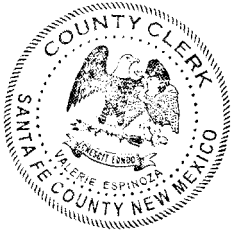


COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC MINUTES
PAGES: 148

I Hereby Certify That This Instrument Was Filed for
Record On The 16TH Day Of January, A.D., 2008 at 09:37
And Was Duly Recorded as Instrument # 1512370
Of The Records Of Santa Fe County

Deputy *Marcella Fulgar* Witness My Hand And Seal Of Office
Valerie Espinoza
County Clerk, Santa Fe, NM



SANTA FE

BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING

November 27, 2007

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

SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

November 27, 2007

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 10:30 a.m. by Chair Virginia Vigil, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

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

Members Present:

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

Members Absent:

[None]

V. INVOCATION

An invocation was given by John Michael Salazar from the Growth Management Department.

VI. APPROVAL OF THE AGENDA

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- B. Tabled or Withdrawn Items**

ROMAN ABEYTA (County Manager): Thank you, Madam Chair. We have the following amendments to the agenda. First coming under X, Matters from the Commission, we added B, Update on City Utility rate increase. We added an item C, Consideration and possible approval of an ordinance declaring a three-month moratorium on applications to drill oil and natural gas wells, declaring an emergency.

Then under presentations, a proclamation honoring Carla Aragon with Channel 4 news on her retirement. It has been noted that that is coming from Chair Vigil.

On page 2 of the agenda, XIII, Consent Calendar, C. 3, Permission to publish title and general summary of an ordinance for GIS fee ordinance has been withdrawn.

Then on page 4 of the agenda, Madam Chair, under XIV, Staff and Elected Official Items, C. Community Services Department, we added an item number 2, which is Request approval of a no-cost lease agreement between Santa Fe County and the Bureau of Land Management for 12.3 acres of land near Arroyo Seco for phase 3 of the Marcos P. Trujillo Teen Center.

Continuing under Staff and Elected Official Items, E, Matters from the County Attorney, we added 1, Consideration of a resolution authorizing the purchase of public property at 225 Montezuma Street in Santa Fe, authorizing the County Manager to execute all documents needed to complete the purchase.

And finally, Madam Chair, page 5 of the agenda, we added an item number 2, which is authorization to publish title and general summary of an ordinance governing oil and gas exploration in Santa Fe County. This is not a public hearing, Madam Chair, but this is the first step that the County needs to take in order to have a series of public hearings on this item.

CHAIR VIGIL: Okay. Members of the Board, we're acting on item VI. Approval of the Agenda. We will consider Consent Calendar Withdrawals under item 7. So are there any changes just to the amendments, tabled or withdrawn items? And I'll take withdrawals from the Consent Calendar as our next action item.

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: I'm wondering if we could move up presentations of Carla Aragon to right under Matters of Public Concern.

CHAIR VIGIL: Okay. As a first item? Okay.

COMMISSIONER ANAYA: And also, I believe there's a number of people in the audience that are here for item number XIV. B. 1, and that is the resolution for County Road 42. If we could maybe see a show of hands of people that are here on that, and I we could possibly move that one up too.

CHAIR VIGIL: We could move that after Matters of Public Concern, or after Matters from the Commission. Which one are you requesting, Commissioner Anaya?

COMMISSIONER ANAYA: Maybe the top of the list of Matters from the Commission.

CHAIR VIGIL: Okay. XIV. B. 1.

COMMISSIONER ANAYA: Actually, Madam Chair, right after the Carla Aragon proclamation.

CHAIR VIGIL: So it will be before Matters of Public Concern.

COMMISSIONER SULLIVAN: After Matters.

CHAIR VIGIL: Okay. Any other requests for changes?

COMMISSIONER MONTOYA: Madam Chair, move for approval as amended.

CHAIR VIGIL: Is there a second?

COMMISSIONER ANAYA: Second.

CHAIR VIGIL: Any discussion?

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

VII. Consent Calendar Withdrawals

CHAIR VIGIL: Any withdrawals from the members of the Commission?

COMMISSIONER SULLIVAN: Madam Chair.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: B.1, C. 7, C. 8, C. 18 and C. 20.

COMMISSIONER CAMPOS: It looks like Commissioner Sullivan has exceeded his quota.

CHAIR VIGIL: Any others, Commissioner Sullivan?

COMMISSIONER SULLIVAN: That's all.

CHAIR VIGIL: Any others from members of the authority? I'd like C. 2, C. 3.

COMMISSIONER SULLIVAN: C. 3 is off.

CHAIR VIGIL: C. 3 is off. The C.2, C.5. That's it. Any other withdrawals.

COMMISSIONER MONTOYA: Madam Chair, I'd like to remove C. 11.

CHAIR VIGIL: Any others? Is there a motion?

COMMISSIONER ANAYA: So moved, as amended.

COMMISSIONER SULLIVAN: What are we moving for?

CHAIR VIGIL: We're moving for accepting the Consent Calendar with the amended - with the withdrawals. Is there a second?

COMMISSIONER SULLIVAN: Second.

The motion to approve the Consent Calendar with the exception of items B. 1, C. 2, 5, 7, 8, 11, 18 and 20 (isolated for discussion) and C. 3 (withdrawn) passed by unanimous [5-0] voice vote.

VIII. APPROVAL OF MINUTES

A. October 22, 2007

CHAIR VIGIL: Are there any changes to those minutes?

COMMISSIONER SULLIVAN: Madam Chair, typographical changes.

CHAIR VIGIL: Typographical changes on October 22, 2007. Any others?
COMMISSIONER SULLIVAN: Move for approval as amended.
CHAIR VIGIL: Is there a second?
COMMISSIONER CAMPOS: Second.

The motion to approve the October 22, 2007 minutes as corrected passed by unanimous [5-0] voice vote.

B. October 30, 2007

CHAIR VIGIL: Any changes?
COMMISSIONER SULLIVAN: Madam Chair, some typographical changes.
CHAIR VIGIL: Any other changes?
COMMISSIONER SULLIVAN: Move for approval as amended.
COMMISSIONER ANAYA: Second.

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

VIII. MATTERS OF PUBLIC CONCERN - NON-ACTION ITEMS

CHAIR VIGIL: This is an opportunity for members of the audience to address the Commission on any items that are not a part of the agenda. If you are addressing us on any item that is noticed on the agenda, that address must wait until that agenda item comes up. But if there is anyone else out there who would like to address the Commission, please step forward. And I see Commissioner, please come forward. Commissioner David Schutz, Commission District 2, correct?

DAVID SCHUTZ: Five.

CHAIR VIGIL: Welcome, Commissioner Schutz.

MR. SCHUTZ: Thank you. Good morning, Madam Chair, Commissioners. The purpose of being here today is to talk and discussion with you very briefly about the GRIP II funding and the GRIP II projects that are currently on the table here in the county. I am traveling throughout the district, District 5, meeting with Commissioners and Councilors alike to encourage them to move expeditiously with GRIP II projects that are currently funded from GRIP II monies.

As you all know, the department is experiencing severe budgetary shortfalls, primarily due to the federal cutbacks and construction cost increases nationally, primarily due to the cost of oil. And so right now, we're looking at a \$250 million to \$500 million shortfall for GRIP II. And who knows what coming months will bring in regard to

prioritization of those funds. So we are going to be going to the legislature hat in hand to ask for additional funding to ensure that GRIP I and GRIP II, those projects that are underway and on the drawing board get implemented and proceed fully funded.

So I guess the point I want to make is I've been working closely with James Lujan and other Public Works Directors throughout the district in each county to encourage them to be expeditious and timely in spending the GRIP II money. I know in your case, your in-kind services – your matching involves in-kind services of materials, manpower and equipment. And so you guys can match those monies immediately. So let me just re-emphasize. I would like to encourage you to get those contracts underway and get those monies encumbered and/or spent as soon as possible.

That's my only message.

CHAIR VIGIL: Thank you.

MR. SCHUTZ: Thank you.

CHAIR VIGIL: Any questions for the Commissioner?

COMMISSIONER MONTOYA: Madam Chair.

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTOYA: Commissioner Schutz, we have an agenda item today that is related to this. Is that, what we're approving today, do we have that in the bank?

MR. SCHUTZ: Absolutely. Item number 9 is on your Consent Calendar as an MOU item between County Roads and the New Mexico Finance Authority. And then item number XIV, as was mentioned earlier, item XIV. B which involves County Road 442, which is also a GRIP II project, so yes, I am speaking to those two items.

CHAIR VIGIL: Great. Thank you. Thank you, Madam Chair.

MR. SCHUTZ: Thank you very much.

CHAIR VIGIL: We really appreciate you being with us today, Commissioner. Are there any other matters from anyone in the audience. Seeing none, I will call on Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, on that item XIV, the one that we moved up on County Road 42, are you going to allow public comment?

CHAIR VIGIL: If you so request.

COMMISSIONER ANAYA: Okay. Thank you.

XI. Presentations

A. Proclamation Honoring Carla Aragon with Channel 4 News on her Retirement (Commissioner Vigil)

CHAIR VIGIL: Seeing no further Matters of the Public Concern, we are moving up item number XI. Presentations. This is a proclamation honoring Carla Aragon with Channel 4 News on her retirement. And with that, I'm going to ask Commissioner

Mike Anaya to do the honors of reading the proclamation. And I understand she has members of her family here today. Would all members of Carla Aragon's family please stand? Please remain standing. We want to recognize you.

COMMISSIONER ANAYA: Thank you, Madam Chair. Carla Aragon is my sister-in-law. We're very proud of her and we brought this, the Commission brought this proclamation forward.

Whereas, Carla Aragon, a Santa Fe native, began her career in 1972 in broadcasting under a mentorship of her uncle, former Santa Fe Mayor, George Gonzales, who is here, then owner and operator of a popular local bi-lingual radio station; and

Whereas, Ms. Aragon pursued her studies in media at New Mexico State University and graduated in 1977 with a Bachelor of Arts in broadcasting, journalism and Spanish. There she was named outstanding graduate of television production and a recipient of a training women's grant sponsored by the Corporation of Public Broadcasting; and

Whereas, Ms. Aragon's career in broadcasting is highly noted by the numerous honors she has received including TV news awards from the National Association of Hispanic Journalists, the Awards of Excellence from the California Chicano News Media Association, the Golden Mike Award for best spot news coverage, and the Broadcasting Award for Excellence in Television News from California Association of Latinos and the Community Service Award from Mexican-American Legal Defense and Education Fund, an Emmy Award for the documentary entitled "Final Journey", and several New Mexico Broadcast Association Awards in various categories; and

Whereas, in 1990, Ms. Aragon was voted one of the most influential Hispanics in the United States by *Hispanic Business* magazine, and was one of six journalists to receive the Salute to Latinas in news media; and

Whereas, one of the most historic highlights of Ms. Aragon's career was covering two visits by Pope John Paul II and is most proud of her stories that dealt with the everyday struggles of ordinary people; and

Whereas, Ms. Aragon served as a role model and inspiration to her peers throughout New Mexico with her notable beauty and outstanding work at KOB-TV for PM Magazine; and

Whereas, after 35 years in the broadcasting business in California and New Mexico, Carla Aragon has announced her departure from KOB-TV to pursue other interests including writing children's education bi-lingual books.

Now, therefore, be it resolved by the Board of County Commissioners of the County of Santa Fe, hereby honor Carla Aragon as an outstanding journalist and extraordinary woman of valor.

And I would like to present this to the family, my mother and father-in-law are here, Art, Socorro, George, Celine, Esteban, Anthony, Commissioner Gonzales and little Anth, and if there's anybody else that I missed, if they would all come forward we would like to honor you with this.

CHAIR VIGIL: While you're coming forward, Valerie Espinoza would also

like to take the opportunity to honor Carla.

VALERIE ESPINOZA: (County Clerk): Thank you, Madam Chair. I have a recognition for Carla Aragon for her contributions made to journalism around the great state of New Mexico. Commissioner Anaya, may I read this proclamation?

Whereas, Carla served as a mentor to all women and has set the example of a true role model, for this we thank you and wish you a well deserved retirement. You will be missed;

Whereas, Carla's parents, Arthur and Socorro Aragon, describe their daughter as a family, spiritually and culturally, motivated, warm individual, who is loving, kind, humble, and someone who has never forgotten her beginning;

Whereas, the County of Santa Fe recognizes a woman on New Mexico television, an award-winning journalist who is co-anchor for Eye Witness News 4 on KOB-TV, has been honored several times for her outstanding work in journalism, community service;

Whereas, the County Clerk joins to honor and thank Carla for doing an outstanding job for New Mexico journalism. Carla, wherever you are, you truly are indeed an icon.

Now, therefore, on this 27th day of November, I Santa Fe County Clerk, recognize Carla Aragon. Thank you.

CHAIR VIGIL: Socorro, Ms. Aragon, Carla's mother, would like to say something, but before you do, I just want to ask any of the Commissioners if there's anything they would like to add to this formal occasion. Is there anyone else?
Commissioner Montoya.

COMMISSIONER MONTOYA: Madam Chair, I'll just add that watching Carla every night on 6:00 and 10:00 on the news was always something that I looked forward to. She'll never be replaced but we'll have to listen to some other voice delivering the news to us. I just want to congratulate you both on the accomplishments of your daughter. She's been a true blessing for New Mexico and for Santa Fe County.

CHAIR VIGIL: I actually want to say I knew Carla when she was quite small and saw her blossom, but there's a specific incident I want to relate to you that you may or may not recall. When I first went to work at state government and got out of law school, I went to work at a state agency and there was a very ill employee there who had a niece who absolutely loved Carla. Her entire play world was I want to be Carla Aragon. And her aunt would tell me that she would sit down in front of the television and she would watch Carla broadcast the news and then right after the broadcast she would go to this little play table and pretend she was Carla Aragon.

The nice thing about that is that I mentioned it to you as her mother, and two weeks later Carla sent this little girl an autographed picture of herself and this little girl has forever been grateful for that one moment that you took the time to extend that little gesture to a little girl who's dream was to be Carla Aragon. And I'll turn it over to you.

SOCORRO ARAGON: Commissioner Vigil, Commissioner Anaya, Sullivan, Campos, Montoya, I want to thank you on behalf of Carla. Because of prior commitments she couldn't be here today. She has asked me to accept this recognition that

you have given her and you also Valerie. She's very humbled by this but she's also very grateful that you would take the time to recognize her. As her parents, we want to thank you and truly words are inadequate to express our sincere appreciation for this recognition. She has been a very humble, wonderful person and I also congratulate her on the courage that she has displayed by going on, leaving a nice, comfortable job, to do something that she has always wanted to do, and that is follow her dreams in working with children. Thank you so kindly. Thank everyone here today too. Thank you, Valerie.

XIV. B. Growth Management

1. Resolution No. 2007-183. A Resolution Authorizing the Public Works Division of the Growth Management Division to Proceed with Implementation of Improvements to County Road 42

CHAIR VIGIL: Who will take the lead on this item?

ROBERT MARTINEZ (Public Works): Madam Chair, Commission, Public Works Division has met with the residents of the County Road 42 area several times to hear their concerns about the proposed paving improvements. A few months ago the residents addressed this Board to voice their concerns about the project. At that meeting the Board directed Public Works and the Planning Division to meet with the residents again to discuss their land use and terrain management concerns.

Some of the concerns that the residents had voiced were they were hoping that the vertical alignment of the roadway could be redesigned to allow the road to follow the natural terrain. Another one was to construct low-water crossings as opposed to culvert crossings, reduce the paving width of the proposed two ten-foot driving lanes and two four-foot bicycle lanes, provide bank stabilization to control erosion and to provide seeding on the disturbed soil.

What Public Works is requesting today is direction on how to proceed on the paving project of County Road 42.

CHAIR VIGIL: Thank you. Are there any questions from the Commission? Seeing, hearing none, Commissioner Anaya has requested that constituents concerned with this may address the Board of County Commissioners. I would just ask for a show of hands of those of you who would like to address us so we can allocate the time appropriately. I see one, two, three, four, five, six, seven. If I allow two minutes will that be sufficient for each one of you? Okay. Why don't we start on this end, if we all could line up behind this gentleman who would like to speak, we can move the traffic flow and get your comments in appropriately. Please approach the podium. State your name and address for the record.

KIM SORBIG: Madam Chair, Commissioners, I was one of the substantial group of citizens living near County Road 42 that Mr. Martinez referred to, and I was at the field meeting that resulted from your directing the Department of Public Works to consider enhanced stormwater management and the other citizens' concerns.

CHAIR VIGIL: Could we have your name and address?

MR. SORBIG: Sorry. My name is Kim Sorvig and my address is 103-C Camino los Abuelos, which is County Road 42.

CHAIR VIGIL: Thank you, Mr. Sorvig.

MR. SORVIG: To this date we have not received any official communication that our concerns have been incorporated into the plans and we certainly hope that Mr. Martinez' request for direction will include the Board's recommendation that those suggestions of ours be incorporated. As you remember, Mr. Miller, the engineering consultant on questioning from Commissioner Campos, I believe it was, stated that his opinion was that the suggestions would actually save the County money. So we would be very concerned to have the plans as they stood in May approved without incorporation of those citizen concerns.

As you may or may not know, Tecton has also complicated this matter because they have filed papers with New Mexico DOT stating that they intend to use County Road 42 for access to the wildcat drilling. That raises two problems. They have not yet submitted a permit and the outcome of any permit application is still uncertain to say the least. If we proceed with the road as designed before that permit application is resolved we risk wasting a great deal of money, time and effort on doing the wrong thing with the road no matter which way we jump now. And I know that the Commission is very concerned. Commissioner Anaya mentioned it this morning that the public perception that things are being rushed through the County to aid Tecton. I'm not saying I subscribe to that opinion but we know it's out there.

If the approval for this road were to be pushed through now that perception would be dramatically increased because people know that Tecton is intending to use this road. So I strongly, strongly urge you to postpone any decision until the citizen concerns are incorporated in the plans and the issue of drilling is resolved. Thank you.

CHAIR VIGIL: Thank you, Mr. Sorvig. Next.

COMMISSIONER MONTOYA: Madam Chair.

CHAIR VIGIL: Oh, did you have a question for Mr. Sorvig?

COMMISSIONER MONTOYA: Yes, I have a question. My understanding is that your concerns would cost more than what we've got budgeted. How do we make up that shortfall?

MR. SORVIG: I'm not in a position to address that with facts and figures but I will refer again to Mr. Miller who is the design engineering consultant, stating that the stormwater management and other grading reduction requests that we made, in his professional opinion would save the County money. He's not here. We have not been allowed to speak to him because there isn't funding for him to extend his design contract, to my knowledge, but that was his stated opinion and that is what I'm relying on. I also have experience as a landscape architect and have worked on roadside projects and I know that it is common for alternatives to the heavy-duty engineering approach to save money. That much I can say without giving you a facts and figures answer.

COMMISSIONER MONTOYA: Thank you.

CHAIR VIGIL: Any further questions for Mr. Sorvig? Seeing none, next speaker please. Please state your name and address for the record.

CAPTAIN ROBERT RIGGS (Sheriff's Department): Madam Chair, Commissioners, Captain Robert Riggs, Santa Fe County Sheriff's Department. It is the Sheriff's Department's official opinion that we proceed on with the paving of County Road 42. It is a vital link between State Road 14 and State Road 41 and during bad weather we're expected to provide services to the citizens of Santa Fe County. This road becomes impassable for some of our units which delays our response time and increases our liability. And I'll keep it short, but it's the Sheriff's opinion that we proceed forward with the paving of County Road 42.

CHAIR VIGIL: Thank you, Capt. Riggs. Appreciate that. Next speaker.

FRED MILDER: Madam Chair, honorable Commissioners, thank you for allowing me to speak on this. My name is Fred Milder. I live on West Basin Ridge, which is a road that comes off of - not the paved section of County Road 42 but the unpaved section of County Road 42, approximately in the middle. We are amongst five new homes that have been built on the unpaved section of County Road 42. I know of three homes that are in planning stages to be built on that section. There are four further lots that have been purchased with the intent of building homes on that section, and there are three lots that I know of that are for sale on that section.

This is not - this is no longer a road that will not have numerous homes and families living along this road, and this road is a disaster and a lawsuit waiting to happen. Two months ago my daughter lost control of her car because of the washboarding on County Road 42, flipped it three times and fortunately, because she is always buckled in, managed to get out of the car, crawl out of a crumpled car, with just bruises and cuts.

Two weeks ago we were driving down that same section and there was a motorcyclist who had lost control of his motorcycle and was being taken away on a stretcher by an ambulance. Can you imagine if that motorcyclist was on a backboard and then had to drive over a horribly, horribly washboarded road with a back injury. The number of incidents where we have pulled cars - I have been involved in pulling cars off of the shoulder of County Road 42 because people have lost control. It gets a little bit wet and it gets a little bit muddy and people slide off of that road all the time.

The Fire Department has told us - they came out to visit our house and we spoke to the Fire Marshal and they have told us that it's an issue. You just heard from the Police Department. It's an issue. Ambulances. Low-water crossings are not 365-day a year all-weather crossings. And there are now people that live on this part of the road. This morning we brought in 91 signatures, 91 signatures, from people who live on the road, from people who live near the road, from people who use the transfer station that's in the middle of that dirt section, from vendors, propane vendors, other vendors. We have had deliveries refused to our house. A delivery truck refused to come to our house because it might rain that afternoon, and they were afraid that they were not going to be able to get

out.

I'm probably running near the end of my time. Just two more quick comments. One which is that we heard already this morning that if we don't start spending some of this money we are at risk of it being reallocated. This project of trying to get this road paved started many years ago when we first bought land in this area. And the idea that somehow this would help Tecton is absolutely absurd. The road needs to be paved for all sorts of other reasons and having a dirt road or a paved road is not going to make a darned bit of difference to somebody who is willing to invest hundreds of millions of dollars in this area to drill a well. So I strongly encourage you to go ahead with the plan as it is before we have more disasters on that road and just get it paved and have it to the normal County road codes. We don't need anything special on 42; we just need it done. Thank you.

CHAIR VIGIL: Thank you, Mr. Milder. Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Milder, you mentioned delivery trucks. What about school buses?

MR. MILDER: As far as I know there are no school buses that travel that road at this time.

COMMISSIONER MONTOYA: Okay.

MR. MILDER: But our daughter drives to school every day and drives back every day and she has to deal with it.

CHAIR VIGIL: Thank you. Next speaker, please come forward. Chief Holden, welcome. Since you had to be here anyway.

STAN HOLDEN (Fire Chief): Madam Chair, thank you for the opportunity. I'm here speaking on behalf and in favor of the paving of County Road 42 as expeditiously as possible. As has been testified here, this is a public safety concern regarding the Fire Department and law enforcement, public safety in general's ability to respond to incidents in and around that area, as well as to provide necessary mutual aid from State Highway 41 over to State Highway 14. Resources from Eldorado and Galisteo and Stanley routinely have to utilize that road when they're providing mutual aid to fire districts on the other side of the county. The response along County Road 42 currently is very slow along the unpaved portion and anything that we can do to expedite improvements to that road as quickly as possible would be greatly appreciated and certainly to the benefit of public safety in Santa Fe County. Thank you.

CHAIR VIGIL: Thank you, Chief Holden. Next speaker please.

J.J. MILDER: Madam Chair and Commissioners. I'm J.J. Milder. You just heard from my husband Fred. We have two daughters. We live year-round on West Basin Ridge, which is immediately off County Road 42. This is the first time that we've addressed this Board of Commissioners. I think it's important for you to understand that the more organized and vocal group that have met with you in the past are individuals who do not live on the unpaved section of County Road 42. Nor do they, by virtue of where they live, need to travel multiple times every day year-round on the entire stretch of County Road 42.

It is no longer an area of cattle ranching and a preserve where people do not need in order to live year-round travel across this unpaved section. So I beseech you to keep that in mind, that there have been people, very organized, very vocal, but it is easy for them to live on either their paved section of 42, close to 14, or 41, to be able to live in sort of a theoretical bubble of let's keep this road unpaved. Fred mentioned to you the accident that our 16-year old daughter had. It is a parent's nightmare to receive a phone call from your child, expected to be home from school and she can barely articulate. I recognized who it was and it was true. Maura is an inexperienced driver. She is in high school. She has many friends who are inexperienced drivers.

I implore you to please move ahead to make this road safe. Safety and security is priority one. You've heard from the Sheriff's Department. You've heard from the Fire Department. This is truly a death that is waiting, and I don't mean to be dramatic, but our daughter was saved because she wears a seatbelt. I would like to have her friends be able to drive and spend time in the beautiful area where we live without the hazard of serious injury.

CHAIR VIGIL: Thank you, Ms. Milder. Was there anyone else? Two more people. Let me just take one final show of hands. Those of you who want to speak need to stand in the aisle because I need to allocate time appropriately, and could you limit it to two minutes. Thank you.

KEVIN SAUNDERS: Commissioners, Kevin Saunders, #1 Camino San Cristobal. I do live on the paved section and I have been a proponent for many years of leaving the road unpaved. However, clearly County Road 42, paved or unpaved, impacts the environment and serves many people who utilize that area for a variety of reasons. In the spirit of consideration for all issues affecting individuals and the environment, I'd like to share with you a recent experience. Last month I had to haul an injured and bleeding horse across County Road 42 to Highway 14, a vet clinic, at night. And the trip was dangerously slow and nerve-wracking and difficult with a truck and a trailer and a bleeding horse. The vet clinic also remarked, although it be hearsay, that they hate responding to emergency calls on 42 because of the difficulty and the time issues. So since the County has the money now to pay for 42, I'd like to offer the suggestion they go ahead with the paving and plan to address the environmental concerns when more funds are available.

CHAIR VIGIL: Thank you, Ms. Saunders. Appreciate that. Next.

STEVE HOCHBERG: Good morning. I'm Steve Hochberg. My wife Jane and I live at 1310 Thunder Ridge, far from this road, but we have dear friends who live on the road. And talking about 15-year old and 16-year old inexperienced drivers, we're rather inexperienced on this kind of road too. It's not simply a dirt road. It's a bad dirt road. So please, have it paved so we can visit with comfort. Thank you.

CHAIR VIGIL: Thank you, Mr. Hochberg. Next speaker.

ANNE MURRAY: My name is Anne Murray. I'm from the Village of Cerrillos. I think first of all, the question is not, do we want the road paved or not? We want the road paved. I'm speaking with the first group of people that came here six months

ago asking to have the stormwater issues resolved and as far as I know we don't even have seeding, reseeded in this plan. So we need to look at the plan one more time. I'm not sure that we can pave this time of year so it seems like we should spend a little bit more time meeting with citizens, getting those erosion issues under control where everybody's happy and then pave the road. Thank you.

CHAIR VIGIL: Thank you, Ms. Murray. I will close this hearing. There are no further comments, only questions from the Authority. Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Martinez, How much money do we have for this project?

MR. MARTINEZ: Madam Chair, Commissioner Campos, we currently have a half a million dollars of GRIP II funding and currently have about \$1.5 million of bond money that's still available for this project.

COMMISSIONER CAMPOS: Is this sufficient to complete the project as you propose it? As staff proposes it?

MR. MARTINEZ: Madam Chair, Commissioner Campos, no it is not. The current engineer's estimate to pave or to improve the road as currently designed is about \$5 million.

COMMISSIONER CAMPOS: Five million?

MR. MARTINEZ: That's correct.

COMMISSIONER CAMPOS: And where do you plan to get the additional funds?

MR. MARTINEZ: Madam Chair, Commissioner Campos, we currently have County Road 42 on the County's ICIP that is going to the legislature this January for possible funding. I know there's been discussion of possibly going out to the voters for another bond, possibly next November. There's several funding sources that we could request, but what Public Works would do is construct this project in phases. We've got a design. We will build \$2 million worth if that's what we've got.

COMMISSIONER CAMPOS: What is phase one? What part of 42 is phase one?

MR. MARTINEZ: Madam Chair, Commissioner Campos, I believe that phase one would probably start on the Cerrillos side and work going east. That way we would have a paved road up to the transfer station from State Road 14. Our solid waste trucks drive that road every day and we're experiencing a lot of mechanical breakdowns, wear and tear on the vehicles because of the dirt road.

COMMISSIONER CAMPOS: Now, Commissioner Schutz said that we're in jeopardy of losing \$500,000 of GRIP II funding. When is the deadline? When could we lose the half a million dollars?

MR. MARTINEZ: Madam Chair, Commissioner Campos, we haven't heard a deadline but in the event that we get direction today to move forward on the project we could go out to bid on this project within the next month and award it, say in March. So those funds would be committed. The half million would be committed.

COMMISSIONER CAMPOS: You have no idea what the GRIP deadline is for encumbering or saving these funds to the County for this project?

MR. MARTINEZ: Madam Chair, Commissioner Campos, I don't believe they've given any county a deadline. They've just, as Commissioner Schutz came to you today and just ask that the County be expeditious in spending these funds.

COMMISSIONER CAMPOS: And Mr. Martinez, you want to start this as soon as possible?

MR. MARTINEZ: Madam Chair, Commissioner Campos, that is correct.

COMMISSIONER CAMPOS: And that would be when? If you got approval today, when would you start?

MR. MARTINEZ: Madam Chair, Commissioner Campos, depending on how the Board directs us, if it requires any redesign, we would have to go back to the engineering firm. If there's no redesign needed, we could put this out to bid within the next few weeks.

COMMISSIONER CAMPOS: Has there been any redesign since we had our last discussion with the community out there?

MR. MARTINEZ: Madam Chair, Commissioner Campos, no, there has not.

COMMISSIONER CAMPOS: As is.

MR. MARTINEZ: No. We have gotten proposals for some redesign that was requested by the residents of Galisteo.

COMMISSIONER CAMPOS: You have made no accommodations at all? Zero accommodations to these folks that came here and asked for some changes?

MR. MARTINEZ: Madam Chair, Commissioner Campos, we have - at Public Works we have investigated what their concerns were. Their major concerns were the width of the road, the paved surface. Public Works agreed internally that we would be able to reduce the width to accommodate their request as far as surface runoff. It's currently designed for two ten-foot driving lanes and two four-foot bicycle lanes. Public Works has determined with the volume of traffic that's on that road we could accommodate the traffic and the bicyclists by eliminating the bicycle lanes and increasing the driving lanes to two 11-foot lanes.

COMMISSIONER CAMPOS: Do you think that's a prudent, safe thing to do?

MR. MARTINEZ: Madam Chair, Commissioner Campos, with the amount of traffic on that road, it's less than 300 vehicles per day, Public Works staff feels that is a safe design.

COMMISSIONER CAMPOS: And the engineer concurs?

MR. MARTINEZ: Madam Chair, Commissioner Campos, that is correct.

COMMISSIONER CAMPOS: Now, let me throw out an idea for you, Mr. Martinez. What if the folks that are saying we need to have improvements as to drainage - what if they were given the opportunity to go to the legislature and ask for additional sums

of money? Would that help you in any way if they could actually get this money, bring it into our account so we could make certain improvements to accommodate what members of the public are asking for?

JAMES LUJAN (Growth Management Director): Madam Chair, Commissioner Campos, the drainage is addressed. They want it addressed in a different manner. They want it addressed with low-water crossing to not change the profile of the road. That would reduce the cost. There's not any more money that is needed and I think Mr. Sorbig addressed that. We don't need any more money. We would reduce that. We're just saying that it would take a new design, which is going back to the engineer and that's an \$11,000 figure to redesign it to accommodate the quantities that we would have to change and the pavement width.

We feel that the drainage is adequate and there is seeding on the project. It is to accommodate low-water crossings is what they are requesting. All the other drainage issues have been addressed.

COMMISSIONER CAMPOS: To the satisfaction of the protesters?

MR. LUJAN: To the satisfaction of whomever. I don't know. But to the satisfaction of a design for a Public Works project. That's what we have designed it for, a 45-mile design. We are lowering the speed to 35 and we will try to accommodate that. I can't guarantee that. I don't know what they'll travel, but that is what it is designed for and the travel, but we are accommodating drainage issues, not the ones they're requesting. That would take a redesign as another figure. We got an estimate about four months ago of \$11,000. It may have gone up by now.

COMMISSIONER CAMPOS: If it was redesigned, would you have any objections to the changes proposed by some members of the community?

MR. LUJAN: I am not happy with low-water crossings. There are maintenance issues. There's a lot of maintenance.

COMMISSIONER CAMPOS: You're never in favor of that.

MR. LUJAN: I'm not in favor of that.

COMMISSIONER CAMPOS: Ever? Regardless of -

MR. LUJAN: Not ever. There's some areas I'm in favor of low-water crossings and we have areas where we do have low-water crossings where we have live bodies of water running. So I'm in favor of those. These are not live bodies of water. But areas of county concern, I do favor low-water crossings, because that's the only way we can accommodate them. This situation, it's just simply rain runoff. Sometimes it's high runoff we cannot accommodate. But there are maintenance issues and it changes the profile of the road.

COMMISSIONER CAMPOS: Do you agree that if you have these low-water crossings you may have problems?

MR. LUJAN: I anticipate we will. We can have standing water in the winter. We can have freezing water in these low-water crossings if we're not out there in time, and cause more problems. Yes, I do.

COMMISSIONER CAMPOS: Thank you, Madam Chair.

CHAIR VIGIL: Thank you. Any other questions from the members of the Commission?

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: I would first of all want to thank both sides, either for or against paving County Road 42. We have been working at this process for over 15 years now. This is not – we are not paving this road for Tecton. I just want to let you folks know that. This is for the residents, the people that have used this road for years. I just think that we have tried to accommodate the people that wanted the low-water crossings. We have tried. But at this time I feel that it's not going to work. We need to move this project forward. I am tired of talking about County Road 42. We need to move it forward. We have some funding. We're going to go after more funding.

So with that, Madam Chair, I would move for approval of this resolution.

COMMISSIONER MONTOYA: Second.

CHAIR VIGIL: Motion and second. Is there any further discussion?
Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Martinez. I'm a little concerned with the reduction in the width. You're going to reduce the paving in this from 28 feet to 22 feet as I read it. What will be the width of the shoulders?

MR. LUJAN: Madam Chair, Commissioner Sullivan, if I can address that. What we will do is we'll build a profile, we'll build the road out. We're just reducing the pavement width for now. But we will have the shoulders and we'll treat them and have that shoulder built out with basecourse and the like. I believe they will still be six feet. What we're trying to reduce is the pavement width and that's the major cost for now. Future, we will have that profile built and we can go in there and add the pavement width if need be at a future date.

COMMISSIONER SULLIVAN: Okay. So the cross section –

MR. LUJAN: The cross section will be –

COMMISSIONER SULLIVAN: Will be the same.

MR. LUJAN: Yes. I don't have it in front of me, but the cross section will stay the same. We're just reducing the width of pavement and that was one of the requests that they had. We wanted to have it with – and I don't have all the numbers in front of me, but we wanted to have shoulders with bike lanes, and we've reduced that. Also to reduce the cost in the paving and that's a major cost.

COMMISSIONER SULLIVAN: Yes. The way I calculate it with two ten-foot driving lanes and two four-foot bicycle lanes it would be 28-foot paved originally, and what you're recommending now is two 11-foot paved lanes with no bicycle lanes. Just gravel or just gravel shoulder.

MR. LUJAN: Yes. And as volumes increase we will have that subgrade and profile built out and we can, as money lends we will get out there and we can possibly add

width to those shoulders.

COMMISSIONER SULLIVAN: In phase one, how many of the low-water crossings would end up being in phase one?

MR. LUJAN: There are 27 through the whole project. I don't know how many would be in phase one. I don't have that in front of me.

COMMISSIONER SULLIVAN: There's 27 in the whole project but there were like four or something -

MR. LUJAN: Oh, four. Those are on the east end at the Arroyo Los Angeles. That is still going to take a low-water crossing. There's nothing else we can do there. The other ones would take CMPs.

COMMISSIONER SULLIVAN: But the ones that the one group recommended be reduced to low-water crossings, are any of those in what would be the phase one, with the \$2 million?

MR. LUJAN: I don't believe so, Commissioner.

COMMISSIONER SULLIVAN: So even if we went ahead with phase one and the issue could be revisited, particularly if there were more funds available on a future phase, but I'm just trying to focus into the issue of the low-water crossings in phase one - the contested low-water crossings, let's call them, whether they be in phase one -

MR. LUJAN: Well, we haven't come up with a definite phasing of the project, but as Robert spoke earlier, we would like to start from the west going east. We need to accommodate also because of the transfer station. We are beating up vehicles daily. And I don't think there's any of the low-water crossings from that area. I don't recall any but there may be.

COMMISSIONER SULLIVAN: I'm not a particular advocate of low-water crossings either myself. I think we have experience in Pinon Hills. It seems every other month we get an application for a land split or a lot split in Pinon Hills and we continually deal with the inadequacy of that one low-water crossing that blocks emergency access to Pinon Hills. That's one.

CHAIR VIGIL: They're called arroyo crossings at Pinon Hills.

COMMISSIONER SULLIVAN: I call them a low-water crossing. Whatever you want to call them, arroyo crossings or - and I can think of another one that if you're familiar with Yucca Street in the city, next to Santa Fe High School, that was originally constructed by the City as a concrete low-water crossing. Very expensive undertaking, and within a couple of years they came back and put in culverts over the top of that and then raised the road above that. So when you drive that dip on Yucca, you don't go through a low-water crossing now but in the past you were. You did go through a low-water crossing. And they grooved the pavement and they did everything they could possibly do to make it safe for the cars and school buses going through there and they still slipped around on that low-water crossing and got stuck in the sand.

So that of course bears on the question of you have more urban vehicles on that street than you do at 300 vehicles a day and what constitutes a good design. My main

concern is I think resolved as long as you've kept the pavement or the section the same and pave how much ever you feel is appropriate.

MR. LUJAN: We felt that we needed some shoulder, not a paved shoulder, but if a person that had to change a flat tire or something, because it is a long stretch, for somebody to have a chance to pull over and get off the main road.

COMMISSIONER SULLIVAN: And for snow removal also.

MR. LUJAN: We have some areas that have high slopes so we need to accommodate that.

COMMISSIONER SULLIVAN: Okay. Thank you, Madam Chair.

CHAIR VIGIL: Any further questions, discussion?

MR. ROSS: Madam Chair, I think there's a typo in the resolution. I just wanted to point that out. On the second page in the first paragraph, it calls for paving of two 11-foot driving lanes, and as I understand the proposal, it's for two 10-foot driving lanes.

MR. MARTINEZ: Madam Chair, what the resolution says is that the current design calls for two 11-foot driving lanes and two four-foot paved lanes. The current design is two ten-foot driving lanes. That's what's currently designed. And in the resolution what is proposed is paving two 11-foot driving lanes. So it's just a clarification. What's in the existing plan is two tens.

CHAIR VIGIL: Does that clarify your concerns, Mr. Ross?

MR. MARTINEZ: Just a point of clarification.

MR. ROSS: Madam Chair, I think we need to have the right number in there. Is it 11 or 10?

MR. MARTINEZ: Well, what's currently designed is two 10-foot driving lanes and two four-foot bicycle lanes, what is designed right now. And what we're proposing are two 11-foot driving lanes.

MR. ROSS: Madam Chair, then the resolution is correct.

CHAIR VIGIL: Thank you. Any further discussion? We have a motion.

The motion to approve Resolution 2007-182 passed by unanimous [5-0] voice vote.

X. MATTERS FROM THE COMMISSION

A. Discussion and Possible Approval of the Expenditure of Discretionary Funds Not to Exceed \$2000.00 to Santa Fe Audio Visual for Oil and Gas Meeting Thursday, December 6, 2007 at Turquoise Trail Elementary School (Commissioner Anaya)

COMMISSIONER ANAYA: Madam Chair, Thank you. This money will be used for audio and visual aid for the December 6th meeting. Right now, we have that,

Madam Chair, at Turquoise Trail Elementary but we have been trying for a week and a half, a week and a half, to work with the public schools and they have not responded to any of our calls. We want to try to get with one of the high school gymnasiums because I know we're going to have over 500 people there and I cannot tell you why the public schools have not wanted to work with us or call us back or give us any idea. But we are now trying to look at other locations like St. Michael's High School and I - Jennifer is working as we speak to try to find an auditorium that can hold up to 500, 600 people.

So I just wanted to mention that, but we do need this money and hopefully, by the end of this meeting I will have a place, and the Manager can help me with this, have a place where we can decide where this meeting is going to be, because I don't want to try to cram 500 people in Turquoise Trail Elementary. So if we could - bear with us. We'll try to get an answer for you today, but with that, I'll move for approval.

COMMISSIONER SULLIVAN: Second.

CHAIR VIGIL: There's a motion and second. Questions?

COMMISSIONER CAMPOS: Question.

CHAIR VIGIL: Commissioner Campos.

COMMISSIONER CAMPOS: Why do you want to spend \$2000 to do an audio-visual of this particular meeting?

COMMISSIONER ANAYA: Well, it's up to - what we want to do is film this. If we have to do this at Turquoise Trail Elementary, then we're going to have to do the same thing we did at the elementary in Eldorado, and that is to provide visual aid to other rooms in the area. But we might not have to use all this money. It's just in case.

COMMISSIONER CAMPOS: But you're filming it.

COMMISSIONER ANAYA: Yes, sir.

COMMISSIONER CAMPOS: Is part of the purpose to broadcast and rebroadcast it?

COMMISSIONER ANAYA: Yes, sir.

COMMISSIONER CAMPOS: Okay.

CHAIR VIGIL: Any further questions?

The motion passed by unanimous [5-0] voice vote.

X. B. Update on City Utility Rate Increase (Commissioner Vigil)

CHAIR VIGIL: Actually, I had hoped that Qosty from the City of Santa Fe would be here and we had actually invited him and then decided there were too many items on the agenda to address this at this particular time. But is anybody here from water utilities? Doug, if you could just briefly give me Santa Fe County's perspective on the increase in utility rates for County customers for sewage, wastewater fees, if you have any information on that. And I think the City will be here at the next meeting and there will

also be residents from the County who have experienced this increase in their rates. Are you familiar with that?

DOUG SAYRE (Water and Wastewater Operations): Madam Chair and Commissioners, we did try and look into this today, and I talked to Claudia Borchert and we tried to get a hold of Dan Ransom with the City to discuss what specifically they were talking about as far as the rate increase. And perhaps we could put this off to the next meeting and then we could report on it. What I understand basically at this point, it's a conservation fee surcharge that they're talking about. It would be addressed twice a year and I'm not sure what the amount's going to be but it's not significant as far as the amount, to my knowledge.

Now, the rest - I don't see anything other than that presently as far as what the City's considering as far as utility rate increase. As you know they changed their rate increase in January of 2007 and that was just for City residents. They did not increase the bulk charge to the County and I was trying to find out if there was any consideration for that as far as would it affect the County customers.

CHAIR VIGIL: Okay. Thank you, Mr. Sayre.

MR. SAYRE: I'm sorry I can't - I'll be glad to try to report it.

CHAIR VIGIL: And I'm sorry to put you up here at the last minute, because it really came originally from the Regional Planning Authority when I brought the issue up to those members. There will be residents at December's meeting. Mr. Abeyta, if we could include this under Matters from the Commission at December's meeting to testify to the rate increase. We also will have members from the City of Santa Fe. The Mayor has generously extended an offer to have anyone from their water utility division to come forth. So hopefully we can get that done next time. Thank you, Mr. Sayre.

X. C. Consideration and Possible Approval of Ordinance No. 2007-14. An Ordinance Declaring a Three-Month Moratorium on Applications to Drill an Oil or Natural Gas Well, Declaring an Emergency (Commissioner Anaya) [Exhibit 1:Ordinance Text]

COMMISSIONER ANAYA: Madam Chair, Commissioners, I don't know about you but I've received over 100 letters, emails, on drilling for oil and natural gas in the Galisteo Basin, which is in District 3. We have asked the County Manager and the County Attorney to come up with a different ordinance that really addresses oil and gas in Santa Fe County, which I believe we don't have an oil and gas ordinance. This moratorium would help us take the time to address more concerns that the citizens of Santa Fe County have and it would, if we're coming up with a new ordinance and we have an old ordinance, I think there's a time space in there where we need to have a moratorium where the County can decide which ordinance we're going to use.

The holidays are coming up and people are getting nervous. And I would ask that

this emergency moratorium be presented and possibly passed, but I want to open it up for discussion and I think it is critical to the health, safety and welfare of the citizens of the Galisteo Basin that we implement this and take our time. With the new ordinance that we're about to address. And I would like to turn it over to Steve Ross, if he has any other suggestions or comments.

CHAIR VIGIL: Mr. Ross.

MR. ROSS: Madam Chair, Commissioner Anaya, the guts of the proposed ordinance are set forth on page 2. There's five, essentially, bullet points listed there. What the ordinance does is create a three-month moratorium on any application to drill and oil and gas well countywide and such applications, even if they are filed, won't be processed. The ordinance requires that the ordinance that we have prepared and are going to present to you later today be considered prior to the expiration of the moratorium. In other words, what this moratorium does is protect the process that we've set out, which is about a three-month process from the date of authorization of publication of title and summary to the public hearing process through adoption and through the effective date of the eventual ordinance. That's about three months.

This ordinance would protect us from applications being filed prior to the time when we have a regulatory system in place that we're comfortable with. The third paragraph and the fourth paragraph are emergency provisions. The third paragraph declares an emergency because of the stated intention of the oil and gas operator to file eight applications at some point in time, possibly before the end of the three-month period I've just described. And then the fourth bullet point is also an emergency clause and it states that the ordinance will take effect upon recordation, instead of the usual 30-day waiting period for such ordinances. This one, if enacted, would take place immediately or take effect immediately.

CHAIR VIGIL: Thank you, Mr. Ross. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Madam Chair, I support this. I think it's a good idea. I think all along our intention has been as we expressed it to the public on November 15th at our meeting, that we were going to take the amount of time necessary to develop a good ordinance or good changes to our existing ordinance or whatever we decide is the final direction we're going to go. So I think that we want to do that in an environment of considered judgment and to allay public fears that there's some invisible force that is driving us to do this more rapidly than it needs to be done.

I also want to thank the people who attended the meeting. Since our last Commission meeting we did have the meeting out in Eldorado, November 15th. There were two rooms, the gymnasium and the multi-purpose room, as all the Commissioners know who were there. All five Commissioners attended. We had 600 persons in attendance. We turned away 100 at the door. So Commissioner Anaya is right to be concerned about a venue that will hold enough people to do this. I think that we weren't able to get everyone's comments heard that evening but we did make a list of those who did not have an opportunity to speak and Commissioner Anaya will hear those first, I understand, at his

meeting on December 6th, so everyone will get an opportunity to speak.

The other thing that I want to be sure that people understand is that we are trying to develop an ordinance that puts adequate regulatory constraints on any oil and gas drilling in New Mexico – in Santa Fe County, excuse me. Maybe we would do that for New Mexico too, but we'll do it one county at a time here. We'll start with Santa Fe County. And there are a number of major gaps in our ordinance and one that I'm especially concerned about is the lack of monitoring wells, the lack of monitoring of the groundwater database when any type of drilling starts. And a new ordinance will include that.

Another gap that I'm concerned about is who will monitor these drilling activities other than the Oil and Gas Division, who I understand has one technician for this whole region. These are concerns none of which are addressed in our current ordinance. There are references to oil and gas but the whole body in essence is missing. The corpus is missing of the ordinance as it pertains to oil and gas. It's very comprehensive with regard to hard rock mining.

So I feel that we are on the way to developing a really good ordinance and I also feel that some of the criticism, a few nastygrams that I received criticizing Mr. Ross were totally inappropriate and out of order. I feel that he has served this Commission admirably, both at the hearing on the 15th and in drafting up all the issues that people have brought forward. So I want to be sure that if you have comments about the regulatory issues of oil and gas drilling within the County's purview, tell us. Tell me. Don't dump on the messengers who are drafting up the ordinances.

I think that the last thing I want to be sure people understand from my point of view is we have two processes here. One is the state's process of issuing a permit for oil and gas drilling, which they have the authority to do under state statute and within certain area – a 40-acre zone per well. That's one authority. We then have a number of other authorities that we can enforce through regulatory procedures, and we're going to strengthen those authorities, as we've said all along. A number of things I think, will come forward in the ordinance that you will see will do that.

My suggestion is this: When the public reviews the draft ordinance that we'll discuss later this afternoon, or that we'll bring forward later this afternoon – as the chair indicated it's not a hearing – consider two avenues. If you are adamantly opposed to any drilling in the Galisteo Basin I could say raise your hand, and there would be 2,500 people would raise their hands. Okay. What is your recourse? Your recourse is to go to your state legislators and to say for any number of excellent reasons that we have seen in the letters and correspondence and emails that have come forward, this is not an appropriate place. You could say that. You have a representative, Representative King in this area. You have a state senator who is Senator Griego. You have other representatives such as Representative Wirth who has already come forward and helped with organizing the meeting and has shown an extraordinary interest in this topic, although none of these particular wells happens to be in Rep. Wirth's district.

So take that tack if you like. If you would like to see that. At the same time, say to

yourself, okay, that's one direction that I would like to pursue, and I'm not saying to you these are my opinions; I'm saying if these are your opinions, this is my suggestion on how you approach the process. Then on the other hand, say, all right, if any oil and gas drilling is going to happen in Santa Fe County, and we don't know that. We don't have an application. We don't know whether there's an economically feasible amount of oil in the basin or any of these issues. Then I want that process to be as visible and as safe as it can possibly be. So I want the County's regulatory authority to be at the maximum.

So when you review the ordinance and when you discuss the issue with your neighbors and with others, focus your comments to the County on how we do that. What can you do? And I think that way the process will be the most productive. Simultaneously, you're welcome to pursue the state legislative approach and certainly our legislators want to hear from you on that and should hear from you.

So I do want to thank everyone who was at the meeting. I want to apologize to those who could not attend because of the Fire Marshal's constraints on the number of people we could shoe-horn into the auditorium. That will be addressed in the next meeting. And I do want to thank the people who have sent comments in. We've had a number of very responsive, well thought out comments that have come forward. Some are do-able, probably. Some may not be do-able. But nonetheless, people took the time to put together comments as I asked them to do at the meeting and to send them to the County Manager. Those comments have been received. Those comments have been considered in this draft that we'll talk about later today.

Nonetheless, there's time and there will be time for more comments, for more input. Let's keep the process positive. We have some time here, if this moratorium is enacted today. Let's look at the two tracks of public accountability here and be sure you're focusing your energies and efforts on the proper track that the County Commission, Santa Fe County Commission has control over. Thank you, Madam Chair. I support the moratorium.

CHAIR VIGIL: Thank you, Commissioner Sullivan. Commissioner Campos.

COMMISSIONER CAMPOS: I too support the moratorium. I think we need to have more community input. I think we need to have a civil dialogue that's based on facts, not paranoia, suspicions of corruption, accusations of corruption. I think it's up to the leadership of a lot of these groups to get the right facts out. I'm tired of getting emails telling me that we're in the back pocket of Tecton or any other oil company. What I would propose for discussion, in addition to the moratorium, and this is something that I'd like for staff to consider, is one, maybe retaining experts in both gas and water to advise us as to our ordinance and ordinance provisions and adequacy or need for more regulation.

I think we need to look for dollars. We've got to figure out how much it's going to cost us to do oversight. It's nice to have a great ordinance but that means nothing unless we have oversight and oversight is expensive. I know Mr. Ross has addressed this issue but I think we have to budget for that. It's going to be a huge part. If we're going to have an

ordinance that's going to be effective it's going to have to be well funded.

I think we need in our evaluations to determine whether there are critical areas as to water or environment, where perhaps no drilling should be permitted. I think we need to maybe pass a resolution asking our state legislators to allow attorney's fees and court costs to the prevailing parties under the SOPA, Surface Owners Protection Act. That's the only way to put the landowner on an equal footing with a giant company. We need to have attorney's fees, court costs paid to prevailing landowners who challenge damage to their property.

These are the ideas I want discussed. I do want to thank you, Mr. Ross. You've done a great job. I have great confidence in you. I don't appreciate a lot of the paranoia going around in the discussion. Like I said earlier, some of these emails and letters have been nasty, incredibly nasty, and they don't further the dialogue. We've got to keep close to reality. We've got to keep fact-based. Thank you very much.

CHAIR VIGIL: Thank you, Commissioner Campos. Commissioner Montoya.

COMMISSIONER MONTOYA: Madam Chair, yes, I'd also just like to say ditto to everything that's been said. I think it's been well said. I too support this ordinance for all of the reasons that have been stated and just want to say also that Steve's done a great job in terms of what he's put together so far. Thank you, Steve. And I think when we're talking about and encouraging people to conserve on energy, one of the biggest producers and one of the biggest products that we consume is fuel, oil. By allowing this to happen in our own backyard I think is certainly something that is not consistent with what we're trying to promote as a Commission in terms of conservation of energy and alternative uses of energy. This is just status quo in terms of what oil and gas companies are constantly doing.

So in addition to that, I've received some scathing remarks, comments also about where my pockets are being filled and I'll send those to Commissioner Sullivan, since he's not getting any. I'll share the wealth with you.

CHAIR VIGIL: Thank you, Commissioner Montoya. Any further comments? It hasn't only been emails, it's been voice mails and frankly I've saved some of them. It surprises me how adults can behave in such a manner. I recognize that fear can motivate some people's response, but as Commissioner Campos says, that does not further the dialogue. And those of us, and we've been engaged in some of the emails, who've tried to attempt to be responsible and responsive to some of these emails, are discovering that most of the senders of these emails just want to engage us in combat. And that in fact does not further the discussions.

Frankly, I have resolved in responding to my emails by letting people know that I appreciate hearing from them. Because this is a process that we're engaged in; it isn't a product. And people are acting as if it is a product. So I want to underscore everything I've heard about everything that we've had to deal with so far, and this is just the beginning. I just hope that we can posture this in a productive way. I don't appreciate that

our staff has been slandered. I don't appreciate that anyone that is a colleague of mine has been given a name, other than a reputable name, because everyone that is here and is working toward the good of this oil and gas drilling issue wants it to be in the best interests of Santa Fe County.

So with that, Ms. Vazquez, I see you're wanting to approach. Please approach.

ROSANNA VAZQUEZ: Madam Chair, Commissioners, good morning. My name is Rosanna Vazquez and I'm here to submit a letter for the purpose of the record on this moratorium on behalf of Tecton Energy. [Exhibit 2] It is addressed to you and I've got copies for the Commission and for -

CHAIR VIGIL: You may approach. Thank you, Ms. Vazquez.

MS. VAZQUEZ: I don't really have anything else to say, I just wanted to make sure it was put into the record as part of the hearing on this moratorium. I stand for questions if you have any.

CHAIR VIGIL: Would you just state your position in the letter for the record?

MS. VAZQUEZ: Sure. This letter is addressed to Virginia Vigil, Chairperson. Dear Ms. Vigil, Tecton Energy has today been informed that the Santa Fe County Board of Commissioners, at it's November 27, 2007 meeting will consider a motion to implement an emergency moratorium on applications to drill for oil and gas in Santa Fe County. We sent this letter because we are unable with short notice to appear in person and present our position.

Tecton has been repeatedly advised by Santa Fe County officials that the existing mining ordinance was designed to ensure public safety and welfare and we have been told to make our pending submittals under the guidelines of this ordinance. We understand that the County now desires to design and enact a new ordinance specific to oil and gas activities, and that the proposed moratorium may be intended to provide the Commission time to study and enact the new ordinance.

In our opinion, enactment of an emergency moratorium without notice and hearing would violate New Mexico law. The County's only authority to enact a moratorium arises from its power to regulate land use and impose zoning under Sections 3-21 of the New Mexico Statutes Annotated, which requires promulgation of an ordinance. New Mexico does not allow a moratorium - emergency or otherwise - without notice and hearing complying with Section 3-21-14, which requires publication of notice two weeks prior to the meeting of the County Commission in which the ordinance will be considered. (See *Westgate Families v. County Clerk* in New Mexico case law.)

Further, give the existence of an exceptionally strong County mining ordinance designed to protect public health and welfare, we can see no basis by which the County can declare our preparations to make a future application an emergency. Tecton objects to any consideration of a moratorium without compliance with all the required procedures.

Tecton stands willing and ready to work with County officials and the public to design and implement a rigorous protocol of modern environment and community

conscious drilling and production practices. We continue to work on refinements to our County-level application, which we do not anticipate submitting for consideration for some period of time. In the meantime we pledge to keep the Commission informed of our plans and progress.

Respectfully yours, the managing partner of Tecton, Mr. Bill Dirks.

CHAIR VIGIL: Thank you. Is there anyone else out there that would like to address this? I need to see a show of hands. I see Ms. Murray and I see three others. The four of you, would you please stand to the side of the aisle, and I will need to limit comments to two minutes. Will that be sufficient for each one of you to address us? How much time will you need? Per person? If you need three minutes, I'll give you three minutes and I'll ask each person how much time they need. We'll try to accommodate it that way. Please step forward and state your name and address for the record.

LOUISE BAUM: My name is Louise Baum. I live at 54 San Marcos Road West, which is off Route 14, a few miles south of the Lone Butte Store. First of all, I want to thank all of you. I want to thank Mike Anaya very much for bring forth this moratorium suggestion. I want to thank Jack Sullivan for his comments. I can't remember all of them but he has made some very good points. I appreciate what Paul Campos said. Monitoring the wells, that's going to be expensive. It's also going to be expensive when all the property values fall because of oil drilling, if that happens in our area, and there won't be as much money coming in from taxes.

I really appreciate what Commissioner Montoya said. I feel as he does, or maybe I'll state what I feel, that conceding to oil and gas industry extraction is like feeding a dying dinosaur. I think our county is a place of vision and tremendous intelligence. I know Paul Campos is working on something to do with sustainable energy in the county. I think our county can be visionary and create an alternative grid and alternative energy sources and that's the way I'd like us to go.

I also want to say that I don't want to be standing here in a year and say, you know, our aquifers have been ruined. There's no way to repair them. There's no place we can go because we can't sell our houses because no one wants to buy them. The county has had a brush fire started by a gas drilling situation that has consumed thousands of acres and we didn't have the paid staff on our fire department to take care of it. The health has really become dreadful among people who are near these wells. These are serious things. I'm not saying this out of ignorance. I'm saying this out of people's experience in other counties in New Mexico, in Colorado, where oil and gas drilling has run rampant.

We have a very strong ordinance in place. I agree with Tecton. There are a lot of requirements. I really appreciate that you are working on strengthening some of these, filling in some of the gaps. I think a moratorium of three months is a good thing, but not nearly long enough. I would request that we have a moratorium of a year, so that would enable us to do some thorough studies of, for example, the hydrology. We really don't know where the aquifers go. It's a very complex geological system we have in the county. We need to find out about it so we can protect those aquifers. We need to do an economic

impact study. People come to Santa Fe because it's beautiful, because they want to get away from Texas. They come here, they spend a lot of money in the art market, on all sorts of things. That's going to dry up if Santa Fe County becomes uglified by oil and gas drilling.

The movie business, which has been carefully built up, wants a beautiful location to come to. If there are oil wells all over the place it won't be desirable for them. And finally, I want to apologize for any nasty letters and email you people have gotten. I appreciate your doing your work thoroughly and with a lot of consideration for all these matters. I personally have only written very rational letters and I certainly think a rational dialogue is what we need. But I think we need it to go on for longer than three months to adequately have - a lot of citizens want to bring in expert witnesses. We want to do studies. These are really crucial things, so that we're not sorry later that we didn't do this job adequately. Thank you.

CHAIR VIGIL: Thank you, Ms. Baum. Next speaker.

DAVID BACON: I'm David Bacon. I also reside at 54 San Marcos Road West.

CHAIR VIGIL: Welcome, Mr. Bacon.

MR. BACON: It's interesting. Maybe this is bad for Texans also. I don't know if we can bring them in on this process or not. Probably not. Johnny and I happened to be at the Taxation and Revenue Stabilization Interim Committee hearing. I don't think we were supposed to be there. Mark Fesmire was the witness at that hearing. There were about 18 senators and congressmen and they took turns beating him up in the most brutal way I've ever seen at the state legislature, and I've seen a lot of nasty stuff over there.

I cut my teeth working against electricity deregulation, and that was a pretty nasty process. This was the nastiest I've ever seen. Mark had a stack of papers that thick that showed pollution of water, and they all took turns telling him he either didn't understand what he was doing or that he was a buyer. It was a shocking display. We don't have power at the state legislature. When I opened the paper this morning and Joanna Prukop was saying, hey, oil and gas has every right to come in and drill. I never hear in this discussion what rights we have. It's always led off with the rights of a giant industry. Never with the rights of the people of this county.

We have a situation here, when I ran for governor, I ran on the issue of depletion of oil and gas and how much we derive from that as a state and how much we could derive. The taxation interim committee was clearly looking at the shortfalls that are occurring, but none of the severance tax that's been imposed on the oil and gas industry, not one cent of it has gone for anything sustainable or anything that addresses the fact that that severance tax leaves. That stuff's gone when it's out of the ground.

We're at a time now in an industry that is well past peak. It's come to Santa Fe County because there's nowhere else to look. There was an amazing show on Channel 5 on Friday night, David Brancaccio, and it went into the state legislature in Alaska and the corruption going on there. But one thing that they've done is raise the taxes 2.5 percent.

That brings in an extra billion and a half to Alaska. The big oil there threatens to leave also if they're opposed in any way.

This is a historic time. The other thing I want to say is Tweeti Blancett, a rancher from Aztec, New Mexico has been here several times to testify. She had to shut down a 50,000-acre ranch, just shut it down, because her cows were dying, her water was poisoned, she has 800 miles of road, 1,000 miles of pipeline. She has the ranch overrun with noxious weeds. She and her husband Len had to shut that ranch down. And that is what natural gas exploration and drilling has done in San Juan County. That's a sacrifice zone. The same with the southeast part of the state. It's simply become a sacrifice zone. We can't let Santa Fe County be sacrificed.

I understand we're up against powerful entities. We, I feel, have to begin looking at in substantially creative ways what we can do as a county to forestall this process. If we do that successfully, if we lay down a good no, we will then be able to discuss the yeses of what it means to take a county into a sustainable economy. That's a huge area of discussion. I appreciate your guys - I know you've gotten some intense email. I was sitting here thinking, uh oh. Did I send any of those? I don't think I did.

These are feelings though that do run deep. And they're not going to go away. The more we can include the public the more we can open this up, the better it will be. We would love to be working with you and I think that's how it's going to work. I think that's what success means is if we can have good public input and good back and forth about what's actually possible. So thank you very much for your time.

CHAIR VIGIL: Thank you, Mr. Bacon. Next speaker. How much time will you need?

JOHNNY MICOU: I'll just make it a couple of minutes.

CHAIR VIGIL: Okay. State your name and address for the record, please.

MR. MICOU: My name is Johnny Micou. I live at 179 County Road 55-A. I'm also with Drilling Santa Fe. I am shocked by the letter from Tecton. The reason is we met with Bill Dirks early on and he told us he agrees with our petition. If you read the petition, it asks for a moratorium on the permitting process without a timeline until certain issues are addressed. Those issues were to strengthen the existing mining ordinance. However, we understand if it has to be a separate oil and gas ordinance, as long as these issues are taken into account and we do not lose some of the provisions of the mining ordinance, either way would work for us. It has specifics in there, including absolutely protecting the aquifer.

Bill Dirks said he agreed with it. The only thing he had was a problem with our setback, because we asked for one mile. Everything else he agreed. He then asked for us to help him push the County, which we did not agree to do. We encouraged people to come forward and speak their minds, some of them obviously inappropriately, but that's what we wanted. We wanted the County to do its work and for us to be able to support that work. And that's where we stand today even though we have yet to see the ordinance. We are prepared to stand behind our County.

This letter coming in from Bill Dirks for just a simple three-month moratorium I think is in appropriate and it puts the County in a position not be able to do its work, and we disagree.

I want to address one other issue. We are now working with a coalition that's not fully formed yet. There will be multiple environmental groups and other groups. And part of what we'll be working towards, and this is, Madam Chair, Commissioner Sullivan, is addressing what he was suggesting, Commissioner Sullivan, that we work at the state legislative level. We will be planning on doing that on several different issues. So it's not just the county's issue; it is the statewide issue. And I thank you for your time.

CHAIR VIGIL: Thank you, Mr. Micou. Commissioner Campos.

COMMISSIONER CAMPOS: One thing I'd like to suggest, Johnny, is that you not only work with the legislature on what Commissioner Sullivan suggested, but also on the attorney's fees, to put the surface owner on an equal footing if there is damage to the property. But more importantly, I think we all have to talk about conservation. Conservation in everybody's life. If we don't do it, just because we have this energy monster. We've had them for years all over the world, poor countries usually. Now he's in our backyard. We have to do our part to conserve and we have to make that a huge part of your effort and your coalition and your politics. If we don't do that we're just pushing it off to somebody else, maybe somebody else who is less capable of fighting than people here in Santa Fe County. So I appreciate your help.

CHAIR VIGIL: Thank you, Commissioner Campos.

MR. MICOU: Madam Chair, Commissioner Campos, if I may.

CHAIR VIGIL: Please.

MR. MICOU: We agree wholeheartedly with you and we would take up the issue about SOPA, and attorneys' fees. I think that's an excellent one. And we want to work with the County, as I've said. We would also be addressing some issues about common law and split estate and so forth, if we can. And we're going to go into areas that are going to be very complex and time consuming, and we're willing to bring in experts on our dime in order to protect Santa Fe County and its resources.

CHAIR VIGIL: Thank you, Johnny.

MR. MICOU: Thank you.

CHAIR VIGIL: Next speaker. Ms. Murray, would you please state your name and address and let me know how much time you need.

MS. MURRAY: My name is Anne Murray. My address is P.O. Box 22, Cerrillos, New Mexico. I'd like to thank you for considering a moratorium. It's very good to hear.

CHAIR VIGIL: Do you need more than two minutes, Ms. Murray? Two minutes will do?

MS. MURRAY: Peter Wirth is proposing a six-month moratorium on a state level. I don't know if you know that and what to coordinate a little closer with him, rather than go to three months. I talked to Linda Grill who was Commissioner during the first

ordinance writing on mining and she said it took here six months. That they had a six-month moratorium. She traveled around to old mining sites or to various active mining sites, out of state, in-state, which you might consider doing as well. I guess my final comment is that you consider a long moratorium. I also think you should go through the public hearing process so the oil and gas can't say that you did anything that wasn't in Open Meetings regulations.

CHAIR VIGIL: Thank you, Ms. Murray. I appreciate that comment. Questions? Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Ross, if we would like to proceed with the moratorium, what do we do today if anything?

MR. ROSS: Madam Chair, Commissioner Campos, you would enact the ordinance that's before you.

COMMISSIONER CAMPOS: We can do that today?

MR. ROSS: Yes. The ordinance declares an emergency. So it hasn't been noticed in the newspaper.

COMMISSIONER CAMPOS: It has not?

MR. ROSS: Has not, but it doesn't need to be if you declare an emergency.

COMMISSIONER CAMPOS: And we have adequate authority, based on the Tecton arguments to act today. They're saying we need notice, we need at least two weeks. Do you think an emergency clause can be acted upon today without violating the due process clause?

MR. ROSS: Well, it says right here in our statutes that the requirement of notice and publication, and I'm quoting, "shall not apply to ordinances dealing with an emergency declared by the chairman of the governing body."

COMMISSIONER CAMPOS: Okay. So basically, the resolution that you've presented us meets all those criteria?

MR. ROSS: Yes. It declares an emergency.

COMMISSIONER CAMPOS: Okay. I would then move for the adoption of Ordinance 2007-14, an ordinance declaring a three-month moratorium on applications to drill an oil or natural gas well, declaring an emergency.

COMMISSIONER SULLIVAN: Second.

CHAIR VIGIL: Motion and second. Mr. Ross, would you please identify the issues of safety, health and concern for the emergency purposes?

MR. ROSS: Madam Chair, it's very simple. The new ordinance that's going to be presented later today is going to have a comprehensive regulatory program to protect the surface, the water resources and it's going to have a comprehensive approach to oil and gas drilling and production. The current mining ordinance is a broad based, very, very good ordinance that addresses primarily the permitting that's required of large open-pit mines, but it's not well suited to oil and gas regulation, which involved numerous operations repeated in numerous wells. In short, the regulation that's required for an oil and gas ordinance is regulation that really begins after a permitting process when there's

really nothing to fill the gap in the mining ordinance between the decision to permit an oil and gas operation and the reclamation of that operation, which the mining ordinance also addresses.

So what we done of course in our ordinance is taken the good parts of the mining ordinance and incorporated them verbatim but included in significant regulation throughout the life of the well. Now, what that means for public health and the environment is that potentially, were we to get applications now, under the existing ordinance, we wouldn't be able to adequately protect the public health, safety, welfare, during this period when the well is in production and when most of the hazards arise. So that's why we want a chance to put together a decent regulatory program that will apply to not only permitting of wells but the operation of wells and the reclamation of the wells after they're done producing.

It's permissible to declare a moratorium like this to preserve the County's rights to regulate properly these activities. We don't feel it's adequately regulated at this point.

CHAIR VIGIL: Okay. Second question is, three months seems like a conservative amount of time. We did hear testimony that it might be too short. Do we have the opportunity to extend this moratorium if these issues remain unresolved?

MR. ROSS: Madam Chair, the three-month moratorium protects the current schedule for adoption of the ordinance. Moratorium, by their nature, have to be limited to the emergency that they're being enacted to address. So, we have a three-month schedule. We hope to stick to it if we can for the public hearing process and adoption of the ordinance. If for some reason we can't meet that deadline we can bring forward another ordinance and extend it as necessary to cover the process. I wouldn't recommend an arbitrary period for such a moratorium, like one year was suggested today, or six months - whatever. We have a three-month process set out that the moratorium ordinance can address for three months, period. I wouldn't advise that we try and project any more than we have in front of us.

CHAIR VIGIL: Thank you, Mr. Ross. If there are no further comments or questions - Commissioner Campos.

COMMISSIONER CAMPOS: Ordinance number 2007-14.

CHAIR VIGIL: Okay, we have a motion and a second to adopt Ordinance 2007-14 with an emergency clause.

The motion to approve Ordinance 2007-14 passed by unanimous [5-0] roll call vote with Commissioners Anaya, Campos, Montoya, Sullivan and Vigil all voting in the affirmative.

XII. Appointments/Reappointments/Resignations

A. Accept Resignation of Mr. Ron Hale from the Santa Fe County Health Policy and Planning Commission

COMMISSIONER CAMPOS: So moved.

COMMISSIONER MONTOYA: Second.

CHAIR VIGIL: Motion and second. Is there anything you need to add, Mr. Shepherd.

STEVE SHEPHERD (Health Department Director): Madam Chair, I'd just like to thank Ron Hale for his long service to the Health Policy and Planning Commission.

CHAIR VIGIL: And not only that, but to the Maternal and Child Health. He's been a significant part of our health initiative. Any further statements?

COMMISSIONER CAMPOS: Just perhaps our chair could write a letter to Mr. Hale thanking him for his services.

CHAIR VIGIL: Most definitely.

The motion passed by unanimous [5-0] voice vote.

CHAIR VIGIL: Please thank him for his service and we'll follow through.

COMMISSIONER CAMPOS: Madam Chair.

CHAIR VIGIL: Commissioner Campos.

COMMISSIONER CAMPOS: Can we go do lunch until 2:00?

COMMISSIONER MONTOYA: Let's approve the Consent Calendar.

COMMISSIONER CAMPOS: Okay.

COMMISSIONER MONTOYA: Motion to approve Consent Calendar items.

CHAIR VIGIL: That's the second time we've done it but I'll take it.

COMMISSIONER CAMPOS: Second.

XIII. CONSENT CALENDAR

A. Budget Adjustments

1. Resolution No. 2007-184. A Resolution Requesting an Increase to the General Fund (101) to Budget a Grant Awarded Through the New Mexico Department of Public Safety for the 2007 - New Mexico State Legislative Funds for the Regional Drug Task forces \$64,285 (County Sheriff's Office)

2. Resolution No. 2007-185. A Resolution Requesting an Increase to the General fund (101) to Budget Additional Property Tax Revenue for the Collective Bargaining Agreement with the Santa F e County

Deputy Sheriff's Association, Subsidiary of the New Mexico Coalition of Public Safety Officers/ Communication Workers of America/ Local 7911 (County Sheriff's Office)

- 3. Resolution No. 2007-186. A Resolution Requesting an Increase to the Fire Protection Fund (209) to Budget Fire Reimbursement Revenue for the Antelope complex Fire, the 73 Fire and the 285 Fire for the El Dorado, Hondo and Stanley Fire Districts/ \$10,180 (Community Services Department)**
- 4. Resolution No. 2007-187. A Resolution Requesting an Increase to the Capital Outlay GRT Fund (213) / Open Space Regional Planning Authority to Budget Prior Fiscal Years Cash Balance for Expenditure in fiscal Year 2008/ \$1,580.000 (Community Services Department)**

B. Professional Service Agreements

- 1. Request Authorization to Accept Amendment No. 2 to Agreement No. 27-1808-CORR/MS with BI, Inc. to Provide Electronic Monitoring Supplies and Services for the County's Corrections Department. Request of an Increase in Compensation by \$25,000 for FY08 (Corrections Department) ISOLATED FOR DISCUSSION**

C. Miscellaneous

- 1. Request Approval of the Accounts Payable Disbursements Made for all Funds for the Month of October 2007 (Administrative Services Department)**
- 2. Resolution No. 2007-___. A Resolution Authorizing the Surplus of Fixed Assets in Accordance with State Statutes (Growth Management Department) ISOLATED FOR DISCUSSION**
- 3. Requesting Permission to Publish Title and General Summary of an Ordinance "Geographic Information System (GIS) Public Records Fee Ordinance" (Administrative Services Department) WITHDRAWN**
- 4. Request Approval of Amendment No. 11 to the Presbyterian Medical Services Contract for Administration of the Care Connection Assessment Center in the Amount of \$89,373.24 for November 1, 2007 Thru January 31, 2008 (Community Services Department) ISOLATED FOR DISCUSSION**
- 5. Request Approval of Amended Grant Agreement Between Santa Fe County and the Department of Finance and Administration for Legislative Reauthorized Appropriations in the Amount of \$6,365,086.64 (Community Services Department) ISOLATED FOR DISCUSSION**

6. **Request Approval of Grant Agreement Between Santa Fe County and the Department of Finance and Administration for Legislative Reauthorized Appropriations in the Amount of \$1,348,608.86 (Community Services Department)**
7. **Request Authorization and Acceptance to Amendment No. 1 of the Agreement Between Santa Fe County and Presbyterian Medical Services for Grant Number 07-L-G-5493 by NM DFA Funded in the Amount of \$80,000 to Purchase Equipment and Furnishing for the Community Mental Health Center (Community Services Department) ISOLATED FOR DISCUSSION**
8. **Consideration of Amendment No. 5 to the Customer Contract for Commitment of Water Service by and Between Santa Fe County (County) and John J. McCarthy (Customer) Extending the Term of the Agreement an Additional Year (Growth Management Department) ISOLATED FOR DISCUSSION**
9. **Request Approval of MOU Between Santa Fe County and the New Mexico Finance Authority (NMFA) to Delineate the Rights and Duties of the Parties as Required by Laws of 2007 1st Special Session, House Bill 2, Chapter 3, Section 4, Subsection 95: \$2,060,100 for Acquisition of Rights of Way, Planning, Design and Construction, Drainage and Paving Improvements to Various County Roads in Santa Fe County (Growth Management Department)**
10. **Request to Approve 2008 Employee Calendar (Human Resources)**
11. **Consideration and Approval of the Stipulated Judgment and Settlement Agreement by and Between Homewise, Inc., the City of Santa Fe, and Santa Fe County (County Attorney) ISOLATED FOR DISCUSSION**
12. **Consideration of a Lease Agreement with Richard Montoya for All 3 Floors of the Bokum Building (Administrative Services Department)**
13. **Request Approval and Execution of NMED Grant Agreement, and the Adoption of Resolution No. 2007-188 Designating Grantee Signature Authority and Project Representative for the Agua Fria Roads Water/Sewer Lines Extension \$50,000 SAP 07-4566-GF (Growth Management Department)**
14. **Request Approval and Execution of NMED Grant Agreement, and the Adoption of Resolution No. 2007-189, A Resolution Designating Grantee Signature Authority and Project Representative for the Agua Fria Sewer Line/Ben Lane Extension \$50,000 SAP 07-4567-GF (Growth Management Department)**

15. Request Approval and Execution of NMED Grant Agreement and the Adoption of Resolution No. 2007-190, A Resolution Designating Grantee Signature Authority and Project Representative for the Agua Fria Road/ Rumbo al Sur Sewer Line Extension \$25,000 SAP 07-4569-GF (Growth Management Department)
16. Request Approval and Execution of NMED Grant Agreement and the Adoption of Resolution No. 2007-191, A Resolution Designating Grantee Signature Authority and Project Representative for the Eldorado/Canoncito Water Project \$50,000 SAP 07-4572-GF (Growth Management Department)
17. Request Approval and Execution of NMED Grant Agreement and the Adoption of Resolution No. 2007-192, A Resolution Designating Grantee Signature Authority and Project Representative for the Paseo de Tercero/Via Don Toribio Sewer Line Extension \$25,000 SAP 07-4574-GF (Growth Management Department)
18. Request Approval and Execution of NMED Grant Agreement and the Adoption of Resolution No. 2007-___. A Resolution Designating Grantee Signature Authority and Project Representative for the Santa Fe County Sombrillo Area Sewer System \$350,000 SAP 07-4576-GF (Growth Management Department) ISOLATED FOR DISCUSSION
19. Request Approval and Execution of NMED Grant Agreement and the Adoption of Resolution No. 2007-193, A Resolution Designating Grantee Signature Authority and Project Representative for the Santa Fe County Wells \$250,000 SAP 07-4577-GF (Growth Management Department)
20. Request Approval and Execution of NMED Grant Agreement and the Adoption of Resolution No. 2007-___, A Resolution Designating Grantee Signature Authority and Project Representative for the Stanley Fire Department Water System & Equipment \$150,000 SAP 07-4587-GF (Growth Management Department) ISOLATED FOR DISCUSSION

The motion to approve the Consent Calendar with the exception of items B. 1, C. 2, 5, 7, 8, 11, 18 and 20 (isolated for discussion) and C. 3 (withdrawn) passed by unanimous [5-0] voice vote.

CHAIR VIGIL: I'd like to push this to 12:30 then we can be back at 2:00.

XIII. B. Professional Service Agreements

1. Request Authorization to Accept Amendment No. 2 to Agreement No. 27-1808-CORR/MS with BI, Inc. to Provide Electronic Monitoring Supplies and Services for the County's Corrections Department. Request of an Increase in Compensation by \$25,000 for FY08 (Corrections Department)

CHAIR VIGIL: Commissioner Sullivan, your question.

COMMISSIONER SULLIVAN: Thank you, Madam Chair. The question I had on this item, Madam Chair, is the request for the amendment, which we don't have a copy of in the packet talks about an increase in compensation by \$25,000. Is this an increase in rate or is the intent that they're going to service more clients?

RANDY HERRERA (Legal Department): Madam Chair, Commissioner Sullivan, I'll defer that to Ramon Larrañaga of YDT to speak on that.

RAMON LARRAÑAGA (Electronic Monitoring Manager): Madam Chair, Commissioners, when we first did the contract we started out with approximately 130 clients. We're at approximately 170 clients, doing Santa Fe County, Los Alamos County, Rio Arriba and the tribal courts, as well as Santa Fe Magistrate Court, so we're getting more clientele into the program.

COMMISSIONER SULLIVAN: My question is, does this change the rate?

MR. LARRAÑAGA: It does not change the rate, sir. No, sir.

COMMISSIONER SULLIVAN: Okay. Because I think the rates are too high. I think in cases we're charging \$200, \$300, \$400 a month for this electronic monitoring and someone who has just come into that program is looking for work and is having to deal with the costs of equipping their cars possibly with monitoring devices. I think the fact that the program is increasing should enable us to reduce the rates quite frankly. I would like to see some review of the rates and perhaps a comparison as to what other jurisdictions do. I think we're charging too much.

MR. LARRANGA: Madam Chair, Commissioner, for clients who have been released from custody, we do not charge them to be on the program until they are employed. They're not paying while they're unemployed.

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

COMMISSIONER CAMPOS: A follow-up.

CHAIR VIGIL: You're charging how much a month?

MR. LARRAÑAGA: It depends on where the client is from, sir. If they're say, Los Alamos County or Rio Arriba -

COMMISSIONER CAMPOS: Santa Fe County.

MR. LARRAÑAGA: Santa Fe County, they pay ten percent, if they're employed, of their net pay, if they're employed.

COMMISSIONER CAMPOS: Ten percent for this service.

MR. LARRAÑAGA: Yes, sir.

COMMISSIONER CAMPOS: It doesn't matter what our cost is, it's just ten percent of their income. Are you making a profit?

MR. LARRAÑAGA: We're - some profit, because not every client is paying to be on this program.

COMMISSIONER CAMPOS: I think we need to look at it, Commissioner Sullivan. I don't think we should be making a profit and it shouldn't be ten percent. It should actually reflect actual cost, even if it's used to pay for non-payers, it shouldn't be ten percent. I think that's too much.

CHAIR VIGIL: Perhaps we could, Mr. Abeyta, look at our current fee schedule and identify possible alternatives for increased services and increasing services and equity.

MR. ABEYTA: Madam Chair, we'll do that.

CHAIR VIGIL: Okay. Any further questions?

COMMISSIONER SULLIVAN: Madam Chair, move to table until the - let's see when should we table this to?

CHAIR VIGIL: The need for the \$25,000 is current though, isn't it?

COMMISSIONER SULLIVAN: Well, the need for the \$25,000 is to do more of the same at rates which I think are too high and I don't support that. I think we need to table this and come back with an amendment that includes the \$25,000 but may also include a revised rate schedule.

CHAIR VIGIL: I have a motion to table. Roman, would you like to address that?

MR. ABEYTA: Madam Chair, what we can do is we can table this and we'll do the analysis between now and when we have the discussion at the January administrative meeting. In the meanwhile, if there is a real need for the \$25,000, then I'll put it back on the agenda for December. But because it's only \$25,000, I think if there is an emergency we could probably accommodate that.

COMMISSIONER CAMPOS: Second.

CHAIR VIGIL: Okay. There's a motion to table and a second.

The motion to table passed by unanimous [5-0] voice vote.

CHAIR VIGIL: We will come back at 2:00 and begin with the other items from the Consent Calendar.

[The Commission recessed from 12:30 to 2:20.]

CHAIR VIGIL: We shall reconvene this meeting of November 27, 2007. We'll continue with the Consent Calendar and then go back to Matters from the Commission if any of the Commissioners have any matters they'd like to bring forward.

XIII. C. 2. Resolution No. 2007-194. A Resolution Authorizing the Surplus of Fixed Assets in Accordance with State Statutes (Growth Management Department)

CHAIR VIGIL: Teresa, thank you for being here. You probably get this question asked every year, but if I'm recalling correct, this was an item on the agenda that involves vehicles. Is that correct?

TERESA MARTINEZ (Finance Director): Madam Chair, that's correct. They're all vehicles.

CHAIR VIGIL: Okay. And do these go to the state for bidding or where do they go?

MS. MARTINEZ: In this particular case, Madam Chair, they are all in such poor shape they're going to a junkyard. These have either been in vehicle accidents, and two of them are the vehicles that were burned from the Assessor's office, so there'll be no bidding process.

CHAIR VIGIL: Okay. Okay. That explains their devaluation. Thank you so much, Teresa. I move to approve Resolution 2007-194.

COMMISSIONER CAMPOS: Second.

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I just wanted to say that in the future, if we do have vehicles that are operable, before we send them to a state auction, can we put them on the NMAC website, just in case other counties possibly might need a vehicle or a fire engine or whatever?

MS. MARTINEZ: Madam Chair, Commissioner Anaya, I think a couple meetings ago you asked us to do that, so any vehicles that have any value, as well as routing the information to our internal staff, we are going to work with the Association of Counties to get that information out better.

COMMISSIONER ANAYA: Thank you, Teresa. Thank you, Madam Chair.

CHAIR VIGIL: Thank you. We have a motion and a second.

The motion to approve Resolution 2007-194 passed by unanimous [4-0] voice vote. [Commissioner Montoya was not present for this action.]

XIII. C. 5. Request Approval of Amended Grant Agreement Between Santa Fe County and the Department of Finance and Administration for Legislative Reauthorized Appropriations in the Amount of \$6,365,086.64 (Community Services Department)

CHAIR VIGIL: Joseph, this seemed to me like it included projects from last year. Were they all just from 2007?

JOSEPH GUTIERREZ (Community Services Director): Madam Chair, no. Some of these projects are old projects and what they are is we went to the legislature to reauthorize them with different language to either include manufactured housing or equipment, those types of things. So that's part of these draft agreements. So they are previous agreements before 2007. Some of them also need grants.

CHAIR VIGIL: Okay. Is this a comprehensive list of all the allocations we receive.

MR. GUTIERREZ: Madam Chair, that is a list of all of them to date, that we've received.

CHAIR VIGIL: I had a concern when I looked at the volume of them. Is your department capable of managing this volume?

MR. GUTIERREZ: Is that your question?

CHAIR VIGIL: Let me just make this statement. It seemed to me that this was quite a volume of projects, some of which had smaller amounts of dollars and some which had larger amounts of dollars. I do have a concern as to whether or not our Projects and Facilities, and your division, Community Services as a whole, is able to manage these. I think as a result of that we need to look at taking a position, and I know the Association of Counties is looking at this, with regard to counties and local government entities becoming fiscal agents for non-profits.

It seems to me that either we decide we are, or we're not, and we haven't made a policy decision with regard to that, so we've been operating under - if we receive [inaudible] but we actually need to be able to discuss the issue of administrative costs, that that's entailed and the manpower it involves too. I cannot imagine that your department or even your entire Community Services Department would be able to manage these projects in the amount of time that they're required to, because they do have deadlines.

So I don't know. Perhaps when we're talking about our legislative agenda we can bring in the Association to see what position they're taking on this. I think Bernalillo County has taken a position. I don't want to represent it until we learn from the Association who they're approaching the legislature with this. Do you have an update on that, Roman?

MR. ABEYTA: Madam Chair, I wanted to update the Commission that we have been working on both a resolution and a letter that would accompany the resolution that outlines the entire process. Because when we started speaking with our delegation, they didn't understand and realize everything that was involved when they give money to

these non-profits. So we've been working with Legal to put everything down in writing, which some of them have asked for and they said that what they would be willing to do is when they are approached by a non-profit, to send the non-profit - give them the letter from the County that says this is what's required and go to the County and seek approval from the County first, because this is what's involved in that.

So we have been working on this, both this summer and now towards the end of the year and we hope to have a resolution when we have our meeting in December with the Commission that outlines the process. So at least before we get to the point where we make a policy decision, there's a clear understanding of everything that's involved. Because what we found is there isn't really an understanding, not only amongst our delegation but also the non-profits. So we're working on this.

CHAIR VIGIL: Okay. And on that point, Mr. Abeyta, do we have an update on a legislative reception and when we'll be meeting with our delegation for the next session?

MR. ABEYTA: We're trying to coordinate the dates now through the Manager's office, so you should be seeing an email requesting times that you'll be available. Naomi is working on that.

CHAIR VIGIL: Okay. Thank you. Thank you, Mr. Gutierrez. I want to make a motion to accept item C. 5 of the Consent Calendar.

COMMISSIONER SULLIVAN: Second.

CHAIR VIGIL: Any further questions?

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

XIII. C. 7. Request Authorization and Acceptance to Amendment No. 1 of the Agreement Between Santa Fe County and Presbyterian Medical Services for Grant Number 07-L-G-5493 by NM DFA Funded in the Amount of \$80,000 to Purchase Equipment and Furnishing for the Community Mental Health Center (Community Services Department)

COMMISSIONER SULLIVAN: Madam Chair, my question on this was it's an addition of \$80,000 to this agreement for additional equipment and furniture for the Head Start program, and then the grant agreement that's a part of this in the packet is for a \$5,190,067 appropriation between Local Government Division of DFA and Santa Fe County. I didn't quite understand how that fit into this agreement with Presbyterian Medical Services.

MR. GUTIERREZ: Madam Chair, Commissioner Sullivan, the previous item, item 5 is actually - you have previously approved a little over \$5 million of these

grants. DFA just wanted us to give them reapproved with authorizations of one million. That was item 5. This \$80,000 is part of that. With your approval of item 5 we're asking on item 7 for approval to a current agreement that we have with Presbyterian Medical Service for their Head Start program. In a previous year we received \$126,000 to purchase equipment for the Head Start schools, and what we did is we have a contract with Presbyterian by which we assist them in procuring items for Head Start playground equipment and other things, up to the amount listed in the grant agreement. They use them; we put them on inventory and they pretty much will use this equipment until they're fully depreciated. And if they were to close up the program then those assets would return to the County at this point.

So we've done this with \$126,000 on a previous appropriation. This \$80,000 is an amendment to the current agreement we have with them, based on a 2007 special appropriation by the legislature. And we plan to do the same thing with this \$80,000.

COMMISSIONER SULLIVAN: Okay, but the agreement that's in the packet was already signed by the chair on May 6, 2007, and the exhibit to it, talks about \$80,000 to purchase equipment and make improvements to the Head Start program. So hasn't this already been approved? I'm looking at page 8 of 12.

MR. GUTIERREZ: Madam Chair, Commissioner Sullivan, you're correct. The agreement with DFA has already been approved and I don't know the logic of DFA for doing this but they asked us to get reapproval of the list that you had, because they wanted the \$1 million to be approved with the \$5 million. But previously we did approve the grant agreement with DFA, so we'll go with that process one more time. Item 7 is an agreement with Presbyterian to expend those \$80,000.

COMMISSIONER SULLIVAN: Right. And that's not in the packet, is my problem. There's no agreement with Presbyterian in the packet.

MR. GUTIERREZ: Madam Chair, Commissioner Sullivan, you're correct. Our contract specialist, Randy Herrera was going to come and give you a copy of that. I understand that the agreements don't usually make the packets.

COMMISSIONER SULLIVAN: I like to see them in my packets. I don't know about the other Commissioners. I don't know what terms there might be in the agreement. This seems to be a fairly straightforward one. What's this? Oh, that's the agreement. Well, I don't - now is probably not a good time to read it while everybody is waiting for us to do other business here. Maybe I'll read it while something else is going on here and Madam Chair, we can come back to this.

CHAIR VIGIL: The only thing, Commissioner Sullivan, is that the next two items on the agenda are yours.

COMMISSIONER SULLIVAN: Okay. So I can't read it while I'm -

CHAIR VIGIL: I can, while we're waiting, you can read it and we can loop into Matters from the Commission and ask Commissioners if there are any matters they'd like to bring forth.

X. OTHER MATTERS FROM THE COMMISSION

CHAIR VIGIL: Commissioner Anaya, do you have any?

COMMISSIONER ANAYA: Madam Chair, just one, and that is the recent Ojo Peak fire in Torrance County. I'm glad to hear that we had sent some firefighters from Santa Fe County to help them out and anytime that there's a disaster in New Mexico where we can send our employees or anything to help them out I would appreciate that. But I wanted to thank staff and the firemen and the County Manager for doing that. That's all I have, Madam Chair.

CHAIR VIGIL: Commissioner Campos.

COMMISSIONER CAMPOS: Not at this time.

CHAIR VIGIL: I do have a couple of matters but before I bring them up I would like to recognize Pablo Sedillo from Senator Jeff Bingaman's office. Mr. Sedillo, welcome. Would you like to address the Commission on any matters from Senator Bingaman's office?

PABLO SEDILLO: Thank you, Madam Chair, Commissioners. Actually, it's maybe a personal response to Commissioner Campos in regards to the energy bill that's coming before the Senate. I'd just like to inform the Commissioners that that is a very hot issue. There's some matters before the senate that certainly are going to have a great impact in New Mexico if they take away the tax credit for alternative energy and solar energy. So I just want to share with the Commission that Senator Bingaman is in favor of that but these days in Washington it is a very tough thing to get anything passed. That was they only thing I wanted to comment on unless you had any other questions you might want to ask.

CHAIR VIGIL: Commissioner Campos.

COMMISSIONER CAMPOS: A quick question, Mr. Sedillo. Do you know how Pete Domenici is leaning on this issue of the renewable credits?

MR. SEDILLO: I think he's in favor of that. I would say that it would help if you would send your concerns to Senator Bingaman as well as to Senator Reid. They're the ones that are in the Senate. Senator Reid is holding back on some of those amendments that are coming in from the House. So I would let Senator Bingaman know about your concerns. And I've heard a number of concerns from New Mexico on the issue, the PRC and some of other constituents. Thank you so much for recognizing me and the Senator, Madam Chair.

CHAIR VIGIL: Thank you for being with us today. Are you ready, Commissioner Sullivan, to go back. And I reserve the right for Matters from the Commission for you, Commissioner Montoya, and myself. Are you ready?

COMMISSIONER SULLIVAN: Yes, I'm ready. I thought you were -

CHAIR VIGIL: I'm looping the agenda to accommodate you, Commissioner Sullivan.

COMMISSIONER SULLIVAN: Thank you.

CHAIR VIGIL: You're welcome. We're back on the Head Start item.

- XIII. C. 7. Request Authorization and Acceptance to Amendment No. 1 of the Agreement Between Santa Fe County and Presbyterian Medical Services for Grant Number 07-L-G-5493 by NM DFA Funded in the Amount of \$80,000 to Purchase Equipment and Furnishing for the Community Mental Health Center (Community Services Department)**

COMMISSIONER SULLIVAN: Right. I took a quick look at the agreement and it seems to be fairly routine and it does have the County Attorney's signature on it. I assume that it's in good shape. So I would move for approval of item C. 7.

CHAIR VIGIL: Motion. Is there a second?

COMMISSIONER CAMPOS: Second.

CHAIR VIGIL: Is there any further discussion?

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

- XIII. C. 8. Consideration of Amendment No. 5 to the Customer Contract for Commitment of Water Service by and Between Santa Fe County (County) and John J. McCarthy (Customer) Extending the Term of the Agreement an Additional Year (Growth Management Department)**

COMMISSIONER SULLIVAN: Madam Chair, this item came up at our last meeting and we tabled it for a couple of issues, one of which was the agreement wasn't in the packet and it's still not in the packet. But the other was some lack of clarity on the staff report, which says the customer has requested that the County agree to amend language in Article II that provides for termination of the agreement in the event the customer fails to obtain preliminary plat approval or otherwise amend the water service agreement by December 28, 2007, which to me seems to indicate that the applicant was asking that we simply eliminate the provision that allows for termination of the agreement.

During the discussion last Commission meeting on this, and it's in your minutes if you'd like to refer to it, the staff report was that the applicant was requesting a one-year extension. I don't see that anywhere here but we can clarify that now. And then the other comment that I brought up at the time was that we needed to update any amendments to make them consistent with our current policies and this staff report does say that the

County has requested that the reference in the customer contract to the line extension policy be amended to refer to Resolution 2006-57. And as I recall, when we discussed this last month there was no indication from the applicant that they were in agreement with that.

So I guess there's two things we need to resolve here. One that they're in agreement with that amendment to the amendment, and the other, we need to clarify what term of extension that they're requesting and what for.

CHAIR VIGIL: Can you do that for us, Mr. Sayre?

MR. SAYRE: Madam Chair, Commissioner Sullivan, I think most of this has really gone to Legal and they need to comment about that. But there is a provision for a one-year time extension. What's going on here is their time is up as of I think December 28, 2007, they needed to submit. They have submitted most of the documents. They just wanted to be safe about I think that there wasn't any problem about this requirement and that why the one-year time extension.

On the other items I think I would defer to Steve Ross for the discussion on that, about that, but I thought most of those items were going to be corrected or looked into by the Legal Department about those aspects.

COMMISSIONER SULLIVAN: Mr. Ross, is there anything you want to add about that or the amending to refer to Resolution 2006-57?

MR. ROSS: Madam Chair, Commissioner Sullivan, I regret that the amendment, which I have right in front of me didn't make it into the packet. I thought it had. It would have resolved a lot of these questions. The amendment only does two things. It amends the provision in the termination provision in the original contract that provided for termination this year at the end of the month, at the end of December, if a preliminary plat were not submitted for approval pursuant to our long-standing agreement with the State Land's project. And the second thing it does is update the reference to the line extension policy which we now call - I think it's the water resources - I can't remember what it's called. 2006-57 is our most current resolution that governs operations of the Water and Wastewater Division with respect to customers. Those are the only two changes that were made in the agreement that I have in front of me.

COMMISSIONER SULLIVAN: And I missed it. What was the extension period?

MR. ROSS: Just one year.

COMMISSIONER SULLIVAN: One year.

MR. ROSS: It would now terminate, if you approve this amendment, December 28, 2008.

COMMISSIONER SULLIVAN: Okay. All right. I think that answers my questions, Madam Chair. And I presume that the applicant is in agreement with those changes.

MR. ROSS: Madam Chair, Commissioner Sullivan, the applicant is shaking her head.

COMMISSIONER SULLIVAN: The applicant is shaking her head. That would be Ms. Rosanna Vazquez, representing the applicant.

MR. ROSS: Mr. McCarthy.

MS. VAZQUEZ: Good afternoon. We are in agreement with the amendments in amendment number 5.

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

CHAIR VIGIL: Any further questions? What's the pleasure of the Commission?

COMMISSIONER MONTOYA: Move for approval.

CHAIR VIGIL: Motion. Is there a second?

COMMISSIONER ANAYA: Second.

CHAIR VIGIL: Any further discussion?

The motion passed by unanimous [5-0] voice vote.

XIII. C. 11. Consideration and Approval of the Stipulated Judgment and Settlement Agreement by and Between Homewise, Inc., the City of Santa Fe, and Santa Fe County (County Attorney)

COMMISSIONER MONTOYA: Thank you, Madam Chair. My questions were answered. I move for approval.

COMMISSIONER ANAYA: Second.

CHAIR VIGIL: Any further discussion?

The motion passed by unanimous [5-0] voice vote.

XIII. C. 18. Request Approval and Execution of NMED Grant Agreement and the Adoption of Resolution No. 2007-195. A Resolution Designating Grantee Signature Authority and Project Representative for the Santa Fe County Sombrillo Area Sewer System \$350,000 SAP 07-4576-GF (Growth Management Department)

COMMISSIONER SULLIVAN: Thank you, Madam Chair. This appears to be a fairly straightforward item on the agenda, just to establish signature authority. But in reviewing the fiscal impact report that the County staff did, one of the comments, and I'm looking at that on page 4, if you want to follow it, from the review, and I'll quote, "It seems that an MOA with either the City of Española or the Sombrillo Water Association

should be executed prior to spending any funds on the sewer line to ensure maintenance of the sewer line does not end up with the County.” That seems like a pretty good idea to me, so I thought I would ask about that, Mr. Sayre.

MR. SAYRE: Madam Chair, Commissioner Sullivan, I think that was put in there based on some concerns that we had with our meeting. Presently, what’s going on is the following. We talked to NMED and we want to go out with a PER feasibility study to say what is the most feasible way to go. We don’t know that the MOA or MOU would be the most, I guess, feasible way to dispose of wastewater at the present time. I think we did that saying that that was going to be necessary and maybe we’d have a little bit prior to what was going to be required on this grant. In order to accept the grant we need to move forward with that so we can get the PER done and then we can relate to that particular item on that FIR.

COMMISSIONER SULLIVAN: So, will you then just go as far as the PER and then bring that back to the Commission and determine if there should be a MOU with Española and with the Sombrillo Water Association?

MR. SAYRE: I think that would be a very good point. The question came about is what the PER should do is establish whether we should go to Española with wastewater, discharge from all that area, or we should go to Santa Clara, or whether we should look at an onsite combination, maybe onsite plan and cluster system in the area. That’s what we want to determine. So I think, yes, we would come back to you and say whatever the study indicates, we’d come back and say we need an MOU with the respective agency where we need to dispose of the wastewater.

COMMISSIONER SULLIVAN: Does the Sombrillo Association have the ability to manage and maintain a sewer plant?

MR. SAYRE: Commissioner Sullivan, presently, I don’t believe Sombrillo is an organization that can manage this. There is no association. That is why the County would have to do this, build it, and then similar to what we do, say, in the Agua Fria area, where we would turn it over to that respective agency for operation and maintenance, or we would look at whether we could do it ourselves.

COMMISSIONER SULLIVAN: Because it just makes reference to the Sombrillo Water Association and in order to operate a sewer system they would probably have to be a water and sanitation district, wouldn’t they?

MR. SAYRE: I think that’s why we – I think we tried to cover a lot of bases on this, with what we said with the FIR, and we probably didn’t cover it exactly in the proper way.

COMMISSIONER SULLIVAN: I think it’s a good FIR. It brings out the issues.

MR. SAYRE: We need to do a PER to say what’s the most feasible way to go on this whole thing. If they need to form a water and sanitation district then it should be done. If we can go to Española, that’s probably a very practical way also. If it can be pumped over the Santa Clara Wastewater then we’d have to work out something with Santa

Clara.

COMMISSIONER SULLIVAN: Okay, so we're not going to blast ahead with \$350,000 and start building sewers and so forth until we figure out first of all, who is the Sombrillo Water Association? And second of all, who's going to maintain and operate this facility?

MR. SAYRE: Correct. Correct. That's what we do.

COMMISSIONER SULLIVAN: Okay. That answers my questions, Madam Chair. I don't know - I see Commissioner Montoya is not here. He might have had something else to add to that. Oh, here he comes. Let me just ask him. Commissioner Montoya, what's the status of the Sombrillo sewer system proposal? We're on that item now.

COMMISSIONER MONTOYA: Madam Chair, Commissioner Sullivan, we have a PER that's going to be done by - we're looking at the middle of January.

MR. SAYRE: Excuse me, Madam Chair, Commissioner. We'd hope to complete that by early spring, I think. We're trying to get an engineer on board to do it by January.

COMMISSIONER MONTOYA: So has that been put out to bid? My understanding is that was going to be done by the middle of December.

MR. SAYRE: Madam Chair, Commissioner Montoya, we're going out for proposals presently, so that's the status we are. And then hopefully we can get that done by early January and get an engineer on board shortly after that.

COMMISSIONER MONTOYA: And then the plan, after that, Commissioner, is to meet with the community. We've had two previous meetings with the community already. So they know that this is in the works. This funding is a piece of what we have in place. We have another \$500,000 that we're hoping to get reauthorized to include - right now, the other \$500,000 just says water. It should have said water, wastewater, so it was an error when they drafted the legislation. So we're trying to get that amended to include wastewater. So it will either happen this legislative session or administratively. So we have a total of about \$850,000 towards the Sombrillo wastewater project.

COMMISSIONER SULLIVAN: Madam Chair, Commissioner, has there been discussions of who would maintain the system once it was built?

COMMISSIONER MONTOYA: The County. We would.

COMMISSIONER SULLIVAN: Do we really want to do that?

COMMISSIONER MONTOYA: I think we've talked about becoming a full-fledged utility system.

MR. LUJAN: Madam Chair, Commissioner Sullivan, if we go to either one of the entities, the City of Española or Santa Clara, we would be a customer. The system, the lines and stuff, we would maintain within the county's boundary. The rest of the stuff would go to either - and I don't think a cluster plan is going to work because we're so close, very, very close to the City of Española or Santa Clara. We would be a customer of

theirs and we would maintain our lines through our utility department.

COMMISSIONER SULLIVAN: And so an association won't be created to maintain those lines. This will be a Santa Fe County utility.

MR. LUJAN: This would be a Santa Fe County utility. We would be a customer of either the City of Española or Santa Clara Pueblo and we would pay them. And we've talked about working with them. Because it's so close to their boundaries, they may maintain the lines or whatever we work out. But we would be a customer of them. And the people paying their fees would go back to that entity.

COMMISSIONER SULLIVAN: Then how do we collect revenues to maintain the lines?

MR. LUJAN: That is still not figured out. We haven't gotten that far. This will all come through with the feasibility study.

COMMISSIONER MONTOYA: Yes.

COMMISSIONER SULLIVAN: Because if we're a customer, like we are with the City of Santa Fe in water, and they charge us a rate to treat the sewage, but we still have to maintain the lines that are outside the City of Española, let's say. How do we get paid for that?

MR. LUJAN: That is not worked out yet. That's still something that we will work out with the City of Española and/or Santa Clara Pueblo.

COMMISSIONER SULLIVAN: But it would seem like them that either of them would be the entity that would work it out. They're just receiving the sewage. It would seem that we need to create a district that could be assessed.

MR. LUJAN: Well, in the area of Sombrillo, there's a portion of the city limits that are in there that they're going to want to tap into and get their city residents also in the sewer line. The main trunk line would probably come to the County for customers that are in the city limits that go through our trunk line. So it's a very complex area if you've seen the map. It's inside and outside the city limits.

COMMISSIONER SULLIVAN: Is there any discussion that the rest of Sombrillo would be annexed by Española?

MR. LUJAN: There's been a discussion of that, yes.

COMMISSIONER MONTOYA: There has been. And they've removed it from further discussion.

MR. LUJAN: They took it off there right now. And even into the Arroyo Seco area. But we've also looked at the feasibility of it running through the [inaudible] County utility. And us being - that they would charge us at the end.

COMMISSIONER SULLIVAN: It seems a little premature to take it off the agenda if we haven't even looked at the alternatives of how to pay for the line maintenance.

MR. LUJAN: That would just be with the annexation. Nothing to do with the sewer line.

COMMISSIONER SULLIVAN: In the areas where Santa Fe County has

sewer service we change people sewer rates and that pays for the sewer service and the treatment and upgrades and so forth. We seem to be missing that component of that.

MR. LUJAN: We will work that – the same component.

COMMISSIONER SULLIVAN: Okay. Whew. \$850,000 trust thing. But I think what you're saying is we're not going to spend this money until we review the PER and determine what the County's role is, if any, in the operation and maintenance.

COMMISSIONER MONTOYA: Exactly.

MR. LUJAN: Those agreements will come back to the full Commission.

COMMISSIONER SULLIVAN: I just don't want to get 100 yards down the line and then suddenly say, well, you agreed –

MR. LUJAN: Those agreements will come back to the full Commission.

COMMISSIONER MONTOYA: I won't let that happen.

COMMISSIONER CAMPOS: Neither will I.

COMMISSIONER SULLIVAN: Trust me. Well, you know what the former president used to say.

MR. SAYRE: I think you brought up some good points. That's part of what we need to study and say, what's feasible here? How do we look at the cost of the system and how it's going to be charged out and maintained. So it's a good point.

COMMISSIONER SULLIVAN: Trust but verify. Okay. I would move for approval, Madam Chair, of the resolution for grant approval, signature authority and project representatives for the Santa Fe County/Sombrillo area sewer system.

COMMISSIONER MONTOYA: Second.

CHAIR VIGIL: Any further discussion?

The motion passed by unanimous [5-0] voice vote.

CHAIR VIGIL: Thank you, Mr. Sayre.

MR. SAYRE: Do I understand 20's also –

CHAIR VIGIL: No.

COMMISSIONER SULLIVAN: Yes, 20 is.

CHAIR VIGIL: 20 is yours? Hang around, Mr. Sayre.

XIII. C. 20. Request Approval and Execution of NMED Grant Agreement and the Adoption of Resolution No. 2007-196, A Resolution Designating Grantee Signature Authority and Project Representative for the Stanley Fire Department Water System & Equipment \$150,000 SAP 07-4587-GF (Growth Management Department)

COMMISSIONER SULLIVAN: Madam Chair, I just couldn't pick on the northern part of the county without picking on the southern part. Notice I'm not picking on

my own district here today. Madam Chair, I was wondering what this project was, looking at the fiscal impact report, it says that we've got \$150,000 plus a previous grant of \$100,000, yet there may still be a need for additional legislative funding. So do we have a project here or don't we, and if so, what's it going to be?

MR. SAYRE: Madam Chair, Commissioner Sullivan, I think what is going on here is originally the project was just to look at having additional storage with a fire line out from that storage, say, out past the County road. Now, when they got this additional funding they're now talking about having a fire line extended through, down to Highway 41, as well as back, so there's a more extensive system and that they would have fire flow in those lines, rather than just gravity flow from a tank. They would have 500 gallons a minute of fire flow.

So in that respect we were trying to look at this, and I couldn't tell from what was given to us as the new scope, whether we were going to need additional money or not, and that's one thing that we'll go ahead and look at as far as the cost. The cost is out now, and look at what's feasible and whether we need to go to the legislature for more money. But we got this grant and I wanted to move it forward so that we've got agreements that we would look at how best to serve the Stanley fire department.

COMMISSIONER SULLIVAN: So it's the additional fire storage, fire lines, and I assume fire hydrants?

MR. SAYRE: Yes. As well as a fire pump, to get the 500 gallons a minute that they want to have.

COMMISSIONER SULLIVAN: And it says that this is a four-year grant which expires June 30, 2011. This project will be turned over to the Stanley Fire Department for operations and maintenance. So this line, will it be several miles long?

MR. SAYRE: I think it's probably just a quarter of a mile.

COMMISSIONER SULLIVAN: Quarter of a mile.

MR. SAYRE: Yes. It comes out from the Stanley fire station and goes across and I forget - the County road that's right next to the fire department. Maybe Commissioner Anaya can help me. And then it would go east and west. West is probably as I estimate it, I think about 600 feet down the Highway 41, and then probably back another say 200 or 300 feet to the west. So it's probably in the vicinity of maybe 800 feet total water lines.

COMMISSIONER SULLIVAN: So these would be on County rights-of-way?

MR. SAYRE: Yes.

COMMISSIONER SULLIVAN: So then we have lines on County rights-of-way. Are we going to make an agreement? Is there going to be an agreement for an easement to the Stanley fire department? Or is this going to end up ultimately as being a County-maintained system?

MR. SAYRE: Well, you bring up a good point. If we can put the lines in in the County roads, that would be by permit. We would just talk about permit with the County

Public Works Department like we do normally for any water lines, whether it's City, County or any utility lines. That portion that we talked about operating and maintaining, we probably could work out an agreement with the Stanley Fire Department. Maybe the Chief here can chime in.

CHAIR VIGIL: Chief Holden, do you want to chime in?

CHIEF HOLDEN: I do. Thank you, Madam Chair, Commissioner Sullivan. The Stanley Fire Department is not an entity unto itself. It is a division of the Santa Fe County Fire Department, which is the Santa Fe County. So it is us. Operationally, all we're talking about there is the funds to maintain the system would come from their district funding that they get from the state fire fund. Now, at some future point down the road, five, ten years, if the County Utility Department is in such a place that we begin looking at taking these smaller fire protection systems that we're putting in place and putting them into community water systems, we're certainly more than open to have that discussion. We don't want to be in the water business, quite frankly, Commissioner. We only do it out of necessity. And we're trying to install these systems in certain areas of the county to try to improve our fire flow, to protect not only these very small villages in this particular respect, but a much larger area as a result of having this water storage and the water pressure to meet fire suppression needs.

COMMISSIONER SULLIVAN: So the actual maintenance, Chief Holden, would end up in Doug Sayre's lap, but the funding for it would come from the fire impact funds that that district receives. Is that the plan?

CHIEF HOLDEN: From the fire protection fund.

COMMISSIONER SULLIVAN: Fire protection. What's the difference?

CHIEF HOLDEN: Fire protection funds come to the County from the state general fund. The funding source is taxes that are assessed on our homeowners insurance proceeds. A portion of that tax goes into the general fund. Then it gets assessed to the state fire protection fund, which is then distributed to all the fire departments and districts across the state of New Mexico, based on their ISO, their Insurance Service Organization rating. The lower their rating the more funding they receive. The lower rating is dependent, 40 percent of that rating is dependent on your capability to have water storage and water delivery in your fire district.

What we're trying to accomplish is to increase the amount of water storage and suppression capability that we have in the Stanley fire district, ask the ISO then to come in and do a secondary evaluation of the Stanley fire district, reduce the Insurance Service Organization rating for the fire district, which then translates to smaller premiums that homeowners pay for their insurance.

COMMISSIONER SULLIVAN: Provided you've got someone full time to operate the system. You can't have a part-time system.

CHIEF HOLDEN: Well, sure. Certainly. And we're not asking to try to put in miles and miles of system. This is not beyond the scope and capability of the fire district and fire administration to oversee. We have a number of similar type systems spread throughout the county now. But like I said, we don't do this because we want to be in the water system. We

certainly don't want to be. But it's a necessity based on how we put out fires. We put out fires with water, and in those communities that don't have water storage systems we try to work it out with state legislators and others to try to obtain the funds in order to put these systems in.

COMMISSIONER SULLIVAN: Okay, then, just to summarize it then, this is really a County system, and the only thing where we're talking about the Stanley fire department maintaining it is going to be the fact that through these funds they're going to reimburse the Water Resources Department for physically going out and maintaining and repairing lines or hydrants or tanks or booster pumps or whatever is necessary to keep the system operational.

CHIEF HOLDEN: That's correct.

COMMISSIONER SULLIVAN: As long as we're clear this is a County system. This is not a separate fire department system.

CHIEF HOLDEN: That's right.

COMMISSIONER SULLIVAN: Okay. I wasn't aware that we were doing that. It's an interesting concept.

CHIEF HOLDEN: Just to give you another example, in the Chimayo area we've had similar concerns. Chimayo has been a fire district rated as a nine ever since its inception. We have struggled with improving the ISO rating in the Chimayo area and it's only now, secondary to our partnership with the new water co-op up there that we provided, the County has provided access to land, and the County Fire Department, through the County has provided funding for fire hydrants on that new system that we're now in a position that we'll be able to lower that nine to a seven or a six, which has been my goal since I've been here.

COMMISSIONER SULLIVAN: And in that case, are the lines and hydrants maintained by the co-op or by the County?

CHIEF HOLDEN: In that particular instance, the lines, the tanks, the fire hydrants - everything is the responsibility of the co-op to maintain.

COMMISSIONER SULLIVAN: Okay. So that's a little different to what we have here. Here the County will be responsible for -

CHIEF HOLDEN: The funding source, from the Fire Department is the same.

COMMISSIONER SULLIVAN: I understand. The funding source is coming from these fire protection funds. Thank you, Madam Chair.

CHAIR VIGIL: Thank you. Anything further? What's the pleasure of the Commission?

COMMISSIONER ANAYA: So moved.

COMMISSIONER SULLIVAN: Second.

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

X. OTHER MATTERS FROM THE COMMISSION

CHAIR VIGIL: I'll reserve Commissioner Montoya's opportunity to address the Commission. Commissioner Sullivan, do you have any items for Matters from the Commission?

COMMISSIONER SULLIVAN: Just one item, Madam Chair. I've already talked about the meeting out in Eldorado regarding the oil and gas drilling and thanked people who participated in that. I just wanted to alert the Commission that I did attend a tour of the jail along with the Jail Advisory Committee members and Annabelle Romero two weeks ago. I think this is the first time that the Jail Advisory Committee had toured the facility in some time and they've also had some changes in their membership there as well. I think the jail is making improvements. I couldn't tell too much from the tour itself. The tour was fairly superficial and not really in-depth, so I can't say that we've addressed every problem with regard to medical records and that type of thing.

I did talk with Ms. Romero and of course, I'm always impressed with her energy and insight. I think perhaps there could be some more coordination between the jail and the sobering center. It seems like we don't have that connection quite worked out yet, and Ms. Romero did also talk to me about the issue of some inmates coming in are being released to the jail in states of inebriation and drug intoxication that she had to refuse. And apparently we need to do some work on that. The criteria for admittance has got to be uniform. Apparently it's happening in one particular area so it's not a universal problem but that's what's putting some stress on the system as well. Maybe Mr. Shepherd, Madam Chair, could address that.

MR. SHEPHERD: Madam Chair, Commissioner Sullivan, there's a meeting this Friday between the jail, the sobering center, and the hospital to address that issue. So we're working on it.

COMMISSIONER SULLIVAN: Okay. Good. Because it seemed like there was a disconnect there in that regard. But I just wanted to let the Commission know that some progress does appear to be happening out there at the jail. Thank you.

CHAIR VIGIL: On that matter, if Mr. Shepherd advised that perhaps law enforcement be a part of these communications, because of course their directive is if they see a misdemeanor or a felony they're directly required to take those prisoners, take them to the jail as prisoners, as inmates. We're dealing with different institutions' directives here so the communications need to be looped.

MR. SHEPHERD: Madam Chair, I believe the Sheriff's office and the City police are going to be there as well. There is a little bit of a disconnect. You're right, Commissioner Sullivan. And there's a problem that the sobering center can't take violent patients. The jail can't take them if they're too drunk. The hospital doesn't want them either way. So we're going to try to work out that disconnect.

CHAIR VIGIL: Okay. Anything further, Commissioner Sullivan?

COMMISSIONER SULLIVAN: No, thank you.

CHAIR VIGIL: I do have two items under Matters from the Commission. First of all, I do want to say that on the subject of the jail, I did attend the correction officers' graduation and I believe there was close to 30, Mr. Abeyta, correction officers that graduated. These were youth detention corrections officers and adult detention corrections officers. The ceremony was actually very well coordinated and well done. The speakers did an excellent job. The guest speaker was our County Manager who was a highly motivational speaker and I think did a wonderful job addressing our corrections officers, many of whom are young like him. So I think that created a strong sense of identity with the success our County Manager has had. I just wanted to congratulate Annabelle and all the staff who worked on that. They provided a reception for them after. I think it was a wonderful welcome for our new corrections officers.

The next item that I will bring forth, and I want the Commission's input on this. I and I think some of the other Commissioners have been working with staff and staff has been working quite diligently on this particular project. This has to do with the first judicial complex and the issue that has come before us with regard to resolving the parking issue that we have, not only with the first judicial complex but with the DA's office and with County employees.

We met with General Services Department yesterday, and Joseph, do you want to give a summary of that meeting? They are actually moving forward. They have partnered with Legislative Council Services. Legislative Council Services will be the operator or be the operational entity on this project. We have a window of opportunity, maybe, to partner with the state if we're able to go before the Capital Projects Committee and get their support. That window seems to be closing because I think action wants to be taken on this at the 2008 legislative session. But we haven't had the opportunity as a Commission to give staff direction to continue working on this and I think staff needs that direction. Is there anything you think is a critical piece in this project? You might be able to identify your need for it.

MR. GUTIERREZ: Madam Chair, members of the Commission, like the chair mentioned, the state is looking to build a parking lot across the street from the Bataan Building. They have an appropriation of \$12 million and their goal is to obtain 400 parking spaces. We've approached them and asked them if they would consider adding another 200 parking spaces to their 400-space plan and that we would contribute some additional dollars to have a long-term investment in infrastructure for the County for parking. The original thought was that we would use this for the courthouse parking and maybe we could accelerate the schedule for the courthouse.

We had also met with the Speaker with Commissioner Montoya and the Speaker is very supportive of a partnership between Santa Fe County and the state in this venture. Since we're moving along - we're on schedule with the courthouse, it needs to be seen whether we can use that parking for the courthouse. We're still looking at close to 200 spaces at the courthouse. One of our challenges in the project area is we constantly are challenged to secure parking for County staff and County functions and those types of

things. We're either working with leases with the City or private individuals and those types of things. So any time that we can secure a long-term parking arrangement with a public facility, I think it's in the County's best interest to proceed along those lines, especially in the downtown area. Because right now we don't have a County parking facility. We approached the City when the current County Manager was the deputy manager at the city and we did not receive any validation that they're willing to participate.

We talked to the City about the railyard project. They did not come forward with any representation that they wanted to partner with the County at that point. So the state is still open to that. They plan to go out to bid in late January, during the session for this project. And they're looking for some kind of maybe continued dialogue and commitment from the County to see if we would be interested in increased 400 to 600 spaces and those current spaces would be County spaces. We can always use that for County employees. We can use that for overflow at the County courthouse, the new courthouse facility, and maybe we can consolidate our parking to a certain area. But that's the option at that point again.

That \$12 million for 400 spaces, the Secretary of General Services, Mr. Jaramillo is very supportive of increasing the RFP to 600 spaces if the County is willing to participate financially.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Joseph, so you're saying you wouldn't have the underground parking at the complex?

MR. GUTIERREZ: Madam Chair, Commissioner Anaya, no. At this point, because we want to stay on schedule and we don't want to come out short with parking we would continue with the spaces at the courthouse which is planned. It's about 180 to 200 spaces. It's probably going to be closer to 180 spaces at this point, at the courthouse facility. And that would be for courthouse staff. That would be for DA space and an amount for public parking.

COMMISSIONER ANAYA: So what you're saying is you want to partner with the state for an additional 200.

MR. GUTIERREZ: We could partner with the state for an additional 200, and that possibly could facilitate the need for County employee parking, since it appears the County is going to be downtown for a long time and we still don't have secure parking for County employees for a long-term basis.

COMMISSIONER ANAYA: And where is this parking structure going to be at?

MR. GUTIERREZ: It's right across the street from the Bataan Building, across the street from the state capitol. The NEA Building, are you familiar with the NEA Building?

COMMISSIONER ANAYA: Yes.

MR. GUTIERREZ: And it borders Peralta. There's a parking lot right now and they're plan is to go with a multi-story parking facility there.

COMMISSIONER ANAYA: So are you saying that our staff here would

park over there?

MR. GUTIERREZ: That's a possibility, Commissioner. Right now they park as far away as the Masonic Temple and the cathedral, so it wouldn't be that much further and we could look at some kind of shuttle. The advantage is that we would have long term parking for our employees.

COMMISSIONER ANAYA: So what do we need to do?

CHAIR VIGIL: I think what we're looking at is just giving staff direction to continue negotiations towards this project. We frankly don't know what the outcome will be but I think it really is important for us to continue the pursuit, particularly since General Services Department is open to it and I think you've gone before the capital projects building committee and Speaker Lujan has also expressed support for this. It is a cost-effective project if we're able to get in on the ground floor in making this happen. So staff would just probably want us to allow them to continue negotiations. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Madam Chair, Joseph, explain to me, would this be cheaper than building underground parking at the new site for the courthouse?

MR. GUTIERREZ: Madam Chair, Commissioner Sullivan, if the timing was in a different situation, it would be more cost effective to displace the parking at the courthouse to this facility. But it's quite possible that our facility would break ground before this, so I don't think it's feasible to substitute the state parking facility for the courthouse parking facility. They're preliminary quote is about \$28,000 a space for their 400 spaces, which, if we talk to our construction management firm that we have on board with the courthouse, they feel that's actually high for above-ground parking. But again, they haven't gone out to build yet. They're going to do a design-build on this project, the state General Services Department. That's how they're going to proceed on this project.

COMMISSIONER SULLIVAN: But what would the cost be at the Paramount site, at the courthouse site? That's what we're talking about, right?

MR. GUTIERREZ: No, we're not. We're maxing out the underground parking at the Paramount. So this would be an additional 200 spaces to the 200 spaces at the courthouse facility once it's completed.

COMMISSIONER SULLIVAN: And those spaces will be underground.

MR. GUTIERREZ: The spaces at the courthouse will be underground.

COMMISSIONER SULLIVAN: Okay. I misinterpreted Commissioner Anaya's question I guess. I thought we were doing this instead of doing underground parking at the courthouse.

MR. GUTIERREZ: Madam Chair, Commissioner Sullivan, no. It started that way, but since we're on schedule, it probably would hurt us in the long run to do that at this point.

COMMISSIONER SULLIVAN: I think the more parking you can buy for whatever price is always going to be a good investment.

COMMISSIONER CAMPOS: Madam Chair.

CHAIR VIGIL: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Gutierrez, where would the money come from?

MR. GUTIERREZ: Madam Chair, Commissioner Campos, part of these dollars, again, because we would make investment probably over a two or three-year period, could be from dollars that we have maybe available that we saved on the courthouse. That might be a possibility. Probably not. Another possibility is that we have a financing plan to renovate the old courthouse once we move the judges and staff out of there. It's quite possible, by the time we're ready to do that, because of the financial structure of the County, that we could include this investment in that bond sale at that point, which would probably be about 18 months to 24 months out.

COMMISSIONER CAMPOS: We've had discussions about the courthouse and energy efficiency and you've told me you don't have the budget for that. If we do this, we're going to have even less budget for that? Is that what you're telling me?

MR. GUTIERREZ: Madam Chair, Commissioner Campos, I would say in two years we probably would have money and in terms of -

COMMISSIONER CAMPOS: Money for what?

MR. GUTIERREZ: For the parking structure. And in terms of the energy efficiencies, again, we haven't completed that design document phase and actually, the architects I'll be meeting with later on this afternoon. So I can't definitively say that there isn't dollars available for some energy efficiency measures.

COMMISSIONER CAMPOS: Some. A little bit.

MR. GUTIERREZ: It's a possibility, Commissioner.

COMMISSIONER CAMPOS: A tiny little bit. That's not going to be good enough.

CHAIR VIGIL: Any further questions? Seeing none, is there any objection to staff moving forward on this? Seeing none, I think the negotiations should continue. Thank you, Mr. Gutierrez.

MR. GUTIERREZ: Thank you, Madam Chair. Thank you, Commissioners.

CHAIR VIGIL: I just have one more announcement to make. I just got a phone call from Cathy Freeman at United Way who informed me the project of the community kitchen will not be moving forward, based on United Way's board action and the reduction in grant dollars that are no longer available through the federal government. So that partnership on the community kitchen has been severed. They will not be going forward. Our community will not have a community kitchen.

And that's all I have to announce. Commissioner Montoya, Matters from the Commission?

COMMISSIONER MONTOYA: No, I have none, Madam Chair.

XIV. Staff and Elected Officials' Items

A. Administrative Services Department

1. Review and Discussion of the Monthly Financial Report for the Month of October 2007 Specific to the General Fund

PETE GARCIA (Administrative Services Director): Madam Chair, members of the Commission, in your packet you'll find the general fund financial report for the period from July 1, 2007 through November 14, 2007. On the top portion of the report is a breakdown of revenue sources for the general fund, listing budgets, actual receipts, and our budget balance. Then on the bottom portion is the expenditures within the general fund. Right now, November 14th is a reflection of approximately 45 percent of the fiscal year.

The biggest revenue, obviously is property tax and it comes in in two increments. One coming I think - there's one due by December and then another due by May. But it is expected that we will realize the budgeted revenues from the general fund for the fiscal year and in fact exceeded. And I will stand for any questions you may have.

CHAIR VIGIL: Questions?

COMMISSIONER MONTOYA: Madam Chair.

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTOYA: With the - and I know this may be premature, but may be something to be thinking about. In terms of the state shared taxes, construction permits, solid waste fees, the Clerk's recording fees and even investment income - well, actually the whole thing in terms of the potential loss of some of the - certainly the building industries, I heard some of them are moving out of Santa Fe. A lot of them are cutting way back. What potential impact could those cutbacks, in addition to losses of jobs at Los Alamos National Lab and other industries, what potential impact may it have on our budget, beyond this fiscal year but maybe forecasting the next fiscal year. And then if you can't answer it now, it's something that we just need to be thinking about in terms of the potential impact on our budget.

MR. GARCIA: Obviously, in terms of losses of jobs at LANL, if in fact 750 or 800 jobs are in fact lost, and a good part of the spending of those people is in Santa Fe it's going to have an effect on the gross receipts taxes. They're going to be lower. In terms of construction permits and so forth, we'll be coming forward with you in January with a mid-year analysis review that will make an assessment of revenues and expenditures spent year-to-date, plus a projection of revenues and expenditures through June 30th. It will also, in early March and April when we start preparing our budget process, there'll be projections on current year in terms of what it looks like and also in the subsequent years. But it could have an effect, definitely on our budget in terms of gross receipts taxes for the loss of jobs, and any construction permits and solid waste fees, those are small items in our budget, so the effect will be minimal overall.

But each year, I guess, do you recall when we had the study session on property

taxes, for the preceding three years we had exceeded each year what the property was budgeted because of net new construction added that was not budgeted at the time of the original budget. So that's always a fail-safe for us that we have been generating more property tax revenue that has been budgeted for the last two years and we expect it to be the same for this year.

COMMISSIONER MONTOYA: Okay. Thank you, Madam Chair.

CHAIR VIGIL: Thank you. Any further questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: I may have missed this but tell me again. We've budgeted through November 14th \$7.8 million in revenues and we've expended \$14.2 million through the 14th. It sounds like me at the mall.

MR. GARCIA: What happens there, Commissioner Sullivan, is that our biggest revenue source, property taxes, doesn't come in - it comes in through increments, but it comes in, half of it in December and I think the second half in May. So that's why we only have generated through the date of the report \$1.4 million in property tax. But it's just the timing of the payments. The next report will reflect the first half of property tax revenue and then the second half is due in May. The majority of the property taxpayers have mortgages and they pay it in the two increments.

But each of the three preceding years we have always exceeded our total property tax budgeted by five to ten percent. So it's just the timing of the payments. It's not reflected on the report because they don't happen until December, the first half, and then from May, the second.

COMMISSIONER SULLIVAN: Okay, so that property tax spike will catch us up then. Is that what you're saying?

MR. GARCIA: Yes, sir.

COMMISSIONER SULLIVAN: Okay. Thank you, Madam Chair.

CHAIR VIGIL: Thank you. Further questions? I have a real quick one, Pete, and you may not have the answer to this, and I know I get it on my tax bill. Of the property tax dollar, what percentage of that goes to our public schools and our higher education institutions? Do you know that right off?

MR. GARCIA: Off hand I don't. But I know, looking at the property tax rates for 2007 was 1.42 mills, or something, which is really like \$1.42 for each one thousand of net taxable value, of one-third the value of your home in property tax. And then the County has 12.8-some mills. And then the Community College and the City, debt service, state debt service. But the components of the schools is real small.

CHAIR VIGIL: Okay. And I guess I was looking for a combined component of both our both our public schools and our institutions of higher ed.

COMMISSIONER MONTOYA: Out of that we collect, what? About 40, maybe 50 percent at most?

MR. GARCIA: The four mills out of the 17 or 18 total is like 20-some percent.

COMMISSIONER MONTOYA: Twenty some percent. I thought it was

about 40 percent.

MR. GARCIA: No.

COMMISSIONER MONTOYA: That we collect.

MR. GARCIA: That the County collects. The operational rate. We do have a debt service, and so does the state and so do the schools and so does the Community College.

COMMISSIONER MONTOYA: That's actually gone done.

CHAIR VIGIL: Yes.

COMMISSIONER MONTOYA: It was above 30 at one time.

CHAIR VIGIL: Thank you, Pete.

MR. GARCIA: Thank you, Madam Chair, Commissioners.

CHAIR VIGIL: Appreciate your update.

XIV. B. 2. Discussion and Direction of Speed Humps on Leaping Powder Road

CHAIR VIGIL: Who will take the lead on this? Mr. Martinez.

MR. MARTINEZ: Madam Chair, Commissioners, several months ago the residents of the Leaping Powder Road came to the Board and discussed their concerns under Matters from the Public about the speed humps that were installed on Leaping Powder Road. The speed humps on Leaping Powder Road were installed in accordance with the traffic calming policy that this Board adopted, which is Resolution 2005-107. Staff confirmed the required signatures on the petition and received BCC approval prior to contracting out the installation of the speed humps.

The speed humps cost approximately \$17,000. We were asked to bring this up to the Board for consideration, not only consideration but confirming that Public Works did follow the necessary process. And Public Works is recommending that the speed bumps do not get removed.

CHAIR VIGIL: Thank you. Is there any questions? Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Robert, was this – Leaping Powder Road, where is this?

MR. MARTINEZ: Leaping Powder Road is if you go south, or let's see, that'd be north, on Old Las Vegas, just past the El Gancho and you go underneath the interstate, under I-25 and that gets you to County Road 58. Leaping Powder Road is off of County Road 58.

COMMISSIONER ANAYA: Okay. I remember. And the residents were concerned because they live further in on the County Road and when they're coming through that particular area, that's where the speed humps are and it slows them down and they didn't like it.

MR. MARTINEZ: Madam Chair, Commissioner Anaya, that is correct.

COMMISSIONER ANAYA: And in the future, I guess on our policy, did we talk about including those people that are beyond those dead-end roads? Not beyond the dead-end but beyond the speed humps?

MR. MARTINEZ: Madam Chair, Commissioner Anaya, there was some discussion that if Public Works was to include people beyond the section of road where the speed humps are to be installed, then the resolution that outlined the policy would have to be changed by the Board of County Commissioners. Right now it only requires 75 percent of the property owners that abut the road where the speed humps are to be installed.

CHAIR VIGIL: Any other questions?

COMMISSIONER MONTOYA: Move for approval based on staff recommendations.

CHAIR VIGIL: Okay. We have it noticed for discussion and direction. Is your direction and your motion to continue to leave the speed humps on Leaping Powder Road?

MR. MARTINEZ: Madam Chair, that's correct.

CHAIR VIGIL: Okay. Is that your motion?

COMMISSIONER MONTOYA: Yes.

CHAIR VIGIL: It's discussion and direction.

COMMISSIONER MONTOYA: Oh, okay. You know my feelings.

CHAIR VIGIL: Okay.

COMMISSIONER CAMPOS: I'm okay with the speed humps remaining in place.

COMMISSIONER ANAYA: What district is that?

MR. MARTINEZ: Madam Chair, that is Commissioner Campos' district.

CHAIR VIGIL: Commissioner Sullivan, do you care to comment?

COMMISSIONER SULLIVAN: No comment. I fine with it. I think we've paid for them and followed procedure and here we are.

CHAIR VIGIL: I'm in agreement with the rest of the Commissioners. Thank you, Mr. Martinez.

XIV. B. 3. Request Authorization to Publish Title and General Summary of an Ordinance Amending the Santa Fe County Land Development Code (Ordinance 1996-10, as Amended), to Add a New Section 12, Pojoaque Valley Traditional Community Zoning District to Article XIV, Traditional and Contemporary Community Zoning Districts

RENEE VILLAREAL (Planner): Good afternoon, Commission, Madam Chair. On August 14, 2007 the Board unanimously adopted the Pojoaque Valley Community Strategic Plan via Resolution 2007-120. Since then staff has been working on a draft of the ordinance to implement the recommendations for zoning and development standards in the plan. Today I'm here to request authorization to publish title and general summary of an

ordinance amendment the Santa Fe County Land Development Code to add a new section, Section 12, Pojoaque Valley Traditional Community Zoning District.

CHAIR VIGIL: Okay. Questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: In this draft ordinance there's a number of commentary boxes. Are those a part of the ordinance? The yellow boxes.

MS. VILLAREAL: Madam Chair, Commissioner Sullivan, this is - the commentaries are part of what is going to be the Code rewrite. So the commentary is a new part of the development code, but it would be part of the rewrite. But particularly that section, 12.4.

COMMISSIONER SULLIVAN: So in the Code rewrite, all of these sections that we're going to rewriting will have these yellow commentary boxes throughout?

MS. VILLAREAL: I'm not sure if all sections will have that but in this particular section, regarding district use tables they will be.

COMMISSIONER SULLIVAN: I know that when we had the consultant in they had a lot of these commentary boxes and I thought I recall them saying that that was for the purpose of understanding what was going into the ordinance, but that they would be removed when we got to the actual Code rewrite. Is that -

MS. VILLAREAL: Madam Chair, Commissioner Sullivan, that may be a question for Steve Ross, considering they're still working on the Code rewrite.

MR. ROSS: Madam Chair, Commissioner Sullivan, we have cut down considerably on the number of commentary boxes and the only ones that are left in the Code rewrite are helpful suggestions for people to get around in the Code. There's still a few left but we've cut way down on the number of them.

COMMISSIONER SULLIVAN: Okay. So where you see a commentary box - let's just look at 12.4, for example, on page 2 - what sections does that pertain to? That's listed under 12.4.a. Does that mean that that pertains only to 12.4.a? Or that it pertains to 12.4? And the same way with the commentary down at the bottom under d. Does that mean it only pertains to temporary uses? Does the location of the commentary box have some meaning?

MR. ROSS: Yes. It pertains to material that should be right underneath it.

COMMISSIONER SULLIVAN: Right under it, or -

MR. ROSS: Right underneath it.

COMMISSIONER SULLIVAN: Right underneath it.

MR. ROSS: So, for example, with that first box on page 2, it's describing what principal uses are permitted. So what it does is help bring together a number of Code sections that aren't right here to help people understand what that paragraph really means.

COMMISSIONER SULLIVAN: Okay. So that box would pertain to anything in 12.4.a.

MR. ROSS: Correct. Now, those boxes, what's in those boxes is not regulatory. It's not enforceable as an ordinance. It's only supposed to be a helpful

comment, and we wouldn't be able to independently enforce material that's in the boxes. What's in the boxes should be in text in the Code, not in yellow.

COMMISSIONER SULLIVAN: Okay. And we state that somewhere, that this is not – it's kind of like titles are not a part of the Code. Commentary boxes are not a part of the Code.

MR. ROSS: That's right. That's right. Commentary boxes are just that, just comments.

COMMISSIONER SULLIVAN: All right. Thank you.

CHAIR VIGIL: Okay. Any other questions?

COMMISSIONER MONTOYA: Madam Chair, I move that we authorize publication of title and general summary for this ordinance.

CHAIR VIGIL: Motion. Is there a second? I will second it. Is there any further discussion?

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

CHAIR VIGIL: Thank you, Ms. Villareal.

XIV. C. Community Services Department

1. Discussion and Possible Direction with Regard to the Creation of a Misdemeanor Compliance Program

MR. SHEPHERD: Madam Chair, we met with the magistrate court judge Jesse Anaya and his staff. They requested we look into creating a court compliance monitor program at the magistrates court. We went ahead and put together a financial analysis schedule, took a look at job descriptions, things like that. We're about half-way through talking with them about it but we wanted to get your direction on whether you wanted us to go ahead with it. It would probably entail us coming back in January with an MOU that would detail the operations on both sides, County, magistrate court, and how we'd interact, a budget adjustment, and the creation of a position for this.

With our revenue projection, we believe the fees collected would cover the costs of the program.

CHAIR VIGIL: Okay.

COMMISSIONER MONTOYA: Madam Chair.

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTOYA: This, what you just stated, would be a term position funded through generation of revenue, yet in the FIR, fiscal impact report, it's asking for startup money. Where's that startup money coming from?

MR. SHEPHERD: I didn't write that. I apologize. That I don't know, because we forecasted it without startup money, but we can go back and take a look at

that. I can look at that with Finance.

MR. ABEYTA: Madam Chair, Commissioner Montoya, that startup money would probably come from, since it's a term position, maybe our cash reserve, and then we would reimburse it as the program starts generating money. But we would need initial funds to get it going because we wouldn't be collecting the money until the program starts, but then we would reimburse ourselves. So I assume it would come from one of the cash reserves, that we would reimburse once we start generating funds from the program.

COMMISSIONER MONTOYA: So we're not collecting any of this right now then?

MR. ABEYTA: No. And before we went to - before we got further down the track, we wanted to do, like Steve said, an analysis ourselves. We think it is a good program that we should take seriously and look into. We think it could potentially reduce the amount of County inmates, because this would be an alternative, but before we get too far along that track we wanted to present that idea to the Commission and just get a general feeling from the Commission to yes, go ahead and proceed with doing the due diligence and working with the magistrate court. Then we would bring an actual proposal before the Commission, maybe some time in January. But like I said, I didn't want to spend too much staff time and effort into this without getting input from the Commission in the beginning.

We think, so far what we've seen, it is worth pursuing. But again, I'm not asking for approval today. I just want to make sure the Commission is okay with us exploring this possibility with magistrate court.

COMMISSIONER MONTOYA: Then, still in the FIR, it says that the total fiscal impact is going to be recurring, \$2500, \$29,000, and then about \$61,000. Is that what also is being projected that will be collected as a result of this program?

MR. ABEYTA: It's my understanding that yes. We're hoping that it will net out so that what we spend we'll receive in the charges that we assess. So we're hoping that both the cost and the revenue would be recurring. And we would leave it as a term position and we would continue to monitor as we go along here year after year to see if indeed it is something that has a zero net effect on the County's budget.

The other thing we need to take into consideration is the savings, the potential savings we may realize in our jail budget as a result of the reduction of inmates. So we need to factor that into the bigger analysis that we do.

COMMISSIONER MONTOYA: So I guess that would require more research.

MR. ABEYTA: That's going to require more research.

COMMISSIONER MONTOYA: Staff time.

MR. ABEYTA: Staff time, and that would be something that we continue to monitor, especially as the program - we can do projections now based on the inmate population, but as we start the program and go through the program, we would actualize some of those projections, because we would know this person was sentenced to this instead of jail.

CHAIR VIGIL: Okay. Anything – are you done, Commissioner?

COMMISSIONER MONTOYA: No, actually there was one other one that I had and it's the very last page, the copy of the statute, where a County may create a misdemeanor compliance program to monitor defendants' compliance with the conditions of probation imposed by a district or magistrate court. The program should be limited to participation of persons who have been convicted of a misdemeanor criminal offense, specified in the criminal code – convicted while driving under the influence of intoxicating liquor or convicted of domestic violence.

So is that the basis for which we're establishing this program?

MR. SHEPHERD: Madam Chair, Commissioner Montoya, it would be. Our DWI program only works with specific DWI clients. After they've passed a certain point they don't come to us anymore. And this would be a program that would monitor people with multiples.

COMMISSIONER MONTOYA: So it would be someone who has DWI and domestic violence, they would go to DWI first and then domestic violence second.

MR. SHEPHERD: That would be correct.

COMMISSIONER MONTOYA: I guess I would need some more information, Madam Chair, before I think this would be a wise use of our limited resources. I know that we still have other positions that we talked about that need to be filled with Land Use and other departments. That's just my feeling on it before we do anything. See how other programs can work with this program as well.

CHAIR VIGIL: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: The questions that I had, concerns as I looked at this are first of all, having the County responsible for collecting the fees from each individual defendant. I think that that's a pretty onerous financial undertaking to put us in charge of collecting \$30 from each of these estimated 200 clients every month and accounting for that to pay for the staff. So I would feel that that should be a magistrate court responsibility to do that.

MR. SHEPHERD: Madam Chair, Commissioner Sullivan, when we had this similar position at the City, and the City municipal court, the municipal court collected the fees and deposited them through the County.

COMMISSIONER SULLIVAN: It says in the FIR that the fees shall be paid by the defendant directly to the County. That's what it says in the fiscal impact report on paragraph 9. So I would raise a red flag there as you have. The other thing was I guess I don't understand quite the fiscal impact. If we're assuming – the statute allows between \$15 and \$30 per month per client, and we're assuming in the fiscal impact report six months and \$200 clients. I get that that comes to about \$36,000 of income, and I'm seeing recurring costs estimated here of about \$61,000. So I'm not seeing – where am I going wrong in my calculations?

MR. SHEPHERD: You're correct. Recurring costs for one full fiscal year would be approximately \$61,000. That's what we forecast for fiscal year 2009. And you're

correct. A half a year – that’s assuming we got started in January – would potentially raise potential fees of about \$36,000. But we’ve also got an allowance for non-payment in there which brings it down to about \$30,000. But your numbers are correct.

COMMISSIONER SULLIVAN: Okay, but you’re assuming that 200 clients would be in the program year-round, not just for six months.

MR. SHEPHERD: That’s what we were told.

COMMISSIONER SULLIVAN: I would agree with Commissioner Montoya. I would need to focus on the administration and the details of this a little bit more.

CHAIR VIGIL: Further questions, comments? When we tried to get video arraignments going it was really difficult to get a lot of buy-in from magistrate court, from district court, from the district attorney’s office, from the public defenders. Have the district attorney’s office and the public defenders been a part of this discussion?

MR. SHEPHERD: No.

CHAIR VIGIL: Okay. I think if you do engage them you’re going to get some more information as to how you could actually create this position and there wouldn’t be any overlapping responsibilities. If in fact there is a misdemeanor defendant who’s been placed on informal probation – not formal, otherwise he’d have a probation officer. And sometimes even under informal probation he’d had to report to a probation officer which would be the compliance monitor for the court requirement. It’s seeming to me that what we’re looking at here is more of a case manager for those misdemeanor offenders who don’t fall within those categories.

But ultimately, I think it would be helpful to get the district attorney’s office because they do have shoplifter diversion. They have quite a few diversionary programs too that we need to coordinate information with. I certainly think, and I’m going to look at this from the experience I had with video arraignments. It was too new a thing for anyone to really buy into. It took a long time. And ultimately, now the video arraignments exist. They’re cost-effective and everyone’s bought into it. This may be one of those programs that does assist us in diversionary programs and jail costs, and I do agree there are some inmates that don’t need to be in the jail, particularly if they’re misdemeanor and non-violent offenders, and perhaps just need some kind of case management to fulfill the requirements of the court. But I would be concerned as to whether or not this should be a court position or a County position – all those kinds of things.

I would encourage further discussions, perhaps, to come forth with a proposal that clarifies that, and I would also encourage you to speak with the district attorney and the public defenders office.

MR. SHEPHERD: Okay.

CHAIR VIGIL: And it’s seeming like we are needing more information.

MR. SHEPHERD: Okay. I will come back.

CHAIR VIGIL: Thank you. Actually I’ve had a request to take a five-minute break.

[The Commission recessed from 3:50 to 4:10]

XIV. C. 2. Request Approval of a No Cost Lease Agreement Between Santa Fe County and the Bureau of Land Management for 12.03 Acres of Land Near Arroyo Seco for Phase III of the Marcos P. Trujillo Teen Center [Exhibit 3: Staff Report]

MR. GUTIERREZ: Madam Chair, members of the Commission, I just passed out a copy of the lease agreement with the BLM, a letter from Mr. Olafson explaining the situation. I apologize for the timing. Staff, with Projects Facilities, Open Space staff and Hands Across Cultures staff has actually been working on this project for a little over a year now. And we received a packet last week from the BLM saying that the application was approved and it had to be approved by the Santa Fe County within 30 days. So the only time – it was time-sensitive and the only opportunity to bring it in front of you was at this meeting. The December 11, the 30 days would have expired. And basically it's a five-year lease for 12 acres of BLM land. There is no fee to it. Hands Across Cultures has a phase 3 plan and what this land would be used for is a multi-use recreational field – soccer, baseball, football type field, and it's in Arroyo Seco, right off, I believe, Highway 285.

There would be an option at the end of five years for the County to purchase this property from the BLM.

COMMISSIONER ANAYA: Move for approval.

CHAIR VIGIL: There's a motion is there a second?

COMMISSIONER CAMPOS: Second.

CHAIR VIGIL: I just have a question. How long did it take to get this lease with BLM? Do you have any idea?

MR. GUTIERREZ: Madam Chair, I have something that goes back to March of 2006. It was a lengthy process. The activity picked up again in August of this year and again a package appeared on my desk last week with a 30-day time frame to get this approved. So it was a quite lengthy process.

CHAIR VIGIL: There's another project that's sort of fallen by the wayside, probably more because of the community kitchen, but the Agua Fria children's zone will require an agreement with BLM. I'm hoping that gets to the front burner now, particularly since United Way will be putting its energies towards that and we can start working with BLM to get a lease agreement on that also. So are there any other questions?
Commissioner Sullivan.

COMMISSIONER SULLIVAN: Could you explain again, Joseph, what happens after five years? Is it at their discretion that the lease could be extended?

MR. GUTIERREZ: Madam Chair, Commissioner Sullivan, at the end of five years, because the improvement plan for this area is a five-year process, at the end of

five years the County will have the option to make a purchase of this property, according to the BLM, or the lease can be extended at that point.

COMMISSIONER SULLIVAN: And what happens to structures that the County has erected on the site? Do they become the property of the BLM?

MR. GUTIERREZ: Madam Chair, the lease I looked at didn't really specify the property on there. I couldn't see that in there. It doesn't specify that. I would assume that they would approve the lease, but in terms of improvements, but again, there's no guarantee that if the lease was not extended or we did not make a purchase, the improvements could possibly revert to the BLM at that point.

COMMISSIONER SULLIVAN: I was looking at this Exhibit A, special stipulations at the bottom. What are R&PP regulations? We're supposed to follow those? The last page of Exhibit A.

MR. ROSS: Madam Chair, Commissioner Sullivan, R&PP is the Recreation and Public Purposes Act. It's a federal statute and BLM has regulations that they've drafted underneath that statute.

COMMISSIONER SULLIVAN: Okay. And I see that we need to prepare a SWPP Plan. So this is not no cost, because we've got to prepare a stormwater prevention plan. So will someone on staff be doing that?

MR. GUTIERREZ: Madam Chair, we will look at staff, but also there is \$50,000 appropriated to Hands Across Culture for this purpose. So we would be able to use those dollars to move this project forward.

COMMISSIONER SULLIVAN: Okay, well a SWPP Plan won't cost that much but it is a plan that they'll have to approve. Are there any archeological impediments on the site? Do we need archeological clearance?

MR. GUTIERREZ: Madam Chair, I don't know the answer to that question. I know that - as far as I know that did not come up during discussion.

COMMISSIONER SULLIVAN: Usually, BLM wants an archeological clearance before they let you build anything on the site. We're intending to build some multi-purpose courts and things like that, right?

MR. GUTIERREZ: Madam Chair, it's slated for a soccer field, baseball field, potential, I guess, football field. Multi-use recreational field.

COMMISSIONER SULLIVAN: Okay. Those were just some things I've run into in dealing with the BLM. They tend to dot all the i's and cross all the t's several times over. So forewarned is forearmed. Thank you, Madam Chair.

CHAIR VIGIL: Any further questions? What's the pleasure of the Commission?

COMMISSIONER ANAYA: We have a motion and a second, I believe.

CHAIR VIGIL: A motion and a second. Any further discussion? Who made the motion?

COMMISSIONER ANAYA: I did.

CHAIR VIGIL: And you seconded it, Commissioner Campos.

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

XIV. D. Matters from the County Manager

1. Update on Various Issues

MR. ABEYTA: Madam Chair, regarding a facility for the December 6th oil and gas ordinance meeting, we haven't had any further luck with the public schools. We currently have Turquoise Trail booked for that evening, but that only holds 500 people. We have contacted the College of Santa Fe. We're finding out whether or not their tennis center would be available that evening, but that costs between \$5,000 and \$6,000. And so my question is - but that also holds over 1,000 people. So my question would be do you want us to pursue that knowing the costs of that facility, if it's available, or do you want to - if not, we'll keep it at Turquoise Trail unless Santa Fe High School becomes available.

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Roman, I just got off the phone when we had our break. Dr. Carpenter from public schools returned my phone call and she has assured me that she would get back with me by tomorrow. So she's going to work on something and hopefully come up with Santa Fe High or Capital High. So as soon as we find out we need to somehow let the public know by newspaper, radio, internet, however, but she assured me that she would contact myself or Jennifer to let us know if that can happen. If not, then we're going to need to pursue another option.

MR. ABEYTA: Okay. And that option would be the College of Santa Fe, which like I said, would cost between \$5,000 and \$6,000. So I just wanted to run that by the Commission.

COMMISSIONER ANAYA: Thank you, Roman.

COMMISSIONER CAMPOS: I wouldn't support paying \$5,000 or \$6,000 for a venue. I'd rather stay at Turquoise Trail. Is there any support for spending that much money for a venue?

COMMISSIONER ANAYA: Madam Chair, I think we should wait for one more day and see what Dr. Carpenter can come up with and go from there, if that's okay.

CHAIR VIGIL: So where it stands now is we will have the meeting at Turquoise Trail. If that venue changes I do believe that we need to notice, not only by website but through publication and perhaps even have our public information officer fax information to radio stations to identify the site location for that. The time I believe is 7:00. Is that correct, Commissioner Anaya?

COMMISSIONER ANAYA: It would be December 6th from 6:30 to 9:00. That's a Thursday.

CHAIR VIGIL: Okay. I would be concerned about a large price tag for

something we haven't budgeted for. I think we could look at it as our last alternative, but I think we're flexible and we do want to get as much community input on this as possible. We could even look at another hearing date. Okay?

MR. ABEYTA: That's all I have, Madam Chair.

XIV. E. Matters from the County Attorney

1. Consideration of Resolution No. 2007-197. A Resolution Authorizing The Purchase of Property Located at 225 Montezuma Street in Santa Fe; Authorizing the County Manager to Execute All Documents Needed to Complete the Purchase

MR. ROSS: Madam Chair, as you know, many of you know, staff has been negotiating with the owners of 225 Montezuma here in town for the purchase of that building. We have been moving down a track since last summer of condemning the building, but we recently met with the owners and reached an amicable arrangement concerning the County's purchase of the property. And this resolution delegates to the County Manager all the authority he needs to go to a closing which we're scheduling on Friday of this week to complete the purchase.

Mr. Hamilton, our lawyer in this matter is here and I can answer any questions you might have at this time.

CHAIR VIGIL: Questions?

COMMISSIONER ANAYA: So moved.

CHAIR VIGIL: Motion. Is there a second?

COMMISSIONER SULLIVAN: Second.

CHAIR VIGIL: Any further discussion?

The motion to approve Resolution 2007-197 passed by unanimous [5-0] voice vote.

CHAIR VIGIL: Thank you, Mr. Ross, for working on this.

- XIV. E. 2. Authorization to Publish Title and General Summary of an Ordinance Governing Oil and Gas Exploration, Drilling Production, Abandonment and Remediation: Establishing the Position of Oil and Gas Inspector; Providing for Zoning of Oil and Natural Gas Facilities as a Special Exception Pursuant to the Santa Fe County Land Development Code; Providing Locational Criteria for Oil and Natural Gas Facilities; Requiring a Development Permit for Establishment of Oil and Natural Gas Facilities; Establishing Procedures and Submittals for Obtaining Special Use Permits and Development Permits for Oil and Natural Gas Facilities; Establishing Bonding and Insurance Requirements; Providing for Penalties and Enforcement Procedures; Providing Standards for Equipment, Operations, Standards and Practices at an Oil and Natural Gas Facility Including Emergency Plans, Procedures and Equipment, Drilling, Production and Remediation, Noise and Nuisances, Appearance, Water, Roads, Lighting, Operating Hours, Cultural, Historical and Archeological Resources, Spills and Leaks and Temporary and Permanent Abandonment; Providing for Application and Annual Fees; Amending a Portion of Santa Fe County Ordinance 1996-1, Article III. Section 5.2, Defining "Mineral" (NOT A PUBLIC HEARING) [Exhibit 4: Ordinance Draft]**

MR. ROSS: Madam Chair, thank you. As you know, since last February when Tecton did their -

CHAIR VIGIL: Let me just ask you, do we have copies available for anyone to follow through? Anyone who would like a copy of this, please raise your hands and attorney Rachel Brown will give you a copy.

MR. ROSS: Thank you, Madam Chair. Since last February's repair of the Black Ferrill Well down in the Galisteo Basin, we in the Legal Department have been studying the existing mining ordinance to determine what, if anything we should do as a County in response to the proposed oil and gas drilling. When we were discussing the matter with Mr. Kolkmeyer, the Land Use Director and working through the details of the application that was before us at the time to rework the well we realized that a great deal of things we might want to see, in terms of oil and gas regulation were not in the mining ordinance. And that makes sense because the ordinance was designed, developed, as a hard-rock mining ordinance. And in my review of the ordinance it's apparent that including oil and gas was an afterthought. Because oil and gas is included as a mineral in the ordinance, but it is not specifically regulated in a way that one normally regulates oil and gas development. I know this because I used to work at the Oil Conservation Division as their counsel and I'm pretty familiar with the regulation of the oil and gas industry from

that experience.

So at that time we decided to do a canvass of ordinances in cities and counties nationwide to see what other cities and counties were doing on this issue. We looked at of course ordinances from within the state of New Mexico including a very good ordinance in Lovington, a very good ordinance in Carlsbad, a number of ordinances in cities in New Mexico including Farmington, as I said, Carlsbad, and just outside New Mexico in the San Juan Basin, we looked at Durango's ordinance. County ordinances on oil and gas are a little bit of a rarity. Cities frequently as a part of their zoning authority regulate - they regulate everything. They regulate industrial uses. They regulate non-residential properties. They regulate residential properties. Often there are numerous tiers of zoning in place.

But counties, particularly in New Mexico don't even have zoning to begin with, and when they do it's relatively minimal. So there's relatively little to draw from within the state of New Mexico in terms of sample ordinances that apply to counties. So we looked elsewhere of course. La Plata County has a very, very good ordinance, and they're tightening it up at this point. And we have both the ordinance that's in place, as well as the proposed amendments to that ordinance. We also have some very good ordinances in places that seemed to have some parallels in terms of what the oil and gas that was being produced constitutes. So for example, Los Angeles, California, many of you have been to the LA Basin. You've seen the pumping units in LA. They're pumping oil in LA. So we looked at Los Angeles, they have a very good ordinance, as well as Orange County. It's surprising to think of oil and gas production going on in a major metropolitan area like that, but there is. Two very good sources for language.

But probably the most useful source for us was Oklahoma City, Oklahoma. It's a little bit surprising because of course Oklahoma is a huge oil and gas producing state. Has been since the 30's, the 20's, maybe even before that, and yet, many companies have their offices there. Oil and gas is a major part of the economy there and yet there's this very tough ordinance in Oklahoma that provided us with a lot of inspiration and language. There's also a pretty good ordinance in Tulsa that helped us a little bit.

We also looked at the OCD rules and regulations. Oil and gas production in New Mexico is regulated primarily by the Oil Conservation Division through the Oil and Gas Act and the Water Quality Act. But they also, on the environmental side, administer regulations of the Water Quality Control Commission which many people associate with the New Mexico Environment Department. That body sets essentially the pollution limits that apply to oil and gas operations, but those standards that are set in those W2CC regulations are enforced by the Oil and Gas Division at the state.

So of course we had to look at the Oil and Gas Act, the Water Quality Act, the W2CC regulations and the OCD regulations to figure out what they're doing, where the County might have some regulator authority that isn't already present over there, and it's not an easy task, because as you can imagine it's a very complex regulatory framework. I should mention also there's yet another stage that's involved in the regulation of the oil and gas industry and that's the Public Regulation Commission. The Public Regulation

Commission has authority over pipelines, interstate pipelines.

So there's quite a bit to look at to figure out what we can and cannot do with respect to regulating this industry in the state. So what we did was we took these models and put together what we thought was an ordinance that made sense for Santa Fe County and that's what you have before you, drawn, like I said, from a number of different models and hopefully focused towards the problems that we expect to encounter here. I should tell you that in my opinion, as a prefatory remark, that I do not believe that the County has the authority to ban oil and gas production within this county.

But I do believe that the County has within its zoning authority significant authority to regulate the industry and that's what we've purported to do here. This ordinance does not ban oil and gas and production, nor do I think we could even if we wanted to. But we can regulate it and that's why models that we've looked at, particularly from Los Angeles and Oklahoma City are useful, because these are very broad regulatory models. They're existing in states that have a very similar regulatory pattern to that which I've described here today in that there are a number of agencies that have direct authority over oil and gas exploration, production and transportation.

And yet they have very comprehensive ordinances under their zoning authority that address specifically the problems of oil and gas production. Let me just take you through the high points of the ordinance very quickly.

As I said, our regulatory authority really comes from our zoning authority. We don't have broad police powers over oil and gas production. It's just simply absent within our regulatory authority. But we have broad powers under zoning and we have some really good regulatory models. So what we set up in the ordinance was a two-step permitting process, the first step being zoning, obviously, and the second step being development review.

Zoning is intended to almost like what we're familiar with here in our normal zoning cases, oil and gas production would be zoned as a special use. That's a term we're not all that familiar with here in the county. We normally call uses that aren't identified in the Code anywhere else as "other development". You've seen that most recently for the transmission lines that PNM has been applying for in the county. Those are zoned by the County as special exceptions for other development. This is consistent with other cities and counties do. Everybody zones oil and gas production just like power lines, just like pipelines, as special uses or in our parlance, other development.

So in connection with the zoning, there is obviously an application process. What we did for this was we drew from the existing mining ordinance where we could to describe what needs to be submitted to the County in support of an application to drill and oil and gas well, or a secondary oil and gas facility and what criteria we're going to apply to the things that are submitted to us. You can look at the ordinance and you'll see there's a whole host of things that must be submitted including plans, information specifically about the corporation that's proposing to operate within our county, a list of facilities that they might here or elsewhere, specific data about what they propose. If they propose to

drill we want to know where they're drilling, how deep they're drilling, what their objectives are. We want to know how they're drilling and how they propose to transport any product that they might reach when they make a well. We want the usual things that we ask in support of any application for a master plan, such as a drainage control plan, a reclamation plan.

CHAIR VIGIL: Mr. Ross, the air or heat has some on so you may need to speak closer to the mike, and when you can, reference the page where you're speaking to so we can follow you on that.

MR. ROSS: Okay. Let's see. Right now I'm reading from my notes but the application requirements for the special use permit start on page 7.

CHAIR VIGIL: Okay.

MR. ROSS: Let me go on - through page 13. People who are familiar with the mining ordinance will recognize a lot of this stuff. We've just edited a bit, just to make it more focused. We want a traffic control plan. We want to know where they're going to get the water to drill and what they're going to do with the waste. We want to know what's going to happen if they damage a road or if they need to improve a road just to get some equipment in. We're going to want a very detailed emergency preparedness plan, which our Fire Chief will scrutinize and administer. We're going to want the landscaping plan, if they're too close to residences. We're going to want a list of all cultural or archeological resources that are present, and we're going to want a survey of the specific sites that are being applied for. We're going to want

[Audio difficulties experienced.]

They're required to comply with the OCD regs regarding casing and water protection. That's what I described to you for a minute. OCD requires that all fresh water aquifers be protected and we're parroting those requirements in this proposed ordinance. To further ensure that there's no chance that surface waste will pollute a groundwater requiring closed loop systems for drilling. What that means is that there won't be the usual open drilling pit. They call it a reserve pit where water, clay and chemicals are mixed up to lubricate the drill bit as you're drilling. Typically, these are open pits that are then closed and remediated pursuant to OCD regs.

There's a hearing going on, incidentally, at the OCD today. It's been going on for, I understand, a couple weeks concerning OCD's proposal that all such pits be lined with an impermeable membrane liner. That's not actually a requirement right now. We're not even going there. We're saying that everything has to be closed and enclosed in steel equipment and no open pits will be permitted and no waste may be placed on the surface of this site or buried at the site. Everything has to be picked up. Every waste product, every spill, every leak has to be picked up and taken to an OCD permitted facility.

CHAIR VIGIL: Can you all hear in the audience? How about back there? Not very well? Is there a way we could turn the sound up?

MR. ROSS: They could come on up to the front.

CHAIR VIGIL: Or perhaps come up to the front. Because I'm getting a

muffle too, based on the heating unit.

MR. ROSS: Turning back to the zoning issue – I’ll try to get through this quickly. Turning back to the zoning issue, one of the issues I’m hearing a lot about is our current mining ordinance prohibits a mine being located within a half a mile of a residence. So this ordinance preserves that setback. But I just want to point out to you that this may end up being a problem, because we have plotted all the residences in the Galisteo Basin, plotted half-mile circles around them, and when you look at that map and you realize that there may be a number of areas that are off limits to drilling a production if that half-mile setback is actually codified.

One of the things that we did to address the harshness of a rule like that is to provide the possibility that an operator could obtain a variance. There’s another complication with respect to well location and that is that OCD spacing rules require that wells be put in particular places. The requirement that a well be placed in a particular place is by reference to 40-acre subsection. So every 160-acre section is divided into four subsections and you may have one well for 40 acres if you’re doing an oil well. If you’re doing a gas well, usually the spacing is one well per 160 acres.

The problem with having the County locate wells, say wells can’t be in this place but they can be in this place, is that that may push wells outside of the 40-acre spacing units. So what we provided in the ordinance was a way out. If the operator gets caught in a situation like that where they can’t locate a well where the OCD says they must locate it, they have to come to us and ask for a variance. Other than that, it’s a half a mile for a residence.

There are a number of other setbacks. We grabbed these mostly from other ordinances, 75-foot from a road, 200 feet from a non-residential use, like a commercial use. There are not very many of them down there. Five hundred feet from a groundwater recharge area or a wetland. Five hundred feet from a FEMA designated floodplain, 100 feet from an existing oil and gas facility. We also put in language that you’ll see – page 15. After an oil and gas facility is located, there is the possibility that other uses may – despite the fact that there is an oil and gas well there, another use might want to come and locate right along side of it. So you need an additional set of rules to keep people away from an oil and gas facility that might be of concern. So there’s some additional rules if you want to construct anything within a certain distance of an existing oil well, you need to consult with these rules.

For example, you couldn’t locate a school, under the proposed ordinance, less than 300 feet from an existing well. You couldn’t voluntarily do that. And there are other rules there. Another attribute of zoning is height limitations, as you know. The County does not permit things over 24 feet without having a variance. That rule persists in here but it obviously can’t be done during operations where a drilling rig or work-over rig is present. But all other times you have to comply with the 24-foot rules.

So that is the zoning. There’s a number of review criteria set forth. Once the application comes in and it’s reviewed pursuant to the whole ordinance and the material

that's sent it, it will go to the CDRC. The application will go to the CDRC and will come here and you will make your decision based on the review criteria set out on pages 16 and 17. It runs the gamut from the usual things we're used to seeing, like whether they've got everything in, whether the application is complete, whether they say they can meet or exceed all the standards in the ordinance, whether they've got their state permits, or federal permits, as the case may be, whether the location is compatible with adjoining uses or whether it can be made compatible with adjoining uses. What the road situation is, whether we think the roads to and from the site are adequate, whether the site itself makes sense for these kinds of operations.

One of the types of problems you are used to as a body seeing are proposed construction of steep slopes. All those rules that are current, that are present in the Land Development Code, they would apply to oil and gas development as well. That would mean that you couldn't put a well on a steep slope. You couldn't cut a road into a steep slope. Things like that. And of course past performance of the operator. We want to make sure we take a real good look at the operator, what they've done, not only here but elsewhere, whether they're in compliance with rules and regulations here and elsewhere, whether they've been a good operator or a bad operator, whether they've contaminated water anywhere else. We want to make sure we understand who this person is and whether we think they are capable of drilling in a safe and responsible manner.

And then we have under 8 here, page 17, small viii, it's a catchall. It really verbalizes the County's police power. We're not proposing to grant any special exception or special use permit to anyone if granting it would be detrimental to the public health, safety or welfare. And so if there are things that aren't listed or discussed specifically in the other previous review criteria, we always have the ability to address unforeseen things that we don't have in here.

Then of course you're familiar with this but probably a lot of people listening are not. It's common for the County to impose conditions of approval on master plans and development permits. We're preserving the right to do that in this case. So that's the zoning. The process would go, if you're planning, like for example Tecton is planning eight wells. What they would do is would file an application with us, essentially it would look like a master plan and they would have to file a master plan on each well location that they're proposing to get zoned as a special use. Once they get that zoning, and they'd get it from this body, then step two begins and that's Article III, beginning on page 17. That's the standard development permit. You're all used to that as well. You get a master plan, you get preliminary and final plat for subdivision. The last thing that happens is you get a development permit issued from the permit desk, and you get that by filing an application and we have, on page 18, the contents of the application.

One of the things that's peculiar about zoning is that it stays with the land. If you get a property zoned commercial, it's commercial. It doesn't matter who owns the facility. It doesn't matter if it's changed hands two or three times. It's commercial unless it's rezoned. So we want to know who the operators of an oil and gas facility are at any given

time. The only person we're going to know, under the process I just described, is the initial operator. So we need to make a provision for the possibility that the ownership of wells will change over time. And so we're requiring, in this proposed ordinance, if a person is not the initial operator, we're requiring them to come back in and we're going to take a look at who the subsequent operator may be and whether we feel that they're capable of operating the well in a safe and responsible manner.

And so that's one of the primary purposes for a development permit. And the other primary purpose is to ensure that whoever is operating that well is ensured and has bonding. So when we get an application submitted to the permit desk, these are the key things that are going to be checked to ensure that the current operator has all the things that we want them to have under the ordinance.

Once they submit the application the Land Use Department will assign the application, not to personnel at the permit desk, which is normally done, but they will assign the matter to the development review specialist who handled the zoning. So that person will already be familiar with the operation and be able to ensure that all these items that are required of a development permit are addressed. You can see, once again, it's a multi, two-page list of things that are required to be submitted along with an application including bonding, including verification of insurance and including specific information about the well or oil and gas facility.

So once we receive all that and determine that everything is in order they get a development permit issued by the permit and then, only then can they create the oil and gas facility that they're proposing to create. After they get a permit they can go out and drill the well and create the oil and gas facility but they have to keep current information available at the County through an annual reporting process that's set out on page 23.

So as I mentioned, bonding and insurance are big things. We want to make sure that the current operator has on deposit with the County a performance bond and lots of insurance. Bonds are used extensively in oil and gas regulatory agencies. They are less often used by cities and counties, but they are used by Oklahoma City and Oklahoma City did withstand a challenge that went all the way to the United States Supreme Court concerning their authority to acquire performance bonding, and they survived that challenge.

So we think we have, based on that, the authority to require some level of bonding. The practical problem you have with bonding is it's not all that easy to get. We are researching the issue right now and trying to determine what an operator can actually get in terms of bonding. So what we've included in the ordinance is the \$500,000 performance bond, \$50,000 blanket bond that the state requires but we're checking to see if there's a higher number that's acceptable. The problem with bonding though is I don't think that there's, under any set of circumstances, going to be the practical ability for the County to acquire the level of performance bonding that you might think would be required if there were a problem, and that's where insurance comes in.

I'm a big believer in insurance for a number of reasons which I'll describe. We're

proposing that each operator of an oil and gas well in this county have a \$10 million comprehensive, general liability insurance that includes pollution liability coverage. One of the problems that comes up with bonds and other forms of financial surety is if the company goes away, the company goes bankrupt, you can't find the company or the surety goes bankrupt, what have you, there's no one to recover from in the event of an issue.

So for example, if a company goes bankrupt today and you discover in three years that that company has polluted the groundwater or something like that, well, the insurance coverage is still in force, but the bond may or may not be available many years after the fact. That's why I'm such a big believer in insurance. Once we get it, as long as it's a current date policy, which we'll insist on, we'll be able to levy against that insurance, even if the company is no longer around, has been wound up and dissolved.

So for me, Section 2 on page 25 is a really important section. Starting on page 26, then there's a discussion of violations of the ordinance and what we do if we discover violations. You'll find throughout the ordinance things like Section 1 which are general statements of what we consider unlawful behavior under the ordinance, catchall type statements that are common in all the ordinances we looked at. So if you construct an oil and gas facility that violates some term of your special use permit or your development permit, that's going to be considered unlawful. That's what that's for.

Section 2, however, gives us the ability to order a company to cease operations if there's some sort of a problem that we've identified with the facility. Section 3 identifies the usual penalties. You're familiar with the usual penalties for violation of a County ordinance. They're not substantial, as you know. They're limited to \$300 for a single violation, up to \$500 for a multiple violation and up to 90 days in jail. It's a significant but not probably an adequate penalty for violation of a County ordinance, particularly this one.

Section 4 preserves our right to file appropriate petitions to a court if an operator is not complying with our directives, such as an injunction, a writ of mandamus, things like that. It also permits us to revoke a permit, like for example, a development permit. Under this ordinance you can't operate an oil and gas well without first being zoned and secondly, having obtained a development permit. We can revoke that if there's issues that arise, and then we'll talk about the oil and gas inspector in a second. When you get into page 28, Article VI, you find a number of standards and practices listed here that apply both to specifically to the zoning as a special use and to the issuance of a development permit. And I see a number of these things that are listed - there are 32 sections - being the subject of an appropriate condition for approval in either of those two situations.

So for example, we go into great detail and we're going to probably go into more detail as time goes on concerning fire protection and emergency preparedness. This material comes from a number of ordinances around the county and it's been reviewed by our Fire Chief who has some additional suggestions. Essentially, they need to make a plan and they need to get it approved by the Fire Chief for situations that could arise. They need to keep us up to date about people within your organization who are capable of coming to the facility quickly and turning off valves or taking an appropriate remedial action. Those

are key to responding to spills, leaks, hazardous situations that might arise.

We are not allowing – someone mentioned earlier, I think it was quite a bit earlier in the day, the concern that a facility start a fire in the grasslands that are common in the Galisteo Basin. Except for drilling and other operations that might require flaring, we're not permitting flaring of natural gas. Not at all. They're required to have the usual fire protection equipment at the facility at all times. Fire extinguishers, other fire prevention equipment, monitoring equipment, etc.

Going on through these various conditions, you'll see that they're organized kind of according to the life of a well. This is sort of a lifecycle of a well, if you will. So during drilling, for example, there's a number of rules about drilling, one of which is once you finish drilling you get your drill out of there as quickly as possible. All drilling – Section 6B, all drilling operations must be conducted in a manner that surface water and groundwater will not be degraded or polluted, and in a manner that prevent vertical movement of water within the well. That's a key provision.

You'll see here on page 31 there's a discussion about casing. Casing is what I described earlier, that's the equipment that keeps the groundwater aquifer safe from contamination either from other groundwater aquifers or from oil and gas. We have two sections in here, and F and a G. They're intended to be alternatives. F is simply the first to the OCD for those requirements. G is more like Carlsbad. This actually comes right out of the Oklahoma City ordinance and describes very specific items that should be included in a well. This is intended for discussion over at OCD to see how comfortable they are with the County regulating in these areas.

We'll let them know that Oklahoma City has this ordinance. But we know – I know from discussions that I've had with Mr. Fesmire that they feel pretty comfortable that the regulations and practices that they have in place at the OCD are effective to protect groundwater aquifers during the drilling of wells and production of wells, but they're less confident about things like surface waste management. And that's why J on page 32 exists. In discussions with Mr. Fesmire he is of the opinion that the County could and should require closed loop systems like are being required in the Otero Mesa projects.

So once you get your well drilled – let me point on the top of page 33, this is the provision I was speaking of earlier. Drilling mud that's normally kept in a pit at the drilling site, that must be taken away when you're done using it. It will be in a steel tank because that's what a closed loop system is. But you can't take it out of the tank and throw it on the ground. You must pick it up and take it away to an OCD site.

So then, once you get your well in place and hopefully made a well in the sense that you're able to produce oil, you need to get the oil to market. What's typically done is that that's done through what's called a gathering system, which is a series of very small pipelines that run from numerous wells to a common collection site where there are usually a number of tanks. Oil is collected there, then a truck comes by and takes it off to market. The OCD regulates gathering systems. They're not pipelines. They're considered a part of the well system so OCD regulates those, and we're proposing to do some regulation of

gathering systems as well.

The hazard of a gathering system, obviously, is it's buried and you need to be able to determine at all times that there are no leaks occurring from the buried lines. So we have a number of requirements in there to try and address that issue. Section 8 of course is a strict zoning requirement. We want the sites to be neat and clean. We want them to blend in to the extent they can with the surrounding landscape. We don't want stuff stored at the well site like pipe or old tanks or anything like that. It all needs to be taken away when it's not being used. We're recommending that every well and its associated production equipment be fenced or put behind a wall so that children or animals can't get in there - or vandals for that matter, and do damage or potentially contaminate the surrounding landscape.

And if a residence is present within a half a mile of the well, or if a residence is created within a half a mile of the well, there's a requirement here in D to landscape and screen the well.

Moving on quickly through the remainder of this section, we're requiring any storage tanks to be buried and that underneath the storage tank an impermeable liner installed and appropriate leak detection system provided to ensure that any leaks that are created are dealt with quickly. There's a long section on roads and highways; I won't delve into that in any great detail. Suffice to say that the operators responsible for ensuring that our road system continues to function in the way it does now and that if any damage is done to a road it's promptly fixed. If a road needs to be upgraded as a result of their activities they have to provide that upgrade under our supervision.

Section 11 on page 36, nuisance and annoyance, these are very common in oil and gas ordinance. It basically says you can't create a public nuisance, which is commonly described as noise, vibration, dust, odor, other harmful or annoying substances. Smoke, flames, things like that, are a public nuisance and will not be tolerated under the ordinance.

Noise, Section 12. We want these wells - this is going to be a going to be a little bit of a difficult situation knowing what we know about the Tecton operation and the nature of the electrical co-ops that are in the Galisteo Basin. Noise is less of a problem if you can use electric motors but there's not the capacity to do that at this point. The motors that are being used to produce their current well are gas motors - I think it's a diesel generator, makes a lot of noise. We're prescribing here that an oil and gas facility not increase the noise at the nearest residence, which under this ordinance should be half a mile away, more than one dB. We're also requiring, if you adopt these requirements that the operator measure the ambient noise level in the middle of the night so we know, so that we have a baseline to determine whether the facility is too noisy.

Generally, what this type of regulation requires - and this came from Durango, Colorado, this particular requirement. These kinds of requirements generally require the operator to enclose things like gasoline or diesel engines in an enclosure. Otherwise they can't achieve the noise objectives. You'll see on page 37, any production equipment shall be powered by electric motors if located within 1320 feet, that's a quarter mile, of the

distribution voltage. And the reason for this, obviously, is that electric motors are a lot quieter than gasoline or diesel engines.

Moving on quickly to the next page. Light, we want all these facilities to comply with the Night Sky Protection Ordinance. It won't be possible if they're drilling at night. They can only drill at night if the well is going to be drilled below 5,000 feet below the surface or if safety considerations dictate that they drill without stopping. So this shouldn't be an issue but it could be if, like I say, they're drilling a deep well or something. We want them to comply with the Night Sky Protection Ordinance, which means no lights at night, or shielded lights.

Cultural, historical, archeological resources can't be damaged – that's the next section. You will recall that as a part of the submittals, we're asking for a cultural resource survey at the site of the facility but they're also going to be constrained by cultural, historical or archeological resources that are on the state's list, which we have in the Land Use Department.

Open hole formation of drill stem testing, flaring of gas – those are two standard type prohibitions that are common in oil and gas ordinances around the United States. Disposal of saltwater or other substances – we don't know, it hasn't been reported to me that the Black Ferrill Well is producing any saltwater, but if it is it needs to be taken to an OCD approved disposal well or site and there are none in this county.

Fracturing and acidizing – there are procedures that are done to increase the production of a well, or in the case of acidizing, used to repair a well. These types of operations are regulated heavily by OCD. What we're doing here is saying that we're going to watch them as well and we want to ensure that the fracturing pressures applied to any well are not excessive. What I mean by that is that if you apply excessive fracturing pressures to a formation, the fractures that result from that operation, in some cases, if their pressures are high enough, go up. These are shallow enough wells that that would be a concern. So we're saying here that any fracturing pressures must be strictly controlled so that doesn't happen.

These other things are just basic protections that we've grabbed from other ordinances. Page 41, Section 25, temporarily abandoned wells. Sometimes wells are not produced for a period of time, the OCD will allow wells to be put in temporary abandoned status for many years. We're asking in this draft that a well be placed in the status no longer than two years. Otherwise you have to come back and get another permit and go through the whole process again. Wells that are in this type of status, in other words, in a holding pattern, can be dangerous, because they're not being monitored like they were when they're being produced. So we need to keep a close eye on these kinds of wells and that's why we have these provisions in here.

Section 26, abandonment, plugging and remediation. The OCD does an excellent job ensuring that wells, when it's time for them to be plugged are plugged properly. We're not proposing to get in their way in this particular ordinance but we do want to ensure something that they do not do, which is that the site is completely remediated, in the sense

that once the well is abandoned the only thing that's left is a little steel marker, two or three feet high. Aside from that you shouldn't be able to tell that an oil and gas well as been there. So that's why the extensive provisions are in here, most of which are drawn from our existing mining ordinance.

Revegetation, extensive requirements in the existing ordinance about that – how you do it, how you establish the vegetation, how you determine what sort of vegetation should be used. It's a very complete statement of requirements from the existing mining ordinance so we just used it.

Section 28, prohibition of pollution. This is where the water protection procedures I was describing at the beginning of this discussion are. Once again, you have to establish a baseline of water quality so we can monitor that over time and ensure that no changes are occurring as a result of the oil and gas activity, and any waste products have to be properly disposed of. And if there is pollution or degradation of groundwater, the operator is required to immediately abate it at its own expense and cooperate with what would then be OCD directors concerning that issue.

Section 29, we don't want any oil and gas operations to affect not only the quality of groundwater but the quantity of it as well. That's what Section 29 is about.

Section 30 is a catchall. If we haven't addressed all the environmental protection standards specifically in the previous sections this catchall should take care of that.

Section 31, it's just as important to protect what runs off of an oil and gas site as to protect what runs onto it because what runs onto it can pick up things that might be there and take it off. So this is very familiar to us and to you working with the numerous land use applications that we deal with on a day to day basis, but we want to ensure that the site is controlled to a 200-year, 24-hour storm event.

And then Article VII is about who the ordinance applies to. We need a severability clause because this ordinance is probably close to the first of its kind in the state of New Mexico, and then Section 3, to ensure there's no conflicts with the mining ordinance which we brought in verbatim and in many cases we're proposing to redefine mineral under that ordinance not to include oil and gas.

Now let me last talk about something that is in the first section. This may be the most important section of this ordinance, and that's on page 6, Section 5. We're proposing that in order to correctly administer this ordinance that we have an oil and gas inspector. This person, under this proposal, could be a contract person or an employee of the County. It's somebody who's got the training, expertise, experience, what have you, in oil and gas production, drilling, abandonment – all aspects of oil and gas, that are addressed in this ordinance. We need somebody like that to be eyes and ears out there inspecting these facilities, working with the operator to make sure that all the provisions of the ordinance are addressed.

How we propose to pay for that is essentially through fees. On the last page of the ordinance, in conjunction with Penny Ellis-Green we worked up a fee schedule based on what we think the work load will be at various points in the lifecycle of a well. Obviously,

the most rigorous part of that process will be the initial application, so we're proposing a \$6,000 fee per well, or oil and gas facility. Development permit - we think that's less rigorous - \$1,000 for that process. And an annual fee, \$2500 for a well or an oil and gas facility.

We think that we could probably employ an expert in this field given the revenue we expect from the plan of operations. Once again, I think having an oil and gas inspector is critical in this because oil and gas operations are peculiar. They're not anything that somebody without a lot of expertise in the area can intelligibly deal with. And we think that at a minimum, staff and the BCC, the CDRC, everybody who's going to be dealing with these applications, needs to be able to turn to somebody and ask a technical questions. How does this work? Why are they proposing this? Is what the operator proposing in terms of a variance, is that reasonable? Or can they work around that? This is the kind of expertise we think is vital to the success of an ordinance that's like this.

So with that, I think I've covered everything, probably ad nauseum. I'll stand for questions.

CHAIR VIGIL: Questions from the Commissioners?

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Steve, you did include the public comments. I don't know if you said that but I believe you did.

MR. ROSS: Madam Chair, Commissioner Anaya, I neglected to say a few things at the beginning that I intended to, one of which is that people have been very helpful and I've gotten a lot of emails with very specific, concrete suggestions, and I have incorporated all of those that I've been able to up to this point. I regret that in the last four or five days I've gotten a lot of very technical suggestions that I haven't been able to review and deal with yet, but I expect to be able to review those things and ensure that the comments that people have sent in are addressed or - a lot of them have been covered already.

But I think that's important to mention that I've been trying to address every single substantive comment that comes in, and I've been trying to acknowledge those emails that come in and thank people for sending them in and letting them know that I'm here and I'm listening and that this is the process we set up. Going forward is something that people should avail themselves of. We have a written comment period from today until the 21st of December. I think the written comments are probably the most helpful to me working on the ordinance and probably to you as well, and that's why we're encouraging them. We're getting tons of really, really good ideas.

COMMISSIONER ANAYA: Yes, Madam Chair, Commissioners, I just wanted to thank the public for sending in their comments because we did use them in rewriting of the ordinance. And I also wanted to thank Steve Ross and Rachel Brown for working on this ordinance. I know they worked very hard and we really appreciate that. So thanks. And that's all the comments I have for now, Madam Chair.

CHAIR VIGIL: Thank you. Further questions? I have some questions unless Commissioner Sullivan would like to supercede me. Okay. Thank you. I'm going to ask some pointblank sort of questions here. I think you made some comments with regard to our mineral ordinance and I've actually reviewed that. My understanding is that ordinance has actually been challenged but I don't know what the challenge was. I had a concern when I wore my attorney hat on this is that if we did the mineral ordinance we might expose the County to a taking and I didn't want to go there. That's why I advocated for an oil and gas drilling ordinance at the onset. Am I assessing that incorrectly, Mr. Ross?

MR. ROSS: Well, Madam Chair, takings are always an issue when you're doing regulations and government. Because a regulatory taking is a recognized form of a taking. You don't just have to actually condemn property you can regulate it out of useful existence. And when we do something like this or the mining ordinance you're always concerned as an attorney, as you mentioned, you're concerned that you want to figure out where the line is, the line in the sand that beyond which if you regulate you're regulating somebody out of existence and taking their property. And that's a concern with something like what's sitting in front of you and it's also a concern with anything like the mining ordinance.

We've been careful drafting this ordinance to ensure that there is no taking. The only concern I have with the ordinance as drafted is what I verbalized earlier with respect to the setbacks. Because these kinds of ordinances are present elsewhere we feel pretty confident that an operator can jump through these hoops and follow the regulations without too much difficulty. It's a pretty high bar, of course, but I think it's one that folks can jump over. We'll find out in this next period when we get comments from everybody, whether they agree with that assessment or not.

Now, you mention the mining ordinance, it was challenged and it ended up in the court of appeals and was affirmed against a pre-emption challenge brought by, I think it was Pegasus, the company that was proposing to open up that big mine in the Ortiz Mountains. It survived that challenge. The claim was that the mining ordinance was pre-empted by the new mining act that had just been enacted and the court of appeals said, no, it's not. That was the extent of the challenge. It's not currently under challenge.

CHAIR VIGIL: Okay. Thank you for that assessment. It's concerning to me, and it's disconcerting at the same time, that we're drafting an ordinance where we have to make provisions for variances. It would seem to me since we're at the onset of drafting an ordinance, I personally would like to see no provisions to variances. That exposes the governing body to future criticism in terms of favoritism to someone. I think we need to actually identify the scope of this and I'll look forward to it. I will have a better sense, too, after we're actually going through the process of getting more feedback on this. I actually agree with most of the members of the governing body that this has been a very good learning experience and the Eldorado hearings themselves, when you sift through the emotion, there was some really good stuff there, and I think I look forward to hearing some of that.

But I'm really concerned about providing opportunities for variances on this and I would continue to be concerned about that. I still have a lot of questions but I think maybe those questions will be answered through the process and I think after our December 6th hearing and we hear questions or responses from most of the people who have had an opportunity to review this ordinance we'll be able to become more directional.

I think there's just one other question that I would have and it's very general. Do we as a County know what the underground geology of this area is, or is that within the purview of any of the other agencies that are responsible in this process?

MR. ROSS: Madam Chair, we have three hydrologists on staff. I think Dr. Wust is fairly familiar with the hydrology of this area. There are 16 wells that have been drilled in the area, oil and gas wells, the logs for which are all on deposit over there at the OCD. I think the folks at the OCD have some idea of what the geology is like. They also have a lot of information from domestic wells that's available through the Office of the State Engineer. I think the Manager has directed the County Hydrologist to take a look at this in more detail. We'll try and update you on that as we get more information.

CHAIR VIGIL: Okay. Any further questions?

COMMISSIONER MONTOYA: Madam Chair, I move for authorization to publish title and general summary of this ordinance.

COMMISSIONER SULLIVAN: Second.

CHAIR VIGIL: There's a motion and a second. Is there further discussion? I just want to let the public know who is here to listen to this process and review this ordinance that this is our first opportunity to review it too, and I'm sure you have questions. We hope to accommodate those questions at our December 6th meeting. If more time is needed, you've heard that that time would be available, and I also would encourage them to create a focus on this issue to be a very productive way of working collaboratively towards resolving the issue that's before us.

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

CHAIR VIGIL: I'll just give everyone an update. I know we have to go into executive session. Commissioner Anaya who has been working very hard on the relocation for the December 6th meeting, we have heard from the public schools. We will be speaking to Santa Fe Community College. That information will be available on our website. We will do notices and we will release information, not only through the paper but through our public information officer, through radio stations. The meeting is December 6th, 6:30, currently scheduled for Turquoise Trail. New site is being sought after just to accommodate the larger amounts of audience members. So with that, that motion does pass 5-0. Look forward to working with those members who are here and who have given us some valuable information. Hopefully we can continue with that.

XIV. E. Matters from the County Attorney

1. Executive session

- a. Discussion of pending or threatened litigation**
- c. Discussion of possible purchase, acquisition or disposal of real property or water rights**

Commissioner Campos moved to go into executive session pursuant to NMSA Section 10-15-1-H (7 and 8) to discuss the matters delineated above. Commissioner Anaya 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 5:35 to 6:15.]

COMMISSIONER SULLIVAN: I'll take a motion that we come back out of executive session where we only discussed -

MR. ROSS: Pending or threatened litigation.

COMMISSIONER SULLIVAN: Pending or threatened litigation.

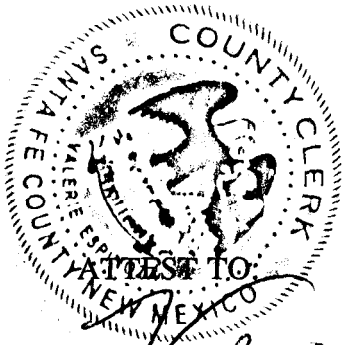
COMMISSIONER CAMPOS: So moved.

COMMISSIONER ANAYA: Second.

The motion to come out of executive session passed by unanimous [3-0] voice vote. [Chair Vigil and Commissioner Montoya were not present for this action.]

XV. ADJOURNMENT

Vice Chairman Sullivan declared this meeting adjourned at approximately 6:15.



Valerie Espinoza
VALERIE ESPINOZA
SANTA FE COUNTY CLERK

Approved by:

J. M. Sullivan
Board of County Commissioners
Virginia Vigil, Chair
Jack Sullivan
1/8/08

Respectfully submitted:

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

**THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY**

ORDINANCE NO. 2008-

**AN ORDINANCE DECLARING A THREE MONTH MORATORIUM ON
APPLICATIONS TO DRILL AN OIL OR NATURAL GAS WELL, DECLARING AN
EMERGENCY**

WHEREAS, exploration for crude oil and natural gas occurred in the 1980s in the Galisteo Basin in Santa Fe County, where sixteen oil wells were drilled;

WHEREAS, although most of the sixteen wells were plugged and abandoned many years ago, one still active well was reworked in February 2007 by an oil and gas operator who has plans to drill at least eight additional wells;

WHEREAS, the only source of County regulation of oil and gas exploration and production is found in Article III Section 5 of the Land Development Code, a section that governs mining in general but does not contain specific provisions that address oil and natural gas exploration and production;

WHEREAS, it is imperative that applications to drill wells, explore and produce crude oil and natural gas be addressed under a modern, complete, specific and effective zoning and development ordinance;

WHEREAS, County staff has prepared such an ordinance that draws from ordinances in numerous counties and cities throughout the United States;

WHEREAS, the draft ordinance has had only limited public input thus far and will require an extensive public process before it is ready for public hearings and adoption, and a schedule for that public process has been promulgated that includes two public meetings, a period for written comments from the public, a full day public hearing, and a second public hearing and possible adoption of the ordinance in late January;

WHEREAS, an oil and gas operator has publicly stated that it will file eight applications to drill new oil and gas wells within the Galisteo Basin;

WHEREAS, if such applications were filed prior to enactment of a specific oil and gas ordinance, confusion would result over whether the pending applications should be processed under the existing ordinance or the new ordinance;

WHEREAS, it is critical to the health, safety and welfare of citizens of the Galisteo Basin who are about to be impacted by oil and natural gas drilling that the process for adopting a new ordinance be allowed to run its course, without being affected by concerns over the effect of eight applications on the County's current or future regulatory authority;

ERK RECORDED 01/16/2008

WHEREAS, allowing an application to be processed under the circumstances could result in significant irreparable damage to the human and natural environment; and

WHEREAS, new applications for oil and gas should not be accepted by the County until the County's regulatory authority over oil and natural gas exploration, drilling and production has been clarified in a new ordinance.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY:

1. A three-month moratorium on applications to drill an oil or natural gas well is hereby imposed. No application to drill an oil or natural gas well will be accepted or processed until the three month waiting period established by this ordinance has passed.

2. An ordinance governing oil and natural gas exploration, drilling and production shall be presented to the Board of County Commissioners for consideration and adoption prior to the expiration of this moratorium.

3. An emergency is hereby declared because of the stated intent of an oil and gas operator to file eight applications to drill new oil and gas wells within the Galisteo Basin and the need for the County to enact an ordinance that directly governs oil and natural gas production.

4. It is necessary for the protection of the public health, safety and welfare that this ordinance take effect immediately.

5. This ordinance will cease to be of effect three months from the date of recordation.

PASSED AND ENACTED THIS 27th DAY OF NOVEMBER, 2007.

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

By _____
Virginia Vigil, Chair

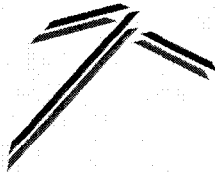
ATTEST:

Valerie Espinoza, County Clerk

Approved as to form:

Stephen C. Ross, County Attorney

S F C C L E R K R E C O R D E D 0 1 / 1 6 / 2 0 0 8



Tecton Energy, LLC

November 26, 2007

Ms. Virginia Vigil
Chairperson, Santa Fe County Board of Commissioners
200 Lincoln Avenue
Santa Fe, New Mexico 87501

Dear Ms. Vigil-

Tecton Energy has today been informed that the Santa Fe County Board of Commissioners, at its November 27, 2007 meeting, will consider a motion to implement an emergency moratorium on applications to drill for oil and gas in Santa Fe County. We send this letter because we are unable with short notice to appear in person and present our position.

Tecton has been repeatedly advised by Santa Fe County officials that the existing Mining ordinance was designed to ensure public safety and welfare, and we have been told to make our pending submittals under the guidelines of this ordinance. We understand that the County now desires to design and enact a new ordinance specific to oil and gas activities, and that the proposed moratorium may be intended to provide the Commission time to study and enact the new ordinance.

In our opinion, enactment of an emergency moratorium without notice and hearing would violate New Mexico law. The County's only authority to enact a moratorium arises from its power to regulate land use and impose zoning under §§ 3-21-1, et seq. NMSA, which requires promulgation of an ordinance. New Mexico law does not allow a moratorium—emergency or otherwise--without notice and hearing complying with § 3-21-14 NMSA, which requires publication of notice two weeks prior to the meeting of the County Commission in which the ordinance will be considered (*see Westgate Families v. County Clerk*, 100 N.M. 146 (1983)).

CLERK RECORDED 01/16/2008

Further, given the existence of an exceptionally strong County Mining ordinance designed to protect public health and welfare, we can see no basis by which the County can declare our preparations to make a future application an emergency. Tecton objects to any consideration of a moratorium without compliance with all required procedures.

Tecton stands willing and ready to work with County officials and the public to design and implement a rigorous protocol of modern, environment and community-conscious drilling and production practices. We continue to work on refinements to our County-level application, which we do not anticipate submitting for consideration for some period of time. In the meantime, we pledge to keep the Commission informed of our plans and progress.

Respectfully yours-



Bill Dirks
Managing Partner
Tecton Energy, LLC

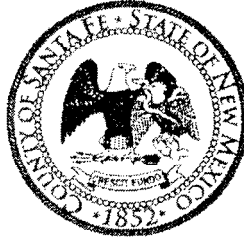
SFC CLERK RECORDED 01/16/2008

3000 Wilcrest · Suite 300 · Houston, TX 77042 · Main 281.668-8068 · Fax 281.668-8063
www.tectonenergy.com

Harry B. Montoya
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

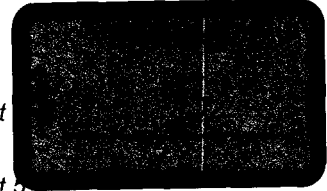
Michael D. Anaya
Commissioner, District 3



Paul Campos
Commissioner, District 5

Jack Sullivan
Commissioner, District 6

Roman Abeyta
County Manager



ERK RECORDED 01/16/2008

MEMORANDUM

Date: 27 November 2007

From: Paul Olafson, Director, Community Projects Division, Community Services Department

Cc: Joseph Gutierrez, Director, Community Services Department

Re: **Request approval of a No Cost Lease Agreement Between Santa Fe County and the Bureau of Land Management for 12.03 Acres of Land Near Arroyo Seco for Phase III of the Marcos P. Trujillo Teen Center (Community Services Department)**

Background:

Santa Fe County staff has been working with the Bureau of Land Management (BLM) to secure an approximately 12 acre site near Arroyo Seco in Santa Fe County to be used as the site for the Planned Phase III of the Marcos P. Trujillo Teen Center. The land is adjacent to the existing Santa Fe County Fire Station in Arroyo Seco.

Phase III of the Marcos P. Trujillo Teen Center is planned to include recreation facilities with a multipurpose athletic field and other community amenities. The lease agreement between the BLM and the County is a no cost agreement and includes the option for the County to purchase the land after 5 years. The lease must be enacted before December 7, 2007 per the BLM's requirements.

Action Requested:

Staff recommends approval of the no cost lease agreement between Santa Fe County and the Bureau of Land Management for 12.03 acres of land near Arroyo Seco for Phase III of the Marcos P. Trujillo Teen Center.

S F C C L E R K
R E C O R D E D 0 1 / 1 6 / 2 0 0 8

Form 2912-1
(May 2001)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Serial Number

NM-11420701

RECREATION OR PUBLIC PURPOSES LEASE

Act of June 14, 1926, as amended (43 U.S.C. 869 *et. seq.*)

This lease entered into on this _____ day of _____, 20 07, by the United States of America, the lessor, through the authorized officer of the Bureau of Land Management, and Santa Fe County

_____ hereinafter called the lessee, pursuant and subject to the terms and provisions of the Recreation and Public Purposes Act and to all reasonable regulations of the Secretary of the Interior now or hereafter in force when not inconsistent with any express and specific provisions herein, which are made a part hereof,

WITNESSETH:

Sec. 1. The lessor, in consideration of the rents to be paid and the conditions to be observed as hereinafter set forth, does hereby grant and lease to the lessee the right and privilege of using for the purposes hereinafter set forth in the following-described lands:

together with an option to purchase during the term of the lease upon a showing of substantial compliance with the approved plan of development designated in Section 4(a):

**T. 20 N., R. 9 E., NMPM
Sec. 18: lots 17 & 18**

containing **12.03** acres, together with the right to construct and maintain thereon all buildings or other improvements necessary for such use for a period of **five** years, the rental to be \$ **0.00** per annum. If, at the expiration date of the lease the authorized officer shall determine that the lease may be renewed, the lessee herein will be accorded the privilege of renewal upon such terms as may be fixed by the lessor. The lessee may use the premises for **a day use recreational facility.**

Sec. 2. There are reserved to the United States all mineral deposits in said lands, together with the right to mine and remove the same under applicable laws and regulations to be established by the Secretary of the Interior.

- Sec. 3. The lessor reserves the right of entry, or use, by
- (a) any authorized person, upon the leased area and into the buildings constructed thereon for the purpose of inspection;
 - (b) Federal agents and game wardens upon the leased area on official business;
 - (c) the United States, its permittees and licensees, to mine and remove the mineral deposits referred to in Sec. 2, above.

Sec. 4. In consideration of the foregoing, the lessee hereby agrees:

(a) To improve and manage the leased area in accordance with the plan of development and management designated as **Proposed Marcos P. Trujillo Recreation Area Development and Improvement Plan**

and approved by an authorized officer on **03/28/2007** or any modification thereof hereinafter approved by an authorized officer, and to maintain all improvements, during the term of this lease, in a reasonably good state of repair.

(b) To pay the lessor the annual rental above set forth in advance during the continuance of this lease.

(Continued on page 2)

(c) Not to allow the use of the lands for unlawful purposes or for any purpose not specified in this lease unless consented to under its terms: not to prohibit or restrict, directly or indirectly, or permit its agents, employees, contractors (including, without limitation, lessees, sub-lessees, and permittees), to prohibit or restrict the use of any part of the leased premises or any of the facilities thereon by any person because of such person's race, creed, color, sex, or national origin.

(d) Not to assign this lease or to change the use of the land without first receiving the consent of the authorized officer of the Bureau of Land Management.

(e) That this lease may be terminated after due notice to the lessee upon a finding by the authorized officer that the lessee had failed to comply with the terms of the lease; or has failed to use the leased lands for the purposes specified in this lease for a period of two consecutive years; or that all or part of the lands is being devoted to some other use not consented to by the authorized officer; or that the lessee has not complied with his development and management plans referred to in subsection 4(a).

(f) That upon the termination of this lease by expiration, surrender, or cancellation thereof, the lessee, shall surrender possession of the premises to the United States in good condition and shall comply with such provisions and conditions respecting the removal of the improvements of and equipment on the property as may be made by an authorized officer.

(g) To take such reasonable steps as may be needed to protect the surface of the leased area and the natural resources and improvements thereon.

(h) Not to cut timber on the leased area without prior permission of, or in violation of the provisions and conditions made by an authorized officer.

(i) That nothing contained in this lease shall restrict the acquisition, granting, or use of permits or rights-of-way under existing laws by an authorized Federal officer.

Sec. 5. *Equal Opportunity Clause.* Lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor. Neither lessee nor lessee's subcontractors shall maintain segregated facilities.

Sec. 6. *Equal Access Clause.* Lessee shall comply with all provisions of the American Disabilities Act of July 26, 1990 the Architectural Barrier Act of 1968 and Section 504 of the Rehabilitation Act of 1973, as amended. These Acts require that programs and public facilities constructed or renovated be accessible to and usable by persons with disabilities.

Sec. 7. The lessee may surrender this lease or any part thereof by filing a written relinquishment in the appropriate BLM office. The relinquishment shall be subject to the payment of all accrued rentals and the continued obligation of the lessee to place the lands in condition for relinquishment in accordance with the applicable lease terms subsections 4(f) and 4(g) and the appropriate regulations.

Sec. 8. The lessee further agrees to comply with and be bound by those additional terms and conditions identified as

Recreation and Public Purposes Lease Terms and Conditions (3 pgs.);

Exhibit A Special Stipulations;

Night Sky Protection Act.

and which are made a part hereof.

Sec. 9. No Member of, or Delegate to, the Congress, or Resident Commissioner, after his election or appointment, and either before or after he has qualified, and during his continuance in office, and no officer, agent, or employee of the Department of the Interior, except as otherwise provided in 43 CFR, Part 7, shall be admitted to any share or part of this lease, or derive any benefit that may arise there from, and the provisions of Title 18 U.S.C. Sections 431—433, relating to contracts, enter into and form a part of this lease, so far as the same may be applicable.

FOR EXECUTION BY LESSEE

THE UNITED STATES OF AMERICA

IN WITNESS WHEREOF:

(Signature of Lessee's Authorized Officer)

By _____
(Authorized Officer)

(Signature of Witness)

(Title)

(Date)

(Date)

NMNM 11420701

RECREATION AND PUBLIC PURPOSES LEASE

Terms and Conditions

The lease of the herein described lands is subject to the following reservations, conditions, and limitations:

- (1) The lessee or his (its) successors in interest shall comply with and shall not violate any of the terms or provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 241), and requirements of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant thereto (43 CFR 17) for the period that the lands conveyed herein are used for the purpose for which the grant was made pursuant to the act cited above, or for another purpose involving the provision of similar services or benefits.
- (2) If the lessee or his (its) successor in interest does not comply with the terms or provisions of Title VI of the Civil Rights Act of 1964, and the requirements imposed by the Department of the Interior issued pursuant to that title, during the period during which the property described herein is used for the purpose for which the grant was made pursuant to the act cited above, or for another purpose involving the provision of similar services or benefits, the Secretary of the Interior or his delegate may declare the terms of this grant terminated in whole or in part.
- (3) The lessee, by acceptance of this lease, agrees for himself (itself) or his (its) successors in interest that a declaration of termination in whole or in part of this grant shall, at the option of the Secretary or his delegate, operate to revest in the United States full title to the lands involved in the declaration.
- (4) The United States shall have the right to seek judicial enforcement of the requirements of Title VI of the Civil Rights Act of 1964, and the terms and conditions of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant to said Title VI, in the event of their violation by the lessee.
- (5) The lessee or his (its) successor in interest will, upon request of the Secretary of the Interior or his delegate, post and maintain on the property conveyed by this document signs and posters bearing a legend concerning the applicability of Title VI of the Civil Rights Act of 1964 to the area or facility conveyed.

NMNM 11420701

Terms and Conditions
Cont'd

(6) The reservations, conditions, and limitations contained in paragraphs (1) through (5) shall constitute a covenant running with the land, binding on the lessee and his (its) successors in interest for the period for which the land described herein is used for the purpose for which this grant was made, or for another purpose involving the provision of similar services or benefits.

(7) The assurances and covenant required by sections (1) - (6) above shall not apply to ultimate beneficiaries under the program for which this grant is made. "Ultimate beneficiaries" are identified in 43 CFR 17.12(h).

(8) An adjustment may be made, based on a periodic review of the appraisal, for the annual rental at the time of renewal or at exercise of the purchase option.

(9) Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the lessee, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. The lessee shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The lessee will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the lessee.

ACCEPTED BY:

NAME

TITLE

DATE

**Terms & Conditions
for
R&PP Lease #NM-11420701**

Lease and patent will be subject to Executive Order 11988 which governs final disposal of land in floodplains and states:

Pursuant to the authority contained in Section 3(d) of Executive order 11988 of May 24, 1977 (42 F.R. 26951) and Act of June 14, 1926, as amended (43 U.S.C. 869 *et. seq.*), this lease and eventual patent is subject to a permanent restriction which constitutes a covenant running with the land, that the land may not be used for :

(1) Buildings containing valuable documents or data or instruments, or materials dangerous to the public if released by flooding; power installations needed in emergencies; hospitals and like institutions; and similar type use structures below the bank of the Arroyo Seco.

(2) Residential buildings; public service installations needing high protection; permanent memorial cemeteries; and similar type use and structures below the bank of the Arroyo Seco.

(3) Buildings and salvageable or replaceable goods or for storage of readily-moved goods; low-cost service shops; and similar type use and structures below the bank of the Arroyo Seco.

Lease and patent will also be subject to valid existing rights. Minerals, ditches and canals will be reserved to the United States.

**EXHIBIT A
SPECIAL STIPULATIONS
NM-11420701**

SFC CLERK RECORDED 01/16/2008

The Marcos P. Trujillo Recreation Area will be constructed in accordance with the approved Plan of Development and the following stipulations.

1. The lessee shall submit a Storm Water Prevention Plan and seeding/landscaping plans to the authorized officer for approval prior to beginning project. The lessee shall follow Best Management Practices to mitigate erosion or runoff into the arroyo. BMP's implemented should result in no net increase of runoff from proposal site and should be specific to site conditions and plan of development. Mitigation measures will include erosion logs, water bars, and landscaping to prevent movement of disturbed soil. Arroyo banks will be stabilized with erosion logs or mats. Noxious weeds should also be addressed in SWPP.
2. Exterior boundaries will be fenced prior to starting construction to avoid disturbance outside lease area. Authorized Officer will be notified after fence has been constructed and a week prior to breaking ground.
3. The holder shall notify the authorized officer 5 days prior to beginning construction on the proposed project and must receive a Notice to Proceed from the authorized officer.
4. Any fill mixture brought in shall be from a weed free source.
5. All heavy equipment will be cleansed of mud and dirt prior to entering and exiting BLM land to avoid the transfer of noxious weed seeds.
6. Lessee will keep site vegetated with suitable species in order to protect and preserve soil. Proper vegetative cover and scenic and esthetic values at the site both inside and outside construction limits will be targeted. Lessee will provide for the prevention and control of soil erosion within the lot and adjacent lands that might be affected by the construction, operation, maintenance of the recreation area.
7. Should noxious weed infestation be found at the proposed site, the holder will provide for treatment of noxious weeds with the method of treatment approved by the Taos Field Office. Holder will provide for noxious weed treatment at existing site.
8. Additional requirements may be imposed to avoid and alleviate additional problems such as erosion problems.
9. Site is for day use only. Lessee will follow the Night Sky Protection Act at all times.
10. Sub-lease shall be reviewed by the authorized officer prior to finalizing sub-lease. Finalized sub-lease shall be submitted to the authorized officer; sub-lessee shall follow R&PP regulations.

The authorized officer for this project is Francina Martinez, Realty Specialist.

Holder

Date

THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY

ORDINANCE NO. 2008-

THE SANTA FE COUNTY OIL AND NATURAL GAS ORDINANCE; AN ORDINANCE GOVERNING OIL AND NATURAL GAS EXPLORATION, DRILLING, PRODUCTION, ABANDONMENT AND REMEDIATION; ESTABLISHING THE POSITION OF OIL AND GAS INSPECTOR; PROVIDING FOR ZONING OF OIL AND NATURAL GAS FACILITIES AS A SPECIAL EXCEPTION PURSUANT TO THE SANTA FE COUNTY LAND DEVELOPMENT CODE; PROVIDING LOCATIONAL CRITERIA FOR OIL AND NATURAL GAS FACILITIES; REQUIRING A DEVELOPMENT PERMIT FOR ESTABLISHMENT OF OIL AND NATURAL GAS FACILITIES; ESTABLISHING PROCEDURES AND SUBMITTALS FOR OBTAINING SPECIAL USE PERMITS AND DEVELOPMENT PERMITS FOR OIL AND NATURAL GAS FACILITIES; ESTABLISHING BONDING AND INSURANCE REQUIREMENTS; PROVIDING FOR PENALTIES AND ENFORCEMENT PROCEDURES; PROVIDING STANDARDS FOR EQUIPMENT, OPERATIONS, STANDARDS AND PRACTICES AT AN OIL AND NATURAL GAS FACILITY INCLUDING EMERGENCY PLANS, PROCEDURES AND EQUIPMENT, DRILLING, PRODUCTION AND REMEDIATION, NOISE AND NUISANCES, APPEARANCE, WATER, ROADS, LIGHTING, OPERATING HOURS, CULTURAL, HISTORICAL AND ARCHEOLOGICAL RESOURCES, SPILLS AND LEAKS AND TEMPORARY AND PERMANENT ABANDONMENT; PROVIDING FOR APPLICATION AND ANNUAL FEES; AMENDING A PORTION OF SANTA FE COUNTY ORDINANCE 1996-1, ARTICLE III, SECTION 5.2, DEFINING "MINERAL."

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY:

ARTICLE 1 - GENERAL

SECTION 1. SHORT TITLE.

This Ordinance may be cited as the "Santa Fe County Oil and Natural Gas Ordinance."

SECTION 2. PURPOSE.

This Ordinance is enacted to protect and promote the health, safety, morals, convenience, order, prosperity and general welfare of present and future residents of the County. It is the County's intent by enacting this Ordinance to permit the development of

ERK RECORDED 01/16/2008

11/27/07

oil and natural gas resources within the unincorporated areas of the County while also mitigating potential land use conflicts between such development and existing as well as planned land uses. It is recognized that under State law, the surface and mineral estates are separate and distinct interests in land, that the interests may and often are severed, and that the mineral estate is the dominant estate. Owners of subsurface mineral interests have certain legal rights and privileges, including the right to use that part of the surface estate reasonably required to extract and develop their subsurface mineral interests. Similarly, owners of the surface estate have certain legal rights under common law and pursuant to the Surface Owner's Protection Act, NMSA 1978, §§ 70-12-1 through 70-12-12 (2007), including protection of existing surface uses and protection from or compensation for adverse land use impacts associated with the development of the mineral estate.

SECTION 3. COMPLIANCE WITH ORDINANCE REQUIRED.

No person shall engage in any work or construct any Oil and Natural Gas Facility in violation of any of the provisions of this Ordinance and relevant provisions of the Code.

SECTION 4. DEFINITIONS.

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicated a difference meaning:

A. *Abandonment* means permanent abandonment of a Well or an Oil and Natural Gas Facility, as established by the filings of the Operator or Owner with the OCD, from production records maintained by the OCD and the Taxation and Revenue Department, and from information gathered by the Oil and Gas Inspector. The County may presume abandonment of an Oil and Natural Gas Facility based upon: (i) nonuse or the lack of any production for one (1) year, as established from records of the New Mexico Taxation & Revenue Department; (iii) plugging and abandonment of a Well; or (iv) an Oil and Natural Gas Facility that is out of compliance with regulations of the OCD or this Ordinance for one (1) year.

B. *The Administrator* is the Director of the Land Use Division of the Growth Management Department, Santa Fe County, or any person subsequently assigned to perform substantially all of the functions exercised by that person.

C. *Agricultural* means property currently used for farming or ranching purposes, including pasture.

D. *Closed Loop System* means a system for drilling that utilizes a series of completely enclosed steel storage tanks that separate liquids and solids instead of a Reserve Pit.

E. *Code* means Santa Fe County Land Development Code, Ordinance No. 1996-11 (as amended) and any successor ordinance.

F. *Collection Line* means a pipeline that collects produced or waste water and transports it to a central disposal area.

G. *Compatible* means that uses can exist or act together harmoniously, considering noise levels, odors, potential fire hazard, visual impacts, effects to surface water and groundwater quality/quantity, adequacy of the road system, air quality and surrounding land uses.

H. *Completion rig* is a drilling rig or a Workover rig used to complete or service a Well.

I. *Compressor* is a device in which the pressure of a gas is raised for transmission through pipelines.

J. *Compressor Station* means an installation consisting of one or more individual compressors, located on a gathering or transmission line, or both.

K. *County* means Santa Fe County, New Mexico.

L. *Cultural, Historic or Archeological Resource* means Historic Sites, Cultural Sites, Archeological Sites and Landmarks that are designated by the State of New Mexico. A list, called the Official Register of Cultural Properties, and the list of the National Register for Historic Places, are on file with the Administrator.

M. *Gas well* means a well having a pressure and volume of natural gas; specifically, producing methane, often in combination with a variety of other substances such as butane, propane and carbon dioxide.

N. *Gathering System* means a system of pipes, auxiliary tanks and other equipment used to move oil or natural gas from the Well to a Tank Battery or to the main pipeline for eventual delivery to a refinery.

O. *Lease* means any tract of land subject to an oil, gas and mineral lease or other oil and gas development contract, or any unit composed of several tracts and leases but operated as one lease, and any tract of land in which the minerals are owned by an Operator or a person or entity holding title for the Operator, but which, due to the free royalty ownership, is developed and operated as a separate tract.

P. *Lessee* means a person, corporation or other legal entity that has been granted a Lease from the Owner.

Q. *OCD* means the Oil and Gas Conservation Division of the Energy, Minerals and Natural Resources Department of the State of New Mexico, or any successor agency.

R. *Oil and Natural Gas Facility or Facilities* means:

i. An individual Well and the surrounding site built and operated to produce crude oil and/or natural gas, including auxiliary equipment required for such production (i.e., separators, dehydrators, pumping units, tank batteries, tanks, metering stations, and other equipment located within the perimeter of the well site);

ii. A Compressor Station and associated facilities that serve one or more wells employing engines and/or motors;

iii. A water injection station and associated facilities;

iv. A storage or construction staging yard associated with an Oil and Natural Gas Facility;

v. A facility related to the production of crude oil and/or natural gas which contains engines and/or motors;

vi. A Gathering System consisting of crude oil or natural gas gathering lines or water lines;

vii. Any facility associated with a Gathering System or water Collection Line, such as a drip station, vent station, pigging facility, chemical injection station, transfer pump station and valve box;

viii. A gas treating facility that serves multiple Wells or Gathering Systems; and

ix. A pipeline for which the power of eminent domain is available.

S. *Operator or Owner* means that person, corporation or other legal entity possessing the legal right to develop oil and gas resources or any other use proposed in connection therewith for the site in question.

T. *Platted Subdivision Lot* means any lot created pursuant to State law and the Code.

U. *Pollution* means the contamination or other degradation of the physical, chemical or biological properties of land, water or air, including a change in temperature, taste, color, turbidity or odor, or such discharge of any liquid, gaseous, solid, radioactive or other substance onto the land or into the water or air that will, or is likely to, create a nuisance or render such land, water or air harmful, detrimental or injurious to the public

health, safety or welfare, or harmful, detrimental or injurious to domestic, commercial, industrial, Agricultural, recreational or other beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

V. *Producing* means the development stage in which marketable quantities of oil or natural gas, or both, are extracted from a Well and may also signify the extraction level at which the quantitative terms of the lease are fulfilled.

W. *Reasonably prudent Operator* means an Operator that operates and conducts oil field operations in a proper and workmanlike manner, consistent with rules and regulations of the OCD, common industry practices, and guidelines of the American Petroleum Institute.

X. *Recompletion* means drilling within the same Well bore or re-perforating within an existing Well bore to reach a new reservoir.

Y. *Reserve pit* means a pit that is created at the drilling site of a Well to store the drilling fluid and strain the mud and other materials produced during drilling.

Z. *Residential* means having an existing residence or Platted Subdivision Lot.

AA. *Pit* means earthen excavation used for the purpose of retaining or storing substances associated with the drilling or operation of oil and natural gas wells.

BB. *Right-of-Way* means a tract or strip of land, separate and distinct from the adjoining property, owned, occupied or intended to be occupied by a Gathering Line.

CC. *Shut-in* means to close a valve on a well so that it stops producing.

DD. *Sour Gas* means natural gas containing hydrogen sulfite (H²S).

EE. *Spacing* means acreage dedicated to each well producing from the same formation, as established by the OCD.

FF. *State* means the State of New Mexico.

GG. *Tank* means a steel cylinder for the storage of oil.

HH. *Tank Battery* means a group of tanks located at a convenient point for storing oil prior to transportation by truck or pipeline to a refinery.

II. *Transmission Line* means a pipeline transporting oil, natural gas or any other products derived from oil and gas production, which is defined as a "transmission line" by regulations of the Department of Transportation pursuant to the Natural Gas Pipeline Safety Act of 1968, as amended.

JJ. *Well* means any hole or holes, bore or bores, to any sand, formation, strata or depth for the purpose of exploring for, producing and recovering any oil, gas liquid hydrocarbon, or any of them.

KK. *Workover* means an operation on a producing Well to restore or increase production. A typical Workover is cleaning out a Well.

LL. *Workover rig* means a piece of equipment designed to carry various tools necessary to complete a Workover.

MM. All technical or oil and gas industry words or phrases used herein and not specifically defined herein shall have that meaning customarily attributable thereto by prudent operators in the oil and gas industry. All other words used in this Ordinance shall be given their usual, customary and accepted meaning in the oil and gas industry, or as defined in the Rules and Regulations of the OCD.

SECTION 5. OIL AND GAS INSPECTOR.

A. The position of Oil and Gas Inspector is established. It shall be the duty of the Oil and Gas Inspector to enforce the provisions of this Ordinance.

B. The Oil and Gas Inspector shall be a person who, by virtue of education, training or experience is qualified to enforce the provisions of this Ordinance. The Oil and Gas Inspector may be a person employed by the County as a Code Enforcement Officer or may be a person contracted to perform the duties.

ARTICLE II - ZONING

SECTION 1. ESTABLISHMENT OF SPECIAL USE REQUIRED.

A. Use of any property within the County for an Oil and Natural Gas Facility shall not be permitted unless a Special Use Permit has been granted for the property in question. A Special Use Permit is required to locate a new Oil and Natural Gas Facility or Facilities anywhere in the County, to substantially change, expand, or modify an existing Oil and Natural Gas Facility or Facilities, or to re-enter a Well that is plugged and abandoned as shown on the records of the OCD. The Special Use shall be established in accordance with the specific procedures for securing a Special Use, if applicable, or in accordance with the procedures in place for securing approval of a master plan set forth in the Code (as amended).

B. An Oil and Natural Gas Facility shall not be established in an area where development is not permitted as established by the Code, a Traditional Community, or an area within the Residential Urban zoning classification. An Oil and Natural Gas Facility shall not be permitted within a Cultural, Historic or Archeological site, a site listed on the National Register for Historic Places, or a site designated in the Galisteo Basin

Archaeological Sites Protection Act (as amended), 108 Pub. L. No. 208, 118 Stat. 558 (2004).

SECTION 2. APPLICATION AND SUBMITTALS.

A. A separate Application for approval of a Special Use is required for each Oil and Natural Gas Facility.

B. In addition to submittals required by the Code, an Application for a Special Use shall include the following:

1. A detailed site plan that shows the proposed Oil or Natural Gas Facility relative to all structures and land uses within a three mile radius;
2. A statement of the proposed use of the Oil and Natural Gas Facility;
3. A statement that describes how the proposed Oil and Natural Gas Facility will comply with all the requirements of this Ordinance and other applicable provisions of the Code, or, as required, a statement describing why the Oil and Natural Gas Facility is entitled to a variance of any particular provision of this Ordinance or the Code;
4. Copies of all relevant documents filed with and/or approved by the OCD including, but not limited to, the Operator's registration and authority from OCD and any other submittals to and approvals from the OCD;
5. A description of the Operator or Owner's organizational structure, including a description of any wholly owned subsidiaries or parent companies and the relationship of the Operator or Owner to those subsidiary or parent companies;
6. A complete list of Oil and Natural Gas Facilities owned or operated in the State of New Mexico, in the United States and internationally, including facilities owned or operated by a parent or subsidiary identified in the previous paragraph;
7. If required by the Administrator after a review of the organizational documents of the applicant, a letter of indemnity from a parent or subsidiary corporation;
8. A list of Oil and Natural Gas Facilities owned or operated by the applicant that are not in compliance with regulatory requirements in the respective jurisdiction. For each such facility listed, provide details concerning the compliance issues experienced;
9. If a Well is to be drilled, details concerning the geological formations to be explored and details concerning the specific objectives, estimated quantity of oil or natural gas present, specific geologic and engineering data that supports the estimated

11/27/07

quantities, the depth of each proposed interval, any special difficulties anticipated (excessive pressure, tight rocks, H₂S gas, etc.), and any anticipated difficulties expected in drilling, production, plugging and abandonment;

10. A detailed explanation of how products will be removed from the site. If surface trucking is to be used, provide a copy of the interstate and intrastate certificates of the trucking company, and provide a copy of the insurance certificate of each such company;

11. A detailed description and a time table for each phase of operations (exploration, drilling, production, abandonment) and a detailed description of the reclamation that will be provided after cessation of operations.

12. A detailed explanation of all steps to be taken to comply with applicable portions of the Oil and Gas Act, the Water Quality Act, the rules and regulations of the OCD and the Water Quality Control Commission, other applicable laws and regulations, and any applicable health and safety standards;

13. A description of all hazardous, harmful, and toxic materials to be used and transported in connection with the proposed Oil and Natural Gas Facility and a description of steps that will be taken to ensure that the use of such materials will have no adverse impact;

14. A terrain management plan pursuant to the requirements set forth in the Code, that includes a reclamation plan consisting of the following:

a. A description of all areas affected in any way by the proposed Oil and Natural Gas Facility;

b. Details of the methods that will be utilized to avoid erosion on and adjacent to the site of the Oil and Natural Gas Facility and prevent migration of spills and leaks to watercourses, surface and ground water resources, and adjoining properties;

c. A detailed description of how reclamation shall be accomplished, as set forth in Art. VI, § 28(D) - (G);

d. A detailed description of techniques proposed to be used in reclamation;

e. A detailed estimated timetable for each phase of operations of the Oil and Natural Gas Facility, and the estimated date reclamation will begin;

f. The estimated cost of accomplishing each major step in the

reclamation plan, including re-contouring the surface to its pre-existing condition, re-vegetation of affected lands, and restoration of existing soils;

g. Detailed information about existing conditions including the degree of slope, precipitation patterns, and density of each species of vegetation, soil types, extent and location of water resources, geologic or other hazards, flood zones, eroded areas, wildlife and wildlife habitat, vegetation types and extent of cover. Photographs, videos and plans shall be used to document existing conditions;

h. Detailed information concerning the methods for stockpiling, protecting and restoring topsoil and adding other growth mediums where required, time of planting, method(s) of planting, proposed seed rates and/or density of planting, and if necessary, use of fertilizers;

i. A statement explaining how the proposed reclamation plan is consistent with any applicable state and local land use plans and programs;

j. A description of the manner in which the reclamation plan is consistent with the following local physical environmental and climatological conditions:

i. streams, creeks, arroyos, and bodies of water within three miles of the boundaries of the Well site;

ii. existing soils and geologic conditions;

iii. climate/meteorology characterization, such as prominent wind direction and speed, rainfall and ambient temperature ranges, with supporting data; and

iv. existing vegetation, wildlife and wildlife habitat according to species and density of occurrence, including photographs that document the existing conditions.

k. A listing of surface and sub-surface owners of record and anyone claiming an interest in the property proposed for the Well site, and of property adjacent to the Well site, and of oil and gas lease holders;

l. A description by township, range and section including the estimated acreage of surface area which will be disturbed as a result of the oil and gas exploration and/or production activities and transportation of the oil and gas products and waste. If an agreement has been reached with an affected surface owner pursuant to the Surface Owner's Protection Act, include a copy of such agreement;

m. A schedule which specifies the anticipated date upon which the Oil and Natural Gas Facility will commence activities and an approximate date when it will cease activities, when reclamation will begin, and the date reclamation is to be complete;

n. Any additional submittals required by the County.

16. An inventory of existing surface water and groundwater uses within three miles of the proposed Oil and Natural Gas Facility, including existing wells,

permitted wells, and the extent of area water rights either used or available for use from area wells and surface water diversions, including all information available from the Office of the State Engineer;

17. A surface water and ground water monitoring plan consistent with the requirements of this Ordinance that includes collection of baseline water quality data as required by this Ordinance and the annual collection of data to determine whether degradation of surface or ground water resources or Pollution is occurring. Such plan must include a monitoring plan using existing surface water and ground water resources within a three mile radius of the proposed Oil and Natural Gas Facility or, if existing wells are not available for this purpose, a plan for locating, drilling and sampling additional wells;

18. A description of the waste and wastewater (quantity, chemical and physical quality) that will be produced from the Oil and Natural Gas Facility, and how such waste material will be disposed of at an OCD-approved facility;

19. Plans and specifications, stamped by an engineer registered in the State of New Mexico, with experience in Oil and Natural Gas Facilities, that detail construction, operation and maintenance of any facility intended for in-situ storage, containment, treatment, control and disposal of solutions, chemically-treated or contaminated materials, and wastes, including tanks used for oil storage;

20. Plans submitted in accordance with sub-part 20 above shall include, but not be limited to, the following:

a. A description of the facilities to be constructed, including tanks, pumps, pipes and other storage and conveyance means for oil and gas, processing solutions, chemically treated or impacted materials, and wastewater;

b. A management plan for control of surface water and groundwater that effectively eliminates the possibility that surface water and groundwater would be contaminated with any harmful, hazardous or toxic solution, chemical or process and which would then flow out of the Oil and Natural Gas Facility;

c. A management plan for treatment and disposal of excess wastewater, including provisions for reuse and wastewater minimization;

d. A construction plan that includes, as applicable, the design of low-permeability soil barriers, the type of geosynthetics to be used and a description of their installation methods, any manufacturer's warranties for any equipment or material used on

the permit area, the design of wastewater treatment facilities and processes, a quality assurance plan for applicable phases of construction and a listing of construction certification reports;

f. A spill and leak containment and control plan to contain all spills and leaks; and

h. Plans for heavy machinery and equipment maintenance shops, including plans for properly storing and disposing of petroleum products, solvents, and other harmful, hazardous or toxic materials.

21. A traffic control plan that includes accurate predictions of the number of site visits by type of vehicle per day;

22. A road maintenance, improvement or modification plan that includes baseline data for each road or highway to be impacted by the Oil and Natural Gas Facilities (including current photographs or video of the relevant portions of each existing road or highway), preliminary engineering reports concerning any improvements proposed for each road or highway, and a plan for addressing damage;

23. An emergency preparedness plan consistent with the requirements of Art. VI, § 2 of this Ordinance;

24. A landscaping and screening plan, consistent with the requirements of Art. VI, § 8(D) and 13(B), of this Ordinance, and the Code;

25. A water budget for the proposed Oil and Natural Gas Facility, including specifically water needs for well drilling, completion and plugging, as appropriate, and a detailed explanation of the proposed source of water to be used;

26. A list of all Cultural, Historic or Archeological sites, parks and other public facilities within three miles of the proposed Oil and Natural Gas Facility as well as the results of a cultural resource study on the property where the Oil and Natural Gas Facility is to be located;

27. A reconnaissance survey of cultural and archeological resources conducted at the proposed site of the Oil and Natural Gas Facility;

28. A survey of any rare or endangered species of animal, plant, or habitat of such species within three miles of the site of the proposed Oil and Natural Gas Facility; and

29. A survey of affected Agricultural land, wetlands, wild and scenic rivers or waterways, or ecologically critical areas within three miles of the proposed Oil and Natural Gas Facility.

C. All of the foregoing shall be incorporated into a site development plan and report, as required by the Code.

SECTION 3. NOTICE.

A. In addition to any notice requirements set forth in the Code, a written notice of the pendency of an Application for a Special Use shall be provided to each surface owner within three miles of the proposed Oil and Natural Gas Facility. The Operator or Owner shall present proof of such notice by submitting a copy of the letter providing such notice, a list of the land owners notified, and certified mail receipts. The notice shall be mailed no less than five (5) days prior to submission of the Application. For purposes of notice for a proposed Well, a surface owner shall receive notice if the property boundary of the surface owner is within three miles of the proposed wellhead.

B. In addition to any notice requirements set forth in the Code, the notice of the pending Application shall also contain the following:

1. A description of the location of the proposed Oil and Natural Gas Facility, including a legal description and a street address, if available. The notice must identify the Operator or Owner and any designated agent for the Application; the current business address and telephone number for the Operator or Owner and its agent, if one has been designated; and a brief description of the facilities and equipment proposed to be located at the site when operational; and

2. the time and place of the public hearing; and

3. A statement that additional information may be obtained from the Administrator.

D. The property shall be posted with a notice provided by the County upon which the information described in subsection (C) shall be provided.

E. A notice of the time, place and street address of the public hearing, together with a description of the location of the proposed Oil and Natural Gas Facility and a detailed summary of the Application, shall be published in a newspaper of general circulation in the County at least twenty-one (21) days prior to the date of the public hearing. An affidavit of publication shall be obtained from the newspaper and provided to the Administrator.

F. The Applicant shall also provide notice to any other person, agency or organization that has filed a request with the Administrator to receive notice of an Application for a Special Use or Development Permit for an Oil or Natural Gas Facility.

SECTION 4. APPLICATION FEE

11/27/07

Each application for approval of a Special Use pursuant to this Ordinance shall be accompanied by a nonrefundable application fee in the amount set forth in Appendix A. The application fee shall be paid by cashier's check, wire transfer or certified funds.

SECTION 5. REFERRALS.

A. The Administrator, may, in his or her sole discretion, refer an application for approval of a Special use to other government agencies or entities for review and comment, including but not limited to, specifically, the New Mexico Oil Conservation Division, the New Mexico Taxation and Revenue Department, the New Mexico Environment Department, the New Mexico State Engineer, and the New Mexico State Land Office.

B. The County may, in its discretion and at the expense of the applicant, hire experts to review the Application and submittals or to evaluate specific technical issues.

C. When an Application is scheduled for public hearing, the Administrator shall provide any comments received by other government agencies at the public hearing held on the application.

SECTION 6. SETBACKS.

A. An Oil and Natural Gas Facility shall not be located nearer to any of the following than the distance specified from the following existing uses:

1. One half mile of a Residential structure or a building used as a place of assembly, institution, or school;
2. One half mile of the designated buildable area of a vacant Residential lot;
3. Seventy-five (75) feet of a public road or highway;
4. Two hundred (200) feet of a Nonresidential or Industrial use;
5. Five hundred (500) feet of a groundwater re-charge area or wetland as defined by the United State Army Corps of Engineers;
6. Five hundred (500) feet of the limits of a one hundred (100) year floodplain, designated by the Federal Emergency Management Agency;
7. Two hundred (200) feet of any existing water well permitted by the Office of the State Engineer;
8. Two hundred (200) feet of a Cultural, Historic or Archeological Resource.

B. An Oil and Natural Gas Facility may be located nearer to a specified use only by obtaining a variance pursuant to the procedures set forth in the Code, and making a showing that application of a setback set forth in this Section is inconsistent with a Well location specified by OCD under its oil and natural gas spacing rules, or that application of the setbacks prescribed herein make it impossible to recover the oil or natural gas. If a variance is approved, the Oil and Natural Gas Facility shall be located as far from the existing use as is possible under the circumstances and mitigation measures shall be required as a condition of approval.

C. No building used as a place of assembly, institution, or school shall be constructed within three hundred (300) feet of any existing wellhead, production equipment or hydrocarbon storage tank. No road or highway shall be constructed or realigned to be within seventy-five (75) feet of any existing wellhead, production equipment or hydrocarbon storage tank.

D. No Residential, Nonresidential or Industrial structure other than structures necessary to operate a pipeline shall be erected or moved to a location nearer than thirty (30) feet of any pipeline transporting gas when the pipeline operating pressure is greater than 250 pounds per square inch gage (p.s.i.g).

E. Any setback required as a result of this Ordinance shall be shown or otherwise disclosed on all plats that encompass or border the Oil and Natural Gas Facility.

SECTION 7. HEIGHT.

The permissible height of an Oil and Natural Gas Facility shall be that already established by the Code in the immediate vicinity of the proposed Oil and Natural Gas Facility or twenty-four (24) feet, whichever is less, provided that height limitations shall not apply to drilling, Workover, Recompletion or Abandonment operations.

SECTION 8. REVIEW CRITERIA.

A. Each Application for approval of a Special Use shall be reviewed for general consistency with the standards and policies set forth in this Ordinance, the Code, the New Mexico Oil and Gas Act, the Water Quality Act, the regulations of the Water Quality Control Commission, the regulations of the OCD, and other applicable local, County, state and federal laws and regulations.

B. If the application for a proposed Oil or Natural Gas Facility does not comply with the criteria set forth in this Ordinance, the Application shall be processed in accordance with the procedure for requesting variances, found in the Code at Article II, Section 3, or any successor ordinance, and shall be subject to the review criteria for variances set forth in the Code.

C. An application for a Special Use Permit for an Oil or Natural Gas Facility shall be evaluated according to the applicable standards and requirements of this Ordinance and by applying the following criteria to the evidence:

i. Completeness. Whether the application is complete and all required submittals are provided.

ii. Operational Standards. Whether the proposed Oil and Natural Gas Facility meets or exceeds the operating standards set forth in Art. VI of this Ordinance.

iii. State and Federal Permitting. Whether the Operator or Owner has secured the necessary State and federal permits for the proposed Oil and Natural Gas Facility.

iv. Compatibility. Whether the proposed location of the Oil and Natural Gas Facility is compatible with adjoining uses given its size, design and operational characteristics, or can be made compatible by applying reasonable mitigation measures. Factors to be considered include noise levels, property values, impacts upon air and water quantity and quality, impacts on roads and highways, vibration and odor levels, fire protection and access requirements, visual impacts, wildlife impacts and public safety.

v. Adequacy of existing roads and access to the site. Whether existing roads, highways and local access to the site are adequate for the proposed Oil and Natural Gas Facility. Factors to be considered include existing and proposed road alignment, intersections, condition, structure and site distances; traffic volumes and types of equipment; dust control; and existing road uses.

vi. Site characteristics. Whether the specific site selected is adequate for the proposed development. Factors to be considered include topography, slopes, natural hazards (such as landslides, flooding, wildfire), and current resource values (such as open space, prime farmland as designated by Soil Conservation Service and wildlife habitat, Cultural, Historic or Archeological sites).

vii. Past Performance. Whether the Operator or Owner has violated any federal, state, and local laws regulating or pertaining to oil and gas exploration and production either in the United States or elsewhere. Relevant considerations include whether the Operator or Owner has experienced spills or leaks, water contamination (whether surface or subsurface), other environmental problems; the Operator or Owner's prior reclamation activities; whether the Operator or Owner has damaged fauna, flora, and adjacent properties in previous operations; as well as any measures taken by the Operator or Owner to alleviate any such problems.

viii. Whether the proposed Oil and Natural Gas Facility will have an adverse impact on any social, economic or environmental factors, including local government services such as budgets, housing, schools, water supplies, transportation systems, utilities, health care, law enforcement and fire protection, whether the proposed Facility will be detrimental to the public health, safety, morals or the general welfare pursuant to NMSA 1978, § 3-21-1(A), or whether the proposed Facility will be detrimental to the safety, health, prosperity, morals, order, comfort and convenience of the County pursuant to NMSA 1978, § 4-37-1.

SECTION 9. CONDITIONS.

Reasonable conditions may be imposed on approval of a Special Use to mitigate deleterious effects of the proposed Oil and Natural Gas Facility, and to address issues that arise related to the review criteria specified in Section 8 of this Article.

ARTICLE III

PERMITS FOR DEVELOPMENT OF AN OIL AND NATURAL GAS FACILITY

SECTION 1. DEVELOPMENT PERMIT REQUIRED

Construction, installation and operation of an Oil and Natural Gas Facility shall not commence until a Development Permit for the specific Oil and Natural Gas Facility has been issued in accordance with the procedures for securing a Development Permit as set forth herein and as set forth in the Santa Fe County Land Development Code, Ordinance No. 1996-11 (as amended), or any successor ordinance.

SECTION 2. APPLICATION REQUIRED.

A. An application for a Development Permit for an Oil and Natural Gas Facility is required.

B. The application shall be in writing and signed by a person duly authorized to sign on behalf of the Owner or Operator. The Application shall be filed with the Administrator along with the required submittals set forth in Art. III, § 3 of this Ordinance, the required application fee set forth in Art. III, § 4 of this Ordinance, and the financial surety set forth in Art. IV, § 1 of this Ordinance.

C. A separate application shall be required for each Well and for each Oil and Natural Gas Facility. No development permit shall authorize the drilling of more than one Well or the installation of more than one Oil and Natural Gas Facility.

D. The application shall contain all information required by the Oil and Gas Inspector, and shall at a minimum contain the following:

1. The name and address of the Operator or Owner;
2. Copies of all relevant documents filed and approved by the OCD including, but not limited to, the approved Application for Permit to Drill (C-101), copies of the financial security deposited with the OCD, the Operator's registration and authority from OCD, an approval to Change Operator, and any other submittals to and approvals from the OCD;
3. If a Change of Operator is desired, a description of the new Operator or Owner's organizational structure, including a description of any wholly owned subsidiaries or parent companies and the relationship of the Operator or Owner to those subsidiary or parent companies;
4. If a Change of Operator is desired, a complete list of Oil and Natural Gas Facilities owned or operated in the State of New Mexico, in the United States and internationally, including facilities owned or operated by a parent or subsidiary identified in the previous paragraph;
5. If a Change of Operator is desired and, if required by the Administrator, a letter of indemnity from a parent or subsidiary corporation shall be provided;
6. If a Change of Operator is desired, a list of Oil and Natural Gas Facilities owned or operated by the applicant that are not in compliance with regulatory approvals in the respective jurisdiction. For each such facility listed, provide details concerning the compliance issues experienced;

7. The exact location of the proposed Oil and Natural Gas Facility;
8. If a new Well or a Workover of an existing Well is proposed, a drilling or Workover plan shall be submitted, including the amount, weight and size of conductor pipe, surface pipe and production pipe, and the procedures proposed for cementing each;
9. If a plugging and abandonment is proposed, a plugging and abandonment plan shall be submitted that details the proposed operations;
10. A statement describing the need for water during the proposed operations and the source of same;
11. The name and address of the person upon whom service of process or legal notice may be made on the Applicant within this State. A nonresident Applicant who has no agent for service of process within this State shall attach to the application a designation of a service agent who is a resident of Santa Fe County, New Mexico, and a consent that service of summons or legal notice may be made upon such person in any action to enforce any of the obligations of the Applicant hereunder;
12. Verification of the above information by the Applicant;
13. A bond or irrevocable letter of credit as described in Art. IV, § 1 of this Ordinance; and
14. Proof of insurance as required in Art. IV, § 2 of this Ordinance.

E. Where the application is one for the re-entry of an Abandoned well, said application shall contain all the information required by this Section, and shall also provide all of the following information:

1. a statement of:
 - a. the condition of the Abandoned well at the time the application is filed;
 - b. the depth to which it is proposed such well shall be deepened; and
 - c. the casing program to be used in connection with the proposed deepening.
2. a statement of the tests which will be run on the casing strings to show that the casing strings meet the same requirements for an original well. Include any proposed remedial cementing.

SECTION 3. SUBMITTAL REQUIREMENTS.

A. Required submittals for any Application seeking a development permit for an Oil and Natural Gas Facility, shall be as follows:

1. A copy of the Order issued by the County authorizing a Special Use at the location of the proposed Oil and Natural Gas Facility;
2. Insurance certificates for insurance policies required by this Ordinance;
3. Financial security required by this Ordinance;
4. Four current 35 mm 3½ inch X 5 inch color photos, each taken from the center of the site facing north, south, east and west, respectively, properly focused and exposed, taken with a 50 mm lens, prior to any activities having taken place, for purposes of establishing a baseline for site restoration following Abandonment;
5. A site plan;
6. A drainage control plan;
7. A reclamation plan;
8. A surface and groundwater monitoring plan;
9. A waste disposal plan;
10. Plans and specifications for the Oil and Gas Facility;
11. A traffic control plan;
12. A road maintenance, improvement or modification plan;
13. An emergency preparedness plan;
14. A landscaping and screening plan; and
15. Documentation that the conditions of approval imposed during approval of the Special Use have been complied with.

SECTION 4. APPLICATION FEE

Each application for issuance of a Development Permit pursuant to this Ordinance shall be accompanied by a nonrefundable application fee in the amount set forth in

Appendix A. The application fee shall be paid by cashier's check, wire transfer or certified funds.

SECTION 5. EFFECT OF PERMIT.

A. When a Development Permit has been issued for an Oil and Natural Gas Facility, such permit shall constitute sufficient authority for drilling, operation, production, Workover, maintenance, repair and testing.

B. A permit issued pursuant to this Ordinance shall expire or be considered revoked if construction of the Oil and Natural Gas Facility is not completed within one (1) year of the date of issuance, with the following exceptions: (i) a multiyear phased project that is approved as such during the approval of the Special Use; (ii) an Oil and Natural Gas Facility that is substantially completed.

S F C C L E R K R E C O R D E D 0 1 / 1 6 / 2 0 0 8

SECTION 6. AMENDMENTS, SUPPLEMENTAL PERMITS.

A. An amendment to the Development Permit shall be required prior to undertaking any substantial modification to the Oil and Natural Gas Facility including, but not limited to, Recompletion, modifying or substantially altering equipment at the Facility, the Well configuration or type of product being produced (e.g. oil or natural gas), or substantially altering the site layout.

B. Any operation that deviates from the Development Permit that the Operator or Owner determines in good faith is necessary in order to maintain the existing level of production or operation, to preserve the public health, safety or welfare, or to prevent property damage or Pollution, may be done on an immediate basis without prior notice or approval by the County, so long as such modifications do not include the addition of equipment or operations. The Applicant shall provide the Oil and Gas Inspector and the Administrator with notification of such emergency modifications by filing a written amendment to the Application, specifying the modifications made, within two (2) working days of completion.

C. Once a Well has either been completed as a producer or Abandoned as a dry hole, a Supplemental Permit is required to Recomplete the Well. A supplemental permit shall require filing an application for a supplemental permit, specifying:

- i. The condition of the Well and the casing therein;
- ii. The depth to which it is proposed such Well be deepened or the new intervals to be perforated;
- iii. The proposed casing program to be used in connection with proposed deepening operations; and
- iv. Evidence of adequate current tests showing that the casing strings in said Well passed such tests.

D. In the event the Oil and Gas Inspector is satisfied that the Well may be Reworked with the same degree of safety as existed in the original Well, a supplemental permit may be issued authorizing the operation. In any Reworking operation, the Operator or Owner shall comply with all other provisions contained in this Ordinance applicable to the drilling, completion and operation of a Well.

SECTION 7. ANNUAL OPERATING FEE.

A. A non-refundable annual inspection fee is hereby levied upon each Oil and Natural Gas Facility operated or maintained within the County. The amount of such fee is set forth on Appendix A. The fee shall be paid by cashier's check, wire transfer or certified funds. The fee shall be payable to the County on or before the annual anniversary date of the issuance of any permit under the provisions of this Ordinance. No permit shall be considered valid for any year for which the annual inspection fee has not been paid.

B. Revenue from fees collected pursuant to this Ordinance shall be placed in a special fund the revenue from which shall be used to retain and pay the Oil and Gas Inspector. Revenue in excess of that required to retain and pay the Oil and Gas Inspector may be used for County general purposes.

SECTION 8. ANNUAL REPORTING.

A. Each Oil and Natural Gas Facility shall, annually, provide the following information to the Administrator and the Oil and Gas Inspector:

1. A current list of personnel who may be contacted in case of an emergency at the Oil and Natural Gas Facility. This list shall contain all information set forth in Article V, Section 2 of this Ordinance, information requested by the Administrator and the Oil and Gas Inspector, and information including, but not limited to the following:

- a. the name(s) of such person or persons;
- b. the job description(s) of such person or persons; and
- c. the residence, office and mobile telephone numbers of such person or persons.

2. A list of all Oil and Natural Gas Facilities owned or operated within the County by that Owner or Operator. This list shall include all Wells except Wells that have been plugged and Abandoned in compliance with law. The list shall contain all information requested by the Administrator and the Oil and Gas Inspector, including but not limited to the following:

- a. the lease name and well number of each Well;
- b. the legal description of each Well;
- c. the current status and use of each Well; and

d. the current status and use of each Oil and Natural Gas Facility.

SECTION 9. CHANGE OF OPERATOR.

A. If a new Operator or Owner is appointed for an Oil and Natural Gas Facility, a new Development Permit for the Oil and Natural Gas Facility shall be required.

B. The new Owner or Operator must provide copies of the approved Change of Operator, Form C-145, from the OCD in addition to all submittals required for a Development Permit specified herein.

C. The obligations stated in this Ordinance on the previous Owner or Operator shall not be released (including required financial security and insurance) until new Development Permits are obtained by the new Owner or Operator.

ARTICLE IV – BONDS AND INSURANCE

SECTION 1. FINANCIAL ASSURANCE.

A. An Operator or Owner seeking to obtain a Development Permit for an Oil and Natural Gas Facility shall furnish a financial assurance acceptable in form to the County that runs in favor of the County and is conditioned upon compliance with all the terms and conditions of this Ordinance, directives of the Oil and Gas Inspector, any conditions of approval imposed on the permit, and any mitigation or remediation measures required as a result of the operation of the Oil and Natural Gas Facility.

B. Acceptable financial assurances include: (i) a \$5,000.00 performance bond for each Well or Oil or Natural Gas Facility; (ii) a \$50,000.00 blanket bond for each Well or Oil or Natural Gas Facility operated by an Operator within the County; (iii) an irrevocable letter of credit, in the same amounts; or (iv) an equivalent financial security acceptable to the County, in the same amounts.

C. A surety bond shall be executed by a reliable corporate surety authorized to do business in the state with the Operator or Owner as principal that runs in favor of the County. An appropriate power of attorney must be submitted along with a surety bond that provides the individual executing the bond on behalf of the principal with authority to execute same.

D. An irrevocable letter of credit shall be issued by a federally-insured financial institution located within the State of New Mexico, backed by cash on deposit at the institution representing the full value of the amount of the letter of credit. A letter of credit shall be for a term not less than five (5) years, and shall be automatically renewed on like terms unless the issuer notifies the County in writing of non-renewal at least thirty (30) days prior to the end of the five (5) year period. The County may forfeit and collect

a letter of credit if not replaced by an approved financial assurance at least thirty (30) days prior to the expiration date. Authorized representatives of the Operator or Owner and the depository institution shall execute a document evidencing the terms and conditions of the letter of credit. From time to time, accrued interest over and above the face value of the bond may be paid to the Operator or Owner.

E. All financial assurances pursuant to this Section shall become effective on or before the date the same is filed with the County and remain in force and effect throughout the life of the Oil and Natural Gas Facility, unless released earlier.

F. For good cause, the Oil and Gas Inspector, after notice to the Operator or Owner, may require the filing of a blanket bond or letter of credit in an amount higher than \$25,000.00 but not to exceed \$100,000.00. "Good cause" shall include, but shall not be limited to, a showing that the Operator or Owner has violated any of the provisions of this Ordinance.

G. The County shall release the financial assurance deposited pursuant to this Section upon written request of the Operator or Owner if the Well has been plugged and Abandoned and the location restored and/or remediated pursuant to this Ordinance, if the relevant Oil and Natural Gas Facility has ceased operation and has been similarly restored and/or remediated pursuant to this Ordinance, or if a Change of Operator has been approved pursuant to this Article and a new Development Permit has been issued.

SECTION 2. COMPREHENSIVE GENERAL LIABILITY INSURANCE.

A. In addition to the performance security required by this Ordinance, the Operator or Owner shall also submit with the Application a policy or policies of commercial general liability insurance, including contractual liability, covering bodily injury and property damage that names the Operator or Owner as insured, issued by an insurance company authorized to do business in the State. Such policy shall provide a limit of liability in the aggregate of not less than \$10,000,000.00 per occurrence. Said insurance policy or policies shall provide that they may not be cancelled without written notice to the County at least thirty (30) days prior to the effective date of such cancellation.

B. In addition to the performance security required by this Ordinance and in addition to the comprehensive general liability insurance required by the preceding paragraph, the Operator or Owner shall also submit with the Application a pollution insurance policy or policies that provides standard pollution liability insurance with a coverage of not less than \$10,000,000, issued by an insurance company authorized to do business in the State, and that names the Operator or Owner as insured. Such insurance policy shall be maintained in full force and effect from the date an Application is submitted pursuant to this Ordinance, through the commencement of drilling operations, completion and production of the Well, and continuing in force until the Well is plugged and Abandoned in accordance with the Oil and Gas Act, the Rules and Regulations of the

New Mexico Oil Conservation Division, and this Ordinance. A separate policy need not be obtained if pollution coverage is provided as a part of the comprehensive general liability insurance policy. Said insurance policy or policies shall provide that they may not be cancelled without written notice to the County at least thirty (30) days prior to the effective date of such cancellation.

C. The Operator shall provide the County with a certificate of insurance and a copy of the policy as evidence of coverage. If liability insurance coverage terminates, the Development Permit shall terminate effective as of the date of cancellation and the Operator's right to operate under such permit shall cease until the Operator files evidence of reinstatement or replacement coverage.

D. An Operator offering a plan of self-insurance may provide a certificate of insurance as required by this section issued pursuant to such plan provided that such plan has been approved by the Public Regulation Commission of the State of New Mexico, and the County's Risk Manager.

ARTICLE V – VIOLATIONS, ENFORCEMENT, PENALTIES.

SECTION 1. CONSTRUCTION OR INSTALLATION OF UNAPPROVED OIL AND NATURAL GAS FACILITIES.

It shall be unlawful to construct, install, or cause to be constructed or installed, any Oil and Natural Gas Facility within the unincorporated areas of the County unless a Special Use Permit and a Development Permit has been granted by the County. Any violation of the laws of the State or any rules, regulations or requirements of a State or federal regulatory body having jurisdiction over drilling, completing, equipping, operation producing, maintaining, or abandoning an Oil and Natural Gas Facility, related appurtenances, equipment or facilities, firewalls, fire protection blow-out protection, or safety protection, shall also be a violation of this Ordinance and shall be punishable in accordance with the provisions hereof.

SECTION 2. ORDER TO CEASE OPERATIONS.

In any situation in which the Oil and Gas Inspector finds that any person is not in compliance with the terms of this Ordinance, the Oil and Gas Act, the Water Quality Act, the rules and regulations of the New Mexico Oil Conservation Division, the rules and regulations of the Water Quality Control Commission, or the practices of a reasonably prudent operator, that, in the judgment of the Oil and Gas Inspector, constitute a hazard to life, natural resources or property, the Oil and Gas Inspector may order immediate remedial action. If persons responsible for the situation take no immediate measures to come into compliance with the law or to reduce the hazard, or if the situation is so perilous as to constitute an imminent threat to the public health safety or welfare, then the Oil and Gas Inspector may order the prompt cessation of all activity at the Well site and,

if necessary, the clearance of the premises, and a temporary revocation of the Development Permit applicable to that Facility.

SECTION 3. PENALTY.

A. Any Operator or Owner, person, firm, corporation or legal entity that violates any provision of this Ordinance, any provision of a Development Permit or any condition thereto, or a valid directive of the Oil and Gas Inspector, shall be subject to the penalties set forth in NMSA 1978, § 4-37-3 (1993)(as amended).

B. The violation of each separate section of this Ordinance or a permit issued pursuant to this Ordinance shall be considered a separate offense, and each day the violation is allowed to continue shall be considered a separate offense. The County may revoke or suspend any Development Permit issued under this Ordinance if such violation is found to exist.

SECTION 4. CIVIL ACTION.

In case any building, structure or other oil and gas related development is or is proposed to be erected, constructed, reconstructed, altered or used, or any land is or is proposed to be used, in violation of any provision of this Ordinance, the County, in addition to the other remedies provided by law, ordinance or resolution, may seek an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or use.

SECTION 5. REVOCATION OF PERMIT.

A Development Permit may be revoked if it is determined that the Operator or Owner provided information and/or documentation upon which approval was based, which was false, misleading, deceptive or inaccurate, or which the Operator or Owner, its agents, servants and employees knew, or reasonably should have known, was false, misleading, deceptive or inaccurate.

SECTION 6. RIGHT TO ENTER.

For the purpose of implementing and enforcing this Ordinance, the Oil and Gas Inspector may enter onto subject property upon notification of the Operator or Owner. If such entry is denied, the County shall have the right to obtain an order from a court of competent jurisdiction to obtain entry.

SECTION 7. AUTHORITY OF OIL AND GAS INSPECTOR.

A. The Oil and Gas Inspector shall have authority to issue any orders or directives required to carry out the intent and purpose of this Ordinance. Failure of any

person to comply with such order or directive shall constitute a violation of the provisions of this Ordinance.

B. The Oil and Gas Inspector shall have authority to enter and inspect any Oil and Natural Gas Facility that is governed by this Ordinance to determine compliance with this Ordinance, the Code, the Oil and Gas Act, the Water Quality Act, the rules and regulations of the OCD, the rules and regulations of the Water Quality Control Commission, and any applicable directives.

C. The Oil and Gas Inspector shall have the authority to request and receive any records, logs, reports, studies and other documents relating to the status or condition of an Oil and Natural Gas Facility. Failure of any person to provide any such requested materials shall be deemed a violation of this Ordinance.

ARTICLE VI – EQUIPMENT, OPERATIONS,
STANDARDS AND PRACTICES

SECTION 1. GENERAL.

All drilling and operations of an Oil and Natural Gas Facility shall strictly follow the requirements of the Oil and Gas Act, the Water Quality Act, the rules and regulations of the OCD and the Water Quality Control Commission, and other applicable federal, state and local regulations, and shall be conducted at all times in accordance with the practices of a Reasonably Prudent Operator.

SECTION 2. EMERGENCY PREPAREDNESS PLAN.

A. Each Operator or Owner shall provide an emergency preparedness plan along with an Application for a Development Permit of an Oil or Natural Gas Facility. No Application shall be considered complete until the Applicant has provided such plan. The plan shall be filed with the Fire Chief, the Administrator and the Oil and Gas Inspector and shall be updated annually or as conditions change.

B. The emergency plan shall consist of the following, at a minimum:

1. Name, address and phone number, including a 24-hour emergency number of at least two persons responsible for emergency field operations;

2. An as-built facilities map showing the name, location and description of all Oil or Natural Gas Facilities, including the size and type of all pipelines. The map shall be prepared either manually on U.S.G.S. 7.5 Minute Series maps (one inch = 2,000 feet), or digitally on the county geographic information system parcel maps. The as-built facilities map shall be held confidentially by the County's Fire Chief, and shall only be disclosed in the event of an emergency;

3. A written response plan for the potential emergencies that may be associated with the operation of the facilities. This may include any or all of the following: explosions, fires, gas or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, or hazardous material vehicle accidents or spills; and

4. Project specific emergency preparedness plans are required for any project that involves drilling or penetrating through known zones of hydrogen sulfide gas, as determined by the County. This plan shall be coordinated with and approved by the County prior to beginning field operations.

SECTION 3. FIRE PREVENTION.

Each Oil and Natural Gas Facility shall comply with all fire prevention requirements set forth in the Code and other applicable ordinances of the County relating to fire prevention, including the County Fire Code, and the Urban-Wildland Interface Code. Each Oil and Natural Gas Facility shall take all reasonable precautions to prevent natural gas from escaping into the air and shall not flare or burn natural gas from a torch or any similar means within the County; however, natural gas may be burned for a limited time when necessary to complete a Well upon the original completion or upon Recompletion of a Workover so long as such does not constitute a fire hazard to the property of others within the vicinity of such oil or natural gas Well. The Operator or Owner shall place a sign in a conspicuous site at each Well location or site to identify the Well with the name or number of the Well and the telephone number where a responsible person can be reached at home.

SECTION 4. REQUIRED FIRE PREVENTION EQUIPMENT.

A. Each Oil or Natural Gas Facility shall maintain adequate firefighting apparatus, equipment and supplies at the site of the Facility at all times during drilling and production operations, including, but not limited to, all of the following:

1. During drilling operations, a minimum of four portable fire extinguishers, the size, rating, distribution and maintenance of which shall be in accordance with National Fire Protection Association (NFPA) Standard No. 10 ("Portable Fire Extinguishers) and NFPA Standard No. 30 ("Flammable Liquids Code");

2. Where flammable vapors may be present, precautions shall be taken to prevent ignition by eliminating or controlling sources of ignition. Sources of ignition may include open flames, lightning, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical and mechanical), spontaneous ignition, chemical and physical-chemical reactions and radiant heat. NFPA Standard No. 77 ("Recommended Practice on Static Electricity") and NFPA No. 78 ("Lightning Protection Code") shall be adhered to;

3. All hazardous materials and/or special hazards at the Facility shall be protected as set forth in applicable NFPA standards;

4. Lightning protection equipment shall be provided at each Facility containing crude or water storage tanks. The lightning protection equipment shall be in accordance with recommendations of the NFPA;

5. Crude and water tanks shall be installed with a vent system approved by the Oil and Gas Inspector. A flame arrestor approved by the Oil and Gas Inspector shall be installed on the vent line; and

6. Emergency firefighting apparatus and supplies shall be subject to the approval of the County Fire Chief, and shall be at the Oil and Natural Gas Facility at all times during the drilling operations, Workover operations and plugging operations, and at other times as appropriate given the nature of the operation.

SECTION 5. REMOVAL OF RIGS FROM THE PREMISES, SECURITY.

Any Drilling or Completion Rig shall be removed within thirty (30) days from the date of completion of a Well. Thereafter, when necessary, the completed Well may be served by portable rigs, which shall be removed from the premises within fifteen (15) days from the completion of the servicing operation. At all times from the start of the drilling phase until the Well is completed, the Operator or Owner shall keep a watchman skilled in oil and gas operations on duty on the premises at all times when other workmen of the Operator are not on such premises.

SECTION 6. DRILLING.

A. Internal combustion engines or electrical equipment may be used in drilling operations. If internal combustion engines are used, mufflers shall be installed on the mud pumps and on the engines. All electrical installations shall be made in conformity with the applicable New Mexico or County electrical code.

B. Drilling operations must be conducted in such a manner that surface water and ground water will not be degraded or Polluted, and shall at all times be conducted in such a manner that prevents vertical movement of water within the well bore. The Operator or Owner shall be solely responsible for ground water or surface water degradation or Pollution that occurs during drilling or completion operations and shall promptly remediate any degradation or Pollution that occurs.

C. The Operator or Owner shall also identify all aquifers penetrated, the depth of water and estimated production of all water bearing intervals by filing a written report no later than ten (10) days after completion of drilling.

D. Drilling operations shall be limited to daylight hours, except in the case of an emergency or where the depth of the Well exceeds 5,000 feet, in which case twenty-four hour drilling will be permitted. A Well shall be completed, serviced or fractured only during daylight hours. Except in an emergency, no materials, equipment, tools or pipe shall be delivered to or removed from a drilling site or the site of any Oil or Natural Gas Facility, except between the hours of 7:00 a.m. and 7:00 p.m. on any day.

E. Unless otherwise required by OCD, at the time of installation, all casing, tubing, valves, bradenhead, Christmas tree, blowout preventers, and well head connections shall be new and of a type and quality consistent with the practices of a Reasonably Prudent Operator.

F. Setting and cementing casing and drill stem tests shall be performed in a manner and at a time consistent with the rules and regulations of the OCD, the directives of the OCD and the Oil and Gas Inspector, and the practices of a Reasonably Prudent Operator. Surface casing shall meet or exceed the requirements of the OCD. The Oil and Gas Inspector may require a cement bond log or other appropriate integrity testing to verify the integrity of all cement placed in the well during drilling and completion operations.

- OR - (From Oklahoma City):

G. Except as otherwise provided by the OCD, surface casing shall be set a minimum of 200 feet below the deepest fresh water zone found in the eight sections adjacent to the Well site. A resistivity and porosity electric log shall be run in the surface hole before surface pipe is set, and a copy of said log shall be filed with the OCD and the Oil and Gas Inspector. The Oil and Gas Inspector may, in the Inspector's sole discretion, waive the requirement for a resistivity and porosity log if the Operator or Owner furnishes sufficient information from wells in the same section of land and surrounding sections of land that identifies the base of treatable water. Surface pipe shall have a centralizer in the middle of the shoe joint, a centralizer on the top of the second joint of casing, and centralizers no more than 200 feet apart above the second centralizer. Surface casing shall have a guide shoe installed on the bottom of the first joint of casing, and a float shall be installed within 90 feet of the guide shoe to prevent upward flow of cement through the casing. No cement baskets may be installed on the surface casing. Surface pipe shall be cemented by attempting to circulate good cement to surface by normal displacement practices. If cement cannot be circulated to surface due to washed out hole or lost circulation, the existing cement shall not be over-displaced and a plug shall be left in the bottom of the casing string to be drilled out once the surface is set. The remaining open hole behind the surface pipe shall be cemented by running a tubing string between the conductor string and the surface pipe until the top of the cement is tagged. The remaining uncemented annular space shall then be cemented until good cement is circulated to the surface. The inspector may require logs to be run to determine the actual top of the cement in the annulus prior to pumping cement down the small string of pipe installed in the annulus of the Well. The casing shall not be disturbed in any way until

the cement has set for a minimum of eight hours or any longer time required for the cement to reach a compressive strength of 500 psi. A cement bond log shall be run after the cement has set for 18 hours and before drilling operations are resumed. The Oil and Gas Inspector shall witness the calibration and running of the cement bond log, and the Oil and Gas Inspector shall examine the log and give approval of the cement bond before drilling operations are resumed. The Oil and Gas Inspector may waive the requirement for the cement bond log when he or she has witnessed the actual cementing of the Well and observed only positive indications that a good cement job was achieved. Surface casing must be new pipe of API grade J or K or higher grade and have a minimum burst pressure rating of 2,900 psi. All cement blends to be used in the installation of surface casing shall be submitted to the Oil and Gas Inspector for testing to determine the setting time. The cement samples and other information required by the Oil and Gas Inspector shall be submitted a minimum of thirty (30) working days prior to use. The Operator or Owner samples shall pay a nonrefundable testing fee for each cement blend to be tested in the amount of the actual fee for testing. The Oil and Gas Inspector may require all such samples as necessary to be submitted at drilling sites or elsewhere for quality control testing.

H. Upon completion of a Well, the Operator or Owner shall certify by affidavit that the Well has been set according to the rules and regulations and requirements of the OCD, and the practices of a Reasonably Prudent Operator. The affidavit shall stipulate the number of sacks of cement, the class of cement, blended materials, weight of cement in pounds per gallon, cement displacement pressure, final pumping pressure and whether checkvalves (float shoes, float collar) held the pressure. Commencement and completion times of such operation shall be stipulated. The affidavit shall be completed by a cementing service company and signed by both the Operator or Owner and the cementing service company.

I. Except as otherwise provided by OCD, appropriate blowout prevention equipment shall be used on all Wells being drilled, worked-over, or in which the tubing is being replaced. Unless otherwise specified by OCD, Wells being drilled shall have at least three hydraulically operated blowout preventers installed and these blowout preventers shall meet the American Petroleum Institute's recommendation for Class 3M blowout preventers. Unless otherwise specified by OCD, Wells being drilled shall also have a kill line, choke line, and choke manifold that meet the recommendations of the American Petroleum Institute for Class 3M blowout prevention equipment.

J. Only Closed Loop Systems shall be used during drilling and Completion of a Well. No open pits or Reserve Pits shall be permitted.

K. The Owner or Operator shall maintain all safety monitoring equipment deemed necessary in the sole discretion of the Oil and Gas Inspector, and shall inspect that equipment quarterly. The results of the monitoring and inspections shall be submitted to the Oil and Gas Inspector.

11/27/07

L. Drilling mud shall be disposed of by transporting the mud to an OCD-licensed disposal site. The mud may not be buried in an earthen pit on site, pumped down the Well bore or down the annulus of a Well, or spread on the surface of the ground at the site. All other waste shall be treated, stored and disposed in accordance with all local, state and federal requirements and regulations.

M. No surface waste disposal at the site of the Oil and Natural Gas Facility of wastes of any kind shall be permitted.

SECTION 7. GATHERING SYSTEMS.

A. All operations relative to the design, installation, maintenance, and operation of a Gathering System shall conform to the requirements of the Oil and Gas Act, the Water Quality Act, the rules and regulations of the OCD and the Water Quality Control Commission, this Ordinance and the applicable codes and that of a Reasonably Prudent Operator.

B. Any Gathering System shall be tested prior to being placed in service and the results of the tests shall be provided to the County.

C. Any Gathering System shall be tested at least annually and the results provided to the County. Additional integrity testing may be required as required by the Oil and Gas Inspector.

C. The Operator of a Gathering System shall provide the County as-built plans showing the location of all facilities.

D. A Gathering System shall be buried and backfilled as specified by the then-applicable codes.

E. Valves shall be installed on all Gathering Systems at such locations and spacing to safely and adequately control the operation of the lines and to minimize the quantity of natural gas, oil or water that would be released from the line if a line fails or ruptures. The types and locations of all valves shall be indicated on a plan layout and approved by the Oil and Gas Inspector.

F. Pipelines crossing certain roads and highways shall be cased and vented in accordance with the practices of a Reasonably Prudent Operator.

G. Location markers shall be installed to mark the exact location of gathering lines associated with a Gathering System. Each marker shall be approved, as to type and location, by the Fire Chief and the Oil and Gas Inspector. The failure to mark a location, or the removal of any marker without the express permission of the Oil and Gas Inspector, shall constitute violations of this Ordinance. All location markers shall include

the name of the Operator or Owner of the Gathering System and a telephone number where a responsible person can be reached at any time.

SECTION 8. APPEARANCE AND MAINTENANCE OF THE SITE,

A. The premises of an Oil and Natural Gas Facility shall be kept in a clean and sanitary condition. No mud, wastewater, oil, slush or other waste shall be permitted to flow into alleys, roads, streets, lots or leases. Suitable and adequate toilet facilities shall be made available in a clean and sanitary condition at all times during drilling operations.

B. An Oil and Natural Gas Facility shall not be used for the storage of pipe, equipment or materials except during the drilling or servicing of the Well or pipelines from the Well or the production facilities allowed on the site.

C. Any Well which is completed shall be enclosed together with its surface facilities, by a substantial concrete block wall or chain link fence sufficiently high and properly built so as to ordinarily keep persons and animals out of the enclosure with all gates thereto to be kept locked when the Operator or Owner are not within the enclosure.

D. If a Residential structure exists or is constructed within one half mile of the Oil and Natural Gas Facility, the Operator or Owner shall provide landscaping and screening as set forth in the Code and herein. The Oil and Natural Gas Facility shall be screened and landscaped to screen all facilities from outside view and ensure compatibility with the surrounding area. Such screening shall consist of solid walls, evergreen vegetation or landscaped earthen berms at least six feet in height that completely around the site and all fences or lease equipment and facilities. Once approved by the Administrator, the Operator or Owner shall provide the landscaping and screening described in the Plan and shall keep all landscaping, walls or berms in good condition at all times.

E. The Oil and Gas Inspector shall have the power and authority to require general landscaping (trees, shrubs, grass, ground cover or flowers) of any Well or Oil and Natural Gas Facility as is deemed necessary.

F. An Operator or Owner shall promptly clear all premises associated with an Oil and Natural Gas Facility of all litter, trash, waste, and other substances used, allowed, or occurring in the drilling or producing operations.

SECTION 9. STORAGE TANKS.

Except as otherwise provided by the OCD, tanks used for the storage of condensate, crude oil or other hydrocarbon liquids produced by and used in conjunction with any Well shall be buried upon completion of the drilling of the Well. An impermeable liner shall be installed prior to burial and an appropriate leak detection system, approved by the Oil and Gas Inspector, shall be installed.

SECTION 10. ROADS AND HIGHWAYS.

A. Any traffic generated by an Oil and Natural Gas Facility shall not at any time impede traffic flow or cause a road or highway to operate at a lesser level of service than existed previously.

B. The type and amount of traffic to be generated by the proposed Oil and Gas Facility or at the time of its installation shall not cause deterioration to a public road or highway as a result of the activity without just compensation to the County. Any impacts on a public road or highway shall be mitigated by the Operator or Owner, and approval of a Special Use may be conditioned upon implementation of specific mitigation measures.

C. If roads or highways are reasonably certain to be damaged as a result of operations related to the Oil and Natural Gas Facility, or if existing roads are inadequate for the Oil and Natural Gas Facility, the Operator or Owner shall be required to improve said roads or highway, at the Operator or Owner's sole expense. The design, plans and specifications for any such improvements must be first approved by the County, and all such specifications shall meet or exceed then-applicable County road improvement standards, whether established by Ordinance, resolution or operating policy. A road improvement agreement between the Operator or Owner and the County may be required prior to undertaking the construction of any such improvements.

D. At least thirty (30) days prior to the actual commencement of operations at an Oil and Natural Gas Facility, the Administrator shall be notified in writing of the proposed date for commencement of operations. Such notification shall also contain the following information:

1. The maximum length, width and weight of any motor vehicle and the maximum weight of the load to be carried by any motor vehicle to be used in traveling to and from the site and transporting equipment to the site; and

2. A complete list of the proposed routes to and from the site for all motor vehicles to be used to travel to and from the site. Such list shall identify any and all roads and highways within the limits of the County proposed to be used by such motor vehicles traveling to and from the site.

E. The Administrator shall review the proposed routes and shall prepare a written order that either approves or disapproves the routes to and from the Oil and Natural Gas Facility. The Administrator shall designate alternate routes which are acceptable. During all operations, all motor vehicles used by any person to travel to and from the site shall be restricted to roads and highways approved by the Administrator.

F. No Oil and Natural Gas Facility shall be located within any road or highway maintained by the County. No such road or highway shall be blocked or encumbered or closed in any drilling, production or pipeline operation.

G. No excavation for any purpose or construction of any lines for the conveyance of fuel, water, or minerals on, under, or through a County road or public highway shall be made without express permission granted within a Development Permit.

H. The digging up, breaking, excavating, tunneling, undermining, breaking up, or damaging of any road or highway or leaving upon any road or highway any earth or other material or obstruction shall not be permitted unless authorized by the Development Permit.

SECTION 11. NUISANCE AND ANNOYANCE.

A. All equipment associated with an Oil and Natural Gas Facility shall be constructed and operated so that no noise, vibration, dust, odor, or other harmful or annoying substances or effect are created to the injury or annoyance of persons living in the vicinity. The Oil and Natural Gas Facility shall not be permitted to become dilapidated, unsightly or unsafe.

B. All above-ground production equipment associated with an Oil and Natural Gas Facility shall be painted in a uniform flat green or tan color, and maintained in good repair by the Operator or Owner.

C. Proven technological improvements in methods of production shall be adopted as they, from time to time, become available if capable of reducing factors of nuisance or annoyance.

D. There shall be no manual venting of natural gas into the open air without direct on-site supervision. No manual or automatic venting shall occur between the hours of 7:00 p.m. and 7:00 a.m. except in the case of an emergency.

SECTION 12. NOISE.

A. Within fifteen (15) days of the drilling of a new Well or servicing of an existing Well or the construction of an Oil and Natural Gas Facility, the Operator or Owner shall take sound pressure measurements to establish ambient sound levels, under the supervision of the Oil and Gas Inspector.

B. Measurement of sound levels shall be performed as follows:

1. Sound levels shall be measured at a distance equal to the residential setback required by this Ordinance from the subject equipment emitting the noise, or to the nearest residence, whichever is closer. Sound levels shall be measured, as near as

practicable, at the exterior edge of any adjacent building or residence closest to the equipment emitting sound.

2. In all sound level measurements, the existing ambient noise level from all other sources in the area shall be measured and considered to determine the contribution to the sound level by the oil and gas operation.

3. The ambient noise level shall be measured between 12:00 a.m. and 3:00 a.m.

C. An Oil and Natural Gas Facility shall not increase the sound levels more than one (1) dB(A) at a distance equal to the residential setback required by this Ordinance from the subject equipment emitting the noise, or to the nearest residence, whichever is closest to the source.

D. An Oil and Natural Gas Facility shall use shielding or enclosures to achieve the sound level requirements set forth above.

E. Production equipment shall be powered by electric motors if located within 1,320 feet of distribution voltage. Production equipment may be powered by engines prior to the time that the Oil and Natural Gas Facility is provided with electric power.

F. All equipment associated with an Oil and Natural Gas Facility shall minimize transmission of vibration through the ground.

SECTION 13. LIGHT

A. Oil and Natural Gas Facilities shall comply with the Code, including the Night Sky Protection Ordinance, at all times except as specifically provided for herein.

B. The Operator or Owner shall log all lighting levels and shall provide day and night ambient levels prior to commencing work on the Oil and Natural Gas Facility. Levels shall be provided during the development and operation of the Oil and Natural Gas Facility on a daily basis. All lighting shall be limited to the minimum required to meet security and prescribed safety standards.

C. Lights shall be shut off on a drilling rig when not drilling.

D. Lighting that does not comply with the Code shall be permitted only as necessary to safeguard worker safety.

SECTION 14. CULTURAL, HISTORICAL OR ARCHEOLOGICAL RESOURCES

No Oil and Natural Gas Facility may be located so as to affect or damage any Cultural, Historical or Archeological resource.

SECTION 15. OPEN HOLE FORMATION OR DRILL STEM TESTING.

A. Except as otherwise directed by OCD, all open hole formation or drill stem testing shall be done during daylight hours, with adequate advance notification thereof to the Oil and Gas Inspector to enable him or her to be present during such testing.

B. Except as otherwise directed by OCD, all open hole formation testing shall be done into steel tanks or flared properly in the case of gas.

SECTION 16. FLARING OF GAS.

Gas shall not be flared except as necessary during drilling and workover operations, and then only as permitted by regulations of the Oil Conservation Division and in accordance with flaring procedures approved by the OCD, the Oil and Gas Inspector and the Fire Chief.

SECTION 17. DISPOSAL OF SALTWATER OR OTHER DELETERIOUS SUBSTANCES.

A. Each Operator or Owner shall make sufficient provisions for the safe disposal of saltwater or other deleterious substances which may be brought to the surface. Any such disposal shall be at an OCD-approved disposal well or site. No disposal of such substances shall be permitted at the site of the Oil and Natural Gas Facility. When a disposal well is to be used for disposal of such substances, the location of the proposed well shall be identified, the Operator or Owner shall identify the disposal well by operator, lease, well name and number, and location.

B. In the event of any spill or leak of produced water or any deleterious substance, whatever the cause thereof, the Operator or Owner shall promptly notify the Oil and Natural Gas Inspector. If, in the judgment of the Inspector, such leak or spill represents a potential hazard to surface or ground water resources or the environment, the Inspector may issue whatever corrective orders are deemed appropriate and additionally may require the appropriate testing of the surface and subsurface for pollutant incursion, the cost of all such testing to be paid by the Operator and Owner, and may order remediation of the spill or leak, the costs of which are to be paid for by the Operator or Owner.

SECTION 18. FRACTURING AND ACIDIZING.

Fracturing and acidizing of any Well shall be performed in strict compliance with OCD Rules and the practices of a Reasonably Prudent Operator. Fracturing pressures shall be strictly controlled to ensure that fractures do not escape the zone being fractured. Fracturing operations may be monitored by the Oil and Gas Inspector to ensure compliance with this Section. In no circumstance shall fracturing or acidizing operations result in oil, gas or other deleterious substances or pollutants to degrade or Pollute any surface or subsurface fresh waters.

SECTION 19. SWABBING, BAILING AND PURGING WELLS.

In swabbing, bailing or purging a Well, all deleterious substances removed from the bore hole shall be placed in appropriate tanks and no substances shall be ground applicated, nor shall any such procedures be permitted to degrade or pollute any surface or subsurface waters.

SECTION 20. RUPTURE IN SURFACE OR PRODUCTION CASING.

In the event a rupture, break or opening occurs in surface or production casing, the Operator or Owner, service company or drilling contractor shall promptly report the incident to the Oil and Gas Inspector. Immediate action shall be taken to repair such casing consistent with the Rules and Regulation of the OCD and the repairs shall be witnessed by the Oil and Gas Inspector.

SECTION 21. DEPOSITING OIL PRODUCTS.

No person shall deposit, drain or divert into or upon any public highway, street, alley, drainage ditch, storm drain, sewer, gutter, paving, creek, river, lake or lagoon, any oil or oily liquid with petroleum content, or any mud, rotary mud, sand, water or saltwater, or in any manner permit, by seepage, overflow or otherwise, any of such substances to escape from any property owned, leased or controlled by such person and flow or be carried into or upon any public highway, street, alley, drainage ditch, storm drain, sewer, gutter, paving, creek, river, lake or lagoon within the County.

SECTION 22. SERVICE COMPANIES.

Upon request of the Oil and Gas Inspector, service companies or other persons shall furnish and file reports and records showing perforating, hydraulic fracturing, acidizing, cementing, shooting, chemical treatment and all other service operations on any Well.

SECTION 23. ACCUMULATION OF VAPOR.

The Fire Chief shall have the authority to require the immediate shutting in of any Well or Oil and Natural Gas Facility if the Fire Chief finds that there exists, within a 100-foot radius, any gas or vapor in a quantity sufficient to constitute, in his judgment, or in the judgment of the Fire Chief, a fire hazard. The Well or Oil and Natural Gas Facility shall remain shut-in or closed in until the hazard and its cause have been remedied.

SECTION 24. INSPECTION OF PRESSURE LINES.

The Oil and Gas Inspector shall inspect all pressure lines in use at any Well or at any project to ensure that tubing, fittings, equipment or connections are reasonably tight, safe and free from leaks.

SECTION 25. TEMPORARY ABANDONED WELLS.

A. Whenever the OCD has granted temporary abandonment status for a Well, the Operator or Owner shall immediately provide a copy of the approved C-103 form on which such status has been granted to the Oil and Gas Inspector. The Well may remain in temporary Abandoned status no longer than two (2) years without the necessity of obtaining a new Development Permit.

B. Except as otherwise provided by OCD, any Well placed in temporary Abandoned status shall be supplied with fittings and valves to permit the pressure on tubing and each string of casing to be measured independently using a gauge. If, in the judgment of the Oil and Gas Inspector, mechanical integrity of the temporarily Abandoned Well is suspect, the Oil and Gas Inspector, in conjunction with the OCD, may order a mechanical integrity test be performed by one of the techniques described in 19.15.4.203 NMAC of the OCD rules and regulations. Except as otherwise provided by OCD, mechanical integrity testing may be required by the Oil and Gas Inspector each year that a Well is in temporarily Abandoned status. When the Oil and Gas Inspector determines that a leak exists, appropriate repair work or remedial cementing shall be performed by the Operator or Owner to correct the problem, pursuant to OCD regulations and as approved by OCD. All repair procedures shall be approved by the Oil and Gas Inspector and OCD and shall be consistent with rules and regulations of the OCD, and practices of a Reasonably Prudent Operator. The Oil and Gas Inspector shall be notified so that he or she may witness the repair work and test to confirm the success of such repair work.

C. The Operator or Owner shall also comply with any other requirements or conditions imposed by the Oil and Gas Inspector or the OCD concerning a temporarily Abandoned Well.

D. Any Well placed in temporary Abandoned status more than two years must be plugged and Abandoned or brought back into production, except as otherwise provided by OCD. If OCD permits a Well to be placed in temporary Abandoned status for longer than two years, a supplement Development Permit must authorize same.

SECTION 26. ABANDONMENT, PLUGGING AND REMEDIATION.

A. Whenever a Well is Abandoned or an Oil and Natural Gas Facility ceases operation, it shall be the obligation of the Operator or Owner to comply with the rules and regulations of the OCD, the regulations of the Water Quality Control Commission, or the appropriate federal agency in connection with its abandonment, plugging and remediation.

B. A copy of the plugging and Abandonment forms shall be furnished to the County within ten (10) days of the date submitted to OCD. Upon Abandonment, the

Operator shall erect and maintain an aboveground dry hole marker as required by OCD regulations.

C. No building shall be subsequently erected on or over any Abandoned Well.

D. Following Abandonment, the area formerly occupied by the Well or Oil and Natural Gas Facility shall be fully restored to the condition that existed prior to the activity. This shall include, but not be limited to, regrading of the site to its former contours, revegetation (as specified in the Code and this Ordinance), removal of all remains of the Well or Oil and Natural Gas Facility (including all deadmen, junk, tanks, buried material), fencing or walls, signs (except the Abandoned well marker), and access roads. Any and all spills, leaks or other Pollution of the site shall be fully remediated as set forth in this Ordinance.

E. When revegetating the Well or Oil and Natural Gas Facility, topsoil and other suitable rooting medium shall be provided and the affected land shall be revegetated in such a way as to establish a diverse, effective, and long lasting vegetative cover that is capable of re-seeding itself or spreading, is at least equal in extent of cover to the natural vegetation of the surrounding area, and is capable of supporting the range of wildlife associated with particular life zones affected. Native species should receive first consideration, but appropriately introduced species that are non-sterile hybrids may be used in the revegetation process. In order to assure the success of the revegetation program, the planting and seeding shall take place when natural precipitation will assist in establishing the plants and shall be supplemented with an irrigation program. Plants that die or are not established after a two year period shall be replaced; revegetation shall be monitored for a minimum of five (5) years. Success rate of re-seeding and re-vegetation shall be determined by the Administrator.

F. When preparing for revegetation of the Well or Oil and Natural Gas Facility, topsoil shall be removed from the affected land and segregated from other material. If such topsoil is not replaced on a backfill area soon enough to avoid deterioration, vegetative cover or other means shall be employed so that the topsoil is preserved from wind and water erosion, remains free of any contamination by other acid or toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation. If it is determined that such topsoil is of insufficient quantity or is of poor quality for sustaining vegetation, or if other strata can be shown to be as suitable for vegetation requirements, the operator shall remove, segregate, and preserve in a like manner such other strata which are best able to support vegetation.

G. When revegetating the Well or Oil and Natural Gas Facility, new planting shall not be required on any affected area where the chemical and physical characteristics of the surface and immediately underlying material of such affected area are, through no fault of the Operator or Owner, toxic, deficient in plant nutrients, or composed of sand, gravel, shale or stone to such an extent as to seriously inhibit plant growth and such condition cannot economically be remedied by chemical treatment, fertilization,

replacement of overburden, natural weathering or like measures. In those cases where planting is not required, the Owner or Operator shall still be required to stabilize the affected area so that all applicable local, state and federal laws and regulations are not violated.

SECTION 27. COPIES OF FORMS FILED WITH OCD TO BE FURNISHED.

A. Copies of all applications, notices, forms, records, logs and all similar documents filed by the Operator or Owner with the OCD shall also be filed with the Oil and Gas Inspector within one week of filing with the OCD. The Oil and Gas Inspector shall, consistent with the requirements of the Open Records Act, keep confidential any material identified as confidential by the Operator or Owner unless such material is necessary as evidence in the prosecution of any violation of the provisions of this Ordinance or required to be available for public inspection under applicable law.

B. No transfer of ownership of any Oil and Natural Gas Facility shall be valid until the OCD has approved the change of ownership, a copy of the approved change of ownership form is provided to the Oil and Gas Inspector, and the new Operator or Owner has received a Development Permit as provided in this Ordinance.

SECTION 28. PROHIBITION OF POLLUTION.

A. Each Oil and Natural Gas Facility, each Operator or Owner, and any contractors, drillers, service companies, pipe-pulling and salvaging contractors, or other persons, shall at all times conduct their operations and drill, equip, operate, produce, plug and abandon all Wells and Oil and Natural Gas Facilities (including seismic, core and stratigraphic holes) in a manner that will prevent Pollution or contamination and the migration of oil, gas, saltwater or other substance from one stratum into another, including specifically the Pollution or degradation of any aquifer or fresh water bearing formation. Degradation or Pollution of surface or subsurface fresh water by deleterious substances used in connection with the exploration, drilling, producing, refining, transporting or processing of oil or gas is hereby prohibited and shall constitute a violation of this Ordinance.

B. Prior to applying for authorization for a Special Use, the Owner or Operator shall complete a baseline water quality testing program. Water samples from all water wells and surface water sources within a three mile radius of the proposed Well site shall be taken and the parameters tested to establish the baseline water quality for the area. The parameters to be tested shall be specified by the Oil and Gas Inspector and the County Hydrologist.

C. In the event a property owner refuses access to a well for purposes of baseline water quality testing, an affidavit from the Operator or Owner shall be provided summarizing efforts to obtain water samples from the location and the obstacles encountered. If possible, the Owner or Operator shall secure the signature of the property

owner confirming that property owner's decision not to allow testing of water sources on that owner's property. If access is refused as described, the Operator or Owner shall be required to drill monitoring wells to provide the baseline data and monitoring required by this Ordinance.

D. At least annually thereafter, the Oil and Natural Gas Operator shall repeat its testing of surface and subsurface water resources to determine whether fresh waters have been degraded or Polluted as a result of the operation of the Oil and Natural Gas Facility, as compared to the baseline established during initial testing, Such results shall be provided to the Oil and Gas Inspector.

E. The Oil and Gas Inspector shall have the authority to require the construction of supplemental monitoring water wells in the event degradation or Pollution is suspected to physically document any degradation or Pollution of an aquifer or any other fresh water bearing formation. Such construction and monitoring shall be at the expense of the Owner or Operator.

F. In the event degradation or Pollution of surface or subsurface waters, the Operator or Owner shall immediately abate the degradation or Pollution, at its own expense, and cooperate and follow the directives of County, State and federal officials having jurisdiction over the incident.

G. Solid waste (garbage, refuse or discarded material generated by Oil and Natural Gas Facility's operations) shall not be stored or buried on the Well site. Solid waste must be removed on a scheduled basis to a designated and properly permitted landfill or authorized transfer station.

SECTION 29. EFFECTS ON GROUND WATER AND HYDROLOGY.

Disturbances of prevailing hydrologic balances and to the quantity of ground water and surface water both during and after exploration and extraction activities and during reclamation operations shall be unlawful.

SECTION 30. GENERAL ENVIRONMENTAL PROTECTION STANDARDS.

A. Each Oil and Natural Gas Facility shall minimize any noise, vibration, smoke and other particulate matter, odorous matter, toxic or noxious matter, radiation hazards, fire and explosive hazards, and electromagnetic interference.

B. An Oil and Natural Gas Facility shall not create any dangerous, injurious, noxious or otherwise objectionable condition, noise or vibration, smoke, dust odor or other form of air Pollution, electrical or other disturbance, radiation, glare or heat.

C. To the greatest extent possible, and using the best technology currently available, oil and natural gas exploration and extraction shall be conducted to mitigate or avoid disturbances and direct impacts to fish, wildlife and their habitats or migratory habits. In addition, the design, construction and maintenance of access roads into and across the Oil and Natural Gas Facility shall be configured to control or prevent erosion and siltation, to prevent Pollution of water or damage to fish or wildlife or their habitat. All vertebrates and all other wildlife considered endangered by federal or state governmental authorities shall be prevented by the Operator or Owner from contact with chemicals, solutions, and wastewaters containing chemicals.

SECTION 31. CONTROL OF SURFACE WATER RUN-ON AND RUN-OFF

A. Surface water run-on and run-off shall be controlled such that it will not endanger the Oil and Natural Gas Facility or become contaminated by contact with process materials or loaded with sediment. The control systems shall be designed to accommodate a 200-year, 24-hour storm event, or the largest storm occurrence within the general area within the previous twenty (20) years from the date of the application, whichever is greater, as well as any other defined climatic event that is more appropriate to the site, and be placed so as to allow for restoration of the natural drainage network, to the maximum extent practicable, upon facility closure.

B. All materials shall be properly placed and protected from surface water and precipitation so as not to contaminate surface water.

SECTION 32. ENHANCED RECOVERY, SALTWATER OR OTHER DISPOSAL WELLS.

Construction of a well for enhanced recovery, disposal of saltwater or other types of deleterious substances, whether denoted as exempt pursuant to Resource Conservation and Recovery Act or not, is prohibited.

ARTICLE VII - APPLICABILITY, SEVERABILITY
AND
AMENDMENT OF THE DEFINITION OF "MINERAL"
WITHIN THE SANTA FE COUNTY LAND DEVELOPMENT CODE,
ARTICLE III, SECTION 5.2

SECTION 1. APPLICABILITY.

This Ordinance shall apply to any Development of any new Oil and Natural Gas Facility within the unincorporated areas of the County but shall not apply within the exterior boundaries of an incorporated municipality, a federally recognized Indian Tribe, or to property owned by the United States, either in trust for a federally recognized Indian Tribe or otherwise.

SECTION 2. SEVERABILITY.

If any provision of this Ordinance shall be held invalid or non-enforceable by any court of competent jurisdiction for any reason, the remainder of this Ordinance shall not be affected and shall be valid and enforceable to the fullest extent of the law.

SECTION 3. AMENDMENT OF THE CODE, ART. III, SEC. 5.2.

The definition of "Mineral" set forth in Article III, Section 5.2 of the Code, is hereby amended as follows:

Mineral – means an inanimate constituent of the earth in solid state which when extracted from the earth, is usable in its natural form or is capable of conversion into a usable form of metal or metallic compound, a non-metal, a non-metallic compound, a raw material for manufacturing, but shall not include surface water, or subsurface water, sand or gravel regulated by Article XI of this Code, or oil and gas.

APPENDIX A
FEES

- 1, Application Fee, Application for Approval of a Special Use: \$6,000 per Well or Oil and Natural Gas Facility.**
- 2. Application Fee, Application for a Development Permit: \$1,000 per Well or Oil and Natural Gas Facility.**
- 3. Annual Fee: \$2,500 per Well or Oil and Natural Gas Facility.**