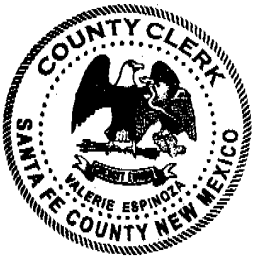


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SANTA FE
BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING

June 27, 2006

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



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC MINUTES
PAGES: 103

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County Clerk, Santa Fe, NM

SANTA FE BOARD OF COUNTY COMMISSIONERS

COMMISSION CHAMBERS

COUNTY ADMINISTRATION BUILDING

**REGULAR MEETING
(Administrative Items)
June 27, 2006- 10:00 a.m.**

Please turn off cellular telephones during the meeting.

Agenda

- I. Call to Order**
- II. Roll Call**
- III. Pledge of Allegiance**
- IV. State Pledge**
- V. Invocation**
- VI. Approval of Agenda**
 - A. Amendments**
 - B. Tabled or Withdrawn Items**
 - C. Consent Calendar: Withdrawals**
- VII. Approval of Minutes**
 - A. May 30, 2006**
- VIII. Matters of Public Concern – Non-Action Items**
- IX. Matters from the Commission**
 - A. Approval of July 3, 2006 as an Observed Holiday for the Employees of Santa Fe County (Commissioner Anaya)**
 - B. Presentation of Certificate to Jane Petchesky in Recognition of her Donation of a Trail Easement to Santa Fe County Open Space and Trails Program for the Arroyo Hondo Trail and Conservation of 240 Acres Southwest of Santa Fe (Commissioner Montoya)**
 - C. Proclamation in Recognition and Celebration of the Santa Fe Opera's 50th Anniversary Season (Commissioner Montoya)**
 - D. Discussion of Proposed Changes to the State Liquor Laws to Reduce Over Serving of Alcohol to Adults and Selling Alcohol to Minors (Commissioner Montoya)**
 - E. Resolution No. 2006 - A Resolution Supporting Parents Advocating for Media Literacy (Commissioner Montoya)**
 - F. Resolution No. 2006 – A Resolution Giving Notice to the City of Santa Fe of Termination of the Fourth Amended and Restated Regional Planning Authority Joint Powers Agreement and Directing County Staff to Make Recommendations for the MPO Process and Disposition of Revenue Derived From the Capital Outlay Gross Receipts Tax (Commissioner Campos)**

G. **Reconsideration of CDRC Case No. V-06-5110 Barbara Stevens Variance – Barbara Stevens, Applicant, Requests a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code in Order to Allow a Land Division of .703 – Acres into Two Lots. The Property is Located at # 8 Edward Ortiz Dr. within Section 9, Township 19 North, Range 9 East, (Commissioner Vigil)**

X. **Committee Appointments/Reappointments**

- A. **Appointment of Shelly Moeller, MPH, MCRP and Sangeeta Prasad, JD to the Maternal Child Health Council WITHDRAWN**
- B. **Appointment of John Berkenfield as Member at Large to the Santa Fe County Lodgers Tax Advisory Board**

XI. **Consent Calendar**

A. **Budget Adjustments**

- 1. **Resolution No. 2006 – A Resolution Requesting a Budget Increase for the Edgewood Fire District to Budget a State Forestry Reimbursement in the Amount of \$1,284.75 for the Barton Road Fire (Fire Department)**
- 2. **Resolution No. 2006 – A Resolution Requesting an Increase to the EMS Health Care Fund (232) / Health Services Division to Budget Revenue Received from St. Vincent Hospital for Their “Self Funding” Portion of the Sole Community Provider Program / \$661,567 (Finance Department)**
- 3. **Resolution No. 2006 – A Resolution Requesting an Increase to the General Fund (101) from General Fund Cash, to be Transferred to the GOB Debt Service Fund (401) to Accommodate a New Bond Payment Schedule Associated with the GOB 2005 Refunding Bond Series / \$199,670 (Finance Department)**
- 4. **Resolution No. 2006 – A Resolution Requesting an Increase to the General Fund (101) to Budget Prior Fiscal Year 2005 Cash Balance for a Contract for Vista Grande Library / \$10,000 (County Manager’s Office)**
- 5. **Resolution No. 2006 – A Resolution Requesting a Budget Increase to the Alcohol Programs Fund (241) / Local DWI Program to Realign the Fiscal Year 2006 Budget with the Total Distribution Amount Provided by NM Department of Finance and Administration \$68,966 (Health & Human Services Department)**
- 6. **Resolution No. 2006- A Resolution Requesting an Increase to the General Fund (101) to Budget Revenue Received for the Public Improvement District Proposal on Turquoise Trail / \$10,000 (Legal Department)**

B. **Professional Service Agreements**

- 1. **Request Authorization to Execute Amendment No. 3 for a Professional Services Agreement for Microfilming Services on Contract No. 24-0011-C; to Extend the Term From July 1, 2006 Through June 30, 2007 (County Clerk)**
- 2. **Request Authorization to Execute Amendment No. 2 to Professional Services Agreement No. 25-111-MG for Vista Grande Library, to Extend the Term Through June 30, 2007 and Increase the FY 2006 Funds by \$15, 000 (County Manager)**

3. **Request Authorization to Award a Professional Services Agreement to the Highest Rated Offeror in Response to RFP No. 26-0124-MG/RH to Provide Classification Compensation Consultation \$45,000 (County Manager)**
4. **Request Authorization to Award a Professional Services Agreement to the Sole Responsive Offeror in Response to RFP No. 26-0727-PFMD/RH to Provide Architectural Engineering Service for the El Rancho Community Center Additions (Project & Facilities Management Department)**
5. **Request Authorization to Execute Amendment No. 2 to Professional Services Agreement No. 25-143-YDP with Correct RX for Pharmaceutical Supplies and Services, to Extend the Term Through June 30, 2007 and Increase the Current Contract Amount by \$35,000 (Corrections Department)**
6. **Request Authorization to Execute Amendment No. 3 to Professional Services Agreement No. 25-133-YDP with Anthony Mayfield, DDS for Dental Services at the YDP, to Extend the Term Through June 30, 2006 and Increase the Current Contract Amount by \$1,732.75 (Corrections Department)**
7. **The Youth Development Program Requests Authorization to Enter Into Amendment No. 1 to Agreement No. 23-153-YDP, A Professional Services Agreement with Aimee Zagon, PA, to Provide Medical Physician Assistance Services to the Youth Development Program to Increase Compensation in the Amount of \$61,814.74 Through the Contract Expiration of October 31, 2006 (Corrections Department)**
8. **Request Authorization To Execute Amendment No. 1 to Extend the Term of Services Agreement No. 25-0119-FD, Indefinite Quantity Price Agreement for Rescue Equipment with Holmatro Incorporated Through February 22, 2007 (Fire Department)**
9. **Request Authorization to Enter into Amendment No. 5 to Agreement No. 25-0094-HHSD, a Professional Services Agreement with Presbyterian Medical Services for Substance Abuse and Mental Health for the Care Connection Project, to Extend the Term of the Agreement for Two (2) Months Term / \$32,453.90 (Health & Human Services Department)**
10. **Request Authorization to Execute Amendment No. 1 to Professional Services Agreement No. 20-04-11-IH with Las Cumbres Learning Services for Parent-Infant Mental Health Services to Santa Fe County Residents, to Extend the Term of the Contract Through June 30, 2007 and Increase the Current Contract Amount by \$178,000 (Health & Human Services Department)**
11. **Request Authorization to Execute Amendment No. 1 to Professional Services Agreement No. 26-0414-HHSD/MS to Ron Hale & Associates for Consulting Services to Prepare the Health Plan Update, to Extend the Term of the Contract Through August 31, 2006 (Health & Human Services Department)**
12. **Request Authorization to Execute Amendment No. 3 to Professional Services Agreement No. 25-0063-DW with Zana Burns for**

Facilitation of the Substance Abuse Program for Teen Court Services, to Extend the Term Through June 30, 2007 and Increase the Current Contract Amount by \$4,200 (Health & Human Services Department)

13. Request Authorization to Execute Amendment No. 2 to Professional Services Agreement No. 25-0005-DW with Santa Fe Community College to Coordinate and Implement the Curriculum Infusion Program, to Extend the Term Through June 30, 2007 and Increase the Current Contract Amount by \$10,000 (Health and Human Services Department) WITHDRAWN
14. Request Authorization to Execute Amendment No. 2 to Professional Services Agreement No. 25-0004-DW with St Vincent Hospital for the Youth Drinking Driver Visitation Program, to Extend the Term Through June 30, 2007 and Increase the Current Contract Amount by \$10,000 (Health & Human Services Department)
15. Request Authorization to Execute Amendment No. 5 to Professional Services Agreement No. 24-0077-MG with Iron Mountain Records Management for Storage of Santa Fe County Records, to Extend the Term Through October 31, 2006 and Increase the FY 2006 Funds by \$20,000 (Project & Facilities Management Department)
16. Request Approval of an Amendment No. 2 to Professional Services Agreement for the Thornton Ranch Open Space Property Management Plan / \$137,672.66 (Project & Facilities Management Department)

C. Misc.

1. Request Authorization to Enter into Agreement with Los Alamos County for the Incarceration, Care and Maintenance of Juveniles in Custody at the Youth Development Program (Corrections Department)
2. Request Authorization to Enter into Agreement with Rio Arriba County for the Incarceration, Care and Maintenance of Juveniles in Custody at the Youth Development Program (Corrections Department)
3. Request Authorization to Enter into Agreement with Colfax 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 Sandia Pueblo for the Incarceration, Care and Maintenance of Juveniles in Custody at the Youth Development Program (Corrections Department)
5. Request Authorization to Enter into an Agreement for Inmate Confinement of Rio Arriba Adult Inmates at the Santa Fe County Adult Detention Facility (Corrections Department)
6. Request Authorization to Enter into an Agreement for Inmate Confinement of Los Alamos Adult Inmates at the Santa Fe County Adult Detention Facility (Corrections Department)

7. **Resolution No. 2006 – A Resolution Authorizing Distribution of Surplus and Obsolete Fixed Assets in Accordance with State Statutes (Finance Department)**
8. **Request Approval of a Time Extension to the Joint Powers Agreement Between the City of Santa Fe and the County for \$350,000 in Capital Funds for Renovation of the CARE Connection Sobering Center (Health & Human Services Department)**
9. **Request Approval of Community DWI (CDWI) Grant Agreement with the New Mexico Department of Transportation Traffic Safety Bureau in the Amount of \$44,257 for FY2007 (Health & Human Services Department) WITHDRAWN**
10. **Request Authorization to Execute Amendment No. 2 to Memorandum of Understanding (MOU) No. 25-0021-DW with US Department of the Interior – Bureau of Indian Affairs (USD.I-BIA) for Support of the USD.I-BIA Overtime Expenditures While Supporting the DWI Program to Extend the Term of the Contract Through June 30, 2007 and Increase the Current Contract Amount by \$3,000 (Health & Human Services Department)**
11. **Request Authorization to Execute Amendment No. 2 to Memorandum of Understanding (MOU) No. 25-0022-DW with the Santa Fe Police Department for Support of City's Overtime Expenditures While Supporting the DWI Program, to Extend the Term of the Contract Through June 30, 2007 and Increase the Current Contract Amount by \$7,000 (Health & Human Services Department)**
12. **Request Authorization to Execute Amendment No. 2 to Memorandum of Understanding (MOU) No. 25-0024-DW with Pojoaque Tribal Police for Support of the Tribal Police's Overtime Expenditures to Support the DWI Program, to Extend the Term Through June 30, 2007 and Increase the Current Contract Amount by \$3,500 (Health & Human Services Department)**
13. **Request Authorization to Execute Amendment No. 2 to Memorandum of Understanding (MOU) No. 25-0026-DW with Tesuque Tribal Police for Support of the Tribal Police's Overtime Expenditures to Support the DWI Program, to Extend the Term Through June 30, 2007 and Increase the Current Contract Amount by \$3,000 (Health & Human Services Department)**
14. **Request Authorization to Enter into a Grant Agreement with the Department of Finance, State of New Mexico, Local Government Division Project No. 07-X-I-G-27 Detox Grant for the DWI Program / \$ 300,000 (Health & Human Services Department)**
15. **Request Authorization to Enter into a Grant Agreement with the Department of Finance, State of New Mexico, Local Government Division Project No. 07-D-J-G-27 DWI Grant for DWI Program / \$40,000 (Health & Human Services Department)**
16. **Request Authorization of MOA Between the NM Department of Transportation, North Central Regional Transit District (NCRTD) and Santa Fe County to Purse a Six Month Demonstration of**

Eldorado Shuttle Bus Transit Service Project (Land Use Department)

17. Request Approval to Award Construction Agreement No. 26-1403-UT/RH to the Lowest-Cost, Responsive Bidder, S&S Joint Ventures, for Construction Services Related to the Agua Fria Community Center Water System Project / \$252,751.86 (Project & Facilities Department)
18. Request Approval to Award Construction Agreement No. 26-0817-FD/RH to the Lowest-Cost, Responsive Bidder for Construction Services Related to the Hondo Fire Station Water Tank Farm Project (Project & Facilities Management Department)
19. Request Approval to Enter into a Microsoft Enterprise Agreement with ASAP Software in the Amount of \$120,960.95 for County-wide Desktop and Server Licensing (Project & Facilities Management Department)
20. Recommendation to the Board of County Commissioners from the County Open Land and Trails Planning and Advisory Committee (COLTPAC) Regarding Acquisition of One Property Including Approximately 1,350 Acres in the Ortiz Mountains Under the Urgent Project Process (Project & Facilities Management Department)

XII. Staff and Elected Officials' Items

A. Corrections Department

1. Presentation by Dr. Laura Kay on Medical Issues, Santa Fe County Corrections Department

B. Land Use Department

1. CDRC Case #APP 05-5040 Kirkpatrick Family Transfer Appeal - Robin Sommers, Appellant, Shelby Robinson, Agent, Request an Appeal of CDRC's Decision to Uphold the Land Use Administrator's Decision to Approve a Request by James Kirkpatrick for a Family Transfer Land Division of Four 20 - Acre Lots into Eight 10- Acre Lots (Case No. DL 05-3026). The Property is Located at 8, 28A, 28B, and 28C Shaggy Peak Trail, within Section 22, Township 16 North, Range 10 East (Commission District 4) Jonathan Salazar, Case Planner PUBLIC HEARING

C. Matters from the County Manager

1. Update on Various Issues
 - a. County Wild Fire Teams

D. Matters from the County Attorney

1. Consideration and Approval of a Resolution No. 2006- A Resolution Specifying the Required Signatory for Certain Agreements
2. Executive Session
 - a. Discussion of Pending or Threatened Litigation
 - b. Limited Personnel Issues
 - c. Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights
 - d. Discussion of Bargaining Strategy Preliminary to Collective Bargaining Negotiations with a Bargaining Unit

E. Fire Department

- 1. Resolution No. 2006 – A Resolution to Proclaim Extreme or Severe Drought Conditions within Santa Fe county and to Ban the Sale and Use of Certain Fireworks in the Unincorporated Portions of the County and within Wildlands in the County. LATE SUBMITTAL OF CAPTION THEREFORE PLACED AT END OF AGENDA**

XIII. ADJOURNMENT

The County of Santa Fe makes every practical effort to assure that its meetings and programs are accessible to people with disabilities. Individuals with Disabilities should contact Santa Fe County in advance to discuss any special needs (e.g., interpreters for the hearing impaired or readers for the sight impaired).

SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

June 27, 2006

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 10:20 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 County Clerk Valerie Espinoza 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 [Present telephonically]

Members Absent:

[None]

V. Invocation

An invocation was given by County Clerk Valerie Espinoza.

VI. Approval of the Agenda

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

JACK HIATT (Deputy County Manager): Mr. Chairman, I have several items for your consideration, and Commissioners. On page 2, X. A is withdrawn. Under the Consent Calendar XI. A. 3, a resolution requesting an increase in the general fund, is withdrawn. On page 3 at the top, number 3, that's withdrawn. That's a matter that's within the signatory authority of the County Manager. It was erroneously placed on the Calendar. On page 4, number 13 is withdrawn. On page 5, number 9. That's the extent of the withdrawn matters.

CHAIRMAN MONTOYA: What about number 18 on page 6?

MR. HIATT: Is withdrawn. Thank you.

CHAIRMAN MONTOYA: Okay. Are we still listening to XII. E.1, the very last item on the agenda? Late submittal of caption, therefore placed at end of the agenda.

MR. HIATT: The resolution regarding fire?

CHAIRMAN MONTOYA: Yes.

MR. HIATT: Yes, sir.

CHAIRMAN MONTOYA: Okay, any other changes?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Was that item 18 withdrawn or is it still on?

CHAIRMAN MONTOYA: It was withdrawn.

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

CHAIRMAN MONTOYA: Commissioner Sullivan, any withdrawals on the Consent Calendar?

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman. Yes. B. 1, B. 10, B. 16, C.3 and C. 20.

CHAIRMAN MONTOYA: Anyone else? Okay, I'd like to move item IX. C up to the first Matters from the Commission. We have the individual here, the general director from the opera who needs to get back soon. Any other changes? Okay, could we have a motion as amended?

COMMISSIONER CAMPOS: So moved, as amended.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: Motion Commissioner Campos, second Commissioner Vigil.

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

VII. APPROVAL OF MINUTES

A. May 30, 2006

COMMISSIONER VIGIL: Several changes on my part, Mr. Chairman.

COMMISSIONER SULLIVAN: I have some as well, Mr. Chairman.

CHAIRMAN MONTOYA: We have amendments by both Commissioners Vigil and Sullivan.

COMMISSIONER VIGIL: These are not amendments; they're just clerical corrections.

COMMISSIONER SULLIVAN: Typographical corrections.

COMMISSIONER CAMPOS: Move to approve with these changes.

CHAIRMAN MONTOYA: Motion, Commissioner Campos.
COMMISSIONER SULLIVAN: Second.
CHAIRMAN MONTOYA: Second, Commissioner Sullivan. Discussion?

The motion to approve the May 30th meeting minutes as corrected passed by unanimous [5-0] voice vote.

VIII. MATTERS OF PUBLIC CONCERN – NON-ACTION ITEMS

CHAIRMAN MONTOYA: If there's anyone here that would like to address the Commission on issues that they have, please step forward. Identify yourself please.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: If they could speak directly into the microphone that would help me, Mr. Chairman.

CHAIRMAN MONTOYA: Okay.

DEXTER SPRINGALL: Good morning. My name is Dexter Springall. I came here today with my wife, Leslie regarding the countywide pool ban. For the past two months we've been going through the process of having a pool installed at our house. About June 10th, our company that we contracted with approached Santa Fe County to get the permit. With him he had approval from our water company, Thunder Mountain Water Company, stating that we had sufficient water resources from them. We also had approval from the homeowners association and our lot was drawn prior to 1996, and we were informed those were the only criteria we had to meet to have the pool put in.

On the 10th we found out that a ban had gone into effect the 30th of May. On the same day, I contacted the County Commission regarding this to verify it. Jennifer Jaramillo contacted me immediately to confirm this. A couple days later I found out that this was not a countywide ban, that it actually only affected unincorporated portions of the county, not including Santa Fe, Edgewood. Now, I asked about notice on this and I was told that it was run in the Santa Fe *New Mexican*. Edgewood does not have the Santa Fe *New Mexican* distributed at any of the locations down there, as far as I'm aware of. In a year and a half I've never seen it. We're not aware that this was going on, that there was a meeting regarding it. Otherwise we definitely would have been here to fight it.

Basically, we missed the line to have the pool put in our property by a week and a half after two months of planning. Also, I found out that none of the pool companies had been contacted regarding it. I feel like we're unfairly being isolated because we are in unincorporated Santa Fe County where someone about a quarter mile down the road from me can have a pool put in but I cannot. Now, the response I keep getting is that there's a drought, but if the water company has informed me they have enough water. They said we have not had rain over the past six months but that the water supply, the water tables are sufficient. That's where I don't

understand why the County is banning it when our local water company is saying they have sufficient supply.

Basically I'm here today, I'd like to request a variance to this ban.

CHAIRMAN MONTOYA: Okay. Have you spoken with people in Land Use about going through the variance process on this?

MR. SPRINGALL: No, I have not. Who is that?

CHAIRMAN MONTOYA: Land Use Department.

MR. SPRINGALL: No, I have not.

CHAIRMAN MONTOYA: Dolores Vigil is sitting right there, the director for Land Use, right behind. Right there, Dexter. If you could get exactly what the procedure is that you would need to go through. Does anyone have any questions? I just have one. Was this something that you had a development plan approved, prior to this resolution coming up?

MR. SPRINGALL: Development plan as far as through a homeowners association?

CHAIRMAN MONTOYA: No, as far as through Santa Fe County. Do you have your homebuilder's permit and everything approved already?

MR. SPRINGALL: It was an existing home. It was built -

CHAIRMAN MONTOYA: Oh, it was an existing home.

MR. SPRINGALL: Yes, it was 2004. We've been in it a year and a half. We weren't informed of any development plan as far as having a pool put in.

CHAIRMAN MONTOYA: Was there a pool originally on that plan, do you know?

MR. SPRINGALL: No, there was not.

CHAIRMAN MONTOYA: Okay.

MR. SPRINGALL: As far as all the criteria that I had to have for Santa Fe County, as far as I was concerned, I had met all that criteria only to find out that this resolution was passed during our planning process.

CHAIRMAN MONTOYA: Okay. So if you'll get with Dolores Vigil, she can explain to you what we need to do to get the process going.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Yes. Thank you, Mr. Chairman. I have a question of Steve Ross and that is, Steve, what is in our process in terms of notification or changing of an ordinance in the past?

STEVE ROSS (County Attorney): Mr. Chairman, Commissioner Anaya, this is not an ordinance. That partly explains some of the difficulty we've been having with it since the resolution was adopted. An ordinance requires a public hearing and it requires publication in the newspaper. Any newspaper of general circulation will do, and like I say, one or two public hearings, depending on whether it implicates zoning.

COMMISSIONER ANAYA: Say that again. One or two public hearings?

MR. ROSS: One or two public hearings, depending on whether it's a zoning

issue or not.

COMMISSIONER ANAYA: So, I'm just trying to - I'm a little confused. If - I know this gentleman has a concern. Was it okay for us - what I'm getting at is was it okay for us at that point to just throw that into the County ordinance in terms of not allowing pools to be built, and can we do that at any time, or is it appropriate to have a public hearing?

MR. ROSS: Mr. Chairman, Commissioner Anaya, as far as whether it was appropriate to hold a public hearing, remember we did this by resolution and resolutions don't require a public hearing. A resolution is merely a record of an action of the Board of County Commissioners. The closest analogy that I can draw to what this is is that the resolution was a temporary cessation of the issuance of building permits that involved pools. In other words, it's a temporary moratorium. As you recall, the resolution has a sunset date. I think it's in December of this year. But a resolution also could be amended or the effect of the resolution could be changed or terminated at any time by Board action, without notice. So to me, the legal effect of the resolution appears to be a temporary moratorium on the issuance of pool permits.

COMMISSIONER ANAYA: Okay. Thank you, Steve, and I do agree with Commissioner Montoya. If you would just meet with our Land Use Administrator we can talk more about it. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Thank you, Commissioner Anaya. Thank you. Any one else have an item of public concern that they'd like to have addressed?

IX. C. Proclamation in Recognition and Celebration of the Santa Fe Opera's 50th Anniversary Season (Commissioner Montoya)

CHAIRMAN MONTOYA: I'd like to read this proclamation and ask Richard Gaddes if he would come forward. Richard is the general director of the Santa Fe Opera and first came to the opera in 1969 as the artistic administrator. He's been associated with the company ever since. In 1976 he left to establish an opera company in St. Louis and he returned to the Santa Fe Opera in 1994 and in May of 1998 was named to succeed the founder-director John Crosby as the general director. Mr. Gaddes, this proclamation reads:

Whereas, nestled in the foothills of the Sangre de Cristo Mountains outside Santa Fe, the Santa Fe Opera bridges past and future. In 1957 the Santa Fe Opera was incorporated under the leadership of John Crosby as founder and general director with a dedicated group of local business and social leaders as directors of the new non-profit enterprise; and

Whereas, the building's striking profile represents the dramatic marriage of architecture and engineering in the service of musical art. The design was influenced by the opera's unique production schedule, a summer season of five full operas, nightly repertory apprentice concerts and special events presented in a distinctive, open-air theatre; and

Whereas, each production is created by skilled craftspeople in the opera's own shops, skill and talent go into each of the disciplines that contribute to the opera's production from basic set construction to the final polished details creating the magic, a perfect amalgam of the

arts that is opera; and

Whereas the portrait of a pioneering American opera company, Santa Fe Opera attract outstanding talent, principal singers are drawn from every corner of the world. Today, the Santa Fe Opera counts nearly 700 in its company at the height of the summer season. The sense of ensemble that is the company is shared by both the audience and the performers; and

Whereas, in its 50 seasons, the Santa Fe Opera has presented 124 different operas, 48 of which have been world or American premieres; and

Whereas, since the first opening season when 12,000 people attended 27 performances of seven productions, the Santa Fe Opera audience has grown to approximately 77,000 persons attending 38 performances each season; and

Whereas, the Santa Fe Opera is home to the major summer festival for opera in the United States, and one of the premiere summer opera festivals anywhere in the world.

Now, therefore, we the Board of Santa Fe County Commissioners hereby recognizes and honors the Santa Fe Opera and its contributions to Santa Fe County as it celebrates its 50th anniversary season. We hereby proclaim June 26 through 30, 2006 Santa Fe Opera's 50th Anniversary Season Week.

RICHARD GADDES: Thank you, Commissioner Montoya and members of the Santa Fe County Commission. The Santa Fe Opera is really proud to be located in Santa Fe County. As you said, it is one of the leading opera festivals in the world today and we've really appreciated the generous support of the County over the years, and this special endorsement of our 50th anniversary means a great deal to us. Everyone here today might be interested to know that we're expecting to break a record this week in that every single performance is going to be completely sold out. For those of you here today who have a problem, give me a call and I'll see what I can do. Thank you very much indeed. Thank you. We appreciate it.

CHAIRMAN MONTROYA: I just want to mention real briefly that I had the privilege, the opportunity to work along with my dad 25 years ago at the opera, helping doing the catering up there. It doesn't seem like 25 years ago.

IX. A. Approval of July 3, 2006 as an Observed Holiday for the Employees of Santa Fe County (Commissioner Anaya)

COMMISSIONER ANAYA: Thank you, Commissioner. Thanks for bringing that forward with Santa Fe Opera because they do contribute a lot to Santa Fe County and we appreciate that. Mr. Chairman, rest of the Commission, the reason I brought this forward is I think it would be nice if our County staff could observe an extra day. I know that they're all working very hard for us and for constituents in Santa Fe County, and I thought I'd bring this forward to give them an extra day off. I know it doesn't pertain to all County officials because we still have the Corrections Department, the Fire Department, the Sheriff's Department, the Solid Waste, that are still going to be working but it does give some of the employees an extra day off to observe the holiday of the Fourth of the July.

With that Mr. Chairman, that concludes my presentation.

CHAIRMAN MONTOYA: Okay. Thank you, Commissioner Anaya. Any questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Gerald, the County does have July 4th off, does it not?

GERALD GONZALEZ (County Manager): That's correct, Mr. Chairman, Commissioner Sullivan.

COMMISSIONER SULLIVAN: And how many holidays do we have?

MR. GONZALEZ: I believe there are seven if I remember correctly. I don't have the list in front of me.

COMMISSIONER SULLIVAN: Seven holidays. So Commissioner Anaya's proposition is that there would be an 8th. What about those employees that would have to work? Would they also be compensated by comp time or overtime or how would that work?

MR. GONZALEZ: In these situations we ordinarily allow employees to take comp time in order to replace, at their election, in order to replace the time that they worked on the holiday.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman.

COMMISSIONER VIGIL: Have we done a fiscal impact on this at all?

MR. GONZALEZ: Correction. There are eight holidays and two half days that we have along the way. I've not done a fiscal impact or don't know that anyone else has done a fiscal impact with regard to this.

COMMISSIONER VIGIL: Do we know if the state and/or the City - and I see Mayor David Coss out there; he might be able to directly answer this for us. Do we know whether the state or the City are proposing the same?

MR. GONZALEZ: I have no information from either jurisdiction.

CHAIRMAN MONTOYA: Neither one, as I understand.

COMMISSIONER VIGIL: Neither one is?

CHAIRMAN MONTOYA: Neither one.

COMMISSIONER VIGIL: So this would apply only to County employees? Is that how you're intending it, Commissioner Anaya?

COMMISSIONER ANAYA: Say that again. I'm sorry.

COMMISSIONER VIGIL: What I just learned is that neither the state nor the City will be letting their employees off, so is it your intent only for it to apply to County employees specifically? That's within the scope of what I think you're attending. I just wanted you to affirm that.

COMMISSIONER ANAYA: Yes, if I had control over the City and the state I'd be telling them too. Right now it's just for County employees.

COMMISSIONER VIGIL: But will you be running for governor some day?

COMMISSIONER ANAYA: When I become governor of the state of New Mexico, I'll have this issue before me on my desk.

COMMISSIONER VIGIL: No further questions, Mr. Chairman.

COMMISSIONER SULLIVAN: Did he say he was at Disneyland or we were at Disneyland.

COMMISSIONER ANAYA: Sounds like you guys are in Disneyland.

CHAIRMAN MONTOYA: What are the wished of the Commission?

COMMISSIONER ANAYA: Mr. Chairman, move for approval.

CHAIRMAN MONTOYA: I'll second it for discussion. Any other discussion?

The motion to approve July 3rd as a holiday for County workers failed by majority 2-3 voice vote, with Commissioners Anaya and Montoya voting in favor.

IX. B. Presentation of Certificate to Jane Petchesky in Recognition of her Donation of a Trail Easement to Santa Fe County Open Space and Trails Program for the Arroyo Hondo Trail and Conservation of 240 Acres Southwest of Santa Fe (Commissioner Montoya)

CHAIRMAN MONTOYA: This morning we would like to take great pleasure in honoring one of Santa Fe County's finest citizens for her contribution to the County Open Space and Trails program. Ms. Jane Petchesky, who owns a ranch adjacent to Richards Avenue south of Santa Fe has dedicated an easement to the County across her lands for the Arroyo Hondo District Trail. The Arroyo Hondo Trail is identified in the Community College District plan as a major east-west hiking, bicycling and equestrian trail, linking the Santa Fe Rail Trail with State Highway 14.

The Petchesky ranch is located approximately in the middle of the proposed trail. Without the Petchesky easement, it would be very difficult to complete the Arroyo Hondo Trail, which will eventually link to existing and proposed trails connecting open space areas in what is becoming the major growth area of Santa Fe County. It is also noteworthy that Ms. Petchesky has placed a conservation easement on her ranch though the Forest Trust which will permanently protect it from development. Paul.

PAUL OLAFSON (Open Space Director): Mr. Chairman, Commissioners, I'd like to introduce Mr. Bob Wilber. He's a volunteer member on the County Open Land and Trails Planning and Advisory Committee, COLTPAC. He was very instrumental in working with Ms. Petchesky. He has just a couple of words to say and then Mrs. Petchesky I believe would like to say something as well.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I just wanted to comment. Gosh, I'm even honored to be a participant in this, wondering why it's limited in scope and after I understand it's for a specific purpose. I just want for the record it to be known that Jane Petchesky and her family, her spouse, and all contributed this, but this is only a small portion of the contributions this woman and the Petchesky family has made to Santa Fe County. Gosh, the recognition goes beyond what you're doing here and I want that to be part of the record. Of course Santa Fe

Community College and much of what will be happening to the future of our county has happened because of your generosity and I really appreciate that. Thank you so much.

BOB WILBER: Commissioner Montoya, Commissioners, I just want to say that I'm really thrilled with the recognition that you're giving to Jane Petchesky this morning. Dedication of the Arroyo Hondo Trail easement in Santa Fe County, coupled with the Forest Trust conservation easement she's placed on her ranch, is just the latest of many contributions she's made to the county during her 50+ years as a member of our community. Jane has a long history of serving on water resource and land use planning boards and committees, as well as other civic groups concerned with the welfare of Santa Fe County.

Jane and her husband Gene were founding members of the Santa Fe Rodeo and they pioneered Richards Avenue out to their ranch, which has become the main arterial serving recent development on Santa Fe's south side and adjacent county lands. People for generations will come to benefit from the open space and trail connections that she has provided in this area, which is where most of Santa Fe's future growth is expected to occur. Thank you.

CHAIRMAN MONTOYA: Thank you, Bob.

JANE PETCHESKY: Commissioner Montoya and Santa Fe County Commission, now that the Arroyo Hondo Trail is approved from Richards Avenue to Route 14, it is time to build it. I hope this will soon happen. The new fence around our trust land has already been broken. Somebody's taken our fence down, and I know that the trail will be much used and that this will take the burden off of the trust land because they can use the trail. I also recently learned that in Boulder they put trails through the city and there were a lot of people objecting to it, but they have found that the homes and all next to the trail, because of the new traffic on the trail, has helped burglaries and all decrease tremendously. So I'm very pleased to be a part of this and looking forward to the trail being in place.

CHAIRMAN MONTOYA: Thank you, Jane. And I just want to read the certificate of appreciation. Santa Fe County acknowledges your exemplary support of the open space and trails program through substantial contributions of trail easements for the Arroyo Hondo Trail and voluntary conservation of more than 240 acres of adjoining land that will benefit the citizens of Santa Fe County for generations. In recognition of your dedication to the community, the Board of County Commissioners, staff and the residents of Santa Fe County present this certificate of appreciation this 27th day of June, 2006.

COMMISSIONER ANAYA: Commissioners, I just wanted to thank Jane, because if it wouldn't be for people like her, Santa Fe County cannot do it alone. So thanks again, Jane.

COMMISSIONER SULLIVAN: Mr. Chairman, while people are coming back to the podium, I just want to thank Jane also and the staff for their work on the open space. As a neighbor of Jane's for almost eight years we appreciate what she's done for the community and what she's done to keep the Community College District open space concept an important one. Her property could have turned into a very unsightly commercial sprawl and instead it will be enjoyed by everyone. Thank you, Jane.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, I just recently learned that our mayor and his deputy mayor are here for item F under Matters from the Commission, that resolution, and as a courtesy to them, there are two more items on the agenda before that resolution. As a courtesy to them and recognizing that their time needs to be distributed valuably, I thought maybe the next item on the agenda would be item F so that we could hear that issue. If there's no opposition?

CHAIRMAN MONTOYA: Any objection?

IX. F. Resolution No. 2006-105. A Resolution Giving Notice to the City of Santa Fe of Termination of the Fourth Amended and Restated Regional Planning Authority Joint Powers Agreement and Directing County Staff to Make Recommendations for the MPO Process and Disposition of Revenue Derived From the Capital Outlay Gross Receipts Tax (Commissioner Campos) [Exhibit 1: Resolution Text]

COMMISSIONER CAMPOS: Thank you, Mr. Chairman. I brought this resolution forward because I think the RPA is a very important part of our community, and I'm talking about both the City and the County, because I believe that we need to work together, but I also believe that we haven't been working together, that part of this agreement, which involves annexation, has been ignored by the City government for a long time. I've been raising this issue with the City at the RPA, the Regional Planning Authority for over four years and it's been ignored until recently have we had any discussion about it.

We've raised it recently at the RPA and we've been told we're going to do a dual track. We're going to do our thing, whatever we want as far as annexation is concerned, and we're also going to do a regional plan, which I think misses the point of the agreement. The agreement was to come up with a regional plan and that was a cornerstone to the JPA agreement. I believe the City is in violation. I propose a simple resolution. The resolution is simply to hopefully get reconciliation and get some action from City Council and City government on this issue, have them address it directly. We're not going to make a decision today to terminate. We're only going to pass a resolution saying, Look, we think you're in breach. We want you to tell us if you're going to abide by the agreement as far as coming up with a regional plan and stop the piecemeal annexations so we can continue on a plan. Otherwise, why do we have a director coming on board next week? What's the point?

What I hope is that we can reach an agreement. We can get this done by the end of the year. But basically, the resolution says that the JPA was created in 2002 and one of the main points was a regional annexation plan, which has not been done. The plan was actually ended, terminated, in the fall of 2004. And the agreement says the express purpose of the Regional Planning Authority is to develop a recommended annexation plan based on the RPA land use plan to be adopted by the respective governing bodies having jurisdiction to adopt the same. The annexation plan shall be subject to public hearings within three months after the adoption of

the land use plan.

Now, I think this is important and I think some Commissioners are concerned about our relationship with the City at this point. I think this is just putting the City on notice. This is not taking an action today of termination, so I would urge support for this by the Commission and if there's any questions, I'd like to answer them for the Commission. Mr. Kolkmeier is here, Jack Kolkmeier is here, if you have any questions for him. Jack was here at the time this agreement was actually drafted. He was one of the principal negotiators and understands what was going on at the time and I believe he will support what I just said.

CHAIRMAN MONTOYA: Any questions for Commissioner Campos?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Yes, I completely agree with Commissioner Campos on this. I'm glad that he brought this resolution forward and I strongly support it. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Thank you, Commissioner Anaya. Any other comments? Commissioner Vigil.

COMMISSIONER VIGIL: I would like to hear from the Mayor or Roman on this before I make any further inquiries.

MAYOR DAVID COSS: Thank you, Mr. Chairman and thank you for moving us up on your agenda a little bit. We just found out about this resolution last night at Council, and thinking of what to say. I guess the City would disagree that we're in violation of the RPA agreement. We have been doing annexations. I do agree with Commissioner Campos that they're piecemeal because they are in the absence of an RPA recommended annexation strategy. We did pass the regional land use plan. I think that was a great piece of work by both the City and the County. We need now to get the RPA back on track and I think having Mary Helen Follingstad starting with the RPA will give us that staff assistance to do that.

But I think regarding the annexations, 2004, three months later we should have had an annexation strategy; we did not. But people still buy land. People still propose developments, developments still come forward. The City has the – the only annexation we initiated was our airport project because again, we're being forced through federal guidelines to make significant investment. We just felt that that was a piece that was time. We're trying to work everything within the recommendations of the regional land use plan that both the City and the County have approved, but we're not in a position, I think, to put a de facto moratorium on annexations. I do think we're in a position with Ms. Follingstad coming on board to start to move quickly. There's still a very large annexation question and to me it's not so much the vacant properties that are developed and initiated. It's the developed land in the southwest sector of the city. We really do need the County and the RPA assistance to figure that out and to develop a strategy for moving forward.

So I would be glad to answer any questions as well as I could. I just appreciate the opportunity to be here and thanks for your attention.

CHAIRMAN MONTOYA: Thank you, Mayor. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mayor, and I do have a question, because it is my mission and my purpose to work jointly with the City on this annexation and we have been forestalled. And it almost is, if you speak to any particular elected official, both on the City and the County side, there are different rationales for that. My feeling is similar to yours that with the regional planner on board hopefully we will gain some impetus. It's my understanding that we have given her direction that this annexation strategy must be done before the end of the year. That must be somewhat frightening to her but at the same time I think the stronger message is that we want to work on this and we want to work on it awfully quickly and get it done.

But I also understand some of the Commission's sentiments and the most recent experience that we had, and you were there, Mayor Coss, at the Regional Planning Authority is Councilors did not come to the meeting. I never understood why. Subsequent to that, we have created an emergency meeting time and I'm glad that you've taken the chairmanship of that Regional Planning Authority because I think that's a critical component to its success. However, it is disheartening for those of us who are very busy and know that these things need to happen to come to a Regional Planning Authority meeting and there be three Commissioners and you and no City Councilors. How do we know we will have the cooperation of the City on this?

MAYOR COSS: My experience on the governing body is that every once in a while, we don't make a quorum. Councilor Wurzbarger was out of the country, actually, and the other two Councilors had also just got their wires crossed and didn't make it. That happens in RPA once in a very blue moon. I will work to make sure we get a quorum for our special meeting on Thursday of the RPA. So all I can say for last Thursday or last week's meeting is just apologize that three of the four City members were unable to make it.

COMMISSIONER VIGIL: My belief, and I've told Commissioner Campos that I'm on the fence on this resolution because I want to show a sense of support of moving forward with an annexation strategy and I think it's very critical that it needs to happen between the City and the County, and I think the RPA is the forum to conduct that. My sense is that if you as chairman of the RPA can provide a leadership role to address the expediency of this annexation strategy, the exigency of it, I think it does require a strong leadership role to make it happen and if you would ask me, that's what's been lacking in the RPA. So that's a comment. Thank you.

CHAIRMAN MONTROYA: Okay. Any other questions for Commissioner Campos, Mr. Kolkmeier, or the Mayor? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman, and thank you, Mayor for coming down this morning and for Roman as well. And congratulations to Roman.

MAYOR COSS: He wanted to come because he misses you guys.

COMMISSIONER SULLIVAN: Yes, I know he does.

COMMISSIONER VIGIL: We miss him too.

COMMISSIONER SULLIVAN: I suspect he misses my phone calls. Roman, we need this, we need that. What I wanted to ask, David, is this resolution asks for a response

from the City within 60 days. What I'm hearing from you is the response right now. So it seems that we have a response. What might you propose or what do you think we as a group should do differently throughout the remainder of the year. The City is going to proceed forward whether we pass this resolution or not with annexation. That will continue to aggravate the County Commission members who feel that there was some agreement and responsibility to do this together. So can you give me a feel for what will happen in the next six months from the City's side?

MAYOR COSS: Well, I think we've discussed this personally and in some RPA meetings. I don't think the City will stop accepting developer-initiated annexation petitions when the private sector developer comes to us and asks for annexation. We'll take that under consideration. But what I would like to see happen is now that we have staff starting and we have an understanding that we want to have the zoning and the annexation strategy completed by the end of the year that we move to do that. I think it's still achievable by the end of the year, both the zoning plan and the annexation strategy can be done. I'm willing to go to twice a month meetings of the RPA if we need that to move that process along.

I think one answer we could get you that I couldn't give you today is are there any other developer-initiated annexations coming down the pike right now. And we could look at some kind of a time frame on those. But I think that work of a zoning plan and an annexation strategy just hasn't been accomplished in the last two years and it's probably not that useful to try to say whose fault that was or why that didn't happen but it didn't happen. But I've always felt that since we did such a good regional land use plan and if both governing bodies are in sync with that land use plan that it's not a challenge that we can't meet in the next six months to develop the zoning and the annexation.

I think for the City, we've laid out annexation priorities and I think that is part of the irritation on behalf of the County is why is the City doing that, but for us, it was very much a chicken or an egg type of thing of how do you start to move on this. But I think the annexation in the Airport Road/Agua Fria area where it is already developed to a greater or lesser extent is a very difficult piece and I think having the RPA examine that will benefit the community if we go forward with annexation in that area. So I think while you won't get a vote out of the governing body to say we're going to do a moratorium on developer-initiated annexations while we do this I can say that I think it's the sense of the governing body that we want to be in sync with the community and with the County to proceed with annexation in the southwest sector and the built-out areas.

COMMISSIONER SULLIVAN: Mr. Chairman and Mayor, then I'm just trying to look a couple of steps ahead on the chess board and we've of course seen the City's fairly detailed plan of annexation and the time tables that go with it and the phasing of it. Essentially, the plan is to annex everything inside 599 and I-25 within some time period. Now, were the RPA to come up with something different than that, then what would happen? Because the RPA's mandate through the joint powers agreement is once they develop an annexation strategy it will go to each governing body for approval. So if this document that has been apparently approved by the City Council as a phased annexation strategy, if the RPA document

differs from that, what's going to happen?

MAYOR COSS: They would have to be reconciled. If the RPA document is different, the RPA recommends that it goes to the County Commission and it goes to the City Council and at that point the City Council would consider how you reconcile if the plans are that different.

COMMISSIONER SULLIVAN: It just seems to me though, or it may seem that way to the public that the City Council has drawn the line and they've said here's our document. And it's almost a take it or leave it document. Can you give me a feeling for the Council? Is there flexibility on the part of the Council or is this the document and as long as the RPA document conforms to that, we'll continue on a harmonious path but if it doesn't, what's going to happen? Where's the flexibility?

MAYOR COSS: Well, I think there is flexibility in that, especially in the staging and the timing of some of those issues. I think as we go through this, as we go through public meetings, public hearings and the planning process with the RPA, that's where things might come to light or things might be viewed in a different perspective and that's where you would see the flexibility come in on the part of the City Councilors on the RPA.

COMMISSIONER SULLIVAN: Will the City be having separate hearings on its proposed annexations from the RPA?

MAYOR COSS: No, our intention has always been – we're required by our own ordinances to do early neighborhood notification meetings, public hearings on annexation. My thought is the best way to do that would be under the auspices of the Regional Planning Authority so that we don't do it twice and pay for it twice, but that we do it as part of the RPA annexation strategy development, that we have those public – those early neighborhood notification meetings and the public hearings at the Regional Planning Authority.

COMMISSIONER SULLIVAN: I'd like to see that and I think that's a great idea. I'm just wondering, if I were opposed to a particular annexation and I would come to the RPA meeting and I would say you're proposing here to discuss annexation of parcel-X and yet you don't have an annexation plan. You've agreed between the two of you to develop an annexation plan. So shouldn't you do the annexation plan? That would be my position to the body, if we're going to use the RPA as that venue. How do we deal with that?

MAYOR COSS: Well, I think if they came to the hearing and said how does this fit in with the annexation plan it would be incumbent on us – if we're proposing the annexation, or the City is taking a plan to the Boundary Commission ultimately, we would have to answer that question. How does it fit in with the plan? We have to answer a lot of questions. How does it fit in with the plan? How do you provide police? How do you provide fire? What is the zoning? Et cetera, on an annexation. So I think those are very difficult questions in the developed area adjacent to the city to answer. And I think the RPA is a good venue, a good body to explore some of those questions.

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

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Just a couple of questions not that you're up here, Mayor Coss. As far as the annexation argument, there's a difference between private and City-initiated. Clearly there's been a major City-initiated project and there's more in the pipeline. But as far as private, you look at the state law, it says annexation, you have discretion, but you also have a joint powers agreement where you agree to modify the use of your annexation plan within the context of the Regional Planning Authority. So that isn't really addressed by any of your comments.

Two, the discretionary aspect, you have a discretion. We're not asking for more – to the end of this year, for example. Within a defined period of time you will desist in making at least major annexations which really undermine this whole process and agreement. If you want to continue doing small annexations, perhaps you should bring that issue to the Regional Planning Authority to say, okay, maybe we need different criteria. What criteria are we going to apply to these very minor annexations that make sense to be annexed.

But these major ones that really do undermine, I think you did do another major. You've done a number of major annexations that have undermined the agreement. That's different. I think you have to exercise discretion. And we did have an RPA study session at the Community College recently and it was agreed by all people there, I think, that the City would not annex, would go to the RPA. And then what I hear from the City Council is those guys don't represent the City Council. We make the final decision. The guys at the RPA don't make those decisions for us. That was very – such a negative way of dealing with this problem and it's very difficult for us to understand where the City is coming from.

Commissioner Sullivan said, oh, there's a response right here. The Mayor's the response but that's not true. The City Council has to make that response and that's what I'm asking for. So we've talked about this for years. I think it makes sense for the community to act together. If you want criteria that's different for little annexations, let's talk about it at the RPA. But major annexations are a clear violation, and you have agreed to modify your statutory powers through the JPA. So we're asking you, are you going to comply or not? That's the question I want to ask the City Council, because I know there's eight people and there's going to be a lot of resistance in the City Council. They want to do their own thing regardless of the joint powers agreement. So that's my final comment.

CHAIRMAN MONTOYA: Okay. I think that this resolution, and the Mayor and I have had a meeting to discuss a number of issues, this being one of them, and I see this – Mayor, just to let you know where I'm coming from – as moving along in that same vein, I think. I think it will help in some of the discussion that does need to move forward between the City and the County. So I would stand in support of this resolution. I think in that regard it does address some of the issues that we had discussed. So can we have a motion?

COMMISSIONER VIGIL: Mr. Chairman, before you get a motion.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I'm at this point in time not going to support this resolution. I actually think that there's been a lot that has happened that has changed the dynamics and the operations of how we move forward between the City and the County and I

actually applaud the Mayor for coming before us today. I was sitting at home watching City Hall, wishing I was there last night being one of them too, and I had other association meetings to attend, so we're spread quite thin. My sense and my vote is going to go against this only because from my perspective this vote represents a sense of cooperation with the City and in hopes that what the Mayor represents today and what I hope to be hearing in the future from the RPA is exactly what is intended by this. So I will hold off on supporting a resolution of this nature, Mr. Chairman.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I'd like to move for the adoption of the resolution requesting that the City of Santa Fe clarify its intentions with respect to the requirement of the JPA as to developing an annexation plan as set forth in the ordinance that's been presented. I'd like to ask that the 60 days mentioned on page 2 of 4 be reduced to 45 days to expedite the matter.

COMMISSIONER ANAYA: Second.

CHAIRMAN MONTOYA: Okay, I have a motion, Commissioner Campos, second by Commissioner Anaya. Any further discussion?

The motion to approve Resolution 2006-105 passed by majority 3-2 voice vote with Commissioners Sullivan and Vigil voting nay.

COMMISSIONER CAMPOS: Mayor Coss, Roman Abeyta, I appreciate you being here. I'd like to talk to you about this thing in a positive way, how we can get this issue resolved and on the front burner so we can get it resolved soon.

CHAIRMAN MONTOYA: Thank you, Mayor. Thank you, Roman. Good seeing you.

IX. D. Discussion of Proposed Changes to the State Liquor Laws to Reduce Over Serving of Alcohol to Adults and Selling Alcohol to Minors (Commissioner Montoya)

CHAIRMAN MONTOYA: I have put an article in there for your information and in a nutshell, what the Alcohol Gaming Division is looking at doing through the Liquor Control Act is cutting the number of citations it takes to revoke a bar's license for serving alcohol to a minor, or for overserving an adult. I'll be attending some public hearings that they're going to be having for these proposed liquor law changes on July 5th at 8:00 am. It will be in Albuquerque at the Hispanic Cultural Center, the Bank of America theater. If there's any questions?

IX. E. Resolution No. 2006-106. A Resolution Supporting Parents Advocating for Media Literacy (Commissioner Montoya)

CHAIRMAN MONTOYA: We have Dr. Peter DeBenedittis – I always say just Dr. Peter D. to work with us here for a presentation on this resolution and the resolution is in your packet. I'll let Dr. Peter –

PETER DEBENEDITTIS: Chairman Montoya, Commissioners, thank you so much for giving me a few moments of your time. I am a Santa Fe City resident. I also am a national expert on media literacy. I speak to 50,000 students a year. I train over 1,000 teachers and advocates each year. I've consulted to the White House Office on Drug Control Policy, the Center for Disease Control, the American Medical Association and the American Academy of Pediatrics on this issue that I'm going to address to you today.

What we're looking for is to draw a line in the sand to say that the United States of America, starting with Santa Fe County, should put the values of parents ahead of the values of corporations that provide media. And I'm going to have a short presentation here on the screen behind you if you could just take a moment to look at what's going on here. There are several issues that we need to address. The biggest issue is of course your brains and the brains of our children. As soon as this comes up on the screen we're going to be able to see.

What we're looking at are two dendrites, brain cell slides. This is a healthy rhesus monkey on this side. On this other side it's a rhesus monkey that was denied normal development. This was denied because it was deprived interaction with other monkeys. It would stay in its cage and watch. This is the difference between doing and watching when your brain is being developed. What's going on is between the ages of zero to six, and again between the ages of 10 and 13, children's brains are very porous and the parts you stimulate are the parts that are developed.

Media, as we know it, does not stimulate children, does not stimulate brain development. This has some very serious consequences to our populace that is growing up, particularly as far as their ability to process things like language. I'm 47 years old. People in my generation going to college had an average vocabulary of 40,000 words. Today the average college student has a vocabulary of 10,000 words. We've lost three-quarters of our ability to mediate language and it's just going to continue to get worse because of what's going on with brains.

If you take a look behind you on this screen, you will see come up here an example of the reptilian brain. The reptilian brain is the oldest part of the brain. It goes back millions of years. It's where visual information is processed. The most recent part of our brain is the neo-cortex and it is where language is processed. Now, just on a biological basis, we process images more importantly, more quickly than we process language. It takes you no time to react to a visual image. No time at all. If you're driving down the street, a car swerves in front of you, you don't stop and think what you're going to do. Your body automatically swerves out of the way because your reptilian brain processes images instantly.

The neo-cortex takes time to process language, so for example, if I asked you a question like what did you eat for lunch yesterday, if you're the average human being, it's going to take you about five seconds to come up with an answer to that because things like memory and decoding language are involved. Now, the problem is, our media system has ignored this, and again, between the ages of zero and six and between the ages of 10 and 13, what you put into a child's brain is pretty much what comes out.

When we were growing up, TV moved at a very slow pace. There was plenty of time in between scenes for our brains to figure out, apply language. If you take a look on the screen, I'm going to show you some children's programming. This is just a few seconds on one of the many, many programs that address children.

[Video clip followed.]

So if you see how fast that moves you realize that you have no ability to actually develop language, because it's moving so fast the reptilian brain is just being stimulated. The result of this is pretty much ADD. If you ask the head of the North Carolina Medical School, who's also a neurological pediatrician, you ask him why we have ADD in our country, he'll tell you it's TV, pointblank. He'll say if you give the same test for ADD to kids today that you used 25 years ago to pick out ADD, every single kid would test positive. A hundred percent positive rate. They had to dumb down the test because there's so much of it out there.

Now, we've known about this for a while at the highest level. In fact the White House had a conference in 1996. You can see that these images, as soon as they open up here were reported by *Time* magazine and *Newsweek* magazine on how children's brains develop. At the highest level, the White House is reporting this. Yet we did not see a single media article pointing out the fact that, oh, by the way, if you watch this stuff, your kids are going to grow up with less brain capacity. And that's because 85 percent of all media – books, magazines, TV, radio, newspapers, movies, billboards, most of the Internet content, 85 percent of all media is controlled by six corporations. Those six corporations have the freedom of speech; the rest of us, we pay for it. And they use their power to exploit children. It's in their interest to keep children being dumb.

If you can take a look at this commercial that ran on ABC, which is owned by Walt Disney, you can see for an example what they believe is important as far as watching television.

[Video clip followed.]

So while the rest of the world is being shown doing art and music and going outside, we in America watch more hours of major programming on TV than we spend time going out into nature, and we're told this is what's going to make us profitable. Well, it's going to make certain corporations very profitable.

Now, what this resolution does is it asks to join the rest of the developed world in putting limits on how children are treated by media. There's two countries in Europe and a province in Canada that totally bans all advertising to kids below age 13. And I ask you for one second to think of a single product that is advertised to a kid that is good for that kid and if you can think of one I'll sit down and go home. The problem is the parents think there are products that are advertised to parents that are good for kids, vitamins, educational materials, but they're

not sold to kids. What we sell to kids is very devastating.

If you talk to the American Academy of Pediatrics and you look at the list of the teen morbidities, the ten things that kill teens the most, eight of them they say are media-caused. And what we need to do is to put some limits on this. So what I'm asking you to do is support this resolution that urges the federal and state lawmakers who have the power to control media and media access and regulation, to put the interests of parents before the interests of corporations. Part of this resolution asks for simple things like removing the tax deduction for things that are noticeably harmful. Things like - if you look at the leading causes of preventable death in America, you've got cigarettes, then you've got obesity, then you've got alcohol. And those three things, that counts for like 65 percent of preventable deaths in America. Those are marketed.

And because they're marketed, we as consumers and citizens pay for this through tax deductions. Those companies don't pay for it. We pay for this massive selling of disease. So this resolution asks for a variety of changes in governmental policy around media, that it be more local oriented, that parents be put first, that children no longer be target as predators and most importantly, that we as consumers no longer have to pay for the excess of the media corporations are doing to our kids.

Let me show you just one last ad here and then I'll be happy to take any of your questions. This is an ad that ran on MTV. I think it give you a clear idea of what children's values are being taught to kids and what the role of parents should be according to the media.

[Video clip followed.]

See, your parents are a prison you need to escape from. Shopping and r-values are what you need to buy. I don't even want to get into the moral issues of this. You understand that with teenage sex and all that stuff that's being sold. I want to tell you that this is not out of the blue. I've been working with government entities across America. Most recently the Bay Area Council of Governments which is 22 county and city governments in San Francisco Bay Area are very interested in this. If you pass this resolution you'll beat out Marin County just by the wire as being the first governmental entity in the country to make this kind of statement.

I've also been working extensively with the Spouses Leadership Council, which is the first ladies and first men of all fifty governors of this country and they're very aware of this issue and different things are happening in different states. We've only got a few years before literally, control of our political system, besides our commercial system, is handed over to these six conglomerates. I'm asking you to draw a line in the sand today and put the value of parents before that of corporations. Thank you so much for giving me your time. This concludes my presentation.

CHAIRMAN MONTOYA: Thank you. With that, leave everyone speechless.
Commissioner Campos.

COMMISSIONER CAMPOS: It's a lot of information. Also, certainly I'm sympathetic to it. It make sense to me but I haven't had time to thoroughly think about this. Would you like to add to what the presenter has stated?

CHAIRMAN MONTOYA: He said so much in the short amount of time that

we gave him, I really think he put it in a nutshell saying that really what we're trying to do here is protect children, protect families, try to promote health activities and by doing that, we're having to take a stand and saying we believe in Santa Fe County that families and children are first in terms of what we would like to see in terms of healthy, productive citizens. Certainly, the research has proven and pointed out time and again that what has just been described in terms of the marketing to the kids and unfortunately, I don't watch MTV so I don't see half of what's going on and this is what's educating our kids. And if there are limitations and certain things that we begin to advocate for, then certainly I think we'll see a decline in teen pregnancy, teen drug abuse, teen drinking, everything that Peter D. just described.

So kind of what I do for a living, not on the scale that Peter D. does it, but certainly we're one of the only industrialized nations also that doesn't require media literacy as part of an educational curriculum. I think it's obvious why. We'll probably learn that smoking and drinking isn't good for us and we shouldn't be talking to our kids about not doing it. So that would be my contribution.

COMMISSIONER CAMPOS: Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Any discussion?

COMMISSIONER VIGIL: I have a question.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: The media literacy program, where are you conducting that currently within schools, and are doing it beyond the schools?

MR. BENEDITTIS: I'm an independent consultant. I work nationally. I contract to states and communities and school districts all over the country. In Santa Fe County, there's the Office of Student Wellness in the Santa Fe Public Schools, which has a media literacy component in their life skills. They don't require it but most teachers do it in seventh grade and again in ninth grade. In Edgewood, the middle school there runs a media literacy class, a full semester-long class that's interwoven with their health, so it's in the schools in the county and even Pojoaque has a program they run with a different consultant, so I'm not sure exactly what they're doing. But it's very prevalent here, but we're like the top of the scale nationally. The only people that are more progressive than Santa Fe County for media literacy is the state of Montana where it's actually required to be in the schools at fourth, eighth, and twelfth grade.

COMMISSIONER VIGIL: Mr. Chairman, and this question – maybe Gerald. I hate to catch you on your way out, but let me ask you this. I do recall there was someone, we actually had either a contract with or an FTE. I think it was probably a contract.

MR. BENEDITTIS: That was me, ma'am.

COMMISSIONER VIGIL: Okay. Were you saying you're not doing that?

MR. BENEDITTIS: No, I was confused by your question. You asked me and I was confused.

COMMISSIONER VIGIL: All I asked is where are conducting the media literacy. Is it in the public schools or also outside the public schools?

MR. BENEDITTIS: It's mostly in the public schools. I also work with parents.

I do presentations and trainings at churches and some of the Pueblos in the county. So that's the two access points in the county.

COMMISSIONER VIGIL: Okay. I recognize the importance and the significance of media literacy training and want to be able to promote it as much as we possibly can. So I appreciate what you do. I'd also like staff to consider how we could expand this program at some level because some of the media literacy training that you propose and that you actually teach could really be used at our Boys and Girls Clubs, at some of the city youth centers. And I'm not sure whether - that was where my questions was going.

MR. BENEDITTIS: The Boys and Girls Clubs have attended the trainings that the County has funded. So they've actually had staff members that I've trained using County funds and provided materials to using County funds. So the Boys and Girls Clubs are up to speed as well as some other private venues, or private-public -

COMMISSIONER VIGIL: So you do go beyond the schools?

MR. BENEDITTIS: Yes, ma'am.

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

CHAIRMAN MONTOYA: Commissioner Sullivan. Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, I'd move to adopt Resolution 2006-106, a resolution supporting parents advocating for media literacy as presented.

CHAIRMAN MONTOYA: Okay. I'll second that. Any further discussion?

The motion to approve Resolution 2006-106 passed by unanimous [4-0] voice vote.

CHAIRMAN MONTOYA: Thank you, Peter D. for your continued work and we'll see what we can do to make it more prevalent around Santa Fe County.

MR. BENEDITTIS: Thank you for your time and thank you for making history. You're the first community in America to adopt this on an official level.

COMMISSIONER SULLIVAN: Is Commissioner Anaya gone?

CHAIRMAN MONTOYA: Just for the record, Commissioner Anaya has signed off.

- IX. G. Reconsideration of CDRC Case #V-06-5110 Barbara Stevens Variance - Barbara Stevens, Applicant, Requests a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code in Order to Allow a Land Division of .703 Acres into Two Lots. The Property is Located at # 8 Edward Ortiz Dr. within Section 9, Township 19 North, Range 9 East, (Commissioner Vigil)**

COMMISSIONER VIGIL: Thank you, Mr. Chairman. I brought this forth for the Commission to consider reconsideration of this case. We actually heard it when we had only three members of the Commission here. It is a variance request. In my mind in looking back at

this, I am recalling that the full merits of the case, in my mind hadn't actually been disclosed to the Commission at that hearing. And I don't know whether Land Use staff has anything to add to that in any way, shape or form. My sense is that if I recall this case correctly, we considered it and voted for a variance based on the fact that a permit had been issued to the applicant and some information that I learned about subsequent to that was not a part of the hearing. Based on that, Mr. Chairman, I'd like this Board to reconsider hearing this case and have the full Board here to hear it. And it is a case, I believe that is in Commission District 1.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTROYA: Commissioner Campos.

COMMISSIONER CAMPOS: Commissioner Vigil, is there material that we can review in the packet to refresh our recollection, look at the minutes, look at the issues.

COMMISSIONER VIGIL: You weren't here for this hearing, Commissioner Campos, so it would be new to you.

COMMISSIONER CAMPOS: At the last BCC?

COMMISSIONER VIGIL: Yes.

COMMISSIONER CAMPOS: I think before we even consider this motion we should have some information so we can consider the motion. I don't know if it's even in order to bring it up at this point.

COMMISSIONER VIGIL: Well, I think the reason why we are bringing it up is because we do have that 30-day period that need to actually bring an issue for reconsideration before the Commission and without the Commission voting for reconsideration, I don't know that we can know what the full merits of this case are.

COMMISSIONER CAMPOS: Well, I'd like to have some guidance from our Legal staff on this one. I just don't think I'm in a position to look at this.

MR. ROSS: Mr. Chairman, Commissioner Campos, actually our rules of order require that a motion for reconsideration be made at the next meeting.

COMMISSIONER CAMPOS: Simply a motion? Then the reconsideration would occur later?

MR. ROSS: It would occur later after the proper notice has been give and the case would essentially come back before you like nothing had happened. I don't know -- it's too bad there's no material in the packet for you to review. There was a large packet in the land use meeting. Maybe some land use staff can explain the case in brief terms so you can feel informed enough to vote on the motion.

COMMISSIONER CAMPOS: So you can bring it under Matters from the Commission? Is that the appropriate place to bring it?

MR. ROSS: Commissioner Campos, that's where we have been putting these on the agenda, just as a matter of clarity.

COMMISSIONER CAMPOS: Okay. I have a question for Ms. Vigil, who is the Land Use Director. What happened at the last BCC meeting on this case?

DOLORES VIGIL (Land Use Administrator): Well, the applicant had made her case --

COMMISSIONER CAMPOS: What were the votes? Just the votes.

MS. VIGIL: The votes were all in favor of the variance.

COMMISSIONER CAMPOS: There were three votes.

COMMISSIONER VIGIL: Actually, there were two in favor of the variance and one against. I believe Commissioner Sullivan voted against this.

MS. VIGIL: It was 3-0.

CHAIRMAN MONTOYA: Three-zero to grant the variance.

COMMISSIONER CAMPOS: And two absentees?

MS. VIGIL: Yes.

COMMISSIONER CAMPOS: Ms. Vigil, what was the issue at that meeting?

MS. VIGIL: It was a variance for a lot split to create another lot. The issue was that a permit was issued through our department and in looking at the information that was provided by the applicant the permit was issued – well, the information that was given to the permit desk was incorrect. So when she came to apply for the lot split, she already had the permitted structure on the property. The permitted structure did not meet the density, so she was asked to go through the variance procedure in order to clear that up and she also said that she did have a hardship, which was financial. Our staff did recommend to deny the variance, but it was approved and I think Commissioner Vigil had asked that we reconsider it for those merits.

COMMISSIONER VIGIL: And I also recall the vote being different. We'll have to look at the record. I believe Commissioner Anaya and I voted for the variance and Commissioner Sullivan voted against it. I'm not sure if that's –

MS. VIGIL: Mr. Chairman, according to my staff and our records, it was 3 for the variance. But we could check back on our records, but that's what we have. My understanding for the reconsideration right now is to vote whether or not to reconsider the case and we do have it on the agenda for July 11th and at that time the packet material will be in your packet for the reconsideration. That would be the land use meeting.

COMMISSIONER CAMPOS: Just to finish up, if it was 3-0? If it was 3-0 hypothetically then why are we asking for reconsideration at this point? Three-zero with two Commissioners absent, that's not a tie. I don't think that requires reconsideration, does it?

MR. ROSS: Mr. Chairman, Commissioner Campos, anyone voting in the majority on a particular question is entitled to make a motion to reconsider that action at the very next meeting.

COMMISSIONER CAMPOS: Anyone who voted no.

CHAIRMAN MONTOYA: Anyone in the majority.

COMMISSIONER CAMPOS: In the majority? So someone in the majority, Commissioner Vigil is proposing to – let's say there was a 3-0 vote allowing the variance. Commissioner Vigil wants us to reconsider so we deny the variance. Am I understanding this correctly?

COMMISSIONER VIGIL: So that the variance itself has an opportunity for a full hearing.

COMMISSIONER CAMPOS: So you're saying that you want to reconsider it, in other words we should turn it down?

COMMISSIONER VIGIL: I don't know that that would be the outcome after reconsideration, I'm just saying that the full merits of the case have not been heard, and it really - I think there's a factual difference here that we really need to get to and perhaps we need to look at the minutes because I do recall the votes being different and if that's not so, I have to totally rely on my recollection on that because it's failed me before, but I do not believe it was a unanimous 3-0 vote. I think there was some question about this hearing and I recall some of those questions being brought up, but ultimately, I do believe this is a case ripe for reconsideration.

COMMISSIONER CAMPOS: In other words, you're saying that now, you think that this might require reconsideration in order to reverse the decision?

COMMISSIONER VIGIL: I think the possibility of reversing the decision could be a part of the reconsideration but I can't say that that's what the outcome would be. I just believe that this case needs to be reconsidered.

COMMISSIONER CAMPOS: Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I don't remember what the vote was on this case, but just briefly, Dolores, what is the key issue that staff feels is changing at this point that would require the reconsideration?

JONATHAN SALAZAR (Review Specialist): Mr. Chairman, Commissioner Sullivan, there's nothing really that's changed. I believe that the reconsideration has come up because at the time that the applicant came in, she came in to divide her property and she basically said that she had two permitted homes on her property which is doing our research it turned out that one of the homes, one of the permits was issued through applicant misinformation. During the hearing that was kind of unclear and I think that nothing really changed. There's not a defined hardship in the case and I think that's why Commissioner Vigil wants it to be reconsidered.

COMMISSIONER SULLIVAN: I vaguely remember something in the material on this case, and I don't have the materials in front of me here that said that they staff had issued the permit in error. So I guess what you're getting at is was it a staff error, period, or was it a staff error based on fraudulent information that was provided by the applicant.

MR. SALAZAR: Commissioner Sullivan, the permit was actually issued through applicant misinformation. She had two pre-Code deeds. She consolidated the property in 1993, but she maintained the pre-Code deeds that she had got when she bought the property, which she used one of the pre-Code deeds to come in and applied for a permit, which if you have a pre-Code deed, the front desk doesn't require a recorded plat so she kind of snuck through the cracks. The issue I believe that Commissioner Anaya - he was in favor of it because she had been charged taxes on the property, for like she was paying for two properties, essentially, since she bought the property and after she consolidated and I think that was the thing that pushed it through.

But at that, staff, we sat down and had two meetings with the applicant. We asked her to define a hardship. She couldn't really. She just said she wanted to split it to how it was before, and when it came down to it, she threw out financial hardship which was what she brought the case forward with, but what it came down to was she wanted to split the property. She had been charged taxes for two pieces of property and she has two permitted homes on the property though one was issued through error.

COMMISSIONER VIGIL: I also think, Jonathan that there is some confusion as to whether or not this was a family transfer or not, or was that made clear to the applicant?

MR. SALAZAR: Commissioner Vigil, that was made clear to the applicant and that was actually an issue that was brought up on the case before which was pretty much the same deal, and that was brought up in the case before. The applicant thought that there was a family transfer but in actuality he was really going for just a land division. In this there was a bit of misinformation in the report regarding the acreage of the property. In the recommendation, the report stated that it was 12.94 acres when in all actuality it was .703.

COMMISSIONER VIGIL: That's correct. So I think those facts - do you recall?

COMMISSIONER SULLIVAN: I do recall that that was clarified at the meeting as a typo, but Mr. Chairman, I don't see that there's any reason not to bring this back if the staff feels that there's some unresolved issues. We did only have three Commissioners there at the time. I think that we have a policy - it's kind of interesting. We seem to have a policy that if something is turned down with not a full Commission, it automatically comes back. If something is approved with a skeleton Commission, as it were, it doesn't automatically come back. I've always questioned that theory. But nonetheless, if you have a majority, if you have a quorum, you have a Commission. You make a decision and the decision is done. I never have agreed with that interpretation of our rules of order.

But in any case, it seems to me if there are some technical issues that we need to discuss on this and apparently, according to staff I voted in favor of it, then we should come back and rehear it.

MR. SALAZAR: Actually, Mr. Chairman, I'm sorry, Commissioner Sullivan, an issue with the case as well was in a previous case, the County Attorney had said that if a permit is issued through staff oversight, that it's like the permit never existed. In this case, that was something that wasn't brought to the attention of the County Attorney and wasn't brought to the attention of the Commission, so it was like she had two permitted homes that she was paying property taxes on both of them and the Commission went ahead and divided the property.

CHAIRMAN MONTOYA: So what are the wishes of the Commission?

COMMISSIONER VIGIL: Move to approve, to reconsider.

COMMISSIONER CAMPOS: I'll second because it seems that there may be serious error in this case.

CHAIRMAN MONTOYA: Okay, motion, second. Further discussion?

The motion to reconsider CDRC Case #V 06-5110 passed by unanimous [4-0] voice vote.

COMMISSIONER SULLIVAN: Mr. Chairman, did you want to do other Matters from the Commission or do you want to do it after lunch?

COMMISSIONER CAMPOS: Let's do it after lunch. I'd like to take lunch around noon.

X. COMMITTEE APPOINTMENTS/REAPPOINTMENTS

B. Appointment of John Berkenfield as Member at Large to the Santa Fe County Lodgers Tax Advisory Board

TERESA MARTINEZ (Finance Department): I would like to recommend Mr. John Berkenfield for the current vacant position on the Lodgers' Tax Advisory Board. He is currently serving as the director of planning and development at El Rancho de las Golondrinas, and he comes to us with 30+ years of experience in the marketing and communications world. So he would be representing the general public, one of the positions on the five-member board. He would basically be replacing Ben Serber.

COMMISSIONER SULLIVAN: So moved.

CHAIRMAN MONTOYA: Motion by Commissioner Sullivan.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Second, Commissioner Campos. Discussion?

The motion to appoint John Berkenfield to the Lodgers' Tax Board passed by unanimous [5-0] voice vote.

XI. CONSENT CALENDAR

A. Budget Adjustments

1. Resolution No. 2006-107. A Resolution Requesting a Budget Increase for the Edgewood Fire District to Budget a State Forestry Reimbursement in the Amount of \$1,284.75 for the Barton Road Fire (Fire Department)
2. Resolution No. 2006-108. A Resolution Requesting an Increase to the EMS Health Care Fund (232) / Health Services Division to Budget Revenue Received from St. Vincent Hospital for Their "Self Funding" Portion of the Sole Community Provider Program / \$661,567 (Finance Department)
3. Resolution No. 2006-__ . A Resolution Requesting an Increase to the General Fund (101) from General Fund Cash, to be

Transferred to the GOB Debt Service Fund (401) to Accommodate a New Bond Payment Schedule Associated with the GOB 2005 Refunding Bond Series / \$199,670 (Finance Department)

WITHDRAWN

4. **Resolution No. 2006-109. A Resolution Requesting an Increase to the General Fund (101) to Budget Prior Fiscal Year 2005 Cash Balance for a Contract for Vista Grande Library / \$10,000 (County Manager's Office)**
 5. **Resolution No. 2006-110. A Resolution Requesting a Budget Increase to the Alcohol Programs Fund (241) / Local DWI Program to Realign the Fiscal Year 2006 Budget with the Total Distribution Amount Provided by NM Department of Finance and Administration \$68,966 (Health & Human Services Department)**
 6. **Resolution No. 2006-111. A Resolution Requesting an Increase to the General Fund (101) to Budget Revenue Received for the Public Improvement District Proposal on Turquoise Trail / \$10,000 (Legal Department)**
- B. Professional Service Agreements**
1. **Request Authorization to Execute Amendment No. 3 for a Professional Services Agreement for Microfilming Services on Contract No. 24-0011-C; to Extend the Term From July 1, 2006 Through June 30, 2007 (County Clerk) ISOLATED FOR DISCUSSION**
 2. **Request Authorization to Execute Amendment No. 2 to Professional Services Agreement No. 25-111-MG for Vista Grande Library, to Extend the Term Through June 30, 2007 and Increase the FY 2006 Funds by \$15, 000 (County Manager)**
 3. **Request Authorization to Award a Professional Services Agreement to the Highest Rated Offeror in Response to RFP No. 26-0124-MG/RH to Provide Classification Compensation Consultation \$45,000 (County Manager)**
 4. **Request Authorization to Award a Professional Services Agreement to the Sole Responsive Offeror in Response to RFP No. 26-0727-PFMD/RH to Provide Architectural Engineering Service for the El Rancho Community Center Additions (Project & Facilities Management Department)**
 5. **Request Authorization to Execute Amendment No. 2 to Professional Services Agreement No. 25-143-YDP with Correct RX for Pharmaceutical Supplies and Services, to Extend the Term Through June 30, 2007 and Increase the Current Contract Amount by \$35,000 (Corrections Department)**

6. **Request Authorization to Execute Amendment No. 3 to Professional Services Agreement No. 25-133-YDP with Anthony Mayfield, DDS for Dental Services at the YDP, to Extend the Term Through June 30, 2006 and Increase the Current Contract Amount by \$1,732.75 (Corrections Department)**
7. **The Youth Development Program Requests Authorization to Enter Into Amendment No. 1 to Agreement No. 23-153-YDP, A Professional Services Agreement with Aimee Zagon, PA, to Provide Medical Physician Assistance Services to the Youth Development Program to Increase Compensation in the Amount of \$61,814.74 Through the Contract Expiration of October 31, 2006 (Corrections Department)**
8. **Request Authorization To Execute Amendment No. 1 to Extend the Term of Services Agreement No. 25-0119-FD, Indefinite Quantity Price Agreement for Rescue Equipment with Holmatro Incorporated Through February 22, 2007 (Fire Department)**
9. **Request Authorization to Enter into Amendment No. 5 to Agreement No. 25-0094-HHSD, a Professional Services Agreement with Presbyterian Medical Services for Substance Abuse and Mental Health for the Care Connection Project, to Extend the Term of the Agreement for Two (2) Months Term / \$32,453.90 (Health & Human Services Department)**
10. **Request Authorization to Execute Amendment No. 1 to Professional Services Agreement No. 20-04-11-IH with Las Cumbres Learning Services for Parent-Infant Mental Health Services to Santa Fe County Residents, to Extend the Term of the Contract Through June 30, 2007 and Increase the Current Contract Amount by \$178,000 (Health & Human Services Department) ISOLATED FOR DISCUSSION**
11. **Request Authorization to Execute Amendment No. 1 to Professional Services Agreement No. 26-0414-HHSD/MS to Ron Hale & Associates for Consulting Services to Prepare the Health Plan Update, to Extend the Term of the Contract Through August 31, 2006 (Health & Human Services Department)**
12. **Request Authorization to Execute Amendment No. 3 to Professional Services Agreement No. 25-0063-DW with Zana Burns for Facilitation of the Substance Abuse Program for Teen Court Services, to Extend the Term Through June 30, 2007 and Increase the Current Contract Amount by \$4,200 (Health & Human Services Department)**
13. **Request Authorization to Execute Amendment No. 2 to**

- Professional Services Agreement No. 25-0005-DW with Santa Fe Community College to Coordinate and Implement the Curriculum Infusion Program, to Extend the Term Through June 30, 2007 and Increase the Current Contract Amount by \$10,000 (Health and Human Services Department) WITHDRAWN**
14. **Request Authorization to Execute Amendment No. 2 to Professional Services Agreement No. 25-0004-DW with St Vincent Hospital for the Youth Drinking Driver Visitation Program, to Extend the Term Through June 30, 2007 and Increase the Current Contract Amount by \$10,000 (Health & Human Services Department)**
 15. **Request Authorization to Execute Amendment No. 5 to Professional Services Agreement No. 24-0077-MG with Iron Mountain Records Management for Storage of Santa Fe County Records, to Extend the Term Through October 31, 2006 and Increase the FY 2006 Funds by \$20,000 (Project & Facilities Management Department)**
 16. **Request Approval of an Amendment No. 2 to Professional Services Agreement for the Thornton Ranch Open Space Property Management Plan / \$137,672.66 (Project & Facilities Management Department) ISOLATED FOR DISCUSSION**
- C. Miscellaneous**
1. **Request Authorization to Enter into Agreement with Los Alamos County for the Incarceration, Care and Maintenance of Juveniles in Custody at the Youth Development Program (Corrections Department)**
 2. **Request Authorization to Enter into Agreement with Rio Arriba County for the Incarceration, Care and Maintenance of Juveniles in Custody at the Youth Development Program (Corrections Department)**
 3. **Request Authorization to Enter into Agreement with Colfax County for the Incarceration, Care and Maintenance of Juveniles in Custody at the Youth Development Program (Corrections Department) ISOLATED FOR DISCUSSION**
 4. **Request Authorization to Enter into Agreement with Sandia Pueblo for the Incarceration, Care and Maintenance of Juveniles in Custody at the Youth Development Program (Corrections Department)**
 5. **Request Authorization to Enter into an Agreement for Inmate Confinement of Rio Arriba Adult Inmates at the Santa Fe County Adult Detention Facility (Corrections Department)**

6. **Request Authorization to Enter into an Agreement for Inmate Confinement of Los Alamos Adult Inmates at the Santa Fe County Adult Detention Facility (Corrections Department)**
7. **Resolution No. 2006-112. A Resolution Authorizing Distribution of Surplus and Obsolete Fixed Assets in Accordance with State Statutes (Finance Department)**
8. **Request Approval of a Time Extension to the Joint Powers Agreement Between the City of Santa Fe and the County for \$350,000 in Capital Funds for Renovation of the CARE Connection Sobering Center (Health & Human Services Department)**
9. **Request Approval of Community DWI (CDWI) Grant Agreement with the New Mexico Department of Transportation Traffic Safety Bureau in the Amount of \$44,257 for FY2007 (Health & Human Services Department) WITHDRAWN**
10. **Request Authorization to Execute Amendment No. 2 to Memorandum of Understanding (MOU) No. 25-0021-DW with US Department of the Interior - Bureau of Indian Affairs (USD.I-BIA) for Support of the USD.I-BIA Overtime Expenditures While Supporting the DWI Program to Extend the Term of the Contract Through June 30, 2007 and Increase the Current Contract Amount by \$3,000 (Health & Human Services Department)**
11. **Request Authorization to Execute Amendment No. 2 to Memorandum of Understanding (MOU) No. 25-0022-DW with the Santa Fe Police Department for Support of City's Overtime Expenditures While Supporting the DWI Program, to Extend the Term of the Contract Through June 30, 2007 and Increase the Current Contract Amount by \$7,000 (Health & Human Services Department)**
12. **Request Authorization to Execute Amendment No. 2 to Memorandum of Understanding (MOU) No. 25-0024-DW with Pojoaque Tribal Police for Support of the Tribal Police's Overtime Expenditures to Support the DWI Program, to Extend the Term Through June 30, 2007 and Increase the Current Contract Amount by \$3,500 (Health & Human Services Department)**
13. **Request Authorization to Execute Amendment No. 2 to Memorandum of Understanding (MOU) No. 25-0026-DW with Tesuque Tribal Police for Support of the Tribal Police's Overtime Expenditures to Support the DWI Program, to Extend the Term Through June 30, 2007 and Increase the Current Contract Amount by \$3,000 (Health & Human Services Department)**

14. **Request Authorization to Enter into a Grant Agreement with the Department of Finance, State of New Mexico, Local Government Division Project No. 07-X-I-G-27 Detox Grant for the DWI Program / \$ 300,000 (Health & Human Services Department)**
15. **Request Authorization to Enter into a Grant Agreement with the Department of Finance, State of New Mexico, Local Government Division Project No. 07-D-J-G-27 DWI Grant for DWI Program / \$40,000 (Health & Human Services Department)**
16. **Request Authorization of MOA Between the NM Department of Transportation, North Central Regional Transit District (NCRTD) and Santa Fe County to Pursue a Six Month Demonstration of Eldorado Shuttle Bus Transit Service Project (Land Use Department)**
17. **Request Approval to Award Construction Agreement No. 26-1403-UT/RH to the Lowest-Cost, Responsive Bidder, S&S Joint Ventures, for Construction Services Related to the Agua Fria Community Center Water System Project / \$252,751.86 (Project & Facilities Department)**
18. **Request Approval to Award Construction Agreement No. 26-0817-FD/RH to the Lowest-Cost, Responsive Bidder for Construction Services Related to the Hondo Fire Station Water Tank Farm Project (Project & Facilities Management Department)
WITHDRAWN**
19. **Request Approval to Enter into a Microsoft Enterprise Agreement with ASAP Software in the Amount of \$120,960.95 for Countywide Desktop and Server Licensing (Project & Facilities Management Department)**
20. **Recommendation to the Board of County Commissioners from the County Open Land and Trails Planning and Advisory Committee (COLTPAC) Regarding Acquisition of One Property Including Approximately 1,350 Acres in the Ortiz Mountains Under the Urgent Project Process (Project & Facilities Management Department) ISOLATED FOR DISCUSSION**

CHAIRMAN MONTOYA: Motion to approve the Consent Calendar, minus Commissioner Sullivan's items and those items withdrawn?

COMMISSIONER SULLIVAN: So moved.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: Motion and second.

The motion to approve the Consent Calendar with the exception of those items

isolated for discussion (XII B. 1, 10 and 16, and C. 3 and 20) and withdrawn items (XII. A.3, B. 3 and 13, and C. 9 and 18) passed by unanimous [4-0] voice vote.

CHAIRMAN MONTOYA: So can we do Matters from the Commission in five minutes or do you want to break now?

COMMISSIONER VIGIL: I have no matters unless Commissioner Sullivan has plenty. Let's wait till afterwards.

CHAIRMAN MONTOYA: Okay, so when we come from lunch at 1:30 – recess till 1:30.

[The Commission recessed from 11:55 to 1:55.]

CHAIRMAN MONTOYA: I'd like to call the meeting back to order.

IX. OTHER MATTERS FROM THE COMMISSION

COMMISSIONER SULLIVAN: One reason why I wanted to wait for Commissioner Vigil is I wanted to ask what you thought about the August meeting, the admin meeting in August.

CHAIRMAN MONTOYA: I think we need to change it.

COMMISSIONER SULLIVAN: I do too. August is a month that has five Tuesdays in it and that last week is the week before Labor Day. I'm going to be out of state, so I just wanted to throw out the possibility of having August administrative meeting on the 22nd instead of the 29th.

CHAIRMAN MONTOYA: Actually, I was suggesting the meeting on August 8th.

COMMISSIONER SULLIVAN: Oh, you were working on that one.

CHAIRMAN MONTOYA: Yes. So I think there's a conflict with that one as well.

COMMISSIONER SULLIVAN: Where did you want to move that one to?

CHAIRMAN MONTOYA: Maybe we could do it the following week. What's that? The 15th?

COMMISSIONER SULLIVAN: That'd be the 15th. That's okay with me. My conflict is on the 29th. Or we could do it on the 1st? Did you want to do it on the first?

COMMISSIONER CAMPOS: If Commissioner Sullivan's got a conflict, let's see what's on the agenda.

COMMISSIONER SULLIVAN: I just wanted to give notice to any land use applicant. What about August 1st instead of the 8th?

CHAIRMAN MONTOYA: I could do the 1st.

COMMISSIONER CAMPOS: I can do the 1st or the 15th.

COMMISSIONER SULLIVAN: I can do either one. I just wanted to move the other to the 22nd and not have them just a week a part. So that's a suggestion.

Commissioner Vigil are you flexible in August?

COMMISSIONER VIGIL: Yes. Except for the 4th through the 8th.

CHAIRMAN MONTOYA: You'll be gone. Commissioner Anaya will be gone. I'll be gone.

COMMISSIONER SULLIVAN: No, we shouldn't do that. We should move that one. How about August 1st and August 22nd in August?

COMMISSIONER CAMPOS: Is it the second and the fourth or the second and the last?

COMMISSIONER SULLIVAN: It's the second and the last.

COMMISSIONER CAMPOS: So right now it would be the 8th and the 29th, right?

COMMISSIONER SULLIVAN: Correct.

COMMISSIONER CAMPOS: And you're saying move it to the 1st and the 22nd.

COMMISSIONER VIGIL: I'm fine with that.

COMMISSIONER SULLIVAN: We can probably check with Commissioner Anaya and see if he can hack that.

COMMISSIONER CAMPOS: That's okay.

COMMISSIONER SULLIVAN: Okay. So that's my first item -

COMMISSIONER CAMPOS: If we can get everybody on board.

COMMISSIONER SULLIVAN: If we can get everybody on board for that.

CHAIRMAN MONTOYA: The 1st and the 22nd instead of the -

COMMISSIONER SULLIVAN: 8th and the 29th. And that let's people who want to take off for Labor Day take off.

COMMISSIONER VIGIL: And Mr. Chairman, you will be here for the July meetings?

CHAIRMAN MONTOYA: Yes. July 11th and 25th. Yes.

COMMISSIONER SULLIVAN: No problem there. Okay then Mr. Chairman, if that's okay, then just a couple of other quick items. Gerald, do we have Stan here.

MR. GONZALEZ: Steve stepped out for a minute, Commissioner Sullivan. He'll be right back.

CHAIRMAN MONTOYA: Stan Holden?

COMMISSIONER SULLIVAN: The Chief isn't here. Where'd he go?

CHAIRMAN MONTOYA: Steve Moya?

COMMISSIONER SULLIVAN: There he is. Steve, I talked to Stan last week or the week before last about the problems we had with the automatic dialer at the RECC. He said he was going to give us a report on that. Do you have a report on that?

STEVE MOYA (Fire Department): Actually, I talked to Becky Martinez and she wasn't aware she was going to give a report. She has something ready for you guys but I don't know when she can - I could probably call her and she'll come down and

give a report on it if you'd like.

COMMISSIONER SULLIVAN: Well, it's kind of short notice. Is there something that she has in writing that she could just put in the Commissioner boxes?

MR. MOYA: I could find out for you.

COMMISSIONER SULLIVAN: Okay. Because that seemed like – it makes me nervous that it will only dial 639 numbers or something like that.

MR. GONZALEZ: Mr. Chairman, Commissioner Sullivan, the information that I had at the time or shortly thereafter was that there were two issues. One was that some of the messages that were sent out under the dialing system came through garbled. That was issue number one. Issue number two seemed to be a software/programming problem of some kind, that after a certain time it sort of timed out, and so it dropped off dialing the messages so they had to go in and do some reprogramming in order to get it to continue. But I'm sure Becky can provide a written report that would address both of those issues.

COMMISSIONER SULLIVAN: Apparently it only got through the B's and then it quit.

MR. MOYA: It only programmed 600. When Marty Black programmed it, it only programmed 600 numbers, and they changed it. She did have a report ready but she didn't see it on the agenda so she wasn't sure if she needed to come down or not. But she did have something prepared.

COMMISSIONER SULLIVAN: Okay, well, if we could a) find out what the problem was and b) find out what we're doing to correct it, so if we do have an emergency escape, whatever, where we need to call a lot of people and notify them, maybe it's fortuitous that this happened and we got a chance to test it out.

MR. MOYA: I'll talk to her and have her report back.

COMMISSIONER SULLIVAN: Thank you very much. Another item I had, Mr. Chairman, was about more than six months ago I asked where we were on our water monitoring and I believe Dr. Wust said that it had been taken over as a part of his department's functions. We approved an FTE for that more than two years ago and I wonder – I don't want to burden anyone with it right now but I wonder if we could get a report ready for the next meeting or the next administrative meeting on where we're going and what our progress has been on monitoring those use restrictions on subdivisions.

MR. GONZALEZ: Be glad to do that, Mr. Chairman, Commissioner Sullivan.

COMMISSIONER SULLIVAN: And then the last request I had was I mentioned – and one of our budget adjustments here in the materials is for a fee being paid by the developer who is requesting a public improvement district. And I asked if we could check into whether the public is being notified by virtue of the contractor sale or disclosure documents that in fact the builder is contemplating a public improvement district. This is a big problem that we ran into in Rancho Viejo. A number of purchasers claim that they were not either notified or they were notified with inaccurate documents

about having to pay very large assessments for the public improvement district. Have we been able to get a hold of any of their documents that relate to their land sales out there?

Could we put that on the list of things to do because they are selling homes out there now and at the same time we are approving budget adjustments for a public improvement district. I have this sinking feeling that the people who are buying those homes do not know that they will very soon be paying double the tax that anyone else pays out there. And if that happens, we're going to be held accountable for not notifying them, or we're at least going to be blamed. Whether we're legally liable is a totally different issue.

MR. GONZALEZ: Mr. Chairman, Commissioner Sullivan, the fee that is on for Commission review and approval is the one that relates to the policy that we put in place that requires any entity that's coming in to apply for a public improvement district to put up front the amount that we would charge for legal review. So there's that piece of it.

COMMISSIONER SULLIVAN: I understand what the fee is. My issue is that this fee tells us that there is a developer who is coming forward with a public improvement district. This Commission has not yet approved any public improvement district for that Thornburg development. In the interim, in the meantime, that developer is selling houses and land on that property, through, I assume, contracts to sale and other legal documents. Now, if this Commission were to approve a public improvement district, we would tax that whole area, including the people who have bought property there. My question is has this been disclosed to them that they may be buying property, the real estate tax on which may be double that of the average property around them. That's exactly the problem that occurred in Rancho Viejo and still occurs in those first units. People still call me about why is my tax twice as much as my neighbor's. And I have to go through the same response each time.

So I'm asking that we get ahead of this problem and we ask the developer for copies of their sale documents, their contracts of sale and disclosure documents, and by doing that they will at least say in those documents that they have applied or they intend to apply to the County for a public improvement district, and if approved it would have such and such an impact on the purchasers taxes.

MR. GONZALEZ: Mr. Chairman, Commissioner Sullivan, I don't know where we are in that process but I'll make sure that we get a report back to you on what we've found out with respect to the disclosure documents.

COMMISSIONER SULLIVAN: I'm just concerned that we have a lot of sales going on out there and people are not aware that this is coming. It's their decision whether to purchase or not, but they need all the facts.

And the last thing, Mr. Chairman -

COMMISSIONER CAMPOS: Mr. Chairman, could I ask a question.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Commissioner Sullivan, what property or project are you talking about? The Thornburg -

COMMISSIONER SULLIVAN: It's the Thornburg development that's located just adjacent to the Allsups on Route 14.

COMMISSIONER CAMPOS: And who owns this?

COMMISSIONER SULLIVAN: It's owned by the Thornburgs.

COMMISSIONER CAMPOS: What's it called?

COMMISSIONER SULLIVAN: It's being built now by -

CHAIRMAN MONTOYA: Longford Homes.

COMMISSIONER CAMPOS: Oh, it's Longford.

COMMISSIONER SULLIVAN: It's the first phase of several phases which, as I recall, we approved a master plan for 600 or 800 units or something like that.

COMMISSIONER CAMPOS: Has Longford applied to the County? Have they put their money down?

COMMISSIONER SULLIVAN: Yes. They put their money down and you approved on the Consent Calendar today putting that \$10,000 into a budget category. This was an issue in a prior meeting as well.

COMMISSIONER CAMPOS: And you're suggesting that - they're selling homes presently, lots, that there should be some notice to any prospective purchaser.

COMMISSIONER SULLIVAN: Correct.

COMMISSIONER CAMPOS: How a PID may affect them.

COMMISSIONER SULLIVAN: Exactly. Financially. As a part of their purchase disclosures.

COMMISSIONER CAMPOS: Makes sense.

COMMISSIONER SULLIVAN: And maybe they're doing it. I'm not saying that they're not doing that. I'm just worried that they should be doing it and I'd like some documentation.

CHAIRMAN MONTOYA: Some verification.

COMMISSIONER SULLIVAN: Exactly. That's all I had, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Commissioner Vigil. Commissioner Campos.

COMMISSIONER CAMPOS: I don't think Commissioner Sullivan is done.

COMMISSIONER SULLIVAN: No, I'm done. Except I guess we should say happy birthday to Laura.

CHAIRMAN MONTOYA: I had a request come in this morning from Gary Roybal. He's the one that came regarding the vending machines and was supposed to have gotten a response from Mario Gonzales and he's still waiting for a response. I think that's been about a month. I had a question on the budget that was discussed I guess last week. It has \$96,000 in the minus for Commissioners. I was just curious if anyone could maybe explain that to me.

MR. GONZALEZ: First of all, backing up just a little bit, there was a letter that went out from the employee benefits committee to Mr. Roybal which just came across my desk, so we'll provide you with a copy of that.

CHAIRMAN MONTOYA: Today?

MR. GONZALEZ: No, I think it went out on Thursday or Wednesday of last week. Maybe even a little earlier than that. I'll get you a copy of that so that you have that for reference. With respect to that item, my recollection is and Paul Griffin is the one who tried to explain it when we had our prior meeting. I think it was a transfer from the Commissioners' side of the budget to the County Manager's side of the budget, was what that money was, is my best recollection. But maybe Teresa has a clearer picture of it.

CHAIRMAN MONTOYA: Is that our discretionary fund?

MR. GONZALEZ: No. It wasn't discretionary. We don't tinker with that part.

CHAIRMAN MONTOYA: If you could just maybe find out for me and then give it back to me. And then the other thing I received, I guess it was from our County Clerk was a letter from Esther Artino describing the potential disaster that could happen if we were to be hit with a disaster regarding our archives and storage of our records. I think we have the documentation here as to an assessment that was done by someone. Valerie, who did that assessment?

VALERIE ESPINOZA (County Clerk): Daphne did.

CHAIRMAN MONTOYA: Daphne? Okay. And there are a number of recommendations that are already here. What are we doing in regard to this? God forbid there would be a disaster but I'm sure a lot of people have said that and then you just never know what could potentially happen in terms of our antiquated and lack of significant storage facility.

MR. HIATT: Mr. Chairman, the Clerk and I have conversed a number of times. She has made me aware of this months ago and we've undertaken to try and phase the scanning of those documents, microfilming and scanning, so that we can take care of them over time. It wasn't included in this year's budget but Teresa and I are working on trying to find the money in the budget as time goes on. So the first phase is about \$8,000. The Clerk has money in the budget to take care of that one. Phase 2 will be the probate records in the basement. We'll try to find the money very soon to take care of that, and then the third phase is a much larger project involving deeds and titles and that will be much more expensive and I can't tell you where that money is coming from now, but we're looking and we're taking it all very seriously.

CHAIRMAN MONTOYA: Okay. Valerie.

MS. ESPINOZA: Mr. Chairman, I'm sure it's been every Clerk's dream to get this project done but I would like to see this occur during my administration because it is very critical. There is no adequate fire protection in place should those documents get destroyed. They're historic documents and right now we have had some leakage in the basement so that's destroying some of those permanent records that we need to get archived and shipped out of this office.

We also need to provide space for our customers. We have absolutely no space. Should I be able to do this we will have a place to set up for them, but again, these

documents really need to be scanned and removed and sent to the state archives.

CHAIRMAN MONTOYA: Gerald, is this something that potentially maybe would be a legislative request that would -

MS. ESPINOZA: We did seek funding from the legislature and the allocation was supposed to be for \$75,000 out of capital outlay but in the end it never showed up on the dispersal request.

CHAIRMAN MONTOYA: Because I don't recall it being on our priority list.

MR. GONZALEZ: Mr. Chairman, as far as I know, the first notification that I had was the letter, the copy of the letter that I received from Ms. Artino. Now, I know that the state archives has an ongoing program to go in and I assume this is part of the program. They go in to all the counties periodically, inventory the records they have and make suggestions about how to safeguard the record. Some records may already be at state archives. I know certainly for other counties, Dona Ana and a number of others, they actually have taken charge of the safekeeping of those records and provided microfilm copies to the counties. I don't know if we have any records that are in that category or not. But I would encourage us to continue to work cooperatively with them because they're the experts in the field and I'm assuming it was somebody from state archives who came in and helped with the inventory that we did, because that's normally a function that they perform.

When I sat on the public records Commission which is basically the governing authority for part of the archival functions over there I know that that was something that they tried to work with counties and other local governments cooperatively in order to find the funding to do the microfilming and the conservation of the records. And I don't know what conversations the County Clerk has had with them but maybe she can help us with that a little bit.

MS. ESPINOZA: There's also a retention frame that you have to keep the records. But we are working with archives to remove the documents that we are able to remove. But this is a whole different project that we're proposing and that is to scan all the documents dated way back and get them out of our office, including the probate files that are stored in our basement. And you'll see they're piled high against the wall. And they're getting worn and abused and taken and removed from our office. And I've installed cameras but it's hard to monitor them all day long to see who's taking the documents and removing them from the permanent file.

CHAIRMAN MONTOYA: So Jack, on that three-tiered description that you gave, what's the time line on that?

MR. HIATT: I think the time lines on the first two phases are relatively short because it's not a great deal of money. On phase 3, we're going to have to work within the existing budget for 07 and try to find bits and pieces to phase together because it's not in the proposed budget that the Commissioners approved all ready. But that doesn't mean we can't find it. I would guess - I'm hopeful that we can accomplish this before the

end of the next fiscal year. So this time next year I'm hoping that we can be through.

CHAIRMAN MONTOYA: With all three phases?

MR. HIATT: All three.

CHAIRMAN MONTOYA: So that may include a special request then to the legislature for that funding?

MR. HIATT: Mr. Chairman, it's certainly worth asking. I'm not sure that that's going to be on the radar screen of the legislature or the governor and I'm sure every Clerk in all 33 counties are asking for the same thing.

CHAIRMAN MONTOYA: Okay. All right. And then the last thing that I had was, Gerald, one of the discussions that was had past weekend was on immigration reform. And the National Association of Latino Elected Officials have some proposed resolutions for different elected bodies. Maybe you could look through there and see if we could just propose one to this Commission for their consideration.

MR. GONZALEZ: I'd be glad to do that, Mr. Chairman.

CHAIRMAN MONTOYA: And that is all that I have.

XI. B. 1. Request Authorization to Execute Amendment No. 3 for a Professional Services Agreement for Microfilming Services on Contract No. 24-0011-C; to Extend the Term From July 1, 2006 Through June 30, 2007 (County Clerk)

COMMISSIONER SULLIVAN: Mr. Chairman, I think we can dispose of most of these fairly quickly. Perhaps not. This item was confusing to me. It has to do with a request from the Clerk's Department to extend a professional services agreement and maybe the Clerk can explain this to me. Do you have the item?

MS. ESPINOZA: This is the same vendor that would be doing a portion of our scanning. I understand the contract is up and Marie can explain the contract section of it. I'm open to competition and opening it up to other vendors but this is a vendor that's proposed to do our scanning and who's currently working with the entire County PDS to provide services to our office.

COMMISSIONER SULLIVAN: Yes, I haven't seen any - I may have missed some - open solicitations from the Clerk's office and I would encourage of course that we try to get competitive bids for these documents, but notwithstanding that, it says the original compensation is not to exceed \$70,000 per year, and this is a request for an increase in the amount of \$45,000 for 2007 funds. So does this mean that this year's is \$45,000, or this year's is \$45,000 more than the \$70,000? Could you explain how that works?

MARIA SANCHEZ (Procurement Manager): Good afternoon, Mr. Chairman, Commissioner. Looking at that amendment, we're on the last year of that particular agreement. It was set out for an IFB back in 2004. We are on the last leg of this

contract with PDS. The quote that was given to them at the time of the contract execution was for the amount of \$45,000 per year. What services they're currently providing, they come in and do a pick-up every week and they take the items to go get micro-fiche. So I understand that those items might – this has nothing to do with the previous conversation of archived documents we're trying to save.

Again, this is on the last year, so the \$45k is based on what the agreed upon amount is. So the contract maximum, we're asking for \$45,000 to conduct 2007 record archiving on micro-fiche. What's going to happen is between now and probably the beginning of the year our office will be doing an IFB to see if we can get a more competitive price to take care of this portion for the Clerk's office.

COMMISSIONER SULLIVAN: And what is the \$70,000?

MS. SANCHEZ: My confusion is that on the \$70,000, I'm not seeing where it is.

COMMISSIONER SULLIVAN: We don't have the contract in front of us. We just have a one-page memorandum from Trudy Lawrence, Teresa Martinez and Maria Sanchez to the Santa Fe County Board of County Commissioners.

MS. SANCHEZ: Okay, the amendment should read, and not knowing what status Trudy had submitted that into the BCC to include in your package. Amendment one allowed for the agreement to get through during the period of 2005. Amendment two for this particular contract went ahead and updated the changes and there's was funding, based on what I have in front of me, for fiscal year 2004, \$55,401 was allotted to support this contract for their services. In fiscal year 2005, \$30,191 was given to that contract or to that contractor for services. For fiscal year 2003, the amount of \$23,350 was allotted for 2006. Based on the estimation of the remaining amount that has to go through the term of the contract, they're estimating that the cost will be \$45,000. So the total amount that I'm looking at on the contract amendment is \$153,942.

So I apologize. My confusion is not knowing where the \$70,000 is coming into play.

COMMISSIONER SULLIVAN: Our document calls for an increase of \$45,000, not \$153,000. So if we paid this firm \$23,000 last year, is it anticipated that we have twice the amount of work this year, or where did the \$45,000 come from?

MS. SANCHEZ: Let me see if I can get somebody from the Clerk's office downstairs about the amount of the amendment.

COMMISSIONER SULLIVAN: \$153,000 – are we on the same contract here?

MS. SANCHEZ: The maximum amount is the \$153,000, Commissioner Sullivan. Because it's an incremental contract, the amount that I gave you is based on first year, second year, third year. The amount that they are requesting in this amendment is \$45,000. The amount of \$153,942 is the maximum of a four-year contract term.

COMMISSIONER SULLIVAN: Okay, but we haven't spent anywhere near that. Last year we spent \$23,000.

MS. SANCHEZ: Yes, we did. And I can get a copy of the amendment for you.

COMMISSIONER SULLIVAN: So my question is what are we doing this year? Where did the \$45,000 come from? Is there a proposal from the contractor? Are we hauling away twice as many documents to storage this year as we did last year or what's the difference?

MS. SANCHEZ: This is the amount that was given to me by Teresa Montes, who was the accounting clerk in the Clerk's office who has just moved to be in my department as a buyer and I think that was based on the amount of money they had allotted in last year's purchase order that was dated 9/01/05. She had informed me that the amount of \$45,000 would cover this year's charges. So I take it that the amount of services that's being billed to the Clerk's office is based on the volume of the amounts or the items that need to be micro-fiched.

COMMISSIONER SULLIVAN: Okay, so what you're saying is your request for \$45,000 is what's left in the maximum? In other words, we're currently – the \$45,000 would take us up to the \$153,000 maximum? So that's how we determined this contract amount?

MS. SANCHEZ: Yes.

COMMISSIONER SULLIVAN: It would seem a better way to do it would be to determine what the scope of work was.

MS. SANCHEZ: Again, based on our request in the Purchasing Division where we get the requests from the departments they're basing it on information that they're going with, not only based on their budget for that particular year, but they're also basing it on the amount of volume that they have on historical. Again, this was provided to me by Teresa Montes, that they felt they'd have the \$45,000 to cover any micro-fiche that would get done during this last year and based on what their work load was last year. And I apologize Teresa is not here.

COMMISSIONER SULLIVAN: And do we know what the \$70,000 is? No.

MS. SANCHEZ: I apologize.

CHAIRMAN MONTOYA: Do you want to table it?

COMMISSIONER SULLIVAN: Let's just table this. I don't want to keep the Commission. Can this hold for a couple weeks? Is this an emergency or not?

MS. SANCHEZ: That would have to be the Clerk's decision making because again, we're dealing with just the amendments that come up at the end of the fiscal year and that's what's in my office, is a lot of the amendments to amend their services.

MS. ESPINOZA: Chairman Montoya, Commissioner Sullivan, if you wish, it can be tabled.

COMMISSIONER SULLIVAN: Move to table.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: Motion and second.

The motion to table the issue passed by unanimous [4-0] voice vote.

CHAIRMAN MONTOYA: It will be tabled to the next meeting. [See page 47 for continuation,]

- XI. B. 10. **Request Authorization to Execute Amendment No. 1 to Professional Services Agreement No. 20-04-11-IH with Las Cumbres Learning Services for Parent-Infant Mental Health Services to Santa Fe County Residents, to Extend the Term of the Contract Through June 30, 2007 and Increase the Current Contract Amount by \$178,000 (Health & Human Services Department)**

COMMISSIONER SULLIVAN: Mr. Chairman, this is a similar question where I couldn't understand again. We have a one-page memorandum. We're extending a contract with HAT/KD for parent-infant mental health services for another year, and we're increasing - amendment number one increased the contract by \$40,000 and amendment number two which is in front of you today would increase the contract by \$178,000. So I was wondering what - that seems to be a four-fold increase in the services and I didn't see a scope here or a justification and I wondered what suddenly the change was in this particular contract for mental health services.

GREG SMITH (Healthcare Assistance): Mr. Chairman, Commissioner Sullivan, this is the Las Cumbres contract which is covered through the MOA agreement with the hospital. At the initial start of this, at the execution of this contract last year at this time the hospital was only making available \$138,000 at the time. And I believe it was February of this year when amendment number one came about. The hospital added that additional \$40,000 back to the contract where we increased the contract and did an increase to this fiscal year to add \$40,000 which comes up through the \$178,000.

So the request here is to keep that \$178,000 for fiscal year 07 and at the dollar amount of \$178,000.

COMMISSIONER SULLIVAN: Okay. That helps explain it. Now, is this all - are these all funds out of the County general fund or are these MOA funds? Because we don't have an amendment to our MOA right now.

MR. SMITH: Mr. Chairman, Commissioner Sullivan, this is all MOA dollar.

COMMISSIONER SULLIVAN: These are currently executed MOA dollars?

MR. SMITH: Yes, sir. That's correct.

COMMISSIONER SULLIVAN: Okay, so the supplemental is not - this is

not a part of the supplemental.

MR. SMITH: This has absolutely nothing to do with the supplemental.

COMMISSIONER SULLIVAN: Okay. So now I see. So the \$178,000 is coming from the fact that last year St. Vincent cut them back to \$138,00 but then agreed to add \$40,000 back in as a part of the MOA to bring them up to \$178,000.

MR. SMITH: That's correct.

COMMISSIONER SULLIVAN: And that was their level of effort last year.

MR. SMITH: That's correct.

COMMISSIONER SULLIVAN: So this amendment this year is also going to be at \$178,000.

MR. SMITH: Yes, sir. That's correct.

COMMISSIONER SULLIVAN: And St. Vincent has agreed with that in the MOA?

MR. SMITH: They have.

COMMISSIONER SULLIVAN: Okay. I think I understand this now, Mr. Chairman.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER SULLIVAN: Move for approval.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: Motion by Commissioner Sullivan, second by Commissioner Vigil. Any further discussion?

The motion to authorize the PSA with Las Cumbres passed by unanimous [4-0] voice vote.

XI. B. 16. Request Approval of an Amendment No. 2 to Professional Services Agreement for the Thornton Ranch Open Space Property Management Plan / \$137,672.66 (Project & Facilities Management Department)

COMMISSIONER SULLIVAN: Mr. Chairman, this is an issue that I discussed at our last meeting when this came up for this professional services contract on Thornton Ranch open space and I questioned Mr. Olafson about the need for a categorical exclusion for services at this point in time. He discussed it with me afterwards, we talked about this and in the packet – this is the first time I've seen it is a letter from Greg Tickle. It doesn't say who he's with but I guess he knows something about this and saying that a categorical exclusion is not required but they are going to do an adjusted preliminary environmental assessment. And the cost of this is \$45,200 when you add up the numbers in the budget, and that's out of a total contract of I believe about \$145,000.

The concern that I had and I expressed to Paul on this is that while we may want to

gather some general information when you get into these detailed environmental assessments you really have to wait until you need one because it's a function of what entity you are applying to, whether it's the Bureau of Reclamation, the Corps of Engineers, the Environmental Protection Agency, whoever it is that you're requesting either money from or some easement from, like we're doing with the Buckman project. They each have their own specifications as to what you have to cover. Now this \$45,000 also covers an archeological assessment for \$15,500, but it's unclear what else is covered in this to me. So perhaps, Paul, you could give us a little more information on that.

MR. OLAFSON: Mr. Chairman, Commissioner Sullivan, you have in your packet the letter from Greg Tickle. Greg Tickle is a subcontractor with Design Workshop for this plan. You're correct. There is \$15,500 in archeological work. There's \$450 in community outreach. There's \$5,135 for GIS mapping, and then \$16,215 for what is called the categorical exclusion. The letter from Mr. Tickle explains that that was a terminology that we were using when we initially started this scoping process which is almost two years ago, that we started this whole contracting process and did the RFP for the proposals and chose this firm.

However, we're not proposing a full-on categorical exclusion as we would expect from a NEPA process or a federal granting process. We want to get as much information as we can in the most cost-effective manner as we can and that is necessitated because we are now the property owner. We're contemplating, we're actually moving towards opening this property. We need to determine a realistic baseline so we know what the resources are out there. The \$16,500 is aimed at the biological resources, environmental resources, versus the cultural resources.

In my math, I may have miscalculated, the total is \$41,250 for this whole line item and of that, with the GIS mapping as well as the environmental studies, it's \$21,350 would be towards this environmental study. And while that sounds maybe off the top of the head a large number, we think it's very important for us as the County to get a good assessment of what are we dealing with on the ground here? What are we disturbing potentially as far as wildlife, as far as other biological issues out there so that we can really develop a management strategy that will maintain and enhance this property. It is about 1600 acres. We've spent approximately \$4.5 million just to acquire it, and so we feel that it's important to get our information correct and front-ended so that we can really start managing this property in the most appropriate manner for the County and for the future.

COMMISSIONER SULLIVAN: Well, I'm just looking at page 1 of their breakdown. Under the category Systems Analysis, I can't tell what's categorical exclusion and what's not because there are just names of people at the top. But all - I calculated all of those fees along that bottom line to come up to \$45,200.

MR. OLAFSON: Mr. Chairman, Commissioner Sullivan, if you go to \$1400, \$1650, \$900, that is all rounded into that \$3950. So you have to back that out. That's a subtotal.

COMMISSIONER SULLIVAN: Oh, okay. That's a subtotal.

MR. OLAFSON: And then to the right of the \$2950 are the other costs, and of that, \$16,215 is the study, and then the \$5,135 is the GIS.

COMMISSIONER SULLIVAN: And is there a biological – is this \$16,215, is that going to be a biological assessment?

MR. OLAFSON: I'd have to go back to Mr. Tickle's letter to respond exactly.

COMMISSIONER SULLIVAN: Because under this CE category, which is the one that raised the red flag for me originally, the scope of work seems to be assessment of existing conditions, prepare summary analysis maps and prepare protection and management recommendations for property. I just couldn't grab a hold of that and understand what it meant. Is he looking at the biological issues? The flora and the fauna, the critical habitat? Flyways? Nesting areas? Those types of things? He's not looking at archeology because archeology is being looked at by Southwest Archaeological. So what is he doing?

MR. OLAFSON: We have landform drainage patterns and potential catchment areas, existing vegetation patterns, wildlife utilization areas on the ranch, existing land use, adjacent land ownership, human use patterns, views and viewsheds, soil reports and assessments regarding soil contamination, slope and aspect maps, drainage patterns, land use ownership – these are mapped, trails, existing trails and modern man-made developments' impacts, soil types, classifications, vegetation and wildlife use patterns.

COMMISSIONER SULLIVAN: And where are you reading that from?

MR. OLAFSON: This is from the contract that this will amend. This is amendment two to the original contract. The contract was scheduled in phases, so phase A, phase B, and phase C.

COMMISSIONER SULLIVAN: All those things that you just read are under systems analysis number 4?

MR. OLAFSON: Correct. As part of phase B of the contract.

COMMISSIONER SULLIVAN: And that's the \$16,000.

MR. OLAFSON: Correct.

COMMISSIONER SULLIVAN: To do the slope analysis of the whole property?

MR. OLAFSON: Correct.

COMMISSIONER SULLIVAN: Okay. That answers my questions, Mr. Chairman.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER VIGIL: Move to approve.

CHAIRMAN MONTOYA: Motion by Commissioner Vigil.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Second by Commissioner Campos.

The motion to approve the amendment to the professional service agreement for Thornton Ranch passed by majority 3-1 voice vote with Commissioner Sullivan voting against.

COMMISSIONER CAMPOS: Any rationale for that?

COMMISSIONER SULLIVAN: Yes. I don't think we need this scope at this time. I think it's premature. But staff is recommending it and that's my opinion.

COMMISSIONER CAMPOS: Did staff respond to your objection?

COMMISSIONER SULLIVAN: Yes, they have. We disagree.

XI. C. 3. Request Authorization to Enter into Agreement with Colfax County for the Incarceration, Care and Maintenance of Juveniles in Custody at the Youth Development Program (Corrections Department)

COMMISSIONER SULLIVAN: Mr. Chairman, this is a quick one. I've been reading quickly through these. I see that Pojoaque got moved to Colfax County, so I move that Pojoaque be moved out of Colfax County.

CHAIRMAN MONTOYA: I second that.

MR. HIATT: Mr. Chairman, the staff objects. We like Pojoaque in Colfax County.

COMMISSIONER SULLIVAN: I think it works well where it is.

MR. HIATT: If you were to make that change on your page 1, that first paragraph, the first whereas, we'll substitute a corrected version in the final approved contract.

COMMISSIONER SULLIVAN: Move for approval with some kind of amendment that deletes Pojoaque from Colfax County.

CHAIRMAN MONTOYA: Second. Any discussion?

The motion to approve item XI. C. 3 as amended passed by unanimous [4-0] voice vote.

MS. ESPINOZA: Chairman Montoya, may I?

CHAIRMAN MONTOYA: Yes.

MS. ESPINOZA: Teresa Montes is here to explain Commissioner Sullivan's question. May she approach. The question on the Clerk's procurement.

CHAIRMAN MONTOYA: We would need to remove that item from the table.

COMMISSIONER SULLIVAN: I would just as soon we get the documentation on it and discuss it the next time. It would be easier.

MS. ESPINOZA: Given the contract expiration date, July 1st, it would be in the best interest to not table it for two more weeks because the contract expires July 1st. That would create further problems with continuation of business with PDS. But Teresa is here from Finance.

COMMISSIONER VIGIL: I move that we reconsider it, take it from the table.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN MONTOYA: Motion and second.

The motion to take item XI. B. 1 off the table passed by unanimous [4-0] voice vote.

XI. B. 1. Request Authorization to Execute Amendment No. 3 for a Professional Services Agreement for Microfilming Services on Contract No. 24-0011-C; to Extend the Term From July 1, 2006 Through June 30, 2007 (County Clerk) [continued from page 42]

TERESA MONTES (Finance): My name is Teresa Montes and for the past five years I worked for the County Clerk's office handing their procurement and budget tracking.

MS. ESPINOZA: Teresa, the question that Commissioner Sullivan had that we discussed, go ahead and answer it.

MS. MONTES: Okay, there were questions on the amount, I understand it was \$70,000 that was originally procured under the contract. That figure was based on actuals. The Clerk's office said it was actually amounting to \$72,000 a year. The amount started dwindling as the document imaging system was installed in the Clerk's office and there was less and less need for the micro-filming.

COMMISSIONER SULLIVAN: Another question I had. The amount spent on this last year, you indicate it's going less and less, was about \$23,000 and this year the request is for an amendment in the amount of \$45,000. So my question is are we doubling the work this year and if so, what's the reason for the change?

MS. MONTES: Actually, it's a safety net because we never know from one year to another how much micro-filming is going to be done. Last year's amount was in the mid-20s. We don't know what the coming fiscal year is going to mean. It may seem like rather a large portion but based on what's actually been used in past years, that's what Esther Artino wanted, because she's in charge of the vault. So wanted to make sure that there was enough to cover the entire fiscal year.

COMMISSIONER SULLIVAN: Do you know how much it was the year before that? I didn't mark it down.

MS. ESPINOZA: 04 was \$45,000.

COMMISSIONER SULLIVAN: It was \$45,000?

MS. MONTES: We have encumbered \$45,000 last fiscal year and the year before that, it looks like there was \$30,191.

COMMISSIONER SULLIVAN: Okay, so the year before, you spent \$30,191. Last year you encumbered \$45,000 but you used \$23,000.

MS. MONTES: That's correct.

COMMISSIONER SULLIVAN: It seems like we're doubling what we need this year, to me.

MS. MONTES: Well, like I say, you never know from one year to another how much it's going to be because this is based on how many transactions the County Clerk's office records and how many plats are placed into the Clerk's care.

COMMISSIONER SULLIVAN: Okay. Let's put it this way, if the money is not used, then what happens to it?

MS. MONTES: If the money is not used then it rolls over because this is taken from a revenue account, filing fees.

COMMISSIONER SULLIVAN: So this is done on a per document basis or per box basis or truckload.

MS. MONTES: Per document.

COMMISSIONER SULLIVAN: Okay. So it's not a lump sum contract. So we if we don't spend \$45,000 hauling documents around and micro-filming them, we're not going to have paid the contractor too much.

MS. ESPINOZA: Right.

COMMISSIONER SULLIVAN: It's by page.

MS. MONTES: It's by page.

COMMISSIONER SULLIVAN: And then the last question again would be the \$70,000 that we have in our memorandum, what is the \$70,000?

MS. MONTES: The only \$70,000 that I am aware of is what was actually spent about four years ago. I think the document imaging system had not been installed in the Clerk's office. There was a much greater need for micro-filming. In fact we had to do several copies of each page in that case. It's based on actuals.

COMMISSIONER SULLIVAN: I guess that's all the questions I had, Mr. Chairman. Thank you.

COMMISSIONER VIGIL: Move to approve.

CHAIRMAN MONTOYA: Motion by Commissioner Vigil.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Second, Commissioner Campos. Discussion?

The motion to approve the professional services agreement for microfilming passed by majority 3-1 voice vote with Commissioner Sullivan voting nay.

COMMISSIONER SULLIVAN: Mr. Chairman, in the last item , let me

explain my vote. It's not because I don't think we need to micro-film things but I think we need to perhaps be a little better shopper on our budgeting than to budget 100 percent contingency factors into our contract budgets. So that's the reason.

XI. C. 20. Recommendation to the Board of County Commissioners from the County Open Land and Trails Planning and Advisory Committee (COLTPAC) Regarding Acquisition of One Property Including Approximately 1,350 Acres in the Ortiz Mountains Under the Urgent Project Process (Project & Facilities Management Department)

COMMISSIONER SULLIVAN: Mr. Chairman, this is a big item on our Consent Calendar. It has to do with purchasing a \$445,000 piece of property. My first question is I don't think it should be on the Consent Calendar. The second issue is, and this is purchasing or giving the staff authorization to negotiate the purchase of property that is owned by the Santa Fe Botanical Garden and there's a not-to-exceed price in here and so forth. The concern that I had with this is two-fold. One is the fact that it is currently in litigation for back taxes and I wanted to know how that would be handled. And then the second was there's a reference to lease-back conditions that Santa Fe Botanical Gardens would require. It kind of sounded like we're going to buy it and that gets them out of the tax burden then they will determine how it's operated.

I'm sure we're going to be more strict than that on it. Paul, could you address those two issues?

MR. OLAFSON: Mr. Chairman, Commissioner Sullivan, the two issues you mentioned, one is that the management strategy that's proposed in here has not been established and concrete. The concept is that the County would purchase the property and simultaneously, or near or about that time we would work with the Botanical Garden to develop a management agreement whereby the Botanical Garden would agree to operate the park or operate the property as an environmental preserve as it currently is being used. And the Botanical Garden currently does do that operation.

The attractiveness of that kind of arrangement would be it's kind of a turn-key operation whereby the City would receive the property and simultaneously have it up and running and open from day one. And that's the management structure and I don't know if we've determined an exact description of what that would be. That's the concept that we're working on.

Secondly, the issue of the taxes. Although I'm aware of those issues I can't speak directly to them other than the case that I know of is still pending at the appellate level and part of this proposal would, I believe, clear that issue between the County and the Botanical Garden. But to my knowledge, no specifics have been reached.

COMMISSIONER SULLIVAN: Madam Chair, my question on that was if

you look at the pre-application, which is – it's not a numbered page but it's the second page of the pre-application, after the pre-application coversheet, the funding that's requested from COLTPAC is \$445,000 less settlement of back taxes. So that – I assume what people are thinking is, well, let's say they owe \$10,000 in back taxes. Then we'd only pay \$435,000. But COLTPAC money is different than the Assessor's office money. If the property owes \$10,000 in back taxes, and I don't know that they do. I'm just picking that as an example number, that money goes into the property assessment taxes. It doesn't reimburse COLTPAC. COLTPAC doesn't get to keep that money.

So if there were a large settlement against this, you may end up paying substantially less than the fair market value of the property because of the back taxes and that difference wouldn't go back to COLTPAC for COLTPAC projects. Do you understand what I'm saying?

MR. OLAFSON: Mr. Chairman, Commissioner Sullivan, I understand what you're saying and I agree with you. I don't think anyone was under the concept that that money would come back to COLTPAC. I believe the way we've examined this is the County Open Land and Trails Planning Advisory Committee looked at this property as an open space property, exclusive, not considering the tax issue surrounding the property. However, that obviously is an issue that needs to be resolved as part of due diligence if the purchase is made. Just like any property owner, if it was you and I, and I was buying your house and you owed \$10 in taxes, I would pay you \$100 for your house and what you did to clear out your taxes is what you did to clear out your taxes, whatever we agreed on as the price.

So what we're proposing here is we do a fair market appraisal and we have a cap on the maximum amount that could be placed into this project, which is \$445,000. If the fair market appraisal comes in at \$650,000, still the recommendation to the Board is we stop at \$445,000 and out of that balance, whatever the tax issues are determined, they would be paid by the Botanical Garden to clear the title.

And additionally, I don't know if it was pointed out – this goes back to your earlier question about the management strategy, the Garden has stated they would put a substantial chunk of the \$445,000 into an endowment for the long-term management of the property. I just wanted to point that out.

COMMISSIONER SULLIVAN: Is the lease anticipated to be in perpetuity to the Santa Fe Botanical Garden?

MR. OLAFSON: Mr. Chairman, Commissioner Sullivan, Santa Fe County would own the property. Santa Fe County would be ultimately responsible for all management and activities on the property. However, just like we have our volunteer group in Cerrillos Hills who helps us do tours and kind of runs the facilities out there, that's the agreement we envision going into with the Botanical Garden. However, all decisions and ultimate control of the property would be with the County.

COMMISSIONER SULLIVAN: So if they weren't performing properly, Santa Fe County could terminate that lease with them.

MR. OLAFSON: Certainly. And I would defer to Legal about the term on the lease or a management agreement, but my vision would be it would be somewhere on the range of two to five years with renewal periods within that. Because I don't know that the Botanical Garden would want to engage themselves into an agreement in perpetuity. Who knows what tomorrow may bring? Or ten years of fifty years down the road.

COMMISSIONER SULLIVAN: Okay. And my last question is on page 2 of 2, on your recommendations, it says as a part of the purchase of the preserve, the pending legal actions between SFBG and the Santa Fe County Assessor concerning tax exempt status of the preserve must be resolved on mutually agreeable terms. Now, that's a condition of the purchase. Now, if it goes to court, which it is now in appeal, a decision will be made and it may not be mutually agreeable to the party that is not successful in that litigation. Again, what I'm getting at here is does Commission action on this affect that? Is this intended to be some kind of leverage to put pressure on the County Assessor to settle, or the County to settle this tax lawsuit?

MR. OLAFSON: Mr. Chairman, Commissioner Sullivan, I'll let Gregory Shaffer address that legal aspect. However, my vision as an open space planner for this project is that the two issues are separated. The only reason that's a staff recommendation rather than a condition from COLTPAC on the tax issues, and it's an acknowledgement that those issues are there and we feel that through this process there may be a way to find that mutually agreeable ground and it's not intended to bind or lever either the County or the Garden. I think both parties are looking at this with eyes wide open and agreeing to enter into this. And I'll let Gregory -

GREG SHAFFER (Assistant County Attorney): Mr. Chairman, Commissioner Sullivan, a short answer to your question is no. This is not intended, certainly from County staff or County Legal Department's perspective in any way to put pressure on the County to settle the lawsuit. Rather, the opportunity for the County to purchase this preserve and manage it as part of its open space and trails program came up in the context - and I'm not going to go too far down this path because of confidentiality concerns, in the context of mediation with an eye to come up with a win-win solution to resolve the pending court cases.

If it were to work out in that direction, we have COLTPAC saying the purchase of this property makes sense from a purely operational point of view, this really, to staff's mind and from the Legal Department's mind, does bind the Board to do anything. It's giving conceptual approval to a purchase if it can be structured along parameters that are outlined in Mr. Olafson's memo, as well as other ones that come to light as we work through the details of the transaction as well as the settlement. But the details of all of that will come back to the Board of County Commissioners in due course for approval. So this is not binding the Board in any way. Again, it's conceptual approval. If you see any showstoppers with this? Is it something you're even willing to entertain? And then if the answer to that is no, then we know there's nothing more to explore here on that front. But this certainly isn't a binding committal by the Board today.

COMMISSIONER SULLIVAN: Is the Assessor, Mr. Shaffer, a part of this negotiation between the SFBG?

MR. SHAFFER: The Assessor ultimately would be brought in to approve of any settlement and the Assessor is aware of the ongoing discussions, which are confidential in nature, but the Assessor is involved in that.

COMMISSIONER SULLIVAN: Okay. So I do have one last question for Paul. You had mentioned something about apparently, a Santa Fe Conservation Trust has an easement on the property. What is that about?

MR. OLAFSON: Mr. Chairman, Commissioner Sullivan, when the property was donated to the Botanical Garden, simultaneously the Botanical Garden granted an easement, voluntarily placed a conservation easement across the property and can maintain it perpetuity as open space. And there's certain uses and activities that are permitted and that are not permitted within that conservation easement. So it's a blanket easement across the entire property. It does allow for the functions described as an open space facility with the nature preserve as part of that as well. So it allows for construction of limited facilities, trails and etc. There are some issues within that easement that we would like to address to make it a little broader and that's also part of the recommendations is that we work with the Botanical Garden and the Conservation Trust to amend that easement to better fit the County's programming and long-term opportunity for trail networking across a portion of the property as appropriate.

I've received a letter from the former property owner who owns adjacent land which is LAC minerals. They are in agreement with the concept and I've received letters from the Conservation Trust saying they are in agreement with entering into discussions to amend that. And again, as Greg described, we are asking for direction to go forward and bring back a final package to you right now. But all signs look like those issues are resolvable and within reach.

COMMISSIONER SULLIVAN: The Santa Fe Conservation Trust has the ability to amend that easement? That's their decision?

MR. OLAFSON: Correct.

COMMISSIONER SULLIVAN: So if they don't amend it in a fashion that's acceptable to the County then of course we don't have to move forward with the purchase. Is that right?

MR. OLAFSON: Correct.

COMMISSIONER SULLIVAN: All right. Well, thank you, Paul.

MR. OLAFSON: Thank you.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. Paul, what constitutes an urgent project? And how many have come through to COLTPAC? So it's a two-part question.

MR. OLAFSON: Okay. Mr. Chairman, Commissioner Vigil, this is the third application that's come through the urgent process. One was then subsequently

removed as not urgent because the property owner said it wasn't urgent anymore. But the other one was an easement establishing greater access for our Thornton Ranch property which we just discussed and then this project. What constitutes it, and we an application that lists out the different conditions. I could look for it and read it. But in general, the applicant must demonstrate that there's some need to review the project now, versus at the annual review period which is August 31st. In this case, one of the issues was the pending litigation and the case moving forward, and if there was an ability to review it now and have this discussion now it would save time and money on that end later.

The way it works is COLTPAC reviews an application first to determine whether it's urgent or not, and then after it's determined as urgent, then it looks at the property and does a site visit and does an evaluation, so that's a two-step process and COLTPAC did determine this as urgent.

COMMISSIONER VIGIL: And it seems like these kinds of projects are really unpredictable. So I'm wondering when you set your budget, being that we have a set amount of dollars left that have been dedicated to that, do you set aside money for urgent projects or how do you handle these?

MR. OLAFSON: Mr. Chairman, Commissioner Vigil, no. We do not have a separate urgent pot of money. This is coming out of the bond monies. We have approximately \$1 million remaining, unallocated or unidentified for different activities or projects. So out of the \$1 million, we're proposing \$445,000. So that would bring that number down to, whatever, \$550,000.

COMMISSIONER VIGIL: In somewhat of a related manner, I had spoken to some of the COLTPAC people with regard to their recommendations on a countywide trail system and even though one has been proposed, nothing has actually been adopted. What we seem to be doing is adopting developments and their proposed trail systems. My concern was whether or not those trails would provide connectivity throughout Santa Fe County which is really the mission and the vision that we should have for the county. Where is COLTPAC with regard to that concept?

MR. OLAFSON: Mr. Chairman, Commissioner Vigil, after - I believe that was in January that we discussed that at the COLTPAC level. The committee has formed a subcommittee that has been meeting regularly and developing a draft proposal and kind of a wish list or an options list of ways to address that in a statutory as well as a voluntary manner. So that's ongoing. It's being developed. It's not complete.

COMMISSIONER VIGIL: Okay. And just, Mr. Chairman, Paul, I think I'd like to meet with that subcommittee just to see where they're at in terms of the progress they've made. Thank you. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Thank you. Any other discussion?

COMMISSIONER SULLIVAN: Move for approval.

CHAIRMAN MONTOYA: Motion by Commissioner Sullivan.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Second, Commissioner Campos. Discussion?

The motion to approve item XI. C. 20 passed by unanimous [4-0] voice vote.

XII. STAFF AND ELECTED OFFICIALS' ITEMS

A. Corrections Department

1. Presentation by Dr. Laura Kay on Medical Issues, Santa Fe County Corrections Department

GREG PARRISH (Corrections Director): Mr. Chairman, Commissioners, as you may recall, in our April quarterly report, Dr. Kay was unavailable and at that time Commissioner Vigil asked that she be given an opportunity to make a short presentation in the future. We've scheduled that for today. So I'd like to present Dr. Laura Kay, the medical director for the Corrections Department and she'll be giving you a status update on the medical department of Corrections.

DR. LAURA KAY: Thank you, Mr. Parrish, Mr. Chairman and members of the Commission. I appreciate having an opportunity to give you an update on the status of the medical department at the corrections facility. And I'd like to spend a few moments just kind of going over some basic issues such as staffing and sick calls and intakes and medications, and then give you hopefully ample time to ask you whatever questions you may have on your minds.

I wanted to cover briefly where we're at with staffing of our medical unit. Our juvenile facility is fortunately fully staffed and that has not been an issue since I came on board in October of last year. We do still struggle somewhat with staffing at the adult facility. We are currently short only one RN, two LPNs and one paramedic slot. Those are all couched in terms of full-time FTEs. However, we do have those posted so that we can hire a combination of part time or as-needed positions to fill those. So we do fortunately, thanks to HR have the flexibility to fill those FTEs kind of in a flexible manner as we can.

I'm happy to report that we've had very little attrition since we started filling those positions and have only lost one nurse since we did start hiring nurses when I started back in October. I'm happy to report that we have a very invested group of County employees in the medical unit and at the juvenile facility, and that they really do take a lot of ownership in the unit. They've all pitched in, actually at those facilities but I wanted to report that at the adult facility, they've really pitched in and helped to revamp our entire medical records unit in anticipation of our upcoming Department of Justice audit, which is coming up in August, and have reorganized the entire unit, and that each nurse at the adult facility has taken responsibility for starting their own chronic care group or clinic for patients who have chronic diseases such as diabetes and hypertension and seizures.

So each RN has taken upon their own shoulders, which is really in addition to their job responsibilities, taken a group of patients with a chronic disease, started a clinic for those patients, taken up their own shoulders the responsibilities for ordering the laboratory

tests that they need, getting them scheduled for clinics and doing the quality assurance that those patients need, which is something that I think goes above and beyond their duties and responsibilities, and I'm pretty happy to report that they've done that. So we're kind of gearing up with those things for our next DOJ audit.

Our current staffing, we have one RN and one LPN per 12 hour shift and in addition, when we can fill it, we have a 10:00 am to 10:00 pm shift where we try to staff a nurse or a paramedic to do screening as far as for inmates that come in through booking. And I'll cover that process here in a moment.

I wanted to spend a moment talking about sick calls and clinic visits because I think that the volume that we're seeing is pretty impressive. Our average volume is about 50 sick calls or clinic visits per day, a maximum of about 70 per day when things get really busy. And we accomplish that often with a fair amount of difficulty with our current staffing pattern. For the months of April and May of this year we say 1600 sick calls. And about 296 14-day history and physicals were performed during that period also. And I wanted to spend just a second comparing that to the volume of patients that are seen in an average emergency department. A

An average ER might see 100 to 150 patients in a 24-hour period, but an average ER would do that with three to five physicians, eight to 16 nurses, and several clinical and laboratory people. And we're seeing patients, with often, I think very high medical acuities in our detention facility and doing it with significantly less staff. So I just wanted to kind of throw that in there to I think make the numbers be a little bit more meaningful.

Intakes through booking, we do an average of 32 per day and on a very busy day we could do as many as 52 intakes in a 24-hour period. During some really high peak times, sometimes we may do 40 intakes in a two or three-hour period. Those tend to be during the days when law enforcement is doing a DUI trap. So those tend to be the period of time when we see a really high number of inmates coming through booking. That's the time when a nurse or a paramedic is down there doing their medical screening and having the inmate fill out the form of what medications they're taking so we can get that verified through their pharmacy or their medical provider so that we can get them started on their medication. So that's the process that we use there.

We did a total of 1700 intakes in the last quarter, and we refused 18 inmates at booking and sent those to the hospital to be medically cleared because we felt that they had acute medical issues that made them unsafe to be in our facility until they were seen at the hospital.

I'll talk for a moment about medication. About 40 percent of our population is on medication. That is consistent with the national average. However, more of our population is on multiple medication than the national average. I attribute that to our population having a fairly high incidence of poly-substance abuse, meaning that many of our patients have problems with chronic alcohol and drug abuse and I think that many of them do not get regular medical care before they come to our facility, and so many of our patients have chronic medical problems that have not gotten regular medical care before they come to

our facility and I find that they are often sicker than the average patient when they come to us. So I think that often they do require more than one medication, and that's what I attribute that to.

We have increased our medication pass from twice a day, which was what it was before I came on board to three times a day in an attempt to meet that need better. But that does tax our nursing resources and with our current staffing pattern sometimes that is difficult.

Some other interesting statistics for the last quarter, we sent 36 patients to the emergency department for evaluation. Three of those were admitted to the hospital and we had ten patients that we sent to outpatient consultation with specialists for problems that we couldn't deal with in-house, so to orthopedic doctors or cardiologists or doctors where the patients needed to have more sophisticated care than we could provide at the jail.

Our dentist saw 293 patients and he's a very good man.

We do have a plan in the next fiscal year. We had requested some capital equipment for some laboratory items so that we could start a mini-lab at the adult facility in the hopes that we can do more laboratory testing at the facility, so that we can have a little bit faster turnaround time and hopefully not have the need to send as many patients out to the hospital and hopefully get a little faster turnaround on some of our laboratory tests that we currently do and hopefully improve some of our services to our patients at the facility, and I'm hoping that that will take place here in the next few months as that comes through.

I did want to mention something that I think is fairly important to us at the facility that I think is often neglected when we talk about medical services, and I think that that's the need to improve our staffing with security officers, because we are terribly understaffed, I think, when it comes to security officers, and I know that we're doing everything we can to improve the staffing with security officers. I know that Mr. Parrish and the County are doing everything we can to improve that situation but I think that salaries are an issue there and I wanted to ask the Commission to consider that because I think it certainly impacts the medical department greatly when we don't have enough security officers to get the patients to us and I think that's an important factor to medical care at the facility.

I did want to say that overall, I think things are improving with medical care at the facility, but I think that we're impacted greatly by the nationwide nursing shortage and I think that that impacts us more significantly in a corrections environment because hospitals around us have a tremendously hard time attracting nurses and the few shifts that I still work in the emergency department very often we're short nurses in that environment and very often hospitals can't admit patients to the hospital because they don't have nurses. And it's 100 times harder to attract nurses to come work in a jail than it is to attract nurses to come work in a hospital. So I think that that's something that we struggle with greatly. I'm pleased that we're only short three nurses. I think we're making good progress with that and I think it's wonderful that we haven't lost many of our nurses since we've hired

them, but that's an area that we need to continue to work on, to try to recruit and retain nurses and paramedics in our environment.

I did want to also make a plug for the sobering services for Santa Fe County, because we do still see, especially on weekends, especially on holidays, a very, very large number of patients that come to us because they have been intoxicated in public and that's they're only crime. And they're arrested and they're put in protective custody and they're sent to jail and we end up with a booking area that is full a very large number of patients who are intoxicated that often it's difficult to find the staffing to monitor those patients safely. And I think that the sobering services is hopefully something that will help the detention center, help the hospital, help the community to help some of those patients in a safer manner.

And I'd like to thank the Manager and the Commission for he support that you've given to the detention facility through the transition time as we've tried to build these services and also the other County departments because I realize it's been a difficult year. And I'd be happy to answer any questions that you have.

CCHAIRMAN MONTOYA: Questions for Dr. Kay. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you also for the work that you do out there, and I also want to hear from Annabelle. Have you had an opportunity to evaluate the medical facility there? Is that a component within the scope of your employment?

ANNABELLE ROMERO: Mr. Chairman and Commissioner Vigil, it is part of the scope of my employment and I am still working on that, on medical care.

COMMISSIONER VIGIL: And I would hope that if there's anything that we need to be alerted to with regard to the operations of the jail that it will come to our attention quickly, because we are trying to monitor that as closely as we possibly can. So thank you. I'm hearing some good things about your work. I appreciate it.

MS. ROMERO: Thank you.

COMMISSIONER VIGIL: Dr. Kay, with regard to inmates who come in, is it a paramedic who does the initial intake and assessment for what the medical needs are?

DR. KAY: It's either a paramedic or a nurse.

COMMISSIONER VIGIL: Okay. And how do you handle the issue of inmates who come in who require specific meds?

DR. KAY: Whenever an inmate comes in it's our aim that immediately when they come in, before we even decide to accept them, or for instance we might refuse them and send them to the hospital of we find that there's an acute need for that. There's a whole medical screening process and form that they go through with the paramedic or with the nurse, and we ask them to fill out that form and on that form there's an area for them to verify medications. And so we ask them to tell us what medication they're on, give us the doses. It's always great if they bring in their bottles with them, because if they do then that sort of eliminates the need for us to call the pharmacy or call their medical provider to verify what they're on. So we go through that process with everyone.

Some of the problems that we run into at a detention facility is sometimes people

come in and they don't remember the names of the medication their on, or the doses, in which case we then have to fax off a form to their pharmacy to verify what they're on, because we certainly want to make sure that we put them on the correct drug and at the correct dose. And so that will delay the process sometimes for up to 24 hours because especially if they're coming in in the middle of the night for us to get that information to put them on the correct drug and dose.

Oftentimes people will also come in with a bottle that has ten different kinds of pills in it, and sometimes they will have tampered with the pills and put other substances inside of the capsules. And that is something that we encounter not infrequently at a detention facility, especially with a population of individuals who have substance abuse problems. So those are some of the things we encounter not infrequently. But that's the process for getting them on their medications.

COMMISSIONER VIGIL: Under those circumstances, how do you make that determination. Do you have to screen every pill that goes through?

DR. KAY: Well, we have a policy that we don't accept - because of that problem that we run into frequently, we don't accept medications from the outside. Because people do so often tamper with their medications. Or come in with them and we can't identify what they are. So what we do is we find out what they're on, we order them immediately from our pharmacy or from our stock. Because we do have a pharmacy at the facility. So the nurse will find out, okay, Mr. Garcia, what medications are you taking. They'll call the doctor or the nurse practitioner on call and say, Mr. Garcia says he's taking these medications, and I'll say, okay, well let's start him on these medications. Then they'll take an order from me to start him on those medications. But we have to verify that they're the correct ones and at the correct dose first.

Because sometimes that process will take a while especially if, for instance, the Kiva Pharmacy is not open 24 hours like Walgreen's is. So sometimes it can take a little while to get that process to happen. So if it's a life-sustaining medication, like it's a cardiac medication or a diabetic medication, often we'll substitute something overnight until we can find out the next day exactly what the person is on. If it's not something that is going to cause a problem if they don't get it overnight, then we may wait until the next day to find out what it is and get them started on it the next day.

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

CHAIRMAN MONTROYA: Thank you, Commissioner. Any other questions? Dr. Kay, thank you for all that you're doing out there to help bring this together. In terms of the medication, are we being subsidized in any way, in any form, by any other funding mechanism?

DR. KAY: Mr. Chairman and members of the Commission, not that I am aware of. We have a contract with a pharmacy, Correct RX and that's our pharmacy company. If we order medications from them by noon or 2:00 pm, usually we have it by the next day unless it's over the weekend, and then we have a contract with Walgreen's for emergency medications. But if we need it the same day we can get it the same day. And

then if there were some IV type medication that were needed intravenously, and we didn't have it on hand, then that would be something we'd need to send someone to the hospital for.

CHAIRMAN MONTTOYA: Now, is there the potential - Jack, you worked on this, for the NACo, Santa Fe County prescription drug card to utilize for prisoners that come in requiring medication needs?

MR. HIATT: Mr. Chairman, Commissioners, as you know, the NACo program provides discounts and it only provides them through certain pharmacies and I don't recall if Walgreen's was one of them, but Correct RX I don't believe is one. It was one of the issues that we had in the original contemplation of the contract, whether or not we would be prevented from entering into another program in terms of our detention facilities, and what I'll do at your suggestion, which I think is what you're suggesting is go and do a comparison and see if there's a cut that we can get, a break that we can get on the NACo prescription program and I'll make that inquiry.

CHAIRMAN MONTTOYA: Okay, and then as far as other costs, I know it's been discussed, I know at the juvenile facility about getting Medicaid up and running. Is that a possibility in the adult facility as well, or is that something that would be strictly at the juvenile facility.

DR. KAY: Mr. Chairman and members of the Commission, I have been told and I would have to ask our Legal Department to help us look into this issue. I've been told that if you are behind bars your Medicaid and Medicare funding stops. And I would have to ask our Legal Department to help us look into that issue. But I've been told that once you're incarcerated you no longer have that funding available to you, at least as an adult. I don't know if that's true for juveniles or not.

CHAIRMAN MONTTOYA: Okay. I think it may be for adults. That's why I was trying to distinguish the two because I believe the juvenile facility in Bernalillo County does capitalize on Medicaid reimbursements for certain items that they bill for. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I did have one question to ask Dr. Kay. On recruiting nurses have you had any success through the Santa Fe Community College in doing that?

DR. KAY: Mr. Chairman and Commissioner Sullivan, we have not, that I know of, made any large efforts to recruit through the Community College and I'll have to say that the main reason for that has been that I feel pretty strongly that if we're going to expect nurses to come work largely independently in a correctional facility without too many other nurses being on the same shift with them to mentor them, then we really need to seek nurses who have experience. Generally speaking, if you're going to be recruiting at the Community College you're going to get nurses who are new grads who really don't have any experience working, and I think that it's pretty important, because we have a population of patients who, generally speaking, are not very healthy.

In my clinical experience it's pretty important to get nurses who have some clinical

experience. So I would have to tell you that I have not been a big fan of recruiting new grads, just with my experience in the emergency department. Generally speaking, once you're right out of school you need a couple of years seasoning before you're able to function in that kind of environment.

COMMISSIONER SULLIVAN: That certainly makes sense. I was just wondering, I know that in some of their scholarship programs there at the Community College they require several years of payback time at a facility that's considered disadvantaged.

DR. KAY: Right.

COMMISSIONER SULLIVAN: And I believe the jail qualifies for that because it also qualifies as an indigent – anyone who is incarcerated does qualify under our indigent program. So I don't know what the length of these scholarship paybacks are or whatever they call them, but I think in some cases they're several years. So it might be possible to latch onto someone who has had some clinical experience in one location and is ready to move back to Santa Fe or whatever, because I know St. Vincent's doesn't qualify as a disadvantaged facility. So that those nurses who leave, who graduate under those scholarship conditions end up not working at St. Vincent's, they end up going somewhere else. So maybe after a couple years experience they may still have time left to do that and perhaps if you could capture them they might stay.

I don't know. As you say, it's a tough environment. Certainly a difficult one to keep retention. I understand that and congratulations on the job you're doing doing that. But it's just a suggestion. It seems like if at least the councilors at the Community College were aware of your needs and your requirements – that we can't take rookies – but we can look at those who do have some experience. That might be another source.

DR. KAY: That sounds like a good suggestion. I'll talk with our HR folks and see about getting in touch with those people. Thank you.

CHAIRMAN MONTOYA: Thank you, Dr. Kay. Thank you, Greg.
Appreciate it. Good update.

XII. E. Fire Department

- 1. Resolution No. 2006-113. A Resolution to Proclaim Extreme or Severe Drought Conditions within Santa Fe County and to Ban the Sale and Use of Certain Fireworks in the Unincorporated Portions of the County and within Wildlands in the County**

MR. HIATT: Mr. Chairman, Commissioners, this is the monthly reconsideration of the resolution banning the fireworks. I don't believe anything has changed. The Chief sends his apologies. He's at a family emergency and been out of town for several days. He asked us to bring this forward. I don't believe that there's anything new to report other than there's plenty of fires, plenty of drought and the circumstances are

at least the same if not worse and staff recommends your approval of the resolution, which is Resolution 2006-113.

CHAIRMAN MONTOYA: Any discussion?

COMMISSIONER CAMPOS: I have a question, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Have you had a response from the Pueblos to the letter you wrote about the sale of fireworks?

CHAIRMAN MONTOYA: I had a discussion with the governor from Pojoaque and he was going to talk to the vendor who's a private vendor who leases from the Pueblo about the letter that I sent out to the Pueblos. He's the only one I've received any response from at all. So I'll follow up. I don't know what the discussion was between them. Hopefully – I don't know. I see signs on every corner now: Fireworks, fireworks, fireworks. I don't think they're doing anything to slow down their sales.

COMMISSIONER CAMPOS: I was in Rio Arriba County this weekend and certainly in the county areas there's no ban.

CHAIRMAN MONTOYA: There's no ban?

COMMISSIONER CAMPOS: It doesn't seem so. There's active sales.

CHAIRMAN MONTOYA: Yes. So I'll follow through at least with Pojoaque again. Is there a motion?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Before I make a motion, I just had a question for Hank. On the Fourth of July, the question I've received is where do people call to report fireworks usage, illegal fireworks usage? Do they have to call 911? It seems like that's going to jam up the system.

HANK BLACKWELL (Fire Marshal): Mr. Chairman, Commissioner Sullivan, that's what they do, is call 911. Each year we're prepared for that in terms of staffing we have on the dispatch panels, consoles as well as people in the field. Yes, sir.

COMMISSIONER SULLIVAN: Okay. So then other than the city's fireworks, which are legal, hopefully, if someone has a complaint about fireworks and wants the Sheriff's Department to investigate – the Sheriff's Department then investigates it or the Fire Department?

MR. BLACKWELL: Mr. Chairman, Commissioner Sullivan, we usually work jointly with the Sheriff's Department in terms of that. But normally, it's the Sheriff's Department that provides the initial response.

COMMISSIONER SULLIVAN: So those people might not consider that an "emergency" but nonetheless, it would be if they caught a field on fire, or hurt someone. So they shouldn't feel timid about calling 911 to report what they think might be a misuse.

MR. BLACKWELL: Mr. Chairman, Commissioner Sullivan, absolutely.

COMMISSIONER SULLIVAN: Okay, thanks. I move for approval.

COMMISSIONER CAMPOS: Second.

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

COMMISSIONER VIGIL: Hank, is this the resolution where we prohibit ATV vehicles also? Or is that a separate one? Is that the wildland interface one?

MR. BLACKWELL: Mr. Chairman, Commissioner Vigil, those are two separate issues. The resolution before you is a 30-day renewal for fireworks only. Our burn restrictions we have in the form of an ordinance, and that stands until we rescind it, until conditions change.

COMMISSIONER VIGIL: And that's where the ATV prohibition is. Okay, thank you. Nothing further, Mr. Chairman.

MR. GONZALEZ: Mr. Chairman.

CHAIRMAN MONTOYA: Gerald.

MR. GONZALEZ: I know he doesn't want me to do this but I did want to recognize Hank Blackwell, who will be retiring shortly for all the excellent work he's done for the County in terms of dealing with wildlands fire issues and helping us prepare for emergencies down the road. He's done an excellent job for the County and I just personally want to thank him for that and recognize him from the staff's level.

CHAIRMAN MONTOYA: How shortly?

MR. BLACKWELL: Two days.

CHAIRMAN MONTOYA: Oh.

MR. HIATT: He made us not tell you.

CHAIRMAN MONTOYA: You look good for having short-timers.

COMMISSIONER CAMPOS: Where are you headed?

MR. BLACKWELL: I'll still be here. I'll be consulting out of state but I'm still living here.

COMMISSIONER CAMPOS: Good luck.

CHAIRMAN MONTOYA: Good luck. Thank you.

COMMISSIONER SULLIVAN: Thanks, Hank. Great job.

COMMISSIONER VIGIL: I'm not sure we're going to have another opportunity. What a pleasure it's been working with you, Hank. You're truly the epitome of a professional in every way. The resource that you provide for Santa Fe County and have in many of the task forces that you served and many of the public relations outreach that you've provided, many of the educational component that you have, it's been huge. You've helped us move forward with our Fire Department in a way that nobody else could have. I really appreciate it. Thank you.

MR. BLACKWELL: Thank you all very much. Appreciate the opportunity as well.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Let me just add to what Commissioner Vigil said. Hank, thanks again, and I just wanted to mention to the Commission and to the

public that a lot of what Hank's department does we don't see. And I don't necessarily mean the firefighting or the EMT work, but he spends voluminous numbers of hours on review of subdivisions and buildings, commercial buildings, subdivisions, fire control issues, that - these reviews are extremely extensive. We see some of them in our packet, but you only see the tip of the iceberg of what goes on and the amount of man-hours it takes to do that. And that's a valuable, really valuable service to the public. Because those are the things that protect us for fire, for access, for length of roads, for amount of fire protection water available in a subdivision, all of those things that we would otherwise rely on the developer or applicant to say, oh everything's fine. We read the fine print on the fire reports and we see that there are some pretty stringent conditions here that have to be complied with in order for the public to be safe.

That's what the County Commission is about. We're providing public health, safety and welfare. And that goes in all three of those categories. So aside from the more public, noticeable things that they do with regard to the fire season that we're having now and fireworks and things like that, there's a lot of backroom work that goes into being sure that as we develop it's done safely, and I want to thank you for that because Hank is sometimes known as kind of a hard - word that begins with an "a" when it comes to these reviews.

COMMISSIONER VIGIL: Apple?

COMMISSIONER SULLIVAN: Apple, exactly is the word I was thinking about. And he needs to be. His people are the professionals and I think the building community has now come to realize that and work with that. It's taken a while to get there but I think we're there. So thanks for that, Hank and I hope you're passing that expertise along. Okay. He's shaking his head yes.

MR. BLACKWELL: Thank you, Mr. Chairman.

COMMISSIONER VIGIL: We need to vote on the question, do we not, Mr. Chairman?

CHAIRMAN MONTOYA: Yes. Any other discussion?

The motion to approve Resolution 2006-113 passed by unanimous [5-0] voice vote.

CHAIRMAN MONTOYA: We'll go back to item XII. B. 1, CDRC Case #APP 05-5040, Kirkpatrick Family Transfer Appeal.

COMMISSIONER VIGIL: I think that was noticed for 5:00. Is that not right?

MR. ROSS: Mr. Chairman, I understand it was actually noticed for the last meeting beginning at 5:00 and it was not renoticed for today, so we should probably wait until 5:00 to hear this case. We can certainly do the County Attorney items if you want to save some time. The closed session, we need a short one.

CHAIRMAN MONTOYA: Why don't we do matters from the County Manager first and then we'll do County Attorney.

XII. C. Matters from the County Manager

1. Update on Various Issues

a. County Wild Fire Teams [*Exhibit 2:Memorandum; Exhibit 3:Educational Materials*]

MR. GONZALEZ: Thank you, Mr. Chairman. I'm going to ask Steve Moya to come to the front and just give you an update on where we are with respect to our fire teams and what's going on and what the activity has been for the last little while and what we can anticipate. Hank's still hanging in here to provide additional backup so we're making the most of this last two days.

MR. MOYA: Mr. Chairman, Commissioners, back in May of 2006 Santa Fe County began utilizing discretionary funds from Commissioner Campos. With these funds we were able fund and hire two temporary staff to help with this project that we're working on. These two individuals and with the help of Victoria DeVargas here have gone out to different communities. They've hit from Chimayo all the way to Edgewood, from La Cienega to Glorieta. Included in this project are some PSAs done by Assistant Chief John Wheeler. He has met with the local radio stations here, KSWV and KSFR. Also we did a PSA with Chief Blackwell and Assistant Chief Wheeler. It got filmed but we didn't have any editing due to Mr. Yardman's departure from the County, so we're working on getting that editing and putting in on the local cable channels.

Also, the New Mexico Department of Transportation has graciously loaned us a couple of highway signs where we put extreme fire danger, and they've put those in high traffic areas within Santa Fe County. That has saved us about \$4300; we were going to have to rent them for the three-month period but the Highway Department has loaned them to us. But due to the fire season down south they have moved them, but they've promised that they'd bring them back up to Santa Fe County with more visual signage.

And with that, that part of this, there's a report from our individuals that have gone out to the different areas, with pictures. And what I'd like to do, if it's okay, is turn it over to Victoria DeVargas who has been very instrumental in organizing these neighborhood interactions, going out to the supermarkets, working with the two temporary employees. She can fill you in on what they've been doing.

VICTORIA DEVARGAS: Mr. Chairman, Commissioners, what we have here is just a report that we can go over. I'll try and summarize it as much as possible. Thank you for giving us the opportunity to go out to the communities and get this information out there because it is so very important with the current fire dangers.

On our first weekend we had the opportunity to go out to the northern part of our county, the Chimayo area. We started off there. We attended an arts and crafts fair where we got permission to put a booth and hand out information to patrons of the fair and people were very receptive to that. We had a lot of questions in regard to the fire danger and what

homeowner responsibility is. We did put together packets and the packets – what we chose to hand out to individuals was just general information on defensible space over all, which is the pamphlet called “Living with Fire”. It goes over defensible space, how fire travels, what you can do as a homeowner to cover that. We also put in there information on local native trees that we find in our area and the beetle and the drought and how it’s affecting them, because we found that that’s a lot of the questions we’re getting. People see what the beetle did to the pinon and now they’re starting to see drought affecting their junipers. So they want that information, so we figured we’d give that to them so that they’re aware on their property.

We also put in there – it’s a yellow sheet that has information on evacuation planning and how to prepare in the event of a wildfire, what they can do, to look for. So all of that is in one easy pamphlet all together that we hand them, and if they have any questions on that, we’re there to answer those questions. We also are offering people to go out to their property and give them an assessment on how much of a threat their property may be under in the event of a wildfire and people have been very receptive to that. In fact we just met with a homeowners association on the Don Jose Loop on Turquoise Trail. They were very receptive to us. Out of an association of 18 members, 15 residents were there and four asked us to go to their properties and review them.

Each weekend, every Monday, the following week, we’ve had calls on this program that they’ve heard about over the weekend, so it’s been really great. We’ve handed out, overall, approximately 500 pamphlets and we have more to hand out.

CHAIRMAN MONTOYA: Any questions?

COMMISSIONER CAMPOS: I have a question, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: What about the PSA, Mr. Moya? When do you think you’re going to get that edited and on the air?

MR. MOYA: What we’re trying to find, Commissioner Campos, is someone to edit for us. I don’t know if anybody in-house is doing any type of editing on this. If not, we’ll try to contract it out and get it out as soon as we can.

COMMISSIONER CAMPOS: Because we need to get it out soon. We’re close to July 1.

MR. MOYA: Right. I know that they did two filmings of it with Deputy Chief Blackwell and Assistant Chief Wheeler and I know that they did it but we just have to find someone to edit for us and I’ll be researching that once I’m able to do some more purchase orders.

COMMISSIONER CAMPOS: Great. Thank you, sir.

CHAIRMAN MONTOYA: Any other questions?

COMMISSIONER VIGIL: I just want to compliment them. This is a very informative piece of literature. I hope it gets circulated enough and it’s really elementary in the way it delivers its information, so I certainly appreciate that and I don’t know if the Santa Fe County Fire Department has done something like this before and maybe you have

and I've missed it, but certainly, I applaud you for doing this. What a wonderful opportunity to get the word out in educational component. Thanks.

MR. BLACKWELL: Mr. Chairman, Commissioner Vigil, we appreciate the comment. This is actually - we've done this every fire season for about eight years now. In terms of the amount of material, even these publications, we've probably distributed close to somewhere between 5,000 and 7,000 packets over the last three years alone. One of the things that has helped us push forward and it shows how just a little bit of support can help us. Thanks again to Commissioner Campos for your help. With just a little bit of seed money we were able to really extend beyond what we've done every year in terms of our meeting with neighbors, getting some people out in the field that we could support.

Some of the things that we're doing beyond that, we've got magnetic signs that we put on all of our vehicles. We have some other magnetic signs that just arrived today with fire danger, and these signs match the four-foot by four-foot signs that are going to be in front of all four of our regional stations. So they'll be able to see. We'll maintain a fire danger sign now. So just a small amount of support, it's amazing and I have to say it's due to the dedication of the folks like Victoria on the prevention staff, our volunteers that are working weekends with us and even our command staff. For every dollar we get we can turn that 100-fold in just the people who believe in doing this.

The last comment, I think part of the reason we haven't had a catastrophic fire in Santa Fe in the last eight or nine years has to do with luck, quite frankly. But at least half of that, in my opinion, has to do with the fact that we've had them all around us. We've had them in the south. We've had them south of Edgewood. We had the Cerro Grande. We had the Vivash. We've had fires in Pecos and Española and we've had them all around Santa Fe County. I think one of the reasons we haven't yet had a large scale urban interface fire has to do with the prevention work, the materials we're getting out, the support we're getting from the Commission every year to do that, and it makes a difference. We have more and more people that are a lot more vigilant, a lot more cautious about their activities. And I think that really does play, as Commissioner Sullivan said, when we do our work well in prevention you don't see anything happen, and I really think we have to thank our prevention staff and our citizens because they're as committed as we are to try to not have something like that occur.

So kudos go out to those people. And again, we sure appreciate the support you give us as well. Thanks.

XII. Matters from the County Manager

1. Updates on Various Matters

MR. HIATT: Mr. Chairman, Commissioners, the Sheriff asked me to notify the Commission that the DWI forfeiture ordinance won't be enforced on July 1st. As you know from the previous budget hearings the budget only accommodates \$100,000 for creation of the

impound lot. That hasn't been completed yet. I believe the land is donated. I don't think the structure is up in terms of a surrounding fence or whatever is required. And also there are some issues about staffing because the new budget doesn't anticipate additionally staffing for the Sheriff, so he's going to have to do some kind of internal magic to make something happen. But anyhow, he asked me to report that to you.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER VIGIL: Do we not have a magic wand, Mr. Chairman, for at least internal magic?

CHAIRMAN MONTOYA: That came when we got elected. Mine came with blanks.

COMMISSIONER VIGIL: I didn't get mine.

CHAIRMAN MONTOYA: Is that it, Gerald?

MR. GONZALEZ: That's all I had, Mr. Chairman, members of the Commission.

CHAIRMAN MONTOYA: Okay, then could I have a motion to go into - Steve, how do you want to do this? You have D. 1 and then D. 2.

MR. ROSS: We could do it in whatever order you'd like. I can do D. 1 quickly because it's a cleanup matter.

XII. D. Matters from the County Attorney

1. Consideration and Approval of a Resolution No. 2006-114. A Resolution Specifying the Required Signatory for Certain Agreements

MR. ROSS: D. 1 is this resolution that specifies the required signatory for certain types of contracts and agreements. If you recall about two or three meetings ago, we approved the new purchasing regulations and there was a lot of discussion at that time about the provisions in there that describe the Manager's signature authority for items covered by the procurement code vis-à-vis the Commission's signature authority and what items would be presented to the Commission. And we set those limits at \$100,000 and a formula for amendments. So those are in force.

Since we enacted that resolution we've had almost nothing but questions about the remaining universe of agreements that exist and this resolution is intended to clarify the status of those other types of agreements and they're numerous in nature. You'll see that we frequently have occasion to approve revenue contracts, that's contracts that create revenue for the County but no obligations for the County. Grant agreements are in that category. Memoranda of agreements and memoranda of understanding, those are documents generally done with other governmental entities and sometime involve money but more often don't. We talked about grant agreements. Grant applications, we have a question all the time, is a grant application a contract, and the answer of course is it depends on the nature of the application. Some

applications become contracts once they're accepted. So those are contracts in certain cases.

And then a cooperative agreement with another agency, we have those from time to time as well. So my office drafted this little resolution to kind of clean up the gaps that we immediately found after the last resolution was enacted. And it sets the thresholds in exactly the same place as the current purchasing regulations do.

CHAIRMAN MONTOYA: Very good. Any questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Yes, Steve, my question on this was what happens with amendments to contracts approved by the County Manager? And in the first whereas, we outlined the fact that the Board will approve contracts that exceed the sum of \$100,000 and will act on any amendments to the contract approved by the Board if its value is \$50,000 or more or it's more than 10 percent of the contract amount, whichever is less. So that's what the Board does, the way I read this in our regs. But then in terms of what the County Manager, on the second page in paragraph 2 can do, the County Manager can approve agreements and contracts up to the sum of \$100,000.

Now, my question is what's his authority with respect to amendments to those contracts under \$100,000?

MR. ROSS: Mr. Chairman, Commissioner Sullivan, the way the two resolutions work, the County Manager cannot sign any contract or amendment to that contract that takes the total face value of the contract above his signature authority.

COMMISSIONER SULLIVAN: But that's to say he could exceed the ten percent of \$50,000.

MR. ROSS: Well, the ten percent of the \$50,000 is the Manager's authority to approve amendments to contracts you have approved.

COMMISSIONER SULLIVAN: Say that again.

MR. ROSS: His authority as you've just stated, the \$50,000, 10 percent limitation is on contracts that the Board of County Commissioners has approved.

COMMISSIONER SULLIVAN: That's right. Let's say he approves the contract for \$50,000. It doesn't come to the Board of County Commissioners.

MR. ROSS: Right. Right.

COMMISSIONER SULLIVAN: Now, there's an amendment to that contract for \$90,000.

MR. ROSS: Up to \$90,000 or an additional \$90,000?

COMMISSIONER SULLIVAN: An additional \$90,000.

MR. ROSS: An additional \$90,000 has to come to the Board of County Commissioners. It's above his signature authority?

COMMISSIONER SULLIVAN: Why?

MR. ROSS: By his authority being limited to \$100,000. He has no specific authority to go above that.

COMMISSIONER SULLIVAN: Okay, so when you say his authority, I read it as he has authority to enter into a contract less than \$100,000.

MR. ROSS: It says approve a contract. We could say approve a – I could certainly make it clearer, but the way I interpret this is that his authority stops at \$100,000, period. If you'd like additional verbiage in 2 that specifies that that includes amendments, his authority to approve a contract or any amendment thereto stops at \$100,000.

COMMISSIONER SULLIVAN: Yes, I think that would be good clarifying. But the question is still on the amendments. Let me offer another example. Suppose we have a \$50,000 and a \$40,000 amendment. Now where are we?

MR. ROSS: I think we're still within his signature authority.

COMMISSIONER SULLIVAN: Even though it exceeds ten percent of the contract amount?

MR. ROSS: Right, because his initial authority is \$100,000 and he could have executed that contract at \$90,000 originally.

COMMISSIONER SULLIVAN: Okay. I'll have to give some thought to that. I have a concern when contracts get amended close to the face amount and without any oversight by the Commission. It's just a red flag to me that's something's going wrong or something may be going wrong. Before you know it you keep adding up the \$100,000s and you're talking about real money.

MR. ROSS: Commissioner Sullivan, one of the things we are just getting underway is a reporting system. Mr. Herrera in my office has prepared a database and what we're going to do is give you monthly reports, detailed reports of all contracts the Manager executes in the prior month. We should be getting that underway probably around the start of the fiscal year and you'll start receiving detailed monthly reports. I know it's not advance warning of those kinds of things but it certainly will help you identify those kinds of issues in contracts that have been approved and give you the opportunity to talk to us about them.

COMMISSIONER SULLIVAN: And these levels, how do these apply to multi-year contracts?

MR. ROSS: Well, the contract and all amendments for the total term of the contract is the face value of the contract and the limitation on the Manager's authority, the way these policies are drafted, is \$100,000, including all amendments and regardless of the term of the contract.

COMMISSIONER SULLIVAN: Right. Because we seem to be writing in a lot of these contracts that go for four years and it just seems to be an atmosphere of convenience to just write off these contracts and they add up to a lot of money after four years. But your interpretation is that the \$100,000 would be the maximum over the period of the contract.

MR. ROSS: Certainly my advice to departments would be if you have a four-year contract, and the face value of it is \$30,000 this year but you know that it's going to be \$900,000 by year four, you better put it in front of the Board of County Commissioners initially and save yourself a lot of heartache because if you can see that coming it's not a small contract and it needs to be considered.

COMMISSIONER SULLIVAN: So as soon as it goes over \$100,000 that triggers Board action.

MR. ROSS: Yes.

COMMISSIONER SULLIVAN: Okay. Thank you.

CHAIRMAN MONTOYA: Any other discussion? Can we have a motion?

COMMISSIONER SULLIVAN: Mr. Chairman, I move this resolution with the amendment clarifying that the \$100,000 authorization is for the contract and all amendments.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Second, Commissioner Campos. Further discussion?

The motion to approve Resolution 2006-114 passed by unanimous [4-0] voice vote.

XII. Matters from the County Attorney

- 1. Executive session**
 - a. Discussion of pending or threatened litigation**
 - b. Limited personnel issues**
 - c. Discussion of possible purchase, acquisition or disposal of real property or water rights**
 - d. Discussion of bargaining strategy preliminary to collective bargaining negotiations with a bargaining unit**

Commissioner Campos moved to go into executive session pursuant to NMSA Section 10-15-1-H (7, 2, 8 and 5) to discuss the matters delineated above. Commissioner Sullivan seconded the motion which passed upon unanimous roll call vote with Commissioners Campos, Montoya, Sullivan, and Vigil all voting in the affirmative.

[The Commission met in executive session from 3:58 to 5:07.]

Commissioner Campos moved to come out of executive session having discussed only the matters outlined in the agenda, and Commissioner Vigil seconded. The motion passed by unanimous [4-0] voice vote.

XII. B. Land Use Department

1. **CDRC Case #APP 05-5040 Kirkpatrick Family Transfer Appeal Robin Sommers, Appellant, Shelby Robinson, Agent, Request an Appeal of CDRC's Decision to Uphold the Land Use Administrator's Decision to Approve a Request by James Kirkpatrick for a Family Transfer Land Division of Four 20-Acre Lots into Eight 10-Acre Lots (Case No. DL 05-3026). The Property is Located at 8, 28A, 28B, and 28C Shaggy Peak Trail, within Section 22, Township 16 North, Range 10 East (Commission District 4) Jonathan Salazar, Case Planner**
PUBLIC HEARING

MR. SALAZAR: Robin Sommers, appellant, Shelby Robinson, agent, are appealing the CDRC's decision to uphold the Land Use Administrator's decision to approve a family transfer land division of four 20-acre lots into eight 10-acre lots for James Kirkpatrick. The property is located at 8, 28A, 28B and 28C Shaggy Peak Trail within Section 22, Township 16 North, Range 10 East. That would be Commission District 4.

The subject property is located in the Mountain Hydrologic Zone where the minimum lot size is 80 acres per dwelling unit. With water restrictions of a quarter acre-feet per year the density can be reduced to 20 acres per dwelling unit. Lot size may be reduced to a minimum 10 acres per dwelling for the purpose of family-transfer with proof of water availability.

On January 28, 2005, James Kirkpatrick submitted an application, that would be Case # DL 05-3026, to allow a family transfer land division of 80 acres into eight 10-acre lots. The Kirkpatrick application meets all code requirements for the purpose of a family transfer. The application for family transfer included the submission of a geo-hydrology report. A review of that report by the County Hydrologist concluded that the existing well on the property could support the applicant's request.

The following are the appellant's grounds of appeal and staff responses: The appellant states the Kirkpatrick's are wrongfully manipulating the Family Transfer provision of the Land Development Code, in Article II, Section 2.3.1(a), in order to avoid scrutiny of their intended subdivision of land by the County Development Review Committee and the Board of County Commissioners.

Staff's response is that Article II, Section 2.3.1a allows the Code Administrator to approve or deny development permit applications for development without referring the application to the County Development Review Committee or the Board. A land division or family transfer application can be approved administratively as long as the provisions of the Code are met. This application complies with all Code requirements for a family transfer land division.

Article II, Section 2.3.1h states a division of land to create a parcel that is sold or donated as a gift to an immediate family member, as defined in Article X. However, this exception shall be limited to allow the seller or donor to sell or give no more than one

parcel per tract of land per immediate family member. Divisions made under this exemption will be referred to throughout the Code as family transfers. The appellant also states the various transfers between spouses do not accomplish what the family-transfer provision of the Code was intended to accomplish.

Staff's response is that Article X, Section 1.66 defines an immediate family member as a husband, wife, father, stepfather, mother, stepmother, brother, stepbrother, sister, stepsister, son, stepson, daughter, stepdaughter, grandson, step-grandson, granddaughter, step-granddaughter, nephew, and niece, whether related by natural birth or adoption. Therefore this application meets the requirements set forth by the Code.

The appellant also states that the application contravenes the express purposes of the Code and the General Plan. Staff's response is that this application is in accordance with all Code requirements for the family transfer land division process set forth in Article 2.3.1.

On March 16, 2006, the CDRC met and acted on this case. The decision of the CDRC was to uphold the Land Use Administrator's decision to approve a family transfer land division of four 20-acre lots into eight 10-acre lots for James Kirkpatrick. Staff's position is that the Kirkpatrick's application is in accordance with Article II, Section 2.3.1, Administrative Decisions, of the Land Development Code and that the required procedures were followed for this application. Staff recommends denial of the appeal.

CHAIRMAN MONTROYA: Questions for staff? Okay, is the appellant here?

JIM ALLEY: Good afternoon, Commissioners. I appreciate your coming for this special public hearing. My name is Jim Alley. I am a member of the Ruben Katz Law Firm and I am assisted by our associate counsel, Shelby Robinson who is here today. And we represent 15 named appellants in the statement of appeal. All of these named appellants live and reside in the area of the Kirkpatrick land being subdivided. And by the way, nobody in the Kirkpatrick family lives in this area at all. They have no residence there.

We are also supported by some other area residents who simply did not want to be named in the appeal. Some, however, may want to speak at the meeting. The relief we are specifically seeking from you is to deny the Kirkpatrick family transfer application and reverse the County Land Use Administrator and the County Development Review Committee upholding of the Administrator. The basic grounds for reversal - this is a subdivision, really not a family transfer if you look at the transaction as a whole.

The proposed subdivision cannot meet the applicable subdivision requirements, or at least we don't think it can, and to allow the land division the Kirkpatricks want would have serious adverse effects on the people who actually live in the area and its environment and their general welfare.

Now, it's very important for the Commissioners, I think to have a good understanding of the uncontested facts here. This land, I don't know how many of you are familiar with the Overlook II Subdivision. It's located on the east side of the mountain ridge which extends from Sun Mountain, paralleling the Old Santa Fe Trail, to where it descends and ends really at the north end of the Village of La Cañada de los Alamos.

As I say, the Old Santa Fe Trail is the basic access road to that. The Kirkpatrick land lies on the east boundary of the Overlook II Subdivision, just off the ridgetop and its elevation ranges from 7800 feet to 7900 feet. So it's a high altitude. It's up on a ridge just off the east side, primarily with the views towards Santa Fe National Forest, Glorieta Baldy and several of the peaks there, whose names slip me at the moment but I know them as well as my own. Climbed them all.

Anyway, the land also lies more to the east of Camino Marisol, which is a left turn as you get to the hill of the Old Santa Fe Trail before it starts descending towards the road, the turn off to Camp Stoney and then down into Cañada de los Alamos. It makes a left turn there. That's Camino Marisol, a relatively new road which was basically started out I think by Ike Martinez who is a big landowner in that area.

As for access, access to this land, the land was originally landlocked and it only had access because the person who developed Overlook II Subdivision gave the owners of the land at the time, which was the Canfield estate, 240 acres. The 80+ acres of the Kirkpatricks here is one of the lots in the Canfield's 240 acres and the subdivider of Overlook II gave an easement through and down the road of Overlook II Subdivision. If any of you have been up the Overlook II Subdivision road, you'll know that it's quite a challenge. I used to ride my horse in that country before they developed it and I wouldn't take my horse down that road, down the side of the mountain where that road is.

The person who developed it - this is all pre-Code. This is from the early 70s when this subdivision was developed and the man who developed it was William A. McGregor and he simply took his bulldozer and went out there and started cutting the road up and back and up and back to get to the top of the ridge, and what he did was basically sell views. He didn't sell much land because there wasn't any building sites on that steep terrain, and of course he would never have had a chance of ever getting approved today. And you'll see from some of the people, maybe they have some pictures of the narrow parts of that road. It's a bumpy dirt road.

The same is true of Camino Marisol, which is the other access. As you enter it and you pass the houses there, it drops down like a roller coaster, down into a gully before it starts ascending. It's a narrow dirt road again. There's no maintenance agreement that exists between Overlook II Subdivision and the Kirkpatricks for their lots. The Kirkpatricks are using Overlook II access and I believe they show that as their principal access to their development and they use it. There's no agreement where they would contribute to the maintenance. I think the same, I understand the same is the case with Camino Marisol, which is also a private road. Neither of these roads are public roads. As I say, they were pre-Code subdivisions and they've been kept private - no dedication to the public and no acceptance by the County.

So with that background in mind let's take a look at the 80 acres of the Kirkpatricks. This is what the 80 acres looked like I think after they did a lot line adjustment, but that's one tract, 83+ acres, and this is the area of what we're talking about here today. Now, that 80 acres was divided into - the Kirkpatricks sold this tract, the tract

here to Herb Ritts. He was a famous photographer in Hollywood and he built a cabin over here and that's two of the lots they got out of the Canfield estate. But this is what they had before 2002 when they did an administrative subdivision and they divided - you can see the next map, it's the same pattern of land but you'll see four lots within it.

And this was completed - I don't know when they started it, but the subdivision was approved in March of 2002. This is the same piece of land and you see Lot 1, Lot 2, Lot 3 and Lot 4. The subdivider is named Teme, Inc. which was a partnership of the Kirkpatrick brothers, Jim and his brother Charles. And Teme, after they did the subdividing and got this subdivided in an administrative proceeding, without any public hearing, although the posted notice about it, they distributed these lots, one to each - Jim Kirkpatrick, Charles Kirkpatrick, and their two wives, Sudyne and June, I believe. And that was completed, as I say, in March of 2002.

Now if the Kirkpatricks had stopped there we wouldn't be here today. Here they are, 80 acres+, in the Mountain Zone. Eighty acres is the minimum lot size. You can divide four 20-acre lots and they put water restrictive covenants on it. Perfectly legitimate. We respect their property rights and if they stopped there there would be an issue, we wouldn't be bothering you today and we wouldn't have this public hearing. But what the Kirkpatricks did was something different. Without even waiting the five-year required period for a subdivision, of course they don't have to do that for a family transfer, they start to carry out their plans, dividing these four lots into eight lots, and they try to use the family transfer provision to avoid the subdivision requirements. So let's look at Exhibit 3, Shelby.

Remember, four lots each - one is owned by one of the four family members, Jim Kirkpatrick, Charles Kirkpatrick and the two wives. They each have one lot. So what do they do? Well, June conveys one of the lots to Charles, her 20 acres, divides it into 10 acres and conveys one to Charles. And Charles breaks up his lot and conveys his to June. No real change except they own a little different land. They still each own 20 acres. Now they each have two lots instead of one lot. The same thing happens here with Jim Kirkpatrick and Sudyne. They take the 20-acre lot, Jim takes a 20-acre lot, divides it in two, and wants to convey half, a ten-acre lot, to Sudyne, his wife. And then the reverse happens. Sudyne takes her 20-acre lot and conveys it back to James. So you have no real transfer here. You have a transfer - a little different piece of land but it's all in the same piece of original land and there's really been no beneficial change in ownership of land. They each still own 20 acres but now they own 20 acres in two lots, which of course is a lot more valuable and a more marketable than a 20-acre lot.

So the question is, is this really a family transfer? I asked the question before, where's the transfer? There's no real change in ownership. All four still own together the original 80+ acres. Each still owns 20 acres, but from shuffling the land back and forth between them, now they each own two 10-acre lots. Nothing really has transferred. All that has happened is the 80-acre tract has once again been subdivided without compliance with subdivision regulations into eight lots instead of the four after the first subdivision.

You've got the same ownership of the four people.

Now, the County staff's position is what the Kirkpatricks are doing literally complies with the Code and with the definition of family transfer. We don't contest that. Family transfer can be a transfer from a husband to a wife, from a wife to a husband, no problem. But there's no transfer here. That's one of the problems we see.

If you look - you may have a family transfer if you look at each of the four conveyances between spouses as an isolated transaction. If you take a narrow viewfinder and you look at one transaction, yes, that's a family transfer. Then you look at another, and you see four separate transactions, four family transfers. But another thing is going on when you look at this thing as a whole and that's what we say the County staff didn't do. It really didn't look at what's going on as a whole. It's a common promotional plan being carried out by the two brothers and their wives and we submit that they really are subdividers. It really would help to look at some of the definitions in the New Mexico statute that defines common promotional plan. It says it is a plan or scheme of operation undertaken by a single subdivider or a group of subdividers acting in concert to offer for sale or lease parcels of land where the land is either contiguous or part of the same area of land.

Now, a subdivider is any person who creates a subdivision individually or as part of a common promotional plan. We feel that there's a common promotional plan here and each of them are subdividers, and the definition of subdivision is seeking a division of surface area into two or more parcels for the purposes of sale, lease or other conveyance. Subdivision does not include a family transfer, but here we've got four family transfers and a common promotional plan and we think you should look at the whole effect of this transaction and the impact it's going to have on the roads, all of the things that you need to consider in a subdivision.

They certainly have here a plan, a scheme of operation undertaken by a group of subdividers. They're each subdividers because they're dividing two or more parcels for purposes of sale or other conveyance. The family transfer exception doesn't apply because they did the division of land to create a parcel donated as a gift to an immediate family member. Here there are four divisions creating four new parcels. It also must be given. Simply trading contiguous parcels of equal value and size from the same people. Nobody is getting what he or she didn't already own, except little different parcels of land. They're ending up the way it was.

So we submit that the County staff should have looked at the whole picture of what is going on here and not narrowly at each single transaction. What is going on as a whole is a subdivision that the applicant is trying to avoid the subdivision regulations by claiming each one is a single transaction, a single family transfer and should be looked at in isolation.

What are the consequences of being a subdivision? Well, the County Code is very clear on that one. The County Code says Section 2.3.1, Administrative Decisions, applications for land divisions that constitute a subdivision under common promotional plan

shall comply with the procedure provided for in Article V. What's the procedure in Article V? That's the subdivision regulations and that's what we submit should be going on here. We think it should be looked at as a whole, not narrowly. Looked at as a whole under all the facts and circumstances of this case, you will see not four isolated family transfers but a common family plan to create eight lots where only four should be. In other words, a subdivision.

Failure to do this I submit is going to be contrary to the safety, health and general welfare of the people in the area. As a subdivision, these four lot splits and their consequences will be fully examined in the subdivision compliance process. Perhaps the most difficult subdivision requirement to this project is to comply with the requirement to have sufficient and adequate roads to each parcel, including ingress and egress for emergency vehicles. The people in the area can tell you best about their concerns and the problems which would arise from this project. So unless the Commissioners have any questions of me, we'd like to have the opportunity for some of the area residents to address you on this subject.

CHAIRMAN MONTOYA: Any questions for the applicant?

KARL SOMMER: My name is Karl Sommer. My post office box is P.O. Box 2476, Santa Fe, New Mexico, 87504. I represent the Kirkpatrick's. And I just have a couple of questions. Before this application, your client, before the application was filed to divide this into eight 10-acre lots, that the spouses each own their separate lots. Is that an understanding?

MR. ALLEY: Yes. I don't know if they each owned it but that was proposed.

MR. SOMMER: Do you contest that they own it?

MR. ALLEY: No.

MR. SOMMER: If they did own it, would it make a difference if

[inaudible]

MR. ALLEY: If they did own it?

MR. SOMMER: Each separately, the four lots?

MR. ALLEY: Well, they've subdivided their own lots and sold off, transferred one off and taken one back from the other spouse.

MR. SOMMER: So is the basic objection that the transfers are not going to children, that they're going to spouses?

MR. ALLEY: No.

MR. SOMMER: So if it was going to the child, we'd still be here.

MR. ALLEY: Yes.

MR. SOMMER: I just wanted to clarify that.

CHAIRMAN MONTOYA: Okay.

MR. ALLEY: In the Extraterritorial Zoning Ordinance, which is the more recent legislation, there is no such thing as a family transfer between spouses. It's intergenerational transfer there and it probably should have been addressed in the Code,

but the Code was the 1981 and the Extraterritorial Zoning Ordinance which governs the Mountain Special Review District, which is right next to this subdivision, but by a quirk of historic accident this was not included in the Mountain Special Review District, where the minimum lot size, by the way, is 20 acres.

CHAIRMAN MONTROYA: Okay. How many people are going to speak for or against this application? Okay. Let me just for the record let you know that if Lucille Cueva, Greg Ohlsen, Ted Chagaris, Debbie Ronan, Nicky Schwartz, Elizabeth Nodell, Mike Sullivan, Tony O'Brien, Brad Fuerhelm, Julian Prada, Samuel Speidell, Michael Austin, Jeffrey Maul and Matthew Quentin – if you all speak, please, we have your written testimony from the previous. If you would limit it to something different we would appreciate that. Who would like to come first?

[Duly sworn, Greg Ohlsen testified as follows:]

GREG OHLSEN: Good afternoon, Commissioners. My name is Greg Ohlsen. I was here at the other hearing and I reside in the Overlook II Subdivision next to the Kirkpatricks' development. So I wrote it out this time and hope to be a little more articulate and fairly brief, I hope.

Although the written Code appears silent as to the purpose of the family transfer exemption from the Subdivision Act, I feel that the applied purpose of the act is to provide an exemption for people who are legitimately trying to give land to specific members for their personal enjoyment, exempting small landowners from the more rigorous and expensive subdivision standards. If this thought has any merit, it follows that the family transfer act should not be regarded as a gaping exemption in the subdivision law, allowing anyone with any kind of willing family member to circumvent the protections that the subdivision act should provide all landowners.

As an immediate neighbor to this development my greatest concern for this exemption from the subdivision act is that access, as our attorney has mentioned, is gained through an easement on the privately owned Overlook II road. No concerns about maintenance or safety have been addressed to us by the Kirkpatricks, although I assume, and then I learned that this isn't correct, that these issues have been reviewed by the Land Development Review Committee. I feel that the nature of the road falls far short of what the subdivision act would require and should definitely be revisited, and I mistakenly assumed that the access was part of the consideration in the family transfer but I have been informed that that was not correct.

Disregarding the lot split issue, I feel that the parties involved should at least pursue an agreement for cost sharing and upkeep and maintenance of the road over which we will all be driving daily. Although I cannot have certain knowledge of the intent of the Kirkpatricks, this proposed land division is clearly not at this point an intergenerational transfer and does not lead me to believe that the creation of a family owned compound is their intent. I also have some evidence, albeit hearsay, that the property will quickly be on the open market as potential buyers have contacted the Kirkpatricks and have been told until the final land subdivision has been approved.

I understand the family transfer provision grants latitude for judgment. If this requested division does not merit a rejection then it is hard for me to conceive of a situation where control of land division is merited. If the family transfer loophole is so broad as to circumvent subdivision requirements for all parties with any family connections whatsoever, then I fail to see why the act was implemented in the first place. Thank you.

CHAIRMAN MONTTOYA: Thank you, Mr. Ohlsen. Next, please.

[Duly sworn, Lucille Cueva testified as follows:]

LUCILLE CUEVA: My name is Lucille Cueva and I'd like to say, first of all, that a lot of people who were going to attend the last meeting on June 13th are unable to come due to prior commitments, mostly family vacations. So I know of seven people from our community who are not here today.

With this family land transfer, I'm concerned about the way it's done. I am concerned that this is really a subdivision. I'm concerned about the egress and ingress from this property. These roads, as you can see, are terrible. Two cars in certain areas cannot pass at the same time. By doing the subdivision it's going to impact Calle Marisol and the Overlook II road by increasing what we could have expected by double. And there is - it's our safety here. When speaking to County staff, they told me that they were not required to look at this. It's like everybody is looking out for everybody else's rights except for the safety of the community.

It could have been alleviated I think to a certain extent. After the first appeal, we spoke to Mr. Sommer, myself and our attorney and mentioned we'd like to speak to the Kirkpatricks. He said, oh, yes. We'll get back to you. Nothing happened, so we filed a second appeal. About a week and a half before the hearing, we tried again - before the one that was postponed - we tried again to make contact. We were told at that point, oh, they feel it's too far into the process. So we put ourselves out there through our attorney and contacted their attorney to try to talk and try to work as a community. This is impacting two communities and somehow we're being forgotten. I can't believe that an act that is trying to create benefits for families who have large pieces of land are going to take away from other families. And I'm concerned this is really a subdivision and not a family land transfer. Thank you.

CHAIRMAN MONTTOYA: Next, please. Thank you, Ms. Cueva.

[Duly sworn, Fiona Sullivan testified as follows:]

FIONA SULLIVAN: Fiona Sullivan, 39 Calle Marisol. At the County meeting last month, Mr. Kirkpatrick's lawyer said that he had permission from Ike Martinez to use his road to access the property. Although this may be, and I believe that Ike has an access easement running along the edge of his land, however the Kirkpatricks did not connect their road to Mr. Martinez' easement. He connected it to our road, Calle Marisol. This is a private road and he did this without permission of anyone who lives on this road. We have never heard a word from Mr. Kirkpatrick and we have no desire to have him use our road.

This road is privately maintained. My father snowplows it every winter with his

snowplow. On Mr. Kirkpatrick's plat it's marked as public access. In addition to the land in question, Kirkpatrick owns additional acreage, which they will possibly subdivide in the future, and we don't want them to use our road for that subdivision either. Thank you.

CHAIRMAN MONTOYA: Thank you, Ms. Sullivan. Next, please.

[Duly sworn, David Cantor testified as follows:]

DAVID CANTOR: My name is David Cantor. I live on 35 Calle Marisol, and I just want to say on behalf of some of my other neighbors who weren't able to come this evening that there is a lot of concern among the people who live on Calle Marisol about excessive use of the road that was not designed for heavy traffic and there are seven families currently living on the road, roughly 15 children, and the road is full of potholes. In areas it's collapsing and we don't see how it will stand up to heavy building equipment or a doubling of traffic.

Since we haven't seen any mention of provisions being made for the upkeep of the road or the improvement of the road, we're concerned about the consequences of the subdivision. Thank you.

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

MR. SOMMER: Members of the Commission, as I said earlier, my name is Karl Sommer. I represent Jim Kirkpatrick and Charles Kirkpatrick, both of whom are here tonight. Mr. Jim Kirkpatrick is seated over here with the glasses on the white hair, and his brother is seated over there with the glasses on and the white hair. Most of the people behind me are their family members, their children and their grandchildren. What I'd like to do today is to tell you a little bit about the history of why this particular method of division has been undertaken by the Kirkpatricks and for how long it's been done and why, and to show you that this complies completely with the law and that the purpose behind this transfer is to implement an estate plan that has been open, clear, known to the County since 2001. I've been working on this and working with Emilio Gonzales and the staff to create an estate plan that Mr. Ken Bateman, who is an estate tax lawyer, who represents the Kirkpatricks and who has represented them since I think 1970 in their matters and he'll tell you about their estate plan.

First of all, who are the Kirkpatricks? Charles and Jim came to Santa Fe in 1970, '71 and they purchased the Inn of Loreto property when it was owned by the Loreto Sisters. And they developed the Inn at Loreto Hotel and they owned and operated it for many, many years until very recently when they sold the hotel, but they still own a portion of the property where the hotel is and they own the Loreto Chapel. And they run their business there where they employ many of their family members.

They purchased this property in 1982, and their whole purpose was to purchase this to leave to their children or leave the benefit of this to their children and to pursue an estate plan that would benefit their children. And you can see the number of people here, there are many, many children to be educated and cared for in this family.

In 2001, I came to the County with Christian Anderson, who is Mr. Kirkpatrick's son. I came with Oralynn Guerrerortiz and we sat down with Emilio Gonzales and we said

we have an estate plan and we'd like to develop this into a family transfer and how do we do this? We pursued a course over the last five years to get here for the purpose of following the family transfer law as it is written, not as the appellant would have it be written. Every step of the way the activities undertaken by Jim and Charles have been open, public and have been consistent every step of the way. The map you see here, this very map was shown to Emilio Gonzales very shortly after the first time we met with him in 2001. And we said we'd like to end up in a family transfer position like this. And Emilio said I think that can be accomplished; here's how we get it done.

The law allows, the law allows specifically a transfer between spouses as part of a family transfer, and I'll get to that specifically. The question has been raised here tonight about whether or not this is a subterfuge, a way to avoid the regulations of the subdivision act, a way to not have to put in the infrastructure, a way to not take care of the health and safety. Now, what are those accusations based on? These roads meet County standards. They are bonded for, they are safe, and they're already built. The accusation is that there's going to be this huge devastation. The roads that serve this subdivision, all of the roads that serve this subdivision have been built and the improvements have been bonded for.

What's the next big regulation under the subdivision regulations that you look at, particularly in this area? Water. This division, this family transfer, County staff has shown you is supported by a 100-year water supply that has been proved up by a geo-hydro study and approved by the County Hydrologist. That is one of the basic requirements of the subdivision act, and we're not trying to get around that. We don't want to have lots transferred to family members or anybody else that doesn't have water. We're not trying to get by the regulations because we've complied with it.

The other big item that you all are concerned about is fire protection and this, the improvements for this development will provide fire protection with sprinkler and with a reservoir, I believe it's a 30,000-gallon reservoir of water to protect the area from fire and to protect any homes that are built up there.

An accusation was made, or an allegation was made, that none of the Kirkpatricks live on this property. Well, it's vacant land. But Mr. Anderson, who's right there and his wife Maggie, back there with her children, are building their house up here. They're the first of the Kirkpatrick family who are going to be able to move up here. They want to raise their family there, so to say that they have no interest in this land and this is just a way to develop land and get out of the subdivision act is belied by the fact that since 1982, Charles and Jim have owned the land; they haven't done anything with it. It's now that they're getting older, their children are growing up, they're having grandchildren, that they would like to provide an estate plan.

Fortunately, Mr. Bateman was able to devise a way so that you don't transfer the property in a way that triggers an estate tax prematurely. I submit to you that there would be absolutely no objection at all, any grounded objection if we were standing here and Jim and Charles were handing out deeds to Ian and his brother and his cousins, because it would be going to the children. But that would have a severe consequence as you will hear

from Mr. Bateman, that that would trigger a tax immediately upon the transfer. Under the tax code you can do an interspousal transfer without triggering the tax. We've been pursuing this for a long period of time and the idea is to create a plan that doesn't prematurely trigger the tax and cause people to have to sell the property in order to pay the taxes, have to deal with taxes.

I'd like to address a couple of the issues that have been raised in the appeal, which are not well founded in either the facts or the law of this case. There's a written appeal they put in front of you by the 15 appellants and one of them is Jim and Charles also own 160 acres and will be in here next month doing the exact same thing. Well, you all know that the family transfer says you can only do one transfer to a spouse, one transfer to a child, one transfer. This is only one possible transfer that can take place under the law. And looking at the question of the law and the single transfer that's available, Mr. Alley said, well, you know the Santa Fe County Code is outdated and the more recent iteration of the law and a more sound iteration of the law is done in the Extraterritorial Subdivision Regulations, which require an inter-generational from parent to child or from grandparent to grandchild or the like.

Well, the County Code is based on the state statute and the state statute is not outmoded. It is the law upon which the County must base its Code and County Code follows exactly what the state law says, that an immediate family member includes a husband or a wife. And I submit to you that that recognizes that for the very reason that it avoids a tax imposed on a family that want to set up an estate plan. I think that the state law recognizes -

COMMISSIONER VIGIL: Mr. Chairman, Karl, just because I don't want to lose my thought, if I could just interrupt here for a minute. And clarify this for me. My understanding is that this original eighty acres was transferred from spouse to spouse and 20 acres were transferred.

MR. SOMMER: Correct, so that each spouse owned -

COMMISSIONER VIGIL: So that constitutes one family transfer, correct?

MR. SOMMER: No, because there was no division of the land for that part. The family transfer says a division of land for purposes of transferring to a spouse. The division of land that occurred four years ago or the like in 2002 was an administrative division that didn't require a transfer one way or the other. It's a summary review subdivision as Ms. Guerrerortiz has indicated.

COMMISSIONER VIGIL: What does that mean? Was that an administrative decision that allowed that to happen?

MR. SOMMER: It just happens under summary provisions. It doesn't go through the full-blown thing because it's less than five lots, etc., etc.

COMMISSIONER VIGIL: But in fact, the result of that would be that there would be 20 acres, boundaries could be drawn where 20 acres of each one of these family members could actually create their own - whatever it is they wanted to do with the property. If they wanted to build a house on 20 acres, they could do that. But the initial -

as is presented to us - the initial lot splits in this did involve a division of 80 acres into 20 acres per spouse.

MR. SOMMER: Not per spouse. The division was done by their partnership. So it wasn't done per spouse. It wasn't a transfer to the spouses; it was a distribution out of the partnership.

COMMISSIONER VIGIL: So are you contending that there wasn't an initial family transfer?

MR. SOMMER: There was not an initial - there has not been -

COMMISSIONER VIGIL: And this is the first time you're coming before us for a family transfer.

MR. SOMMER: That's correct.

COMMISSIONER VIGIL: I would just ask Legal or staff to consider that and maybe address that. Was that your understanding.

MR. ROSS: Mr. Chairman, Commissioner Vigil, I've got the - it looks like it's about a four-year old plat right in front of me here and what happened initially is apparently the 80+ acre tract was divided into four pieces by this - it looks like Teme, Limited, its company. There was a partnership -

MR. SOMMER: It's a partnership between Charles and Jim.

MR. ROSS: I can hardly read it, but that document is the second to last document in your packet. That was the initial administrative approval of a four-lot subdivision consisting of four 20-acre lots.

COMMISSIONER VIGIL: Did that comply with Code?

MR. ROSS: Well, I'm assuming it did because it was approved by the then Land Use Administrator.

COMMISSIONER VIGIL: And it was an administrative approval.

MR. ROSS: It was an administrative approval.

COMMISSIONER VIGIL: Okay. Thank you. Karl, sorry. Continue.

MR. SOMMER: The appeal also says that the Code requires an intergenerational transfer and the Code does not require and could not limit a family transfer to intergenerational because the definition of family transfer says under the state law says a husband or a wife. That's not intergenerational. It also includes a brother or a sister. That's not intergenerational. It also includes people who are related by adoption or by marriage. So the idea that the appeal raises is that a family transfer must be intergenerational while the state law is absolutely clear on its face and the County could not do anything but what the state law allows, and it doesn't have to be intergenerational.

I said I have with me tonight Mr. Bateman. I have the Kirkpatrick's and I have also Oralynn Guerrerortiz, and she can talk to you a little bit about the history, the infrastructure and the process that we've gone through. But before I sit down I'd like to pass out to you the provisions of the law so that it's clear what we're dealing with. May I approach.

CHAIRMAN MONTROYA: Sure. Just so that everyone knows, I need to be

out of here by 6:30. I didn't anticipate this being noticed as a 5:00 public hearing and I did make a commitment to the acequias in Pojoaque. So they're starting right now at 6:00 and they're expecting me there.

MR. SOMMER: I'll be brief. What I've highlighted for you is the provisions of the state law which must be followed by the County in the adoption of its regulations that do not limit a family transfer to intergenerational transfers, and that a subdivision does not include a family transfer as has been I think alleged or argued in effect here in front of you. I'd stand for any questions but I'd like the other people who are here to speak to have an opportunity. Thank you.

CHAIRMAN MONTOYA: Thank you, Karl.

KEN BATEMAN: Commissioners, I'll be very brief as well. I'm Ken Bateman, Gerber & Bateman, 2009 Botulph Road, Santa Fe. It's been mentioned, it's been my pleasure to represent the Kirkpatrick family for quite some time, 35 years go by in a hurry. But I have been involved very intimately with their tax issues and their family issues. My practice is principally in the estate planning arena. They intimated at least that this is some kind of shell game or not what it appears. Well, I want to tell you that it is what it appears. There are very strong reasons for transfers between husband and wife from my perspective, from a planning perspective. As was mentioned the taxes is a principal issue in estate planning. It's not the be-all and end-all of planning, obviously. The whole point of planning is to benefit the family.

But in this instance they have the concern of not the estate tax but gift tax and income tax. The transfer between husband and wife is not a taxable event. It's an exemption specifically for gifts during the lifetime or gifts at death. But an intergenerational event is a taxable event. And the gift tax is equal to the estate tax and it's pretty draconian. It starts at 37 percent at the moment and goes to 45 pretty quickly, 45 percent of the value. So obviously that is something that one does not want to do intentionally if you can avoid it.

The statute rather clearly permits transfers between husband and wife and the point of this is to add another step in an overall estate plan that has to do with the benefit of the next generation and the generation after that of the Kirkpatrick family. It enhances that enormously from my perspective but I want to confirm to you that this is not something that I dreamed up overnight. It has very specific implications for this family and ability for them to benefit, as I say, successive generations. So thank you for your attention and glad to answer any questions.

COMMISSIONER VIGIL: I actually have a question. I'm going to defer and take over as vice chair to Commissioner Sullivan and then I'll ask my question if he doesn't ask it before me. Commissioner Sullivan.

COMMISSIONER SULLIVAN: The question I had for you was the transfer between the corporation owned by these two gentlemen and their two wives - were they the members of the corporation?

MR. BATEMAN: The two gentlemen were. The brothers were partners in a

partnership.

COMMISSIONER VIGIL: Okay, so they owned initially 80 acres, two brothers. They then, this corporation or partnership, then transferred the 83 acres to themselves and their wives in four parcels. Is that correct?

MR. BATEMAN: That's what I understand. Yes.

COMMISSIONER VIGIL: Okay. Ms. Guerrerortiz behind you is shaking her head no. So you might want to converse on this.

[Duly sworn, Oralynn Guerrerortiz testified as follows:]

MS. GUERRERORTIZ: Oralynn Guerrerortiz, P.O. Box 2758, Santa Fe, New Mexico, 87504. Just to speak on that point, Teme did a four-lot summary review subdivision, the partnership did a subdivision, created four lots. After they created the four lots, Teme transferred ownership back to the brothers individually and then the brothers transferred to their wives. So then the four lots that had been created through the subdivision process then were all held individually by the different spouses.

COMMISSIONER SULLIVAN: Okay so the brothers – so Teme was a partnership, a limited partnership. Teme created a subdivision and that partnership consisted of the two brothers. The partnership transferred the entire subdivision to whom?

MR. BATEMAN: Well, I think what I understand is that the partnership did the administrative subdivision to begin with before there was a transfer. Is that correct?

COMMISSIONER SULLIVAN: Yes, I understand. Then there was a transfer. And to whom did this partnership transfer the subdivision?

MR. BATEMAN: To the husband and wife. Is that correct?

COMMISSIONER SULLIVAN: To the husband and wife? Or to the two brothers?

MR. SOMMER: The transfer of the [inaudible] to the two brothers.

COMMISSIONER SULLIVAN: To the two brothers. Okay. So my question for Mr. Bateman then, was that a taxable event?

MR. BATEMAN: No, it was not.

COMMISSIONER SULLIVAN: Okay. So it was not a taxable event. So Teme transferred to the two brothers, Mr. Kirkpatrick and Mr. Kirkpatrick. Subsequent to that, Mr. Kirkpatrick and Mr. Kirkpatrick transferred one of their two lots each to their spouses. Is that correct?

MR. BATEMAN: That's right.

COMMISSIONER SULLIVAN: Okay. Was that a taxable transfer?

MR. BATEMAN: No, sir.

COMMISSIONER SULLIVAN: And why not?

MR. BATEMAN: Because it was a transfer between husband and wife.

COMMISSIONER SULLIVAN: Okay. So we have a transfer between a husband and a wife that occurred after the partnership dissolved or got rid of its subdivision, sold its subdivision. So in neither case was that a taxable event.

MR. BATEMAN: That's right.

COMMISSIONER SULLIVAN: So, I guess then I'm back to the question that Commissioner Vigil asked earlier. Haven't we used up our one transfer here?

MR. BATEMAN: No, there's no limit on the number of transfers one can make between husband and wife in the tax law. If you're speaking of the tax law now.

COMMISSIONER SULLIVAN: Okay. So we're saying that there was a transfer but your contention is it wasn't a family transfer, because it wasn't needed, because you were still within the subdivision 20-acre lot limitation.

MR. BATEMAN: That's my understanding. Yes, there hasn't been a family transfer as defined in the Code.

COMMISSIONER SULLIVAN: All transfers to date have occurred and will occur between the husbands and the spouses.

MR. BATEMAN: That's correct.

COMMISSIONER SULLIVAN: And those weren't family transfers or they didn't need to be transfers because they still met the 20-acre limitation of the Code. Is that correct?

MR. BATEMAN: That's my understanding, yes.

COMMISSIONER SULLIVAN: Okay. Thank you.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: A question. When Teme Partnership existed and these 80 acres were transferred over to - I hope I'm enunciated it correctly - the Teme Partnership, was Mr. Kirkpatrick and Mr. Kirkpatrick married at the time?

MR. BATEMAN: Oh, yes.

COMMISSIONER VIGIL: So the Teme Partnership was community property?

MR. BATEMAN: Yes, the partnership interest would have been, yes.

COMMISSIONER VIGIL: Okay. So the spouses would have been 50 percent vested in that property if it was community property, correct? Whether it was a subdivision or not? Is that accurate?

MR. BATEMAN: They would have a 50 percent interest in the partnership interest, not the ground. For tax purposes, there's a difference. So what they owned was the partnership that owned in fact the land.

COMMISSIONER VIGIL: Okay. But because they were married at the time, they were subject to community property laws so any subdivision of the property or whether it was subdivided or not for tax purposes or not, 50 percent would be assets to both spouses or debts, whatever the situation, because they were married at the time. Is that correct?

MR. BATEMAN: It's community property. It is now.

COMMISSIONER VIGIL: Is it your understanding that there is any kind of a taxable event when a family transfer occurs?

MR. BATEMAN: Well, it depends on to whom it's transferred, Commissioner, that's the point. If it's a transfer between husband and wife, it's not a

taxable event. If it's intergenerational, it certainly could be, depending on the [inaudible]

COMMISSIONER VIGIL: Then my question to you would be why wasn't the original transfer a family transfer?

MR. BATEMAN: Because it was an administrative subdivision as I understand it.

COMMISSIONER VIGIL: Okay, but if the estate planning was intended to avoid a taxable event and you actually wanted to provide an opportunity for the spouses to have property through this estate planning, why not a family transfer originally?

MR. SOMMER: May I answer that? The reason it wasn't a family transfer is because a family transfer is the division of property for purposes of transferring it between immediate family members. The initial subdivision was a subdivision, a summary subdivision. It met the requirements of the law and the transfer of both lots either way was not a division of the land, it was simply to transfer the land. A family transfer is the division of land for the purposes of conveying to somebody else. The deeds between Jim and Sudy were not a division of land; they were just a transfer of land. A family transfer is the division of land for purposes of a cross-conveyance like that. So that's why it's not a family transfer. This would be a family transfer because we are actually dividing the land for purposes of transferring it between husband and wife. That initial subdivision was not divided for purposes of transferring between husband and wife.

COMMISSIONER VIGIL: Yet, the testimony was that it was divided by each of the husband Kirkpatrick to each of their wives, correct?

MR. SOMMER: It was conveyed.

COMMISSIONER VIGIL: Conveyed?

MR. BATEMAN: It was already divided by the partnership before it was -

COMMISSIONER VIGIL: Okay. So it was divided and then conveyed.
Okay. No further questions, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos, do you have anything?

COMMISSIONER CAMPOS: Not at this time.

CHAIRMAN MONTOYA: Okay. Anyone else speaking before or against this?

MS. GUERRERORTIZ: I'm Orallynn Guerrerortiz. I have been sworn. I was asked to speak on the history of the transfer. Shortly after the Land Use Code was revised to incorporate changes required by the State Subdivision Act, we had a submittal for a family transfer exemption between spouses. The documents showed that the couple had owned the lot together. The wife had recently quitclaimed deeded her interest to her husband so that he owned it solely. He wished to divide his lot into two pieces, keeping one for himself and giving the other piece to his wife.

Now, I knew the state law had expanded family transfers from just kids and grandkids to spouses, niece, nephews, brothers and sisters, etc. But I thought this had pushed the limits of the law. The couple was represented by a lawyer and I honestly forgot which one it was but I asked the County Legal Department to review the case at the time.

At the time we had some superior land use lawyers on County staff including Maryanne Reilly and Denise Kulseth. I recall speaking to both of them about the case. They said that the proposed transfer was legal under state law and our own Code. There were no holding periods required for the family transfer as long as the minimum required lot sizes were met.

Since 1996, the County has approved two to three of this type of spousal family transfer exemptions each year. The history on this particular project, again, and I don't know how long it took them to start, but short, they did a summary review subdivision. Summary review subdivision would allow them to sell lots immediately. I believe that's why they did it. They were looking for some flexibility.

Jim Kirkpatrick contacted me and told me he'd like to do a family transfer. Jim and his brother Charles together with their wives owned four lots in the mountains east of our town. They'd owned the property for over 20 years and they were all in the 70s and as part of their estate planning they wished to divide the land up among their children. Jim said there'd be some significant taxes to be paid as the land values had increased substantially over the years, so they had hoped to sell some of the lots and transfer the others to the kids. I told Jim about the spousal exemption. I was the one that brought it to their attention, because most people don't even know about it. It's buried in the Code and are not aware of it. But I had been informed because I had worked on staff for years.

They had four lots and four spouses. If they each owned a lot solely, they could each create a new lot and this way the land could stay within the first generation's hands and no taxes would be due yet. There's been some questions and statements made by Mr. Alley that the family transfer provision did not basically allow them to circumvent the subdivision requirements, but I did not hear which requirements we circumvented. As far as I know we've got them all. The access was reviewed by the Fire Marshal. We have to do significant road improvements both offsite and onsite to get 11 percent grade to allow some areas where the Fire Marshal can pass some other cars on narrow roads that are offsite and some other improvements. So the Fire Marshal has reviewed it and there's been bonding to make those improvements. The Fire Marshal has signed the plat that's in front of you that's up for question today.

The geo-hydro as you're aware was reviewed by Stephen Wust and was approved. For fire protection we were required to put in a 30,000-gallon storage tank and a draft hydrant, fire sprinkler systems, and some other little minor, lesser issues. But the point I'd like to make is that all the requirements have been met for this project and I believe that it met - I think staff agrees and I hope you all agree that we met all the requirements under the Code, both state and County law. Thank you.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTROYA: Commissioner Vigil.

COMMISSIONER VIGIL: Orallynn, I have - Orallynn, why didn't you advise them to do what we all perceive is the intended purposes of the Family Transfer Act and that is transfer this property to family members. Just answer that question.

MS. GUERRERORTIZ: Well, I understood that they were very concerned about the taxes that they were going to pay. I know myself just from little things I've dealt with that husband and wife can get \$24,000 a year. So if a lot's worth \$100,000, you could transfer 24 percent of that lot and in a little over four years, you've given it to your child and you haven't hit any tax requirements. So there aren't games. I don't know how else to describe it; I'm not expert. So there are games to reduce their taxes and those are when I've had a family tell me that they are concerned that they want to create four lots and they're going to sell one of them because they're just going to pay taxes with that, and yet they have four kids. I've told them, well, there are other options that you might be able to use and I usually refer them to a tax lawyer to get into the details of it. But there are ways to do it to avoid the taxes and accomplish the same thing: still get the land to the children, or still get the value of the land to the children at least.

COMMISSIONER VIGIL: So is it your understanding that a family transfer to a child or a brother or a sister is a tax-triggering event?

MS. GUERRERORTIZ: Yes. It's really sad. I think when I was working for the County it took me a while to figure it out but there were family transfers occurring regularly in the county and immediate sales. They were happening like the next day. And I remember getting kind of bothered about it because I thought it was a subversion of the rules. And I remember talking to individuals and asking them, why are you selling this? You came to me and said you were doing this for your children. And they said because we have to pay a gift tax. You made us sign a deed giving it to this and this and this child, and we have to pay a gift tax of \$100,000 and we don't have \$100,000. We have to sell a lot.

So what I found when I was working in that side is that sometimes the family transfers were resulting in immediate sales just because of the taxes. It's a fault of the lots.

COMMISSIONER VIGIL: And yet, since you found an opportunity to do a spousal exemption transfer, there are other ways they could gift the property to their children, I think through the tax exempt law, I don't know if it's gone up to \$10,000 or whatever, each one of the children can receive that through a period of time. Why would you advise them this way?

MS. GUERRERORTIZ: Because the County doesn't allow you - if you were going to use the family transfer provision and give your land to your son or daughter, you can't give them 24 percent of it. You have to give them 100 percent at the time that plat's recorded. That issue's been brought up with different attorneys. I don't know if we've discussed it with the current County Attorney staff but in the past that's been brought up by several people over time. Could we give just a portion of the property and over a period of years give 100 percent of the property, thereby avoiding the gift tax rules and the County has taken the position that the law is clear. It has to be transferred before the plat is recorded, or after the plat's recorded, 100 percent.

I've seen it tried to be done at least in really complicated trust documents, but County Attorneys have knocked it out also because they've tried to make it work but it hasn't ever worked. So there's no way. You always trigger the gift tax if the value is more

than \$12,000 per person, which almost every piece of land in our county is worth more than \$12,000 per person, you've triggered the gift tax rule.

COMMISSIONER VIGIL: Thanks, Oralynn. Mr. Chairman, I just would like Legal to respond to anything they feel they could appropriately respond to at this time.

MR. ROSS: I think we'll punt for now.

COMMISSIONER VIGIL: Okay. Thanks.

CHAIRMAN MONTROYA: Always a good thing. Mr. Kirkpatrick.

[Duly sworn, James Kirkpatrick testified as follows:]

JAMES KIRKPATRICK: My name is James Kirkpatrick. I live at 401 Estrella Court in Santa Fe. I was the purchaser of the property originally back in 1982 or made contract in 1982 through KAM Limited with an undivided one-half interest in a partnership with Ann Maytag and John McLaughlin, her partner in the other 50 percent interest. James Alley was our attorney and did all of the title work for us on our acquisition of the property at that time. He asked me what we were going to do with them, I said, Jim, I don't know. I don't have the slightest idea right now, but I assure you that if I ever do develop it I will never develop at anything less than a ten-acre tract.

He went ahead and represented us in the acquisition. Jim was the one who was not happy with the right-of-way agreement that went through the Overlook II Subdivision and requested that they prepare a new one and got it executed by the homeowners association there that allowed us to use any road which was on the property for access to our property. The basic question seems to be why are we using a family transfer and why are we doing it between husband and wife. And the whole purpose of it is to get into eight ten-acre lots that I can start doing and my brother can start doing to transfer to our children without generating or causing tax consequences that are unnecessary.

The way that I understand the law at this time, that if I were to give a lot, and let's assume a ten-acre lot out there, most of the property out there has an assessed value for the County Assessor's purpose, not an assessed value but a market value, of around \$15,000 an acre. So you're talking at a minimum a \$150,000 lot. Now, if I give that as a gift to a child that is immediately taxable and I think the tax is rather sizable. I don't know what the percentage on \$150,000 is. But you do that for two or three children and you're running into a lot of money which is unnecessary.

If I were to turn around and make a contract with a child, I say, look, I will sell you that lot for \$150,000. You put no money down, I'll take a note back from you. Well, I have to compute interest on that note and then I have to pay income tax on that computed interest even though I may be gifting that note off over the years. The best way for me to handle this and for my brother to handle it with our children and perhaps with our grandchildren further on down the line is to start a gift process of undivided fractional interest, which we can do to a value of \$24,000 between husband and wife per child per year. And it may take us five years, but in the meantime we're not paying what I would consider the unnecessary and adverse taxes to the federal government and to the state.

And that was the whole purpose of why we went this route. It was not to avoid the

subdivision process or anything along that line. It is to be able to convey property to our children in the most practical, economical manner.

CHAIRMAN MONTTOYA: Thank you, Mr. Kirkpatrick. Anyone else wish to speak for or against this? We'll take your final comments, Mr. Alley.

MR. ALLEY: Thank you very much, Mr. Chairman. I submit to the Commissioners that the tax issue is a red herring here. We're talking about the subdivision versus the family transfer issue in the Code and our position is simply that when you have four family transfers here to create a division of 20-acre lots into double the number of 10-acre lots you've got a subdivision if you look at it as a whole rather than individually the way the County staff has, as one transaction, one transaction, one transaction. This is a common scheme.

Now, take a look at the legal consequences of what they arguing. Well, okay, here we are with eight ten-acre lots. Now, they can have another family transfer and split this in two if they could prove the water. They could have another family transfer and this person who has a ten-acre lot here can transfer it down to a child. And then it's going to be a five-acre lot instead of a ten-acre lot. That's a family transfer and you're not subject to - so here you go on out ad infinitum. We already have doubling of the number of houses that are going to be built on this 80-acre tract. We have all the construction that's going to come up these two narrow roads that these people that live on Overlook II and Camino Marisol are going to have to deal with and then they keep doing that if they can show the water, they can go down to lower lot sizes and so this could go on ad infinitum.

The problem here is we claim there's been no long transfer really. There's really no transfer going on here. No substantive transfer. I think even if the IRS looked at it they wouldn't consider it a substantive transfer because they all end up owning the 20 acres that they have before, it's just now they've got two lots instead of one and they subdivided. So that's the point.

Another real primary point I want to make is this thing has to be looked at as a whole and not four individual transactions because you can run away with it. I'm a great believer in the family transfer when it's applied properly. I was actually on the Santa Fe County Plan in 1979 and I was a member of the committee and Amarante Romero was a committee member and he was the one - Art Trujillo called him the Mayor of Agua Fria and Amarante was the one that came up with the family transfer. I don't think it was in the law anywhere. I know it was in the Subdivision Law then. That's where the family transfer came from, from Amarante Romero. He said we have a Hispanic tradition of giving our land to our children and we want to be able to have our children live on our land too, so we want to be able to have a means of doing that without having to go through the subdivision process.

This is different. This is land that's being used and I bet you went it goes and we get it done it's going to be put up for sale. This land here was sold before. This land here was sold before for very good prices and you'll see this property coming up for sale too. But I think you would realize there's been no transfer here and we need to look at the

whole transaction because it's going to set a terrible precedent for avoiding the subdivision regulations.

Oralynn says, well, we complied anyway with all the subdivision regulations. We don't know that. And if you have a subdivision you have to have public hearings. The County Code says about administrative decisions quite clearly, by using the following procedure the Code Administrator may approve or deny development permits for the following types of development without referring the application to the County Development Review Committee or the Board, and then it goes on to talk about family transfer and other things. But if this was a subdivision it would be a whole different ballgame.

CHAIRMAN MONTOYA: Okay.

MR. ALLEY: So thank you very much. I appreciate your time and I hope you get to your meeting.

CHAIRMAN MONTOYA: I've got to get going now.

COMMISSIONER VIGIL: I have a question for staff and anyone can take this. Have we every allowed a family transfer where a member of the family receives two lots instead of just one? Are you following my questioning here?

WAYNE DALTON (Review Director): Mr. Chairman, Commissioner Vigil, I'm not aware of this particular situation. I have not seen it myself. But this particular case does comply with the Land Development Code.

COMMISSIONER VIGIL: It complies with the Land Development Code, and could you explain that further? What authority did you use for that compliance? Mr. Chairman, Commissioner Vigil, it does comply with the Code because the Code does allow a transfer to an immediate family member which does include a husband and a wife.

COMMISSIONER VIGIL: A single transfer?

MR. DALTON: Mr. Chairman, Commissioner Vigil, I believe that would be a single transfer.

COMMISSIONER VIGIL: It seems to me that what we're coming up with here is there are four members and each one of these are going to come up with two ten-acre lots. Is that your understanding of how this division will unfold?

MR. DALTON: I'm sorry.

COMMISSIONER VIGIL: There are four members involved in this transfer, and of these four members, each one of these four members will be coming out with two ten-acre lots. Is that correct?

MR. DALTON: Mr. Chairman, Commissioner Vigil, that is correct.

COMMISSIONER VIGIL: Thank you.

CHAIRMAN MONTOYA: Any other questions for staff? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just a quick one. On the plat when the summary subdivision was recorded, the summary subdivision was subject to Article VII, Section III of the Santa Fe County terrain management regulations at the time of

development. What did those terrain management regulations specify? Were there lot sizes? Were there slopes? Were there ridgetop ordinances? What would those regulations have been in this?

MR. DALTON: Mr. Chairman, Commissioner Sullivan, I would believe that would pertain to slopes, buildable areas. I believe that's what that section of the Code would pertain to as part of terrain management. So I believe buildable areas and slopes and disturbance of slopes of 30 percent would be -

COMMISSIONER SULLIVAN: Okay, so when the Land Use Administrator approved this family transfer then did he or she look at the eight parcels and determine that each one of those met the requirements of Article VII, Section III of the County terrain management regulations?

MR. DALTON: Mr. Chairman, Commissioner Sullivan, I don't believe so, but that would have to be addressed when an applicant came in to get a permit on the property. They would have to comply with the terrain management regulations. So they would have to have buildable area and they could not disturb slopes over 30 percent. So that would have to be a decision made at the time of building permit application.

COMMISSIONER SULLIVAN: It seems that that's already a condition on the four lots now, so that it would seem that we would have to know ahead of time if they're creating a subdivision or a family transfer or whatever it's called, that this condition of the approval of this summary review subdivision would be met. Because otherwise we create a plat and then someone comes in and says, Oh, I have a plat; I'm entitled to build a house and I'm entitled to have access and there's no way else I can get it. I have to build on this site even though it doesn't meet the 30 percent requirement or it doesn't meet the access requirement, the turnaround requirements, the fire requirements, anything of that sort.

So the County hasn't looked at that in terms of whether this criteria has been met.

MR. DALTON: Mr. Chairman, Commissioner Sullivan, that is actually a requirement that staff takes a look at because we cannot create lots that do not have buildable area, so yes, that is something that is looked at by staff.

COMMISSIONER SULLIVAN: Okay. So is there a slope map, a terrain map that you have that you've looked at, that shows the buildable areas on these eight lots as a part of this?

MR. DALTON: Mr. Chairman, Commissioner Sullivan, I myself have not seen on, but I'm seeing Oralynn shake her head and I know Emilio Gonzales who is the case worker on this would not approve a plat without buildable areas.

COMMISSIONER SULLIVAN: This is sheet one of five. I don't know if there's other sheets that go with this. So we've seen others come before us before that turn out that they don't meet the requirements. And a reference was made to the Fire Department approving this by Ms. Guerrerortiz. I don't see anything in the packet from the Fire Department. Is there a Fire Department approval letter?

MR. DALTON: Mr. Chairman, Commissioner Sullivan, we have the

proposed plat that's already been signed off by Buster Patty and we can show that to you if you'd like.

COMMISSIONER SULLIVAN: Okay. And that has the conditions on it that Ms. Guerrerortiz -

MR. DALTON: It actually says - one of the notes here is the installation of an automatic fire suppression system is required for all homes on these lots. Buildings on these lots are subject to the urban wildland interface code and it also says a 30,000-gallon water storage tank and draft hydrant shall be in place, tested, approved and operable prior to the start of any building construction. So that is a note on the plat and has been signed off by the Fire Department.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Any other questions? What are the wishes of the Commission?

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I have a really high concern about this case. It's very difficult as a Commissioner to hear people come before you and want a family transfer because we're dealing with so many other issues that we have to balance - water issues, density issues, those on balance, those kinds of decisions are very difficult to make. And that is when a family transfer request comes to us with a family who has a hardship who actually cannot afford any other way of assisting either a spouse or a brother or a sister or a child and would like to divide their land to be able to assist them because they're actually a family who's rich in property and maybe not so rich in property, not 80 acres rich.

Sometimes we have .5 acres for a family transfer request and those are really heart-bleeding cases for me. They're very difficult for me to refuse and I have to balance those with is this applicant going to be able to have sufficient water? Are there safety issues there? And does this applicant actually have a hardship? Those in and of themselves are difficult to decide because I feel as a Commissioner I have to justify that decision so that those people who elected me and to Santa Fe County residents as a whole. I'm finding it very, very difficult to really move forward with a family transfer request.

[Commissioner Montoya left the meeting.]

I don't have a sense that despite the fact that you have come forth and said that there was a corporation that was formed, that that corporation actually itself divided the property. It was just a conveyance. What actually did occur, de facto, was the fact that plots were identified, they were divided and that was actually I do believe it probably was recorded according to the testimony and maybe I'm making that assumption. I'm not real sure. So to go beyond that in a mountain review district in an area where we're trying to protect the area through management, it's very difficult for me to go, to agree with - and I also think that the Family Transfer Act's intent was as was testified to today, it was intended to assist those families who can be able to help their other family members and I

don't think it was intended to avoid taxes.

So my sense is that I'm going to make the motion that we uphold the appeal and deny – I think this is the way I want to go because we have two parties here. We uphold the appeal and deny the administrative decision as was stated originally. So I think what I'm trying to do is not uphold the Land Use Administrator's decision and deny the family transfer basically. Is that an appropriate – Legal? My motion is I deny the family transfer and I do not uphold the Land Use Administrator's decision here. And that is my motion. Is there a second?

COMMISSIONER SULLIVAN: Second.

COMMISSIONER VIGIL: Motion and seconded that we deny the family transfer and that we not uphold the Land Use Administrator's decision. Is there any further discussion?

COMMISSIONER SULLIVAN: Madam Chair.

COMMISSIONER VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think, Madam Chair, you make compelling issues, but I think more simply in my judgment, when I see eight lots proposed in front of me, I see a subdivision. And under five is not. And I can't move beyond that definition of what we're dealing with here and when I see an eight-lot subdivision I want it to comply with our current review process that we utilize for that. So that's the basis I think of my second. Thank you.

COMMISSIONER VIGIL: Thank you. Any further discussion? Seeing none, the other point I want made as part of the record is if this proposal actually came to us and was a family transfer from one member of the family to another member of the family to the extent that children, brothers and sisters all benefited from this, I might be able to see this differently, but I see this as Commissioner Sullivan does, a subdivision because four original partners in this are subdividing continually, initially through a partnership and now through what they're perceiving is the family transfer. I think there's a question as to whether or not the original conveyance was family transfer. Commissioner Campos.

COMMISSIONER CAMPOS: I think the Land Use Administrator probably made the right decision. I think it's very convoluted. There's a lot of facts that are being thrown at us. It seems that this division of land will cause a lot of problems for the neighbors, but it also seems that they are in compliance with the family transfer law. I would rather end this decision instead of litigating. I think the Land Use Administrator is correct. I would vote no on your motion.

COMMISSIONER VIGIL: Okay. Is there any further discussion? Hearing none, let's take a formal vote.

The motion to grant the appeal and overturn the decision of the Land Use Administrator in CDRC Case #APP 05-5040 passed by majority 2-1 voice vote with Commissioner Campos voting against. [Commissioner Montoya was not present for this

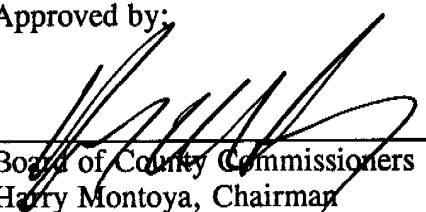
vote.]

COMMISSIONER VIGIL: The appeal has been granted.

XIII. ADJOURNMENT


Vice Chair Vigil declared this meeting adjourned at approximately 6:45 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
