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COUNTY OF SANTA FE )  
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BCC MINUTES  
PAGES: 84

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County Clerk, Santa Fe, NM

**SANTA FE**  
**BOARD OF COUNTY COMMISSIONERS**  
**REGULAR MEETING**  
**July 25, 2006**

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

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**SANTA FE BOARD OF COUNTY COMMISSIONERS**

**COMMISSION CHAMBERS**

**COUNTY ADMINISTRATION BUILDING**

**REGULAR MEETING  
(Administrative Items)  
July 25, 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  - B. Tabled or Withdrawn Items**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. June 9<sup>th</sup> & 10<sup>th</sup> 2006 – Special Joint Meeting Board of County Commissioners & St. Vincent Regional Medical Center Board of Directors**
  - B. June 27, 2006- Regular Meeting**
- VIII. Matters of Public Concern – Non-Action Items**
- IX. Matters from the Commission**
  - A. County Fair Festivities (Commissioner Anaya)**
  - B. Presentation Regarding Vicious Dogs by Animal Control Officer Andrew Jaramillo, and Discussion/Direction Concerning the Need for Additional Measures to Protect the Public (Commissioner Anaya)**
  - C. Discussion of County Members on the BDD Board (Commissioner Montoya)**
  - D. Discussion of the Future of Commissioners’ Discretionary Funds (Commissioner Campos)**
- X. Committee Appointments/Reappointments**
  - A. Appointment to the Road Advisory Committee**
  - B. Appointment of Erika J. Campos, St. Vincent Hospital Regional Center Representative, to the Health Policy and Planning Commission**
- XI. Consent Calendar**
  - A. Budget Adjustments**
    - 1. Resolution No. 2006 – A Resolution Requesting an Operating Transfer from the General Obligation Bond (GOB 1997 Series Fund (350) to the GOB Debt Service Fund (401) to Budget Investment**

**Income Revenue for Debt Service Expenditure in Fiscal Year 2006 (Finance Department)**

2. **Resolution No. 2006 – A Resolution Requesting an Operating Transfer from the General Obligation Bond (GOB) 2001 Series Fund (353) to the GOB Debt Service Fund (401) to Budget Investment Income Revenue for Debt Service Expenditure in Fiscal Year 2006 (Finance Department)**

**B. Misc.**

1. **Request Authorization to Enter into a Contract with Value Options for \$287,959 for Administration of the Access to Recovery (ATR) Grant in Santa Fe County (Health & Human Services Department)**
2. **Request Approval to Award Construction Agreement No. 26-1906-HO/RH Modernization of Housing Units to the Lowest-Cost, Responsive Bidder, Sol Systems Inc. to Provide Full Modernization Remodeling at all Three Housing Sites (\$695,413.45) (Housing Department)**
3. **Request Approval to Award Construction Agreement No. 26-0715-PFMD/RH to the Lowest-Cost, Responsive Bidder Construction for Phase II of the Youth Shelters & Family Services Administration / Counseling Facility (\$1,152,070.63)(Project & Facilities Management Department)**
4. **Request Approval of Agreement Between Santa Fe County and United States Army Corp of Engineers for Santa Fe River Watershed Study (Projects & Facilities Management Department)**
5. **Request Approval of the Agreement Between the Santo Domingo Tribe and the City of Santa Fe and Santa Fe County (Legal Department)**
6. **Request Authorization to Enter into Amendment No. 2 Extending Until June 30, 2008 the Term of the Lease Agreement Whereby Santa Fe County Leases Office Space for the Region III Drug Enforcement Task Force /\$75,024 (Sheriff's Office)**

**XII. County Board of Finance Meeting**

- A. **Finance Department's Report of County's Foreseeable Cash Flow Requirements**
- B. **County Treasurer's Report Concerning County's Current Investments and Investment Plan for Future**
- C. **Resolution No. 2006 – A Resolution Approving the Santa Fe County Treasurer's Investment Plan**

**XIII. Staff and Elected Officials' Items**

- A. **Finance Department**
  1. **Resolution No. 2006 – A Resolution Requesting Approval of the Fiscal Year 2007 Final Budget (Finance Department)**
- B. **Fire Department**
  1. **Consideration of Resolution No. 2006- , A Resolution Repealing Resolution No. 2006-113 and Permitting the Sale and Use of Certain Fireworks in the Unincorporated Areas of Santa Fe County and Within Wildland Areas of the County Because of Improving Moisture Conditions**

2. **Consideration of Resolution No. 2006- , A Resolution Repealing Resolution No. 2006-86 and Rescinding Drought Restrictions and Water Use Restrictions Contained in Resolution No. 2006-86 Because of Improving Drought Conditions**
  3. **Consideration of Publication of Title and General Summary of an Ordinance Repealing Ordinance No. 2006-4 (An Emergency Ordinance Declaring Hazardous Fire Conditions Warranting Restrictions on Open Fires and Smoking Within Santa Fe County)(as amended) Because of Improving Moisture Conditions Within the County**
- C. Land Use Department**
1. **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, (Commission District 1) DELIBERATION ONLY**
- D. Project & Facilities Management Department**
1. **Update on the Status of Possible Lease Agreement with Women's Health Services and Acquisition of a Building Within Santa Fe County to Provide Women's Health Services Pursuant to the Legislative Appropriation**
- E. Public Works Department**
1. **Resolution No. 2006- A Resolution Accepting North Paseo de Angel for County Maintenance**
- F. Water Resources Department**
1. **Discussion and Possible Action on Locations for County Conjunctive Use Strategy Wells**
- G. Matters from the County Manager**
1. **Update on Various Issues**
- H. Matters from the County Attorney**
1. **Executive Session**
    - a. **Discussion of Pending or Threatened Litigation**
    - b. **Limited Personnel Issues**
    - c. **Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights**
    - d. **Discussion of Bargaining Strategy Preliminary to Collective Bargaining Negotiations with a Bargaining Unit**

#### **XIV. 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**  
**July 25, 2006**

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 10:53 p.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:

- |  |                        |
|--|------------------------|
| <b>Members Present:</b>                    | <b>Members Absent:</b> |
| Commissioner Harry Montoya, Chairman       | [None]                 |
| Commissioner Virginia Vigil, Vice Chairman |                        |
| Commissioner Paul Campos                   |                        |
| Commissioner Jack Sullivan                 |                        |
| Commissioner Mike Anaya                    |                        |

**V. Invocation**

An invocation was given by Water Resources Director Stephen Wust.

**VI. Approval of the Agenda**

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

JACK HIATT (Deputy County Manager): Mr. Chairman, Commissioners, I have no amendments or changes to the agenda.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I have a question. We have an agenda in our packet and an amended agenda which was presented to us I guess just this morning. Is there a big difference between the agenda in our packets and the amended agenda presented to us?

MR. HIATT: Mr. Chairman, Commissioner Campos, no sir. The senior staff meets Monday before each meeting and sometimes there will be some minor changes but there's very little generally the day before you get your packets. That's the last time it's going to be subject to change.

COMMISSIONER CAMPOS: And this amended agenda, we really don't have to look at it then, because we have an agenda.

MR. HIATT: Yes.

COMMISSIONER CAMPOS: Okay.

CHAIRMAN MONTOYA: So none of the Consent items have been changed?

MR. HIATT: Mr. Chairman, we changed the language under E, so that the Public Works we said consideration and possible action, we changed the language of the caption itself.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: In the Consent, are we also doing withdrawals from Consent at this time?

CHAIRMAN MONTOYA: Yes.

COMMISSIONER SULLIVAN: I had a question on B.5. I'd like to withdraw that, but also in the document says "confidential". So I'm not clear whether that's an item that's supposed to be discussed in executive session or whether that's an item for the general session. It's on the Consent Calendar though.

MR. HIATT: Mr. Chairman, Commissioner Sullivan. I didn't hear. Who is that question for?

COMMISSIONER SULLIVAN: I guess anyone who would listen. No one. So I'll start over.

STEVE ROSS (County Attorney): Mr. Chairman, Commissioner Sullivan, I know about that item. That document was confidential while it was being circulated amongst the attorneys. It pertains to a water rights transfer that has been protested by one of the Pueblos and those kinds of headings are common on those documents as they're being circulated amongst the attorneys. But it's a public document now.

COMMISSIONER SULLIVAN: Okay. So it's okay to discuss it in open session?

MR. ROSS: It certainly is.

COMMISSIONER SULLIVAN: That's the only one I'd like -

CHAIRMAN MONTOYA: That's B. 5?

COMMISSIONER SULLIVAN: Correct.

CHAIRMAN MONTOYA: Any other withdrawals from the Consent?

COMMISSIONER ANAYA: Mr. Chairman, just a change in the agenda if I

may. Item XIII. E. 1, Public Works Department, if we could move that right after Matters of Public Concern. Senator Griego is here to speak on that case.

CHAIRMAN MONTOYA: Okay. Any other changes? Is there a motion as amended?

COMMISSIONER ANAYA: So moved, as amended.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: Motion, Commissioner Anaya, second, Commissioner Vigil. Further discussion?

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

## VII. APPROVAL OF MINUTES

### A. June 9<sup>th</sup> & 10<sup>th</sup> 2006 – Special Joint Meeting Board of County Commissioners & St. Vincent Regional Medical Center Board of Directors

COMMISSIONER VIGIL: Move to approve.

COMMISSIONER ANAYA: Second.

CHAIRMAN MONTOYA: Discussion? Changes?

**The motion to approve the minutes of the joint meetings with St. Vincent Hospital passed by unanimous [4-0] voice vote. [Commissioner Campos abstained from the vote.]**

### B. June 27, 2006

COMMISSIONER CAMPOS: I need to make one change on page 11, first full paragraph. First sentence, where I was quoted as saying, "Now, I think this is important and I don't think some of the Commissioners are concerned about our relationship with the City at this point." The word "don't" is inaccurate and should be deleted. That's page 11.

CHAIRMAN MONTOYA: It's a substantive change?

COMMISSIONER CAMPOS: No, it was a misquote.

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

COMMISSIONER SULLIVAN: Two typographical changes.

CHAIRMAN MONTOYA: Okay. We have changes by Commissioners Campos and Sullivan. Any others?

COMMISSIONER VIGIL: Move to approve with changes.

CHAIRMAN MONTOYA: Motion by Commissioner Vigil.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Second, Commissioner Campos.

**The motion to approve the June 27, 2006 minutes as corrected passed by unanimous [5-0] voice vote.**

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

**CHAIRMAN MONTOYA:** This is the point in the meeting where anyone who would like to address the Commission should come forward if you have anything that you would like to address. Seeing none, I would like to recognize Governor Gil Trujillo from Tesuque Pueblo for being here this morning. Thank you, Governor for being with us, and former Governor, Charlie Dormey, also from Tesuque Pueblo, and I recognize Senator Phil Griego as well. Thank you for being here.

**XIII. E. Public Works Department**

**1. Consideration and possible action on Resolution 2006-117 accepting North Paseo de Angel for County Maintenance**

**ROBERT MARTINEZ (Deputy Public Works Director):** Mr. Chairman, Commissioners, the residents of the Vista de Sandia Subdivision are requesting for the BCC to accept North Paseo de Angel for County maintenance. This is a dirt road and does not meet County standards. The road crosses the Arroyo de los Chamisos and is impassable during high flows causing a health and safety issue if the residents were requiring emergency services. The residents have not met all the requirements outlined in the road acceptance policy and are requesting for the BCC to waive the criteria and accept it in its current condition.

This acceptance would allow the residents to receive legislative funding for an all-weather crossing and improvements to the road. The Public Works Department requests that if the road is accepted for County maintenance, that an all-weather crossing be constructed in the Arroyo de los Chamisos and the entire roadway be improved with six inches of basecourse prior to the County assuming maintenance. I stand for questions.

**COMMISSIONER CAMPOS:** Mr. Chairman.

**CHAIRMAN MONTOYA:** Commissioner Campos.

**COMMISSIONER CAMPOS:** How many dollars are you talking about?

**MR. MARTINEZ:** Mr. Chairman, Commissioner Campos, we believe that the all-weather crossing on the six inches of basecourse on the 1.3 miles would cost roughly about \$500,000.

**COMMISSIONER CAMPOS:** And do we have the money in our County budget presently to pay for that?

**MR. MARTINEZ:** Mr. Chairman, Commissioner Campos, no. I believe the residents are going to be requesting this funding from the legislature.



COMMISSIONER CAMPOS: Well, what if they don't get it and we're stuck with a bad road for a year or two? What happens then?

MR. MARTINEZ: Mr. Chairman, Commissioner Campos, we would not assume maintenance until the improvements are made, but this would allow them to go back the following year in the event they were unsuccessful this year at the legislature.

COMMISSIONER CAMPOS: But there's liability, there's exposure if there is no crossing on the Arroyo de los Chamisos. We have the same situation in Pinon Hills. It's always been an issue, three or four times a year, it doesn't work. But we've never volunteered to say, let's go pay for it, because it's going to cost a lot of money.

MR. MARTINEZ: Mr. Chairman, Commissioner Campos, that is correct. But I believe Senator Griego is here to advise the Commission that he is going to try his best to seek funding for this project.

COMMISSIONER CAMPOS: I understand that. We're coming up on legislative session, 60 days, but there's no guarantee and I just feel uncomfortable taking on a responsibility like that without a guarantee. The criteria are pretty clear and we've applied it fairly well but maybe Mr. Lujan has something to add.

JAMES LUJAN (Public Works Director): Mr. Chairman, Commissioner Campos, the resolution is consideration of taking it and we would not assume any responsibility, and that's what's stated in the resolution, until such time that the money, or there's money in place to make improvements. So we would not do anything to the road until they can secure the funding. This simply allows them to go to the legislature to seek funding and the legislature cannot even hear it until it's a County-accepted road, conditionally.

COMMISSIONER CAMPOS: All, 100 percent paid by the legislature? The money could be \$100,000 or it could be less than the whole.

MR. LUJAN: Correct. And what I've directed staff, what we would do is we would have to construct the all-weather crossing first of all, before anything else can be taken in, but this is just offering them the opportunity to go to the state legislature and possibly Senator Griego has something to offer.

COMMISSIONER CAMPOS: Do we have other criteria that they have to meet? Other petitions, other right-of-way issues, dedications, all kind of other things.

MR. MARTINEZ: Mr. Chairman, Commissioner Campos, the petition process has already been completed. I believe the letter requesting the Board to accept the road with the signatures are in your packet.

COMMISSIONER CAMPOS: And are the citizens willing to put up any money out of their own pocket?

MR. MARTINEZ: Mr. Chairman, Commissioner Campos, I don't believe that that's been discussed. In the event that they do go to the legislature and they are short, that would be a consideration.

COMMISSIONER CAMPOS: Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Any other questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Robert or James, it seems like I recall we've

had situations in the past where the legislature has appropriated money and the road is not yet a County road. And the staff has then come forward and said that we have x-dollars and would the County accept the road as a County road and then we can utilize these dollars. Couldn't we follow that same process here?

MR. MARTINEZ: Mr. Chairman, Commissioner Sullivan, that has been done in the past but if the Commission accepts the road today it would be able to be posted on our ICIP plan and have the County lobby for this particular project. The other way, when it's still a private road, the County cannot spend any time lobbying or requesting funds for a road that is still private.

COMMISSIONER SULLIVAN: I understand, but that doesn't preclude the local legislator from, as has happened frequently in the past, from getting legislation introduced and ultimately getting some level of funding.

MR. MARTINEZ: Mr. Chairman, Commissioner Sullivan, that is correct, but I believe it's probably up to the senator to comment on that but I think he'd probably feel more comfortable if the Board accepted the road prior to going to the legislature for funding.

COMMISSIONER SULLIVAN: I'm sure he would but the concern I have is that if the legislation were vetoed, for example, over which the senator would have no control, or if it was insufficient, then we've already accepted it ahead of time and there's no going back. The only thing we haven't accepted is we haven't accepted it for maintenance purposes and that's what puts the Public Works Department between a rock and a hard place because it's a County road but they're not agreeing to maintain it because we have insufficient funds. It seems we're getting a little bit ahead of ourselves here.

MR. MARTINEZ: Mr. Chairman, Commissioner Sullivan, we do have another situation like that with another road that was conditionally accepted by the Board back in 1999 that we're still trying to resolve some issues. We do not place that road on our inventory until that road is actually being maintained by the Public Works Department.

COMMISSIONER SULLIVAN: But the resolution says that we've accepted it, so it becomes a County road. Is that correct?

MR. MARTINEZ: Mr. Chairman, Commissioners, you could put some language in there that you conditionally accept it and the condition would be based on the funding and the improvements being made prior to maintenance.

COMMISSIONER SULLIVAN: That would be more clear to me. I see you've written a resolution to say that the County won't maintain it until those improvements are in place, but I still think the way the resolution is written it becomes a County road, i.e., a deficient County road.

MR. MARTINEZ: Mr. Chairman, Commissioner Sullivan, we could change the language in the resolution to say conditional acceptance based on fundings and improvements.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Any other comments? Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, I have met with the residents

along with Senator Griego. In the past we have been trying to get funding for this road through the legislature but they can't fund a non-County road. In the past that has happened but times are changing, so that is why this is before you today. We have talked about it with the residents there in full understanding that nothing is to happen to this road until we are to get funding from the legislature. I didn't know if the senator would like to say a few words, but Robert has basically, the bottom line, we have no intentions of going out there and working on this road until funding is in place. So that's all I have. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Senator, would you like to add anything? Thank you for being patient. We went a little over time in our other meeting.

SENATOR PHIL GRIEGO: Thank you, Mr. Chairman, members of the Commission. Basically, as Commissioner Anaya has indicated, we cannot appropriate public funds for a private road. The anti-donation clause prohibits us from doing that. In order for us to appropriate monies for a county road, the road has to be accepted by the County. It has to have a County number and based on your plan, and then we can move forward to get those kinds of things. Road projects in the past couple of years have been pretty successfully done at the legislative level. Currently, based on the natural gas on and funds that we have because of oil the legislature or the state is going to be pretty flush again this year.

So to work with the County Commission, to complete these rural roads and to get the monies necessary in order to make it more safe, I think, as you so rightfully stated, Commissioner Campos, there's always a risk, but I think the risk has become very minimal based on the number of dollars that we're seeing that the legislature is going to have this year. But again, the road has to be a County road. It has to be a public road in order for us to appropriate the necessary public monies that are needed in order to make this road as safe as we need to make it for our constituents there in La Cienega.

CHAIRMAN MONTOYA: Any questions for the senator? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Senator, would it work in the legislature if the resolution were to say, I don't know if you've seen the resolution.

SENATOR GRIEGO: No, I have not.

COMMISSIONER SULLIVAN: You haven't seen it? Okay. Let me just summarize the guts of it. It states, Now, therefore me it resolved that the BCC accepts for County maintenance North Paseo de Angel and it goes on to describe the road, subject to the following conditions. And those conditions include two things, one of which says that the County shall not begin maintenance until an all-weather crossing has been constructed and the entire roadway improved with six inches of basecourse. And then it also talks about driveways.

The language that I think would be more appropriate would be if the resolution said, Now, therefore, be it resolved that the BCC, that's the Board of County Commissioners, conditionally accepts for County maintenance North Paseo de Angel, and then go on to describe it, and then after that, in the first bullet it would read, Acceptance shall not be effective and the County shall not begin maintenance until the crossing has been constructed and the entire roadway improved with six inches of basecourse. Would those changes give you the flexibility

you need to go for funding?

SENATOR GRIEGO: Well, Commissioner, I guess you'd have to define conditionally. As long as we as members of the legislature can look to the Board, to the BCC Board here or to your Land Use Department or your Road Department and they can specifically identify the road with a County number, then we can move forward with the dollars. Until that happens we can't do that. Under this current administration, the dollars that we are appropriating right now have got to be dollars that have to be ready to be spent. Under previous administrations we were able to appropriate dollars, hold them until the counties were ready to expend them. Under the current administration dollars that are not being spent or haven't been tapped into are being swept back into the general fund.

So if we can identify the road through a County road number then I'm sure that we would have no problem appropriating the numbers. But if you define condition as something that you'll accept it if we get the dollars, you won't accept it if we don't get the dollars then it continues to remain a private road.

COMMISSIONER SULLIVAN: Well, what happens then if we only get \$100,000?

SENATOR GRIEGO: Well, normal, depending on how your road department works, but the other counties that I represent, there are a lot of times when we get partial funding and that partial funding is expended for the design work, for preliminary road work, and then we'll come back and get the rest of it in order to complete it. The other avenue that we have taken is working through the New Mexico Finance Authority who we fund every year to work with different local government entities to acquire the necessary funds to complete a project that the legislature wasn't able to completely fund.

COMMISSIONER SULLIVAN: In the interim, let's suppose we got partial funding, then we have perhaps the crossing worked on but we don't have the road up to standards, my understanding is it's then a County liability. If an accident occurs on that road and that road is not signed properly or not graded properly or not in a safe condition, it seems to me the County would be liable for any injury on that road. That's a concern.

SENATOR GRIEGO: Commissioner, I'm not – I guess I would refer that question to your County Attorney. But this year, let me just explain to you, this year we have funding that is going to come down to the legislature based on oil and gas and based on the natural gas that we're extracting from the ground and the taxes that we're collecting. Also, which gives the legislature an opportunity to move forward and complete a lot of the projects that have been at a standstill.

Now we also have funding that's going to go through New Mexico Finance Authority. New Mexico Finance Authority works with local county governments and entities in order to supplement some of the funding that the legislature wasn't able to get. The other piece of legislation that is coming down is the governor's GRIP project. And the GRIP project is coming down. We passed the GRIP project in the last legislative session but because of a glitch on the amount of monies that were to be expended on a yearly basis, there was a disagreement with the House of Representatives, we weren't able to bring it to the floor. It was brought to the

floor but we went into conference. We weren't able to get it out of conference and back to the floor on a vote before the session ended. So that would be coming back.

And those are monies that the governor has expended out of the highway projects to work with local governments. In those projects I have listed a slew of road projects that have already been committed to be funded by the Highway Department, by the Department of Transportation based on GRIP, and I have been working with Commissioner Anaya to make absolutely sure that those roads that he was concerned about, were listed in there along with the several other counties that I represent.

So it's not just capital outlay monies that we're talking about, but it's capital outlay monies that we as legislature take home. There's general fund monies that we can tap into through the Finance Committee, and then there's also the GRIP money and the New Mexico Finance Authority money.

COMMISSIONER SULLIVAN: I understand, Senator and I know that you'll do your very best to wring out every last dollar that you can for Santa Fe County and for this district, but you see where this -

SENATOR GRIEGO: I understand your concern, Commissioner. I can't give you 100 percent guarantee that we're going to get full and complete funding for everything. Okay? Second of all, if the County doesn't accept this road and label it as a County road with a County number, then as far as the Legislative Council Service and the Legislative Finance Council is concerned, it still remains a private road. Based on conditional funding, I don't think that the monies could be approved for the appropriation of that road. I've experienced that and I don't know how many people have read the editorials, but I tried to do that in Pecos, when I got some money for a private road in Pecos that I thought was a village road, and then the village councilor said, well, we're going to accept it as a village road, at the time, but it was still a private road when I got the monies and the monies were swept back and weren't expended at all for that road.

COMMISSIONER SULLIVAN: Thank you, Senator.

CHAIRMAN MONTROYA: Commissioner Campos.

COMMISSIONER CAMPOS: Question for our attorney, Mr. Ross. I'm not comfortable with this resolution as presented, and I'm not sure if we can achieve conditional acceptance and suspend maintenance until we get money. What is your take on this issue?

MR. ROSS: Mr. Chairman, Commissioner Campos, I think you could probably justify suspending maintenance but in terms of having a conditional approval and not really become a County road until funds are available, I'm not sure you can necessarily achieve that as the senator said. And I think he raises a valid point about liability. I think once we purport to maintain the road, for example, put the sign on and do minimal maintenance that we're in there on the liability front. So I think we need to be realistic about what we're doing and make sure that if we accept the road that we know we're accepting it for a lot of different purposes.

That's not to say that if the legislative funding does not come through next year, for example, you couldn't then abandon the road; there are procedures for doing that, well established procedures and they're not that difficult. So if you're thinking in terms of a

conditional acceptance, that might be the way to think of it. Accept the road for a year or so and see if you get some funding and if you don't actually get the funding, abandon it.

COMMISSIONER CAMPOS: Well, let's talk about insurance and liability. If we accept it and suspend the requirement for maintenance for funding purposes, how is our insurance company going to look at that? Are they going to say, well, we're not covered, you're not covered or it's strictly a general fund issue because you really didn't accept it for maintenance. So it's kind of a very cloudy area. We're getting into - like you said, we either accept it or we don't. Otherwise we may wind up paying this out of the general fund if there's any liability, if it's not truly covered by insurance, if it's not a maintenance - if we don't agree to maintain it. I just don't see a way around it.

MR. ROSS: Mr. Chairman, Commissioner Campos, that's why in my mind it would better just merely to accept it because that clarifies the insurance issue. Even if we wrongfully fail to maintain the road, for example, and an injury results, the insurance would definitely cover it, but if we get into kind of a mooshy area where it's not clear whether we own it or whether the association or whoever currently owns the road owns it then you would give the insurance company grounds to perhaps question that.

COMMISSIONER SULLIVAN: A question for Mr. Lujan. This is a road that is here before us because you feel that there are some dangerous conditions or some need for maintenance, but I think that's true for a lot of situations in the county. There may be even situations where there are more dangers or a greater need for maintenance. Have you evaluated this comparatively to other situations in the county?

MR. LUJAN: Mr. Chairman, Commissioner Campos, yes, we have. We've looked at it due to the arroyo crossing. We met with the residents out there and at times of flooding they're stranded. They cannot get in or out.

COMMISSIONER CAMPOS: Pinon Hills is the same, right?

MR. LUJAN: Pinon Hills in some areas. Some areas we have roads. A lot of these areas, we've evaluated roads that have other access in and out, and this is one that simply does not have any other access.

COMMISSIONER CAMPOS: According to Pinon Hills' argument there's only one access in and out and that's always been the argument. You don't have additional access.

MR. LUJAN: I guess I'm not familiar with that one in Pinon Hills you're referring to.

COMMISSIONER CAMPOS: It's almost an identical situation.

MR. LUJAN: Maybe Robert's familiar with it. I'm not familiar with that exact one that you're referring to. But we have looked at other ones.

COMMISSIONER CAMPOS: How does it come up? How does it rate with Pinon Hills?

MR. MARTINEZ: Mr. Chairman, Commissioner Campos, that is correct. Pinon Hills has one access in and out and that does go to, I believe it's the Frijoles Arroyo or some other. But there is in the works for Pinon Hills to get an all-weather crossing, when Hagerman Extension is constructed.

COMMISSIONER CAMPOS: And who's going to pay for that?

MR. MARTINEZ: Mr. Chairman, Commissioner Campos, developers.

COMMISSIONER CAMPOS: Okay. Mr. Chairman, I'm done.

CHAIRMAN MONTTOYA: Any other questions? Commissioner Vigil.

COMMISSIONER VIGIL: I just have a couple of comments with regard to this. It does seem to be a priority despite the fact that we don't have a process, I guess, for prioritizing these requests and I am astutely aware of the legislators' predicament that they get in when they want to be able to assist the county local governments and constituents with regard to road improvements, and I'm also particularly aware of the fact that we could not have improved many, many road throughout Santa Fe County without legislative help. I think what Steve Ross proposes is probably the best way to go with this road and that is that we accept it, perhaps for a year, re-evaluate it in a year. If in fact within a year's time we're not able to get the funding to provide for the safety of this road or the funding gets vetoed for whatever reason, I think we should move forward.

This is also a sort of a disconnect between local government and the legislature when it comes to the anti-donation clause because we have received a lot of funding for private roads that have had to be reverted back to the legislature. That affects constituents and residents, their level of expectation that their roads are going to fixed and the County can't step up to the place and do it. But also we've formed a wonderful partnership and with the help of the legislature most of Eldorado was paved with legislative funding. And I think in order to address that gap and that disconnect, we could at least not conditionally, in terms of how this resolution is proposed, but I think we could accept the road for a year's time and I don't know if Commissioner Anaya would be willing to do that because I know this is your district and it's in your desire to assist these residents.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, Commissioners, I am merely, along with the senator, responding to our constituents' concerns, and that is a bad road in their area. That is why you have it here before us. We have tried to find funding for this road and we think that this would help. I would agree to accepting it for a year and then we would lobby the legislature hard to try to get us funding to move this road forward. With that I would make a motion if I could.

COMMISSIONER CAMPOS: I'd like to add a comment before a motion is made. I would prefer that we draft a resolution saying that the County will do x if x happens, that is we get funding. We don't accept it today. We just say that we believe it's a priority concern for county residents, it's a question of public safety and once funds are fully available we will accept this as a County road. That's what I would be more interested in doing. Thank you, Mr. Chairman.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: So you're basically saying what we have written

here today, right now, is what you would agree to.

COMMISSIONER CAMPOS: If we got the money we would accept it as a County road. That's -

COMMISSIONER ANAYA: Because we can't get funding without -

COMMISSIONER CAMPOS: Well, we have in the past.

COMMISSIONER ANAYA: Those days are over.

COMMISSIONER CAMPOS: I know Representative King recently got some money for a road that wasn't a County road and I think we finally kept it. The money was processed and it all worked out well.

MR. MARTINEZ: Mr. Chairman, can I make a suggestion? In the event that you do put a time frame on here, may I suggest more than a year because typically, we do not get these severance tax agreements for these projects until around August or September after the session. So if you put a time frame of a year, we wouldn't even get those severance tax agreements in that year's time.

CHAIRMAN MONTOYA: Commissioner Sullivan, then Commissioner Vigil.

COMMISSIONER SULLIVAN: Mr. Chairman, I think that we could work with a plan like Commissioner Vigil is suggesting and let me throw out some general language, Commissioner Anaya, that - and I agree with Robert that a year is perhaps a bit slim. Perhaps 18 months. But that we would accept the road - and I understand Steve Ross' concern that accepting it - we need to either accept it or not accept it. If we accept it and do bad maintenance then we're covered, liability-wise, as long as the residents understand that we're not going to be out there maintaining because it doesn't meet the standards we apply in order to maintain roads.

What I think is important is that this resolution or this motion, however we do it, fully states that it is only for that period of time, as opposed to re-evaluation. That it is in essence a sunset. In 18 months, if these conditions haven't been met, a) that an all-weather crossing has been funded and constructed in the Los Chamisos Arroyo, and b) the entire roadway improved with six inches of basecourse within an 18-month period, then the road is removed from the County road system. So that's all done in one fell swoop here.

MR. ROSS: Mr. Chairman, actually the state statutes have a very specific procedure that we have to go through to abandon the road. So that's a good idea but I think the resolution also ought to include instructions to staff to start that process of abandonment. Because just having a resolution sunset like that won't officially take the road off of the County list and remove County responsibility for the road. You should have like a third point that says, instruct County staff to start that process.

COMMISSIONER SULLIVAN: So that after 18 months, the County staff would be instructed to begin road abandonment proceedings. That gives everyone 18 months to put this package together and I'd like to see it work. We need to build roads, we need to provide all other access to people. We've got problems all over the county with that. We've got gross receipts tax coming in from \$75 a barrel oil and \$3.09 a gallon gasoline in Santa Fe. We should be able to build a few roads, Senator. Wouldn't you agree? He agrees.



So if we could pass a resolution or a motion. It may take too much, Mr. Chairman, to wordsmith this resolution. I think perhaps just a motion to that effect and then let the staff take it from there, would be – I'd be amenable to that if the rest of the Board is.

CHAIRMAN MONTOYA: Commissioner Vigil, then Commissioner Campos.

COMMISSIONER VIGIL: Mr. Chairman, I think we're headed towards the direction for a motion. I'm willing to hear one.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I would say that if we accept it we have to take at least some maintenance issues. We can't say we're not going to maintain for 18 months. If we accept this, we have to go out there and evaluate and do some maintenance. I can't see getting around that in any motion. It's our responsibility to do at least minimal maintenance out there if we accept it. We can't guarantee this road crossing because it exists there and we can't afford to fund it at this point, but I can't see us suspending maintenance responsibilities for 18 months. So I wouldn't agree to that as part of the motion.

COMMISSIONER SULLIVAN: Then, Mr. Chairman, let me try to form a motion if I can.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I would move that the County accept North Paseo de Angel for a distance of 1.33 miles as a County road for a period of 18 months from this date, after which, if the following conditions have not been met: a) that an all-weather crossing has been funded and constructed in the Los Chamisos Arroyo, and b) the entire roadway improved with six inches of basecourse, staff shall be directed to initiate abandonment proceedings of said road.

COMMISSIONER ANAYA: Second.

COMMISSIONER VIGIL: Question.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Is 18 months sufficient for construction?

MR. MARTINEZ: Mr. Chairman, Commissioner Vigil, no. I would hope that we would at get 24 months if you're going to include the construction time period also.

COMMISSIONER CAMPOS: This is funding, right?

MR. LUJAN: Mr. Chairman, Commissioner Vigil, in 18 months, the money, we would already have executed a contract agreement so we can proceed. We know then we're guaranteed the money's in place. Once the legislature – we have an agreement then we go to the DOT to sign the agreement. So the process will start after that. The money's funded for two years.

COMMISSIONER SULLIVAN: If you would like, Commissioner Vigil, I could amend it to say, until the all-weather crossing has been fully funded for the Los Chamisos Arroyo and the entire roadway improvement with six inches of basecourse has been fully funded.

COMMISSIONER VIGIL: That sounds more realistic.

COMMISSIONER CAMPOS: That's fine with the seconder.

CHAIRMAN MONTOYA: I think this can be worked together. I think this is the way that we need to start considering these sorts of improvements for roads or whatever the situation may be, that we do this and we do it so that there's no question.

**The motion to approve Resolution 2006-117 passed by unanimous [5-0] voice vote.**

MR. MARTINEZ: Mr. Chairman, point of clarification. So the Public Works Department will assume maintenance immediately?

COMMISSIONER SULLIVAN: Yes.

COMMISSIONER CAMPOS: When does this become a County road? If we've taken action today does the statute tell us when this becomes a County road?

MR. ROSS: Mr. Chairman, Commissioner Campos, if you direct it could take effect today.

COMMISSIONER CAMPOS: I don't think it's wise until we put it into our plan for maintenance and that may take, I don't know how long, Mr. Martinez. What's a good time to put it on to our schedule, if we make it a County road so it's on our schedule?

MR. MARTINEZ: Mr. Chairman, Commissioner Campos, the way I understood it is that it was accepted today as a County road. We would begin maintaining it as soon as we can start fitting it into our schedule, which is -

COMMISSIONER CAMPOS: That's what I'm asking you. The motion hasn't been passed yet so it hasn't been accepted. The question is when from your perspective would be a good time to accept it? Thirty days out? Two weeks out? Today?

MR. MARTINEZ: Mr. Chairman, Commissioner Campos, 30 days out.

COMMISSIONER CAMPOS: Thirty days out?

MR. MARTINEZ: That's correct.

COMMISSIONER CAMPOS: Does that make sense to the mover? Thirty days out?

COMMISSIONER SULLIVAN: The motion's already passed.

COMMISSIONER CAMPOS: Have we already voted on it? Would the Commission consider making this a County road in 30 days?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think we're now within a staff scheduling scenario where the staff schedules road maintenance on a normal basis as soon as they can get it in. That's reasonable. The only - I said effective today in terms of the 18-month period so that that's when the reanalysis would begin if we don't have the funds in place to do these things. I think if it's a duck, it better be a duck here and if not going to be a duck it's not going to be a duck. So I think it's a duck. That means as soon as Robert can fit it into the schedule they begin maintaining the road as best they can with the dirt and rocks and potholes and mudholes that they can deal with out there. And people have to understand it's less than perfect.

**IX. MISCELLANEOUS MATTERS FROM THE COMMISSION**

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, I don't have anything today.

Thanks.

CHAIRMAN MONTOYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: Nothing.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I would just like to start getting back to the idea of the ASD, the Administrative Service Division as soon as possible and maybe ask Mr. Gonzalez when he can make a presentation, ask the Commissioners if they're ready to start moving. This is a key component to the strategic plan. So that would be a concern.

GERALD GONZALEZ (County Manager): We can do it as soon as the Commission would prefer. We can do it at the next BCC meeting or the following one. Either one. Or we could do a presentation during the presentations meeting.

COMMISSIONER CAMPOS: When is that?

MR. GONZALEZ: I think the 19<sup>th</sup>.

CHAIRMAN MONTOYA: August 16<sup>th</sup>.

COMMISSIONER CAMPOS: Would the Commissioners prefer a presentation on the 16<sup>th</sup> to placing it on a subsequent agenda for formalization or action, if indeed there's a consensus?

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: On that subject, Mr. Chairman, I actually think that our management team needs feedback from the Commission. I do believe that if they do give a presentation probably what they'll propose is what the originally proposed. I don't know if any changes or amendments to the original proposal have been made and if that's the case, perhaps we need to have it be more of a study session and identify the issues that we have with regard to the creation of that division and perhaps our management can address it from that perspective. Otherwise I suspect we're going to get the same proposal and I think that proposal has already been turned down.

I would just recommend perhaps we need to have a study component rather than an action item with regard to that so we can have more of an interchange, communication with regard to issues regarding the original proposal and perhaps when you have all five Commissioners that would be the most appropriate time to do it. So I don't know if a study piece can be incorporated into the August 16<sup>th</sup> presentation but I think that's probably more necessary than just bringing forth the same proposal.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I agree.

COMMISSIONER ANAYA: I agree.

CHAIRMAN MONTOYA: So I guess the consensus is that we would like to

have it as a study item rather than a presentation item.

COMMISSIONER CAMPOS: Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Two quick things, Mr. Chairman. Number one, I had a meeting with Councilor Wurzburger and Ed Moreno regarding the Regional Planning Authority work session on August 12<sup>th</sup>. We're developing an agenda that will get out to everyone and the idea will be to set up a format for us to look at the annexation question. That's been a thorn between the City and the County and to try to move forward cooperatively on that. So we have started that process to put together a mechanism on how we'll work on the 12<sup>th</sup> of August. That's from 8:00 to 12:00 at the Genoveva Chavez Center.

Gerald or whoever, I think our County website is falling behind in terms of agendas and minutes. Not so much for the BCC as it is for the EZC and CDRC and others. Some go back to last year is the latest. Who's in charge of that now?

MR. GONZALEZ: That's an IT responsibility. We have lost the webmaster which probably has created that problem. Staff has been rotating the coverage but we're in the process of recruiting replacement individuals for the IT Department and I'll bring that to their attention and see if we can't get one of that staff rotated onto taking a look at the website itself.

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

CHAIRMAN MONTOYA: Okay. Just briefly, the Intergovernmental Summit, I want to thank the staff, Hutch Miller and Lisa Roybal for putting that together. It went over well. Thank you, staff and those who were able to attend.

Just a reminder that our next meeting is next Tuesday. It's been moved up from the second Tuesday, so our land use will be on August 1<sup>st</sup>, next Tuesday.

Commissioner Vigil and I had good discussions with Mayor Coss and Councilor Wurzburger regarding some of the issues that Commissioner Sullivan touched on and we hope to continue that open dialogue and hope we get some reciprocity in terms of what's being discussed and we can move forward on some of these critical issues that we're both faced with.

Then I'd like to thank the Public Works Department, James Lujan and all his staff. Thank God we're getting some rain and up north we're getting a lot of rain and it's flooding out a lot of roads. We had crews out there on Saturday and Sunday just making things passable for our residents up there. It's important that we recognize and hopefully give them time off for the extra work that they put in for Santa Fe County. So I just wanted to recognize them. Also, is Robert here, or James? One of the things, Commissioner Anaya, just a heads-up, once you take a road in and you start improving it and getting it paved, put some funding in there for speed humps because that's the next request that comes, for speed humps, because unfortunately, we don't have enough enforcement to go around. So I wanted to give this to Public Works, a petition here for some speed humps on this road, so that they can get on the list. That's all I have.

COMMISSIONER CAMPOS: Mr. Chairman, I have a question for you. You said that you and Commissioner Vigil have been talking to Mayor Coss and Councilor Wurzburger. Is there anything that you can discuss with us at this point?

CHAIRMAN MONTOYA: No, it's all classified.

COMMISSIONER CAMPOS: It's all classified?

CHAIRMAN MONTOYA: No, again, we really went over a lot of the basics, regarding the RPA, the EZA, the annexation. So it was kind of a reaffirmation that we're going to work together on those things.

COMMISSIONER CAMPOS: But nothing concrete?

CHAIRMAN MONTOYA: Nothing concrete.

COMMISSIONER CAMPOS: Because we still have that resolution pending about the RPA and annexation and whether the County should be part of that. We haven't gotten a response and I'm sure it's due pretty soon.

CHAIRMAN MONTOYA: They said they were working on the response.

COMMISSIONER CAMPOS: Well, their response is probably the same that Mayor Coss gave at the meeting the other day. I don't expect that that's going to be different. Okay, thank you.

**X. Matters from the Commission**

**A. County Fair Festivities (Commissioner Anaya)**

COMMISSIONER ANAYA: Thank you, Mr. Chairman. If I could have the 4-H officers come forward and the princess and the 4-H agents, if you all could come forward and sit in the front row here. Mr. Chairman, members of the Commission, members in the audience and our people that are at home watching TV, the County Fair is coming up and with us today we have Avery Rowlinson who is going to give us a little presentation. Go ahead and come forward, Avery, and let us know what's happening in the days before us in the 4-H. Thank you, Avery, for being here.

AVERY ROWLINSON: Hello and good morning, Mr. Chairman and members of the Commission. My name is Avery Rowlinson and I am president of the Santa Fe County 4-H leadership team. My fellow officers and I would like to extend an invitation to attend our Santa Fe County Fair. We would also like to thank you for your continuous support to our Santa Fe County 4-H program. Today I am joined by -

SARAH MONTOYA: Hi. I'm Sarah Montoya and I'm the vice president.

SARAH WOOD: I'm Sarah Wood. I'm the secretary.

ERICA GARCIA: Hi, my name is Erica Garcia and I'm your treasurer.

ELIZABETH HOWARD: My name is Elizabeth Howard and I'm the parliamentarian.

CODY GALLEGOS: Hi, I'm Cody Gallegos and I'm the reporter.

SIDNEY JONES: Hello, I'm Sidney Jones and I'm the Santa Fe County Fair Princess.

CHRISTINA TURNER: Hello, Commissioners, my name is Christina Turner and I'm the Santa Fe County 4-H agent.

JACQUELINE BACA: Good morning, Mr. Chairman and members of the Commission. My name is Jacqueline Baca and I'm the 4-H home economist here in Santa Fe County. As you can see we've brought before you today the leadership team of our 4-H program here in Santa Fe County. They have done an excellent job at governing the program throughout the year. They've done a great job at giving additional member support and all the work that they do at home, at the club level and at the county level.

With that, we'd also like to encourage all of you to attend the County Fair. It will be August 9<sup>th</sup> through the 13<sup>th</sup> at the fairgrounds just off of Rodeo Road. We brought with us some additional information about the County Fair that Sarah Wood, our secretary, will be handing to all of you, as well as a gift from the County Fair Board that our parliamentarian Elizabeth Howard will be handing out.

We'd like to thank you for your time this morning and including us on your busy agenda and hope to see all of you out at the fairgrounds on August 9<sup>th</sup> through the 13<sup>th</sup>.

CHAIRMAN MONTOYA: Thank you.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. I'm wondering if we could get a picture with all the officials up here in front, along with the Commission.

CHAIRMAN MONTOYA: I know some of us will be attending the fair that Saturday as part of the DWI Awareness presentation, so we'll see you all there.

**IX. B. Presentation Regarding Vicious Dogs by Animal Control Officer Andrew Jaramillo, and Discussion/Direction Concerning the Need for Additional Measures to Protect the Public (Commissioner Anaya)**

COMMISSIONER ANAYA: Mr. Chairman, about half a year ago or maybe a year ago, an individual in the Town of Edgewood got mauled by a pit bull so that it brought it to my attention that maybe the Commission should be discussing something about vicious animals. We asked staff to put together a presentation and that's what we're going to hear Andrew talk about today. Thank you, Mr. Chairman.

ANDREW JARAMILLO (Animal Control): Good morning, Mr. Chairman, Commissioners. I have a brief presentation for you guys, not too much information but the information I have is very important.

COMMISSIONER ANAYA: Mr. Chairman, if I could, we also have the animal control from Edgewood here, Victoria Murphy. She might add some comments.

MR. JARAMILLO: Mr. Chairman, County Commission, Commissioner Anaya has a great concern. I believe that case in Edgewood also included a St. Bernard. What I have for you guys is some information that also Commissioner Vigil requested on litigation on the Denver ban. I'm going to start off with the agencies with dangerous dog laws. I did some research around the state and around the country. The City of Santa Fe I believe passed theirs last year, the dangerous dog and the vicious. The City of Albuquerque, the City of Los Lunas, the City of Las Cruces, Spanish Fork, Utah, that south of Salt Lake City, and a little suburb of

Kansas is Olathe, Kansas. All these cities hold the pit owner responsible for the canine's actions. The penalties for those cities are misdemeanor charges, run from \$500 fine to 90 days in jail.

The next point is litigation on breed-specific regulations. The American Canine Foundation filed a federal lawsuit against a city in Alabama in January 2006 for passing a breed ban. Pontiac, Michigan, Washington Animal Foundation, AKA known as the Animal Canine Foundation filed a \$500,000 lawsuit against Pontiac in December 2001 for passing the breed ban. The ban was repealed back in 2002.

The most recent one is June 2006. Again, the American Canine Foundation filed a federal lawsuit against the City of Aurora, Colorado for passing the breed ban. It continues on. Coalition of Advocates for Canine and Owners have filed a federal lawsuit against both the state of California and the City and County of San Francisco as a result of the imposition of a breed ban legislation. Ohio courts struck down the pit bull ban. Judge Skow wrote, "We conclude that there's no evidence that pit bulls are inherently dangerous and vicious and the City ordinance limitation on ownership is also unreasonable and discriminatory.

These are just a few that I pulled up. The State of Colorado has no ban on pit bulls. They actually filed a lawsuit against the City of Denver. They lost that due to the fact that the City of Denver is a chartered, home-ruled city. That's the only reason why they lost it. The City of Aurora is being sued now again. There's a federal lawsuit. The City of Aurora is also a home-ruled city.

Next we're going to go to why breed-specific legislation doesn't work. The problems are with owner's responsibility and not limited to breeds. When breeds are singled out as dangerous and vicious the responsibility is removed from the dog owner which is where it belongs. Irresponsible people are also less likely to follow the law, as a result, everyone has to suffer. The ability of citizens to own certain breeds, responsible, law-abiding citizens will shy away from these breeds. These are types of owners that communities need to encourage, not drive away.

Communities that have instituted such bans often find that irresponsible owners and the criminals who use them for illegal purposes simply switch to other breeds. There's a case in Colorado where Cane corso come into the picture. These are the choice for drug dealers to guard their yards, and other breeds. These mixes are hard to identify and other dogs are mislabeled and destroyed based on paranoia and prejudice and also punish those who are good canine citizens.

The state of New Mexico, Senator Bedford tried to do a breed ban. Most of those committee members owned akitas, boxers. I had a boxer. He was a family dog. He does look like a pit bull from afar. Many breeds function as handicap owners, search and rescue dogs, drug-sniffing dogs, police dogs, etc. Breed-specific bans drive them out of the community.

Why doesn't it work? The local organization policy statements on breed-specific laws, our own Santa Fe Animal Shelter and Humane Society quotes, it is adamantly opposed to breed-specific banning. Santa Fe Animal Shelter and Humane is very concerned about vicious dog attacks in Santa Fe County. The answer to the solution is better vicious dog ordinances and

the ability to enforce them. Santa Fe County lacks the resources to enforce, the insufficient ordinance is already in the books. Our officers can be more efficient directly towards reducing the population of the breed by reducing breed-specific relation laws.

Now the big one, the national levels. National level CDC has a long list why and the major one is the constitutional question concerning dog owners. The 14<sup>th</sup> amendment right has been raised, first because all types of dogs may inflict injury to people and property. Ordinances addressing only one breed of dog are argued inclusive and therefore violate owners' equal protection of rights. CDC is really against the breed-specifics.

Another national group is the American Society for Prevention of Cruelty to Animals. There's little evidence to breed-specific laws which can be incredibly expensive and difficult to enforce, making communities safer for human families and for the companion animals that are part of so many households and it turns out such laws can have negative and wholly unintended consequences. The City of Denver when they passed their law, over 200 animals died because of that law.

The National Animal Control Association, their policy statement reads, Breed specific legislation may create an undo burden to owners who otherwise have demonstrated proper pet management and responsibility. Those pit bulls that died in the City of Denver were all law-abiding citizens that registered their dogs. That's how animal control picked them up.

Another big group, the Humane Society of the United States. HSC is opposed to legislation aimed at eradicating and strictly regulating dogs based solely on their breed for a number of reasons. Breed-specific legislation is a common first approach that many communities take. Once research is conducted most community leaders correctly realize that BSL doesn't solve the problem of dangerous dogs.

You see for 2004, Santa Fe County bite stats. If you look at it the real long purple one looks like it's going to be our shepherd mixes, 21 dog bites in the year 2004. If you look at the pit bull, we only had two. After going through these stats, I look back at the dog bites from these pit bulls, all these pit bulls that we have, these bites are very minor bites. We actually had one dog owner, a responsible dog owner that her dog got caught in the fence and when she went to help him out he bit her on the hand causing a small tear.

2005, again, we see the shepherd mix one of the highest ones and the pit bull is pretty much seven. In 2006 up to date we only have our largest biters, the shepherd mix again at eight. Our pit bull and mixes are just one at this time.

So with all this that you've soaked up we come up with a solution. How can we help with the dangerous dogs in Santa Fe County? One is to enact a dangerous animal ordinance, enact a spay and neuter ordinance, increase fees for intact animals, increase fees for breeders. That will eliminate our backyard breeders. We came up with a model ordinance. This model ordinance is mirrored from the City of Santa Fe and I think it's one of the good ones within the state of New Mexico. Dangerous dog means any of the following: Any animal which unprovoked [inaudible] behavior that requires defensive action by persons to prevent bodily injury to a person or animal when the person and animal are off the property of the owner of the animal. Or an animal which when unprovoked injures a person but the injury does not result



in muscle tears or disfiguring lacerations or require multiple sutures or corrective or cosmetic surgery. Or any animal which has a poisonous bite or sting would constitute a significant hazard to the public.

That's just a definition of a dangerous dog. In Santa Fe County we only have the vicious law, so this dangerous model would come up to a point that if Commissioner Montoya's loving Chihuahua jumps a fence and chases Commissioner Anaya, that's a potential danger.

CHAIRMAN MONTOYA: It's possible.

MR. JARAMILLO: It's a possibility.

COMMISSIONER ANAYA: What was I doing there?

MR. JARAMILLO: To come back to the definition of a vicious animal, it comes out to an animal which kills or severely injures so as to result in muscle tears or disfiguring lacerations that require multiple sutures or corrective or cosmetic surgery. It's the opposite of the dangerous. So what we do with this, with the dangerous is catch them before they become vicious.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: I'm sorry, what did you say we would do with this?

MR. JARAMILLO: The dangerous will turn into a vicious. It's just the opposite on the definition. So if that Chihuahua continues to come at you and really disfigures you it becomes a vicious.

Now, for the ordinance. The vicious ordinance would read No person shall keep or harbor a vicious animal Any person attacked by a vicious animal while on public property may use reasonable force to repel the attack. An animal deemed vicious by the court of law should be surrendered to the Animal Control Division for humane destruction or the owners shall provide acceptable proof to the Animal Control Division that the animal has been destroyed.

Now the ordinance for the dangerous. Chairman Montoya's Chihuahua again would need to be on a three-foot chain, a three-foot leash when he's walking with him, muzzled, and if Commissioner Montoya doesn't follow this rule he is deemed vicious and possibly destroyed by the court of law. So we nip the problem at the dangerous level. If you have a dangerous dog we've got it under wraps. At this point that's all of what I have and to bring it up, the Animal Control Division and the Sheriff's Department at this time is revising that ordinance that we have, 1991 is the last time we heard that ordinance. The fees would impact the dangerous dog. It would help us a lot in changing the ordinance that we have now to this would help us a lot. So I stand for questions from the Commission.

CHAIRMAN MONTOYA: Questions?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Vicky, did you have anything to add to that? Do you agree with what Andrew is talking about?

VICTORIA MURPHY (Edgewood Animal Control): I got notice of your meeting yesterday so I'm not wholly prepared but I can explain to you a little bit about what happened in the Town of Edgewood. When the state law was passed for the potentially dangerous or dangerous law, our verbiage for the town read dangerous and vicious much as what's currently on the books for Santa Fe. So we changed the ordinance to read potentially dangerous and dangerous so it stayed in line with the state law that was passed. So our definitions are for animal, dangerous, and animal, potentially dangerous, and we took out the word vicious completely so as to prevent any problems in comparing the two.

We brought forth or I brought forth to the Town of Edgewood, Bob Schwartz and Sue Bedford Wilson, who stood on two sides of the fence regarding breed-specific legislation as well as the dangerous dog law, and really what we came out to as a whole was that the punishment should be on the deed and not the breed. Any animal, regardless of the breed is only as dangerous as the owner allows it to be. Addressing the issue of severe and fatal dog attacks as a breed-specific problem is akin to treating the symptom and not the disease. Severe and fatal attacks are going to continue until we come to the realization that allowing a toddler to wander off to a chained animal, a chained dog, is more of a critical factor in a fatal dog attack than which breed was at the end of the chain.

So what we did is we did include in our town ordinance to include potentially dangerous and dangerous dog ordinance so that we could issue citations within our own municipality. But it should it be a severe attack or mauling we can still cite them to state court for federal penalties. We have since this law was enacted, I have issued 23 different citations for potentially dangerous dogs and two for dangerous, of which many of these cases are then handled with the ownership having to assume the responsibility of how they contain the animal. The animal must be microchipped. The animal must be sterilized. The animal must go into a behavioral class approved by Animal Control which we do provide documentation on where they can get that training. The training is, quite frankly, more for the owner than for the dog, so that the owner can then control the animal that has maybe a tendency to be more dominant.

So with that being said, we also have a registration form that we have the citizens fill out when they're cited into court and if they're found to be guilty where they then have to license either as potentially dangerous and dangerous. In the Town of Edgewood our potentially dangerous license fee is \$25. Our dangerous fee is \$1000. Sometimes these animals are surrendered and euthanized on the owner's inability to comply with the ordinance and/or they come up to compliance through inspection through Animal Control. That's how we've gotten a bit of a handle on it.

Should you choose to do breed-specific legislation, in the case that recently happened in April where the pit bull mauled in Edgewood, as you quoted, it actually was a pit bull and a St. Bernard. If it had just been a St. Bernard and you were breed-specific then there would have been no penalties unless it would have been a pit bull.

In Edgewood I'm finding there are more specific animals being brought into the community such as alanos, Cane corsos and dogue de Bordeaux. A little more exotic breeds that are being brought in so that they can get away from any possible legislation disallowing

them to keep a breed. So they still are going to bring in dominant breeds. They're going to find something that's not on the list if you go with specific breed legislation.

CHAIRMAN MONTOYA: Okay. Discussion?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I have a quick question about the licensing fees. You say there's \$25 regular and \$1000 for dangerous animal fees.

MS. MURPHY: Correct.

COMMISSIONER CAMPOS: How do you determine what category? What's dangerous?

MS. MURPHY: Our potentially dangerous dog is listed as any animal that may reasonably be assumed to pose a threat to public safety as demonstrated by the following behaviors, and there's four listed. They pretty much pattern the same as what Andrew showed you. The only one different is - I'll just specifically read to you those four. An animal which when unprovoked causes an injury to a person or another animal, but the injury does not result in muscle tears or disfiguring lacerations or require multiple sutures or corrective or reconstructive surgery, or any animal chasing or menacing a person or domestic animal which engages in aggressive behavior that requires a defensive action by a person to prevent bodily injury to a person or animal when the person and the animal are off the property of the owner, or, any animal acting in a highly aggressive manner within a fenced yard or enclosure and appearing able to jump out of the enclosure, or any animal that because of its poisonous bite or sting would constitute a significant hazard to the public. That is the definition of potentially dangerous.

COMMISSIONER CAMPOS: So basically you have an assumption that all animals are okay unless they have some history, they display history which requires history and an investigation?

MS. MURPHY: It requires an action that is either witnessed by a complainant and/or by Animal Control. Animal Control can issue a citation on behalf of a citizen that is offended by any one of these actions and brought before a judge to hear testimony on all parties.

COMMISSIONER CAMPOS: So it has to go to magistrate court?

MS. MURPHY: In the Town of Edgewood it comes to municipal court.

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

CHAIRMAN MONTOYA: Any other discussion? Commissioner Sullivan.

COMMISSIONER SULLIVAN: One question that I had for Santa Fe County. We just recently sponsored a townhall meeting out in the Eldorado 285 area, and as always, there were questions about animal control. And one question was what is the obligation from the County ordinance standpoint of an owner when they're out on public property with a dog? Are they required to have that dog under leash or are they only required to have it under verbal control?

MR. JARAMILLO: Mr. Chairman, Commissioner Sullivan, under the County

ordinance it's both. It's under a leash or voice command. What I mentioned earlier, we want to change that to always under leash. Eldorado has had the problem with people walking on the greenbelts with other people walking their dogs, continually letting their dogs run amok. So with this new ordinance change that we're going to propose, that would change to putting on a leash. At this time it's either/or.

COMMISSIONER SULLIVAN: Oh, it's either/or. It's not under a leash and under verbal control. It's either/or. And how difficult does that make it for you to define what is voice control? What does that mean to you?

MR. JARAMILLO: That is a problem. You perceive voice control, I can see my dog a mile away and I could call him back, or he's right at my heels. That's the problem we're having. To me, as an Animal Control officer, if your dog is a block away, he's not under control.

COMMISSIONER SULLIVAN: Okay. So this change in the ordinance would eliminate the voice control and just say a leash.

MR. JARAMILLO: Yes, sir.

COMMISSIONER SULLIVAN: And that would be when you're in public, not on your own property, obviously.

MR. JARAMILLO: No, sir.

COMMISSIONER SULLIVAN: Okay. Then the other question was what - how does one deal with barking dogs that are barking at 2:00 in the morning and continue to bark and bark and bark.

MR. JARAMILLO: That is a problem. Mr. Chairman, Commissioner Sullivan, that is a thorn in my neck. We ask the citizens - we don't work after hours, and under the current ordinance, that is a misdemeanor charge, meaning the officer observes it. We've instructed residents to call the Sheriff's Department and have them go out there and observe it and write us a report and refer back to us at that point that the deputy sheriffs observed it and were out there with a citation.

COMMISSIONER SULLIVAN: Okay, so if again, two in the morning, if the deputy show up, he or she has to witness the dog barking. Is that correct?

MR. JARAMILLO: That's correct.

COMMISSIONER SULLIVAN: So if the dog is barking then the deputy will contact Animal Control in the morning and you will then come out and issue a citation?

MR. JARAMILLO: That's correct, Commissioner Sullivan.

COMMISSIONER SULLIVAN: And do you have to witness it also or does the Sheriff report -

MR. JARAMILLO: With the Sheriff's observance, he's an officer of the law, we can cite off his observation.

COMMISSIONER SULLIVAN: Okay. Then during the day, if this occurs, you have the authority to also issue a citation if you observe that. Is that correct?

MR. JARAMILLO: Mr. Chairman, Commissioner Sullivan, yes, sir. But you've got to understand that by the time we get there sometimes the dog's not barking. And

with only four officers on staff now and the 2,000 square miles we prioritize our calls. But we try to get there as soon as we can, sir.

COMMISSIONER SULLIVAN: And the citation is for what? Disturbing the peace?

MR. JARAMILLO: Disturbing the peace. The first offense is \$25. It's a payable offense. They can go into our office and pay it or they can contest it at magistrate court.

COMMISSIONER SULLIVAN: Okay. So there's really less control, continuously barking dogs - dogs are obviously going to bark occasionally, but continuously barking dogs which may indicate something's wrong with the dog, the dog may be injured. The Sheriff doesn't have any ability to do in and knock on the door and say your dog's barking? The Sheriff just observes it? Is that what they do? And come back and report to you?

MR. JARAMILLO: I believe the officers would knock on the door and wake them up and tell them, hey, your dog's barking. That's probably officer discretion.

COMMISSIONER SULLIVAN: Okay. Are there any changes in the ordinance that you would suggest that would strengthen your hand for that type of a call.

MR. JARAMILLO: Mr. Chairman, Commissioner Sullivan, in this area we're actually going to model off of the City of Santa Fe. The City of Santa Fe just passed their ordinance. With their ordinance on barking is like a three strike, you're out. The complainant comes in, files a written complaint with us. We go out, talk to the resident. Number two comes up, nothing's been solved. We file another complaint. Nothing's resolved. Third time they come in, nothing's resolved. That goes straight to magistrate court. That's the way the City does it with theirs.

COMMISSIONER SULLIVAN: And do you have to witness all three of those or do you go by the testimony of the neighbor?

MR. JARAMILLO: After talking to the Legal Department today, that way, we could with the official complaint.

COMMISSIONER SULLIVAN: An official complaint. Okay. Thank you, Mr. Chairman. And thanks for your work. I know you're short-staffed out there but it is a constant problem.

CHAIRMAN MONTROYA: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. I also want to thank you, Andrew, for all the work you do, along with Vicky for the presentation. I think it was good. I think we need to relook at the ordinance that we have and maybe you could bring it back to us at a later date. But it sounds to me that it's not an issue of banning pit bulls, it is an issue of vicious dogs and it always goes back to the owner. I kind of like that because it puts the responsibility on the owner and owner will say, do I really want to have a pit bull in my yard or in my home or not? Considering the consequences if it does turn vicious.

But, Mr. Chairman, I would like to see that we relook at the ordinance, if this Commission feels so, and bring it back at a later date with some changes, and maybe increase or look at the barking problem as Commissioner Sullivan brought it up to help you. And with

that, Mr. Chairman, I want to thank you. And there's a good friend of mine in the audience, Evelyn Gregory who I know very well and I didn't - Evelyn, did you want to come say something? She works for the animal shelter here in Santa Fe and she's my neighbor in the Village of Galisteo. Evelyn, did you want to say something?

MR. JARAMILLO: Mr. Chairman, Commissioner Anaya, she's also a dog obedience trainer in Santa Fe and a good friend of mine. She helps me with tips and she's my back-up on training.

EVELYN GREGORY: Thank you. I'm Evelyn Gregory. I do work for the Santa Fe Animal Shelter. However, I'm here representing myself, my opinions, rather than the shelter's opinions. I am also a canine behavior specialist at the shelter. I've been doing this for about 30 years. I have trained any number of dogs and the barking thing that you spoke of, my suggestion would be, what I tell people that call me is bring the dog in the house at night. I live with - shall I tell them how many? A lot of dogs. And my dogs all are in the house at night. I do not ever leave them out at night to bark and drive the neighbors crazy.

The reason dogs bark at night like that is they're bored to death. They're outside and they hear the coyotes, they hear whatever's out there; they're going to bark. That's what dogs do. If you don't want your dog to bark at everything outside, bring it in the house. It will stop barking. I can almost guarantee it.

The dangerous dog thing - I do absolutely believe that that is the way to go. I think the breed-specific, what that's going to do is pit people against each other and it's going to cause more problems than it will ever solve. So I think that if we can approach it that way, one of the biggest problems we have is lack of education of the community of pet owners to teach them what their responsibilities toward animals are. That's certainly something that the shelter can address. There are trainers in town that I know that are extremely responsible who can set up training programs for people who have offenses, who have been brought into court because of animal offenses and that sort of thing. We would love to be able to do. You can't make people do things but I think that if the Commission can make it possible for the fines to be really enforced, the laws to be enforced, the laws that are already on the books and it will make a big difference.

We can't just turn our backs on this. The big thing is making sure that people spay and neuter their animals. That's the biggest thing because we are absolutely loaded down at the shelter with unwanted animals. Like 200 and some dogs in receiving. There's no end to the number of cats. And that's just totally irresponsibility of the public. And I deal with - I've worked at the shelter for ten years and I cannot tell you how many animals I've seen go down that there were no homes for. It's just total irresponsibility and non-caring of the public.

COMMISSIONER ANAYA: Thank you, Evelyn.

CHAIRMAN MONTOYA: Thank you. So Andrew, we'll look forward - I guess you'll bring back a draft of a suggestion of policy amendment and we'll look forward to that.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Just a couple of comments. One, clearly as we've discussed in the past we've got to set priorities and we can't take everything on that's sent our way. We just don't have the money and we don't have the resources, we don't have the personnel. So if we're going to spend a lot of money on this issue we've got to find out up front what it's going to cost us and then we're going to have to find out what we're willing to commit. Symbolic politics to me is futile. There's an event and then we rush out to do something and then we don't enforce it because we don't have the resources. I don't think that's a wise way of doing government in this county. I think we have to find out what the cost is, what we're willing to do. Because every time we have a budget hearing, a budget discussion, same old issues. We don't have enough funding to do some of our key functions and yet we're doing a lot of politics, which is probably going to wind up symbolic if we don't have the resources. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Thank you, Andrew.

MR. JARAMILLO: You're welcome.

CHAIRMAN MONTOYA: We're going to break at 12:30. Item X. A, Appointment to the Road Advisory Committee.

COMMISSIONER SULLIVAN: What about the rest of the Commission items.

CHAIRMAN MONTOYA: Thank you, Commissioner Sullivan. For items C and D, until Commissioner Vigil returns. I think she needs to be a part of those discussions as well.

## **X. COMMITTEE APPOINTMENTS/REAPPOINTMENTS**

### **1. Appointment to the Road Advisory Committee**

MR. MARTINEZ: Thank you, Mr. Chairman. Commissioners. Area 12 of the Road Advisory Committee encompasses the Canoncito, Glorieta and Ojo de la Vaca areas. Ms. Linda Pitorney has volunteered to fill the alternate member for this area. This area is within Commission District 3, 4 and 5 and the Public Works Department is recommending the appointment of Linda Pitorney as the alternate member to Area 12.

CHAIRMAN MONTOYA: There's a recommendation.

COMMISSIONER ANAYA: So moved.

CHAIRMAN MONTOYA: Motion by Commissioner Anaya.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Second, Commissioner Campos. Discussion?

**The motion to appoint Linda Pitorney to the Road Advisory passed by unanimous [4-0] voice vote. [Commissioner Vigil was not present for this action.]**

**X. 2. Appointment of Erika J. Campos, St. Vincent Hospital Regional Center Representative, to the Health Policy and Planning Commission**

COMMISSIONER ANAYA: Move to approve.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTROYA: Motion by Commissioner Anaya, second by Commissioner Campos. Discussion?

The motion to appoint Erika Campos to the HPPC passed by unanimous [4-0] voice vote. [Commissioner Vigil was not present for this action.]

**XI. CONSENT CALENDAR**

**A. Budget Adjustments**

1. Resolution No. 2006-118. A Resolution Requesting an Operating Transfer from the General Obligation Bond (GOB 1997 Series Fund (350) to the GOB Debt Service Fund (401) to Budget Investment Income Revenue for Debt Service Expenditure in Fiscal Year 2006 (Finance Department)
2. Resolution No. 2006-119. A Resolution Requesting an Operating Transfer from the General Obligation Bond (GOB) 2001 Series Fund (353) to the GOB Debt Service Fund (401) to Budget Investment Income Revenue for Debt Service Expenditure in Fiscal Year 2006 (Finance Department)

**B. Miscellaneous**

1. Request Authorization to Enter into a Contract with Value Options for \$287,959 for Administration of the Access to Recovery (ATR) Grant in Santa Fe County (Health & Human Services Department)
2. Request Approval to Award Construction Agreement No. 26-1906-HO/RH Modernization of Housing Units to the Lowest-Cost, Responsive Bidder, Sol Systems Inc. to Provide Full Modernization Remodeling at all Three Housing Sites (\$695,413.45) (Housing Department)
3. Request Approval to Award Construction Agreement No. 26-0715-PFMD/RH to the Lowest-Cost, Responsive Bidder Construction for Phase II of the Youth Shelters & Family Services Administration / Counseling Facility (\$1,152,070.63)(Project & Facilities Management Department)
4. Request Approval of Agreement Between Santa Fe County and United States Army Corp of Engineers for Santa Fe River Watershed Study (Projects & Facilities Management Department)



5. **Request Approval of the Agreement Between the Santo Domingo Tribe and the City of Santa Fe and Santa Fe County (Legal Department) ISOLATED FOR DISCUSSION**
6. **Request Authorization to Enter into Amendment No. 2 Extending Until June 30, 2008 the Term of the Lease Agreement Whereby Santa Fe County Leases Office Space for the Region III Drug Enforcement Task Force /\$75,024 (Sheriff's Office)**

CHAIRMAN MONTOYA: I would ask for a motion on the Consent Calendar.

COMMISSIONER ANAYA: So moved.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Motion and second.

**The motion to approve the Consent Calendar with the exception of item B. 5 passed by unanimous [4-0] voice vote. [Commissioner Vigil was not present for this action.]**

[The Commission recessed from 12:30 to 2:00.]

- XI. B. 5. Request Approval of the Agreement Between the Santo Domingo Tribe and the City of Santa Fe and Santa Fe County (Legal Department)**

COMMISSIONER SULLIVAN: Mr. Chairman, I asked for this one to be withdrawn just to get an explanation from the staff. I think it has to do with the elimination of a Pueblo objection to the Oshara water rights, or La Pradera, I'm not sure which, that the County is participating in. But I wanted to get an update as to exactly what it is.

MR. ROSS: Mr. Chairman, I'm never really sure which development goes with which water service agreement, but this is a water service agreement we have with Greer Enterprises. Mr. Utton is here to talk about the details of the settlement he's worked out in conjunction with the City and the Pueblo. From our standpoint it's a fairly simple agreement.

JOHN UTTON (Water Counsel): Mr. Chairman, members of the Commission, you have before you a proposed settlement agreement for approval by Santo Domingo Pueblo, City of Santa Fe, Santa Fe County and Greer Enterprises and the subject of this settlement agreement is a transfer of a little over 50 acre-feet that Greer Enterprises is proposing to transfer for use by the County and to transfer to the Buckman wellfield temporarily until it can be moved to the Buckman Direct Diversion. It was protested by acequias in the La Cienega area and by Santo Domingo Pueblo. We met with representatives of the Pueblo and subsequently in meetings with their counsel and advisors worked on a settlement agreement that would dispose of their protest.

The main concern as I understand it that the Pueblo had that resulted in the protest of the application was that the priority date of the transfer rights would in some way become

superior to the priority that was exercised by those rights in Pena Blanca and in fact the rights coming from the ditch that is shared with Santo Domingo Pueblo and as a result of that, in paragraph 4, which I think is the meatiest paragraph of this settlement agreement, the County agrees that the water right that is the subject of this transfer will be subject to a priority call by the Pueblo and to priority administration by the State Engineer. That I think is simply a confirmation of existing law and making clear that any administration would be under state law by the State Engineer.

And further, the County will not exercise this right in a manner that causes impairment to the Pueblo's water rights provided that this agreement does not modify or amend the terms and conditions of existing water service or delivery agreements between Greer and the County. This simply means that this right, in being moved from the Pena Blanca area will continue to have a pre-1907 priority. To the County's knowledge, just because it's being moved upstream of Santo Domingo Pueblo that we don't think it has some new, super priority, and we're simply recognizing and willing to abide by the prior appropriation doctrine and state laws that apply. So in my mind, this is just a confirmation of that fact.

The rest of this is some sharing of information, cooperation, and paragraph 8 has an agreement that we will accept what is a standard condition in all State Engineer permits that "move from" land will no longer be irrigated. There's also a requirement that best management practices continued to be used by the County. That provision appears in all State Engineer permits.

So I think this is more an agreement to assure the Pueblo that in moving these water rights the County will abide by State Engineer requirements and state law requirements and in exchange for that in paragraph 1, the Pueblo agrees to withdraw its protest. The County has other transfers it will undoubtedly be making in the future and this wouldn't prevent Santo Domingo Pueblo from protesting those and perhaps we would have to settle those one by one or globally at that time. But I think the biggest concern here is that the transfer rights were coming from the same ditch that the Pueblo uses in Pena Blanca. This to date is the only transfer that the Pueblo has protested and we're hopefully that with this settlement agreement that this will dispose of their concerns and that they won't protest in the future.

CHAIRMAN MONTOYA: Any questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Okay, John, I think I understand it now. It means that in all of these water rights transfers the applicant is obligated to handle the transfers and to pay the costs thereof and you're obviously representing Santa Fe County here in drafting up this agreement. Are we going to get reimbursed for your services doing this?

MR. UTTON: Mr. Chairman, Commissioner Sullivan, that's a question - Steve Ross and I were just discussing that very question this morning. The practice - the answer is no at this point. Our practice has been that we have been signing on as co-applicant and so in fact has the City because the City as the owner of the Buckman wellfield is required to be an applicant. So both the City and the County have been paying for their own attorneys to be co-applicants. Now we have been requiring the applicant, the developer to provide the bulk of the work and actually pull the sled in trying to get this application approved, but the fact is

that if there's a hearing I show up at it on behalf of the County and if there are pleadings that need to be reviewed I review those. This was primarily drafted by the lawyer for Greer Enterprises and the by the attorney for Santo Domingo Pueblo but both the attorneys for the City and I reviewed this. So it does take time and that is time that the County is paying for at this point. I'm representing the County and do not have an assessment procedure in place to help pay for that.

At this point the primary assessment feature is that the applicant has to hire an attorney and take the burden of getting this thing approved and we're there, in a sense, helping.

COMMISSIONER SULLIVAN: I thought I remembered a standard clause and Mr. Ross, maybe you can refresh my memory, in all of these water service agreements that we used to have and transfers, that the County would be reimbursed for its costs. Does that ring a bell and if it doesn't, maybe we should get it in in the future.

MR. ROSS: Mr. Chairman, Commissioner Sullivan, it doesn't say it exactly like that. It says the applicant or the holder of the water service agreement is responsible for the costs. It says it both in the more recent water service agreements that we have and in the new allocation policy. What we don't have and what Mr. Utton and I were discussing this morning is something like we have in the public improvement policy we just enacted, which is a provision that requires the holder of the water service agreement or an applicant for a water delivery agreement to deposit some funds with the County that we will use to offset John's costs and other costs that we may occur participating in the transfer process. John and I think we might want to recommend to you that we get such a policy in place so that we can more efficiently cover those costs.

COMMISSIONER SULLIVAN: I think we should because otherwise what happens is the burden slowly and inexorably ends up being on the County's shoulders as long as we're willing to provide free legal service, the developers will take advantage of that offer. On the other hand, we need to protect our interests. We can't rubber stamp agreements that come down the pike. So we need that in-depth review which I appreciate John giving us. But we also need to get reimbursed for it whatever the language is. So if we could either work that into our policy, our allocation policy, which I think is really our operative water document right now, I think we're going to have a lot more of these coming down the pike. Those are the only questions I had, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: A couple of questions for Mr. Utton. We talk about the Pueblo portfolio of water rights. What are we talking about? Are we talking about the aboriginal rights? They could have a mixed portfolio if they're out buying water just like anybody else, right?

MR. UTTON: Yes, Mr. Chairman, Commissioner Campos, that's correct. They've got both what are called prior and paramount rights within the MRGCD and then they also have additional lands, as I understand it, that are irrigated under the Middle Rio Grande Conservancy District's permit, and then they also have I'm sure some groundwater rights. And in an adjudication I would expect that they would claim some federal rights that have not yet

been quantified. I think they have quite a few different types of rights.

COMMISSIONER CAMPOS: So if there's a priority call, clearly their aboriginal rights are superior to anything.

MR. UTTON: That's correct.

COMMISSIONER CAMPOS: We have pre-1907, which are pretty good, and we're willing to subordinate even if they may have water with less priority than post-1907.

MR. UTTON: Commissioner Campos, only to their senior rights. So if they had what turned out to be a 1950 groundwater right then that under state law would be junior to us. We would only have to perhaps curtail or reduce use if they had a senior right.

COMMISSIONER CAMPOS: Okay. So it's only to their senior rights?

MR. UTTON: That's correct.

COMMISSIONER CAMPOS: Okay. And paragraph 4, the proviso says that the agreement with Greer and the County will not be effective, does not modify or amend. Does that mean that we're going to have - if there's a priority call and we cannot draw the water we would have to supplement the Greer water from other water? How does that work?

MR. UTTON: Mr. Chairman, Commissioner Campos, I think what it means is the Greer is placed on the same basis and playing field as every other developer getting a water service commitment and that would mean that all of those agreements provide that if there is lack of availability that there is a uniform reduction or lack of supply. What this says is that we're not going to single Greer out to take the entire burden of this if there was a priority call with respect to this one right. So if there was a general shortage then as I understand it, Greer, like any customer would suffer that shortage and would have to bear some shortage. But because of this, we're not linking this one right to their water service commitment.

COMMISSIONER CAMPOS: If there is no general water shortage, the only call is on this particular arroyo or Pueblo right, and it supercedes us, we're still going to deliver to Greer from some other source?

MR. UTTON: If the water's available.

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

COMMISSIONER SULLIVAN: Move for approval.

COMMISSIONER ANAYA: Second.

CHAIRMAN MONTOYA: Motion by Commissioner Sullivan, second by Commissioner Anaya. Further discussion?

**The motion to approve item XI. B. 5 passed by unanimous [4-0] voice vote.  
[Commissioner Vigil was not present for this action.]**

## **XII. COUNTY BOARD OF FINANCE MEETING**

### **1. Finance Department's Report of County's Foreseeable Cash Flow Requirements**

CHAIRMAN MONTOYA: Steve, how do we do this? Recess and convene?

MR. ROSS: Mr. Chairman, you can just declare a brief recess and get a motion to go into Board of Finance meeting.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER SULLIVAN: Mr. Chairman, I had a question. What are our noticing requirements for this? There is nothing in the packet for items XII. A or B. At least not in my packet. And I assume the County Treasurer is going to make his report but with nothing available to the public, and nothing available to us until we receive that report, are we supposed to act on this report? Or is it just an informational presentation?

CHAIRMAN MONTOYA: Why don't we go ahead and procedurally recess.

[The Board of Commissioners recessed at 2:20.]

COMMISSIONER ANAYA: Mr. Chairman, I move that we go into the Board of Finance meeting.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Motion and second. Discussion?

**The motion to convene as the Board of Finance passed by unanimous [4-0] voice vote. [Commissioner Vigil was not present for this action.]**

CHAIRMAN MONTOYA: Why don't we move into item XII. A. Finance Department report of County's foreseeable cash requirement and maybe during your presentation you will take into account statements by Commissioner Sullivan.

THERESA MARTINEZ (Finance Department): Okay. I apologize. We have nothing prepared for this meeting. We are currently working the forces so that we can come up with the presentation for you. Right now, what we basically do is work hand in hand with the Treasurer's office for investment plan and our cash flow requirements. We are currently working together to come up with a cash flow analysis.

So we have several spreadsheets that we maintain in the Finance Department tracking receipts, tracking disbursements and unfortunately there's a lot of historical data but we have nothing for you today and it's a goal that we're working on for the next presentation to the Board of Finance on the investments.

CHAIRMAN MONTOYA: Questions?

**XII. B. County Treasurer's Report Concerning County's Current Investments and Investment Plan for Future [Exhibit 1: Treasurer's Investment Report]**

VICTOR MONTOYA (County Treasurer): Good afternoon, Commissioners. I guess in accordance with Santa Fe County's investment policy, I'm I guess required to present my investment plan for the foreseeable future. Currently, as it has been in the past, my investment plan is to construct a portfolio that contains safe and liquid investments that are diversified to protect our fund and that are fully collateralized as provided for in our investment policy.

I continue to look for investments that benefit our local economy here in Santa Fe County. I will assist banks and credit unions with the ability to provide mortgage loans, auto loans and construction financing to our county constituents. Just as an update, the investments made in the two banks that are classified as financial depository institutions for the County is as follows. And this came about since last year.

To begin with we have First State Bank, our custody bank. This past year we have invested five million in a two-year certificate of deposit that yields 4.5 percent. Additionally, to meet cash flow needs we have invested \$7 million in seven-day CDs that renew themselves every seven days automatically. The yield on these seven-day CDs is 4.75 percent. Mr. Chairman, I don't know if I gave Commissioner Vigil a copy.

CHAIRMAN MONTOYA: Welcome back, Commissioner Vigil, we're on item XII. B.

COMMISSIONER VIGIL: Thank you.

[Commissioner Vigil's microphone experienced audio difficulties for the rest of the meeting.]

MR. MONTOYA: These seven-day CDs are adjusted every time the feds raise their rates. The balance in our bank accounts over and above these CDs are swept into overnight investment accounts and redeemed the following morning. There's a good chance that the fed finance rates could be raised another quarter of a percent before the end of August. If this happens our overnight repo accounts would go up to five percent. All investments are secured with our custody bank by the banks collecting of securities.

Los Alamos National Bank received depository institutional status from the County Board of Finance at the August 2005 meeting. We currently have \$10.1 million invested in certificates of deposit. I will be investing another \$5 million on August 1<sup>st</sup> of this year with Los Alamos Bank. It is also to be fully collateralized at 102 percent with an irrevocable letter of credit from the Federal Home Loan Bank in Dallas. Los Alamos National Bank has offered some very competitive short-term rates. If you will refer to – you don't have to refer to it right now, but after my narrative there are two pages that contain a list of all the investments for the County. It's on a page called Santa Fe County Treasurer's report.

A 12-month CD with a yield of 5.65, a six-month CD with 5.47, a three month CD, 5.34 and a 60-day CD, 5.24, and finally, a 30-day CD at 5.17. Short-term investment rates beat both our First Community Bank custody bank rates and the local government

investment pool.

The next item that I'd like to report on is the State Treasurer's local government investment pool. As a member of the LGIP Participant Council, I frequently attend the State Treasurer's Investment Committee meetings, known as STIC meetings. These meetings provide me with information on how the State Treasurer is investing our fund in the LGIP, how long he's invested for and the economic look for the County. This information is very beneficial to me in basing my investment decisions. A copy of the State Treasurer's investment outlook is also attached for your information.

Finally, to provide a comparison of how our investments are doing compared to the LGIP, here are the results for the last three months. In June, at the end of June we attained an interest rate of 4.71. At the end of May, we obtained an interest rate of 4.56, and at the end of April, 4.25. As you can see, the pool's yields have been coming up over the last three months, but most of the investments that I have invested in, the CDs, both long and short term, my investment in government agencies have superior results over what we're getting at the pool.

And finally, Mr. Chairman, government agencies or bonds, this is the area of our portfolio that I have worked on as part of diversification of our assets. We've increased our holdings from \$1 million to \$24.3 million. Much of this increase came about when we invested \$15 million that from the 2005 bond sale for road improvements. These investments are short term and designed to meet our cash flow needs as the projects materialize. Finally, I'm also looking at investing in treasury bills direct from the US government. This item will be discussed with the Investment Committee at a future date.

If we utilize this investment it will be laddered or structured to mature in 30, 60 and 90 days, also six months and nine months. This would also be short-term duration and purchased for safety, liquidity and diversification, and tied to our budgetary needs.

In closing I've attached a copy of the investment in CDs, government bonds and the Local Government Investment Pool we have made to date. These investments show principal investment, the effective annual interest rate, the term and the maturity date and how we receive the income. Please note that the County Treasurer's Investment Committee has been meeting regularly since April 2005. I present an agenda to the committee each month that includes the accomplishments or the investments and the minutes from the prior month. I strive to keep the committee informed by having our local banks and other entities make presentations whenever I feel they need to, and wish to thank the Investment Committee for their hard work and commit to attend these monthly meetings. I know they have many commitments and obligations they have to attend to on behalf of the County.

Mr. Chairman and Commissioners that concludes my presentation. Thank you for your kind attention and I make myself available for your comments. The item I'd like for you to look at next is the investment outlook. It's a color chart. It looks like this. I get a copy of this every time I attend a meeting at the State Treasurer's Office. Basically, it's a yield graph. Over on the right-hand side, the far right, what you have there are the interest rates. This goes back to I guess what the US Treasury composite was as of 6/30/05 which

was about a year ago. Over on the far left, at the very bottom you'll see what the interest rates are and what short term - where we should be. Most of the investments that I've made, especially in CDs and some of the bonds that I've purchased are all under one year and most of them - or a one to two-year basis, I guess. And you'll see that the very top line which is the last quarter that is covered by this graph, between one month and one year is where the highest interest rates are currently.

As it states in the investment outlook, they're looking at the 12-month economic estimates to include fed hike rate of up to six percent in quarterly interest segments, I guess. And finally, I have this chart that was prepared by Paul from Finance. Basically, what it shows here is that he budgeted approximately \$1.3 million in investment income when the year ended. \$230,2006, and what I generated in reinvestments is \$2,636,708. That's pretty much double what he had projected we were going to - So with that, Mr. Chairman, if you have any questions I'll try my best to answer them.

CHAIRMAN MONTOYA: Okay. Thank you, Victor. Any questions for the Treasurer? Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Montoya, this investment plan, how do you come about concluding that this is the appropriate investment plan? Do you do it yourself? Do you do it with a committee? How does that work?

MR. MONTOYA: Well, I guess pretty much I try to keep the committee informed as to what I recommend. If they're not in agreement with me they let me know. It has changed a little bit since Susan left of course but I probably have had less - I used to probably sound my ideas off on her before I brought them to the committee and asked for her opinion as to what we were doing. Since that time I usually discuss it with Greg, I guess, Greg Shaffer the County Attorney as to what I'm investing in. As far as my ability to invest -

COMMISSIONER CAMPOS: I'm not asking. I'm just asking how this thing works. Who in the County, outside of your office, is working on this committee?

CHAIRMAN MONTOYA: Myself.

MR. MONTOYA: Oh, you mean who are the members of the committee? Oh, yes, Mr. Chairman. There is myself, the Chair of the BCC, a member from the Manager's office, either the Manager or his designee, somebody from the County Attorney's office or their designee, and somebody from the Finance Department or their designee. So that's who comprises the Investment Committee.

COMMISSIONER CAMPOS: Because it was my understanding that the decision was made by the committee but it seems to me that you're making most of the decisions at this point. The committee has become kind of secondary. Is that fair to say?

CHAIRMAN MONTOYA: If I may answer that as a member of the committee, I would say that the things that are brought to the committee as are brought to the Commission are recommendations based on the information that the Treasurer has provided us. I feel that, and this is the only time that I've been involved with this and I feel that for the first time as a Commissioner I'm comfortable acting as the Board of Finance



now that we're getting some information that we're actually being able to apply, that as the Treasurer has pointed out is producing positive net gains for the County, which prior to that, was not happening. So to answer your question, the committee is actively involved and the members that do attend are very active as well. So it's based on recommendations that we're getting that the Treasurer is giving to the committee.

COMMISSIONER CAMPOS: But the committee is making the decisions.

CHAIRMAN MONTOYA: Yes.

COMMISSIONER CAMPOS: So this is a committee recommendation.

CHAIRMAN MONTOYA: Yes.

COMMISSIONER CAMPOS: Okay. Thank you.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chairman. Thank you for really creating a focus for investments for Santa Fe County. I have sort of a preliminary question before I make some specific ones. Do you think that Santa Fe County, or that it's time now for Santa Fe County to consider outside advisement through a broker to develop a portfolio? Are we at that place yet?

MR. MONTOYA: Well, I think we might have been at that place quite a while back maybe, but even before I became Phil's deputy, but the fact of the matter is we didn't have that kind of position here in the County and I pretty much learned it with the help of the committee and also with our County Attorney, Greg Shaffer. We've both worked really hard on establishing an investment policy. But I guess based on the size of our fund, I guess we don't really need to. Some of the things that I have in the mill, just so you're aware of, I was approved in administrative secretary position for the current year and I have just reclassified as to what is called the brokerage account technician, to help me do a lot more work in this area, primarily in the area of reporting, actually preparing some power point presentations that I can put up on the overhead and make it more accessible to the public as well as to us. I'm currently discussing with a company out of Texas, they are willing to analyze and prepare a very detailed cash flow analysis for me. I just have to provide them with all the basic, necessary information that they need to put this together for me. And then off of that we'll be making additional recommendations regarding our investments to the County Finance Board.

COMMISSIONER VIGIL: [inaudible]

MR. MONTOYA: If you'll look at page 2 of my Santa Fe County Treasurer's report, in here I list the four brokers that I'm currently working with. We have Corporate Securities, BrookStreet Securities, Mosc, Merrill Lynch, and Lehman Brothers. This last one, Lehman Brothers, is the one that I discussed earlier that said I had [inaudible] about \$15 million dollars here. This was done through RBC Dain Rauscher. They actually bid out these investments for me, so they handled the invitation to bid and Lehman Brothers was the successful bidder and they did this, I believe, on an electronic platform. This particular investment amounted to about \$15 million. It goes from I think approximately three months up to an 18-month time horizon, which we have different

bonds maturing at different times to meet the anticipated needs of the road projects.

COMMISSIONER VIGIL: I guess my concern with – I actually am familiar with the County situation with the County [inaudible] really my assumption that we're losing lots of dollars and this is not to diminish all the work you've done and the ability you've been able [inaudible] to create more dollars for the County. My concern is, when I look at this and I see we have probably the best deal with Los Alamos National Bank, are we able to broker with them longer-term CDs. And I say that understanding that statutes do restrict us. But I think the longest CD we have is 12 months. If in fact we're capable of extending that amount of time and we can negotiate a larger interest rate.

I'm talking about trying to get the best bang for our buck and also diversify. We invest with the State Treasurer, Local Government Investment Pool and I can tell from your memo that you've looked into the state investment pool but have we ever been able to really stay on top of which one of those would be able to give us the best bang for our buck. And I know it's a timely thing. So that's the reason why I ask do we need someone [inaudible]

MR. MONTROYA: Mr. Chairman, Commissioner Vigil, I guess that's exactly what I depicted here, at least in my opinion. If you'll look under certificates of deposit on the first page, if you look at Los Alamos Bank on a five-year CD for \$2 million, the effective annual interest rate is 5.4 percent. So that's locked in for five years. And you can go up the line from there on those particular ones. We have a total of \$10.1 million with the Los Alamos National Bank and I'm going to invest another \$5 million with the Los Alamos National Bank on August 1<sup>st</sup>. The reason for this is when we or when the County Board of Finance designated the Los Alamos National Bank as a financial depository institution and we initially I think set them up for \$10.1 million, from that point on, if they propose some good rates to me I can invest more money with them. The only problem is is that as the State Treasurer has done, they've been short, and so they're not out beyond 12 to 18 months and lately, they've been going out that far or anticipate going out that far because I guess long term they anticipate that probably the feds are going to drop the rates, probably once they hit six percent. If it causes the economy I guess to come to a standstill and not produce then I guess they'll start lowering the rates in one-quarter increments.

So their feeling is that over the next 12 to 18 months they're going to start to go out a little longer. All this time they've been short, they've been under 12 months. Right now I feel that based on what we have in here, if you look under the Local Government Investment Pool, we have \$49 million at the pool. When I first came here, almost all the money, with the exception of one bond that was purchased through Wachovia that hadn't matured yet, everything else was at the pool and we were not getting more than like 1.8, 2 percent on what we had there. Only since I've been here have we turned that around and I've diversified into these other areas, CDs, both short term and long term. Some of the CDs that are FDIC insured are only up to \$100,000. Both of the CDs that are long term are in excess of \$100,000 are secured by 102 percent, either irrevocable letter of credit, or

the pledging of securities. So that's where we're at.

In terms of – I know that one of the questions that was brought up to me I believe by Commissioner Sullivan was regarding the 102 percent collateral. And I guess a lot can happen to a bank and at the end of each quarter they have 45 days to file their financial reports to the Federal Reserve. But if you add 90 days to that it gives them 4 ½ months to file their report. And a lot can happen – it takes 4 ½ months to get a report from that bank and a lot can happen to a bank in that 4 ½-month period. But with the letter of credit, for example, that's a fairly in expensive option to them so they are able to provide that, factor that into whatever yield they're giving me.

COMMISSIONER VIGIL: Does the statue provide [inaudible]

MR. MONTOYA: No, ma'am.

COMMISSIONER VIGIL: What's the new addition that you've been able to get beside –

MR. MONTOYA: That's pretty much it. You know, actually, the LGIP is able to invest in other assets that we cannot invest in like commercial paper, for example is one of them. Flex repos, I believe we cannot invest in either. Or real estate. So our authorization for investments, they have to be highly liquid and fully secured by the implied credit or the full faith and credit of the United States government. They all have to be triple A. They can only be US Treasury, government agencies, certificates of deposit.

COMMISSIONER VIGIL: [inaudible]

MR. MONTOYA: Yes.

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

CHAIRMAN MONTOYA: Okay. Other questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Victor, can we get these reports ahead of time or is there some reason that they're always presented on the day of our meeting?

MR. MONTOYA: Mr. Chairman, hopefully when I get this body on board I'll be able to get them to you ahead of time. I am primarily the investment officer. I'm also the gofer and anything else I need in this area. The other principal task that I have of course is the tax collection area, but I'm lucky to have the good deputy that's handling that for me so I can spend most of my time on this. But hopefully the next presentation that we make will be given to you ahead of time. That's my full intent.

COMMISSIONER SULLIVAN: I'd appreciate it. Thank you.

CHAIRMAN MONTOYA: Any other questions? Okay. Thank you. Victor are you going to do the presentation on the resolution, item XII. C?

MR. MONTOYA: Mr. Chairman, I don't have a copy of the resolution. I think it was prepared by Greg Shaffer but I do believe the County Clerk has a copy of it.

**XII. C. Resolution No. 2006-120. A Resolution Approving the Santa Fe County Treasurer's Investment Plan**

CHAIRMAN MONTOYA: Are there any questions on the resolution from the Board of Finance?

COMMISSIONER VIGIL: Move to approve.

CHAIRMAN MONTOYA: Motion by Commissioner Vigil.

COMMISSIONER ANAYA: Second.

CHAIRMAN MONTOYA: Second, Commissioner Anaya. And this is brought before us quarterly?

MR. MONTOYA: Mr. Chairman, Commissioners, that's my intent. I'm having a little difficulty in getting the reports together and being able to get on the agenda, but hopefully from here on in it's going to be on a more regular basis and we're going to strive to do it quarterly.

CHAIRMAN MONTOYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: [inaudible] check with Greg. I think the statute actually requires the Board of Finance to meet on a quarterly basis. [inaudible]

MR. MONTOYA: Okay.

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

**The motion to approve Resolution 2006-120 passed by unanimous [5-0] voice vote.**

COMMISSIONER VIGIL: Mr. Chairman, I just wanted to thank Greg Shaffer for all the work you've done. [inaudible] But I just wanted to personally thank him [inaudible] Thank you, Mr. Chairman.

MR. MONTOYA: Mr. Chairman and Commissioners. I also - I didn't know that he was leaving but I would just like to also say that I wouldn't be as far along with the County's investments, with our plan, if it wasn't for Greg. He's been a really great asset for me and I'm going to miss him.

MR. SHAFFER: Thank you.

CHAIRMAN MONTOYA: Hopefully you have more than a three-legged stool.

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

#### **A. Finance Department**

##### **1. Resolution No. 2006-121. A Resolution Requesting Approval of the Fiscal Year 2007 Final Budget (Finance Department)**

THERESA MARTINEZ (Finance Department): We are here today to request your approval of the 2007 final budget. I'd like to itemize a couple of the changes that occurred since you've last seen the interim budget. When we presented the interim budget to you it was at a total of \$133 million. It has since increased to \$157 million and the majority of the increases can be attributed to notification on state funded road projects and state special appropriations. So having received that information we went ahead and included it in the final budget. That comes to about \$12 million. And the other majority of the difference is another \$11 million that we budgeted under the 2005 bond proceeds for both road and water, capital projects.

Also included in this budget is the 12 FTEs needed to start the sobering center. Previously we had put those on the rolling list but knowing that we want to get the sobering center up and running we ask that we get approval for those FTEs within this budget, versus the rolling list.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: One issue that needs to be addressed and that's under Matters from the Commission and that's in the discretionary fund. If we approve this now we wouldn't have gotten that discussion before this resolution. So I think we need to have that discussion before we consider this resolution.

CHAIRMAN MONTOYA: Okay. So we'll hold off on a final decision on this and we'll move back to item IX. C and D.

COMMISSIONER ANAYA: Do we want to come out of the Finance?

CHAIRMAN MONTOYA: Oh, thank you. We're adjourned as the Board of Finance and reconvened as the Board of County Commissioners. Thank you, Commissioner.

COMMISSIONER ANAYA: Thank Karen.

CHAIRMAN MONTOYA: Thank you, Karen. We better get you a dart gun. [Discussion continues on page 45.]

#### **IX. C. Discussion of County Members on the BDD Board (Commissioner Montoya)**

CHAIRMAN MONTOYA: This is a discussion item I wanted to bring forward in terms of my term, I think it expires at the end of this month and one of the discussions that we had is that Commissioner Campos would take my place after the year is

up and I think that year time is up. Is that correct, Steve or Gerald? When did the BDD officially begin?

MR. ROSS: I'm sorry, Mr. Chairman. The BDD was meeting as a subcommittee for several months until the fifth member was appointed and that was in August a year ago.

CHAIRMAN MONTOYA: So that was in August. So that's coming up. And the discussion that I've had with Commissioners Campos and Sullivan is that I just want to make sure that we move forward in a manner where we're not compromising the County position in any of the details of any of the contract agreements, anything of that nature. As it is, I think it's been a battle trying to just keep what we've done with the City. I just want to make sure that that continues on, that we don't compromise or lose any leverage that we may have as a result of where we're at at this point and where we need to go in the future with future contract negotiations. Commissioner Vigil.

COMMISSIONER VIGIL: [inaudible]

CHAIRMAN MONTOYA: That was out agreement. Of if somebody else is interested in becoming the alternate I'm open to that as well. So either you or Commissioner Anaya.

COMMISSIONER CAMPOS: Mr. Chairman, I wouldn't - you've been on it for a while now. I think your experience is important to keep. Having a new alternate, learning from the beginning would be kind of difficult. So the vote of the BCC was that I would take over and you would be the alternate for a year, therefore preserving our experience.

COMMISSIONER VIGIL: [inaudible]

CHAIRMAN MONTOYA: No, it was a discussion I had that I wanted to bring up to make sure that we're able to move forward without compromising our position with the City. That was my position.

COMMISSIONER CAMPOS: Mr. Chairman, do you have to be more specific on that? I just don't understand. There must be more to it.

CHAIRMAN MONTOYA: We have contracts that are upcoming that need to be approved and I just want to assure that we have the votes that we may need for whatever it may be, that we don't lose any of the positions that we have in terms of voting members. And there's a number of contracts that need to be approved in the upcoming probably six to eight months. So that was the reason I wanted to bring this discussion item up. If we feel that we're fine then I'm fine with moving on and becoming an alternate member. Commissioner Vigil.

COMMISSIONER VIGIL: I'm fine with that. I'd also like to make a recommendation. I'm not sure how it could be done. This is such a critical thing and I know it will continue to be critical. [inaudible] My concern is this being such a critical committee and it being such a huge project [inaudible] negotiations and what direction it's going, I would like to be able to be advised at some level and [inaudible] So if there's a way that those committee members can think of communicating to those of us who aren't

serving I think that would be a necessary [inaudible]

CHAIRMAN MONTOYA: If I may suggest that we incorporate that from now on under Matters from the County Manager. I think that would be a consistent and I think Gerald, you pretty much attend most of those meetings, right?

MR. GONZALEZ: Both I and the County Attorney.

CHAIRMAN MONTOYA: So we could do it there. So that way, I think your concern is well taken, Commissioner Vigil. I think certainly the full board does need to know what's going on because we're talking about millions and millions of dollars for that project. So could we do that, Gerald? Just have it under Matters from the County Manager?

MR. GONZALEZ: We can do that, Mr. Chairman.

CHAIRMAN MONTOYA: That's all I had unless anybody has -  
Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, I just want to thank you for volunteering your time to serve on that. I think you have tried to move things forward and I hope we continue to try to move things forward.

CHAIRMAN MONTOYA: Thank you, Commissioner Anaya. Appreciate that.

**IX. D. Discussion of the Future of Commissioners' Discretionary Funds  
(Commissioner Campos)**

COMMISSIONER CAMPOS: Thank you, Mr. Chairman. This is an issue that I've raised on a number of occasions, probably going back four or five years. As you all know, I oppose this discretionary fund. I don't think it's the right way to conduct business as a government. I don't think it makes us an effective government. We do have a tight budget and there's things that we're not doing now because our money is being taken by the Commissioner discretionary fund.

So basically, Mr. Chairman, I think this causes a problem with public confidence. We have a budget that we're looking at and I don't think we're effective as a government entity. I would say if we had \$200,000 just to spend on non-profits or however we wished, I don't think that's possible under the current budget, yet the Commissioners have insisted on that. So I would 1) recommend its elimination entirely and knowing that that's unlikely to happen, the reduction of the sum. Right now I think it's at \$40,000. And also requiring that all expenditures be brought to the County Commission for approval. We've had problems with approvals in the past. Certain funds have been expended inappropriately and I think there's a need for oversight. It appears to me that staff is either not intervening or not raising questions about certain expenditures that were not appropriate and I think we need to have criteria that we all agree to. My criteria has always been is that it advances a direct interest of the County, either by investing in a program that a particular department

needs or doing an investment in an area that would benefit the County directly.

These are taxpayer monies. We have a responsibility to use them wisely. \$200,000 is a lot of money and we're not using it wisely. So I would say, if you're not willing to eliminate the program, let's reduce it from \$40,000, let's make all expenditures approved and viewed publicly by the County Commission. Let's have criteria that says that these things must be expended directly to advance a need of County government. So that's what I bring for discussion.

CHAIRMAN MONTOYA: Any discussion? Seeing none, anything else, Commissioner?

COMMISSIONER CAMPOS: No, that's what I thought I would get.

CHAIRMAN MONTOYA: I will just say that I have no problem developing criteria, bring it to the Board for approval so that it's open, public information. I have no problem doing that.

COMMISSIONER CAMPOS: So the proposition would be that no expenditures out of this fund without approval of the BCC, and we would work in the near future to develop criteria on how this should be spent, parameters that would limit our discretion. Are you willing to go with that?

CHAIRMAN MONTOYA: I am, I don't know about the other Commissioners. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I don't know what the parameters will be. I brought my, just recently the transit district funding came to the BCC for approval for our local match for the DOT pilot program, came out of my discretionary fund. And that came for Commission approval. That was on a Consent Agenda. So I don't have any problem putting those expenditures to the BCC.

I think the criteria may be a little more difficult to wrestle with because we're dealing with five different Commission districts that are as different as night and day in terms of ethnic make-up, in terms of problems, be they road problems, be they other problems, and I think that's where each Commissioner has an opportunity to develop their own skills to address those micro-problems within their district, again, consistent with state statutes and with County procurement regulations.

So I could certainly support the expenditures coming to the BCC; I have no problem with that. I'm a little more concerned about doing battle over criteria. I'd rather take each issue as it comes before the BCC and if they don't like it we can talk about it. But I just think each Commissioner is smart enough to be able to focus their limited amount of funds toward those unique problems that they have in their district and I think the other Commissioners will be supportive enough to stand behind that as long as it follows regs and statutes. That would be my take.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, I agree with Commissioner Sullivan. We're not doing anything that we're trying to hide but if that's the pleasure of the Board and they want it to come before the Board, I don't have a problem. But like he said,



there's certain issues which are different and unique in each district. So it would prolong things if people need money right away and want to get something done. It would prolong it. But that's government. Everything takes a long time. I kind of have a problem with it but if that's what it's going to take then let's do it.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I think it is appropriate to bring these things before the Board of County Commission. As far as developing criteria, I don't know that we could do that or depend on staff to do that. How do we establish those criteria. So I think I'm in agreement with Commissioner Sullivan and Commissioner Anaya. Bringing each item before the Board of County Commission and identifying at that point in time that the expenditure is in the best interest of the County.

COMMISSIONER CAMPOS: Mr. Chairman, what about the amount? Nobody's really addressed the amount. Is anyone willing to come down from \$40,000? We were down to \$15,000 a couple of years ago per Commissioner. And I think the City Council, I think theirs is like \$2,000 or \$3,000. Is that about right, Commissioner?

COMMISSIONER VIGIL: I actually think the City Council has a different structure. They have \$2,000 or \$3,000 for personal expenditures.

COMMISSIONER CAMPOS: For travel, I think.

COMMISSIONER VIGIL: For travel, but it isn't discretionary funds that go out to the community. They actually have a portion of the gross receipts that's dedicated to the community, for the health and social services. We don't. One of the biggest issues in the indictment of the Commission in the past is that the City actually does that and the County doesn't. These discretionary funds provide the opportunity to do that so that the [inaudible] isn't there. The County has never taken on social services or human services and this is one opportunity that we have to do that.

The closest component we have is the sole community provider which of course focuses on health. But there are many needs throughout the county that we have been unable to address and I don't think you can compare the City and County because they actually dedicate thousands and thousands and thousands of dollars through their budget dedication. We don't have that. Perhaps that something we could look at in the future. I don't know. The only thing we have to be able to address what I consider gaps in our community that aren't the traditional services of the County are these discretionary funds.

So \$40,000 in my mind in some cases isn't sufficient so I'm not leaning towards lowering that amount.

COMMISSIONER CAMPOS: Commissioner, you understand that our budget is pretty tight. To expand to social services at this point would likely be impossible.

COMMISSIONER VIGIL: I think it's within the budget. Otherwise I wouldn't vote for it.

COMMISSIONER CAMPOS: Okay. Anybody else? Anybody willing to come down a little bit?

COMMISSIONER SULLIVAN: You want to go up?

COMMISSIONER CAMPOS: No. I'm sure there's some support for that.  
CHAIRMAN MONTOYA: Okay. Anything else on this Commissioner Campos?

COMMISSIONER CAMPOS: That's it.  
CHAIRMAN MONTOYA: Thank you for bringing that forward.

**XIII. A. 1. Resolution No. 2006-121. A Resolution Requesting Approval of the Fiscal Year 2007 Final Budget (Finance Department) [Cont. from page 41]**

CHAIRMAN MONTOYA: Now we'll go back to the discussion on the resolution on the final budget?

COMMISSIONER ANAYA: Move for approval.

CHAIRMAN MONTOYA: Motion by Commissioner Anaya.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: Second, Commissioner Vigil. Discussion?

**The motion to approve Resolution 2006-121 passed by unanimous [5-0] voice vote.**

CHAIRMAN MONTOYA: Theresa, thank you for your work on this. Appreciate it.

COMMISSIONER CAMPOS: And your staff.

CHAIRMAN MONTOYA: And your staff.

**XIII. B. Fire Department**

**1. Consideration of Resolution No. 2006- 122. A Resolution Rescinding Resolution No. 2006-113 and Permitting the Sale and Use of Certain Fireworks in the Unincorporated Areas of Santa Fe County and Within Wildland Areas of the County Because of Improving Moisture Conditions**

MR. ROSS: Mr. Chairman, I drafted this morning - I apologized for doing it so late, a resolution to rescind those earlier resolutions should you chose to do so. It's a very simple document that you document your actions should you choose to take it.

STAN HOLDEN (Fire Chief): Mr. Chairman, we're here to endorse the Commission's consideration of rescinding resolution 2006-113 for the purpose of permitting the sale - I'm sorry. A resolution requesting approval to rescind the sale and use of certain fireworks in unincorporated areas of the county and within wildland areas of

the county because of improving moisture conditions. And if the Commission has any specific questions with regard to those improving conditions, the acting Fire Marshal, Captain Buster Patty is here to answer those specific questions. We stand for any questions.

CHAIRMAN MONTOYA: Questions? Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Holden, we just approved this a few months ago and now you're asking us to rescind us. In two months are you going to ask us to invoke it again?

CHIEF HOLDEN: Mr. Chairman, Commissioner Campos, that is a possibility, depending on the changing weather conditions.

COMMISSIONER CAMPOS: Should we just wait a few months to see what happens as opposed to just every two months change it?

CHIEF HOLDEN: That is one consideration.

COMMISSIONER CAMPOS: It's an option, isn't it?

CHIEF HOLDEN: That is an option. The consideration that the Fire Department is specifically concerned about is the County has to, under law, meet certain criteria in order to impose those emergency conditions and it is our belief that those conditions are no longer in existence. So that's why we bring it forward for your consideration.

Number two, we also have numerous agricultural fields in the county that need to be burned and under these existing conditions, it's better to burn them under these conditions than to wait longer and have a potential of having another long, hot, dry spell where the ladder fuels have dried out and it becomes more of a potential fire hazard at that point.

COMMISSIONER CAMPOS: Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, what about the pool restriction that we have on permits? Is that something that we can rescind also in the future?

MR. GONZALEZ: Mr. Chairman, Commissioner Anaya, if I could step in, that's the item that's succeeding. It will be the next one after this.

COMMISSIONER ANAYA: Oh, okay. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I'm still confused on this resolution that was passed out. The resolutions that we're dealing with are 2006-113 and 2006-86, and the resolution passed out rescinding them refers to resolutions 102 and 79. Can somebody explain what goes with what here?

MR. ROSS: Mr. Chairman, Commissioner Sullivan, I believe those are the most recent 30-day resolutions we have on the books. I don't know where the number 113 came from. I worked this morning when I drafted this up, I worked from the actual resolutions. So I think that must be an error on the agenda.

COMMISSIONER SULLIVAN: Well, it doesn't have it on the agenda, it's

just in the packet. 113 has to do with fireworks. I'm not sure what we're rescinding. I'm confused. Item B. 1 relates to the sale of fireworks and you're asking us to rescind that. Item B. 2 relates to drought restrictions. That's 86. That's the one that has the swimming pools in it.

CHIEF HOLDEN: Yes, sir.

COMMISSIONER SULLIVAN: Now which one are we rescinding?

CHIEF HOLDEN: Currently we're talking about just the fireworks. That's number one.

COMMISSIONER SULLIVAN: Just the fireworks.

CHIEF HOLDEN: Yes, sir.

COMMISSIONER SULLIVAN: And the one in our packet for the fireworks one is 113, 2006-113, a resolution proclaiming 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. Now is that what we're -

CHIEF HOLDEN: Mr. Chairman, Commissioner Sullivan, the County Attorney Steve Ross is correct. Every 30 days we're required to come back to the Commission and renew those resolutions or the enforcement capabilities of that resolution banning the sale and use of those fireworks. So that's why the resolution numbers appear to be changing constantly.

CHAIRMAN MONTOYA: We may have left out 113 is what probably occurred here. So we just needed to add that then to the title on the resolution so that it would be 113, 102 and 79, I believe.

MR. ROSS: Mr. Chairman, I think that's correct.

COMMISSIONER SULLIVAN: It said it was recorded on July 5, 2006. That's only 20 days ago.

CHIEF HOLDEN: That's correct.

CHAIRMAN MONTOYA: So we would add that, Commissioner Sullivan.

COMMISSIONER SULLIVAN: Okay. So these are a train of running resolutions then. All three of them. I see. Okay. Thank you for clarifying that.

COMMISSIONER ANAYA: Move for approval.

CHAIRMAN MONTOYA: Motion by Commissioner Anaya.

COMMISSIONER VIGIL: With the amendment?

CHAIRMAN MONTOYA: Yes.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: Second, Commissioner Vigil.

**The motion to approve Resolution 2006-122 passed by unanimous [5-0] voice vote.**

**XIII. B. 2. Consideration of Resolution No. 2006-\_\_ , A Resolution Rescinding Resolution No. 2006-86 and Rescinding Drought Restrictions and Water Use Restrictions Contained in Resolution No. 2006-86 Because of Improving Drought Conditions [Exhibit 2: Letter from Larry Chavez]**

MR. GONZALEZ: I was just going to introduce the next resolution. As you recall, some time ago we adopted a general resolution affecting portions of the county, principally that were outside of the service area for the water utility because of drought restrictions. Because of the changing conditions we're bringing this one forward as well. And this is the one that Commissioner Anaya referred to that has the swimming pool issue in it. Because of the recent rains and the shifting of what's going on out in the county I just believed that it was appropriate to bring this one forward also, to go ahead and repeal it.

CHAIRMAN MONTOYA: Okay. Any questions for Gerald?

COMMISSIONER ANAYA: Move for approval.

CHAIRMAN MONTOYA: Motion by Commissioner Anaya. I'll second for discussion. Commissioner Sullivan, then Commissioner Vigil.

COMMISSIONER SULLIVAN: Mr. Chairman, I don't think we're out of the drought yet. I can tell you in the area where I live, which is south of I-25 we just had the resident who are on a community well down there just had to pull the pump and drop the pump 20 feet due to a decline in their aquifer and we've had a little bit of rain that helped the vegetation but the drought conditions are a condition that comes through snow pack and that's how we're replenished, not from rain. And the snow pack this year has been the second lowest that it is in recorded history in Santa Fe.

So I find it difficult to convince myself that we are now out of drought conditions.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, I'm having a difficult time with that. Perhaps more information - I'm not sure we're in or out of the drought. I can't really make that call depending on what your expertise is. I'd like perhaps more information with regard to that. But more importantly, every time we do something like this in a community we need to have a watchful eye on water use. I wonder if we're acting in the best interest of the community. I also know that [inaudible] created a problem because it disallowed the permitting of swimming pools and I don't have enough information as to how many permits have been issued, how many permits have been requested. It is important. [inaudible] without further information. I actually would like to ask Land Use to let us know about the permitting process, how many requests we're actually getting, and I think [inaudible] we're still in a drought.

So really if we are or aren't, I think depending on who you speak to, I think it's premature.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, I really don't - I don't have

the numbers but I wouldn't think there's than many people out there building a swimming pool. The people that are, one in particular in my district, has not been allowed to. When you go down to District 3 you've got thousands of acres of farmers, agriculture, water, sprinkler systems that are running almost constantly. And I wouldn't see a problem with issuing a permit in that part of Santa Fe County. I could see it if you go further north, then I can see it. But at this point, we've had a substantial amount of rain and I'm praying for more but I think it's a hardship on those people that are trying to - have been planning to build a pool. Like I said, I don't know the numbers but in one case in particular, when they see - we're in the Estancia Basin and I'm not saying there's plenty of water but there's a lot more water than there is in the lower part.

So if we could, maybe omit from this District 3 I would appreciate that.

MR. GONZALEZ: Mr. Chairman, Commissioners, with regard to the pool issue, the thought here was because we do have some entitlement, property issues, to try and impose the least restrictive means that we can. It seems to me long term we probably need to come back to the Commission with a better thought out plan in terms of how we're going to deal with long-term drought restrictions. As you recall, this measure was adopted in conjunction with the fire restrictions that we adopted simultaneously because the thought of the Commission was if we're imposing fire restrictions it doesn't make sense not to look at drought restrictions.

However, because of the concerns that you're raising with respect to long term, what I would suggest is we adopt this resolution but direct staff to go back and study doing something long term that would be a little better though out, have better structure to it and perhaps avoid some of the problems that we had with adopting what I considered sort of an emergency resolution to address drought issues.

COMMISSIONER ANAYA: I would agree to that.

CHAIRMAN MONTOYA: I do too. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I think that's a good idea to do that but I would keep this resolution in effect until we do it because we're addressing one issue here with one business that is rightfully concerned because they construct spas and they want to continue to construct spas and so we're throwing out all the other restrictions regarding outdoor water and runoff watering from landscaped areas and ornamental fountains and hose washing of hardscape areas. So to deal with that one constituent we're throwing out all these other good drought restrictions.

My suggestion would be if the idea, if the concern is should we or shouldn't we allow swimming pools, let's discuss that topic. Let's not eliminate an entire drought ordinance because we have a constituency that wants swimming pools.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Commissioner Sullivan brought up a good point and that is discussion of swimming pools. And the last time we passed this ordinance there was no discussion. We didn't include those people that have the business of building

swimming pools. And I'm all in favor if we discuss it. And the last one we passed there was no discussion. There was discussion amongst the Commission but there was no community input. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: I would concur with the recommendation of the Manager. I know we brought forward this resolution somewhat in haste in terms of looking at it. They say hindsight is always 20/20. There are certain things that I think need to be discussed and I think that the resolution as it presently is may be somewhat flawed in terms of the way it stands and I would think that rescinding it at this point, coming forward with a resolution that is well thought out, discussed, brought to the public, would serve us better in the long run that we currently are.

If the action of this Board is to not go with the recommendation of the Manager that we look at the current resolution and that we put some sort of an expiration date, actually it is in effect until December 31<sup>st</sup>, so that's not too far off. So if we rescind it now we'd be doing it like four months. So those would be my comments. So we have a motion and a second. Any further discussion?

**The motion to approve a resolution rescinding water use conservations restrictions failed by 2-3 voice vote, Commissioners Anaya and Montoya voting in favor of the motion.**

**XIII. B. 3. Consideration of Publication of Title and General Summary of an Ordinance Repealing Ordinance No. 2006-4 (An Emergency Ordinance Declaring Hazardous Fire Conditions Warranting Restrictions on Open Fires and Smoking Within Santa Fe County)(as amended) Because of Improving Moisture Conditions Within the County**

CHIEF HOLDEN: Thank you, Mr. Chairman, members of the Commission. The Fire Department now is recommending that we move forward with publishing title and general summary of an ordinance repealing Ordinance 2006-4, which was an emergency ordinance declaring hazardous fire conditions warranting restrictions on open fires and smoking within Santa Fe County, as amended, because of improving moisture conditions within Santa Fe County. We stand for questions.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: So we're saying it's okay now.

CHIEF HOLDEN: Mr. Chairman, Commissioner Anaya, yes.

COMMISSIONER ANAYA: Move for approval.

CHAIRMAN MONTOYA: Motion by Commissioner Anaya. I'll second for discussion.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: And the reasons you're doing this, Stan, again is because we've met the criteria on lifting the ban to do this.

CHIEF HOLDEN: Yes, sir.

COMMISSIONER ANAYA: Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Any other discussion?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Does this have a different – I'm not understanding. Is this a different resolution now for rescission – Steve Ross passed out two rescission resolutions. This is just publication of title and general summary to repeal the emergency ordinance. Stan, could you explain that to me?

CHIEF HOLDEN: Commissioner Sullivan, I'll attempt to. The specific ordinance that was passed by the Commission declared the hazardous fire conditions that restricted open fires and smoking. The one that we acted on just prior to this was a resolution specific to fireworks in the county. That fireworks resolution is tied directly to state law and we have to meet certain parameters in order to impose those restrictions. We are now outside those parameters and thus, in my opinion the action of the Commission to rescind that resolution was appropriate.

In this particular case, in item 3, the repealing of Ordinance 2006-4, that is something that the County can do specific to open fires within Santa Fe County. What we're essentially asking for and what we're telling the Commission is that we believe as the Fire Department that conditions have changed. The conditions that were in existence that warranted these types of restrictions are no longer applicable and because of that, because we've had these restrictions in place we've had numerous farmers and the citizens of the county have been compliant with our request, and they've been patiently waiting for this opportunity where we've had sufficient rainfall that they can now burn their fields.

And so we're asking the Commission to rescind these restrictions that were passed in effect through this ordinance so that we can now move forward with allowing the open burning in Santa Fe County. I hope that answers your question.

COMMISSIONER SULLIVAN: Okay, so the fuel content is better than it was previously, so the conditions are not as critical for this open burning that were present before.

CHIEF HOLDEN: That's correct.

COMMISSIONER SULLIVAN: Okay. Mr. Ross, do we need to go through the publication of title and general summary for the rescission of an ordinance? Or can we simply do it?

MR. ROSS: Mr. Chairman, Commissioner Sullivan, ordinances can only be repealed in the same way in which they were adopted. You have to go through the same procedure.



COMMISSIONER SULLIVAN: Okay. I understand. Thank you.

CHAIRMAN MONTOYA: Further discussion? Commissioner Campos.

COMMISSIONER CAMPOS: Question for Mr. Ross. Isn't there a better way to do an ordinance like this? For example, have an ordinance, restrictions, and hand the authority to the BCC to waive them for a month or two if weather conditions change. Just a temporary thing. As opposed to adopting an ordinance, rescinding an ordinance, just back and forth?

MR. ROSS: Mr. Chairman, Commissioner Campos, it might be possible to construct an ordinance like that. We're tweaking the form of these emergency ordinances every year. You'll see this year we separated them out into an ordinance and resolution. And that's probably a good idea for future years to have a system more like the resolutions that have been put in front of you where the Fire Chief comes in front of you when he comes and talks about the fireworks restrictions to also talk about the burn restrictions that are contained in the ordinance. That's a good idea. We might be able to simplify the process for you next year.

COMMISSIONER CAMPOS: Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Any other discussion?

**The motion to authorize publication of title and general summary of an ordinance repealing fire restrictions passed by unanimous [5-0] voice vote.**

**XIII. C. Land Use Department**

- 1. 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 Drive, within Section 9, Township 19 North, Range 9 East (Commission District 1)  
DELIBERATION ONLY**

CHAIRMAN MONTOYA: This is for deliberation only.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: As I understand it this was a 2-2 vote at the last BCC.

CHAIRMAN MONTOYA: That's correct.

COMMISSIONER CAMPOS: How did it break out?

CHAIRMAN MONTOYA: Two voted for and two voted against.

COMMISSIONER SULLIVAN: And two abstained.

COMMISSIONER CAMPOS: How did you vote?

CHAIRMAN MONTOYA: I don't recall, Commissioner Campos. Does anyone recall?

COMMISSIONER ANAYA: I voted for it. Twice.

COMMISSIONER SULLIVAN: I don't remember.

CHAIRMAN MONTOYA: I voted for it.

COMMISSIONER CAMPOS: And what was staff's recommendation?

COMMISSIONER SULLIVAN: Did Commissioner Vigil vote for it?

CHAIRMAN MONTOYA: She brought it back.

COMMISSIONER SULLIVAN: And voted against it this time. And who wasn't here? Commissioner Campos?

COMMISSIONER CAMPOS: I wasn't here.

COMMISSIONER SULLIVAN: Oh, you weren't here.

COMMISSIONER VIGIL: Do we take a vote or what?

MR. ROSS: The procedure is generally you have a discussion and then vote, but in general we don't take additional testimony or hear additional reports from staff. I did find the July 11<sup>th</sup> staff report. It looks like staff, at least for purposes of the July 11<sup>th</sup> report was recommending denial.

COMMISSIONER CAMPOS: I saw that. Mr. Ross, does this just require my vote at this point or does the whole Commission - does this just require my vote or does the entire Commission vote?

MR. ROSS: No, it requires the vote of the entire body.

COMMISSIONER CAMPOS: So basically there is a motion tending to deny and it was tied 2-2?

MR. ROSS: Once we leave the previous discussion with a tie vote there's no motion on the floor. The motion has actually failed.

CHAIRMAN MONTOYA: I think based on the information that you received, what the applicant has attempted to do here is to right what I think essentially has been wrong by some of the County staff as well. I think given this information or whatever the situation may be from here, from this County, I don't think that we should penalize this individual for trying to correct what has been a wrong situation. That's simply what I see that the applicant was trying to do with this.

COMMISSIONER CAMPOS: Mr. Chairman, what was the wrong information?

CHAIRMAN MONTOYA: Commissioner, my recollection was that the lots were originally on a two-lot configuration. The applicant has been paying taxes on those two different lots.

COMMISSIONER CAMPOS: They were consolidated.

CHAIRMAN MONTOYA: Right.

COMMISSIONER CAMPOS: So what was the misinformation that you think that staff provided? Is that what you're saying?

CHAIRMAN MONTOYA: The misinformation is that the unit was

considered one lot as opposed to two.

COMMISSIONER CAMPOS: Well, there was a consolidation. That was an action by the applicant or someone in the chain of title saying I want to consolidate this. That wasn't - what's the misinformation there?

CHAIRMAN MONTOYA: It was never consolidated.

COMMISSIONER CAMPOS: It was never consolidated?

CHAIRMAN MONTOYA: No.

COMMISSIONER CAMPOS: It's still two lots.

CHAIRMAN MONTOYA: It's still two lots to my knowledge, yes.

COMMISSIONER VIGIL: I recall, Mr. Chairman, I think there was some question as to whether or not the plat was accurate in denying this. The reason why I moved to reconsider it, I think it was staff's understanding that that plat was brought forth and that plat may not have been accurate. I think the other reason that I brought it forth the motion to reconsider is it wasn't really clear through the deliberations that a hardship was identified. I think the applicant's family needs to get division for financing purposes and [inaudible] I was not real clear about that in the initial deliberations at all and I know that the ??? that this particular request was voted on at that particular time is .703 acres into two lots, and currently there is, I think a mobile home on one of these lots and a residence and the other I'm not sure of. There are actually residents in the mobile home.

Those were kind of the unanswered questions that I had with regard to that and perhaps [inaudible]

COMMISSIONER CAMPOS: We're not taking any evidence.

COMMISSIONER VIGIL: If we would allow any evidence.

CHAIRMAN MONTOYA: Steve, can we do that?

MR. ROSS: It's not customary, Mr. Chairman, to have any testimony. This is theoretically for discussion only.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: It looks like the facts in the first report were that it was two lots that were consolidated and now they want to be resplit.

MR. ROSS: Mr. Chairman, Commissioner Campos, I understand what happened was there were two lots originally. They were consolidated into one.

COMMISSIONER CAMPOS: That happened, right? That's an event - the consolidation of one lot.

MR. ROSS: So it's now currently one lot. Last April, I understand the permit desk mistakenly issued a second building permit on the lot and that permit was issued in error. So there are two houses.

COMMISSIONER CAMPOS: There are two houses since April of 05?

MR. ROSS: I think.

COMMISSIONER CAMPOS: What was the building permit issued for?

MR. ROSS: A second dwelling.

COMMISSIONER CAMPOS: Did they construct a second dwelling?

MR. ROSS: Apparently so.

COMMISSIONER CAMPOS: You're saying there's a mobile home and two constructed dwellings, or a constructed dwelling and a mobile home?

MR. ROSS: Two permitted homes, one well and one septic system on the property. I'm reading from the June 13<sup>th</sup> staff report. So there are two homes, one well and one septic system. Now the applicant is requesting to return the property to its original two-lot configuration after consolidating the property into one lot in February 1993. So there really shouldn't be, based on the size of the lot two homes there and that's why the permit desk should not have issued the second permit.

Now the applicant is asking us to respect that and divide the single parcel into two parcels with a home on each parcel.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN MONTTOYA: Commissioner Campos, anything else?

COMMISSIONER CAMPOS: I'll think of something.

CHAIRMAN MONTTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think in my recollection also, in addition to what Mr. Ross said was that the reason – the staff testimony was that the reason they issued the second permit was that the applicant presented a deed for the first lot, which was a pre-Code lot, prior to consolidation. So they had assumed that both lots were pre-Code and issued the permit, in error. We had a discussion of well, if the staff made an error, what transpires as a result of that? And the result is that doesn't carry forward. Just because they made an error doesn't mean you continue to generate the error or rely on the error for the decision. So then the applicant or someone consolidated the lot but also at the same time the Assessor's office apparently did not pick up the consolidation because the applicant is paying taxes on two lots. So we have tax bills on two lots. We have a consolidated lot. We have a permit that was issued, according to staff testimony based on a pre-Code title so they issued it for a density less than the Code allows, which would have been  $\frac{3}{4}$ . So we just have all kinds of things going on here.

So far as I can tell, as far as it's a consolidated lot it comes under the new Land Use Code. That seems to be the operative issue here. Unless someone has done more research and we've found out that there's not a consolidated lot. Do we know, Steve, or do you know that it is a consolidated lot?

CHAIRMAN MONTTOYA: Dolores, do you have any other information to add beyond this direction.

COMMISSIONER SULLIVAN: Don't want to put it all on the lawyer here.

MR. ROSS: Mr. Chairman, there is a plat, Exhibit G in the packet, which seems to indicate that the lots have been consolidated. The corners of the legends for the plat are not in our book. That would tell us whether this is in fact a consolidation plat, which I suspect it is.

DOLORES VIGIL (Land Use Administrator): Mr. Chairman, the applicant

did consolidate her lots and as Commissioner Sullivan has stated, when the application came in it was with the pre-Code deeds. It's hard to track the consolidated lot if the application was with the pre-Code deeds and they did show two separate lots. So right now, the property is one lot. So when the density variance, or the variance came in for the lot size requirements and was approved, it was actually approved for one lot, two separate units.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Is this property within any of the planning areas that are being done?

MS. VIGIL: Commissioner Vigil, I understand it is in one of the traditional areas where they do allow  $\frac{3}{4}$  acres, but it's still pretty far below. It does have only one well and one septic.

CHAIRMAN MONTOYA: Any other discussion?

COMMISSIONER ANAYA: Move for approval.

CHAIRMAN MONTOYA: Motion by Commissioner Anaya. Second? I'll second. Discussion?

COMMISSIONER VIGIL: The motion to approve, is it to -

CHAIRMAN MONTOYA: Grant the variance.

COMMISSIONER VIGIL: Are we considering whether or not to publish title and general summary for reconsideration of the variance. Is that not correct?

MR. ROSS: Mr. Chairman, Commissioner Vigil, no, we're not doing title and general summary. What's actually before us is a request to approve the variance. It's like it never happened in the previous two meetings. We have a motion on the floor to approve the variance, and a second.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: In the previous consideration there were a number of conditions. There was one through seven at least. I don't know if there were additional -

COMMISSIONER ANAYA: With conditions.

CHAIRMAN MONTOYA: Any more discussion?

**The motion to grant the variance in CDRC Case #V 06-5110 failed by 2-3 voice vote with Commissioners Montoya and Anaya voting in favor.**

COMMISSIONER SULLIVAN: The only other question -

CHAIRMAN MONTOYA: You should go get with Dolores and she can explain to you what - Commissioner Sullivan.

COMMISSIONER SULLIVAN: I understand there's two - there's a house and a trailer on there and I don't know whether the applicant wants to come back for a

temporary permit for one of those. That's another option they can discuss with Land Use. We have done that in the past.

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

**1. Update on the Status of Possible Lease Agreement with Women's Health Services and Acquisition of a Building Within Santa Fe County to Provide Women's Health Services Pursuant to the Legislative Appropriation**

MR. ROSS: Mr. Chairman, it appears that there are a lot of blank stares. I know a little bit about this. The current status, as you know, the legislature appropriated quite a substantial sum of money to the County to purchase a building to provide women's health services, in small case, to residents of the county. And we have been talking with Women's Health Services of Santa Fe in large case, concerning a building that they currently live in on West Alameda Street, the owner of which lives in California. We have retained Nancy Long who does some of our real estate closings to help broker that deal, primarily because she's very skilled in the processes before the Board of Finance.

The way the transaction we envision would work, we would enter a grant agreement with the state, take the appropriation from the legislature, purchase the building that Women's Health Services currently lives in and then enter in a lease with Women's Health Services for that very same space, thus effectuating the intent of the legislature, getting them into the building, or leaving them in the building and getting them a permanent space with a long-term lease. We would then have to take that lease through the usual approval process with the state through the Board of Finance and then the transaction would be final.

We're currently negotiating with Women's Health Services on the terms of a lease. We figured it was important to first determine whether we could enter into a lease agreement on mutually agreeable terms with Women's Health Services before accepting the legislative appropriation which then of course would bind us to provide women's health services from some building in the county. We haven't yet accomplished that. There was a statute enacted in the 2004 session which may be of some help. As you know, the anti-donation clause provides some pretty substantial obstacles to reduced rent leases, other sorts of donations to corporations, whether they be profit or not-for-profit. But, that being said, several years ago the legislature enacted a statute which provides a vehicle which has been used once previously in Albuquerque to accomplish that. And how the vehicle works is if a not-for-profit provides uncompensated medical care for example to citizens of the county, under the statute the amount of that care can constitute a reduction from the fair market value of the lease. Thus they see a substantial savings if they provide uncompensated care in their lease payments.

We obtained a copy of that lease document form from the State Board of Finance

and have adapted that for Women's Health Services and they have a copy and they're mulling it over. That's the current status of the situation. Once we are able to negotiate an agreeable lease agreement with the non-profit then the next step would be to bring that of course to this body, get it approved through the Board of Finance and then talk to the state about the legislative appropriation.

COMMISSIONER CAMPOS: Mr. Ross, one issue, one point that you hadn't discussed, one point that we discussed before is there's going to be an appropriation but we also understand that there may be a lot of money needed to refurbish this building. Now, I was concerned and I think a number of Commissioners were concerned that the County would have to put in money to do a lot of this refurbishing. We were I think at the point taking the position that if the legislature did not provide us with sufficient money the County may not be interested in moving forward with that. Are we still talking about that?

MR. ROSS: Madam Chair, Commissioner Campos, I understand there are some maintenance issues with the building. However, there are also a number of tenants in the building other than Women's Health Services and those tenants could provide regular income to the County which would enable the County to address some of those maintenance issues. I'm not sure if PFMD has put dollars and cents to this to all of this at this point but there appears to be a source of revenue to address some of those concerns.

COMMISSIONER CAMPOS: But the County would have to front the money and then hope to recoup from the tenants. Is it going to be an additional rent to recoup?

MR. ROSS: Mr. Chairman, Commissioner Campos, from the two revenue sources, essentially the other tenants and whatever rent we receive from Women's Health Services that isn't offset by uncompensated care could provide a revenue source. I don't think there's anything urgent that needs to be done, say, on closing, so you'd have to balance the revenue that's coming in against the capital needs of the building but you're correct. There may be a need of something breaks, for example, for the County essentially to front the money.

COMMISSIONER CAMPOS: That's general fund money, too.

MR. ROSS: That could be general fund money. General maintenance funds from PFMD.

COMMISSIONER CAMPOS: So I'm still concerned about that issue and I would like it to be explored carefully and not abandoned.

MR. ROSS: Mr. Olafson is nodding his head yes. I know that they're on top of this issue.

CHAIRMAN MONTROYA: Commissioner Vigil.

COMMISSIONER VIGIL: I know that Senator Rodriguez was concerned about how we actually complete the purchase. Have we had an opportunity to speak with her about it?

MR. ROSS: Madam Chair, I have not but Mr. Hiatt has. Perhaps he can share with you what the nature of that discussion was.

MR. HIATT: Madam Chair, I talked with the Senator after we met, probably six or seven weeks ago. I haven't talked to her since but I did explain some of the issues that are still on the table so I think she's apprised. Probably in terms of what we know at this point in time, she's probably apprised.

COMMISSIONER VIGIL: I think it would be a good idea. This is sort of a new horizon, so to speak for the County. [inaudible] So some of those issues, we need to be real clear with our state legislators and Women's Health Services.

MR. HIATT: Madam Chair, there's a meeting scheduled tomorrow with Nancy Long and Paul Olafson and Steve Shepherd and myself and we'll bring up the issues that Commissioner Campos has mentioned as well as the other issues. There are still a couple of bumps along the way.

COMMISSIONER VIGIL: [inaudible] I think in contrast to that there may be some level of expectation by Women's Health Services. There has to be real clear clarification of ownership of this building. [inaudible]

MR. ROSS: Mr. Chairman, Commissioner Vigil, the County would have to own the building and the lease would have to be approved by the Board of Finance. The attorney for the Board of Finance and myself and Nancy Long have been in close contact and this is really the only way to make this work, the transaction I just described.

CHAIRMAN MONTROYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Hiatt, how much is the purchase price or is that something we can talk about in public?

MR. HIATT: I'm hesitant to talk about it. The appropriation is \$2.5 million and the appraisal is \$2.7 million.

COMMISSIONER CAMPOS: Okay. So it's going to cost more than the appropriation. It could.

MR. HIATT: Commissioner, I don't know that that's necessarily so.

COMMISSIONER CAMPOS: Okay. But it's also subject to negotiation.

CHAIRMAN MONTROYA: Okay. I guess what I would ask is next time we have this on the agenda maybe we have some sort of a breakdown of what we're looking at in terms of the people who are going to be leasing, should we purchase the building and including Women's Health Services. I think there is a misunderstanding right now that they will be the owner/landlord entity that will be leasing to other entities for their own income. At least that was the impression that I've gotten in discussing this with some of their administrative team. So certainly I think Commissioner Vigil's points are valid in terms of making sure that we discuss these things and I know Steve you're working on ironing it all out and making sure that we're clearly going to be the ones who are owning and running the building.

COMMISSIONER VIGIL: Mr. Chairman, I just have a question. Were they advised that this was going to be on the agenda? Did anyone contact them?

MR. HIATT: Mr. Chairman, I don't know that they knew. I know there's ongoing discussions with Nancy Long. I talked to her about an hour ago to make sure I



knew the most recent information. And I know that she talked to Dr. Trott. I don't know that they spoke specifically about this on the agenda but we'll make sure as the chairman has suggested that next time, we have more details.

COMMISSIONER VIGIL: Thank you, Mr. Chairman.

**XIII. F. Water Resources Department**

**1. Discussion and Possible Action on Locations for County  
Conjunctive Use Strategy Wells**

DR. WUST: Thank you, Mr. Chairman. There's a couple things getting passed out but I'll go ahead and start. Over a year ago the Commission approved a contract for a computer hydrologic model to look at the aquifer characteristics and a few other parameters involved with seeking groundwater sources for Santa Fe County so we can fit in with our conjunctive use strategy with the BDD project. The Commission made very clear at that time that they wished that this process would be very public and very transparent with every decision point along the way being approached so we have a very clear path. Since that time, the contractor has completed the model, which was their project, and Cindy Ardito, project manager for Intera, our contractor, is here, of her own interest. It's not as a contract obligation. But she came of her own interest. Also, by the way, our County Hydrologist is here, Karen Torres.

The model has been placed on the computer of our hydrologist and Karen has been using it to look in certain areas in detail. So that step is completed. The next step after that and the purpose of this model was to look for areas favorable for groundwater sources, and that's what Karen has been doing. What this has led us to is we see favorable areas fall into several categories. And what we're bringing before you today is one of these transparent public decision points to say which of these categories or locations or wells would the Commission like us to pursue. We are not bringing before you any specific well, any specific location, or any specific action on a well. We are just looking at these categories and I'll go through those in a moment. But that's all we're asking for today is some direction to say of these categories, certain ones, go ahead and look at any of them in detail, look at these categories in detail, or these are off the table, or things like that.

All that I'm putting up on the screen, again, to keep this a nice public process is the set of maps that I just plugged into a power point. It's not a presentation per se. It's just the maps that you have in your packet, but I wanted to make sure that everyone here and viewing on their televisions would be able to see the very maps that we're talking about. What Karen did is put together four maps - I'll just leave it up like it is. These are the maps from the computer model and they're showing - what you'll see is four maps. One is the entire model area or sort of a regional look of just the aquifer characteristics. And because we were looking for groundwater resources, we thought it was important to look strictly at the characteristics of the aquifer. I will add one thing here that will be a little

different from what you saw if you recall from the presentation on the results of the model that Cindy Ardito presented to you a few months ago, and that is that there is a formation that they included in a modeling called the Galisteo. It's a deeper unit. Some of the comments we've had from the Office of the State Engineer, who did some overview as we went along on this, suggested that the Galisteo is variable and not always that great an aquifer. The other thing is it's generally greater than 2,000 feet of depth.

We know most of our wells, even the deeper production wells that have been put in recently by private companies, haven't gone over 2,000 feet. So Karen redid this map looking only down to the uppermost aquifers and to 2,000 feet. And the good news is those are some of the better aquifers in this area. So what you'll see is a map regionally that shows just the aquifer characteristics and then the map that shows the same area but with the other parameters included in. Those other parameters are things like how close are we to other wells? How close are we to population centers? How close are we to our own infrastructure? How close are we to springs and streams? And are we in areas of anthropogenic contamination? That is places like in the city, there's some TCE contamination, groundwater due to old dry cleaners. Things like that.

So we looked at those. Those are the other parameters that were included in. But the primary thing for us to look at in terms of how good a well may produce is to first look at the aquifer characteristics. And so the first map you see is on a regional scale. I'll say that the size may be a little distorted because I was trying to figure out how to get the proportions correct and yet it fit it all into one screen shot. So I think they're a little fat. But other than that, this is the area and you can see green is good in this case. It means a nice, thick aquifer. These are good aquifers. Again, we eliminated the deeper one that's not quite as good, and you can see a pretty broad area of good aquifer characteristics. That reflects the basin, the shape of where this unit first got deposited to begin with.

The second map, in this case blue is good, and this is with the other criteria included in. Again, closeness to population, nearness to infrastructure, nearness to other wells, and the blue areas are the ones that have good aquifer characteristics along with some of these other characteristics that are a little more favorable. I will emphasize that those other characteristics are more of a policy decision, not really a technical decision. We can say things like it's less expensive if we drill a well near our infrastructure, but that also often puts us near other people's wells, so there's a balance there.

The next map, and I'm going to focus in a little more on what these categories are at this time. This is mainly focusing in on our service area and this is again back to the aquifer characteristics. Pretty much what are good, thick aquifer, the water-bearing zones that we can look at as favorable areas for wells. You can see again as was seen on the regional view, this is reflecting the shape of the basin and there's quite a broad area. Green is good. But within this area, this broad area, you will see - this by the way is our Buckman lines to be built. Our service area is in here. It's hard to see on this screen but our service area is kind of shaded in here. The City is shaded in in a different kind of shading. We're going to of course stay away from that. And then some of our lines are in

here. A little difficult to see on this screen.

But within this zone there are what I looked as three categories of areas we could look at for wells. The first is as, say, examples of Rancho Viejo or Suerte del Sur, which I believe is this one. These are places where there have been private developers have already drilled wells. So that's an area we could look at. It's in a favorable aquifer characteristic area, a category of a type of well that we could look at. By the way, Hagerman well is here. Here's another one. State wells are down here. Those are not private but they're not County-owned. So there are a few here.

Now, we're not saying all of these are great. We're not saying any of them are lousy. We're just saying that this is a category that we could look at. Again, we haven't looked at anything in detail to talk about a specific well location because we're just trying to see if that's a direction we should look at. But those are wells that are in existence. The advantage of looking at these wells is that they are there. We'll be able to pretty quickly find out and re-examine some of the reports to be able to see how good they are, how good we think they are, what the water characteristics are like and you can pretty quickly, if there's an acceptable negotiating process with whoever owns them, may be able to acquire wells fairly quickly. That's the advantage to it. The disadvantage to them is public perception, particularly Suerte is the one that got us on this path to begin with because the public felt that we were picking well locations based on criteria other than it was a good place to look. So there's still that public perception on that. And there is the disadvantage that since it's been drilled by private entities they may be expensive, more than if we drilled them ourselves. We won't know that unless we've pursued this process, but we haven't pursued this process. Again, that's a category.

A second category of wells are those that the County already owns. Agua Fria Community Center, Valle Vista, the new Public Works facility, a well that hasn't been drilled yet but a location where we're certainly going to have a well. This is another category of locations we can look at. Wells that are on County property or County-owned that we could pursue in terms of locations for our groundwater sources. The advantage of that of course is it's County property, or County-owned wells. Pretty easy to know that we could go ahead and do it. The disadvantage is that most of these wells were originally domestic wells and probably not up to production well standards, which means we'll have to redrill them, deepen them, probably bring in water rights. I should add in terms of any location, you can bet that we'll get protests when we try to bring in water rights. It doesn't matter if it's a private well, a County well or a brand new well. We're going to get protests from somebody. By the terms of County wells that's just the thing we'll have to do is bring some water rights. Some of the wells will have to be refurbished, the exception being possibly the Public Works well because we haven't drilled it yet. We could drill it to any standard we want. However, that's not County property so we probably would still need a negotiation with the State Land Office because that particular facility is on some state land. However, there are advantages because they're totally under our control.

The third category, in areas like up here, which you and I can see on this map,

there aren't any existing wells right now. The clear advantage of that is it's an area that probably will not get much neighborhood opposition because it's in a totally new area. The other advantage is if we can acquire the land or easements we have total control of the way the well is drilled and how it's tested and everything else. So that's an advantage to us in terms of control on the well drilling. The disadvantage to the category is a lot of those areas are on federal land, which means we may run into some environmental impact study issues, which could get expensive and time consuming. They're fairly far from our existing infrastructure and actually any roads in several cases, which means we'll have to build some existing infrastructure to connect it up, and it will still require a negotiating session because the land isn't ours. We would have to acquire easements or ownership.

I would summarize by saying all of these categories, the advantages and disadvantages are not uncommon to any location you're going to look at for wells, and they're a little different in what the advantages and disadvantages are. However - and this is going to lead to our recommendation for your consideration. But each of these advantages and disadvantages actually puts gaining groundwater sources in three different time frames. Existing, deep, production quality wells owned by private entities we could acquire fairly quickly with a successful negotiating process. That's a short time frame.

Wells that we own, however, we would have to maybe redrill and certainly test, is kind of a middle time frame. We already have the locations, but we have to go in and do some work on them. Brand new locations are a longer time frame, particularly if we have to build infrastructure.

To develop a successful groundwater program all those three time frames are advantageous to us, to get some groundwater sources quickly, to have some in the mid-term that we know we can develop, and to look longer term down the road several years to be able to acquire more sources in the future are to our advantage. So it's that combination that could be very helpful to us and that's why the Water Resources Department has recommended that we look at all three of those categories. Now, again, we are not saying any specific well is something we want or don't want; we're just asking for direction to say is the Commission direction to go ahead and start to look specifically. If it's a private well, to start asking them about negotiating. If it's one of our wells to start looking at the cost of redrilling and refurbishing and what that will take. If it's looking at some of these open land to start talking to the feds about what it may take there.

So we can come back to you with very specific proposals in terms of specific well locations and possibly specific wells and we'll have numbers and expenditures at that time. But right now we're asking just for direction to say does the Commission feel that any of those categories are off the table, or are there any you'd like us to emphasize, or do you want us to go for three, or one of the three, two of the three, whatever it is?

With that, I stand for questions and again, our hydrologist is here, Karen, and Cindy Ardito is back from Intera.

CHAIRMAN MONTTOYA: Thank you, Steve. Questions for Dr. Wust?  
Commissioner Vigil.

COMMISSIONER VIGIL: Dr. Wust, thank you for presenting this succinctly as possible. It's really a very complicated issue. [inaudible] with public perception out there. For example, with Suerte del Sur, that community mobilized not only based on their perception that their wells would be depleted, but [inaudible] that if a well was located out there that their wells not be adversely impacted. Is it possible to do a well [inaudible] and if so, is this something that we want to incorporate in our [inaudible] I'm also open minded about the issues is the fact that we've got a study of the thickness of the aquifer so in my mind, it would seem the thicker the aquifer the more likely it's a promising water source. But in fact, the issue can be very complicated and it really depends on the functioning of the aquifer. Those kinds of issues. So if we do move forward, is there a way to be sure that their private wells will not be adversely impacted? And is there - I'll just ask that question, first.

DR. WUST: Mr. Chairman, Commissioner Vigil, I'll address that in a couple ways. One is that the purpose of this model and the direction from the Commission to pursue this path and the way we're doing it now was that the initial public reaction was that we were looking at Suerte del Sur simply because the developer had drilled it and offered it to us. They wondered why the County wasn't first looking at areas it might be good to have a well before we start looking at wells. And that's what we've done here. It just happens that Suerte del Sur is in a pretty good area for an aquifer.

On top of that, however, and this goes to the assurances that this model has the ability and part of the presentation when it was given before showed the results, although it was numbers and it really didn't say much to a lot of folks is that we can pick locations using this model and have a well in the model and pump away on it, and the model will predict for us what effect that will have on the aquifer to any location we like. So we would certainly make that part of any well location. We're going to do it anyway. We would have to do it in order to be able to move water rights into any well. We've got to go to the State Engineer and show them, using our model what we believe any effect we would have. And the State Engineer can evaluate that. So we would do that first. And we would be able to come back to the Commission and this would be part of our coming back to you with specific well locations, no matter where they are, no matter what they are, to say we've run the model trying to predict draw-downs if we pump this well at this amount for this length of time.

And the model was originally was done pumping a well way more than it would ever realistically pump, but that's the way you do things to look for draw-down. So we could do that. The other thing I would recommend, actually, I talked to some of the neighborhood groups back when the issue of Suerte was coming up is that I would like to talk to the neighborhood groups after BDD comes on line or other water sources that we have in use with this conjunctive use strategy to see the best protection of getting someone on a domestic well they're concerned about is to help them get onto our system. So they have an assurance of water for real. But that's kind of a different path. In the meantime, we can use this model to help make those predictions to try - and we're going to use

pump tests. Certainly any well location, whether it be ours or somebody else's or a brand new well, I would recommend we run our own tests, and those pump tests for a specific location will give us exact data for that area, to be able to better make predictions about any potential effect it may have. So that's the kind of assurances we would have.

COMMISSIONER VIGIL: Mr. Chairman, I think one of the ways we could contribute to the understanding and public perception is that we clearly identify [inaudible] Is it truly the County Commission's ambition, or has it changed in any way that pursuit of these wells is simply for supplemental purposes, conjunctive use, that our principal purpose is going to be once BDD is on line and that these would be used only in dry conditions? [inaudible]

DR. WUST: Mr. Chairman, Commissioner Vigil, these wells are to develop a conjunctive use strategy and as a matter of fact we have been engaged in writing letters and finalizing responses to the US Forest Service for the environmental impact study and the US Fish and Wildlife service, and one of the things that we had to address to them was a reduction in the BCC input if the river gets below a certain stage for the protection of the fish or downstream users or other water right users. And we had to be able to demonstrate how we're going to make that up if the BDD can't supply its full capacity. So this is part of that. It's been folded into that, but we've known all along that we have needed a diversified water source. This is not to add on and promote growth. But we also are very well aware that because that's going to make our system pretty big and the City does the same thing. You have pressure zones and you have areas that may have to be served by different sources, but none of these sources are considered to be full time, primary sources for our system.

They are to be used, again in a conjunctive use strategy primarily when we have to supplement a decreased river flow or other water sources we may be able to import in the future from other locations. But we need this. The City has, as it pursues the BDD, the City has the reservoirs on the Santa Fe River. They have the Buckman wells. They have the City wells. They have already a diversified water source. We don't have that. We are 100 percent reliant on the City today. But we do not want to get in the stage where we are 100 percent reliant on the BDD because that BDD may not function at certain low levels and we're required not to let it function at capacity at certain low levels of the river.

COMMISSIONER VIGIL: [inaudible]

DR. WUST: That, Mr. Chairman, Commissioner Vigil, I'll probably defer to our County Manager who's been in discussions on that.

MR. GONZALEZ: Mr. Chairman, Commissioner Vigil, there has not been a renewal of the discussions that were triggered following the legislative session. The way we left it was that Mr. Jaramillo was going to go back, talk to his staff and then get back to me after he'd had the opportunity. I have not heard from him so we need to probably reinstitute those discussions. I also want to point out, because I don't want to disillusion completely the public either, that the Commission still has before it the decision about whether future water sources that might come out of the wellfield would be limited to

conjunctive use. And by that I mean that there are potentially additional water rights that the County either could own or even owns at present that could provide an additional source of supply of water for our County water system.

So although at this point with respect to the study we're looking at conjunctive use, at the same time I do not want to take away from the Commission the prerogative to decide that we need additional sources of water, other than what comes from the BDD. This extends not only the possibility of a wellfield but other potential water sources that we might come across in the future.

COMMISSIONER VIGIL: I agree [inaudible] we're running our wastewater treatment in partnership. Whereas in other situations the facts and the factors that remain spectrum of issues. As you proposed your recommendation, I actually - I'm open to suggestions in terms of how we should do it, seeing today that you testified that private wells are more [inaudible] I don't know how to resolve this issue and I will defer to further discussion from the Commission.

CHAIRMAN MONTROYA: Any other discussion? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I think I've been an advocate all along for a regional water system and I think we have to look at the factors of closeness to the facilities and so forth as well as the aquifer in that ranking system. To do a regional water system we can't use the hub and spoke method. And the problem I have with the private wells, aside from the fact that they have arsenic in them and we'd have to treat the arsenic, is they are hub and spoke type of facility. In other words, the wells that are being proposed, whether it's Rancho Viejo or whether it's Suerte or whatever, are downtown, basically. They're right in the center of where the housing is going on in great density.

So in order for us to make future use of that we've got to pump and push the water a long ways, miles and miles and miles, to get it to where ultimately it's going to be needed, where the County will ultimately be developing. Let's not kid ourselves. This water - it's nice to say it's going to be supplemental water, but in point of fact it's going to be used for primary usage for a part of the time. We're not just going to shut it down when the water's needed. So I think we need to look at the periphery of our service areas. I think that that bodes well for like the Hagerman well. That's a good well to pursue. I think the problem with the State Pen well is we've been arm-wrestling with the State Pen forever on that and they're just not going to - or don't have the authority to move forward on that.

I think in the upper northwestern area that Steve points out as being kind of a virgin area, that that's ultimately going to be a location probably in the longer term scheme of things. But I think another one that I would really like to see some consideration of is down in the south area. If you look for example at that map in your packet that says aquifer thickness regional view, where I'm thinking about - and also aquifer thickness service area, I'm thinking that we've got a large development that's being proposed in the Galisteo area. There was an article in the paper about it that quoted the Shomaker report

saying that essentially there's gobs and gobs of water there. They're coming forward with almost 1000 homes. They've got 191 acre-feet of water, they claim, of some sort.

But regardless of how they characterize it with open space and other amenities, it's going to be if it comes to pass a super draw on the Galisteo Basin and that area.

Then we have right next to it, we have Eldorado. Eldorado is going to be drilling a new well. They've got legislative funding for it. And we'll see how that goes. And they've been asked to supply water to this new development as well. On the other side of Route 14 we have the San Marcos area, we have the areas that have been having well problems with dry wells, dry holes, in that area, going out toward Madrid. So I'm just thinking again if you look at that aquifer thickness service area map, you see a green finger sticking down there. Not the dark green but the light green, which means 1500 to 2000 feet. You see which map I'm talking about? That's it. Kind of the green finger sticking down there. And I'm just speculating that - and some of those lands are BLM lands and we want to stay away from those, but others are private.

In fact we've even had offers from the owner there to buy open space land there at a fairly reasonable price and create open space, which would be protection for our aquifer. And Paul Olafson is familiar with that prospect. I'm just thinking if we could put a well here. Keep going down lower.

DR. WUST: This is 14. Is that where you're speaking about?

COMMISSIONER SULLIVAN: Yes, there's 14. Now go to the right. Right in there somewhere. It would do two things: a) It would put an outer boundary or an outer resource in our regional water system. It could ultimately serve Eldorado, if we wanted to supplement Eldorado. It would be fairly close to Eldorado. It could also ultimately serve the South Fork, Route 14 area that's rapidly running out of water and you can see that down there in the orange and red areas. It's going dry out there in Cerrillos and those areas are just drying up.

So I think we need to go in several locations on the periphery and establish peripheral points and connect our system that way, rather than going from a point, say Rancho Viejo or Suerte del Sur, and radiating out. So I think that's something that's worth investigating. I think the Public Works well is worth investigating because as you can see from the map, it is flat right on the water line. So there just wouldn't hardly be a better location in terms of cost of infrastructure to just tap right in to that proposed City/County treated water pipeline that's coming out to BDD.

So that I think we should work on. I think we should work in the immediate term, my recommendations are the Public Works and the Hagerman well to work on, and to a lesser extent, Valle Vista. And the only reason I say to a lesser extent is I think it's in an equally productive aquifer but I think the issues from the La Cienega residents are going to be difficult to deal with, not just the protests but the politics of that one. So that would be my first shot. And then my second shots I would say begin to look at locations that have a regional, long-term connection context. This is without making any commitments to the South Fork area, without any commitments to Eldorado and certainly without any



commitments to the development in Galisteo. But here you have developers that can contribute to the cost of that infrastructure, of those lines to getting to that well. Alternatively, they're going to come to us and just say here's a bunch of 72-12 wells, we're going to hook them all in and that's what we're going to do. And I don't know that we've got a whole lot of ability to turn that down.

So I'm looking ahead to developing a regional water system that has several source locations. I think one in the south, east of 14, one in the west, be it Hagerman, Valle Vista, Public Works, and one up in the northwest. Probably not Suerte del Sur but probably further north northwest in the green area up there, where there's a piece of land that we could go for. And I think with that kind of strategy we'll limit the impairment on others but we'll be close enough that it will be economical to tie in. So that's the few thoughts I had, Mr. Chairman.

CHAIRMAN MONTOYA: Any other discussion? Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, I tend to agree with staff's report in looking at all the things and bringing them back because we don't know exactly what kind of effect it's going to have and how much water's there, but I think we need to look at the whole thing so we don't put an impact on one particular area. Because I do believe, and all along I've believed that it's going to be conjunctive use along with the Buckman. I also agree with Commissioner Sullivan on maybe a further north well, and a further south. Those are my comments. Thank you.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I think everything's on the table and I think it's up to staff to come up with some suggestions. I don't have the expertise to tell you northwest. You look at the City's wellfields, clearly we're going to have problems with the City if we dig anywhere near their wells. It seems to me that's what we've been getting. Is that accurate?

DR. WUST: Mr. Chairman, Commissioner Campos, my understanding is the City's looking at objecting to almost anything we do in this area.

COMMISSIONER CAMPOS: Yes. As far as the south southwest well that Commissioner Sullivan recommends. I'm not sure about that. That doesn't seem to be in the greenest of areas, which is the thickest of the aquifer. And certainly Rancho Viejo seems to be in that thick aquifer area. That might make more sense. I don't know. It calls for a lot of expert input and I don't think I'm in a position to add very much to that.

DR. WUST: Mr. Chairman, if I may on that point, that's basically why we're just coming asking for direction. When you look at the south area, as you pointed out, the options were spinning at that point. We don't know really, we're not trying to say there's a specific area. What we're trying to say, this is one of those general areas that if you think that's a good track to look at we can start to answer those very questions. What would be a good location in the fringe areas, if you would. Or what do we think? That's by the way the disadvantage of the fringe or the new areas that I forgot to mention but I

put in my report is that we don't know what's there because there aren't any wells. Until we drill a well we really don't know. I will add, as we go north, these are tribal areas so we can't drill in there, and if we go too far north we hit the Aamodt settlement area, which is probably something we kind of - but those are the questions we're glad to look at if we get direction here on what tracks to go to, we can start looking at those specific areas so we can come back to you with specific locations and some specific information about the very questions Commissioner Campos just raised.

COMMISSIONER CAMPOS: Do you have specific questions to ask the Commission? Do you have general things like private wells, existing County wells and perhaps new wells? That's pretty broad. Do you have anything more specific or do you want -

DR. WUST: Mr. Chairman, Commissioner Campos, we tried to keep it broad because that's what we try to do in the decision process, to hear what the Commission says. For example, all the private - we don't want you to talk to any existing private wells. Then we won't pursue any of them. But if you say that's an okay track to pursue, then we'll go start talking to the owners of Suerte, the owners of the State Pen, the owners of the Hagerman. And look again at their reports in detail. There are pump tests on most of these wells which means before we took the time to look at those reports in detail to come back to you and say this one looks better or this one looks worse. We wanted to make sure that that was a track that was okay to pursue.

The same thing with the County wells. If the Commission says - I can't imagine they would say this - but if they said don't look at County locations then we wouldn't take the time. But if you say that's a good track, we can go look at them and say, well, you know we've looked at them in detail now. The Public Works looks like a better thing to pursue at this time than say, the Valle Vista wells. Or the Valle Vista wells look like a better specific place. And then we'll come back to you with more exact locations. That was the idea here.

COMMISSIONER CAMPOS: I think we should look at all three options. I don't think we can restrict ourselves and that's about all I can add to the discussion.

CHAIRMAN MONTOYA: I'll just add my input here and that's that I agree that - and I'd like the County to pursue this and move it forward. I think to look at one might be short-sighted and might not be big picture. So I think that's what I think I would advocate for and I think what we're moving toward that now with this study and with these recommendations. So I certainly agree with your recommendations. So anything else to add, either staff - Thank you.

### **XIII. G. Matters from the County Manager**

#### **1. Update on Various Issues**

MR. GONZALEZ: Mr. Chairman, Commissioners, I just wanted to give

you a quick update on the recent accreditation audit we had at the juvenile facility. We had three auditors out from the American Correctional Association. They looked at both the training school that we have out there and the detention facilities. In each of those categories they had both mandatory standards that were required to be met and non-mandatory standards, and with respect to the mandatory standards for both the training school and the detention facilities, we achieved 100 percent compliance. With respect to the non-mandatory standards for the training school, the compliance was in excess of 99 percent, and the same was true with respect to the standards of the detention facilities.

The audit participants indicated that they would be making their recommendation in January to the national meeting of the American Correctional Association and at that point that they would take a vote on accreditation, but given the scores that we've had, at this point it's more than reasonable to think that we will achieve full accreditation of the juvenile facility by the American Correctional Association. And that was basically all I had, Mr. Chairman.

CHAIRMAN MONTROYA: Okay. Any questions or comments on that? That's great news. Again, those accreditations do cost us in terms of not only paying for it but also for needing to maintain staffing standards, those sorts of things that allows us to receive those types of accreditation. I still want to make sure that we're going to be operating this facility taking into consideration some of these [inaudible]

MR. GONZALEZ: Staff did a great job. I think it makes us more attractive for various purposes. As you probably know, Children Youth and Family Department has joined us in discussions about possibly sending their juveniles, or at least a large portion of their juveniles to our facility. Down the road we may want to have a discussion whether it makes sense to have both those juveniles and juveniles from the BOP, but right now we're just evaluating what either financial outcome could be and we'll be presenting numbers to you so you have an idea what each of those paths would provide us in terms of financial security for that facility.

### **XIII. 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**

MR. ROSS: Mr. Chairman, we need to go into executive session primarily to discuss acquisition of water rights, but I also have some briefing for you on pending or threatened litigation and a few suggestions on the strategy preliminary to collective

bargaining negotiations, and possibly some discussion on limited personnel matters.

**Commissioner Anaya 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 Campos seconded the motion which passed upon unanimous roll call vote with Commissioners Campos, Montoya, Sullivan, Vigil and Anaya all voting in the affirmative.**

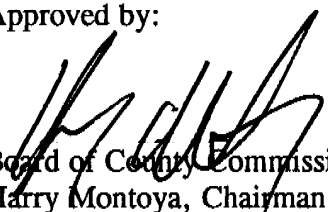
[The Commission met in executive session from 4:45 to 6:25.]

**Commissioner Anaya moved to come out of executive session having discussed only the matters outlined in the agenda, with the exception of discussion of real property, and Commissioner Vigil seconded. The motion passed by unanimous voice vote.**

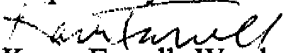
#### XIV. ADJOURNMENT

Chairman Montoya declared this meeting adjourned at approximately 6:25 p.m.

Approved by:

  
Board of County Commissioners  
Harry Montoya, Chairman

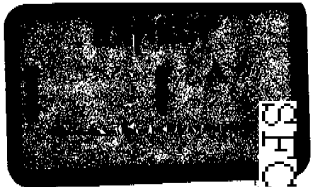
Respectfully submitted:

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

ATTEST TO:

  
VALERIE ESPINOZA  
SANTA FE COUNTY CLERK





REC  
CLERK RECORDING 08/24/2006

# Memorandum

**To:** Santa Fe County Board of Finance  
**From:** Victor A. Montoya, County Treasurer  
**Date:** 7/25/2006

## Santa Fe County Treasurer's Investment Plan

In accordance with Santa Fe County's Investment Policy, Resolution No. 2004-107, this memorandum is being submitted to present the County Treasurer's investment plan for the foreseeable future.

My investment plan is to construct a portfolio that contains safe and liquid investments that are diversified to protect our fund, and that are fully collateralized as provided for in our investment policy.

I continue to look for investments that benefit our local economy here in Santa Fe County that will assist banks and credit unions with the ability to provide mortgage loans, auto loans and construction financing to our county constituents.

The investment made in the two banks that are classified as Financial Depository Institutions for the County is as follows:

1. **First State Bank:** This bank is also our custody bank and we have invested \$5 million in a two year Certificate of Deposit that yields 4.5%. Additionally, to meet our cash flow needs we have invested \$7 million in 7-day CD's that renew themselves every seven days and are currently yielding the fed funds rate of 5.25% less 50 basis points or 4.75%. These 7-day CD's are adjusted every time the feds raise their rates. The balance in our bank accounts are swept into overnight investment account and redeemed the following morning. There is a good chance that fed funds rates could be raised another .25% before the end of August, if that happens our overnight repo accounts could go up to 5.00%. All investments are secured at 102% by the bank's pledging of securities.

2. **Los Alamos National Bank:** This bank received Financial Depository Institution status from the County Board of Finance at their August 2005 meeting, and we currently have \$10.1 million invested in Certificates of Deposit. I am happy to report that I will be investing another \$5 million on August 1, 2006, with LANB to be fully collateralized at 102% with an irrevocable letter of credit from the Federal Home Loan Bank in Dallas. LANB has offered some very competitive short-term rates as follows: The 12 month CD @ 5.65%; the 6 month CD @ 5.47%; the 3 month CD @ 5.34%; the 60 day CD @ 5.24%; and the 30 day CD @ 5.17%. These short-term rates beat both First Community Bank and the Local Government Investment Pool.
3. **State Treasurer Local Government Investment Pool:** As a member of the LGIP Participant Council, I frequently attend their State Treasurer Investment Committee (STIC) meetings. These meetings provide me with information on how the State Treasurer is investing the LGIP, how long he is investing for, and the economic outlook for the Country. This information is very beneficial to me in basing my investment decisions. A copy of the State Treasurer's *Investment Outlook* is attached for your information. Finally, to provide a comparison of how our investments are doing compared to the LGIP, here are the results for the last three months:
  - a. June 30, 2006 yield 4.71%.
  - b. May 31, 2006 yield 4.56%.
  - c. April 30, 2006 yield 4.25%.
4. **Government Agencies (Bonds):** This is one area of our portfolio that I have worked as part of diversification of our assets. We have increased our holdings from \$1 million to \$24.3 million. Much of this increase came about when we invested \$15 million left from the 2005 bond sale for road improvements. These investments are short-term and designed to meet our cash flow needs as the projects materialize.

Finally, I am also looking at purchasing **Treasury Bills** direct from the U.S. Government. These investments could be laddered to meet our cash flow needs. This item will be discussed with the Investment Committee at a future date. By laddered, I mean investments that are structured to mature in 30 day, 60 day, 90 day, six months, nine months, etc., these would also be short-term duration and purchased for safety, liquidity and diversification.

In closing, I have attached a copy of all our investments in CD's, Government Bonds, and the Local Government Investment Pool we have made to date. These investments show the principal investment, the effective annual interest rate, the term, and maturity date and how we receive the income.

July 25, 2006

Please note that the County Treasurer's Investment Committee has been meeting regularly since April 2005, I present an agenda to the Committee each month that includes accomplishments and minutes from the prior month. I strive to keep the Committee informed by having our local banks and other entities make presentations to the committee on how they intend to use County funds to improve the economy of Santa Fe County. I wish to thank the Investment Committee for their hard work and commitment to attend these monthly meetings. I know they have many commitments and obligations they have to attend to on behalf of the County.

Mr. Chairman and Commissioners that concludes my presentation. Thank you for your kind attention and I make myself available to any questions you might have.

SFC CLERK RECORDING 08/24/2006

**SANTA FE COUNTY  
TREASURER'S REPORT**

**CERTIFICATES OF DEPOSIT**

<u>Purchase Date</u>	<u>Description</u>	<u>Principal Amount</u>	<u>Effective Annual Interest Rate</u>	<u>Term</u>	<u>Maturity Date</u>	<u>Interest Check to be Paid</u>
6/26/2005	Guadalupe Credit Union - CD, #11034009	\$ 100,000.00	5.35%	1 yr.	7/1/2007	Monthly
3/1/2006	First Community Bank - CD, #356132548 (automatic renewal)	\$ 100,000.00	4.00%	1 yr	3/1/2007	Quarterly
8/4/2004	Merrill Lynch - Acct #456-02006 - thru Capital One Bank	\$ 100,000.00	3.35%	2 yrs.	8/4/2006	Monthly
10/1/2004	Omni National Bank - Acct #4002405825	\$ 99,000.00	3.44%	2 yrs.	10/2/2006	Monthly
10/28/2004	Advantia Bank Corp. - Acct. #3501028306	\$ 99,000.00	3.30%	2 yrs.	10/30/2006	Monthly
11/17/2004	Multi-Bank Securities - Acct #14020317 - thru Riggs Bank	\$ 97,000.00	3.30%	2 yrs.	11/17/2006	Semi-Annually
4/26/2005	Charter Bank - Acct #61021542	\$ 100,000.00	4.00%	19 mo.	11/26/2006	Monthly
8/5/2005	Los Alamos National Bank - Acct #0030489131	\$ 1,000,000.00	4.40%	24 mo.	8/5/2007	Monthly
8/5/2005	Los Alamos National Bank - Acct #0030489132	\$ 1,000,000.00	4.65%	36 mo.	8/5/2008	Monthly
8/5/2005	Los Alamos National Bank - Acct #0030489133	\$ 1,000,000.00	4.90%	48 mo.	8/5/2009	Monthly
8/5/2005	Los Alamos National Bank - Acct #0030489134	\$ 2,000,000.00	5.40%	60 mo.	8/5/2010	Monthly
8/5/2005	Los Alamos National Bank - Acct #0030489135	\$ 100,000.00	4.40%	24 mo.	8/5/2007	Monthly
11/1/2005	Los Alamos National Bank - Acct #0030489136	\$ 3,000,000.00	4.60%	24 mo.	11/1/2007	Monthly
11/1/2005	Los Alamos National Bank - Acct #0030489137	\$ 2,000,000.00	4.75%	36 mo.	11/1/2008	Monthly
9/12/2005	State Employees Credit Union - Acct #73146-3-0 C04	\$ 100,000.00	4.50%	36 mo.	9/12/2008	Quarterly
9/13/2005	State Employees Credit Union - Acct #73146-3-0 C05	\$ 100,000.00	4.50%	36 mo.	9/12/2008	Quarterly
4/7/2006	First Community Bank - CD, #4650468967	\$ 5,000,000.00	4.75%	24 mo.	4/7/2008	Quarterly
4/12/2006	Wells Fargo - CD, #8683694130	\$ 100,000.00	5.00%	12 mo.	4/12/2007	????????
5/2/2006	MarqBank - Acct #00000108090 (renewal of #105343 above)	\$ 99,000.00	5.37%	12 mo.	5/2/2007	Monthly
5/2/2006	Metropolitan Nat'l Bank - Acct #0124001181	\$ 99,000.00	5.38%	12 mo.	5/2/2007	Monthly
8/1/2006	Los Alamos National Bank - Acct #0030489135	\$ 1,000,000.00	5.65%	12 mo.	7/31/2007	Monthly
<b>Total Certificates of Deposit (terms of 1 year or greater)</b>		<b>\$ 17,293,000.00</b>				
Various	1st Community Bank - 7 (seven) \$1,000,000.00, 7-Day CD's	\$ 7,000,000.00	4.75%	7-Days	7-Days	Monthly
8/1/2006	Los Alamos National Bank - Acct #0030489131	\$ 1,000,000.00	5.17%	30 day	8/30/2006	Monthly
8/1/2006	Los Alamos National Bank - Acct #0030489132	\$ 1,000,000.00	5.24%	60 day	9/30/2006	Monthly
8/1/2006	Los Alamos National Bank - Acct #0030489133	\$ 1,000,000.00	5.34%	90 day	10/30/2006	Monthly
8/1/2006	Los Alamos National Bank - Acct #0030489134	\$ 1,000,000.00	5.47%	180 day	2/28/2006	Monthly
<b>Total Certificates of Deposit</b>		<b>\$ 28,293,000.00</b>				



**SANTA FE COUNTY  
TREASURER'S REPORT**

**INVESTMENT IN GOVERNMENT AGENCIES (BONDS)**

**GILFORD SECURITIES**

5/16/2005	Federal Home Loan Mortgage Corp.-Cusip #3128X4AR2	\$ 300,000.00	4.01%	21 mo.	2/16/2007	Quarterly
5/23/2005	Federal Home Loan Bank Bonds-Cusip #3133XBRE7	\$ 300,000.00	4.26%	30 mo.	11/23/2007	Quarterly
5/19/2005	Federal Home Loan Bank Bonds-Cusip #3133BXPX7	\$ 400,000.00	4.40%	36 mo.	5/19/2008	Quarterly

**BROOKSTREET SECURITIES CORP.**

5/4/2006	Federal Home Loan Bank Bonds-Cusip #3133XFAM8	\$ 2,003,986.11	5.12%	292 days	2/20/2007	Quarterly
4/17/2006	Federal Home Loan Bank Bonds-Cusip #31339XD27	\$ 981,890.83	5.13%	300 days	2/28/2007	Quarterly
6/7/2006	Federal Home Loan Bank Bonds-Cusip #3133XEZB8	\$ 1,623,478.75	6.00%	1.5 years	9/28/2007	

**BOSC, INC.**

	Federal Home Loan Mortgage Corp.-Cusip #3128X4T76	\$ 2,000,000.00	5.25%	2 year	3/28/2008	Semi-Annual
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**MERRILL LYNCH**

	U.S. Treasury Note (\$500,000.00 Bought @ Discount)	\$ 498,275.96	4.73%	141 days	10/31/2006	One Time
	Federal Home Loan Bank Bond-Cusip #3133XBZK4	\$ 951,288.24	5.26%	1 year	6/20/2007	Semi-Annual

**LEHMAN BROTHERS**

5/23/2006	Freddie Mac Strip-Cusip #3134A4GA6	\$ 312,828.53	4.83%	1 year	6/15/2007	Semi-Annual
5/23/2006	Fannie Mae Strip-Cusip #31359YAR8	\$ 385,092.87	4.83%	1 year	6/15/2007	Semi-Annual
5/23/2006	Freddie Mac Strip-Cusip #3128X4VJ7	\$ 1,757,793.00	4.63%	1 year	6/1/2007	Semi-Annual
5/23/2006	Fannie Mae Discount Note-Cusip #313589F81	\$ 2,263,633.09	4.76%	3.5 mos.	9/15/2006	Semi-Annual
5/23/2006	Freddie Mac Strip-Cusip #3128X4ED9	\$ 2,333,161.17	4.89%	9.5 mos.	3/15/2007	Semi-Annual
5/23/2006	Fannie Mae Discount Note-Cusip #313589T37	\$ 2,399,332.07	4.81%	6.5 mos.	12/15/2006	Semi-Annual
5/23/2006	Fannie Mae Bond-Cusip #31359MJ87	\$ 2,405,981.05	4.91%	1.3 years	9/14/2007	Semi-Annual
5/23/2006	Freddie Mac Strip-Cusip #3128XOSWO	\$ 3,391,796.09	4.88%	1.5 years	12/20/2007	Semi-Annual
	<b>Total Government Agencies (Bonds)</b>	<b>\$ 24,308,537.76</b>				

**LOCAL GOVERNMENT INVESTMENT POOL**

	Santa Fe County Treasurer-Account #7081-1326	\$ 35,509,046.68	4.71%	30 days	30 days	Monthly
	Santa Fe County Treasurer-Account #7574-2902	\$ 290,621.79	4.71%	30 days	30 days	Monthly
	Santa Fe County Treasurer-Account #7579-2971	\$ 1,189,130.64	4.71%	30 days	30 days	Monthly
	Santa Fe County Treasurer-Account #7580-2972	\$ 639,093.63	4.71%	30 days	30 days	Monthly
	Santa Fe County Treasurer-Account #7724-4186	\$ 4,480,418.93	4.71%	30 days	30 days	Monthly
	Santa Fe County Treasurer-Account #7765-5257	\$ 6,918,905.46	4.71%	30 days	30 days	Monthly
	Santa Fe County Treasurer-Account #7813-9104	\$ 202,431.47	4.71%	30 days	30 days	Monthly
	<b>Total LGIP Investments as of June 30, 2006</b>	<b>\$ 49,229,648.60</b>				

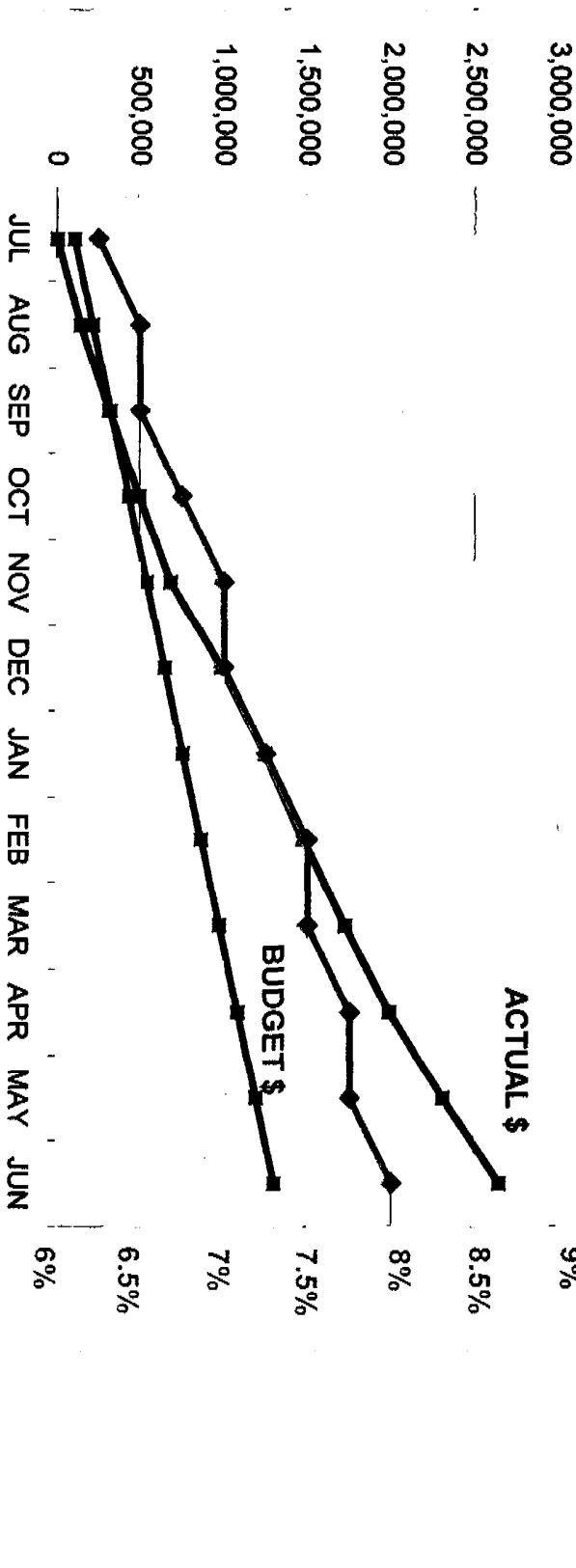
**Grand Total All Investments as of June 30, 2006**

**\$ 101,831,186.36**

**INVESTMENT INCOME**

INVESTMENT INCOME	J	A	S	O	N	D	J	F	M	A	M	A	M	J	TOTAL
BUDGET	108,333	108,333	108,333	108,333	108,333	108,333	108,333	108,333	108,333	108,333	108,333	108,333	108,333	108,337	1,300,000
ACTUAL	4,854	141,845	170,390	180,953	187,528	301,460	261,483	227,474	250,364	263,883	324,670	341,804	2,656,708		
VARIANCE	(103,479)	33,512	62,057	72,620	79,195	193,127	153,150	119,141	142,031	155,550	216,337	233,467	1,356,708		
CUMULATIVE															
BUDGET	108,333	216,666	324,999	433,332	541,665	649,998	758,331	866,664	974,997	1,083,330	1,191,663	1,300,000			
ACTUAL	4,854	146,699	317,089	498,042	685,570	987,030	1,248,513	1,475,987	1,726,351	1,990,234	2,314,904	2,656,708			
VARIANCE	(103,479)	(69,967)	(7,910)	64,710	143,905	337,032	490,162	609,323	751,354	906,904	1,123,241	1,356,708			

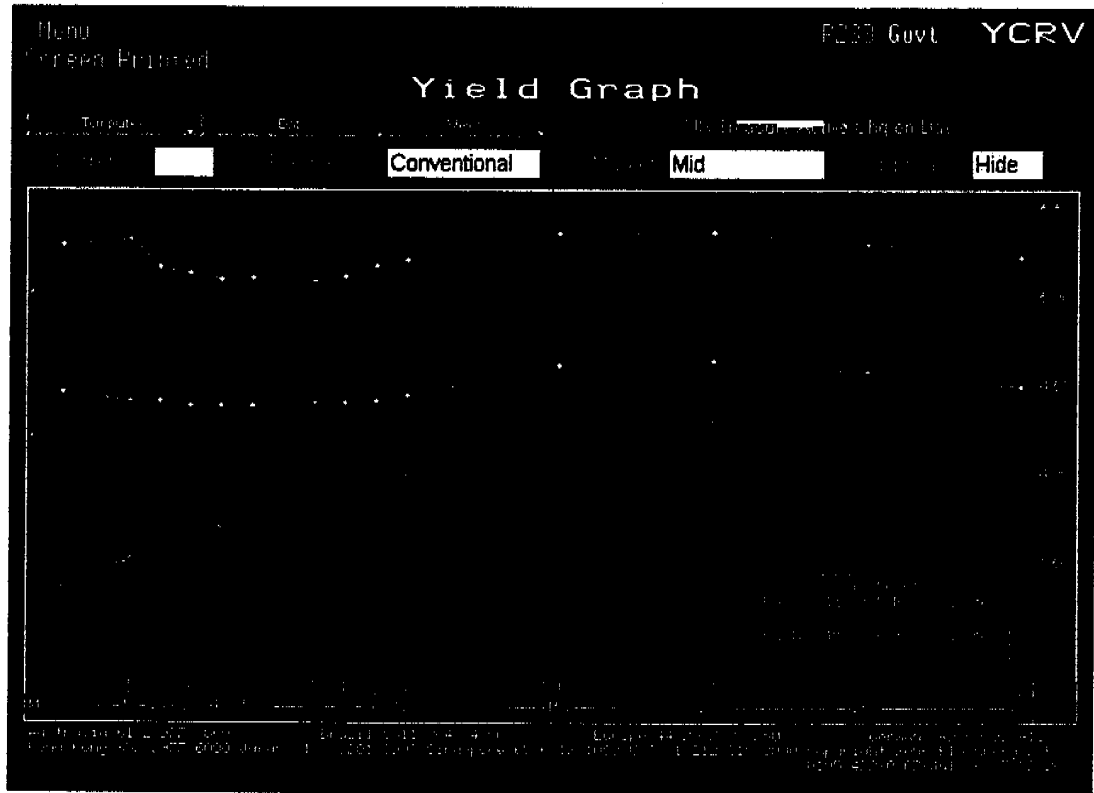
**SANTA FE COUNTY INVESTMENT REVENUE  
FISCAL YEAR 2006**



FOR CHART	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
BUDGET	108,333	216,666	324,999	433,332	541,665	649,998	758,331	866,664	974,997	1,083,330	1,191,663	1,300,000
ACTUAL	4,854	146,699	317,089	498,042	685,570	987,030	1,248,513	1,475,987	1,726,351	1,990,234	2,314,904	2,656,708
PRIME RATE	250000	500000	500000	750000	1000000	1000000	1250000	1500000	1500000	1750000	1750000	2000000
	6.25%	6.25%	6.5%	6.75%	7%	7%	7.25%	7.50%	7.5%	7.75%	7.75%	8%

## INVESTMENT OUTLOOK

- The Federal Reserve raised interest rates by a quarter of a point to 5.25 percent at its June meeting. Economic growth continues to provide fuel to the underlying inflation pressures of the economy. While growth has moderated to a more sustainable pace and inflation has not shown unreasonable acceleration, the data nevertheless give the Federal Reserve room to raise rates further. Economists from several leading financial service firms have adjusted their 12-month economic estimates to include a 6% Fed Fund rate.
- Recent economic releases are consistent with overall economic growth over 3%. Reports from the Institute of Supply Management, the Department of Labor, and others consistently show underlying strength and momentum in the economy.
- On a risk/reward basis it is clear the largest percentage increase in short term rates has already occurred. As such, the STO has begun to deploy assets into the 6- to 12-month portion of the yield curve. The STO will continue extending the duration of the General Fund Portfolio by placing investments in the 6- to 18-month time horizon as opportunities to do so arise. The STO continues to monitor market dynamics and will place investments into the 18- to 36-month time frames as those time horizons become more advantageous.



**Shelley Cobau**

**From:** Fsssw@aol.com  
**Sent:** Monday, July 24, 2006 6:38 PM  
**To:** scobau@co.santa-fe.nm.us  
**Subject:** Attn: Board of County Commissioners Re: Recision of Resolution No. 2006-86

Dear Board of County Commissioners  
C/O Shelley Cobau,

I am writing in support of the recision of Resolution No. 2006-86, which placed a moratorium on any new permits for construction of residential swimming pools. I believe this resolution was an attempt to address the drought conditions that exist in the county, however, it produces hardships for some residents of the county.

First of all, the resolution restricts the construction of a new swimming pool for therapeutic uses. The Sergent family in Edgewood, whose daughter was injured in an automobile accident and needs aqua-therapy, is unable to provide that therapy for her under the resolution. They child was is paralyzed and currently has doctor prescribed aqua-therapy. The ability to provide this therapy daily at the family home will have a tremendous positive effect on their child's recovery. They are also going to enclose the therapy pool to control the loss of water through evaporation.

Secondly, the resolution places some residents at risk of losing their home as result of fire. In some areas of the county where water is not readily available to the fire department, the swimming pool could be used as an adjacent water source for fighting a fire. In addition, if a fire is not able to be contained on one property, it could lead to a disaster affecting numerous adjacent properties.

In closing, for the reasons stated above, I request that the commission move to rescind the resolution and prevent these hardships. In the event that the resolution not be rescinded, please consider an exception for swimming pools that are for therapuetic use. Thank you for your consideration of my comments in your decision. If you have any questions please feel free to contact me at 505-881-6004.

Sincerely,  
Larry Chavez Jr.  
Four Seasons Sunrooms and Cal Spas



SFC CLERK RECORDING08/24/2006

SFC CLERK RECORDING08/24/2006