Galisteo. I didn't think it was a big deal but since we had the ordinance in place we couldn't do it. This would allow the Fire Chief to, if he feels it's okay, they have to have the proper equipment there, they have to make sure the wind's not blowing 100 miles an hour, I'll go ahead and let Hank continue.

CHAIRMAN MONTOYA: Commissioner Vigil, did you have anything to add?

COMMISSIONER VIGIL: Not at all. I think that the ordinance speaks for itself. The amendments too.

CHAIRMAN MONTOYA: Okay, are there any questions on the ordinance and the amendment? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, just a comment. I do see that paragraph C. 5 does require that they have a reuse plan and a water conservation plan and that's what was important to me on these approvals and I would defer to the Fire Department to be very diligent about that.

CHAIRMAN MONTOYA: Okay. Commissioner Campos, any questions? Okay. What's the desire of the Board?

COMMISSIONER ANAYA: Second.

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

The motion to approve Ordinance 2006-7 passed by unanimous [5-0] roll call vote with Commissioners Anaya, Campos, Sullivan, Vigil and Montoya all voting in the affirmative.

IX. D. Resolution No. 2006-86 A Resolution Declaring Drought Conditions and Imposing Restrictions on Water Use in Santa Fe County (Commissioner Montoya)

CHAIRMAN MONTOYA: This ordinance is brought to have the entire county, right now, it's County water utility members that need to abide by the restrictions and what we're asking with this amendment is to impose the restrictions on water use throughout Santa Fe County. I would stand for any questions or Dr. Wust. Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. How are we going to enforce this?

DR. WUST: Mr. Chairman, Commissioner Anaya, that is why it's a resolution and not an ordinance. It is actually not enforceable. It's basically a sense of the Commission, and if you like we could change the language a bit to say the Commission encourages all residents to do this. But actually it's not like an ordinance. It's not a law.

Number 2 there says what the County will do, and a note made on that particular item, a note mentioned to me by the County Attorney this morning was if you're going to do something like saying we will issue no permits, you should put some kind of sunset clause on it. You either put a date and say up until this time, say winter, or until at such time as the Commission rescinds this resolution. So one of those two the County Attorney suggests as being added into there. Although I don't have exact language at this time. But the others are non-enforceable.

CHAIRMAN MONTROYA: So that would be as number 6?

DR. WUST: The County Attorney can help us write the amendment but it could be, instead of adding a number 6, I think maybe in number 2 you could say the County will issue no permits, etc., etc., and then with a date or until such time as this resolution is rescinded. I'd have to check with the County Attorney to get some exact language. He suggested it to me this morning.

CHAIRMAN MONTROYA: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chairman.

CHAIRMAN MONTROYA: Commissioner Sullivan brought it to my attention that under paragraph A, this resolution shall take place immediately and shall remain in effect until rescinded, all or in part by the Board of County Commissioners. Is that appropriate? Steve, we're discussing the resolution on the drought conditions, restrictions, and the question about putting something in about a sunset or when it will be over. Is it addressed on A on the second page of the resolution?

MR. ROSS: Mr. Chairman, my concern on A, I guess there's no B, on the second page is that essentially, if you take a look at 2 on the first page, it refers to issuance of permits for construction, things like that. You are essentially with this resolution imposing a moratorium on certain kinds of permits to justify an emergency situation, and I wouldn't want to have a resolution like that inadvertently sitting on the books for years and years and years. I think we should have probably a date certain there - 30, 60, 90 days - so if we get a really good monsoon or something and the emergency is lessened, that the resolution doesn't stay on the books for years and years and years without being reviewed. We have hundreds, thousands of resolutions on the books that aren't routinely reviewed right now for their current applicability and if you put a moratorium on certain kinds of development and it accidentally stays on the books forever, that could cause some problems. So I would certainly recommend that there be a date certain set forth in A there on the second page.

CHAIRMAN MONTROYA: Okay. Could we look at November 2006 or December 31, 2006?

MR. ROSS: Mr. Chairman, that sounds reasonable. Just some date that Mr. Wust has to come back and appear in front of you to get the emergency conditions suspended.

CHAIRMAN MONTROYA: So I would offer that amendment and then just strike all the rest of it, so it would read that this resolution will take effect immediately and

shall remain in effect until December 31, 2006, period.

COMMISSIONER CAMPOS: It automatically expires?

CHAIRMAN MONTOYA: Yes.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Ross, on Mr. Wust's comments that it's not enforceable because it's a resolution, could you comment on that?

MR. ROSS: Mr. Chairman, Commissioner Sullivan, a resolution might be enforceable as against utility customers, because you have authority over your utility customers because they are customers of the County by contract. This resolution doesn't appear to be directed at just utility customers but the public at large. You're not going to be able to affect the public at large unless you make this into a law. If you think about doing that, some of these provisions might be suspect, if they were made a law of general application. But a resolution is not going to be enforceable against somebody who's not on the County utility system unless they're coming in for a permit under 2. That's really all.

COMMISSIONER SULLIVAN: What if they're not on the County system, and they're on a well, and they're coming in for a swimming pool. Does the Land Use Department deny them or what instructions or direction do they have?

MR. ROSS: Under this, they're denied.

COMMISSIONER SULLIVAN: So it's enforceable?

MR. ROSS: That is enforceable.

COMMISSIONER SULLIVAN: Why is that provision enforceable and the others not?

MR. ROSS: Well, for example, say you're not on the County utility system and you water between 10:00 and 6:00 under 4A, that's not enforceable; it's not a law. They have done nothing wrong, they have just done something that you've resolved that they not do. There's no teeth to something like that.

COMMISSIONER SULLIVAN: But number 2 is not a law either, paragraph 2.

MR. ROSS: But you have permitting authority, so you have something that members of the public want which under this resolution would deny them. We don't have to have an ordinance to say we're not going to process any permits until the emergency is over. It's a little different than stopping Joe at this house and saying you're watering now and it's 2:00 pm.

COMMISSIONER SULLIVAN: Or you don't have a cover on your swimming pool. But because we have a permit process we can enforce it. Okay. Thank you.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I would just ask Dr. Wust, is it appropriate to have a termination date, shouldn't we also include language that allows us to extend that date, should December 2006 the Board of County Commissioners can reconsider the

drought conditions and we can actually extend this resolution and not have it terminated? I just don't want it to get lost in a termination date when in fact it might need to be re-evaluated.

DR. WUST: Mr. Chairman, Commissioner Vigil, I believe that's the approach of Steve Ross and that is we need a sunset clause so it's not - if we forget, it doesn't go on forever. In this case we need to be pro-active to make it continue and I need to present to the Commission justification for that. And if we have a justification, then we can continue it. So the way to impose that is to put a date on it to say we have to take some action in order to continue it. And it would be my job and Legal's job to put up an extension if necessary. But if we don't put a date on it then in essence we're saying we have to take an action to stop it and then it becomes this de facto permanent moratorium, if we don't do anything.

So that is the process, my understanding of why we're doing it this way.

COMMISSIONER VIGIL: Okay. Would it be satisfactory to put the December 2006 date and then language that states And the resolution may be extended upon review by the Board of County Commission?

DR. WUST: That's a question for our Legal staff.

COMMISSIONER VIGIL: Steve Ross.

MR. ROSS: Mr. Chairman, Commissioner Vigil, that way would be just as appropriate as doing a new resolution. You could do it either way. It would be equally effective.

COMMISSIONER VIGIL: Okay.

MR. ROSS: But you'd have to take affirmative action in either event. Either enact a new resolution, with the same guidelines, or just extend the duration of this resolution until whatever date that's set.

COMMISSIONER VIGIL: So is that language necessary, Mr. Ross, or just a termination date?

MR. ROSS: Mr. Chairman, Commissioner Vigil, I was hoping you would - my recommendation would be you'd establish some sort of termination date so that the resolution doesn't stay on the books longer than it's needed. And the mechanism for that is, it could be a resolution that is reviewed periodically, as you're suggesting, or a new resolution that Mr. Wust comes in and proposes.

COMMISSIONER VIGIL: Okay.

CHAIRMAN MONTROYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: One final thing, Mr. Chairman. It seems if we're going to go to the time and effort to make a resolution then we should be serious about it and we should enforce what we can enforce. What we cannot enforce we should at least notify the public about this. Is there any plan, Dr. Wust, to notify the public about the Board's determination on it?

DR. WUST: Mr. Chairman, Commissioner Sullivan, we don't have a plan in place at the moment. Probably the best route is to advertise in the newspaper. We'll

certainly put it on our website. With our utility customers we've already got most of these restrictions in place. It was pretty easy. We included the new restrictions with the bill so every customer received one of those. With this it would be impractical to send a letter out to everybody in the County but we could certainly put ads in the newspaper and put stuff on the website. That would be appropriate.

COMMISSIONER SULLIVAN: Can we put it in their tax bills? We haven't gotten tax bills yet. We've gotten tax notices. We haven't gotten tax bills, have we? I don't think so.

DR. WUST: That would be a decision for the Assessor.

COMMISSIONER SULLIVAN: Why not talk to the Assessor about that. That may not be legal. I'm not sure. If that isn't appropriate then I think we should at least set aside some funds to put some notices in the papers about this. And one thing that will do is that will get some feedback. Some people will say we don't like this; stay out of my life. Other people will say we think it's a good idea, but here's a problem, here's a problem. I'd like to get some public feedback about whether ultimately there should be an ordinance or some portions of it should be.

DR. WUST: Commissioner Sullivan, if I might ask, since the fire ordinance was just passed, is there some parallel? I don't know how they advertised that either. We might be able to do that also, but I'm not sure what they did.

COMMISSIONER SULLIVAN: It's seems that was a very short time period. Statutorily we can only do it for a very short period of time. And it seems to happen just before July 4th and the newspapers seem to pick up on that very readily since we're only a month away. But something of this nature I think has far less news appeal and we may have to push the issue a little. Certainly as much as the newspapers would carry it, that would be good, but beyond that, I don't know if it would make its way to Edgewood or anywhere else. Maybe even to Stanley. I just don't know. If there's a funding situation let's talk about that and maybe we can come up with some discretionary funds or something to help with the advertising.

DR. WUST: Commissioner Sullivan, we have funds. We'd be glad to place an ad in the paper if the Commission feels that's a good effort.

CHAIRMAN MONTOYA: Does PNM allow statements of certain - something like this to be added into the mailing when they send out - I know Jemez Electric will allow that sort of advertisement and it goes out with the electric bill, which I get announcements. And I don't know if PNM does the same but we'd be able to send it with the utility bill or the utility company's bill.

DR. WUST: Mr. Chairman, we can ask.

CHAIRMAN MONTOYA: And then Jemez Electric would cover part of my district. I'd be glad to follow up on that with you as well. That's certainly a cheap way of getting it out to a lot of people. Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. Is this just residential?

DR. WUST: Mr. Chairman, Commissioner Anaya, I don't think it specifies.

COMMISSIONER ANAYA: There are a lot of people in the southern part that have irrigation. We grow alfalfa and corn. Are we telling them they can't water their corn and alfalfa?

CHAIRMAN MONTOYA: They just can't wash their tractor.

COMMISSIONER ANAYA: Okay.

CHAIRMAN MONTOYA: If there are no other questions, I would move for approval as amended on paragraph A.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN MONTOYA: Second, Commissioner Vigil.

DR. WUST: Mr. Chairman, as amended?

CHAIRMAN MONTOYA: As amended, yes.

The motion to approve Resolution 2006-86 passed by unanimous [5-0] voice vote.

IX. E. Consideration and Possible Approval of an Agreement between Española Hospital and Santa Fe for Ambulance Services in Northern Santa Fe County (Commissioner Montoya)

CHAIRMAN MONTOYA: As some of you may recall from discussions that we've had in the Healthcare Assistance Program meetings, this contract has been negotiated for about the last eight years, I guess, or since 1998. So it's been about eight years. And we were finally able to come to a consensus that this agreement would fulfill what is being requested by Española Hospital and being able to be fulfilled by Santa Fe County for the ambulance services out of the Española Hospital. Steve, is there anything you have to add?

MR. ROSS: Mr. Chairman, the guts of the agreement are in 3. If this agreement is approved, the County would pay the hospital \$100 per run for runs that they make with Santa Fe County. Of course the greater Española area contains portion of Rio Arriba and Santa Fe County and the hospital actually dispatches from Rio Arriba County. But a great number of their runs are in Santa Fe County for those runs and they keep detailed records where the runs are going to. The County would pay the hospital up to \$100, not to exceed \$33,000 each fiscal year.

And of course in 2 you see some of the more detailed discussion of how they're going to provide the services, which is of course subject to the availability of equipment and manpower. If the hospital's team is responding to an accident north of Española, obviously they're not going to be able to guarantee response to the southern part of the county but that's why we have a safety net of volunteers and professional EMS staff

employed by Santa Fe County to address those issues. And the hospital is only agreeing to provide services within their designated service area. As you know, they're a regulated utility and they have to go through the PRC and get a service area designated, so they won't go agree to go outside that area. And the agreement is a two-year agreement. That's kind of the guts of the agreement.

CHAIRMAN MONTOYA: And Steve, I want to thank you and Gerald and Stan Holden for helping facilitate this and get this moving and with that I would move for approval.

COMMISSIONER CAMPOS: I'll second it.

CHAIRMAN MONTOYA: Second by Commissioner Campos.
Commissioner Sullivan.

COMMISSIONER SULLIVAN: Could someone explain what the dispatch means in paragraph 2? I know there's been some problems, conflicts in dispatch service areas in the past with the Española Hospital ambulance service. It says services will be initiated upon 911 dispatch, and that shall refer to dispatch by the Española/Rio Arriba 911 center who will use its standard manual, Section 100, Article 10. That just escapes my mind. I was just reading it last night, but fell asleep when I got to Section 9. So maybe you could give me what Section 10 says.

CHIEF HOLDEN: Mr. Chairman, Commissioner Sullivan, I think the document is specifically referring to protocols and procedures of the Española E-911 center, not specific to the contract itself and basically the agreement, Commissioner is that we in all cases, what we are encouraging people to do is to send the closest available resource to the emergency at the time the 911 call is made. We're trying to get everyone to understand and agree, people don't care what color the ambulance is. They don't care who the employees are or employees of. What they're concerned about is getting the quickest and fastest response with trained providers on the scene as quickly as possible. And we believe this type of agreement with Española Hospital is an example of that type of procedure.

COMMISSIONER SULLIVAN: Do we know what Section 100, Article 10 means?

CHIEF HOLDEN: Mr. Chairman, Commissioner Sullivan, I can't quote it for you right now. I cannot. I'm sorry.

COMMISSIONER SULLIVAN: It's not something that is involved in this service area conflict that we had in prior years?

CHIEF HOLDEN: There are still areas of concern regarding that area, Commissioner Sullivan. Specifically, again, I'll go back to what we're trying to encourage everyone to do, each dispatch center, is to send the closest available resource, irrespective of geographic boundary or irrespective of their PRC public service area. And I think Mr. Ross did an admirable job earlier trying to explain it. We really want the closest available resource sent irrespective of which agency is responding.

COMMISSIONER SULLIVAN: That makes sense to me. I'm just

concerned that maybe we can move with this and maybe have Mr. Ross or one of the staff look into it. I'm just concerned that the Española/Rio Arriba manual might say the first person you call is the Española Hospital ambulance service, and if they can't respond then you get the next one or the next one. And if that's what it says, that's not what we want. We want, as you say, the one that can get there quickest and provide the services. So Steve, could we look into that? I'm not trying to put anybody on the spot here but I'm just concerned that the citation of this particular manual, which of course could change from time to time over the next two years, could provide a red flag that we don't need in this agreement. We're trying to do something cooperatively. Does that make sense?

MR. ROSS: Mr. Chairman, Commissioner Sullivan, we can certainly find out what the current manual says, what order the units are dispatched. When we talked about this - we've been talking about this probably for a year and a half with them, and certainly the service area issue came up repeatedly. What we all agreed to do was to address the service area issues in a separate agreement, which is probably a more difficult agreement. The hospital believes that we need to address the order of dispatch with the dispatch center, not with the hospital. That's why they were balking at signing an agreement that had different language in it, I suppose, from what the dispatch manual had in it, because they didn't think they had the authority to be able to direct where the dispatch center calls on a particular call. So we all agreed in a meeting we had several months ago that we would make that the subject of a second agreement, probably with the dispatch center in Española and try and wrangle through some of those issues.

COMMISSIONER SULLIVAN: Right. It seems to be specified here in paragraph 2 where it says determined in this standard manual.

MR. ROSS: Mr. Chairman, Commissioner Sullivan, all dispatch centers have a manual like this and they do change from time to time based on improvement in improvements in emergency dispatch, changes that are made to get the units to places quicker. It's true this language could change. I don't know what it says right now. I hoped the Chief would know that manual. It could say anything. It could say units shall be dispatched from Alaska, but tomorrow could change.

COMMISSIONER SULLIVAN: Mr. Chairman, I don't want to beat this to death, but if we're going to talk about the dispatch procedures in service areas in a later agreement, should this sentence be in this agreement now?

MR. ROSS: Commissioner Sullivan, if I might. We do have a representative, Santa Fe County does have a representative to the Española E-911 Board and that was the form that we all agreed that we would utilize in order to address this specific issue. I do believe that Española Hospital has every intent of doing that, so if you would allow a comment from staff and a suggestion, perhaps we would just strike that language. I don't think it's really necessary to have it in the contract. We could strike that language and we could continue to use the form that we currently rely upon and have a representative to in order to address the other issue.

COMMISSIONER SULLIVAN: That would be fine with me.

COMMISSIONER VIGIL: I know.

CHAIRMAN MONTOYA: So do we just strike where it says – put a period after center? Or the whole sentence?

COMMISSIONER SULLIVAN: I would just – that whole sentence.

CHAIRMAN MONTOYA: So that it ends with ambulance services?

COMMISSIONER SULLIVAN: Yes.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER SULLIVAN: Obviously, that's the subject of some ongoing negotiations that we don't want to weave this agreement into.

CHAIRMAN MONTOYA: So I am willing to accept that amendment. Second?

COMMISSIONER CAMPOS: Did I second? That was a long time ago. I'm okay with it.

CHAIRMAN MONTOYA: Okay. Any other discussion?

The motion to approve the agreement with Española Hospital regarding ambulance service, as amended, passed by unanimous [5-0] voice vote.

CHAIRMAN MONTOYA: Madam Vice Chair, if you could take over till I get back.

COMMISSIONER SULLIVAN: Are we still going to be here when you get back?

CHAIRMAN MONTOYA: Or you're definitely going to be here.

COMMISSIONER CAMPOS: At the rate we're going we're going to be here until tomorrow.

COMMISSIONER SULLIVAN: We're going to be long gone Madam Chair and Madam Vice Chair. Don't even think about coming back. I haven't brought forward any of these items, you guys. I've got the next three hours of items here now.

[Commissioner Montoya left the proceedings at 3:25.]

IX. F. Discussion and Possible Recommendation of Approval of \$350,000 Expenditure of Regional Planning Authority Funds from the RPA Gross Receipts Tax for the Vista Grande Senior Citizen Center (Commissioner Sullivan) [Exhibit 2: Staff Memo]

COMMISSIONER SULLIVAN: Thank you, Madam Chair. Joseph Gutierrez is here to respond to questions. We've heard this presentation before. Also Don Dayton is in the audience who is one of the AARP lobbyists during the session and is also on the building committee for the senior center, and just to refresh your memories, we are short of the fire protection equipment in the building. We are short of a number of

facilities, paving, and we're even short of refrigerators and the necessary appliances to open the building for its intended purpose.

We've got this to the RPA and they're going to hear it at their next meeting. We need to move forward because the contractor is out there working and if we're going to do a change-order we need to have some direction. Commissioner Campos' suggestion was that we bring it forward to the BCC today and then perhaps we could move it on to the RPA for their recommendation afterwards and that would save us a full 30 days. Joseph, anything to add on that? Our current status? I know at the RPA you did testify that this was a time critical issue.

MR. GUTIERREZ: Madam Chair, Commissioner Sullivan, I think you've disclosed everything. I have a report in terms of the dollars that are available under the RPA for the regional [inaudible] The report that I received from Finance shows that at the end of FY06, which is at the end of this month it's projected that that fund will have generated \$1,270,000 and so far, the only commitment against those funds are \$310,000 for Governor Miles Road. So that's the financial status of that fund right now.

COMMISSIONER SULLIVAN: Governor Miles, in the city or in the county? It must be in the city.

MR. GUTIERREZ: I'm not sure. I just have the spreadsheet. I know that the City is bringing dollars to the table also for this road, so their portion is larger than the \$310,000.

COMMISSIONER SULLIVAN: Okay. So it seems reasonable that we have a comparable amount going into this regional service. But it is of course, not just a City/County issue, the seniors fund is a regional operation where we cooperate with the City of Santa Fe to provide senior services through a contract with the City of Santa Fe. That's been very successful and we appreciate the City's working with us on that. That's all that I can offer, Madam Chair. If there's any questions, my recommendation would be that we approve this and then we can also have the RPA make its recommendation next week.

CHAIR VIGIL: Thank you. Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, he answered my question. So thanks.

COMMISSIONER CAMPOS: Madam Chair, the reason I asked Commissioner Sullivan to bring this forward is to get input from the Commission and perhaps from our staff as to how this money should be spent. It's a lot of money. I know the senior center is in need of the money and over time, we've been putting up more and more money and the last time it got money from the state it was vetoed. I'd like some input from County staff, if they've thought about this issue.

CHAIR VIGIL: Gerald, do you want to address that, or shall we pass it over to Public Works.

MR. GONZALEZ: I'm sorry. I missed the question.

CHAIR VIGIL: We'd like some input on this request for the agenda,

requesting \$350,000 from the RPA gross receipts tax for the Vista Grande Library.

MR. GONZALEZ: Certainly at the staff level we've discussed that. That's, I think, an appropriate use of the money, if that was the question. I'm not sure I've responded to what the question was.

COMMISSIONER CAMPOS: The question boils down to, Mr. Manager, to priorities. There's only so many dollars and there's many things, more things that we need than we can afford, so it's really a priority question. Clearly it's a good project. Clearly it's almost complete and it needs some money. But look at all our needs and tell us in that respect if this is a good idea at this time.

MR. GONZALEZ: I think it makes sense, given the timing of the facility and where we're at with respect to the construction. I have no problem with recommending it. There is a larger question and that's the question of what do we do with ICIP on the regional side and we really haven't dealt with that. That's an issue that I think has probably languished just because of the fact that it is scheduled to go through the RPA process, but maybe it's something that as we go through the ICIP process this next cycle we need to think about. Are there, and should be identify regional projects on a priority basis in the same way that we identify our ICIP priorities on the County funding side. And I think you make a good suggestion. That's something I think we can incorporate into our ICIP process.

COMMISSIONER CAMPOS: What's your answer today, about other priorities? Or you'd rather not answer that one.

MR. GONZALEZ: Well, in terms of readiness, this is the project that is most in-need and probably ready to go. Given the amount of the request and the total funding that's available, I would recommend it at this point.

COMMISSIONER CAMPOS: Okay.

CHAIR VIGIL: Commissioner Anaya,

COMMISSIONER ANAYA: Madam Chair, what is the boundaries of the RPA?

MR. GONZALEZ: Madam Chair, Commissioner Anaya, with respect to the regional funding, which is 50 percent of the gross receipts tax received from that infrastructure GRT, that portion goes through the RPA for a recommendation. And then the recommendation comes forward to the BCC for approval and funding. The BCC maintains ultimate approval authority but the way the JPA was structured, the joint powers agreement with the City with respect to use of the regional funding, there is that preliminary step of having to go through the RPA to request the regional portion of the funding.

The City has done that on a number of occasions with respect to some of their projects that have come forward and I don't think we - we've also taken advantage of it in the open space area for some funding there. But basically the thought is as long as it's regional, the recommendation comes up from the RPA per a request from either the City Council or the County Commission.

COMMISSIONER ANAYA: So it could be anywhere in Santa Fe County.

MR. GONZALEZ: For the regional, the limitations – it's sort of awkward language in the joint powers agreement, but basically it would seem to indicate that it is a project that would benefit both the City and the County.

COMMISSIONER ANAYA: And how much money is in the regional planning, the RPA? That we have to work with? You might have said it.

MR. GUTIERREZ: Madam Chair, Commissioner Anaya, the amount that the fund has generated over the last two years is \$1,270,000, for this ten percent of regional funds. And the only commitment right now that has been made through a joint powers agreement with the City is \$310,000 For a road project.

COMMISSIONER ANAYA: This would be the second request.

MR. GUTIERREZ: This would be the second request.

COMMISSIONER ANAYA: Okay. Thank you, Madam Chair.

CHAIR VIGIL: Thank you.

COMMISSIONER CAMPOS: Madam Chair.

CHAIR VIGIL: Commissioner Campos.

COMMISSIONER CAMPOS: What was that road request for \$310,000?

MR. GUTIERREZ: I believe, Madam Chair, Commissioner Campos, it was Governor Miles Road. I believe. Robert's standing next to me and he can probably give you the specifics.

CHAIR VIGIL: Robert, do you have anything to add to this?

MR. MARTINEZ: Madam Chair, Commissioners, as far as commitments for projects to be funded out of this funding source, I believe about four months ago the Commission gave Public Works direction to work with the City on river crossings across the Santa Fe River. And also that was brought up at the RPA. Based on that direction. The Public Works Department met with the City, because the City is right now planning or designing the Siler Extension. And one of the requests from the City was to possibly have the RPA amend their resolution to fund the Siler Extension out of this funding source and push back South Meadows a year. And we did agree with the City that their project would probably be ready a lot sooner than the South Meadows project. So that's basically what we have done at Public Works is agreed to move that project forward. So I believe the City went to the RPA with a recommendation to amend their resolution on which projects should be funded out of this funding source.

CHAIR VIGIL: Okay. Are there any further questions? Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Martinez, if we appropriate \$350,000 for the senior center in Eldorado, how does that impact this plan that's coming up?

MR. MARTINEZ: Madam Chair, Commissioner Campos, I believe the Siler Extension is probably in the neighborhood of three to four million dollars. I'm not exactly sure what the City has budgeted for this project. But any amount that's taken out of this funding source would have to be made up from maybe the legislature or some other

funding source.

COMMISSIONER SULLIVAN: Madam Chair.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Let me remind everyone that in this quarter percent gross receipts tax there is this other allocation and the way the County has been handling that 10 percent is that five percent, or half of the ten percent, i.e., five percent, has been going to roads, and the County has diligently used that money every year, of its portion. And then the other five percent goes to other. And we've also been using that.

In the regional side, the regional portion of it, the RPA hasn't made any changes to its priorities and nothing's come forward from the City. The RPA has also not split it up, five percent or another. They could say five percent would go to roads and five percent would go to other, if that were their recommendation. That hasn't been. There hasn't been any direction from the RPA on that. The RPA has been kind of in a state of flux for more than a year. So we don't have that guidance that we've used on the County side. So I think we just have to use good, common sense and say like other projects, if the City wants money for Governor Miles, that's fine, and the County would like a regional facility for a senior center. I think that's a reasonable request as well. It's just not that specific, the guidance on what to do with the half that's committed to regional funding.

CHAIR VIGIL: Any further questions? I have a few and Joseph, you may have the answer. To date, we have a balance of \$1,270,000.

MR. GUTIERREZ: Madam Chair, the balance is actually \$960,000, because if you take Governor Miles, \$310,000, from the number I gave you, it leaves a balance of \$960,000.

CHAIR VIGIL: Robert, do you have any information on that Governor Miles allocation?

MR. MARTINEZ: Madam Chair, yes, I do. The County entered into that agreement with the City, that funding agreement, approximately about six months ago and I thought that that money was already transferred to the City. Governor Miles has been built, I believe it's almost two years now.

CHAIR VIGIL: Oh. Okay. And Joseph, how much money does this percentage accumulate annually?

MR. GUTIERREZ: Madam Chair, the fund accumulates approximately - the ten percent accumulates about \$400,000 a year, a little over \$400,000 a year. I have to clarify. The number I gave you is the accumulation over the last three years.

CHAIR VIGIL: Three years.

MR. GUTIERREZ: The last three years.

CHAIR VIGIL: What other projects, if you recall, have we done by utilizing these funds? I think I remember the Agua Fria Community Center may be one. Is that accurate?

MR. GUTIERREZ: Madam Chair, on the regional side, the regional ten percent, only one project has been allocated and that's the \$310,000.

CHAIR VIGIL: Oh, okay. So the Agua Fria Community Center came from another fund?

MR. GUTIERREZ: Madam Chair, the Agua Fria Community Center came out of the non-regional portion. The non-regional portion for roads and other generates \$400,000 and as Commissioner Sullivan has stated, we have used \$200,000 of that for Agua Fria and Eldorado, and five percent has been used for roads. So with three years, each non-regional portion has accumulated approximately \$600,000 for building and infrastructure, \$600,000 for roads.

CHAIR VIGIL: Thank you. Any further questions? What's the wish of the Commission?

COMMISSIONER SULLIVAN: Madam Chair, if there's no other questions I would make a motion to approve the expenditure of \$350,000 of Regional Planning Authority's funds from the Santa Fe County gross receipts tax regional portion, to be applied to the Vista Grande Senior Citizens Center, and should there be any balance remaining, that that would maybe turn back to the RPA regional fund.

CHAIR VIGIL: There's a motion. Is there a second?

COMMISSIONER ANAYA: Second.

CHAIR VIGIL: Motion and second to approve item IX. F. Any further discussion?

The motion to approve the funding for the Eldorado Senior Center passed by unanimous [4-0] voice vote. [Commissioner Montoya was not present for this action.]

COMMISSIONER SULLIVAN: Thank you, Madam Chair and Commissioners. You're invited to the dedication and opening.

IX. OTHER MATTERS FROM THE COMMISSION

COMMISSIONER CAMPOS: One issue I'd like to raise very briefly is the Regional Planning Authority and the JPA that requires a regional annexation plan that we've had for about five or six years. It seems to me that the City doesn't read the agreement as we do and I asked Mr. Jack Kolkmeier to maybe explain and give us some context as to the history of the RPA JPA and the nature of that agreement as far as regional annexation is required. I'd ask him to speak to this issue briefly.

CHAIR VIGIL: The floor is yours, Mr. Kolkmeier.

JACK KOLKMEYER (Planning Director): Thank you, Madam Chair. Of course it's very complicated. I think it boils down to something very simple, particularly given the situation that we're at now with annexation. As you know, the original Regional Planning Authority JPA was done in 2000 and had three items to it. One is that it would compare the City and the County general plans for concurrency or differences, that the

RPA would prepare a land use plan, and that the RPA would recommend zoning districts and an annexation plan.

Two other additional items were amended a couple years later, one to incorporate the MPO policy board and a fifth item would be to review and approve County capital outlay gross receipts tax as you were just discussing. The interesting thing is now with the discussions about annexations and the EZ, one could argue that the RPA did not complete its work, that it did not do the annexation plan.

So as we move forward now to have discussions about the City moving unilaterally to recommend its own annexation strategy, it really begs the question of what's the role of the RPA at this point, if they didn't do that. That's a very important question because if there's now discussions being put forward about getting rid of the EZ, the question really still remains is if that were a course of action to take place, something has to replace the EZ. And it seems like a really logical consideration at this point would be a lot of the confusion and maybe the disparity between the City's position and the County's position at this point might be clarified if the RPA in fact finished its work, if it went back and made a joint annexation plan. And if there were agreement on that, then the political and legal discussions about the EZ might be taken care of.

Because if we move forward now, the other aspect of this that I think is important at this point is we've just concluded the first portion of our strategic planning process. The outcome of that has been total agreement on the part of the staff, including the County Manager's office that we need to move forward on a unified growth management plan. That would be all of the key departments, Public Works, Land Use, Water Resources, Fire, Sheriff, ASD and others, working on putting together where our future growth should go, what resources that we have to service those areas, which becomes very interesting in light of the conversation this morning about La Cienega.

But the missing piece remains this inability to come up with an annexation plan. I've been hearing the term annexation strategy a lot, but the JPA clearly says the City and the County are to come up with an annexation plan through the RPA. Again, in my discussions with Commissioner Campos recently and again this morning is that it would be really helpful, I think also to staff if we could clarify this and come forward. Are we going to do this annexation plan or are we not. That's real brief. That's not the complexity of it but I think that lays it out to where we are at this point.

COMMISSIONER CAMPOS: My observations are that the City for five years has had an independent – well, maybe not an annexation plan, but they've continued to annex for five or six years despite having the joint powers agreement that says that we have to come up with the joint plan to annex. At the last RPA we had a discussion. I asked Mayor Coss and I think Matt Ortiz was there and they were saying, I think Matt Ortiz, Councilor, said basically, we're going to do things. We're going to annex whatever we want, whenever we want and we're going to continue the discussion about our region plan. Which doesn't make sense to me.

It seems to me that that's a violation and a breach of this agreement. And I think

we've let this issue slide for years now, and I think the Commission has to take a stand on it. I want to have some discussion from the Commission and Mr. Kolkmeier about what we need to do from Legal staff. We could do nothing; we've done nothing and they'll continue to do whatever they want to do regardless of the agreement. So that's where I am. I'm pretty frustrated. Do you have something to add, Mr. Kolkmeier?

MR. KOLKMEYER: Well this is kind of difficult to say, but clearly one of the options would be to withdraw from the RPA. If it didn't conclude the business that it said it would, and in many people's opinion it was the annexation plan that was most important, and that's not benefiting us, then one option would be to withdraw from the RPA. Of course then that raises the hackles of practically everyone and says, well, we need the RPA to discuss things with the City. Well, if you want to discuss things with the City there's all kinds of other ways you might be able to do that, but if the purpose of the RPA, one of the important purposes of the RPA was to do a joint annexation plan and it raises the issue of why should we continue to do it in that manner.

Because we could probably argue - I think this would be an interesting discussion to have further with Legal also. It still might be possible to do an annexation strategy through the EZA, for example. The EZA created its own plan and in a sense we have two regional plans. We have the EZA plan, for the EZA, and we have the Regional Planning Authority plan for the EZA, neither of which are working very effectively at this point also.

So it seems something has to be pushed or shoved and it might not be a very comfortable position to be in but it seems like when you created the RPA in 2000 the intention was right. There was a plan to do an annexation plan. So if they're not going to do it then we should probably make some other kind of decision whether it's comfortable or not because it seems like the best solution to solving these extraterritorial/regional problems are really to do them jointly.

I've had conversations with different people at the City and they say, well, we really didn't agree to that. I know you and I have talked about that issue and you say that that was one of the key issues. You were there when this was discussed and agreed to and I think your statement was that annexation was the key discussion points and one of the most important parts of this agreement.

MR. KOLKMEYER: Well, we have two JPAs which are legal documents. We have the original one and we have the amended one that put in the MPO and the gross receipts. Those are legal documents, and again the argument would seem to be, if that's what we agreed to jointly and legally, we should either do them or change them. Take some other course of action.

COMMISSIONER CAMPOS: Exactly. So I would like some input and thought. We have to stop just doing nothing. That's what we've been doing. I'd like some ideas.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: I agree with Commissioner Campos.

CHAIR VIGIL: Any other comments? Commissioner Sullivan.

COMMISSIONER SULLIVAN: I never agree with Commissioner Campos. Okay. I'll amend that: rarely.

COMMISSIONER CAMPOS: So is this a rare moment or is it a regular moment?

COMMISSIONER SULLIVAN: Madam Chair, we've been through this 101 times and I just don't know how you can push the piece of spaghetti any differently. It just wiggles back and forth and I don't know what to tell you except that if I thought personally, that getting out of the RPA would make the City get religion I would do it in a heartbeat.

COMMISSIONER CAMPOS: Commissioner Sullivan, you said recently that it is pretty clear that the City is not abiding by that agreement and that they should make a decision whether they want to agree or not agree. Is there a way for us to get their attention and have them directly address this issue? Do you have any ideas about that?

COMMISSIONER SULLIVAN: I think they've made the decision. They've made the decision formally and informally that they're going forward with annexation as they are allowed to do by state statute. They don't see that as a conflict with the RPA joint powers agreement - I certainly see it as a conflict, and that's why we had the meeting at the Community College, the work session, to discuss that, and I thought we had come to an agreement there, but it appears that we haven't. I'm not sure that getting out of the RPA does anything more than giving the City fuel to point the finger at Santa Fe County. Some other strategy is needed. We can't tell the City what to do. They have a municipal charter that allows them to do certain things.

So I guess more diplomacy is needed or more communication. I don't know what but so far we haven't made our case with the City.

CHAIR VIGIL: I'm not seeing it as black and white as Commissioner Campos and Commissioner Sullivan are. My experience and what I recall from the last Regional Planning Authority meeting is we discussed the possibility of a moratorium. We discussed the possibility of - actually, the City clarified for the Commissioners that were there that there were four projects that they learned there is a statute that requires them to bring forth the proposed annexation to the Board of County Commissioners. I recall hearing the City Manager considering other options with regard to moving forward, but I do not hear that the City is not willing to move forward on annexation. And my feeling is that the problem that we have had is we haven't brought a planner on board. And my understanding at this point in time is that we're moving on that. It's difficult for everybody's point to be really clarified without staff or some kind of other executive position. I think we've called this position a planner, really taking that authority forward.

I do not hear any sentiments from any of the City Councilors wanting to withdraw from the Regional Planning Authority. I recognize that the EZA is an issue for them at this point in time and we are going to have to come up with some really creative ideas, but I think it has to be done by us rolling up our sleeve and working together with the City. And

I'm hoping, and I have had some e-mails. I'm hoping that our regional planning person is going to be coming on board. I was very disappointed that she actually wasn't at our last meeting, and I'm hoping that she will be at our next Regional Planning Authority because I think that's such a critical FTE for keeping both the City and the County focused and I do believe, and I do not hear any disagreement from any of the other members of that authority that annexation wasn't the next task we have to move forward with.

So I'm not sure we're creating more problems here by not putting our energies into moving forward, rolling up our sleeves and working through that RPA and complying with the joint powers agreement. With that, I want to ask Jack Hiatt if we have a status report on the regional planner.

MR. HIATT: Madam Chair, I sent the letter on behalf of Mayor Coss along with a contract over to her this morning and I've talked to her and I've not heard back from her but we discussed the major issues about the contract and I think she's fine with them. I also was negotiating with her an earlier start date than I had originally posed. So I expect to hear from her this afternoon.

CHAIR VIGIL: Thank you. Commissioner Campos.

COMMISSIONER CAMPOS: Madam Chair, I disagree with what you just said. They are specifically in violation of the agreement. They have told us they are going to continue to violate the agreement and that's their position. I know we need to work together but they're not working with us and they're not working in accord with the agreement. So I think your recollection or the messages that you're getting, I think they're in conflict with what's explicitly stated. I'd like to maybe get some advice from our County Manager or Legal counsel on possible actions that we might take.

CHAIR VIGIL: Would you like to respond to that, Mr. Gonzalez or Mr. Ross, whoever.

MR. ROSS: Madam Chair and Commissioner Campos, maybe you could restate the question. Are you asking what the County's options are at this time, given the apparent breach of the RPA JPA?

COMMISSIONER CAMPOS: Well, given the blatant breach of the RPA JPA, what do we do, what options? If we're just going to let it slide, that's an option. We've let it slide for years. Doing nothing is an option. I'm asking for an affirmative agenda.

MR. ROSS: Madam Chair, Commissioner Campos, and we've also recently worked I think a couple mediation sessions where we had a professional mediator work with the RPA, and I think there were a number of consensus points that grew out of that process, among them was that the group would work towards an annexation plan and we would agree to disagree concerning the annexation of Las Soleras. Since that time I think there have been six additional annexations initiated through the City process, two of which are coming up tomorrow night. So something isn't really working with whatever process was set in motion earlier this spring. So the options are pretty stark at this point. Nobody wants to see the RPA go away and certainly nobody wants to see the EZA go away. Both

would, arguably the EZA would have more catastrophic consequences if it went away, but the RPA is important.

We were talking earlier about the MOU with the DOT. The Department of Transportation wants to engage in more intense discussions with the County on a number of issues.

COMMISSIONER CAMPOS: DOT?

MR. ROSS: The Department of Transportation. The State Department of Transportation, because they see the MPO as critical to planning the transportation needs around the city and the county. And were the RPA to go away, we'd have to figure out how to deal with the MPO. Of course if you do away with the EZA, which might be a blow-counterblow. Say, we did away with the RPA, the City might as a consequence seek to terminate the EZA JPA.

Both agreements are too easy to terminate. They have 90 to 120-day termination clauses. They can be terminated unilaterally by either party and as a result, it's easy to conceive of a scenario where you have neither the RPA nor the EZA in place with some pretty serious consequences for folks living just outside the city limits.

COMMISSIONER CAMPOS: Okay, since I haven't heard any affirmative agenda I'm going to suggest something. Unless our County Manager has something.

MR. GONZALEZ: I just wanted to add one other blush. Because of the amendment to the RPA that took place at the time that the GRT was enacted, there are actually two fields of activity, if you would. One is the annexation/zoning/planning area that we've been talking about, and the other was just exercised when the Commission approved the request and assuming approval of that request of the RPA, the request for funding for finishing the project out at Eldorado, the senior center project, so we actually have two pieces in motion. One is the one that we've been discussing, but I just wanted to remind us that there is also the connection to the regional funding process and so getting rid of the RPA, either through recognition that the agreement has been breached or declaring a breach, or moving forward with rescission by giving notice to the other parties, not only would undo the process having to do with annexation but it also would undo the funding process that's associated with the RPA as well.

COMMISSIONER CAMPOS: I'm going to suggest something. I want to suggest that at the next County - when's our next BCC meeting? The second Tuesday of June? That we have under Matters from the Commission a resolution declaring the City in breach of the JPA RPA agreement, inviting the Mayor and his staff to come and have a discussion about this issue so they can tell us what they're going to do or not do so that there is no confusion on the part of any Commissioner as to what they're doing and how they've breached this agreement. And then at that point we need to make a decision as to what we're going to do and I'd like to have staff think about it really carefully. Because it's not working.

We can't have an agreement where one party ignores a major part of the agreement and just says, we're just going to do whatever we want to do. So that's what I'm

suggesting.

CHAIR VIGIL: I guess - do you have any comments, Commissioner? This is sort of the way I see it: We're in a process here. We have the City municipality that has the statutory authority to annex. We have the City and the County who have a joint powers agreement committed to working on annexation. None of that has moved forward whatsoever. The City is put in a position in a way and a developer or somebody who needs to move forward, similar to the same position the County is put in when a developer wants to move forward, that they actually want to go through their process and the City is required to give due process to a development or residential area, whoever is looking for it to go through the City process.

They have incorporated some resolutions that require them to hook up to their water service system. Is that unreasonable? I don't think so. But we've been putting the cart before the horse in so many ways. In a way, we really do need to get the City's position because I know I defend the County when I get put in a position when they say why are you approving development? I'm put in the position to say that is the job a County Commissioners is required to do, allow developments to come forward, weigh and balance whether or not they meet all the criteria, and the City is put in that same position.

In the meantime, for the last year we've had a Regional Planning Authority that's been totally dysfunctional. My position on its dysfunctionality is because we have not had staff to keep moving us forward and keep us focused. And we all agree, every time we go to a Regional Planning Authority that annexation is something we need to work on. Without the critical staff to keep us working on that, we're not going to go anywhere. I'm not in a particular position to agree to a resolution which states that the City is in breach of the JPA. I would prefer that we have a Regional Planning Authority set with our staff person in place and that we start creating the focus for the annexation plan.

And with that, is there any other statements?

COMMISSIONER CAMPOS: I'm just going to ask that the resolution be placed there as my resolution. I'd like the Mayor to be invited, and staff, to tell us what the position is and what they're planning to do. I think they've said it many times and it's very explicit that they're not abiding by the agreement. So that's what I think we should do. It's time to make a decision. It's time to have a resolution to this issue.

COMMISSIONER SULLIVAN: Madam Chair.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think we have to realize too, my recollection of the joint powers agreement is that there will be, after a land use plan is completed, which it has been, there will be an annexation plan. It doesn't say in the joint powers agreement that the annexation plan will be done prior to the City doing any annexation. It just says that there will be a joint annexation plan. So I think the City could take the position and obviously is, that they are proceeding with business as usual as necessary, but that they are also agreeing to participate in the annexation plan.

Once that plan is developed it has to be approved both by the Board of County

Commissioners and the City of Santa Fe. So I think that there's a lot of other elements in the plan and the ones that they're most interested in are the infill elements along Airport Road and cleaning up the little gaps in service areas. I'm more interested in some of the larger annexation issues. I don't think it's a housekeeping function. I think it's a very important planning function. But none the less, I don't think the JPA goes that far to say that all of this must occur before they do annexation, number one. I don't recall reading that anywhere.

COMMISSIONER CAMPOS: You can read in any contract that it must be on a timely basis and this agreement has been in effect for six years.

COMMISSIONER SULLIVAN: Oh, yes. That was supposed to have been done two or three years ago. We had a time frame in the JPA and maybe Mr. Kolkmeier can remind us what it was, but we're long past that time frame. So you could take the position of just simply not having accomplished the work within the time frame you've sunsetted yourself out of business.

COMMISSIONER CAMPOS: Well, we're doing that by doing nothing. By the time we do anything they're going to have annexed everything without having gone through the RPA as they agreed to do so.

CHAIR VIGIL: This discussion can be furthered, I think, once your resolution is brought forth. So we're still under Matters from the Commission. Is there anything else, Commissioner Campos?

COMMISSIONER CAMPOS: I have one other thing. The Commissioners' discretionary funding, it's an issue that I've been concerned about since I first became a Commissioner, and my recommendation is that it be eliminated, that it not exist. I think we can use County money more effectively if we use it through the budget process. I think the citizens allow us to tax them for County services, to further County government interests and we know that we have a lot of vacant positions, key positions that haven't been filled, that could be filled.

We're talking about \$200,000 a year. If we use this money to advance a direct, specific County need to fill an important position, complete an important project, the citizens would be satisfied with our actions. Right now, I've gotten nothing but negative responses to the fact that we do have this Board discretionary money. To many it's simply a slush fund to advance our own interests. So I'm asking for some discussion and I'm asking that this thing be deleted from the budget.

CHAIR VIGIL: Can I follow up with a question to Legal. Can we take action on something like this without it being noticed? Because I know we've taken official action for the funds.

MR. ROSS: Madam Chair, these Matters from the Commission are never noticed beyond the simple notice that's provided on the agenda, so of course we can't take any action on matters that the Commissioners bring up, nor do I think there's a custom to do so. It's normally to talk about what Commissioners would like to see on a future agenda.

CHAIR VIGIL: Okay. So Commissioner Campos, you're just looking for some feedback on this?

COMMISSIONER CAMPOS: I would like to have some feedback so we could put it on the agenda and get rid of it.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Madam Chair, my suggestion would be we have the interim budget on the agenda and we can certainly pare and we should pare, based on Paul's presentation at our budget work session, some things off of that budget. And I think that would be the appropriate time where we want to deal with the discretionary funding. The only comments I've gotten from anyone have been from one City Councilor chiding us, but only as inquired a little further, because the City's discretionary budget is only \$3600 and ours is more. They do the same thing but only to the tune of \$3600 and of course ours varies from year to year. Ours has been lower and I understand from my time at the Commission it's been higher. So I don't think they were chiding us on the legality of it or the propriety of it, I think they were just chiding us on the amount of it because they weren't getting an equal share. I suggest we talk about it during the budget discussion.

CHAIR VIGIL: Commissioner Campos, Commissioner Anaya, do you have any comments?

COMMISSIONER ANAYA: I agree with Commissioner Sullivan.

CHAIR VIGIL: Are you okay with moving that to the budget discussion? I would favor that also because we have a Commissioner who will be back for that and he's entitled to have input in this.

COMMISSIONER CAMPOS: That would be fine.

CHAIR VIGIL: Okay. Anything else, Commissioner Campos?

COMMISSIONER CAMPOS: That's it for me.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Madam Chair, the only thing I wanted to bring up is something I brought up before and that is we seem to be falling by the wayside on televising our meetings. Not the BCC meetings, but the other meetings and in particular, the joint meetings I think are very important. By that I mean the RPA meetings, the EZA meetings, and the Buckman Direct Diversion Board meetings. Some of those may seem a little bit routine to us on occasion and other times, like the last EZA meeting on Las Soleras, they were pretty exciting, I understand.

Nonetheless, I think it's good for the public to see the interaction between the City and the County. They hear at the City Council meetings the City side of the issue. They hear at our meetings our side of the issue. But without that juxtaposition of the two governing bodies in the same room we don't give the public an opportunity to get the point-counterpoint. So I'm not sure, Gerald, is there a reason that that's fallen off or what's the drill here?

MR. GONZALEZ: Madam Chair, Commissioner Sullivan, there have been some personnel issues that are sort of behind that process, but we have initiated a

discussion internally with PFMD about possibly contracting out that process so that we have the kind of reliability that I think you're asking for.

COMMISSIONER SULLIVAN: Okay.

CHAIR VIGIL: Anything further, Commissioner Sullivan?

COMMISSIONER SULLIVAN: No, I just wanted to make sure that the Commission agrees with me, that these are important public communicative techniques, that we should do this. Does anyone -

CHAIR VIGIL: Does anyone disagree?

COMMISSIONER SULLIVAN: That we should televise these things?

COMMISSIONER ANAYA: Madam Chair, I had that on my agenda to talk about. I do agree with Commissioner Sullivan and I believe that camera over there is broken and we need to fix that.

COMMISSIONER SULLIVAN: I was reading his notes. Okay. Madam Chair, I think there's no need to beat that into the ground. We need to get that going.

COMMISSIONER CAMPOS: I think we made a commitment years ago to transparency in public action and there was a commitment we made. And now we've dropped the EZA I think. The EZA is no longer being televised. We've dropped the RPA. What else?

COMMISSIONER SULLIVAN: We've never done the BDD.

COMMISSIONER CAMPOS: I'm not sure we need the BDD, but that's a policy question. It's something we could discuss. Some of these main committees that we've had for a long time, we made a commitment years ago to it and they've been dropped by the wayside.

CHAIR VIGIL: Any further comments? I hear no disagreement, and I guess, Gerald, just underscoring what you recommended, the EZA and the RPA, in whatever fashion that can be accommodated, I would call that a commitment also. So maybe we can come forward with some proposals as to how we could fill that gap.

MR. GONZALEZ: Madam Chair, Commissioners, the intention is to continue to fulfill that commitment from the staff's standpoint and to support it.

CHAIR VIGIL: Thank you, Mr. Gonzalez. Anything further, Commissioner Sullivan?

COMMISSIONER SULLIVAN: No.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Madam Chair. I just would like a briefing on where we are with the Edgewood Senior Center. I know that you're doing some plans or it's out to architect. If somebody could just brief me on that. And then while they're coming up, I want to talk about the roads in Santa Fe County, the dirt roads. I know we haven't had a lot of moisture, so when we do get that moisture, I'd like to see if maybe we can start working some overtime to catch up with the dirt roads and bring them back to par and if we could do that even before we get moisture I'd like to see that, because we do have - the roads are very, very bad. Washboardy, and we need to get that

taken care of. With that, go ahead, Joseph.

MR. GUTIERREZ: Madam Chair, Commissioner Anaya, the Edgewood Senior Center, we did go out for A&E on that and the bids have been opened. All we need to do is award that, so we will have an architect on board. The fee for that should not be significant because Frank and his shop actually went out there and as they recall, they drew up plans. So I expect a reduced fee. The A&E should not take that long. We should have a plan to present to the session, because as you know, the funds that we have right now aren't sufficient to complete what the community residents are requiring of that building at this point. I think we have about half the dollars. They're requesting the cost to come in at about half a million and I believe we have somewhere between - we have somewhere around \$250,000 right now.

COMMISSIONER ANAYA: So we're still working on it and we can ask for money next year and hopefully we'll get it done.

MR. GUTIERREZ: Right. We'll have an architect on board here shortly and have the plans drawn up. That should be a great tool to be used during the session.

COMMISSIONER ANAYA: Okay, great. That's what I wanted to hear. Thanks. So Robert Martinez, or James, is there something we can do about the road deal? All the roads in the southern part are just terrible due to the lack of moisture. Can we work on something for an overtime deal?

JAMES LUJAN (Public Works Director): Madam Chair, Commissioner Anaya, what I will do is I'll get a schedule. We had some of the crews working on weekends. We can start that up again. We still have some overtime budget. I don't expect any moisture real soon but we'll start working on some of them on weekends.

COMMISSIONER ANAYA: I see some clouds rolling in. Hopefully, we'll get something.

MR. LUJAN: They're headed to Edgewood.

COMMISSIONER ANAYA: Thanks, James. Madam Chair, another thing that was brought to my attention was that people are coming in for airplane runways, runway strips. And I would just like to kind of see what our County process is in terms of issuing permits for those. I don't know if you have to have a certain amount of acreage. I just don't want to have landing strips all over the county. So if we could just get some information and an update on how those runway strips are permitted and what are the requirements. Do you have to have a certain amount of property? So I'd like to be updated on that.

And then I just want to thank Rob Yardman for all his hard work. I know he's leaving us to go work for the Game and Fish. But thank you, Rob.

I found out this weekend talking to an individual and he said that rain catchment systems were illegal in Colorado because the rain belongs to the state and they don't allow that. So I just thought I'd share that with you. Thank you, Madam Chair.

CHAIR VIGIL: Thank you. Commissioner Anaya, your airplane runway strips report, are you requesting that that update be in the next agenda?

COMMISSIONER ANAYA: If staff can get it on there, that would be great. There is people wanting to put runways strips in the county and I'd like to talk about it. So if we could, Gerald.

CHAIR VIGIL: And I see Dolores Vigil, our Land Use Administrator here. Dolores are you prepared to respond to Commissioner Anaya's request on airway runway strips?

DOLORES VIGIL (Land Use Administrator): Madam Chair, yes, I am. And in fact, Commissioner Anaya talked to me and staff about this issue last week and what we have recommended to the applicant is that he actually come to our department and work with development review and we would review it under a special use, as other development, which would have to go to CDRC and then to BCC for approval.

It's not specifically addressed in the Code but we feel that that would be the best way to have it reviewed and approved.

CHAIR VIGIL: Commissioner Anaya, do you need further information?

COMMISSIONER ANAYA: We can just do that then?

MS. VIGIL: Yes.

COMMISSIONER ANAYA: Okay. Thank you.

CHAIR VIGIL: Dolores, I have a question, if none of the other Commissioners do. How many runway strips do we currently have or do we know that?

MS. VIGIL: I don't know, but I do know of one pretty long one, a huge one on a 300-acre parcel near Galisteo. I know of one out there. It's a private strip. This one that I think Commissioner Anaya is referring to would be, is proposed on Rowe Mesa, which is a pretty intense area out there and it should deserve a public hearing.

CHAIR VIGIL: I agree. Thank you. Anything further?

COMMISSIONER ANAYA: That's it. Thank you.

CHAIR VIGIL: No further matters from the Commission? Then we'll move on to items X. A, B, and C. My understanding is we moved item X. A. 8 to under Miscellaneous, and with that, I would just ask the Commission what their desire is. We will be hearing items X. A. 5, B, 1 and 4, and C. 6 for separate action.

X. CONSENT CALENDAR

A. Budget Adjustments

- 1. Resolution No. 2006-87. A Resolution Requesting an Increase to the Road Maintenance Fund (204) to Budget Proceeds from the Sale of Fixed Assets for Expenditure in Fiscal Year 2006 / \$105,250 (Public Works Department)**
- 2. Resolution No. 2006-88. A Resolution Requesting an Increase to the Road Projects Fund (311) / County Road 84 to Budget a Grant Awarded Through the New Mexico Department of**

**Transportation for Expenditure in Fiscal Year 2006/ \$166,271.66
(Public Works Department)**

3. **Resolution No. 2006-89. A Resolution Requesting a Budget Increase to Fire Administration to Cover One Month of Salary and Benefit Cost for the Data Entry Position Approved on April 25, for a Total Amount of \$3,103.67 to be Funded by Ambulance Revenue Collections (Fire Department)**
 4. **Resolution No. 2006-90. A Resolution Requesting an Increase to the Indigent Fund (220) to Budget Prior Fiscal Year 2005 Cash Balance for the Sole Community Provider Supplemental Match for Fiscal Year 2006/ \$425,000 (Health & Human Services Department)**
 5. **Resolution No. 2006-___. A Resolution Requesting an Increase to the General Fund (101) / County Sheriff to Budget Contribution Revenue Received for Expenditure in Fiscal Year 2006/ \$2,250.09 (County Sheriff's Office) ISOLATED FOR DISCUSSION**
 6. **Resolution No. 2006-91. A Resolution Requesting an Increase to the General Fund (101) / County Sheriff to Budget a Memorandum of Understanding with the Administrative Office of the Courts for Expenditure in Fiscal Year 2006/ \$15,000 (County Sheriff's Office)**
 7. **Resolution 2006-92. A Resolution Requesting an Increase to the General Fund (101)/County Clerk to Budget Election Fee Revenue Received for Expenditure in Fiscal Year 2006/ \$6,100.08 (County Clerk's Office)**
- B. Professional Service Agreements**
1. **Request Authorization to Award Professional Services Agreement #27-1801-CORR/MS to G4S Justice Services, Inc. for Electronic Monitoring Program of the Santa Fe County Corrections Department Pursuant to 13-1-129 NMSA 1978, Procurement Under Existing Contracts. Santa Fe County Purchasing Division will be Using the Western State Contracting Alliance Contract #14600 from the Date of Execution Through June 30, 2007 Not to Exceed \$166,000 (Corrections Department) ISOLATED FOR DISCUSSION**
 2. **The Corrections Department Requests Authorization to enter into a Professional Services Agreement With Summit Food Service Management, Inc., the Highest Rated Vendor to RFP #26-1822-CORR/JC, for Food Services for the Adult Jail Facility and the Youth Development Program. Contract Term to Begin**

July 1, 2006 thru June 30, 2007 with Option to Extend in one (1) Year Increments for an additional Three (3) Years. Compensation is \$750,000 for the Adult Facility and \$350,000 for the Youth Development Program for Total Compensation of 1,100,000 for FY 2007 (Corrections Department)

- 3. The Finance Department Requests Authorization to Enter into Amendment No. 4 to Agreement #24-0048-FI, a Professional Services Agreement with Impressions Advertising, Inc. for Lodgers' Tax Advertising & Promotional Services, to Extend the Term of the Agreement for an Additional One (1) One Year Term to June 30, 2007 and Compensation in the Amount of \$270,000 for FY 2007 (Finance Department)**
- 4. Consideration of Amendment to the Water Service Agreement by and Between Santa Fe County and Ranch Partners Inc., La Cienega Joint Ventures and CVD LLC. (Projects & Facilities Management Department) ISOLATED FOR DISCUSSION**

C. Miscellaneous

- 1. Resolution No. 2006-93. A Resolution Designating the Polling Place of Precincts 22 and 28 in Santa Fe County for the 2006 General Election (County Clerk's Office)**
- 2. Request Approval of an Agreement for Inmate Confinement Between the County of Santa Fe and the Town of Taos (Corrections Department)**
- 3. Request Authorization to Enter into Agreement with Taos County for the Incarceration, Care and Maintenance of Juveniles in Custody at the Youth Development Program (Corrections Department)**
- 4. Request Authorization to Enter into Agreement with Santa Ana Pueblo for the Incarceration, Care and Maintenance of Juveniles in Custody at the Youth Development Program (Corrections Department)**
- 5. Resolution No. 2006-94. A Resolution Authorizing Surplus of Obsolete Fixed Assets in Accordance with State Statutes (Finance Department)**
- 6. Resolution No. 2006-___. A Resolution Approving Participation in the Program of the North Central New Mexico Economic Development District (County Managers Office) ISOLATED FOR DISCUSSION**
- 7. Request Approval of Land Purchase Agreement Between Santa Fe County and the Trust for Public Land for Approximately 103 Acres of Land in Santa Fe known as the Parker/Atalaya**

Property for Inclusion in the Santa Fe County Open Space and Trails Program as per Board of County Commissioners Approval of Project on February 22, 2005. \$1,750,000 (Project & Facilities Management Department)

- 8. Resolution No. 2006-95. A Resolution Authorizing Public Sale of Property that has Been in the Possession of the Santa Fe County Sheriff's Department for More than Ninety (90) Days, in Accordance with State Statutes (Sheriff's/ Finance Departments)**
- 9. Authorization to Enter into the Third Year Agreement for RFP#24-44 for the Financial and Compliance Audit Services for Santa Fe County for Fiscal Year 2006**

COMMISSIONER ANAYA: Madam Chair, move for approval of the Consent with those taken off.

COMMISSIONER SULLIVAN: Second.

CHAIR VIGIL: Motion and second to approve items X. A, B and C. Any discussion?

The motion to approve the Consent Calendar, with the exception of items A.5, B. 1 and 4, and C. 6 passed by unanimous [4-0] voice vote. [Commissioner Montoya was not present for this action.]

- X. A. 5. Resolution No. 2006-96. A Resolution Requesting an Increase to the General Fund (101) / County Sheriff to Budget Contribution Revenue Received for Expenditure in Fiscal Year 2006/ \$2,250.09 (County Sheriff's Office)**

COMMISSIONER SULLIVAN: Madam Chair, I didn't understand this budget adjustment. It had to do with meals and lodging and I wanted someone to explain to me what it was about. I know we can't utilize County funds for meals and lodging, but it looks like somebody made a charitable contribution for that and I just wanted to get some further information on it.

RON MADRID (Deputy Sheriff): Madam Chair, Commissioner Sullivan, the \$2,000 adjustment is a grant from Petsmart Corporation. They give grants throughout the country on sending animal control officers to conference to better educate them on animal ordinances and so forth. That's what that money is for. That's to reimburse us for our travels and meals for animal control officers.

COMMISSIONER SULLIVAN: And the same thing with the National Center for Missing and Exploited Children?

MJR. MADRID: Yes, that's a conference that we send an officer to.

COMMISSIONER SULLIVAN: Okay, so this was a grant that the Petsmart Corporation granted to Santa Fe County?

MJR. MADRID: Yes. To the Sheriff's Department.

COMMISSIONER SULLIVAN: Were the \$2,000 all expended? Or more than that or less than that?

MJR. MADRID: Well, when they get back, they have to keep receipts. For whatever we do not use up we'll send it back to them.

COMMISSIONER SULLIVAN: Okay. Now, obviously, if the Sheriff's deputies are going to conferences, that's a legitimate expense, whether Petsmart pays for it or not, if it's in the line of duty.

MJR. MADRID: Yes. It's for the animal control officers.

COMMISSIONER SULLIVAN: It's for the animal control officers. All right. I think I understand this one now, Madam Chair. Thank you.

CHAIR VIGIL: Any further questions on this item? What is the wish of the Commission?

COMMISSIONER SULLIVAN: Move for approval.

CHAIR VIGIL: Motion for approval.

COMMISSIONER CAMPOS: Second.

CHAIR VIGIL: Second. Any discussion?

The motion to approve Consent Calendar item X. A. 5 passed by unanimous [4-0] voice vote. [Commissioner Montoya was not present for this action.]

- X. B. 1. Request Authorization to Award Professional Services Agreement #27-1801-CORR/MS to G4S Justice Services, Inc. for Electronic Monitoring Program of the Santa Fe County Corrections Department Pursuant to 13-1-129 NMSA 1978, Procurement Under Existing Contracts. Santa Fe County Purchasing Division will be Using the Western State Contracting Alliance Contract #14600 from the Date of Execution Through June 30, 2007 Not to Exceed \$166,000 (Corrections Department)**

COMMISSIONER SULLIVAN: Madam Chair, this one has to do with electronic monitoring, and I think all of the Commissioners received a letter from a company which apparently didn't get its contract renewed or had its contract terminated for electronic monitoring. It's a lot of money, \$254,000. So I wanted to get a little update on that if I could.

MARIA SANCHEZ (Procurement Manager): Good afternoon, Madam Chair, Commissioners. Since my time as procurement manager, my goal in working with

the Corrections Department has been to get some of the services that we inherited from the previous contractor, and to get them in line with what the realistic budget was. This just happened to be one of those contractors. They were offering a pricing under BI, which is the company that sent the letter, and it intended for the pricing to be at about \$225,000 a year. That was fiscal year 04. Fiscal year 05, the budget for that program was \$230,000. Now for fiscal year 06, they've spent \$254,000.

At that time, Fidel Archuleta, the program manager, identified another source or another vendor and was able to order their services to us through a Western States Contract Alliance, which is a WSCA contract. It's the same as using a state pricing agreement, which made it exempt to having to file for any kind of competitive bid. What we did is I met with the vendor with Corrections Director, Greg Parrish, Fidel Archuleta, and we were able to get this year's program for about \$166,000, which is about a savings of about \$80,000 for that program. We're going to a newer technology in the electronic monitoring and the savings that we would get just in supplies were so substantial that we thought it was important enough to end the contract or terminate it with BI and go ahead and ask for approval for a contract with GS4 Justice Services.

COMMISSIONER SULLIVAN: Ms. Sanchez, by going to this state contract, what assurances do we have that the same thing won't happen again? It appears from what you're saying that this other organization increased its prices fairly drastically each year. Is this a one-year contract for \$166,000 or is it a multi-year contract?

MS. SANCHEZ: It's intended for a one-year contract with three renewal options. The good thing about participating in the WSCA contract is that it covers all the western states and what happens is if any other contracts that are on WSCA, they go ahead and they review the amounts and as more public and state entities add on to their contracts they re-evaluate their prices. So the pricing is intended to go down. So that's part of our agreement is that as more participants partake on this contract within the nine states that make up the WSCA group, then our pricing should go down. It shouldn't increase based on the numbers increasing. It's more controlled than a GSA contract.

COMMISSIONER SULLIVAN: Are either of these firms local or are both out of state?

MS. SANCHEZ: No, they're both out of state. I believe GS4 is out of Colorado. BI - I'm not quite sure where they're out of. I'm sorry, BI is out of Colorado. GS4, I don't have the address in front of me. But they are on the national level.

COMMISSIONER SULLIVAN: So in either case do you have a local person?

MS. SANCHEZ: No, there's no one here to provide the services for electronic monitoring.

COMMISSIONER SULLIVAN: That's all the questions I had, Madam Chair.

CHAIR VIGIL: Any further questions? What is the wish of the Commission?

COMMISSIONER SULLIVAN: Move for approval.
COMMISSIONER CAMPOS: Second.
CHAIR VIGIL: Motion to approve and second. Any further discussion?

The motion to approve Consent Calendar item X. b. 1 passed by unanimous [3-0] voice vote. Commissioners Montoya and Anaya were not present for this action.

X. B. 4. Consideration of Amendment to the Water Service Agreement by and Between Santa Fe County and Ranch Partners Inc., La Cienega Joint Ventures and CVD LLC. (Projects & Facilities Management Department)

COMMISSIONER SULLIVAN: Madam Chair, this is rather interesting in light of the lengthy discussion we had this morning pertaining to water service in the La Cienega area. Las Lagunitas is a subdivision out on the periphery of La Cienega which is served with County water. And I read through this agreement and I just couldn't understand what we were doing. So I just put it on the Consent Agenda for someone to explain to me what the heck we're doing here with this amendment number three.

MR. ROSS: Madam Chair, Commissioner Sullivan, I know a little bit about this. What is proposed here is the current assignee of the water service agreement that was originally entered into to service the Las Lagunitas Subdivision would like to use the remaining water, which I believe is somewhere around 10.5 acre-feet outside of the subdivision. I'm not sure where but the perception is that the contract, the original contract restricts them from doing so without an amendment to the contract. What I'm referring to is paragraph 8 in the original contract that was entered into, I believe it was in 1996 with La Cienega joint ventures, which was the original developer.

There's a paragraph in there that refers to assignments. It says that the customer's rights and obligations shall be assignable to any transferee of the lands, which has been interpreted as a restriction on assignment of the water service agreement to anyone who owns land or lands within the subdivision. So what's proposed here is that that restriction be relaxed. The language will remain the same except for the last clause that would now say, if the amendment was approved, that if water deliveries outside the lands which comprise the subdivision are proposed then prior written consent of the County shall be required of the assignment.

COMMISSIONER SULLIVAN: One question, the first question I have is does this have anything to do with the La Cienega boundary extension agreement?

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

COMMISSIONER SULLIVAN: Okay. Because it looks like someone is shopping around for water rights and they're trying to pick them up from Las Lagunitas. Now, the ten acre-feet that they're talking about, first of all, there's no staff report on this

in the packet, which is a problem for me. I have no – I don't like to get things that are just amendments with no recommendations from the staff or background. But I know that our allocation policy and what we've been trying to do is prevent this water speculation. I'm assuming that this comes from the 500 acre-feet that the City contracts with the County for. Is that correct?

MR. ROSS: That's right. We actually have in our water rights portfolio a considerable amount of water rights that were deposited to secure this agreement.

COMMISSIONER SULLIVAN: I would like to suggest that this be tabled until we get some additional information on number one, a staff recommendation, number two, as to how much water is being used, how much is excess, are all the lots built on in Las Lagunitas, and where would this excess go or where would it be transferred to? I think what we have, at least for me, is pretty insufficient.

MR. ROSS: Madam Chair, I have some of that information. I know that Dr. Wust wrote the current owner of the water service agreement about a year ago and gave them his opinion as to the remaining water on that agreement. Dr. Wust is certainly here and can talk about that. He's the one who came up with the calculation of 10.5 acre-feet remaining on that agreement based on his calculations of current usage in the remaining part of the subdivision.

I apologize for having no staff memo. I actually put this item in here and I just ran out of time. Last Tuesday I didn't have time to put something together quickly. What were the other questions, Commissioner Sullivan?

COMMISSIONER SULLIVAN: Well, I was going to ask where is the water going and if there is some computation that went with this I'd like to see that. Obviously, Dr. Wust computed how much water they've used. He must have used that same per capita computation for the balance of the lot. Does that cover fire flows? Are we okay on fire flows? Is there a reuse commitment here? Is this an opportunity to reduce water consumption in some way by agreement for a water budget that may be more reasonable than what happened when this development was approved? I just don't have any of those facts.

CHAIR VIGIL: Dr. Wust, you look like you're ready to respond.

DR. WUST: Madam Chair, Commissioner Sullivan, I can put all the specific numbers together for you. I don't have them with me, but the basically history of how this came about was the owners of La Cienega originally asked our department to agree that they had a certain amount of water left over that was assigned to a particular lot. The way our water service agreement is it does not talk about lot, it just says we will provide x-amount of water for so many hookups. And then they asked if they could take part of that assignment that turned out to be around 10 acre feet, I believe it was to originally be assigned to the commercial lot. So it was different from the regular residential amount of water.

So what I did is respond to the request saying well, I can agree with you. You were assigned x-amount of water for so many hookups and if you only are using this much for

your residential then you have a certain amount left over. And that was just from the water service agreement. Then when the request came in, to reassign this, because the original water service agreement did not allow it as Mr. Ross has explained. It's supposed to be assignable to landowners within the property. I referred it to Legal after that because it was going to require a change in legal language, an amendment to the original water service agreement. And that's where we are now.

But we didn't do it by some water project calculation it was more if your original water service agreement promised so much water for so many hookups and you'd like to use a certain piece of land, is there water assigned to that. And in this case it was around 10 acre-feet.

COMMISSIONER SULLIVAN: Madam Chair, Dr. Wust, if there was a promise for some commercial development as we seem to get on all of these subdivisions that rarely materialize, and we sever the water from that commercial lot, then it's pretty clear we're never going to get the commercial development, right?

DR. WUST: Madam Chair, Commissioner Sullivan, that's true of any lot and actually, I just got a copy of the letter I wrote. Basically it said the water service agreement was originally for 107 taps, as they called them then, and 42 acre-feet of water per year. The subdivision has 105 platted residential lots. One of these lots has a guesthouse for a total of 106 taps. Each lot and its guesthouse have .3 acre-foot of water restriction so the total water use budget is 31.8 acre-feet. By this calculation, 10.2 acre-feet of water remain for lot 106. I guess the assignment of this lot 106, and that's where it got into the legal language that I couldn't follow, that that could get reassigned or moved around. That's again, how they're ending up where they are today.

COMMISSIONER SULLIVAN: And has your department checked on their water usage to determine if they are in fact using .3 acre-feet or less?

DR. WUST: Madam Chair, Commissioner Sullivan, last I looked, they actually haven't build out so we're not going to be able to tell you whether all the lots are going to stick to that. The current lots are keeping within that budget. There is of course a variability. I think there was, when I originally wrote the letter, there were 40-some odd customers we were serving at that time. And so in my opinion, 40-something out of 106 is not sufficient statistics to tell you whether or not they'll be needing that .3 acre-foot per residence budget.

COMMISSIONER SULLIVAN: You mentioned something about the original agreement saying that any excess would be distributed amongst the users?

DR. WUST: I don't recall that, Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just now, I thought you said something about the agreement. What are the users anticipating? When they signed an agreement for 42 acre-feet and the disclosure was that there were 42 acre-feet available. How does that disclosure read? Does it say that the developer at its discretion can sever that water allocation or -

DR. WUST: Madam Chair, Commissioner Sullivan, my understanding is it

doesn't. That's why we referred it to Legal. It was going to require a change to the water service agreement but they can't just reassign it or give it away or sell it or whatever. My understanding from the original master plan, but I'd have to research this, was that one of those lots was designated for a different use and that's why it could have a different water budget. You're correct that all the details are not in front of us at this time.

COMMISSIONER SULLIVAN: It seems to me that we are making a change to a water service agreement that was agreed to, what I'm missing here is some kind of notification to the residents that the water service agreement on which they purchased their lot or their house, is going to be unilaterally changed by the County to deplete it 25 percent in terms of the water available. That may be fine with everyone if they're using less than .3 acre-feet, but in terms of somebody coming back later and saying why did you do that? I'm just concerned that it's on the Consent Calendar and we have no public interaction or notice on this. That's what I would like to see.

CHAIR VIGIL: Did you want to respond in any way?

DR. WUST: The only think I'd respond to on that comment, Madam Chair, Commissioner Sullivan, is that the customers or ours won't be effected because enough water is left from these other taps. It may be a legitimate question to ask in terms of their development or their land use. What that lot was supposed to have. I don't know if it was for some service for them. But in terms of the water, we would deliver to our customers an appropriate amount of water so it won't make a difference to that in terms of water deliveries because there's still enough left for all the residential units.

COMMISSIONER SULLIVAN: I guess too, Madam Chair, when we're doing something like this it would be kind of like Rancho Viejo, in the initial lots, they had .25 acre-foot water budgets and now they're coming in with less than .2 - if they were go to back and restrict the membership in the initial units to less than .25 acre-feet.

My suggestion is, just as a matter of policy when we're amending these agreements that we get notices out to the 107 owners - if that's how many there are, that a change in the water service agreement is being contemplated and here's a summary of that change. It would require the developer to do that just as he or she would for any land use change, which this is, and be sure that there aren't any repercussions to this. My only concern is not with anything you've said. I'm always nervous when I'm only hearing one side of the story. That's all.

CHAIR VIGIL: Are there any further questions on this item. Seeing none, what is the wish of the Commission?

COMMISSIONER SULLIVAN: Madam Chair, I would move to table item B. 4 for 60 days with the instruction that the applicant notify the lot owners of this request and that they be given a point of contact at the County where they could respond, and I assume that would be the water department, with any concerns or comments that they might have on that request.

CHAIR VIGIL: Motion to table item X. B.4. Is there a second? Not hearing a second - am I not hearing correct? Is there another motion?

COMMISSIONER CAMPOS: Madam Chair.

CHAIR VIGIL: Commissioner Campos.

COMMISSIONER CAMPOS: Just a question for Legal. This matter has been reviewed by your office and it's been presented I assume staff feels that it's ready to go. Would a delay of 60 days be detrimental to anybody? And is there any justification for tabling at this point in time?

MR. ROSS: Madam Chair, I understand there's some time urgency with this request but I'm not aware of the details of it. But I understand there's some issue relating to time.

COMMISSIONER CAMPOS: Okay, now as far as tabling, do you think any of the issues raised by Commissioner Sullivan merit taking extra time to give notice to the customers or potential customers of the water system?

MR. ROSS: This is really kind of a contract manner. This person isn't the original subdivider. This person has assumed the water service agreement. I understand there's been a written assignment. It's right in here in the packet from Ranch Partners who were a successor in interest to the original developer and were developing the parcel. This person is just a lot owner and Mr. C de Baca assumed the remainder of the water service agreement kind of as an investment. So if you look at it in those terms you can see that this is not a developer, they just have an asset that is sort of attached to their lot or sort of not, and it's a somewhat fungible investment and the only limitation is that that I described earlier in paragraph 8 that appears to restrict assignments to the lot that he owns or any lot within the subdivision.

I remember from my many discussions about this that most of these water service agreements are assignable. Only until we put in place the recent allocation policy did we restrict assignments of water service agreements. So there has been quite a market in water service agreements and parts of different water service agreements have been assigned to two or three developments. It's fairly common. They are transferable assets in that regard. This fellow has an asset like that and would like the flexibility to move it outside the development leaving the required .3 acre-feet on the lot that he owns within the subdivision so he can cash in on the asset that he's - we're starting to see it. These water service agreements are worth more than the land that they sit on. Unfortunate but true. Did that answer your question?

COMMISSIONER CAMPOS: I think so. I would move to approve this matter.

COMMISSIONER ANAYA: Second.

CHAIR VIGIL: Motion to approve item X. B. 4 and second. Any further discussion?

The motion to approve the amendment to the Las Lagunitas water service agreement passed by majority 3-1 voice vote with Commissioner Sullivan dissenting. [Commissioner Montoya was not present for this action.]

X. C. 6. Resolution No. 2006-__ . A Resolution Approving Participation in the Program of the North Central New Mexico Economic Development District (County Managers Office)

COMMISSIONER SULLIVAN: Madam Chair, I see that this involves an annual appropriation to the North Central New Mexico Economic Development District. Actually, and I may be wrong, but I can recall maybe hearing from them once or twice in five and a half years that I've been on the Commission. So that was my first question. What do we gain in this tight budget year from our participation in that organization? And the second was that I noted in it it said in passing the resolution we've adopted their economic development plan as our economic development plan. Now, there's not a copy of their economic development plan in the packet, so I wondered what we were adopting as our economic development plan here, as their economic development plan. Those are my two questions.

CHAIR VIGIL: Is there someone who's prepared to answer that? Mr. Gonzalez.

MR. GONZALEZ: I'll take a stab at it. There are a number of planning and engineering efforts that the County has participated in in the past that have been joint efforts with the economic development district. In addition, they have provided some staffing for County efforts related, as an example, to some of the wastewater efforts currently occurring in the Pojoaque Valley. Over the years, I think the largest benefit has been in the participation long term in some of those planning and other support efforts for infrastructure. They have been involved, I know, to some extent in the Chimayo Mutual Domestic Water Association difficulties and have played a role in trying to iron those out. Obviously, it's just the benefits that come from participating in a council of governments type of governmental activity.

Those benefits obviously, are for the Commission to weigh but this has been a traditional participatory activity from the standpoint of the Commission and I guess the long-term view has been that we get enough out of participation in order to support continuing. Obviously, the Commission is always open to debating the merits of continuing that process.

COMMISSIONER SULLIVAN: I would, Madam Chair, just - perhaps Mr. Gonzalez could explain to me the part where it says the County hereby adopts NCNMEDD's annual report and overall economic development program as its own. I think we have our own annual report and we probably don't need to adopt theirs. But could you brief me on their economic development program which we're adopting by this resolution as our own?

MR. GONZALEZ: I don't have the details in front of me. I understand it's again directed to the long-term development of infrastructure throughout the COG area of jurisdiction and this is simply a repeat of what's been done in prior years. So there's sort

of a pro forma aspect to what's being presented to the Commission.

COMMISSIONER SULLIVAN: Those are my questions.

CHAIR VIGIL: Are there any further questions? What is the pleasure of the Commission?

COMMISSIONER ANAYA: Move to approve.

CHAIR VIGIL: There's a motion to approve. Is there a second? I will second it, but I do have further discussion on my part. How much do we pay for participation in this?

MR. GONZALEZ: The annual fee appears to be \$3,150.

CHAIR VIGIL: And do we have staff that actually represents Santa Fe County for any of the membership meetings or any updates that the North Central New Mexico Economic Development District has?

MR. GONZALEZ: Commissioner, it's essentially a dues payment so we don't track it from a staff standpoint or have anybody designated to do that. The economic development district is assumed to be a self-reporting kind of organization functioning under federal law, so they have certain reporting requirements and that's part of what they provide us as their economic development plan. We can at the staff level, if the Commission desires, take a deeper look at that, come back and probably have director Deaux appear before the Commission as well to discuss their activities and future reports.

CHAIR VIGIL: Where did the request for our participation in this originally come from? Do we know?

MR. GONZALEZ: It comes from the COG itself. They annually submit their request to all the participating organizations, the local governments who fall within the COG jurisdiction.

CHAIR VIGIL: And who is administering or staffing this? Is it the state?

MR. GONZALEZ: No. It's a separate organization set up pursuant to federal legislation. The director is Barbara Deaux. She runs the organization, utilizing not only the dues money that is provided by the jurisdictions within her governmental area. The City of Santa Fe I believe also participates, Rio Arriba County I think participates and I've forgotten who the other local governmental entities are that pay their dues. But in addition, they get federal funding that they also use for their operations.

CHAIR VIGIL: Okay. I have no further questions? Are there further questions? Seeing none, there's a motion on the floor to approve this item on the agenda, and a second.

The motion to approve tied 2-2 with Commissioners Anaya and Vigil voting in favor and Commissioners Campos and Sullivan voting against. [Commissioner Montoya was not present for this action.]

COMMISSIONER CAMPOS: I would vote no at this time. I think we need more information as to how our contribution is used.

CHAIR VIGIL: There is a motion of 2-2. Does that mean this item comes before the Commission at a later date or does it – what does it mean?

MR. ROSS: Madam Chair, since there is a member not present, it would be tabled essentially to the next meeting, at which point we would bring it back for a vote.

CHAIR VIGIL: Okay. Would staff please do that then? Thank you.

XI. Staff and Elected Officials' Items

A. Corrections Department

1. Update by the Youth Services Director Billy Merrifield Regarding the Santa Fe County Day Reporting Program

CHAIR VIGIL: Mr. Merrifield, thank you for your patience.

BILLY MERRIFIELD (Youth Development Program): Madam Chair, Commissioners, we want to give a quick brief update on the day reporting program, which is a pilot program, which is an alternative to detention for the youth in the community. With me today I'd like to present Ms. Steffi Oshel. She's our day reporting supervisor that operates the program for us, as well as Mr. Robert Apodaca who is the program manager for the residential program.

The mission statement to the day reporting program provides a multi-disciplinary strength-based approach to treatment as an alternative to incarceration that promotes a sense of ownership, motivation, growth, trust and showing responsibility to assist adolescents who are remaining in the community and acquiring the skills to enter adulthood.

The purpose of the program is to establish and maintain accountability based programs designed to reduce recidivism among juveniles who are referred by law enforcement personnel, the judicial system or other agencies.

There is a target population for this. Basically the day reporting program that was developed for the tri-county areas of Rio Arriba, Santa Fe and Los Alamos counties. The ages for that target population were from 12 to 17, not to exceed the age of 18.

All youth entering the day reporting program have been assessed by the juvenile justice and have been determined to be eligible for secure detention through the risk assessment instrument, which is utilized by our current CYFD probation standards.

Currently youth not eligible to enter the program are those youth who have met the criteria as youthful or serious youthful offenders as defined by the current children's code.

Best practice model, the goal of discipline in accordance with the model is to coach the resident regarding maladaptive behavior in order to motivate them in goal attainment. Now, because this is a pilot project, we're in the process of changing this model and going to a more strength-based approach, which is looking toward the short-term stay of the participants.

For the services provided, we have education, which provides a minimum of 25

hours of school which is by the public schools. We have a teacher that's been assigned there. There's additional education with guest speakers, field trips and also this upcoming year we're going to do some summer school which will allow these youth to receive up to five credit hours for attending.

We do have individualized therapy and youth sessions for therapy and case management do occur for those youth which do not receive it referred by the Juvenile Probation Office. In other words, the Probation refers these youth to somebody else having [inaudible] They receive it. If not, we'll still provide those services for the youth and their families on site.

Again, the purpose of case management is to assist probation. The children court district judge, along with the other programs of electronic monitoring to assist with the communication of how well the kids doing, progress reports, their status during their participation in the actual program and also just set days for their court hearings.

Other clinical services provided to each participant include during intake they have a mental health assessment that does occur for them. We also do a background history, and there's another one that's considered the baseline assessment that's provided by the probation department and that's usually done if the child's going to be on a short-term basis. We also have a life-skills group which assists these youth with their anger management and stages of change informational groups as well as racial diversity.

There is drug and alcohol education which is provided approximately three hours on a weekly basis, and then we have a power source group which is provided by Casa Su Vida, which is approximately four times a week. We have Casa Su Vida which is another alternative to detention. It's a program in the community. We consolidate their youth with our youth in the facility to share the resources of that teacher as well as some of the programming that's out there, which has really helped us out.

In the community we have organizations that also volunteer their time and services to the participants to the program. Narcotics Anonymous is one of them. They come in for one hour bi-weekly groups. Then we have the Young Fathers Projects. These volunteer organizations also will allow the youth, if they leave the program to participate in those programs in the community whether they're in the program or not.

A little bit of a history for the program. On November 18, 2004, the Juvenile Justice Advisory Committee met and voted to recommend an award of \$200,000 to Santa Fe County for the day reporting center. These funds required an approximate 10 percent cash match which was provided by both the City of Santa Fe and Santa Fe County. The targeted start was April 1, 2005, however, the program did not begin until July 18, 2005 due to the staffing issues. Those issues were obtaining qualified clinical staff to provide the quality of services needed. Therefore it was kind of a back and forth situation of finding those folks to provide those services. So there was a little gap on that.

Numbers served: During the first four months of the operation of the program the capacity was limited to four in order to ensure the program quality. During these four months, 12 adolescents received services. Since the month of October of 2005 at least eight

slots have been made available to be filled by the participants. At times as many as 16 participants have been served by the day reporting program. So we're pretty much averaging between 12 and 14 currently in the last couple of months, one of those being female.

Statistics, since the beginning of this project to where we're at at the end of April, the total number of participants served was 63. The total number of participants that have returned to detention or basically back to secure detention is - there were 13 of them due to probation or other related reoffenses. There's been 40 successfully discharged from the program and we have had about 12 of the participants unsuccessfully discharged for either absconding from the program or failing to comply with the program expectations or rules.

There's a chart that gives the color code of recidivism and success chart. Again, this information is through the end of April. And it's been pretty successful from the beginning to where we're at today. There's another chart after that that calls for successful and unsuccessful.

Utilizing the resources. The day reporting program has been able to secure a full-time Santa Fe Public School teacher by sharing these resources with the residential treatment center Casa Su Vida. With this, 41 Casa Su Vida clients have had the benefits from the day reporting program. If you're familiar with Casa Su Vida, quite a few of them are local or from other communities pretty close to us.

Again, the day reporting participants served, there were 63, for Casa Su Vida, 41, so you have a grand total at the end of April of 104 that have been served since this project began.

I'll get into a little bit of the budget expenditures. With a graph, it shows the January costs were higher. As we moved into July of 2005 there was obviously some billing difficulties of the folks that we deal with with JJAC, the Juvenile Justice Advisory Committee, on purposes of billing and how we're supposed to bill and how it was set up. So there was an increase there. In March there was an increase. Again, that was actually getting fully staffed. That was the increase for that. We weren't always fully staffed with an actual therapist and a case manager, therefore in March we were able to fully staff the clinical positions.

The budget, on March 29, 2006, a budget extension was granted allowing the day reporting program to continue to expand the current budget through June 30, 2006, which is two months past the original date. At the end of April, a little over \$131,000 of the \$200,000 budget grant has been billed.

On some cost comparisons, currently, if a resident was to be detained in detention, the per diem rate is \$110. The per diem rate for a day reporting youth would be \$67. So you're saying a day about \$43. Now, effective July 2006 the detention per diem rates will increase to \$140 for those who contract with the facility, for those who are with the County. For those who don't contract it will be \$170 a day. So you're looking at saving \$73 per participant if they're in the day reporting program.

Some cost comparisons for services. We got some information and obtained some

quotes for some of the local providers for case management, therapy and life skills. The average that they told us per kid was \$60 an hour if they were to receive case management in the community. If they were to receive therapy it would be about \$90 an hour. And of course life skill groups it was about \$25 a hour.

Just for the youth that we've served, if they had received case management services, it would have cost us a little over \$18,000 for them to receive those services in the community. For therapy, you're looking at it costing a little over \$27,000 just for therapy services for the youth that were served. And again, there's calculations at the bottom of how that was calculated. And if you go to the life skills group, you're looking at the services provided in the community for each participant at an average of 10 hours a week, the billable rate would have been about \$75,000, a little over \$75,000.

Looking at those cost comparisons, just for those three services, the total billable rates would equal a little over \$120,000. This is the billed amount of \$131,000 for the entire day reporting thus far. So really, for all the services that the kids receive in this program, and it's a pilot project that we started, the numbers have increased on where we show the cost comparison and what these kids really get compared to just being in the community and being resourced to an individual session or someone to see a case manager or a life skill. Because we provide those services in-house.

The day reporting program, the objectives of the day reporting program are to achieve reducing recidivism by empowering clients to make positive changes in their life through education and intervention. The program is also designed to propel clients forward towards self-actualization and becoming productive members of society as well as to provide clients with the skills necessary to improve the quality of life.

So Madam Chair, members of the Board, that will just give you a quick update on what we're doing with this project. We're hoping to continue with this program as we're showing some progress and the youth are getting something good out of it.

CHAIR VIGIL: Thank you, Mr. Merrifield. Are there any questions from the Commission? Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, yes. I want to thank you, Mr. Merrifield and your staff for coming over and briefing us on that. It looks like about more than half – it was 30 out of 63 that were moving on and doing things, and the other ones were coming back in. So I think that's pretty good. If we've helped out 30 kids. And I know that when we did that open house over there, I met a few of them. I said I hope they're going in the right direction. They seemed like they were. So keep up the good work. Thank you.

CHAIR VIGIL: I have a question, Mr. Merrifield. I'm concerned about the sustainability of this program. Are we actually going to be able to look at some funding for next year, I guess. The \$200,000 was extended. What does that mean?

MR. MERRIFIELD: Madam Chair, currently, we're in the process of – with the Juvenile Justice Advisory Committee. Judge Barbara Vigil has been a big advocate of helping us along with the JJAC committee of trying to get some of the funding that was

appropriated for different state programs. It looks real positive as we speak of receiving that. We have another meeting at the end of this month to see where we're going to be with it and what the application process is going to be. But I know that the day reporting program is one on the list that many folks are advocating for.

CHAIR VIGIL: Thank you. And thank you very much for a very comprehensive report. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Merrifield, does the Corrections Advisory Committee have any interaction with the youth program, or is that only in the adult facility?

MR. MERRIFIELD: Madam Chair, Commissioner Sullivan, I believe that they do. The committee has the adult and a separate one for the juveniles and there are some questions, they have taken tours to visually see what goes on in the programs.

COMMISSIONER SULLIVAN: Do you have any report on what their reports are going to be? We haven't seen or heard from them for a long time. Could you summarize what some of the issues might have been, or the context?

MR. MERRIFIELD: Madam Chair, Commissioner Sullivan, unfortunately, I can't say regular but I've heard nothing but positive. Keep up the good work. They like what they see. There hasn't been anything in particular that's come up as a question or concern.

COMMISSIONER SULLIVAN: Do they have periodic reports?

MR. MERRIFIELD: Madam Chair, Commissioner Sullivan, I believe we do. I know that we keep some on file. We can get one sent to you from our department. I'm pretty sure they just had a meeting last month. They may have the minutes for that.

COMMISSIONER SULLIVAN: Okay. I guess it would be useful for your future presentations to include those with the packet so we could see. This presentation seems to be focused on the day reporting program, if they had any comments on that, I think that would be useful. Thank you.

CHAIR VIGIL: Mr. Merrifield, I just want to encourage you and your staff and everyone to continue working towards this alternative for our youth. Our community has rarely, that I know of except perhaps Youth Shelters and Family Services had an alternative to incarceration. There's such a need for our youth. I don't know if the entire global understanding is there that youth who are incarcerated learn the culture and we're creating adult inmates through our youth incarcerations. These alternatives make a huge difference in the long run. Please continue helping our youth and move forward with it. I for one want to know if there's anything I can ever do to assist you. Thank you very much.

MR. MERRIFIELD: Thank you.

CHAIR VIGIL: Commissioners, the next item on the agenda is going to be delayed, based on the fact that Commissioner Campos has asked for a five-minute break.

[The Commission recessed from 5:15 to 5:30 and reconvened with Commissioner Montoya as chair.]

CHAIRMAN MONTTOYA: Okay. Let's go ahead and reconvene the meeting. I understand I didn't miss much.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN MONTTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, I'm wondering if I could move an agenda item up. I have a couple of my constituents that have been waiting there patiently all day long, and that is if we could move up and hear the Public Works Department, the consideration of possible approval of a resolution accepting Cottontail Road. That's just if the Commission would like to.

COMMISSIONER VIGIL: I'm in agreement with that.

CHAIRMAN MONTTOYA: So am I. Anyone object? Seeing no objections, we'll move forward with that item, Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair.

XI. D. Public Works Department

1. Resolution 2006-97. Consideration and Possible Approval of Resolution Accepting Cottontail Road for County Maintenance

MR. MARTINEZ: Mr. Chair, the residents of Cottontail Road are requesting for the BCC to accept Cottontail Road for County maintenance. The residents have not met all the requirements in the acceptance policy which is labeled as Exhibit B. The residents are requesting that the Board waive the criteria in the road acceptance policy and accept Cottontail Road in its current condition. This is a dirt road which does not meet County standards. The road is in extremely poor condition. It could cause a health and safety issue if emergency services were needed for those residents. If Cottontail Road is accepted for maintenance, we would connect Mutt Nelson Road and Chalan Lane, which are both County maintained.

The Public Works Department has met with the residents and awaits for further direction. Mr. Chair, Paula Roybal, the resident from Cottontail is here and would like to address the Commission. I do have some pictures for you guys to see.

CHAIRMAN MONTTOYA: Okay.

COMMISSIONER VIGIL: Mr. Chair.

CHAIRMAN MONTTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Question for Robert after you hand those out, Robert. It's my understanding that this road, at least if not at present at one time was a road where school buses pick up school children.

MR. MARTINEZ: Mr. Chair, Commissioner Vigil, I believe it is a school bus route, but like you say, the buses stopped going on that road because of the condition.

COMMISSIONER VIGIL: Okay. Thank you.

CHAIRMAN MONTOYA: Ms. Roybal. Paula. Thank you for your patience.

PAULA ROYBAL: Thank you. Good afternoon, Chairman, Commissioners. My name is Paula Roybal and I have taken on the role of neighborhood spokesperson for the conditions of Cottontail Road. As I mentioned in my original letter which is part of your packet our concerns are over safety. This road is approximately .3 mile and connects two highly populated subdivisions, the Remuda Ridge and the Mutt Nelson, both of which are County maintained. At this time I would like to reiterate some of the issues that Robert brought forth.

The current conditions of the road prohibit school buses and fire trucks access to all the residents, and the questionable ability an ambulance has when the roads are muddy, which aren't quite often recently, but when they are. There are approximately 10 children that attend the public school system that live directly on this road. Because school buses have gotten stuck several times they no longer travel on this road and the children are forced to walk down the street and catch the bus on a very busy and congested part of Mutt Nelson, which frequents speeders. Basically, where the children catch the school buses by mailboxes and there's a blindman's curve on both ends.

The ages of the children range from six to approximately 13. We hope you along with us recognize the safety concerns involved and would greatly appreciate your support in voting for this resolution. Thank you.

CHAIRMAN MONTOYA: Okay. Any questions for Robert or Ms. Roybal? Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair. I've seen this road. I've driven down it. It's very bad and anything you could do to help out the constituents I would appreciate, Mr. Chair. Thank you.

CHAIRMAN MONTOYA: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Ms. Roybal or Robert, what's the platted width of the easement there now?

MS. ROYBAL: I believe it's 40 feet. And the residents have granted the easement. It's a 40-foot easement on the plat.

COMMISSIONER SULLIVAN: On the plat. Thank you.

CHAIRMAN MONTOYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: I have a question and this goes for Robert. Robert, I sometimes get confused. I want to respect our own processes. Is this a request that should go before the Road Advisory Committee?

MR. MARTINEZ: Mr. Chair, Commissioner Vigil, no. The only request for road acceptance in the last ten years that I know of has been the one that you sent to them regarding Estrellas de Tano.

COMMISSIONER VIGIL: So why do we bypass our Road Advisory Committee on these issues?

MR. MARTINEZ: Mr. Chair, Commissioner Vigil, the Road Advisory

Committee at one time was asked what their feelings were on accepting other roads for maintenance, and their response back to the Commission was that we have a limited budget to work with. We're always behind the eight ball trying to improve the roads that we currently have and their position was at that time was they weren't interested in recommending any more roads for acceptance.

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

CHAIRMAN MONTTOYA: Okay. Any other questions? Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, I move for approval.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTTOYA: Motion by Commissioner Anaya, second by Commissioner Vigil. Any other discussion? I'll just say that I think in terms of the discussion I've had with Ms. Roybal in the past, I think the pictures speak for themselves and I think whatever we can do to try and help we need to try and do that. And Commissioner Anaya, thank you for bringing this forward.

The motion to approve Resolution 2006-97 passed by unanimous [5-0] voice vote.

XI. B. Finance Department

1. Resolution No. 2006-98. A Resolution Requesting Approval of the Fiscal Year 2007 Interim Budget

PAUL GRIFFIN (Budget Administrator): Mr. Chair, members of the Board, I would like to present to you for your approval the fiscal year 2007 interim budget. It is the same budget that we presented to you a week ago at a work session with the exception that we omitted the first bond payment for the 2005 GOB bond, so the number is going to be higher. This is a GOB bond so it doesn't have any real impact on the internal operation of the County. The total for the interim budget as it now stands is \$133,676,496. Again, the change from the old figure is comprised in that first payment of the 2005 GOB bond.

It's my desire that you approve this budget. It is due to the state in a day. I have one day to get this ready for publication to the state on their forms. You will have ample opportunity to make changes before the final budget in the month of June and if you desire any special session, like our work session last week to do more definitive budget cutting if you will, then we'll be happy to meet with you at your discretion.

CHAIRMAN MONTTOYA: Thank you, Paul. Any questions on the budget?

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN MONTTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I believe we were going to discuss the issue of discretionary Commission funds at this point. Is that right?

COMMISSIONER SULLIVAN: You brought that up under Matters from the Commission.

COMMISSIONER CAMPOS: The suggestion I made is that we delete it. You've heard my arguments. I'd like to have some discussion on it.

CHAIRMAN MONTOYA: Okay. Any discussion?

MR. GRIFFIN: May I make a recommendation that this budget be approved as it stands. If you wish to delete anything or change anything in the budget please do that between now and the time that the final budget is complete at the end of June. So you have the opportunity to make those kinds of changes and any others that you would like to make. If you change the budget now that forces me into a lot of numerical changes in the system and it kind of jeopardizes my ability to get this to the state.

CHAIRMAN MONTOYA: Do we want to table it until some other - I'm just kidding, Paul. Commissioner Anaya and Commissioner Vigil.

COMMISSIONER ANAYA: Thank you, Mr. Chair. Paul, do we have our discretionary funds in there now?

MR. GRIFFIN: The discretionary funds are in the budget now. They're in the capital package of the general fund.

COMMISSIONER ANAYA: Okay. Thank you.

CHAIRMAN MONTOYA: Anything else? Commissioner Vigil.

COMMISSIONER VIGIL: I do believe there does seem to be a desire to discuss not only discretionary funds but perhaps some other issues. But I don't know that we want to hold up the process at this point in time. So I think we should have those discussions. If there are differing opinions then those discussions should be given full consideration. But at this point in time, based on Paul's request that we move forward on this so that he can submit it to DFA I will move that we approve this temporary interim budget.

COMMISSIONER ANAYA: Second.

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

COMMISSIONER SULLIVAN: I agree. I just want to throw out there that I feel that in light of Paul's recommendations and report to us at the last work session that we are being excessive in our FTEs request. And I would ask that the County Manager's office come back when we approve the final budget with some recommended areas of cutting. If not then perhaps we'll discuss areas ourselves where we think the FTEs can be cut. But in that interim, I do think, based on the so-called rolling staff list in the budget request that there's room for further cutting. We get to be the bad guys and that's what we get paid the big bucks for. So I think it's nice to be friends with everybody but we have some fiscal issues that if we can't get some more cutting at the staff level I certainly think we need to do some at the Commission level and hopefully we'll get some

recommendations for that at our next meeting. I assume this is coming up – is it Paul, at the next administrative meeting for the final approval?

MR. GRIFFIN: It will at the end of – actually we have to the end of July to do it but I'd like the final budget to be set in the system by July 3rd because we use that budget as the primary budget. Anything beyond that should be done in regard to resolutions by the Board.

COMMISSIONER SULLIVAN: So it should be at the administrative meeting in June.

MR. GRIFFIN: Yes. The decision is pretty well made. Formally, you don't have to make a decision until the last meeting in July but that leaves me hostage to the numbers, if you will, because I will have a budget in the system that does not match the final budget that you people approve. And I don't want that. I've resisted that for the last several years since I've been in this capacity.

CHAIRMAN MONTTOYA: Okay. I'll just add for the sake of discussion that I would be in favor of eliminating the discretionary fund, and all I ask is that the \$20,000 to fund the Pojoaque Recreation program and the other \$20,000 that I've used to rehabilitate the number of acequias are built into the budget.

MR. GRIFFIN: No comment.

CHAIRMAN MONTTOYA: So I'd be in favor of it. And I have a couple of more requests. Acequia del Rincon, Acequia del Otra Banda are just two of the recent ones that came up that have asked for assistance. So we can further discuss it in terms of what the other thinking might be in terms of the other Commissioners. Commissioner Sullivan.

COMMISSIONER SULLIVAN: And something that we didn't have a chance to discuss at the work session and I still would like some staff feedback on is we still have a library that we operate, and our only library, the Vista Grande Library, and for some reason we seem to orphan it out. We support everything else, senior centers and community centers, healthcare facilities. We support everything except the Vista Grande Library. And I just feel that that needs to be an online budget item as well and I wouldn't need as much discretionary funds either if we were to support the Vista Grande Library. It's a community facility. We committed to it when we provided the land. The state committed to it when it provided funding. The community commits to it in terms of a great amount of funding but we just have to take them on board here. So far the only way to help that library struggle and keep solvent is through the use of discretionary funds. If there's another mechanism to do that then I'm all for it. That's all I had. Thank you.

COMMISSIONER CAMPOS: It sounds like this might be costing us more.

CHAIRMAN MONTTOYA: Okay. We have a motion and a second.

The motion to approve Resolution 2006-98 passed by unanimous [5-0] voice vote.

CHAIRMAN MONTTOYA: Thank you, Paul.

MR. GRIFFIN: Thank you. I would very much appreciate another working session. There are, as you found out in the last working session, a number of significant budget issues and if the Board is interested in making cuts in the budget, then we need to approach those very forthrightly. From what I've seen today, the cutting saw is pointed in the wrong direction. I hear people wanting more, not less. So I think we need a special session to deal with that particular issue. And we do have issues in the budget. I enumerated those issues to you in the workshop. Thank you.

CHAIRMAN MONTOYA: I think we'd be very wise to follow up on that meeting. It's not a pretty picture. Teresa, thank you for your work on it as well.

XI. C. Projects & Facilities Management Department

1. Approval of Agreements between Santa Fe County & the Department of Finance and Administration, for Legislative Appropriated Funds in the Amount of \$5,213,000

MR. GUTIERREZ: Mr. Chair, members of the Commission, in front of you is a letter from DFA asking for your approval to accept 25 grants that are going to fund 22 projects for a total of \$5,213,000. These funds will become available to us July 1st through Local Government. The funds actually never come to us; it's all on a reimbursement basis. Paul has passed out something that details each grant and the amount. *[Exhibit 3]* Some of these things we asked for and most of these things you may be aware of. Some of these things probably fall in the special challenges category, but they are packaged as one unit when they come over from DFA to Local Government.

CHAIRMAN MONTOYA: Any questions for Joseph on these?

COMMISSIONER ANAYA: Move for approval.

CHAIRMAN MONTOYA: Motion by Commissioner Anaya.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: Second Commissioner Vigil. Discussion?

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: It just seems to me that every time the legislature gives us grants it costs us a lot of administrative time and money. Is that a fair statement?

MR. GUTIERREZ: Mr. Chair, Commissioner Campos, the grant projects that we receive from the state pretty much are the primary and sole funding source for the projects section of Projects and Facilities Management Department. So it does take time. We have staff that works on this full time and it's a full-time project and it's a challenge to us. But if we didn't have these funds I don't know that we would be able to accomplish any of the Commission's initiatives without the support of these types of funds.

CHAIRMAN MONTOYA: Any other questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Could we include, Joseph and also Gerald – we talked a little bit about ICIP strategies for the next year. Could we include legislation that provides some funding for the County to do that. We're taking on a heavier and heavier burden of these funds. And if you look at, for example, federal funds, they lop off very frequently, ten percent off the top for administration to either themselves or the state entity that administers the funds. And that's a routine thing. Nothing too radical about that. And we have \$5.2 million in projects here. I can tell you that PFMD Department, I'm sure, expends more than \$500,000 a year in budget general funds doing this. And they don't mind doing it and we don't mind doing it because it helps Santa Fe County but we're beginning to get overbalanced in this and I just think it's something legislators, quite frankly, don't think too much about. They're concerned with helping their community, helping their constituents and then if we don't have the staff we need, things get tied up. They get delayed. They don't get priority. Lots of things happen and it's just simply because we don't have the people to track it down. I would ask Gerald that it be put on the agenda some kind of a legislation for consideration that we get a percentage of these capital improvement grants, that they go towards administration by the entity that receives the funds. It just makes sense to me.

CHAIRMAN MONTROYA: Commissioner Campos.

COMMISSIONER CAMPOS: Commissioner Sullivan, I didn't catch the last part of that. You're saying an administrative fee should be charged to the entity that receives the money.

COMMISSIONER SULLIVAN: Yes. If we receive \$500,000 for the XYZ community facility, that \$50,000 or 10 percent of that would go towards the entity that has to administer those. Has to put out the contracts, has to deal with the paperwork from the state, has to have construction inspectors, has to do close out documents, has to do legal reviews, has to physically go out and oversee the contractor, has to come to the Commission with change-orders when costs overrun. Just the whole – has to oversee the architect and put out architectural RFPs and select and administer architectural contracts. That whole process is very time consuming.

COMMISSIONER CAMPOS: I agree. It's very burdensome, expensive, and a lot of these things are priorities of the legislators, not the County. The County is carrying their burden to make these into reality. So I agree. I think the idea is good. I think we should at least look at it and get some feedback from staff.

CHAIRMAN MONTROYA: Commissioner Vigil.

COMMISSIONER VIGIL: And I'll defer to Gerald to see if he has anything to add to this. The only concern I have is what you're actually asking would probably need to be a statewide effort, perhaps even through the Association of Counties because these projects – we receive the funding from severance tax bonds, and severance tax bonds are very specific to capital. Now, you're asking that the legislature amend the legislation that allows severance tax – you're saying yes, he's saying no. And it seems to me that we might have a listening ear, but we'd have a stronger listening ear if we had a statewide

effort because we'd have to create an exemption just for Santa Fe County if we did that and I don't see an incentive just to do that. So I'm just not sure that you're fully aware of the Galilean task that you're asking. Do you have anything to add to that, Gerald?

MR. GONZALEZ: Mr. Chair, Commissioners, this issue has come before the legislature actually a number of times and basically, they tend to resist doing that kind of authorization because their belief is they want to get the most bang for the buck. I suppose in a sense you could look at it as an unfunded mandate, but I think you'd get some legislative resistance just from the standpoint that they think that money would now be flowing for administrative fat, if you will, that otherwise would be used for projects. I don't have any problem with asking the County lobbyist, when we get that contract in place to raise the issue and to pursue it. I just don't want us to think that it's going to be a foregone conclusion that the legislature will simply roll over and say, Yes, that makes sense, because they really try to shave the dollars as much as they can in order to spread them as far as they can.

CHAIRMAN MONTOYA: Anything else, Joseph?

MR. GUTIERREZ: Mr. Chair, members of the Commission, I just want to add that this is not the extent of the dollars that will be coming to you. There will be some more dollars coming to you in different formats. Maybe Department of the Environment grants concerning water. I believe House Bill 2, there's also some dollars involved in there so this is not the final number out of the FY06 legislative session.

CHAIRMAN MONTOYA: I think it was more like \$9 million, wasn't it?

MR. GUTIERREZ: I've heard as much as \$10 million but again, until we get all the grants in place through the Local Government we won't know that number. But it will be higher than this \$5.2 million.

COMMISSIONER VIGIL: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Vigil and then Commissioner Sullivan.

COMMISSIONER VIGIL: Thanks. These projects are all specific to allocations made at the 2006 session?

MR. GUTIERREZ: Yes.

COMMISSIONER VIGIL: Okay. Thank you.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Joseph, it says these are 25 general fund grants so none of these are from the severance tax bond, right?

MR. GUTIERREZ: Mr. Chair, Commissioner Sullivan, actually the memo was wrong. They are severance tax.

COMMISSIONER SULLIVAN: Because there's two funding mechanisms. Funds will either come from severance tax bonds or will come from general fund. And I don't believe there is any limitation on general fund monies to be used for administration, so that's a possible mechanism to use to get some administrative funds into the system. Thank you.

CHAIRMAN MONTOYA: Okay. I guess I would agree with Commissioners Sullivan and Campos in terms of whatever can be done to pursue some sort of percentage however that may be, wherever that may come from, just so that we can stay on top of these things. I think the other thing that would be helpful is that we see maybe these on a spreadsheet in terms of where they're at in terms of progress to date. I'd like to see that so that we can monitor exactly where these are at, so contracts – at least I'd like to be informed on where my projects are. I think it's important that each one of us is. I don't know if the other Commissioners would like that as well. But that would be helpful and I think we need to start those discussions now also with the interim committees in terms of if we're going to seek some indirect costs or administrative costs that we see how that can be worked in for the next legislative session. So what are the wishes of the Board?

COMMISSIONER VIGIL: Move to approve.

CHAIRMAN MONTOYA: Motion, Commissioner Vigil. I'll second. Any further discussion?

The motion to approve the agreements with DFA passed by unanimous [5-0] voice vote.

CHAIRMAN MONTOYA: Thank you, Joseph, Paul.

XI. F. Matters from the County Manager

1. Consideration and Possible Action on Resolution No. 2006-99. A Resolution Adopting Affordable Housing Regulations

DUNCAN SILL (Housing Staff): Mr. Chair, Commissioners, before you is a copy of the affordable housing regulations for the purpose of meeting the requirements of the affordable housing ordinance, 2005-2. In the regulations, the contents outline details and calculations methods for meeting the requirements of the ordinance. Specifically, it's divided into 12 articles, including sections that deal with calculations for affordable housing requirements determining the housing mix, the minimum number of units per development and also eligibility requirements for buyers, as well as methods to ensure long-term affordability of the program.

In addition to that, there is also methodology in dealing with the alternative means of compliance as stated in the arguments. We have included sections in here to ensure accountability and safeguard methods of internal control, as well as sample attachments that give us sample calculations in determining the details in meeting some of these requirements. A lot of the contents are the result of a collaborative effort among staff, the affordable housing task force as well as the constituents. I want to thank the staff here at the County, especially the Legal Department, Greg Shaffer, and also our constituents, Mike Loftin from Homewise for their input and their suggestions in coming up with the

details in this lengthy document.

Without going into a lot of the details of the contents, one of the major issues we would like to bring to your attention is the determination of the area median income as published by the United States Department of Housing and Urban Development. As you are well aware, there has recently been an adjustment downward in this particular number from \$66,000 down to \$58,200. However, the income limits associated with this particular area median income were not adjusted by HUD, and in turn it creates an anomaly and a situation that to the best of my knowledge it hasn't happened that often prior.

I've consulted with constituents, including HUD officials on this issue and tried to get some clarification on how the methodology came to result in these numbers, why income limits for this particular fiscal year were not adjusted. In the cover memo that is in your packet it outlines some of the data and the information in there. As you can see there's an attachment A and B to this cover memo. There are two sets of income limit numbers. One is the federal fiscal year 2006, and the other is the federal fiscal year 2005. And as you could see there when you compare the income limit numbers, they are identical. What this means is that HUD decided not to adjust downward the income limits for the NMSA area which only now includes Santa Fe County. As we know, Los Alamos County was extracted from these calculations.

Based on my conversations with HUD officials, there is a change in methodology where they're utilizing what is called the American Community Survey as a new methodology that includes more local data. What happened, with this usage you can [inaudible] adjustments is that they felt that at this point the income limits, you either can stay constant with last year's federal fiscal year numbers because you don't have the real information, the local data currently to make the appropriate adjustments. That's the impression I'm getting from the regional economist in Denver.

So in reality, this information basically it puts us in a situation that on a policy level the Commission has to make a decision concerning whether we will utilize the published income limits as HUD has done so, or do we take the calculations in our own hands and come up with income ranges that we feel might be more appropriate at this point.

So with that much said I want to open it up for your comments, suggestions and directions and I also would welcome comments from Mr. Loftin - he's here today, as well on this subject.

CHAIRMAN MONTTOYA: Okay. Mike, do you want to give us some of your feedback? And then we'll open it up for questions.

MIKE LOFTIN: Thank you, Mr. Chair, Commissioners. Thank you, Duncan. The income limit thing is just one of these weird issues I've never seen before. Basically, what my understanding of what happened is the Office of Management and Budget at the federal level is who decides what the metropolitan statistical areas are, because the political pressure to help out Los Alamos, that they were thinking would help out Los Alamos, they changed the definition of the Santa Fe MSA or metropolitan statistical area to not include Santa Fe and Los Alamos counties, which it's always been,

but to break the two out. So now you've got Santa Fe County standing alone.

Normally what happens in MSAs is you add counties as metro areas grown. I've never seen one do the reverse, but I think it was because some of the developers in Los Alamos were trying to get the income limits up in Los Alamos and if they stood alone, their income levels would go up. Santa Fe's would go down. HUD said, okay if you do that we won't penalize Santa Fe. We'll keep the existing income levels; we won't change them. So that's what's happened. So you have a set of income limits that HUD has in place that were based on the MSA AMI, the area median income for Los Alamos and Santa Fe County, and they then changed the way you calculate it.

Incomes in Santa Fe County have not gone down. The median income has not gone down. Nothing has changed. People make the same amount of money in Santa Fe County now, maybe a little more than they did last year. It didn't go down. So there's no change in the real world; it's just the way the federal government decided to calculate AMI. So when the BCC originally passed the ordinance, using the old income limits, because that's what we had, we had the new income limits as well but based on that income that people were making is the way prices were set and who can buy them. So one of the consequences of this was the prices would go down. If you went to the lower ones, prices would go down, but the other thing is who could buy would go down.

So somebody, a family of four making \$66,000 could not buy a home that's affordable to someone below 100 percent of the median income anymore. They have too much income to buy that house. So one of the things we were trying to do if you remember in the ordinance is to make sure we cover the whole range of people from very low income people up to more middle class people, which we think the ordinance did. Now, if we take the lower limits, we're reducing that upper ceiling. It's not to say people of lower income can't still buy those homes; they can. It just means you're going to have limits - the top ceiling is going to be lower than what it was originally intended.

So as I say, nothing has changed in the real world. Nobody's income has changed. Everything from before was discussed of having a price and a home affordable to a certain income limit, all that changed is the feds changed the way they calculated AMI.

HUD realizes that's a problem. This is a separate federal department, OMB. So HUD said, well, we're just going to acknowledge the old income limits. I think for the sake of continuity and keeping the original agreement that got worked out during the discussion of the BCC, I think Duncan's recommendation is prudent. Let's keep the existing income limits that were always in place and look at it again next year. There's a good chance that this is going to get reversed because there's lots of discontent with it. I think the feds are being too smart for their own good and they changed all this stuff thinking it would help things along here and it actually caused all these other problems.

So now we have income limits for certain federal programs that are going to be different than others, so you have to calculate income two different ways. It creates a real mess. Even in Los Alamos, some of the developers who were pushing for this whom I've talked to said they didn't like the consequences of it in Los Alamos either. So I think over

the next year you're going to see an effort to reverse it anyway. I say why don't we just stay the course, keep the original limits that we had, see if that gets reversed. If it doesn't get reversed then look next year what we want to do on this.

I think we all felt kind of broadsided by this changeover at the federal level on the AMI issue and I think that's why HUD decided to keep the old limits to just keep continuity. The City – maybe I shouldn't mention the City. That was a joke. The City kept the old AMI, kept the old income limits just because it keeps it consistent. Meanwhile, the Mortgage Finance Authority on certain IRS regulated programs are keeping the old limits on HUD program while recognizing the new limits. HUD is keeping the old limits. So you've got all these different weird things happening. I think we should just try to be consistent and keep the old limits until we know that this is settled out and then decide what to do. So that would be my recommendation. Is that clear as mud?

CHAIRMAN MONTOYA: Absolutely. Thank you, Mike. Any questions for Duncan or Mike? Commissioner Anaya.

COMMISSIONER ANAYA: Move for approval.

CHAIRMAN MONTOYA: Okay. I'll second. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chair, I think what reducing the HUD median income does is it tells us what the target population is that we ought to be serving. So quite frankly, I think we should go with the HUD limits. I think they were artificially inflated by Los Alamos, which we've learned recently has the most millionaires per capital of any community in the United States. And what that does is it limits the – we only have a certain number of units that are going to be out there on the market and available, and there's a waiting list for them, and it's going to limit the units that are available to those who really need them, based on the data that we have.

Now, it's not a major change, a few thousand dollars in the income, but I'm just, number one, concerned that we don't – that we're not serving the target that we have agreed to serve, which is Santa Fe County residents. Number two, in comparing it with the city, I think it's not a proper comparison, because the City's program, they may still use those AMI limits, but they don't have 120 percent levels. Our program goes up to 120 percent of the median income, whatever we define that as. So we have another group there that we're addressing that the City's not. So the City can keep the same limits and we're still addressing a higher income group than the City is. So the fact that the City is still staying within the limits probably makes their program closer to ours if we use the new HUD limits.

And the last problem we have with this is in the regulations on page 3 where we define area median income, we say that the income is going to be inferred from HUD's actual income limits and adjusted for various household size and inferred from HUD's actual income limits. Now, assuming that they continue on with this, breaking out Los Alamos County and Santa Fe, that's what they're going to publish as the income limits. They're going to publish those two limits. So somehow we're going to have to infer, I guess, just administratively what the limits are, because we're not going to have any

guidance as to what the limits are, because they're not going to be published. So we can have the old limits that were used last year. We can stick on to those AMI units for five years if we want to, but I don't think it gives us a back-up, a documentable reason to point to a chart and a person comes in and says my income is such and such, and we'll say here's where you are. You're within the 80 percent median income. You're within 100 percent. And it lends itself to some potential misuse, quite frankly, of jiggering with these income limits, that we're going to somehow infer.

And I'm always a little nervous about that. I think we either simply have the limits or we don't. Now if HUD backs down, then we go back to the MSA that we had last year and those are the units we use. I think that we would serve, by using the HUD limits, a population that is more specifically unique to Santa Fe County than we were when we were throwing Los Alamos into the mix.

CHAIRMAN MONTROYA: Any other discussion? So Duncan, we really don't know why HUD has not given us any other direction as to why they haven't given us their 200 regs?

MR. SILL: There's no clear indication of how they arrived at the methodology with the exception of my conversations with – I think they're at the most reliable [inaudible] the regional economist of HUD in Denver. There was a briefing published in January that alludes to a policy that HUD uses called the hold-harmless policy. That policy basically is applicable in this situation.

Let me back up a little bit to kind of qualify these comments. The income limits, the area median income, is tied to the federal subsidized programs such as Section 8 and its relations to determining what is appropriate for what they call the fair market rates for that program. Using that analysis and that information and data they come up with what is the area median income for a particular MSA. To add to what Mr. Loftin was saying about Los Alamos County, the way that I understood it and the information related to me from the regional economist is that they have this five percent rule as a modification to the methodology, that if a county adjacent to another county, i.e., in this case Los Alamos County and Santa Fe County, as long as there's a five percent discrepancy between the area median income they will by their decision, take that county out of the MSA.

The reverse happened down in the Albuquerque area where Torrance County was actually put into the Bernalillo County which has the reverse effect and that's causing a lot of controversy amongst developers and constituents and also among local staff whom I've had communications with.

So this is an issue that's going to take time to resolve. So the approach that we've reached as a group is, look at it over time and make the appropriate analysis. We believe that the existing income limits published by HUD currently in the federal fiscal year 2006, they are similar and identical to the 2005 number and for example, the low income limits, for a family of four for fiscal year 2005 is \$52,800. And if we compare that with the fiscal year 2006, it's the same number. It's \$52,800. So in fact, whereas the before [inaudible] used a percentile distribution in order to accomplish the income limits for a household and

income limits, that's no longer the case in 2006, as published by HUD.

So the rationale, to the best of my ability, it's not based on a statistical distribution at the moment. So rather than to infer the income limits, which is something that we can go back and calculate, I would feel that it would be necessary for me to communicate either with HUD officials or constituents to verify that the calculation is something that is reasonable to use so that the area median income is related to income limits inferred by these numbers.

So with that said, I agree with Mr. Loftin that for a brief period we should consider using the income limits as published by HUD currently, and we will keep a close monitor on the change over time. And also as Commissioner Sullivan alluded to in regards to the additional entry market income range that we have created here in the county, which is different from the city's, if income ranges were adjusted down, the related maximum target prices for these ranges will be adjusted down as well. So there is a potential that we might have people who are in the entry market level at the existing level, if we adjust down the income limits, they will become ineligible.

These are primarily middle class professionals and workers who are trying to buy a home here in Santa Fe that otherwise they may not be able to afford. We don't know that this is a fact. This is an assumption at the moment and obviously, the other assumption is that if we infer the income limits based on the adjusted AMI we may not hurt anybody at all. That's obviously the other assumption we can make. We don't know until we see the numbers come in and how many homes are being sold. We haven't been able to see a lot of these analyses at the moment given the limited staff time and resources that we have. I hope that puts it in context.

CHAIRMAN MONTOYA: Okay, so then to clarify, you're recommending that we go with 06.

MR. SILL: That we retain the fiscal year 05 income limits, which are the same as the fiscal year 06 income limits. The only number that has changed is the area median income for a household of four. That went from \$66,000 for a family of four in fiscal year 05 to \$58,200 in fiscal year 06.

CHAIRMAN MONTOYA: That's the only change?

MR. SILL: That's the only change that's published.

CHAIRMAN MONTOYA: Between 05 and 06.

MR. SILL: Exactly.

CHAIRMAN MONTOYA: Oh, that's published.

MR. SILL: Yes.

CHAIRMAN MONTOYA: And everything else is unpublished.

MR. SILL: Everything else, as Commissioner Sullivan said, you might be able to go back and infer, but we have not done that. We have kept the same. If you look at the Attachment A and Attachment B we will see that the income limits across all the households in the numbers as published are these two tables. They're identical. In the left-hand column where it says the MSA for Santa Fe and I think they use median family

income, the acronyms, and that's why those two numbers would be different. That is the only difference in these two tables.

CHAIRMAN MONTOYA: Commissioner Anaya, just to clarify, what was your motion?

COMMISSIONER ANAYA: To move for approval.

CHAIRMAN MONTOYA: For the 06 or the 05?

COMMISSIONER ANAYA: The 06.

CHAIRMAN MONTOYA: The 06? And Commissioner Sullivan, that's what you're recommending?

COMMISSIONER SULLIVAN: No, actually not.

CHAIRMAN MONTOYA: Oh, you're not.

COMMISSIONER SULLIVAN: Because I think we are creating a separate - you talk about different limits. What we're creating if we go with the staff recommendation is an inferred limit. Now, the HUD median income has dropped down. What you're looking at is HUD published income limits that have nothing to do with this program. These are limits that are used in Section 8 and other HUD programs. They don't have anything to do with it. Our statute says 80 percent of the median income, 100 percent of the median income, 65 to 80 percent of the median income. So we just have those numbers per family unit.

These charts, we don't use. We won't use, unless the Commission wants to use them, but these charts aren't the median income. These charts are the old AMIs and the problem staff is having is they're saying they've changed the median income, but they didn't change these charts. So what do we do? And the answer is, the recommendation is we're going to infer that this AMI will be a new median income, because our ordinance says, very specifically, the HUD median income. That's what the ordinance says.

Now, we've got some charts that HUD has put out that says here's your income limits for the Section 8 program and other programs and now these charts are out of date. They haven't updated them. The feds take a while. So that's our problem. And I'm saying that we should do what the ordinance says and compute it on the basis of whatever HUD says the median income is. Now, if next year they go back and say, oh, gee, we were all wrong. The median income is not \$69,000 it's \$79,000 the way it was before, that's what this chart says, then we go back. But I think that's the consistency that we need. If we base our whole program on these HUD published income limits, then we're deviating from the ordinance in my judgment.

So for me, that's more complicated than just calculating 80 percent of the median income or 65 percent of the median income. That I can understand. These charts, I can't.

CHAIRMAN MONTOYA: Okay. So in a nutshell how do you feel we need to amend this motion?

COMMISSIONER ANAYA: Do you feel it's better at 2005?

COMMISSIONER SULLIVAN: No. Because as staff has testified, there's no difference between 2005 and 2006.

COMMISSIONER ANAYA: But you say there is.

COMMISSIONER SULLIVAN: Well, in one category. I'm saying the difference is not in income limits. These charts are income limits. I'm saying there's a difference between income limits and median income. And these charts are supposed to be handy ways so that you don't have to sit down and calculate 65 percent of the median income. You just go to this chart and you go do the family size. It's kind of like the tax tables. Do what they did is kind of like they changed the income tax and they said, okay, now, instead of everybody having to pay 25 percent income tax they only have to pay 22 percent income tax, but the didn't change the tax tables. So if you want to down and figure out your tax from the tax tables you can't do it any more because the tax tables are wrong.

I think the tax tables will get amended and get corrected, but I would stay with that. And the other part of it is if you're in 80 percent, this allows a lower income person to now be eligible for a home. As opposed to 80 percent of the income range before which put you at \$35,000, now you can be in the 80 percent income range at say, \$32,000. You've lowered the threshold that you can into the program. So that's how I feel about it.

CHAIRMAN MONTOYA: Mike:

MR. LOFTIN: Thank you, Mr. Chair. Just to clarify, these two charts, one is the current HUD income limits, which are inferred based on the old MSA's AMI. And there is a new AMI, so there's two charts. Either way you're going to infer income based on percentage of income from either of those charts, right? You're going to infer it. That's what they mean by that word in that. You can clarify that legally but basically all that word infer means is that you're going to take the income chart, here's what the median income is, here's the income limit, and you're going to say, okay. 65 percent, you're going to infer what that is. They've got 65 percent of a 100 percent income limit for a family of two, you'll come up with what the limit is.

You have to do that whether it's from the new AMI list or the income limit chart. You're going to use one of those charts. It's not like the other chart doesn't exist; it exists. And HUD is saying nothing has changed income-wise. Nobody's income has gone down. That's why we're recognizing the old income. When the BCC passed the ordinance, the judgment call at that time was a family of four earning \$66,000 a year should be able to buy a \$180,000 three-bedroom house. If you thought that was too high then, you should have said, no, I think that's too high; we should go for a lower number. We were working off the income numbers. The AMI doesn't mean very much. Who knows what that is. It's a question of what income do you want to help? And at that time, we said somebody in a family of four earning up to \$66,000 should be able to buy a \$180,000 home, a three-bedroom home at \$180,00.

So nothing has changed in the world out there, other than HUD and the feds have changed the way they did this to help out Los Alamos. It hasn't changed any reality. So what HUD is saying, they recognize that and they're saying we're going to use, these are going to be the income limits - now they're going to be the income limits for a long time, because until the AMI, the actual AMI in the county exceeds those income limits, those

income limits are going to be in place. So we will always have those income limits until incomes rise in Santa Fe County to surpass them. So it's not like - I don't think anything in this language is saying people are going to willy-nilly have all these judgments about inferring what it should be. Let it be very concrete, what it is. The real issue is what income groups do you want to help and do you want to lower the income groups?

It used to be someone who earned \$66,000 a year could buy that house. Now they're going to have to be below \$52,000. \$8,000 less. So that's the question. I think that's a policy issue that should have been addressed when we passed the ordinance. HUD just threw us a curve ball by doing this. Unless we're really changing the intent of that whole decision way back when.

GREG SHAFFER (Assistant County Attorney): just to add on a little bit to Mike and Duncan's comments. What we're faced with is a discrepancy between the area median income that HUD said is the area median income for a household of four, and the area median income that is readily inferable from the income limits that HUD has actually established for its own program. So we know what both numbers are. It's pretty much a straight line calculation in terms of inferring what the area median income is from the income tables that Commissioner Sullivan referenced a minute ago.

So we have a discrepancy that we can document, and the question is do you do as HUD says or do you do as HUD does in terms of calculating eligibility for these programs, and the recommendation that was made by Mr. Sill and Mr. Loftin is that you do as HUD does, and not as they say. I don't know if that clarified anything, but that's sort of how I see this analysis shaking out.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: So was my motion doing what HUD does?

COMMISSIONER SULLIVAN: Yes.

MR. SHAFFER: Mr. Chair, Commissioner Anaya, if your motion is to approve the regulations as presented as Attachment A to the resolution, you would be moving to do as HUD does.

COMMISSIONER ANAYA: I'll keep it.

CHAIRMAN MONTOYA: Okay. Any other questions?

The motion to approve Resolution 2006-99 passed by unanimous [4-0] voice vote. [Commissioner Campos was not present for this action.]

CHAIRMAN MONTOYA: You voted in favor of it?

COMMISSIONER SULLIVAN: Yes. We need to get - this is going to be a nightmare that we've just created here, because we're going to create the only separate set of income limits in the whole state of New Mexico. But you make your bed and so you lie, but I'm more concerned that we get a set of affordable housing regulations out onto the street and start using them. So I don't want to vote against a set of affordable housing

regulations. I think it's important and I think some of these other issues can come back later for revisions.

CHAIRMAN MONTOYA: Thank you, Duncan. Thank you, Mike. If it's okay with the Board I'd like to move up the agenda to XI. G. 1.

COMMISSIONER VIGIL: And Mr. Chair, would you also consider 2. That looks like it's going to take a quick action. XI. G. 2.

CHAIRMAN MONTOYA: Sure. After 1.

XI. G. Matters from the County Attorney

1. **Resolution 2006-100. Consideration and Possible Action on a Joint Resolution of the Board of County of Commissioners of Santa Fe County and the City Council of the City of Santa Fe Ratifying Certain Action of the City of Santa Fe in its Execution of that Certain Contract by and Between Camp Dresser & McKee Inc. (CDM) and the City of Santa Fe For Owners' Consultant Services on the Buckman Direct Diversion Project, Assigning Responsibilities to the Buckman Direct Diversion Board, and Ratifying Actions of the Buckman Direct Diversion Board, all Pursuant to that Certain Joint Powers Agreement Between the City of Santa Fe And Santa Fe County Governing the Buckman Direct Diversion Project**

MR. ROSS: As you recall, it took quite a while to get the joint powers agreement, the water resources agreement together with the City of Santa Fe concerning the Buckman Direct Diversion project. During the period when those agreements were being negotiated and prepared, the City of Santa Fe executed the owners' consultant agreement with Camp Dresser and McKee so they could begin work on the project and not delay it. As you're also aware, the joint powers agreement when it was finally drafted and approved by the City and the County delegated the responsibility of entering into those contracts and approving changes to the Buckman Direct Diversion Board.

So what this resolution is designed to do is to address some of those earlier structural issues and put everything back on an equal footing where it should have been at the beginning and only wasn't because of these timing issues I just referred to.

So what the resolution does, and I understand the City of Santa Fe has already approved this resolution. What it does, the operative paragraph is section 3 of the resolution, it ratifies the actions of the City entering into that owners' consultant contract and also ratifies the BDD board's approval of an amendment to that contract earlier this year, and then also makes other technical findings that are necessary to make sure that everything is going forward smoothly from here on. So I'll stand for questions if you have any. Most of you are familiar with this resolution.

CHAIRMAN MONTTOYA: Any questions for Steve? Do we have a motion?

COMMISSIONER VIGIL: Move to approve.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN MONTTOYA: Motion by Commissioner Vigil, second by Commissioner Sullivan. Further discussion?

The motion to approve Resolution 2006-100 passed by unanimous [5-0] voice vote.

XI. G. 2. Resolution 2006-101. A Resolution Imposing an Annual Liquor License Tax Upon Persons Holding State Licenses

MR. HIATT: The Clerk is required by June 1st of every year to receive a resolution from the Commission authorizing her to collect those liquor taxes. The amount roughly is \$15,000. It comes to you late for one reason or another. It seems fairly straightforward. I've researched the statute and it appears to be consistent with the statute.

CHAIRMAN MONTTOYA: Any questions for Counsel Hiatt? So Jack, this is something that we're already doing then?

MR. HIATT: yes, Mr. Chair. You've done it for years and they just authorized the Clerk to send the letters make everyone come in and pay the tax.

CHAIRMAN MONTTOYA: Okay. Do we have a motion?

COMMISSIONER CAMPOS: Move to adopt Resolution 2006-101 relating to the annual liquor license tax.

CHAIRMAN MONTTOYA: Okay. Motion by Commissioner Campos.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTTOYA: Second by Commissioner Vigil. Further discussion?

The motion to approve Resolution 2006-101 passed by unanimous [5-0] voice vote.

XI. F. 7. Discussion and Direction Concerning Processing a Sole Community Provider Supplemental Payment on Behalf of St Vincent Hospital

CHAIRMAN MONTTOYA: Who's going to present that one? Alex?

MR. GONZALEZ: Mr. Chair, I'll do a brief introduction. As you know, St. Vincent has forwarded to the County their request for the County's cooperation in being able to provide self-funding from St. Vincent through their means of the remaining

amount of the sole community provider funding that the County was unable to fund. I believe they've done research which they can explain that indicates that they're in a position to be able to do that. The request is that they be able to cut a check to the County that in turn will go to the state in order to provide that match and with that, I'll turn that over to Alex Valdez.

ALEX VALDEZ: Thank you, Mr. Chair and Mr. Gonzalez. Good afternoon. St. Vincent Regional Medical Center is requesting that Santa Fe County accept a check from St. Vincent Regional Medical Center in the amount of \$661,567. That is the portion of this year's sole community provider funding match that last fall Santa Fe County was unable to provide to the state of New Mexico for the supplemental sole community provider funding. What Santa Fe County was able to provide and we appreciate it of course, was approximately \$425,000.

The state of New Mexico basically made the match on behalf of us and indicated that we would be able to get the match paid to them through the County or from the County. In the meantime, to make a long story short, we received an Attorney General opinion from the Attorney General for the state of New Mexico that indicated that as a matter of the state constitution, St. Vincent Regional Medical Center is an entity that is able to receive direct appropriations from the state of New Mexico.

That is a significant opinion from the state Attorney General, because for all intents and purposes, they are indicating that St. Vincent's, a not-for-profit institution, because of the New Mexico state constitution, is able to receive direct appropriations. In 2004, I believe, the CMS Administrator, Centers for Medicaid and Medicare Services out of Washington, Mark McClelland, issued a letter opinion that indicated that if a hospital is able to receive a direct appropriation from a governmental body, such as in our instance, the state of New Mexico, we are then able to put up the match for an intergovernmental transfer. So we generated a legal opinion from Larry Gage who many of you know we have used before as we deal with sole community provider funding. And in this legal opinion, Mr. Gage indicates that because of our constitutional position as a hospital, we are also able to put up this match, and we could, he said, if the Human Services Department accepts, send it to the Human Services Department, or do it through Santa Fe County.

Now, there is another state law that I don't have my hands on right now that indicates that the match has to go through the County. So what we are proposing is that we make this payment to Santa Fe County, then Santa Fe County goes ahead and makes the remainder of this match to the state of New Mexico on behalf of St. Vincent Hospital. This is the same process that the hospital in Farmington goes through. The hospital in Farmington is also a not-for-profit entity. They lease the facility from the County for a dollar a year, I believe, under a 99-year lease. I confirmed with the CEO for San Juan Regional that they make the match check to San Juan County and that San Juan County then goes ahead and makes the match payment to the state of New Mexico.

So as a matter of law, we believe that we are able to proceed in this fashion to be able to fund or partially fund anyway, because Santa Fe County did fund \$425,000, but

this enables us to be able to fund the remainder of the match for the supplemental. And then when we get to our planning session scheduled for next Friday and Saturday, we expect to have a more detailed conversation in terms of where we might go together regarding this topic.

But it is critically important to St. Vincent that we are able to go ahead and make this match at this time to the tune of approximately \$2.4 million for this fiscal year, and if we are able to accomplish this by the end of the month, then the Human Services Department will recalculate the funding for next fiscal year to the tune of approximately \$2.4 million additional dollars for St. Vincent Hospital. I thank you, Mr. Chair and members of the County Commission for your time and I'm happy to answer any questions that you may have.

CHAIRMAN MONTROYA: Questions for Alex? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just a couple things, Mr. Valdez. San Juan County that we visited of course is a county hospital, right?

MR. VALDEZ: It is a not-for-profit -

COMMISSIONER SULLIVAN: It's a county hospital and there are county members on the board.

MR. VALDEZ: I don't know whether there are any county members on the board or not, sir. I do know that the physical plant itself is owned by the county and leased to this not-for-profit. I've been reviewing their corporate bylaws for purposes of another discussion that we're going to have with you, and in their corporate bylaws that's what it indicated, that they are organized as a not-for-profit.

COMMISSIONER SULLIVAN: So that I guess we can't make the direct distinction between the two because San Juan County Hospital is on county land. It is a county facility, so the county owns the facility. They can receive the funds directly and they do, because it is a county facility. Whether you call it a county hospital or you don't or whether there's members on the board or not, I think the substantive difference is that the facilities are owned by the county, and as you say, they lease them to the non-profit organization.

MR. VALDEZ: Mr. Chair, Commissioner Sullivan, that is correct. And for St. Vincent Hospital's purpose, we find ourselves as a private, not-for-profit entity, but because of the constitution, is able to receive governmental appropriations directly.

COMMISSIONER SULLIVAN: Yes. I understand. And I guess the only concern and issue that I still have is that if the constitution says, which it apparently did in 1909, that certain named hospitals, if they had received funds, could continue to be eligible to receive funds, that that makes you eligible theoretically to receive state appropriations, which you already have. Which you did last year at the legislature.

I don't see the connection to that and the sole community provider program, which is a federal program funded with federal funds. I don't see that that constitutional amendment notwithstanding obviously your attorney's opinion to that, I don't see that there's a nexus between that and being eligible for the sole community provider program. I

don't think out Legal staff has had a change to dig fully into that. That's an issue that I can't see the relation of one to the other.

MR. VALDEZ: Mr. Chair, Commissioner Sullivan, it comes from a letter opinion issued by the director for the Centers for Medicaid and Medicare Service, where he states that a provider able to make a protracted intergovernmental transfer must have access to state or local tax revenues meaning that the provider must either have direct taxing authority, which we don't have, or be the ability to access tax revenues in the absence of a contractual arrangement with a state or local government. St. Vincent Hospital satisfies this test.

COMMISSIONER SULLIVAN: And this is a federal official?

MR. VALDEZ: This gentleman, Larry Gage, is counsel in Washington, who is the executive director for the Government Hospital Association, first of all, and secondly and more importantly and the reason we've used him historically, is because he was the draftsman of the federal legislation pertaining to sole community provider funding.

COMMISSIONER SULLIVAN: What I'd like to see is the federal agency that administers the sole community provider program that decides what the limits will be each year, saying yes, we agree with Mr. Gage. Mr. Gage is obviously retained by you and has given you a favorable opinion and his opinion may well be correct, which is fine. But my concern is when the County's involved, now as you've requested in a pass-through mode, I'd like to see the federal government, who provides 75 percent of these funds, saying yes, we concur. Do we have that mechanism in place or that opinion?

MR. VALDEZ: Mr. Chair, what I have from the Human Services Department at the state level is a directive basically to say that get us the check from the County, and that's what we are attempting to do at this point in time. I don't have any clarity beyond the CMS administrator. Once again, the Centers for Medicaid and Medicare Service. The director of that program issued this language that I read earlier. That is his declaration, his statement in terms of an entity such as St. Vincent's ability to be able to put up an intergovernmental transfer match in this fashion.

COMMISSIONER SULLIVAN: What is the CMS Center? What is that?

MR. VALDEZ: That is the federal agency that runs Medicare and Medicaid.

COMMISSIONER SULLIVAN: So my question was, is this individual who wrote the letter a federal employee?

MR. VALDEZ: No. Larry Gage is a private attorney who is quoting off of the director's letter of April 28, 2004.

COMMISSIONER SULLIVAN: And that director is the director of what?

MR. VALDEZ: Of Medicaid and Medicare.

COMMISSIONER SULLIVAN: And that's the entity that decides each year how much will be available in base and supplemental funding.

MR. VALDEZ: That's correct, Mr. Chair, Commissioner Sullivan.

COMMISSIONER SULLIVAN: Okay. And then if you had, what will

happen to the MOA with the \$661,000?

MR. VALDEZ: Mr. Chair, as a separate topic of course, the memorandum of agreement is one of the items that we've placed on the agenda for discussion when we meet next Friday and Saturday in order to figure out how best to go about structuring that memorandum of agreement as we go forward, and consider different options and alternatives that we may have before us. This does not affect – this issue does not affect the memorandum of agreement. The memorandum of agreement, as we have discussed, is a separate topic.

COMMISSIONER SULLIVAN: But would it have to be now if you're writing your own checks? There's been all of this care in separating those topics but at this point, if we go through separate checks, St. Vincent's may determine that there will be no MOA. Is that correct?

MR. VALDEZ: Mr. Chair, I don't believe so. I think that's of course something that we will put on the agenda for discussion next week. There are any number of not-for-profit entities that find themselves receiving funding. There is support that the County receives also and I think that's a matter that the two boards need to address to see how best we can go about utilizing the funding that we have available to us and try to get the most good out of those funds that we possibly can.

COMMISSIONER SULLIVAN: And my final question, Mr. Chair, is to staff. Have we researched whether the County needs to be involved in this? I think with all of the data that St. Vincent's has put forward, assuming that it's all accurate and none of it's in our packet here so we can't have an opportunity to review it. Is there any necessity for this to come through the County? It seems to me St. Vincent's should assume the responsibility and the obligation if it's paying the bill and that would be the end of it. Have we taken a look at that, Mr. Ross?

MR. ROSS: Mr. Chair, Commissioner Sullivan, there's very little to look at to answer that question. It is the County's obligation to make sole community provider matches. The statutes don't really talk about the supplementals although they're really an additional amount of funding that comes up at the end of the year after all the other allocations are tallied up. So it's probably the same sort of theory and in some sense it is a County obligation so you can understand why one might ask that the County submit the check and have this taking of the check and then a pass-through by the County, the County issuing its own check.

That makes sense to me. I understand your concerns about getting the County's interests affected in this whole analysis that's been done by Mr. Gage based on the letter from Mr. McClelland and the Attorney General's opinion, which we're just now trying to come up to speed on as County legal staff. We haven't really made an opinion one way or another. For example, we don't even have the McClelland letter opinion. We just have the Gage letter that references the McClelland letter. So we haven't had a chance to independently take a look at that. I understand your concerns. If the hospital tenders a check to us, and we then in turn tender a check to the state and there's some issue inherent

in all this that we don't understand at this point, I guess theoretically we're on the line.

But on the other hand it is a County obligation to supply these checks in the first place.

COMMISSIONER SULLIVAN: Is there a requirement, notwithstanding whether St. Vincent self-funds or not, as San Juan County Regional Medical Center does – notice the word county in that title – is there, notwithstanding a requirement in the statutes or in the law that we each year approve St. Vincent's sole community provider funding?

MR. ROSS: Well, yes. Yes.

COMMISSIONER SULLIVAN: So regardless of who funded it, Santa Fe County would still need to approve whatever sole community provider funding St. Vincent's achieves each year.

MR. ROSS: Mr. Chair, Commissioner Sullivan, each year, it seems to me it's in the December/January time frame, the parties meet and confer and agree on what the sole community provider funding will be for the subsequent year. That's –

COMMISSIONER SULLIVAN: That has to come to the BCC for approval.

MR. ROSS: That does.

COMMISSIONER SULLIVAN: So regardless of whose checks go where, each year the County will have to approve whatever sole community provider funding program St. Vincent's is proposing.

MR. ROSS: Yes.

COMMISSIONER SULLIVAN: Then would it be useful to have some – in the event of this check swapping, since we don't have the back-up documents, some kind of a hold-harmless provision to that that if we get ourselves into protracted legal discussions on this issue, and we're talking about a lot of money here, I'm just concerned that we're taking a large step with a lot of money on very little information. And you don't even have all of what Mr. Valdez has and I don't have all of what you have. So is that appropriate? Is some kind of a hold-harmless provision to that not appropriate?

MR. ROSS: Mr. Chair, Commissioner Sullivan, I suppose in the abstract it might be a good idea but I haven't analyzed it. I haven't thought for example how that hold-harmless agreement would be satisfied or the circumstances under which it might be activated. So I think it's premature for me to agree with that right now.

COMMISSIONER SULLIVAN: Thank you, Mr. Chair.

CHAIRMAN MONTROYA: Okay. Other questions? What are the desires of the Board?

COMMISSIONER VIGIL: Is this for action, Mr. Chair? I see discussion and direction. Is that – can we take action on that, Mr. Ross?

CHAIRMAN MONTROYA: Well, the direction would be that we would accept a check and then cut one back, if that's what we want to do.

MR. ROSS: Mr. Chair, Commissioner Vigil, it's not the best agenda item because it doesn't contain the word action. I understand the time is short so –

COMMISSIONER VIGIL: Alex, is there a time line on this?

MR. VALDEZ: Mr. Chair, Commissioner Vigil, when we met with the Human Services Department, and this was several weeks ago, they indicated that they would like to have this done within the next several weeks, so we took that to mean by the end of the month, and that's what we're attempting to do. I don't know if there's any other time frame aside from that conversation that we had with them.

COMMISSIONER VIGIL: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Alex. I do remember researching this some time ago when I was staff with Santa Fe County and I do remember the state department required the check to be cut and delivered by the County. And when I spoke with them with regard to where that money comes from, frankly, they responded with [shrug] We don't care. So with that, I would not mind - I'm in consensus with a direction that allows for St. Vincent's to issue a warrant to Santa Fe County and Santa Fe County to issue a warrant to the state department for the sole community provider funding on the amount requested by St. Vincent's.

CHAIRMAN MONTOYA: Okay, we have a - and that amount, again, Alex, was -

MR. VALDEZ: Mr. Chair, \$661,567.

CHAIRMAN MONTOYA: Okay. So we have a motion for the direction by Commissioner Vigil.

COMMISSIONER CAMPOS: I'll second it for discussion.

CHAIRMAN MONTOYA: Second by Commissioner Campos for discussion. Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think that - of course the Board has already made its decision in public meeting on supplemental funding. As this is an administrative procedure that St. Vincent's is recommending, I really believe that we should discuss this at our joint meeting that's coming up in just a week and a half, and I think that the MOA is a big issue. I think that the County's relationship with St. Vincent's is a big issue. I think this is more than a technical issue; this is a policy issue that we would like to communicate with the St. Vincent board on as well as with both staffs. I'm sure the state would like to see the money because they're fronting St. Vincent and I assume it's costing them some money or some time.

I think this is all one package that we need to evaluate. We need to give our Legal staff the time to be prepared for that meeting and get the documents that Mr. Valdez has and be able to research them. And we need time at the meeting to discuss all of these issues and what the effect will be as a total package. I think in terms of direction, that's the kind of direction I would like to give to the staff today, is to consider this request. To give it positive consideration. That is to say, we're not rejecting it, rather to put it along with the other issues that we'll address during that two-day session.

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN MONTTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Ross, is there a staff recommendation?
Any staff recommendation or any concerns from Legal?

MR. ROSS: Mr. Chair, Commissioner Campos, I don't think I have enough information to make a legal recommendation at this point. We're going to try and shoot to have something together for you by next weekend. I guess I'm concerned and I would like to take a look at all the materials and maybe make a few phone calls to satisfy myself that this relationship between the federal programs and a non-profit hospital is enough. So I guess critical to that is the letter of Mr. McClelland that I haven't seen. I'd really like to take a look at that. I've talked to Mr. Gage over the years several times and I trust his opinions and I believe we can rely on them, particularly since we're going to be processing checks through the County, but I'd certainly like to talk to him about that issue as well.

So there's a few more i's to dot and t's to cross from the legal perspective before I can give you any kind of a reasonable legal opinion from our office.

COMMISSIONER CAMPOS: Well, that causes me concern, certainly. Are you suggesting we table?

MR. ROSS: I don't have any specific recommendation at this point.

COMMISSIONER CAMPOS: Would there be any harm in tabling at this point, as far as time line?

MR. ROSS: I guess we'd have to understand the issue from the Department of Health standpoint to know how the timetable is looking to them.

MR. VALDEZ: Mr. Chair.

CHAIRMAN MONTTOYA: Alex.

MR. VALDEZ: Commissioner Campos, the issue as it pertains to the time frame is first, we were informed by the Human Services Department that we needed to get this done, and what they said was within the next several weeks, so I took that to mean by the end of May. First of all. Second, as it pertains – and the reason for that is this decision has a \$2.4 million budget implication for St. Vincent in this current fiscal year and it also has a \$2.4 million budget implication for St. Vincent in next fiscal year in terms of the decision made by the Human Services Department and by CMS as to how much sole community provider funding St. Vincent Regional Medical Center is eligible for.

Currently, the figure is a \$24 million figure and with a recalculation based on completing the match for this fiscal year, the eligibility amount is a little over \$27 million. So that's significant, in terms of its impact on St. Vincent.

COMMISSIONER CAMPOS: I understand that.

MR. VALDEZ: Tomorrow we have a Finance Committee meeting of our board where our budget is going to be considered and next Thursday we have our board meeting where our budget would be considered.

COMMISSIONER CAMPOS: I understand the implications to your institution, but you haven't gotten our attorney on board on a very – something that's different, unusual. And you haven't provided him with the documents. He hasn't seen

certain documents and he would like to review those documents. That would have been possible to do before this meeting.

MR. VALDEZ: Mr. Chair, Commissioner Campos, the documents have been provided to the County.

COMMISSIONER CAMPOS: They have been.

MR. VALDEZ: Yes, sir. Whatever documents I have have been provided to the County.

COMMISSIONER CAMPOS: Mr. Ross, what documents have you seen or not seen?

MR. ROSS: Mr. Chair, Commissioner Campos, what I've seen is the Attorney General's memorandum dated a couple months ago and a letter from I think Charlie Lubound from December. I have not seen a letter from Mr. McClelland.

MR. VALDEZ: That is correct, sir. I would have to get that letter. I don't have that one either.

COMMISSIONER CAMPOS: You don't have that letter.

MR. VALDEZ: The direct letter from Mr. McClelland, no. What I have is the legal opinion issued by Larry Gage, which references that letter of opinion.

COMMISSIONER CAMPOS: Okay. Well, I do have concerns. Our County Attorney is not on board on this one and St. Vincent's is on a tight timeline but they haven't really provided us with all the documentation necessary for legal review so I'm concerned.

CHAIRMAN MONTOYA: Further discussion. Commissioner Vigil.

COMMISSIONER VIGIL: Alex, Mr. Valdez, we could notice the June meeting that we have with you to make this decision and I know the concerns you expressed according to your testimony are you took it to mean the next couple of weeks and at the end of May. Is that definitive? Or do we have an exact date?

MR. VALDEZ: No, I do not have an exact date. I believe they referenced the end of May in order to make their calculations. So what I had been waiting for, what I needed was the opinion from the Attorney General for the state. And that opinion I received on May 11th. So I have been actively working on this issue since I received that opinion from the Attorney General.

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

CHAIRMAN MONTOYA: Okay, we have a motion and a second. Any other discussion?

The motion to process the sole community provider payment failed by 2-3 voice vote with Commissioners Vigil and Montoya.

CHAIRMAN MONTOYA: So at this point, Commissioner Sullivan, what was your recommendation?

COMMISSIONER SULLIVAN: Well, since the agenda item, Mr. Chair, is

to discuss and give direction to the staff, I guess my direction would be a recommendation for the Commission for direction to the staff would be that the staff obtain all of the documents that they need from St. Vincent and we'd request that St. Vincent do everything in their power to get them those documents, and analyze the issue and be able to provide both legal and a staff administrative recommendation to us in preparation for the June meetings with St. Vincent, which are just a week and a half away.

CHAIRMAN MONTTOYA: Is that clear direction? Okay. Anyone object to that?

COMMISSIONER CAMPOS: No objection.

CHAIRMAN MONTTOYA: Alex, the other thing that we have set up is Commissioner Sullivan, along with Gerald will be working on putting together maybe some agenda items of which this is one. So maybe between you and your board members if we could come up with a concise agenda for those two days.

MR. VALDEZ: Very good, Mr. Chair. I submitted a proposed agenda to Gerald some time ago. This item was on that agenda so I think we're going to see a lot of similarity. And then I indicated to Mr. Gonzalez that I'd like to meet with him between now and Friday so that we can finalize that agenda.

CHAIRMAN MONTTOYA: Okay. All right. So I would say that based on what we discussed, next Friday, Saturday we may be able to – why don't we just go ahead and notice this again for the next agenda and we can discuss it then and hopefully iron out any of the details that we need and put it on the agenda for June 13th. So we could do that.

MR. VALDEZ: Okay, Mr. Chair.

CHAIRMAN MONTTOYA: And you can let Human Services, at least so they know that this is still on the stove.

MR. VALDEZ: Okay. All right. And Mr. Chair, I guess in the alternative, a request from St. Vincent would be Santa Fe County, whether Santa Fe County is able to fund the remainder of that match.

CHAIRMAN MONTTOYA: Which is –

MR. VALDEZ: \$661,000.

CHAIRMAN MONTTOYA: The remainder. You're requesting \$661,000, and then there's a remaining –

MR. VALDEZ: No. If we are not able to provide the match to Santa Fe County for Santa Fe County to forward to the Human Services Department, then on behalf of St. Vincent, I have to ask whether Santa Fe County will be able to provide that match directly.

CHAIRMAN MONTTOYA: Oh, okay. The full match.

MR. VALDEZ: Thank you, Mr. Chair.

CHAIRMAN MONTTOYA: Okay. Thank you, Alex. Thank you, Rick

XI. F. 3. Consideration and Possible Action on Creating an Administrative Services Department (ASD)

MR. GONZALEZ: Thank you, Mr. Chair. As you know, we've been going through a strategic planning process, which I know a number of Commissioners have participated in. Part of that strategic planning process addressed the possibility of doing some County reorganization. That issue has been floating for some time previous to even beginning the strategic planning process. I know a number of Commissioners have suggested that we take a look at our organization and our staffing as a consequence of the strategic planning process. We have done that and I am advancing a proposal for consideration by the Commission to consolidate two existing departments, the Finance Department and the Project and Facilities Department into an Administrative Services Department.

This would take advantage of some efficiencies, I think, with respect to the movement of some of the major projects that we have facing us, including the judicial court building, the acquisition, and we're not sure yet what the consequences would be of the property where the Women's Health Center is currently located, the Esperanza Shelter and a number of other projects that are ongoing. And also add possibly some additional functions. The idea was to take those functions which provide Countywide support and place them in the same department so that we could achieve some of those efficiencies and possibly create some new functions.

One of those that we're taking a look at that could fall under this rubric would be creation of a motor pool for the County that would allow us to achieve some efficiencies with respect to the procurement of vehicles and vehicle use. And I have present the individuals who would take over the proposed functions in the event that the Commission concurs with the creation of the Administrative Services Department. And we all stand for questions. I believe we had previously circulated a diagram that outlined the form which the new Administrative Services Department would take.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: So is this what you're talking about, Gerald?

MR. GONZALEZ: That's correct. It's the one that was in the packet.

CHAIRMAN MONTOYA: There's three different ones.

MR. GONZALEZ: I think because of the size we divided it into two sort of houses, if you will, or divisions. One would be the Finance and the other would be the IT side. But the overall functional is the smaller diagram that has the descriptions, the longer descriptions in the blocks.

COMMISSIONER ANAYA: Okay, so Agnes would be the deputy director. Joseph would oversee Finance and PFMD.

MR. GONZALEZ: And there actually be two deputy directors, Mr. Chair, Commissioner Anaya. One would be Agnes overseeing that side of the house and the other would be Teresa Martinez who would be overseeing the other side.

COMMISSIONER ANAYA: Okay, what about – building and maintenance would be under Agnes, I guess.

MR. GONZALEZ: Right. I'll let Joseph address some of the details because he and I worked on them, in terms of how we define the functions.

COMMISSIONER ANAYA: I guess I understand what you're doing here. My concern or my suggestion would be maybe we put Building and Maintenance under the Housing. Because they're all working in the same capacity in terms of remodeling, building, you guys could help each other out. Just a suggestion.

MR. GUTIERREZ: Mr. Chair, members of the Commission, I think adding operations within PFMD has added value to that, because we've used operations to help supplement our efforts. The projects that we get from the legislature, community centers, ADA compliance and those types of things, and I really see operations have moved into a lead role, and in fact I believe the Housing Department had some issues where they needed to renovate, bring some housing units up to a standard in Santa Cruz, and it was actually the Operations Department that went over there a couple weekends and worked with Robert's crew and helped to supplement that. I really do see Operations as a lead role and I think they would be a major player on this Administrative Services side because the infrastructure that the County has to take care of is quite significant. They already have that insight and that vision just being a part of PFMD because PFMD is pretty much in charge of all of the infrastructure that the County owns at this point. The Housing Department's infrastructure is substantial but in contrast it's a minor picture compared to the overall infrastructure that we have.

COMMISSIONER ANAYA: I was just trying to take a little bit of load off your plate, but if you didn't want it, that's fine.

MR. GUTIERREZ: They actually complement quite well, especially like I say on the projects side. We're able to move some of the state funds forward much quicker because of Frank's role and the expertise that he has on that side.

COMMISSIONER ANAYA: Thank you, Mr. Chair.

CHAIRMAN MONTOYA: Further discussion? Commissioner Sullivan then Commissioner Campos.

COMMISSIONER SULLIVAN: I'm not seeing the value of adding the additional layer in this, particularly in the Finance decisions. I really am always appreciative of the Finance Department being essentially directly reportable to the County Manager, which means they're directly reportable to the County Commission. And having that autonomy I think is important. Having their issues filtered through someone, anyone, it wouldn't matter who is it, and I understand that Joseph has worked there before so he certainly will have some ability to interpret that, but I really like hearing it straight from the Finance Department. They tend to be pretty open and clear about where the money is and where the money isn't. That is always useful to me. So I'm not fully on board with seeing how that is going to streamline the process.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I have several questions. Just recently we have a contracts position that was placed under the County Manager's office. Does this proposal propose to put that contracts position back into Finance?

MR. GONZALEZ: Mr. Chair, Commissioner Vigil, no. The function of the contract officer really is to work under the supervision of the Attorney's office in terms of preparing the actual contracts and their processing. It's similar to the situation I had when I was at the Department of Finance and Administration and was the general counsel. I had supervisory authority over the contracts section because of the direct connection between the writing of the contracts and their administration.

COMMISSIONER VIGIL: Okay. I'm more in agreement with Commissioner Sullivan. I think Finance needs to have a level of autonomy. I like the proposal for moving Teresa Martinez into a position of directorship and perhaps even the director, but this actually feels like too large a department. To me. I guess, Gerald, the question I would ask if how does consolidating these two departments meet with our strategic planning goals?

MR. GONZALEZ: What it would do is place in a single department - as you recall, with respect to strategic planning, we've identified several categories of County issues to be addressed. One is core County services, and then there was another category of essential County services and then there were the adjunct County services. The fourth category had to do with internal organization and internal services required in order to provide those core County services, the essential services and the other services.

The Administrative Services Department, which is a model that's used by a number of other counties and has also been used at the state level, would basically place under one house those functions that were designed to provide across the board support for all the other County departments and entities.

COMMISSIONER VIGIL: Okay. I'm going to pass the ball back to Commissioner Campos.

CHAIRMAN MONTROYA: Okay. Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Gonzalez, tell me a little bit more about PFMD. What's it called?

MR. GONZALEZ: Projects and Facilities Department.

COMMISSIONER CAMPOS: Tell me about that department.

MR. GONZALEZ: Well, the history, I think is a little cloudy, with respect to the County. It actually evolved out of what was originally a General Services Department, and the splitting off of some functions occurred along the way. But the basic idea was to provide a department that would have responsibility for being able to move forward in a focused way the projects that we saw coming our way based on changes at the County level but also the kinds of demands the legislature was placing on the County with respect to projects.

The thought was that - and of course I wasn't here when it was formed, but the thought as I understand it was that this way, we could have a department that could focus

on providing that kind of support to the County in order to move the larger projects forward. As that evolved, it's my understanding that because of the connection between the facilities and the maintenance and support of the facilities and the fact that as you're constructing the facilities, you also have to take into account the infrastructure, particularly the information technology infrastructure and the telecommunications infrastructure, so all of those eventually got grouped under the Projects and Facilities Department.

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

CHAIRMAN MONTOYA: Okay. Any other questions? Gerald, what budget implications does this have?

MR. GONZALEZ: With respect to the budget, it's budget neutral.

CHAIRMAN MONTOYA: So all of the positions that are being proposed here, there's no increase in any of those positions?

MR. GONZALEZ: There would be some salary increases associated with it and I know that at least one position would be bumped up in terms of what we feel we could recruit for. For example, in the projects area, it's my understanding that as a consequence of the consolidation we'd be able to recruit a higher level of projects manager person in order to beef up that particular area.

CHAIRMAN MONTOYA: Under P&FMD?

MR. GONZALEZ: That's correct.

CHAIRMAN MONTOYA: Oh, okay. And then regarding the reorganization, are these director and two deputy director positions exempt? Or classified?

MR. GONZALEZ: The positions of the deputies as I understand it, with the exception of the Corrections deputy, currently those positions are classified. Deputy positions are classified with the exception of the Corrections deputy. But it would be up to the Commission to make a decision with respect to whether they would be exempt or classified.

CHAIRMAN MONTOYA: So all of the directors are the only ones right now that are exempt.

MR. GONZALEZ: With the exception of the Corrections deputy. That's correct.

CHAIRMAN MONTOYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: I would like some more thought to be placed into it. I am sorry. I do not see a strong justification for this kind of reorganization. Another concern I have is information technology. Information technology is an area that we definitely need to boost up. It's possibly an area that we should consider creating autonomy for in and of itself, because the amount of requests that are placed on that department probably justifies its own level of autonomy. The staff that we have there are required to be automatically responsive. I'm not making a nexus between the responsibility for information technology and community facilities and resource. I don't know. Maybe we need another deputy position there. I do not see the logic of some of this organization.

CHAIRMAN MONTOYA: Commissioner Vigil, I'll just add that I agree

with you on that. I just kind of scribbled out a little bit on this and I have IT pulled out separately as well. I think that we're at a critical stage now in terms of the development of information technology that we need to look at it I think of it really being the heartbeat of the County and there's a lot of things that we need to do to upgrade our system that I think it merits significant consideration as its own entity as you've suggested. Other discussion?
Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, like I mentioned earlier, I think that Operations should be under Housing because Housing is doing the same thing that Operations is doing and they could work together to take care of the structural repairs, maintenance, exactly what this says here.

COMMISSIONER VIGIL: May I respond to that?

CHAIRMAN MONTTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I would be concerned about that, Commissioner Anaya, only because Operations currently, as we've heard the testimony, creates such a strong support for Projects Facilities Management. I can only imagine that they're maintenance requirements are needed on a daily basis. Not only their maintenance requirements but their expertise and their background with regard to all of the projects that we're faced with that we've been receiving funding from the state legislature.

I am concerned that that connection would be lost if we placed Operations under Housing. While we could create a situation where Housing would be supplanted, I think we'd be creating a huge gap with Projects Facilities and Management. These guys in this position are so well rounded in terms of how they advise the County and what they do. I would be concerned.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN MONTTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: I won't argue too much, but you've got two departments that do the same thing. You've got plumbers, electricians over here. You've got plumbers and electricians over here. Why don't you put them all together. To me it makes sense. You've got framers, carpenters and then you have this bunch over here that's doing the same thing. And if we put those together I think it would be much easier. Thank you, Mr. Chair.

CHAIRMAN MONTTOYA: Okay. Commissioner Campos.

COMMISSIONER CAMPOS: I agree with the idea generally.

Administrative Services, which the argument as I heard it initially was that we're going to get together, we're going to organize all the organizations that provide services throughout the County. So I was thinking Personnel, Finance - I think IT clearly is an Administrative Service sub-entity. PFMD does turn me off a little bit. I don't know about Personnel, Contracts, Procurement. There are some things that do go together, but I'm not sure PFMD does. I'm not sure if we're just creating more bureaucracy. I don't know. I can't analyze it. I'm not really that much of an expert in this construction area. But PFMD doesn't seem to fit, for me, just personally.

CHAIRMAN MONTOYA: Into ASD.

COMMISSIONER CAMPOS: Yes.

CHAIRMAN MONTOYA: Okay. Any other discussion? So why don't why we keep this on the agenda for the next meeting so we can further discuss it and consider it, unless - it doesn't sound like we're ready to take action. So if we could do that.

COMMISSIONER CAMPOS: I get the feeling there's no consensus.

MR. GONZALEZ: Mr. Chair, Commissioners, the other option of course would be to do a longer study session just to deal with County organization and how you see all the issues across the board, taking a look at all the departments, Public Works, Housing has been mentioned. The Corrections Department. There's been the discussion back and forth about whether we need an adult facility versus a juvenile facility. So I know there's been an ongoing discussion for a long time about how to address the County issues from an organizational standpoint. Maybe we need to step back and take a larger look at it. But if the Commission would prefer we can keep this on the burner and bring it forward and continue the dialogue.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chair, I would prefer that. I think we do need to have some kind of a study session of some kind. There are aspects about this I like. I see five people before me that would be excellent in elevated positions and I'd like to be able to continue with that sense of a concept, but I'm not hearing a consensus so I am hearing a work-study session would probably work better, Mr. Chair.

CHAIRMAN MONTOYA: Okay. So if we can get that scheduled then, Gerald, then we don't need to continue to roll it over on the agenda. We'll just do a work session.

MR. GONZALEZ: Okay. Sure. We'll poll the Commission and come up with a date.

COMMISSIONER ANAYA: Mr. Chair, I think Joseph wanted to say something. He had his hand up.

CHAIRMAN MONTOYA: Oh, I'm sorry.

MR. GUTIERREZ: Mr. Chair, Commissioners, I just wanted to mention one thing. I understand all your concerns. I just want to leave this last point in your minds for consideration. I think when Gerald approached me on this idea, again, it was the County Manager and the Deputy Manager. It wasn't my idea. But I've been familiar with this type of ASD for quite a long time, and I think one thing for you to think about is the greatest challenge the County has for the future is really, how do you finance your infrastructure needs, and I think you're seeing that in water and in roads, and definitely in the five million dollars that we brought to you today.

I think this kind of structure, this is where it intrigues me quite a bit, this kind of structure lends itself to improving that process for the County. So I would just like for all of you to take that consideration when you move forward and you make your decision. It is unique in terms of ASD and probably the projects side, but I wouldn't want that to scare

your decision and how you make it for the future, because again, I think the future for the County is all about infrastructure. Water, roads and the buildings that are in front of you and how do we finance them. And not only how do we finance them, but how do we process these things that set the path to achieve these goals? And I think this type of organization in my mind lends itself to that type of goal. So just some food for thought. Thank you.

CHAIRMAN MONTOYA: Thank you. Frank. Commissioner Vigil, did you have a question for Joseph?

COMMISSIONER VIGIL: It's not a question it's just a comment. When we do discuss this, perhaps staff could bring us some more information on how other county governments similarly situated or structured, because I've heard a lot about how state offices are and many times that's comparing apples and oranges, especially when it comes to organization. So for our study session I'd like to see how similarly situated counties are set up. I'd also - one of the goals here I think was to include FIRs. A critical issue for me would be how does the Finance Department create objectivity in a fiscal impact review if they actually are under a separate division. Those are my concerns. Sorry. Go ahead.

CHAIRMAN MONTOYA: That's okay. Frank.

FRANK JARAMILLO (Operations Director): Mr. Chair, Commissioners, I just want to touch real quick on some things Commissioner Anaya said. When you mentioned about incorporating Housing and Operations. I agree, you said they're framers or plumbers, but there are two different types of carpenters, two different types of plumbers and electricians. Housing is more a residential entity. And we've have tried hard to educate the plumbers and the mechanical side on these facilities. So it's two different animals. It really, really is. Housing is totally residential, and like Joseph said, we've been out there; we've helped them. So we've worked hard to educate our staff on these facilities. I really think that would be a big mistake.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: I'm an electrical contractor and I do both residential and commercial and I think if we could get our staff to do those, I wouldn't have a problem with it. Thank you, Frank. Thank you, Mr. Chair.

CHAIRMAN MONTOYA: Okay. So we'll look for a work date. Thank you all for your help in this.

XI. F. 4. County Lobbyist Program Presentation by John M. Salazar

JOHN SALAZAR (Projects Coordinator): Thank you, Mr. Chair. I'll keep this short and sweet. Roman had e-mailed me before he left. He wanted me to put together some type of a program for the Board's approval. Basically, what I came up with, I went through our history, what we did this last session with Roman Maes and James Rivera. I

came up with a recommendation of what our program should look like. We should have a year-round state lobbyist and within that he's going to put staff in contact with the movers and the shakers within the state, whenever possible, whenever we can set up a meeting and have an idea for something.

Staff will continue doing the role that we've always done with our lobbying team, continue to testify at interim committee meetings during the summer, continue testifying and legislative committee hearings and another aspect that I put for staff and the year-round lobbyist is determining whether we need a lobbyist report. This year that's what we did with James Rivera. We brought him on when Roman Maes thought that we could possibly use another voice there at the roundhouse.

The conclusion I came with, because of the long-term goals that we've set here at the County, we need a constant voice in the state in order to see these projects come to fruition. We need to be in the game 365 days a year and the sooner we can put our priorities on our legislative delegation's radar screen the better our chances are to beat our competition for that state funding. And also the legislation that affects our policies.

CHAIRMAN MONTOYA: Any questions for John?

COMMISSIONER CAMPOS: I think it's a good idea to have year-round state lobbyists. I think that's the most effective way to get the money we need and communicate with the legislature. So many times in the past we get ready at the last moment, make a last charge. It looks like we didn't do our homework during the interim or the six months before. We didn't lay the groundwork. In legislation the only way you're effective is by laying the groundwork well in advance, not trying to catch them at the last minute. They're not listening any more once you get to the legislature. They've got their minds full of things.

MR. SALAZAR: Mr. Chair, Commissioner Campos, I also mention that we're going to go out with that in July and we're going to hopefully have someone on board by the end of July to fill that year-round state lobbyist.

COMMISSIONER CAMPOS: I think it's a good idea.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: There's a critical component that I think is necessary to get the mindset for when it comes to lobbying. However we move forward with a lobbyist, first of all, I think it needs to be comprehensive enough and specific to identify the tasks for that particular lobbyist. And I think that that RFP should be responded to by lobbying firms or lobbyists and evaluated really well. I would actually like to be a part of the drafting for the RFP. My concern is that we not get lobbyists that are in conflict with each other, that are looking to the same delegations for similar dollars that are in conflict with projects that Santa Fe County is seeking.

Now I think we can do that if we keep that focus, but if we - we have a delegation of what? Eleven, twelve members, all from the north on down through the south who are very supportive of Santa Fe County but also supportive of projects within their own districts. I think it's important that when we do the RFP we consider that no conflict

should exist in terms of lobbying efforts. I think it could make a huge difference for Santa Fe County and create an opportunity for us to focus on our specific projects with no competing lobbying efforts going on.

CHAIRMAN MONTOYA: That could potentially eliminate both of our lobbyists that we've had these past years.

COMMISSIONER VIGIL: It could. But I think it's a critical - or it could bring forth just one of them. Or perhaps they could maybe - I don't know. I don't know how it would be but I think part of the problem we had last year is that we had one lobbyist who was focused on Santa Fe County and another lobbyist who was helping Santa Fe County but had another focus for Pojoaque. And I think that can potentially create a conflict. Our main lobbyist in and of himself created a conflict too. I don't know what his other contracts were.

CHAIRMAN MONTOYA: He had St. Vincent's didn't he?

COMMISSIONER VIGIL: He had St. Vincent's. Does the Commission get what I'm trying to say here?

COMMISSIONER CAMPOS: I get it and I think it's about money. If you're going to get more money for your project you've got to pay for it. Because they may not be able to take other contracts. They certainly have the obligation to advise us as soon as possible when there is a conflict, because most lobbyists will have multiple clients.

COMMISSIONER VIGIL: Maybe we do need to look at the cost.

CHAIRMAN MONTOYA: Yes, that was my question if there are no other questions. What is the cost that we're looking at? There's no dollars associated with this.

MR. SALAZAR: From what I understand, Mr. Chair, it could range from \$40,000 to \$70,000. I've put in the building block for this particular RFP, \$70,000. I'm not sure whether that came out of the budget process unscathed or not.

CHAIRMAN MONTOYA: So in terms of, you said you put it into the building blocks, is it in the budget that we just approved?

MR. SALAZAR: Yes, Mr. Chair.

CHAIRMAN MONTOYA: For \$70,000.

MR. SALAZAR: As far as I know, Mr. Chair, that's what it would be.

CHAIRMAN MONTOYA: So then out of that \$70,000 comes a full-time, plus potentially legislative assistants.

MR. SALAZAR: From what I understand, Mr. Chair, the support lobbyist would come out of contractual services, separate from that \$70,000. That \$70,000 would be for the year-round lobbyist.

CHAIRMAN MONTOYA: Okay. That's dedicated for the state. So what are the wishes of the Board.

COMMISSIONER CAMPOS: This is just a presentation, right?

CHAIRMAN MONTOYA: Okay.

MR. SALAZAR: Is it satisfactory to the Board that we move in this -

COMMISSIONER CAMPOS: I would say yes. You're looking for a sense

from the Board.

CHAIRMAN MONTOYA: Do whatever you think is right.

MR. SALAZAR: I also mention in the memo the federal lobbyist but that would be at the Board's consent, when to bring that on. We still have the draft RFP ready whenever we feel like it.

COMMISSIONER CAMPOS: It's never really been decided that we want one.

COMMISSIONER VIGIL: I want one.

COMMISSIONER SULLIVAN: Not until I see how effective this one is, the full-time one.

CHAIRMAN MONTOYA: So we've got two over here and two over here.

MR. GONZALEZ: Mr. Chair, Commissioners, with respect to the update you just got, we just wanted to make sure that we weren't off track in terms of the direction we were headed in.

CHAIRMAN MONTOYA: Very good. Thank you, John.

XI. F. 5. Resolution No. 2006-102. A Resolution to Proclaim Extreme or Severe Drought Conditions Within Santa Fe County and to Ban the Sale of Use of Certain Fireworks in the Unincorporated Positions of the County and Within Wild Lands in the County

MR. HIATT: Mr. Chair, Commissioners, this will be resolution 2006-102. This is similar to the resolution that you passed last month. The state statute requires that you make an affirmative decision every month that the drought conditions continue and exist, and that's what you're doing in this resolution. There are two changes, however, and that is in paragraphs 4 and 5. By the way, the chief is responding to a fire in Pojoaque and extends his apologies and asks that he be excused in this, but on his behalf I'm sure he would represent to the Board that the conditions continue and persist and that we've been very fortunate in this season not to have a catastrophic fire. The ratcheting up in 4 and 5 is banning the use of fireworks within the wildlands area, and secondly, banning the sale and use of display fireworks. Both are based on his recommendation to you and his observation that the drought persists until today.

Greg, do you want to add anything to that?

COMMISSIONER SULLIVAN: Move for approval.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: Motion, Commissioner Sullivan. Second, Commissioner Vigil. Discussion? I'll just add, and Commissioner Campos asked earlier, we did send a letter out to all of the governors of the Pueblos requesting that they consider this resolution as well, as there are some of them that do have fireworks sales stands and those are the ones that would be likely to contribute to any sort of potential fire should

something occur, based on the sales on Pueblo land. So again, I'm hoping that the governors take this into consideration when looking at the drought situation.

The motion to approve Resolution 2006-102 passed by unanimous [5-0] voice vote.

XI. F. 6. Update on Various Issues

MR. GONZALEZ: Mr. Chair, members of the Commission, just a quick reminder that you will be sitting, convening as the canvassing board on June 9th at 3:00 here in the Chambers, I believe it's published for. And then the reconvening as a canvass board will occur on June 16th.

CHAIRMAN MONTOYA: What time on the 16th?

CHAIRMAN MONTOYA: 5:00?

COMMISSIONER VIGIL: 4:00?

MR. GONZALEZ: I believe it was set for 4:45, if I remember correctly.

CHAIRMAN MONTOYA: 4:45 on the 16th?

MR. GONZALEZ: That's what I recall. Because I know we were trying to get it done just before 5:00 and that was the suggestion that was made by the County Clerk. So it's either 4:45 or 5:00.

COMMISSIONER CAMPOS: I have 5:00/

COMMISSIONER VIGIL: I've got 4:00.

COMMISSIONER ANAYA: Mr. Chair, what about the canvassing? At 3:30 on the 9th. Is that what you said?

CHAIRMAN MONTOYA: On the 9th it's at 3:30, right?

COMMISSIONER SULLIVAN: 3:00.

CHAIRMAN MONTOYA: 3:00? Yes. 3:00.

COMMISSIONER SULLIVAN: We have to be at Sunrise Springs by 4:30.

CHAIRMAN MONTOYA: So then 4:45 on the 16th. Is that correct? It has to be before 5:00.

MR. GONZALEZ: There was some discussion about that and I think ultimately the County Clerk conceded that based on the information from the -

COMMISSIONER SULLIVAN: She wanted to go home.

MR. GONZALEZ: From her deputy that we could actually meet at 5:00.

CHAIRMAN MONTOYA: That's all you've got?

MR. GONZALEZ: That's all, Mr. Chair.

- XI. G. 3. Executive Session**
- a. Discussion of Pending or Threatened Litigation**
 - b. Limited Personnel Issues**
 - c. Discussion of the Disposal of Real Property or Water Rights/Consideration and Possible Approval of an Easement Across Fire Department Property in Favor of Matthew McQueen**

MR. ROSS: Mr. Chair, given the late hour, I can trim the closed session down to pending or threatened litigation and discussion of disposal of real property, which would be the easement referred to in paragraph e.

CHAIRMAN MONTOYA: On paragraph e?

MR. ROSS: Yes. So it would be discussion of pending or threatened litigation and the disposal of real property.

CHAIRMAN MONTOYA: Okay. And I'd like to add b, just limited personnel issues.

MR. HIATT: And I would like to point out, Mr. Chair, that if you decide that there's going to be a vote, you'll have a number 4 item and it's done in the open session for the public.

CHAIRMAN MONTOYA: So motion for a, b, and c?

COMMISSIONER ANAYA: I move to go into executive session to discuss a, b, and c.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN MONTOYA: Second.

The motion to go into executive session pursuant to NMSA Section 10-15-1-H (2, 7, and 8) to discuss the matters delineated above passed upon unanimous roll call vote with Commissioners Campos, Montoya, Sullivan, Vigil and Anaya all voting in the affirmative.

[The Commission met in executive session from 7:55 to 8:50.]

Commissioner Vigil 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 voice vote.

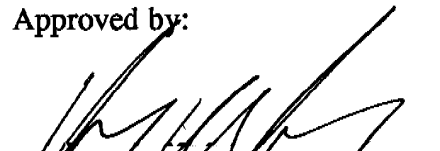
MR. ROSS: And Mr. Chairman, we don't need to take up item 4 at this time.

CHAIR MONTOYA: Okay, so item 4 is on the next agenda.

XII. ADJOURNMENT


Chairman Montoya declared this meeting adjourned at approximately 8:50 p.m.

Approved by:



Board of County Commissioners
Harry Montoya, Chairman

Respectfully submitted:



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

ATTEST TO:



VALERIE ESPINOZA
SANTA FE COUNTY CLERK

