

**SANTA FE BOARD OF COUNTY COMMISSIONERS
SANTA FE CITY COUNCIL**

COMMISSION CHAMBERS

COUNTY ADMINISTRATION BUILDING

October 7, 2004 6:00 pm

Notice of Meeting

Notice is hereby given that the Santa Fe Board of County Commissioners and the Santa Fe City Council will hold a joint special meeting on October 7, 2004 at 6:00 P.M. in the Commission Chambers at the County Administration Building, 102 Grant Avenue, Santa Fe, New Mexico.

Agenda

- I. Call to Order
- II. Roll call
- III. Approval of Agenda
- IV. Consideration and adoption of Principles of Agreement for the Buckman Direct Diversion Project
- V. Adjournment

Copies of the Agenda for the October 7, 2004, meeting will be available at the office of the County Manager prior to said meeting.

The County of Santa Fe makes every practical effort to assure that its meetings and programs are accessible to the physically challenged. Physically challenged individuals should contact Santa Fe County in advance to discuss any special needs (e.g., interpreters for the hearing and sight impaired).

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Exhibit(s):

Exhibit 1: October 7, 2004 - Draft Agreement

Commissioner Harry Montoya was consulted telephonically throughout the meeting and were not included in the minutes.

APPROVAL OF AGENDA

City Action: Councilor Lopez moved to approve the agenda as published. Her motion was seconded by Councilor Ortiz and passed by unanimous voice vote.

County Action: Commissioner Sullivan moved to approve the agenda as published. His motion was seconded by Commissioner Anaya and passed by unanimous voice vote.

CONSIDERATION & ADOPTION

Principles of Agreement for the Buckman Direct Diversion Project

Councilor Coss provided background on how the agreement was developed through negotiations over the past two years. The agreement was discussed with the Regional Planning Authority and it was determined they were not the appropriate body. A joint subcommittee was created which he participated in with Councilors Pfeffer, Wurtzburger, Commissioner Sullivan and Campos. The subcommittee met from April until August, resulting in this evening's meeting.

Councilor Chavez recalled that the discussion was entered because of the need to approve the Wheeling Agreement which is now the wholesale water agreement. He recognized that the agreement before the governing bodies was broader than the wholesale agreement, but that it had started within "the narrow parameters of the Wheeling Agreement."

Councilor Coss concurred that that was the initial impetus for the discussions. Recently, the need to identify funding for the direct diversion project has moved to the forefront of discussions. The project will provide sustainable use of the aquifers and conjunctive use of the water resources. He noted that with the RPA's recent adoption of a Regional Plan, that will come before the Council later this week, Councilor Coss said it seemed appropriate that principles regarding the Buckman Direct Diversion (BDD) be identified, discussed and acted upon. Following the subcommittee meetings he and Commission Chairman Campos worked on the draft and propose that the each body own 50 percent and contribute 50 percent of the cost of the BDD.

He reviewed the language regarding San Juan Chama water rights and wholesale water delivers. The County will have 375 afy and the City will have 5,230 afy of SJC water. He noted that these were not new numbers.

Public Utilities Committee discussed this item on September 13th and again last night

Chairman Campos said he and Councilor Coss met with the Mayor a few months ago and discussed protocol and how best to proceed to get organized and do something about the water

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problem, financing it and coordinate it to do something positive for the community. They discussed what Senator Domenici said about Santa Fe being a wealthy community and needing to come up with a lot of the money and be locally self-reliant. The figure for the project has been mentioned at \$120 million but could be \$180 million. It's a tremendous undertaking. Chair Campos said it was important the two bodies reach an agreement on principle that can be taken to the legislature, the federal government and the governor.

Mayor Delgado said "there was no doubt we need to come up with some kind of an agreement here tonight..." The legislative staff wants to see joint cooperation and regional planning between the City and County. He identified the draft water agreement as a major component to regional planning.

[A 10 minute break occurred for review of the document.]

Councilor Bushee requested clarification regarding the process stating she had heard an "unusual process of just accepting everything as it is without amendment" was the request. Further, she asked if this evening was a public hearing.

Chair Campos responded it was not a public hearing and it was up to the two entities whether amendments were necessary. He suggested the County would probably act on the agreement without amendments.

Councilor Bushee requested conducting a public hearing and Commissioner Campos noted the agenda had been approved without public input.

Commissioner Campos invited questions regarding the Principles of the Agreement Contract.

[The remainder of the meeting is presented in a verbatim format]

MAYOR DELGADO: Point of order, Mr. Chair, what I would like to do being that I'm chairman of the City Council, if I could go ahead and recognize the City council then I would give you the prerogative to recognize the County Commission.

COMMISSIONER CAMPOS That would be fine.

COUNCILOR BUSHEE: Okay, Mayor, then as chair of our body, I'm still trying to understand - is your expectation tonight that we as the governing will be able to amend this document?

MAYOR DELGADO: The way I understand it is that you have that right to bring amendments forward. Now, as to whether they're accepted - first of all they would be voted on by the City Council as a body and then the Commission would be asked to vote upon them.

COUNCILOR BUSHEE: Well, then, okay. Let me just get into one that is an area of concern of mine and just so everybody understands the history here the whole wholesale agreement or wheeling agreement or whatever have you that has been something that we've done with the County now for over a decade now, and is the real impetus of why we're even really back to the table in somewhat of a timely way has been rolled into this. So if you look under 4, San Juan Chama Water Rights and Wholesale Water Delivery, you'll see a very different document of then where we left off before and partly that concerns me in that I really want to understand - I don't really have a problem with the 500 acre-feet in perpetuity, if I am to understand though how exactly it's going to be exacted

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from our utility let's just say. For now it's grown. It's no longer just 500 acre-feet. It's going up to 875 acre-feet until the Buckman Direct Diversion is in place.

But one of my concerns is why the 500 acre-feet - although, I will say that in conversation with Councilor Wurtzburger it has been pointed out to me that that 500 acre-feet would certainly be the key to being able to deliver on the northwest quadrant affordable housing project that we have in mind and I want her to be able to elaborate on that because I think it's a real issue. That's one of those things that people really talk to us about so it's not like this is exactly an easy thing for the City to do and I understand also, that you know, if we're trying to take care of some of the growth issues that the County is up against right now as far as commitments, however, I think the City has really got to be careful in how we look at the commitments that we've already made as well.

But in saying that, I would like to say or ask the County and I'm not really sure if I want to just keep directing this to the Chair. I would like to hear from some of the other commissioners as well. I don't agree that the 500 acre-feet can be delivered whether it's in perpetuity or not. I actually preferred the sort of reduction phasing out into the Buckman Direct Diversion timeframe that the mayor had proposed before. But if we continue on with this 500 acre-feet in perpetuity I don't believe -- and I do believe that it will come mostly out of our imported water, out of the San Juan Chama, and that I don't believe it should be taken out of the City's capacity if it is to be forever for the County. So I'd like to understand if the County is open to looking at that differently because I cannot accept those terms.

And that's one questions and I want to ask a question - I don't know if you want to answer them now and then go on to the next one?

CHAIRMAN CAMPOS: I don't know if that's a question or a hell of a long speech.

COMMISSIONER DURAN: Mr. Chair. The 500 acre-feet has been used in our growth management plan. Most of that - 100 acre-feet of that is going to the County-owned and operated entities like the jail, our business park and we have some water allocated towards affordable housing. But the 500 acre-feet that you're talking about has already been distributed to growth that is going to occur and has occurred out in the County. The need for the additional 375 acre-feet comes as a result of the County not having built their own water system which we were suppose to do under the Wheeling agreement. Now we find ourselves with some commitments out there and we're not able to provide them water. What we really need is that additional 375 acre-feet to take care of the growth that the County is going to experience and at the end - when the BDD is available to get water out of, we would then give you back the 375 acre-feet. But we can't give you back the 500 that we've already allocated because of the needs of the growth that we have approved out there and which the Regional Planning Authority has agreed is our priority areas.

COUNCILOR BUSHEE: I guess the question ended up being why the 500 acre-feet had to come out of the City's capacity rather than the County's pipeline capacity? Because it's most likely going to come from our imported water.

COMMISSIONER DURAN: Because then that takes us back to where we are and we only have 375 acre-feet -

COUNCILOR BUSHEE: No, you have 1,700 acre-feet capacity. It's pipeline capacity. Do you understand my question?

COMMISSIONER DURAN: I understand.

COUNCILOR BUSHEE: Uh-huh.

COMMISSIONER DURAN: Again, going back to the RPA's land use plan, it was

determined that 1,700 acre-feet would provide us the water that we needed based on the growth projection that were made at the RPA level.

COUNCILOR BUSHEE: Right, but I'm saying that it should include the 500 acre-feet that we're going to give you in perpetuity.

CHAIRMAN CAMPOS: You're not giving us anything -

COMMISSIONER DURAN: That doesn't work for us.

COUNCILOR BUSHEE: Well, you know -

CHAIRMAN CAMPOS: Can we be focused on our questions. We've got to get through the questions and then you can make a statement later.

COUNCILOR BUSHEE: This is not a statement.

MAYOR DELGADO: Go ahead, Councilor. I don't think you're making a statement. You're asking questions.

COUNCILOR BUSHEE: Thank you, Mayor. Again, I don't know if I have the - Councilor Wurtzburger wanted to add to something there. Then when we get to the -

MAYOR DELGADO: Councilor Wurtzburger you'll get your chance. I think if we team up here we're going to have trouble following through.

COUNCILOR BUSHEE: Okay, then the next question is under 5.b, and just to be really clear and this was asked to me by a constituent and just so that we're really clear how this scenario works under drought and other shortages.

So let's say you start off with in a year of drought with 600 acre-feet that's coming out of the river and then on top of that, as I understand this, the City would be required to provide an additional 250 acre-feet - I'm not sure if it says necessarily from which source, but at least 250 acre-feet to get you up to your - and then I assume somewhere in here that the 500 acre-feet again in perpetuity is included in this equation. Can someone clarify that?

CHAIRMAN CAMPOS: Councilor Coss, do you want to address that?

COUNCILOR COSS: The 500 acre-feet is treated differently. If you look under 5.b the wholesale water which would be the 500 acre-feet after the delivery would be affected by the shortage sharing that provides for a prorated reduction in daily deliveries to the County. So the 500 acre-feet would be, in this level of a drought where this much water is not available out of the river, that 500 acre-feet would be as a customer to the City would be reduced by whatever percent we're reducing all our customers in the drought.

COUNCILOR BUSHEE: Okay, so if there is no drought it's just going to be straight-up added into this equation?

COUNCILOR COSS: Right.

COUNCILOR BUSHEE: If we're in no stage of sharing shortages?

COUNCILOR COSS: Yes, in good years they're just buying 500 acre-feet from us.

COUNCILOR BUSHEE: Okay and then this is just a general principle question that I don't see incorporated in here and I really don't want to take Councilor Wurtzburger's thunder away but I have the same concern that in none of this do we deal with any of the demand-side of the equation, i.e. how you're going to use this water? Now, I don't mean you specific - I mean everybody in terms of the RPA growth priority area and all of that. I'd like to actually turn this over to Councilor Wurtzburger to see if there's a way to incorporate some kind of principle statement in here that says we have all the intentions of the world of actually fulfilling those draft plans and using the water toward those priorities that we've already slated.

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MAYOR DELGADO: Councilor Wurtzburger then Councilor Pfeffer.

COUNCILOR ORTIZ: Mayor, as a point of order, is Councilor Bushee finished with her comments or is she trying to yield the floor to Councilor Wurtzburger?

COUNCILOR BUSHEE: No, I'm done with my questions not my comments.

MAYOR DELGADO: Councilor Wurtzburger then we'll follow with Councilor Pfeffer.

COUNCILOR PFEFFER: Mayor, a point of order. I had raised my hand. I just thought it would be more -

MAYOR DELGADO: No, I've already looked at her.

COUNCILOR PFEFFER: Very good, Mayor.

COUNCILOR WURTZBURGER: Okay, I have a question about the numbers still and that's not my main point.

Back to 4.d. and the 1700 a-f, Commissioner Duran, I understand that the County plan was to have 700 acre-feet but I still don't understand why the 500 acre feet doesn't come as a deduction from the 1,700. Because if your need or your projected needs was 2200 then why wasn't that in the plan.

CHAIRMAN CAMPOS: I would like to have John Utton address that question because we had a lengthy discussion today about that. I think he can answer your question very directly.

(John Utton, County Legal Counsel, responds away from microphone.)

COUNCILOR WURTZBURGER: I want to come back to that later, Mayor.

COMMISSIONER DURAN: Could I just add one thing to that? The other thing that we're trying to do is limit the amount of water that we have to pull from the aquifer. As you're aware of, we have been talking about developing a County water system and we're hopeful that we can work with you on the 500 acre-feet and the increase of 375 so that by the time the BDD comes online the ongoing discussion about how we can come up with a conjunctive use plan on a regional basis. So that's really what the goal is.

COUNCILOR WURTZBURGER: Last night when I reviewed the what was it yellow, I had only two concerns. My primary concern as been completely eliminated from this document so I will reiterate. I believe that principles of agreement state the values, it's a normative statement and says what we are trying to accomplish together. It's not simply the mechanics of how we get there. And I think the most important value statement that can be made in a water agreement at this point in the history of the City and the County is reflected in the work that we cooperatively done together over the past two years which culminated in the RPA plan and which was reinforced by the Affordable Housing Task Force two weeks ago.

And that is why I introduced one amendment last night that asked for the use - the priority of use of this water to reflect what I think our community so desperately needs and I thought to which we had agreed. The language in that which I would like to repeat for purposes of this meeting and I was open for discussion on it and had none today and simply had it removed.

The language: "That all new allocations of water above the currently committed 500 acre-feet delivered to the County pursuant to this agreement may be used for projects in the growth priority areas and which are in compliance with the Affordable Housing Task Force Report which recommends 37 percent affordability."

The fact is we don't have much land in the city to build affordable housing and we have seen the County as a primary area for working collectively on affordable housing. And we've talked about

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that through the RPA effort. That fact is if we look at 500 acre-feet which will now be extended into perpetuity that is enough for 2,000 houses. The northwest quadrant which we talked about last night is only for 700 houses. We have tremendous pressure for our community, our citizens in the city, saying where are you going to get the water. I was hoping that in this agreement that we could reinforce that priority and I am most uncomfortable that it is not in here. And I hope to hear further discussion from other councilors on that. Thank you, Mayor.

CHAIRMAN CAMPOS: I would simply state, Councilor Wurtzburger, that when Councilor Coss and I got together we wanted to keep it simple and keep it about water. Because a lot of issues can be attached to this agreement and it just gets more complicated and more out of control

We have an RPA plan that clearly states affordable housing is one of highest priorities, one of our top five priorities. In fact, isn't it our number one priority -

COUNCILOR WURTZBURGER: And this is your first chance -

CHAIRMAN CAMPOS: -- and we are committed to that and the County has affordable, you have affordable housing but you know this is not an issue that I do believe we should attach here as a rider. I think we need to look at it very carefully and look at that report very carefully get staff analysis. We're committed to it. I would just urge you to keep this simple and let's get beyond the mind set that has locked us in so long.

COUNCILOR WURTZBURGER: I think my mindset is fine. It reflects the priority of the community and I think it is a principle that should be in this and I respectfully disagree with you.

CHAIRMAN CAMPOS: That's not what I was saying and I think you misunderstood what I was saying. I think we have a mindset problem about coming together and doing something big about water that we really need to do for this community. We're all committed to affordable housing and I think we're going to do something about it.

COUNCILOR WURTZBURGER: Well, I just would like - I'm sorry, but I'd like to respond to that, if I may, Mayor.

COMMISSIONER DURAN: I have some information that I think might settle this if you would and it will only take one second.

Some of the information that you may not be aware of is that one of the high priority areas that the RPA has approved is the San Cristobal Ranch, the property that the State Land Office owns. The developer of that piece of property is building over 300 houses under \$200,000. His plan is to build a totally affordable project there. So if you add those 300 plus houses, plus the 15 percent that we already have for affordable housing in the community college we are making a contribution to the affordable housing needs of the community. But in this document we haven't been able to present to you all of what we're providing.

COUNCILOR WURTZBURGER: You see, that's just the perfect argument for agreeing to a principle that says you're going to do what you're saying you're already doing. I see this document as the first time - and then I'll let this go, Mayor, for now and let other people speak - the first time for us as two governing bodies to take our verbal commitments that we recently made and say yes indeed this is a principle and if we have choices to make which we do in this community that we're going to make the choice in favor of affordable housing with the small amount of water that we do have.

COMMISSIONER DURAN: As difficult as you might find it to trust us on that, it might be easier for you to believe that we're also bombarded by that kind of concern from our

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constituents and we want to make a difference. But to put it in this document is just too difficult because you're asking -

COUNCILOR WURTZBURGER: You'd be linking water -

COMMISSIONER DURAN: You're asking us to give up our land use the rights that we have to take control of growth in the County.

COUNCILOR WURTZBURGER: I'm asking you to make a stated priority linking water to these decisions. Thank you, Mayor. We'll come back to it.

COMMISSIONER DURAN: We've made that commitment.

COUNCILOR WURTZBURGER: Not in this document.

COMMISSIONER DURAN: Not in this document but in others.

COMMISSIONER SULLIVAN: Mr. Chair, maybe I could just add one additional thing to that thought and of course Councilor Wurtzburger was on the committee and has a good familiarity with how we structured the agreement and based it. But what we're trying to do here is to get more water to affordable homes and we can only do that if we create this regional - this start of this regional water system. If we say where's the 500 going to go, we're giving away the City's water or whatever the phraseology may be, you'll recall the figures that Diane Quarrel from the RPA produced for us, that the County is growing at the rate of about 120 acre-feet per-year, that's acre-feet of water per-year, regardless of what we do. If we provide a community water system, a regional water system for that growth, we will have smarter growth, we will have more condensed growth, that lends itself and encourages affordable housing. That 120 acre-foot breakdown actually was roughly 70 acre-feet in individual wells being drilled a year and 50 from the County's water system, primarily from Rancho Viejo because that's the main recipient of water from the County system.

What we're trying to do is reverse that trend by bringing regional water through the City system, through the Buckman Direct Diversion, through water rights being transferred to the Buckman Direct Diversion and through the Buckman wells we're trying to bring regional growth into a smarter growth mode that will create affordable housing. If we continue with the attitude that the City is giving water away and saying that we don't want to "give any water away" then until we have a point in time that we can catch up, what we're going to end up with is simply more well drilling in the aquifer and those require 2.5 acre lots. So we are insisting on sprawl and I'm bringing this up to the whole organization not to you, Councilor Wurtzburger, because I know that you were involved in those discussions and you know that's how strongly we feel about it. And I think that's very important. In fact we provided two alternatives to the City. One was 875 acre-feet just San Juan Chama water period, as a settlement of San Juan Chama. It was the City that came back and said no we think we'd rather stick with the 375 and continue with the 500 acre-feet in perpetuity from the City system and that gives us a little more control of the water because it's city regulated water. So we were willing and did accept either route. But I really want to make the emphasis here that what we're trying to do is develop a regional water system so we can have more efficient growth and when we have more efficient growth we can meet the demands and requirements of that regional plan which we intent to adopt fairly soon for affordable housing.

COUNCILOR WURTZBURGER: Uh-huh. Thank you, Mayor.

MAYOR DELGADO: Councilor Pfeffer.

COUNCILOR PFEFFER: Thank you, Mayor. Without prejudicing whatever action the Council wishes to take and in deference to the wishes, the apparent wishes, of the County Commission I'm going to go ahead and move for approval

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COUNCILOR ORTIZ: Second.

COUNCILOR PFEFFER: -- of the document as submitted for the purposes of continued discussion.

CHAIRMAN CAMPOS: Is there a motion on the County side to approve the principles as stated.

COMMISSIONER DURAN: So moved.

COMMISSIONER ANAYA: Second.

CHAIRMAN CAMPOS: Okay, we have motions on both sides

MAYOR DELGADO: Councilor Pfeffer, is that it? Anybody else on the Council that would like to speak. Councilor Ortiz.

COUNCILOR ORTIZ: Mayor, I pass.

MAYOR DELGADO: Councilor Heldmeyer.

COUNCILOR HELDMEYER: First of all I want to make it clear to the public that time was needed to read this document not because people don't read their documents, but because this was in our boxes at 5:20 this afternoon and so there's a lot of stuff that's in here that's new, that we didn't see even as late as last night and so those things I guess require questions.

The first thing that jumps out at you that's new is the governance has changed to a five member board with two county commissioners, two city councilors and another qualified person to be appointed by the majority of the four elected officials. Where did that come from and what was the reasoning behind that?

CHAIRMAN CAMPOS: I can tell you what we were thinking today. I met with the Mayor and Councilor Coss this morning and I was told that the City Council would not accept our 2015 option period. That that was a killer. So we went back and talked about it.

COUNCILOR HELDMEYER: Excuse me, I don't understand; which option?

CHAIRMAN CAMPOS: The 2015, everything ends at 2015. Is that what you're talking about?

COUNCILOR HELDMEYER: No, I'm talking about 2.a. I'm starting right at the -

CHAIRMAN CAMPOS: Yes, that's how this happened.

COUNCILOR HELDMEYER: Okay, okay.

CHAIRMAN CAMPOS: This is part of the explanation. If we're going to be an equal partner and we're putting out 50 percent of the money and we agree to a "let's talk provision" at 2015 which is what some of the councilors were proposing. That would mean we would simply talk and things would never change. We would simply have no leverage. We initially came up with the idea that at some point in time you have to say okay and at this point the County has an option to itself manage this system. And as you know it's not a policymaking system. It's a system that is essentially operational. But it was a killer from what we heard from the council. So we said, "what do we do?" We had two and two are deadlocked, we could change the language a little bit but it doesn't really make a difference and doesn't give the County the necessary leverage.

I think this keeps us as an equal partner: two, two with a fifth member who could be elected by the floor for a one year term. In other words, this person would need three votes to get on and to stay one. This gives us enough comfort that there would be a true analysis, true discussion, at the end of the period where there would be more than just "let's talk." So this would be a mechanism to move beyond, let's just talk. come

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COUNCILOR HELDMEYER: So to use your words, you see this third person as giving the County extra leverage.

CHAIRMAN CAMPOS: I'm seeing this person as a person that makes it fair to both parties. And that's how we forwarded it. We talked to Councilor Coss, the Mayor and they can give you their opinion but I think it's fair. I mean you were saying let's talk which means you had all of it and didn't want to give an inch.

I think this opens the door for a fair discussion.

COUNCILOR COSS: I would just like to add to that, Mayor, because this has been a sticking point since the September 13th Public Utility Committee meeting and I thought it was significant movement today for the County to yield on that point and put the language in it that says after 2015, 12 years from now that the BDD would either enter a contract with Sangre de Cristo Water Company, the Santa Fe County Utility or a regional authority instead of holding fast to that idea they just simply have the option. I think when we looked at two and two the sentiment that was expressed to me was that just means it stays deadlocked until a City Councilor caves in. This provides a different option and a different way to go. Presumably both sides would have selected that fifth member so you have a tie-breaking vote that's selected by both sides.

I thought it was a solution to move the County off of the insistence that they could exercise that option without any further discussion in 2015 and I think it's big.

COUNCILOR HELDMEYER: Was there any discussion of making this position an elected position?

CHAIRMAN CAMPOS: No.

COUNCILOR COSS: There was no discussion to make it an elected position or prohibiting it from being an elected position. I would say that if the Commission – then we got into the RPA or SWMA issue of making it a quorum of the County Commission.

COUNCILOR HELDMEYER: No, I didn't mean someone who was already elected. I mean making it a –

COUNCILOR COSS: Oh, elected at large by the public.

COMMISSIONER DURAN: That would be good.

COUNCILOR COSS: There was no discussion of that and I sure wouldn't preclude it.

MAYOR DELGADO: Being that I was part of that discussion, we did kind of touch on that a little bit of who that fifth person would be. It was me who said that I would prefer maybe just somebody at large, somebody from the public who has expertise in this area. But we did not discuss having an elected person by the citizens of the City of Santa Fe.

COUNCILOR HELDMEYER: Let me go through my questions because that was the format we originally decided on and then everybody can go through their questions and we can revert to any sort of format people want.

I agree with the concerns that have been raised about the fact that the 500 afy will be taken out of the capacity of the City, the capacity in the BDD because this limits the amount of actual water that we can get no matter what our rights are it limits the amount of actual water we can get out of this system

Moving on to 5.b. which is drought conditions. This is new language. I think it needs more work and I won't give specific language right now but let me just say conceptually that first of all I think that this when it talks about the County's diversion of surface water and when it drops below a certain level the City would provide the County with the necessary water. First of all, I think that

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should only go into effect after the diversion project is on line and rather than talking about absolute numbers related to capacity I think it should be – if we're going to talk about it at all, which I'm very uncomfortable about – but if we're going to talk about it at all, it should at the very least be talked about in percentages of rights. Because otherwise you may have a problem with the City having to provide the County with water for which it has yet to obtain the rights. That's the problem we're in right now with the 500 acre-feet.

If you go back nine years what you see is a discussion that the County – there was agreement on the 375 of San Juan-Chama rights and the County saying, "oh, yeah, in the next couple of years we'll go ahead and get another 125, so give us 500" – and that's in the minutes of those meetings. And for whatever reasons that hasn't materialized. And because of that we're in a position where we're essentially being asked to set those 500 aside, you know, you've already done that and let's move on from there. So I wouldn't want to be in that same position again.

I think that when we talk about drought conditions or other shortages "to be defined" which is a little bit scary, it's a lot scary. Because, you know, what is a shortage? Is a shortage that you have allocated the rights you have and therefore you have people threatening to sue you because they can't build as much as they want? Some people might define that as a shortage. I personally wouldn't but it's a possibility and I think that those words have to be very carefully defined and I they're just being basically left open in this case.

However, in addition to that I think it's important that under real drought conditions, and I think we could probably all come up with a reasonable definition of what constitutes real drought conditions, I think we need to learn from the Tampa experience where they did not define drought, you know, what the different entities should do in terms of drought and it caused real problems with their system. And I don't see anything in here about trying to work out what kinds of drought provisions the different entities would come up with and coordinate those efforts so that we don't have a drought with one side doing one thing and another side doing another. That's something that I think is very crucial to me.

And I have no idea where the wells came in but there they are at the bottom and I think that I'll just leave them sitting down there for now.

Thank you, Mayor.

CHAIRMAN CAMPOS: Councilor Coss, do you have any comments?

MAYOR DELGADO: Anybody from the Councilor or the Commission that would like respond to Councilor Heldmeyer?

CHAIRMAN CAMPOS: I'd simply say you raised a technical issue that I think can be dealt with at the contract drafting stage. Conservation, you know that the County is doing a lot out there for conservation. What we really need to do is get people off domestic wells and that's what this is about. That would be my response.

COMMISSIONER SULLIVAN: On your comment about where do the wells come in, the drought provisions only kick-in when the County is in the lower half of its allocation of the SJC project, i.e. below 850. We all – there's very little likelihood that the City is going to be providing much water under that provision because if we were up near capacity and we dropped down even 20 percent we still wouldn't be down to 850. So –

COUNCILOR HELDMEYER: My concerns are before you reach capacity.

COMMISSIONER SULLIVAN: So what that last sentence does which is the question I was responding to, is it is just like the City because of that provision and as part of that provision

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the County is going to have to have a regional well system to provide conjunctive use so when we get into a drought situation on the SJC project, we're going to be able to and have the ability to go to wells for conjunctive use and then to rest those wells just as the City plans to rest the Buckman wells when there's time of plenty.

That sentence is there in conjunction with 5.d. to indicate that we're both following the same procedure. We both intend to use the SJC project in times of good flows and rest the wells and in times of bad flows and low flows the City will be going to the Buckman wells and the County will have to wells for backup as well. In terms of drought protection the 500 acre feet that the City is providing in perpetuity is under drought regulations so that gives the City the kind of control it wants that the County won't be awash in water and the City would be having to its trees die.

I think we're both planning on using water conjunctively in the same way.

COUNCILOR COSS: I just wanted to respond and I know it's not written specifically in there. But the way I looked at this is that conjunctive use is not possible without the diversion project. So that the drought language about when the BDD drops, to me it means that this is language that applies after the diversion project is built. Before the diversion project is built, the 500 wholesale or the 875 wholesale is wholesale water and would be subject to the shortage sharing and the prorated reductions and that's where I agree with Councilor Heldmeyer that that would have to be the same type of program on either side of the city limit's sign to make it work and to make it fair.

But I think we're in two different scenarios: before the BDD and after the BDD.

COUNCILOR LOPEZ: I too want to say it changed from yesterday to today, but I want to compliment - I don't know who did the staff work but it was pretty easy to figure out what the changes were. So I want to compliment whoever did that.

I think the five member board is a distinct improvement. I was deeply concerned that we would be at an impasse all the time with the two to two. My only question is finding that fifth person, it's very hard to imagine but I'm sure we can find that kind of fifth person that is going to be fair and I think in itself is one of the biggest signs in this agreement of any cooperation, that we're going to agree together on a fifth member really starts the spirit off really well.

I can follow through this agreement in be in complete agreement but there's one thing that I really want to urge you to just open your minds to. I'm fine with everything in here. I'm fine with the quantities but I think what Councilor Wurtzburger say - I just want to approach it on a little different point. The issue we get asked constantly is, okay, you're going to be doing all these improvements, you're talking about increasing our taxes, your talking about this and that; why are we having to do all this? Where is all that water going to be used and is it because you're just going to grow everything up and Santa Fe is going to get bigger? And you know there's a sentiment in this community that really don't want us to grow. They are really fearful that the growth will cause an increase in cost which will cause them not to be able to live in Santa Fe. I think a really wonderful thing the County did and that has showed a lot of leadership in which we don't always recognize is their growth management strategies, etc. etc. which I think are seen in the RPA plan. And on one hand you're saying that that is our plan and that is what we intend to it. By adding it into the agreement and I can understand why you don't, but what you give to us is an answer to all those people who say we're doing all this and what's going to happen to that water? We'll be able to say that we've come up with a plan in the RPA. We have a plan that says what's going to happen to that water. And the County has plans and the County has ordinances on conservation etc., etc. That's all. I'm not asking you to commit to something that you haven't already committed to but in seeing it

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there and seeing that it gives us an answer to people who really want an answer and what to know where all this is going and I don't think a lot of the public and even all of us don't understand completely all the efforts that the County has taken in terms of growth management, in terms of linking of water to growth. In fact, it's that very document that links it together. I think we're eager to ask people to link roads – and that's why we'd really like to see that. That would be the first time that we ever really did that.

Now you would still have the option in that RPA plan to make changes as time goes on. There's no plan that's in stone. We're not saying that you have to stay to that plan the way it is today forever and ever and ever. But I think – and I know all the no reasons, I would just like you to look at could you add it in there and not have it really hurt you. If you could do that and it doesn't mean a lot because it's what you're doing already – I just really urge you to add it. I think it does do a wonderful thing that it does show to the community. It answers that question of what are we going to do with the water? We have a plan. The County has a plan. We have an RPA plan. Could you read that out loud again, Councilor Wurtzburger, your amendment that you had proposed? Just read it nice and slow and friendly like.

COUNCILOR WURTZBURGER: I'll do it in southern.

All new allocations of water of the currently committed 500 acre-feet delivered to the county pursuant to this agreement may only be used for projects in the growth priority areas and which are in compliance with the affordable housing task force report which recommends 37 percent affordability.

COUNCILOR LOPEZ: See so it doesn't really tie your hands and limit your future. It just says that you're going to do what you already said you're going to do anyway. So that's why I'm really hoping that you could consider just adding that. It's a symbolic thing but it's more than that. It really does show all the work, and Paul you have worked on this and you're leaving office your one legacy –

COMMISSIONER DURAN: No, I'm going to stay.

COUNCILOR LOPEZ: Okay – a big legacy has been our regional planning. These are operating principles and to add that principle in there – I don't think it waters down your power or anything else but it gives us a place to say this is where the water is going to be used to the public. If anything I think it recognizes the hard work of the County.

COMMISSIONER DURAN: I think the only problem I have with the language the Councilor Wurtzburger mentioned was the language that we have to use it there. What's wrong with saying that we would give those high growth areas or growth priority areas the priority for that water. I know that we've worked on that regional plan and that – but the problem is that I found out that that plan is requiring 38 percent affordable housing and from an economic point of view I don't know that that works. As a matter of fact, I don't think it works.

COUNCILOR LOPEZ: For me, let me just tell you, I would be willing to take a softer version of it. I would be willing instead of mandating it, just stating that – just make it softer.

COMMISSIONER DURAN: I just wanted to bring that up.

CHAIRMAN CAMPOS: We're simply asking questions at this point, right, Mayor?

COMMISSIONER SULLIVAN: Let me just add the concept, you know in my district the RPA plan is only in the EZ zone, the five-mile area around the City. Part of the County's 40-year water plan is to serve beyond that and one notable area is Eldorado. Eldorado has had water problems for quite some time and is currently in the process of purchasing the water system from the private owner there. We would be limited by that language of providing any water whatsoever so making any

arrangements with Eldorado which lies completely outside the EZ zone. And as representing district five, I would strongly oppose that because I think with over 6,000 on the water system out there we have the largest water system in Santa Fe County with the exception of the City of Santa Fe and we can't ignore that in our water planning.

COUNCILOR LOPEZ: That's a good point. What if we added at the end of the statement that Councilor Wurtzburger had and in the County 40-year water plan.

MAYOR DELGADO: I would like to and I'm giving the courtesy to Councilor Coss to speak because he was driving forces in this. Councilor Coss.

COUNCILOR COSS: I just wanted to address your point, Councilor Lopez, and I think you see the difficulties with it because if we ask them to adopt it - but there's nothing in here putting it in writing for the City's side of the equation. And so this is our first opportunity but next Wednesday is a pretty quick opportunity for the City Council to adopt the RPA plan. I believe the Commission has the RPA plan on their agenda for next Tuesday so that will quickly become apparent for both governing bodies as to whether we mean it or not. And when you put in a figure like 27 percent and we just heard that number at the RPA, I thought it was 30 percent. I know we've just done a study on the northwest quadrant that said we could get 37 percent and we own the land. So you go into this negotiation now on this water thing about whether 37 percent is the right number or not when nobody else on the council has heard that report except those that went to RPA. Most of the County Commissioners haven't heard that report and I just think it takes us down a path of saying there's no language in here saying the City commits to that but we want language in there to say the County commits to that. I think that's the problem and the rub with it.

I think there's a lot of public sitting behind us and a lot of public reading about this and it will be very obvious next Tuesday and Wednesday what's the commitment of either governing body to the regional plan.

MAYOR DELGADO: Councilor Ortiz.

COUNCILOR ORTIZ: Mayor, because I don't want to confuse the issues and because I want the motion to stand as it is to approve the agreement, I make a motion to amend the agreement that in Paragraph 5.a. we add the following language that is consistent with the discussion as it relates to affordable housing and that language is:

"That the City and the County prioritize, using the RPA Plan and the Affordable Housing Task Force Report, to use the allocation of water under the BDD towards providing affordable housing."

And I made that in the form of a motion to amend and I would ask for a second.

COUNCILOR WURTZBURGER: Second.

COUNCILOR ORTIZ: And then on that particular point, Commissioners, I want to encourage you and I will sort of speak from personal and then go to global, that when I first got on the council and I stepped on the RPA and we did a prioritization exercise and I put the northwest quadrant as my star/apple and it was sort of roundly dismissed. And it wasn't until the efforts of Councilors Wurtzburger and Coss, Councilor and Pfeffer when they came on board where the impetus for the northwest sector actually took place. The City is committed to providing affordable housing opportunities for their families. And the City has committed themselves through the policies that we've taken in the last two years towards making affordable housing really the priority in terms of providing water to its constituents.

This language, the language I just put forward in the amendment, all it does is recognizes the

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commitment the City has made and will continue to make. It recognizes the commitment that the County has made without getting into a power struggle of what entity is going to tell the other entity where to put it and how to put. All this does it say that we both recognize – this document being our first step – that the priority for this community is affordable housing and that priority is going to carry over toward the allocation of new water and I think if that amendment, if it was added in paragraph 5.a. under the conjunctive use strategy it really talks to the points of agreement that you hear underneath the contentious language that goes in-between our respective governing bodies.

I want to put forward that motion. I'd ask for a vote on my side and I'd certainly hope for a motion on your side to accept that particular language.

COMMISSIONER DURAN: I make that motion on this side.

COUNCILOR ORTIZ: And then –

COMMISSIONER DURAN: Hoping there's a second.

COUNCILOR ORTIZ: -- if we could have a vote on that particular motion and then we can get to the merits of the particular agreement because again, I think that this agreement, and I want to again commend Councilor Coss and Commissioner Campos for coming up with a very strong template for coming up with a system of regional cooperation and I think that to the extent that we can arrive at language that fits all the needs that we've got – sure there's going to be some of us that are speaking to the people behind us really from the sake of not wanting to see any kind of progress and there will be accusations flung back and forth between our governing bodies as to what the true motivations are in voting for or against this particular agreement.

Let's take the first positive step forward. Let's say that we're going to make the commitment to start working together toward getting the Buckman Direct Diversion as a realistic possibility for this community and let's say that that diversion project's high priority is going to be providing affordable housing opportunities for locals. That kind of statement does not bind either of us except to the moral high ground that we both ascribe to.

COMMISSIONER ANAYA: Second.

MAYOR DELGADO: I would like to recognize anybody that would like to speak to the amendment.

COUNCILOR CHAVEZ: Yes, I would like to speak to that, thank you, Mayor. I think this is a good amendment. If we're going to be serious about the RPA plan and about growth area priorities and we know that's critical and we have to tie growth to water better than what we've done in the past. There's a lot of things in this document that make it seem premature if we don't have these other things nailed down. If we're not committed to that then I have the sense that what we're doing here today is premature and it's not really a negotiation in the true sense because there's a political fix that we're picking up because somebody in DC, very well respected in most of community, says you need to do this or else. That's not the best way to move forward and I'm not saying we shouldn't do it but it does raise some concerns.

But I think this, Mayor, is a good approach and it's the direction that we need to go in and I'm going to support it. Thank you, Mayor.

MAYOR DELGADO: Anyone else on the amendment? Councilor Bushee.

COUNCILOR BUSHEE: Mayor, I think that the amendment if accepted unanimously by the Commission and the Council greatly improves immensely where we're headed here. It was hard to see at first – and I think the intention is there and I think the intention is there in the RPA to really do these things but in this document right now before this amendment all it really did was

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confirm a commitment to wells in the name of conjunctive use. And right now in the City we're facing all sorts of issues around growth and water and how we have to deal with it right now is through toilet retrofits and then so it's - it's not like either of us is in any better position and in fact I think that this board tonight makes the effort of going out with our hand in our hat - hat in our hand to the public to ask for money a much easier task.

So this certainly turns the tide for me in how I approach this document.

MAYOR DELGADO: Okay anybody else from the council in regards to the amendment. I would ask the secretary for a roll call for the City Council.

“That the City and the County prioritize, using the RPA Plan and the Affordable Housing Task Force Report, to use the allocation of water under the BDD towards providing affordable housing.”

Whereupon the amendment passed by majority [7-1 pass] roll call vote as follows:

Councilor Lopez:	Yes
Councilor Ortiz:	Yes
Councilor Wurtzburger:	Yes
Councilor Heldmeyer:	Yes
Councilor Bushee:	Yes
Councilor Chavez:	Yes
Councilor Pfeffer	Yes
Councilor Coss	Pass

CHAIRMAN CAMPOS: I would suggest that we not vote on this until the very end.

[The amendment is conveyed to Commissioner Montoya]

MAYOR DELGADO: Anything else from the Council before I hand this off to the Commission? Yes, Councilor.

COUNCILOR HELDMEYER: Yes, I have some amendments to offer. I know that people are saying that there's good intentions and this isn't what was meant. My feeling is if certain things were meant we should get them in writing now because it's going to be easier to get them in writing now that it is somewhere else down the line.

My first amendment is on page 3, 4.d to add a sentence at the end in the spirit of compromise that says, "of the 500 acre-feet per year of water delivered under the wholesale contract will be counted 250 acre feet against County capacity and 250 acre feet per year against City capacity."

CHAIRMAN CAMPOS: What does that mean?

COUNCILOR HELDMEYER: What that means is your 1700 acre-feet of capacity - since you're getting 500 acre-feet of actual water from the City will be reduced by 250 acre-feet.

CHAIRMAN CAMPOS: And you said it's also going to be reduced against the City's capacity?

COUNCILOR HELDMEYER: Yes.

CHAIRMAN CAMPOS: What does that mean?

COUNCILOR HELDMEYER: What that means is that the way it was set up original the entire 500 acre-feet were going to be counted against the City's capacity.

COUNCILOR PFEFFER: Fifty/Fifty.

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CHAIRMAN CAMPOS: Okay.

COUNCILOR HELDMEYER: So it's splitting the difference.

COMMISSIONER DURAN: And what's the basis for that?

COUNCILOR HELDMEYER: The basis for that is that it seems unfair for the City to provide water but also lose capacity when all of this 500 acre-feet is going to the County.

COMMISSIONER DURAN: We're buying the water from you. We have a wholesale purchase agreement.

COUNCILOR HELDMEYER: I understand. I'm making a motion and I'm hoping for a second.

COUNCILOR CHAVEZ: Second.

COMMISSIONER SULLIVAN: I have a question: I can't see how it changes the capacities, Councilor Heldmeyer. If you're reducing the capacity of the BDD project by what starts out for the City had 5,230 acre-feet and you're reducing it by 250 acre-feet and the County has only 1,700 acre-feet and we're reducing it 250 acre-feet from that than who's going to get the 500 acre-feet it's been reduced, Las Campanas?

COUNCILOR HELDMEYER: The 500 acre-feet of water is going to the County the assumption is that when the BDD is available this water will be coming from the BDD.

COMMISSIONER SULLIVAN: Not necessarily.

COUNCILOR HELDMEYER: Not necessarily?

COMMISSIONER SULLIVAN: In times of shortage it won't be coming from the Buckman Diversion it will be coming for either the -

COUNCILOR HELDMEYER: At which point we won't be worrying about the capacity of the Buckman Direct Diversion.

COMMISSIONER SULLIVAN: But I can't understand if you the City is agreeing to reduce the capacity and we the County are agreeing to reduce the capacity the BDD has been designed for 8,730 acre feet of capacity. We should use all that capacity; shouldn't we?

CHAIRMAN CAMPOS: I think she would argue that the capacity would go to the City and the City would just draw more water.

COMMISSIONER SULLIVAN: So actually really what you're doing is you're just changing 4.a to say that Santa Fe County will get 1,550 acre-feet and Santa Fe City will get 5,480 instead of 5,230; is that what happens to the capacity?

COUNCILOR HELDMEYER: I'm assuming that buying the way this language is now that the 500 acre-feet will primarily come out of the City and it says the 500 acre-feet, it very clearly says, the 500 acre-feet is in addition to the 1,700 acre-feet per-year County capacity. I'm saying that I think the County should give up some of its capacity in return for getting 500 wonderful acre-feet of water every year regardless wholesale you pay for it but we provide it.

CHAIRMAN CAMPOS: Why don't you let us take the 875 acre-feet off the river and we don't have to worry about your 500 acre-feet - I mean the City has proposed [inaudible]

COMMISSIONER DURAN: I just want to say one thing. The problem is that you say the County is getting the water.

COUNCILOR HELDMEYER: Uh-huh.

COMMISSIONER DURAN: It's not the County. It's our community. It's the needs of the community that we're trying to address. You're not giving the County 500 acre-feet. You're allowing the community to use this resource under a growth management plan that took five years to

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adopt that a regional planning authority planned that we are all ready posed to adopt. You're not giving us 500 acre-feet you're allowing the plan that we've worked on, the plans that we've worked on over the last eight years, you're allowing those plans to be fulfilled.

COUNCILOR HELDMEYER: And Commissioner Duran, as you said earlier, these 500 acre-feet are already allocated and it's not necessarily allocated under any of these plans, it is just allocated.

COMMISSIONER DURAN: It's under the growth management plan. It's under the Community College Growth Management Plan and the water is going to other areas besides the community college.

COUNCILOR HELDMEYER: Well, I know.

COMMISSIONER DURAN: Those are the plans that I'm talking about. We're not just doling out this 500 acre-feet without any plan behind it.

COUNCILOR HELDMEYER: This 500 acre-feet is already doled out.

MAYOR DELGADO: I think that during the discussions earlier a few days ago this was talked about in regards to the amendment. At the time and if I remember right I think a staff member, Kyle, did you bring up something in regard to the EIS, Kyle?

KYLE HARWOOD (Assistant City Attorney): I can't over emphasize, Mayor, the importance of not disturbing the BDD EIS at this point as a matter of both federal and [inaudible] law and also giving it status in the process that we're here. Those numbers - and I want to emphasize if I understand that the discussion, those numbers are not being proposed to be changed. Those BDD EIS numbers are not being proposed to be changed and that is crucially important.

MAYOR DELGADO: I had remembered that from sometime back. On the amendment, Councilor Bushee.

COMMISSIONER SULLIVAN: Mr. Chair, I'm still having a problem even with Mr. Harwood's - how does the County and I understand the City is agreeing too, how does the County deduct its 250 acre-feet that it's getting from the City from the BDD capacity; how does it do that without changing the EIS?

COMMISSIONER DURAN: Mayor, let me ask my question which was, if this is not going to make a difference of where this capacity goes from one to the other then why is that language there in the first place? That specifically spells out that the 500 afy will not be part of your capacity?

COMMISSIONER SULLIVAN: It's there because that was brought up prior and we want to make it clear so that we don't affect the EIS.

COMMISSIONER DURAN: But if it makes no difference in terms of capacity then why is it spelled out specifically that all the extra 500 acre-feet does not come from your capacity, it comes from the City's. If that makes no difference to y'all then why would you have a problem splitting the difference? I'm asking because you're genuinely saying that this doesn't matter and I'm not sure I understand why it is so emphasized as new language.

COMMISSIONER SULLIVAN: It's saying that we need 1,700 acre feet to meet our interim needs from water supply in the community. And if the City is saying that now you only get 550 afy, we're now renegotiating numbers that have been negotiated for months.

COUNCILOR BUSHEE: But in yours, you are now reducing our capacity from the capacity that is -

COMMISSIONER SULLIVAN: We're not changing anything.

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COUNCILOR BUSHEE: Yes, you are, because now the entire 500 acre-feet will come entirely out of the City's capacity.

COMMISSIONER SULLIVAN: Do you understand the 875 is a settlement of the SJC diversion issue.

COUNCILOR BUSHEE: It's not about the 875.

COMMISSIONER SULLIVAN: It is the 875. We have and we presented it before -

COUNCILOR ORTIZ: Point of order. On the question, let's vote on the amendment.

MAYOR DELGADO: On the amendment and we're going to vote. Councilor

Wurtzburger.

MR. HARWOOD: I believe what Councilor Heldmeyer's suggestion is to take the 500 acre-feet of wholesale delivery and perhaps to change the Buckman Direct Diversion allocation capacities which -

COUNCILOR HELDMEYER: To allocate it to the BDD.

MR. HARWOOD: To change those numbers which I believe we just confirmed a minute ago is something that we're not contemplating because this discussion will not change the BDD numbers.

MAYOR DELGADO: Kyle, that doesn't impact the EIS in any way, this amendment.

MR. HARWOOD: Then I apologize because I am not following the proposal.

COUNCILOR HELDMEYER: The EIS numbers would stay where they are. But counting against the EIS numbers rather than saying none of this 500 acre-feet will count against the County's EIS numbers. Half of it will count against the County's EIS numbers and half of it will count against the City's EIS numbers. But not changing the EIS numbers. Because when we get the EIS numbers we're going to start counting water against it. This is telling us it's a head start to counting that water.

MR. HARWOOD: You mean the 250 acre-feet of City system water would be wholesaled to the County and 250 acre-feet of what the County would be permitted to divert under the EIS would be part of their - they would wheel back to us? I'm not quite sure I understand that state of that 250 acre-feet and where it would go.

COUNCILOR HELDMEYER: That 250 acre-feet is going to the County to be wholesaled through the City's system. And the other 250 acre-feet will have exactly the same state. But rather than have the entire 500 acre-feet count against the City's EIS numbers, half of it will count against the County's EIS numbers and half of it will count against the City's EIS numbers.

MR. HARWOOD: I guess what I have to point out in that description is the way it is currently drafted the 500 acre-feet of wholesale delivery does not come out of the City's EIS number but out of the City's system.

COUNCILOR HELDMEYER: I understand.

MR. HARWOOD: And that's kind of where it conceptually splits -

COUNCILOR HELDMEYER: But it's contemplated that it will come out of the EIS. Kyle, if you have better or other language jump in here because the basic bottom line is the County will get 1,700 acre-feet from the diversion and in addition to that they're going to get 500 acre-feet from the City which if it comes out of the Buckman Diversion which is what is contemplated, it's going to count against the City's capacity.

MR. HARWOOD: The only way to do that, I believe, is for the County to essentially deliver to the City 250 acre-feet of its 1,700 acre-foot allocation. That's the only way that water

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becomes usable back to the City.

COUNCILOR HELDMEYER: Yeah, okay, look - I withdraw my motion. I think this is very unfair. It will affect how I vote on the final thing because basically it's the City losing capacity by giving the County but given that we're getting off into never-never-land I'm going to withdraw my motion if that's okay with the second.

COUNCILOR CHAVEZ: Yes.

CHAIRMAN CAMPOS: We could take 875 right off the river and you wouldn't have to worry about it.

COUNCILOR LOPEZ: Okay, let's move on here.

COUNCILOR HELDMEYER: That's what I mean by going off into - okay.

Next amendment. Looking at 5.b, where the underline begins, "when the County's diversion of surface water..." I want that preceded by "after diversion from the BDD has begun" and then where it says "drops below 850 acre-feet per-year" instead I want to substitute "50 percent of the actual use the preceding year up to -

COUNCILOR BUSHEE: Okay, but I'm not getting any of this.

COUNCILOR ORTIZ: Councilor Heldmeyer, can you just read your amendment with the additional language in the sentence so that we can understand it?

COUNCILOR HELDMEYER: Okay, I'm sorry. Okay.

COUNCILOR BUSHEE: From the beginning please.

COUNCILOR HELDMEYER: "After diversion from the BDD has begun when the County's diversion of surface water from the BDD (excluding wholesale water deliveries)" and there it is again "drops below 50 percent of the County's actual use the preceding year up to 50 percent of 1,700 acre-feet per-year the City would provide the County with the necessary water to maintain 50 percent of the amount that was used the preceding year."

Okay, and there's two reasons for this.

CHAIRMAN CAMPOS: Can you write this? It's very complex.

COUNCILOR HELDMEYER: I know it's complex.

CHAIRMAN CAMPOS: You probably should have written this out.

COUNCILOR HELDMEYER: Well, you know I would have if I had gotten this before 5:20 this afternoon.

CHAIRMAN CAMPOS: I'm sure you thought about this yesterday.

COUNCILOR HELDMEYER: This is new language and what this is doing is two things. Let me just put it in plain language. One is that it does not - what it says is that we do provide drought relief for the County until Buckman Diversion comes on line, that's one. And two is, that we do not provide drought relief unless the County is A using the water and B has the rights for the water. So that - and this is because we have not defined in this what constitutes a drought or other shortage. If the County has 400 acre-feet of rights, for instance, I don't want them to come in and say we're taking less than 850 and the City has to make up the difference between what we're taking and 850 acre-feet.

COMMISSIONER DURAN: The water you're giving us is already subject to drought control.

MAYOR DELGADO: Is that in the form of a motion?

COUNCILOR HELDMEYER: That's in the form of a motion.

MAYOR DELGADO: Is anybody going to second it?

COUNCILOR WURTZBURGER: Well, I'll second it for purposes of a discussion because I agree with the first point and I believe it reflects what Councilor Coss said earlier but I don't know about the second one.

COMMISSIONER DURAN: I just think that that you said before the BDD comes on line we're not subject to any drought conditions. All the water that you provide to us, even right now through the Wheeling Agreement, is subject to drought control.

COUNCILOR HELDMEYER: No, not drought conditions.

COMMISSIONER DURAN: Well, when you got to Phase 2 we go to Phase 2. The water that you're giving us goes to Phase 2.

COUNCILOR HELDMEYER: No, it's apples and oranges.

The way b is written what it says is that if there's a drought the City is going to help out the County by giving them more water, selling them more water. Although actually it doesn't say giving or selling. It just says we will provide more water when there are drought conditions for the County. I'm trying to define since it's not defined in here what constitutes drought conditions and I'm saying it doesn't mean before the Buckman Direct Diversion is on line. And I'm saying that it doesn't mean because the County is not taking its total capacity. I'm saying drought conditions mean that Buckman Direct Diversion is online and that the County has rights for the water it's taking and if that doesn't equal 850 feet that's not the City's problem.

MAYOR DELGADO: We have a motion and we have a second on the motion. Councilor Ortiz then Councilor Pfeffer.

COUNCILOR ORTIZ: I don't support the motion. I think that again the issue here is in terms of defining the definitions can come later and I am not going to fall into the polemic that what we are talking about when we are talking about an agreement if we are subscribing bad or ill motives on the other party when we enter into this agreement. To continue to say that the County is going to take water under this provision of 5.a. because they have an over commitment of water rights for development which is what has been raised by Councilor Heldmeyer a couple of times I don't agree with it.

COUNCILOR HELDMEYER: But not -

COUNCILOR ORTIZ: I don't agree. I don't agree that that forms the basis for unraveling the kind of principled agreement that we've got here in place. I understand, I think, that the language here requires that if there's a shortage in this community the City and the County are going to work together to alleviate that shortage. And I think to the extent that we can stay on that page I think that this agreement is better off, although I know for different reasons we may have to put amendments in to justify the position in the end, but on this particular amendment, I think it is - we have had many, at least three meetings in Public Utilities in which all of us including Councilor Heldmeyer who is my de facto member on that committee, we've all had a chance to look at this language. While this language here is new because it was added in, the concept itself has been talked about for the start. We have talked about this issue for at least two months.

So it is my sense that if we would have had this language in place two months ago we would have had the ability to have a more thorough discussion, but as it is I think that the additions complicate rather than simplify the agreement and so I oppose the motion.

MAYOR DELGADO: Councilor Pfeffer.

COUNCILOR PFEFFER: Thank you, Mayor. I think a plain reading of 5.b. what the Councilor's amendment is trying to clarify and it's therefore superfluous. I would like to ask the

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Councilor directly with these amendments will you in the end – if they are accepted or some are accepted – will you in the end be voting for the main motion or are we going through an exercise in which a bunch of amendments are proposed but to no avail because you'll be voting against the main motion anyway?

COUNCILOR HELDMEYER: I don't know what I'm doing on the main motion because I have several amendments one of which has been withdrawn and some of which haven't been voted on yet and I don't know what's going to end up in this.

COUNCILOR PFEFFER: It seems to me what we're doing and if people will forgive me the phrase "muddying the waters." This is a direct – I think a plain reading of this is not excessive. That it has the safeguards in it and that we can proceed. I'll be voting against this.

MAYOR DELGADO: Councilor Coss and I'll be getting back to you Councilor Heldmeyer.

COUNCILOR COSS: I just want to say, Mayor, that the language that you see underlined in this pink draft was developed I believe, we have been going back and forth, but what we were trying to do was to get it really clear to the County that in a drought we don't make it up to 1,700 acre-feet. Our drought protection doesn't kick-in until their diversions fall below 850 acre-feet. So I think you're proposing modifications to language that the County accepted that the City proposed to get that concept really clear about conjunctive use.

I think that all of paragraph 5 about conjunctive use just doesn't apply until the BDD is in place. Before that all they have is wholesale water and then they're subject to our drought regulations on the sale of the wholesale water.

MAYOR DELGADO: Councilor Heldmeyer, and then we'll vote.

COUNCILOR HELDMEYER: I'm amazed to hear that this is essentially turned in to speculation on motives. I believe that we need to make this the best agreement that we can. I do come to the Public Utilities meetings even though I'm not a member in large part to comment on things like this. And if there's language that I think is unclear on my plain reading of it, I do everything I can to clarify it. I hear that other councilors, at least for the first half of what I said, which is that it's not clear that this is only supposed to occur after diversion from the BDD has begun in part because 5.a. is full of very wonderful flowery language that doesn't have specific meaning and we really need to be as specific as we can about this. It isn't purporting anything to anybody's motives. It's just saying that this is a legal agreement and it should be the best that it can be.

I think that because this has been such an odd process which is – we've seen, we've been talking about these concepts for awhile but the language itself has only appeared fairly recently – like this week. And this particular language appeared, you know, 40 minutes before this meeting occurred. I think the aspects – maybe if we had had the language two months ago as Councilor Ortiz said, then maybe it would have it a lot better but it needs to be a lot better now. And so that's so I'm standing by the amendment.

MAYOR DELGADO: Okay, Councilor Bushee.

COUNCILOR BUSHEE: I just want to ask Councilor Coss something. Because it is just worded and we're just dealing with principles I accepted Councilor Heldmeyer's first part of her motion just to clarify that it was after the BDD came on line, just so that we understood and that I hoped that your language here that says "or other shortages defined under 5.a." would be dealt with in an actual contract. So is that something that you think would be – just clarifying what would be the intention all along.

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COUNCILOR COSS: I think the first phase "after the diversion of the BDD has begun" doesn't change the meaning of all of section 5. And I think we do have to do more work about what's a drought and spell those other in contractual language.

COUNCILOR BUSHEE: Councilor Heldmeyer, would you accept that as your amendment? Because I think that's why Councilor Wurtzburger seconded it just to clarify what might not have been specifically outlined there. Because I think they plan on coming back and defining in an actual contract -

COUNCILOR HELDMEYER: And you're comfortable with the fact that after the diversion has begun if they're not pulling 850 acre-feet the possibility remains that they come and ask us to make up the difference.

COUNCILOR BUSHEE: Well, I'd like Councilor Coss to respond to that but I don't find that's exactly - I mean the difference is not the full 850 acre-feet from the capacity but just what they are short on in a drought and then if it's out of the 500 acre-feet I'm comfortable that it falls under stage 1, 2, 3 or 4.

COUNCILOR HELDMEYER: No, it's not just drought - it says "under drought conditions or other shortages to be defined."

COUNCILOR BUSHEE: Councilor, I'm trying to help, you're going to lose the second half of your amendment. Would you like to get your first half in to clarify it or not?

COUNCILOR HELDMEYER: I will keep my first half in and drop the second although this is rapidly becoming a less viable thing for me to vote for.

COUNCILOR BUSHEE: And I want the commissioners to hear what Councilor Coss - we were just talking about inserting the language because that was the original intention to say "After the BDD" is when this would kick-in.

MAYOR DELGADO: Now is that the extent of the amendment?

COUNCILOR HELDMEYER: That's the extent of the amendment after the BDD.

CHAIRMAN CAMPOS: Well it says "when the County's diversion of surface" -

COUNCILOR BUSHEE: I know, but it requires additional language for clarity.

CHAIRMAN CAMPOS: It is clear.

COUNCILOR WURTZBURGER: Not to her.

COUNCILOR LOPEZ: Can we vote?

MAYOR DELGADO: On the amendment that was just -

COUNCILOR ORTIZ: Could we have a reading on the revised amendment?

5.b **"After the diversion from the BDD has begun and when the County diversion...**

Whereupon the amendment passed by majority roll call vote [5-4] with the Mayor breaking a tie as follows:

Councilor Coss	Pass to No
Councilor Pfeffer	Pass to No
Councilor Chavez:	Yes
Councilor Bushee:	Yes
Councilor Heldmeyer:	Yes
Councilor Wurtzburger:	Yes
Councilor Ortiz:	Yes to No
Councilor Lopez:	No

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Mayor Delgado

Yes

Councilor Coss explained his vote stating he has worked very hard on this agreement and he was confident with the proposal as it was presented.

Out of deference to Councilor Coss who prepared the document with Commissioner Campos, Councilor Ortiz changed his vote to demonstrate good-faith negotiations.

In response to the Mayor's statement that he was voting for the amendment because the second half was dropped and the first half did not think it would impact the County, Councilor Heldmeyer stated "I wish it would impact the County that much because I think it's going to continue to be a problem in the years to come."

COUNCILOR HELDMEYER: On 5.c: "The County reserves the right to drill in-basin wells and commence permitting additional wells" add the words, "which will be used in a conjunctive use strategy with the Buckman Direct Diversion." This is what Commissioner Sullivan said was the reason for drilling the wells and I think it should be in here.

COUNCILOR CHAVEZ: I'm going to second that motion, Mayor.

MAYOR DELGADO: We have a motion and a second on the amendment. Any discussion? Councilor Pfeffer.

COUNCILOR PFEFFER: Thank you, Mayor. You know it's like walking a fine line trying to represent the City in terms of the negotiations for the governing body to the County which is another entity and not come off sounding too enthusiastic about County positions on things as we go through. I think it needs to be said that the County is a governing body of its own with a jurisdiction of its own. And that simply stating in here that the County reserves the right to drill essentially its own wells does not change the fact that the City has the right to drill its own well and that it seems to me that the concern of Councilor Heldmeyer is already addressed under 5.a. in terms of priorities and that this again, is simply muddying the waters and giving a possible obstacle to coming to an agreement at all.

And I think our top priority here should be to compromise, to come to an agreement, to put our best foot forward and not say to the County repeatedly, repeatedly, repeatedly that you can only do this with your water. The County doesn't say to the City you can only do this with your water.

And I think out of respect for the County this item is already stated in these points and it doesn't need to be further emphasized as a possible detraction to signing off on the whole thing if that's the route we want to go.

CHAIRMAN CAMPOS: I'd like to state also that I would vote no on this on behalf of the County Commission. I don't know how the other commissioners feel but if you want -

COMMISSIONER DURAN: I vote no.

COMMISSIONER SULLIVAN: I would vote no as it's structured. And this is kind of odd protocol but let me suggest an amendment to the amendment. Just another way to state it.

MAYOR DELGADO: Well, you'd need a motion on your side.

COMMISSIONER SULLIVAN: We're going to do ours at the end.

I was just going to say because I was the one that made the statement and that is where the County is moving in the same way that the City is moving towards conjunctive use strategy that possibly something that might work is after "additional wells" which will be used to assist in

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developing a conjunctive use strategy.

COUNCILOR HELDMEYER: That language is fine. I'm not sure it's fine with the second.

COMMISSIONER SULLIVAN: I said "which will be used to assist in developing a conjunctive use strategy." We may have more than one well. One well may be full time and one may be conjunctive. We don't know what's going to happen 40 years in the future. But we're heading towards that way. It's in our 40-year water plan.

MAYOR DELGADO: Councilor?

COUNCILOR HELDMEYER: Yes, I accepted that language and so did the second.

COMMISSIONER SULLIVAN: I'm not saying I have the full support of the Commission. It's just a suggestion.

COUNCILOR ORTIZ: Mayor, can you ask Councilor Heldmeyer to read the amendment.

MAYOR DELGADO: I think she said she is going to take Commissioner Sullivan's amendment.

COUNCILOR HELDMEYER: Which is "that additional wells which will be used to assist in a conjunctive -

COMMISSIONER SULLIVAN: No, in "developing."

COUNCILOR HELDMEYER: - in developing a conjunctive use strategy.

5.c "The County reserves the right to drill in-basin wells and commence permitting additional wells which will be used to assist in developing a conjunctive use strategy."

Whereupon the amendment passed by majority roll call vote [5-4] with the Mayor breaking a tie; as follows: [This motion is later rescinded and the amendment fails.]

Councilor Lopez	No
Councilor Ortiz	Pass to No
Councilor Wurtzburger:	Yes
Councilor Heldmeyer:	Yes
Councilor Bushee:	Yes
Councilor Chavez:	Yes
Councilor Pfeffer:	Pass to No
Councilor Coss:	No
Mayor Delgado:	Yes

[Motion is reconsidered and fails to achieve majority]

Noting the Commission appeared comfortable with the amendment, the Mayor voting yes.

[A five-minutes recess occurred]

MAYOR DELGADO: Councilor Wurtzburger.

COUNCILOR WURTZBURGER: Yes, Mayor, as a person in the majority I'd like to reconsider the last vote.

COUNCILOR ORTIZ: Second.

MAYOR DELGADO: We have a motion to reconsider the last vote; any discussion?

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Whereupon the motion to reconsider the amendment passed by majority roll call vote [5-4] with the Mayor breaking a tie; as follows:

Councilor Lopez:	Yes
Councilor Ortiz:	Yes
Councilor Wurtzbarger	Yes
Councilor Heldmeyer	No
Councilor Bushee	No
Councilor Chavez	No
Councilor Pfeffer	Yes
Councilor Coss	Pass to No
Mayor Delgado	Yes

A revote on the amendment to 5.c. tying the use of wells explicitly to conjunctive use.

5.c "The County reserves the right to drill in-basin wells and commence permitting additional wells which will be used to assist in developing a conjunctive use strategy."

Whereupon the amendment failed by majority roll call vote [3-5] as follows:

Councilor Coss:	No
Councilor Pfeffer:	No
Councilor Chavez:	Yes
Councilor Bushee:	Yes
Councilor Heldmeyer:	Yes
Councilor Wurtzbarger:	No
Councilor Ortiz:	No
Councilor Lopez:	No

COUNCILOR BUSHEE: I just had one more question that I would like to see discussed and maybe voted on. I don't really have a problem with a new governance but I personally don't know why it wasn't discussed or thought of having the new governance being five wholly elected members outside of either of these bodies somewhat like the Metropolitan Water Board and creating the start of a regional water authority. And that I would make that as a motion for consideration tonight to change that language.

COUNCILOR WURTZBURGER: Second.

MAYOR DELGADO: Okay, on the motion anybody. Councilor Pfeffer.

COUNCILOR PFEFFER: I think the language that is in the document protects both the County and City entity interest and leaves open all kinds of organizational strategies that can be worked out as wisdom attest to as time goes by. This is a pretty dramatic item in and of itself. For years people have talked about the metropolitan water boards and the like and I'd hate to throw this kind of wringer in at the last minute.

COUNCILOR BUSHEE: Mayor, if I could respond.

MAYOR DELGADO: Councilor Bushee.

COUNCILOR BUSHEE: I don't consider it a wringer. In fact, I think it lends some objectivity. As it is now if you take two out of our nine members or two out of our eight members if it's just councilors you can get a real range of opinions to make some pretty serious decisions that

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never have to report back to this council the overall governing body. And I thought the Metropolitan Water Board actually worked pretty well. These people that would be held accountable to the voters and there's a lot more accountability provided in that scenario than there is with two members of the commission and two members of the council and one from who knows where.

But I just feel like it's a worthy consideration. I mean this idea of this governance was a fairly new idea where it stands and it's not like some model that we have to rely on and follow. I want to try a new way of going.

MAYOR DELGADO: On the proposed amendment, Councilor Lopez.

COUNCILOR LOPEZ: Yes, I'm going to be voting no but not that I don't think this is an idea that we shouldn't explore as we move into the future into regional water systems. Once we do get to the point that we know so exactly how our system is formed then we could turn it over to a body like that. My question to David Coss would be, David, for not voting this amendment tonight would it prevent in the future there being an elected board that would manage our regional water or the Buckman Diversion?

COUNCILOR COSS: Hopefully this agreement doesn't in any way preclude moving to a regional system and I think that's when it would be good to have the discussions about electing the governing board of a regional water authority. The only thing that this board does is manage a piece of physical infrastructure. It's like having a board that governs the reservoirs and the treatment plants in the mountains. They can't vary from that management from what we said we're going to do in the environmental impact statement.

I think my hope would be that we do it all through a regional water authority or some component of a regional authority -

COUNCILOR LOPEZ: Okay, well, I'm going to be voting no on this amendment.

CHAIRMAN CAMPOS: I'd like to add that I think what Councilor Coss just said is right on. This is totally premature and off base. This body is not a policy making body. This is just a beginning and to throw a wrench in like this right now is a deal killer.

COUNCILOR BUSHEE: It wasn't meant as a wrench, Mayor.

CHAIRMAN CAMPOS: It is.

COUNCILOR BUSHEE: It was meant as an idea that perhaps you would get people with actual technical expertise if that's what you need to run a utility such as this and they would be accountable to the voters. We're talking principles here tonight.

MAYOR DELGADO: On the amendment; anybody else? Councilor Pfeffer.

COUNCILOR PFEFFER: Just briefly. I think it's a subject worthy of much greater discussion later on. Ad perhaps I used the wrong word in saying "wringer" and I apologize for that and I'll withdraw that word. But it seems to me that it is substantially beyond the scope of what we would be looking at here as a technical body governing a technical entity. And also if it's a question of expertise the fifth person might be viewed by the Councilors and Commissioners appointed to that board for his expertise.

COUNCILOR LOPEZ: Or "her."

COUNCILOR PFEFFER: His or her expertise and that might be the safest and best way to go at this point in time. Thank you, Mayor.

MAYOR DELGADO: On the proposed amendment; anybody else? Madame Secretary, roll call.

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2.a Governance will be through a five member elected board similar to the Metropolitan Water Board. "

Whereupon the amendment failed by majority [3-5] roll call vote:

Councilor Ortiz	No
Councilor Wurtzbarger:	No
Councilor Heldmeyer:	Yes
Councilor Bushee:	Yes
Councilor Chavez:	Pass to Yes
Councilor Pfeffer:	No
Councilor Coss:	No
Councilor Lopez	No

[Preparing to vote on the main motion as amended the following took place.]

COUNCILOR ORTIZ: The amendments are the affordable housing and then the second amendment passed on the Mayor's vote was the duplicative language that Councilor Heldmeyer added.

COUNCILOR WURTZBURGER: That's it.

CHAIRMAN CAMPOS: Before you guys vote, what about the affordable housing -

COMMISSIONER DURAN: Why don't you give them the language that staff has proposed?

CHAIRMAN CAMPOS: I don't have it with me.

COMMISSIONER DURAN: We have some language that we ask you to consider that changes the language you came up with on the affordable housing. Did you have the opportunity to see that, didn't you Councilor?

CHAIRMAN CAMPOS: Let me read it: "The City and the County prioritize using the RPA Plan and its affordable housing principles towards affordable housing." We're all going to do that next week anyway and then we could just do it now.

COUNCILOR ORTIZ: Again, I just want to - on that particular point, Mr. Chair and Commissioners, I just want to reiterate that the language we agreed upon, the language that we passed speaks to the prioritization of the allocation of new water under the BDD to affordable housing. It says, using the RPA Plan and the Affordable Housing Task Force Report, it doesn't say compels to use. It doesn't say only use. It doesn't say will have to follow. It says using the RPA Plan and the Affordable Housing Task Force Report. I think that Commissioner Sullivan was completely apropos in raising the issue that the Affordable Housing Task Force report is incomplete at this stage. Well, you know what, so is the RPA plan and until we both adopt it -

CHAIRMAN CAMPOS: It's not incomplete though. It's been completed by the RPA.

COUNCILOR ORTIZ: But until there's approval by your governing body and our governing body, it is still incomplete and that is it is not finalized.

So I want to stress to you that the priority we want to make in this particular agreement talks to the allocation of water to affordable housing. The prioritization, the decision-making process, the way that that is going to be accomplished, we still leave that open to work that still needs to be done.

Again, I want to remind the Commissioners that the work that Commissioner Campos and Councilor Coss have put forward to even bring us to this stage is monumental. And the fact that we

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put this particular sentence in paragraph 5.a. which is really the paragraph as Councilor Coss defines it as "work still to be done," all our sentence does is recognize that that priority, the priority that the County Commission has already recognized, that we've already recognized on our side will follow through as we develop the Buckman Direct Diversion. So I think the language itself speaks to that point in a simple and straight forward manner and with no requirement as was in the earlier language. There's no percentage put into this. We're not telling you how to do it and you're not telling us how to do it.

We're both saying to the community that affordable housing is our priority and this allocation of water is going to be a priority and we're going to allocate this water as a priority to affordable housing. That's a simple straightforward concept that ties into all the simple straightforward concepts that we've got in this agreement.

I would urge the Commission to consider the amendment.

COMMISSIONER DURAN: Can you read it?

CHAIRMAN CAMPOS: Let me ask a question: Does this apply to the City also?

COUNCILOR ORTIZ: Yes, it does.

CHAIRMAN CAMPOS: Mr. Gonzalez, do you have any comments on that?

GERALD GONZALES (County Manager): If the City is willing to put that on record that this is not an issue that will - that although it is accepted in principle - become a basis for driving County housing policy in terms of concrete numbers, then I think it is something that the County can live with. That's the concern that there is a 37 percent number embedded in the task force report and if this becomes the driver for requiring the County to continue to push the 37 percent - that's the concern. If on the other hand it's just an in-principle statement saying that the goal, we may never reach the goal but at least we'll keep reaching to increase affordable housing then I think that probably works.

MAYOR DELGADO: Councilor Lopez, Councilor Wurtzburger.

COUNCILOR LOPEZ: Yes, Mayor, I would like to answer that question by the County Manager to say indeed I believe that was what I was voting for, it was the principle that we would continue to pursue affordable housing as we move together in the RPA. I wasn't advocating any numbers...

COUNCILOR WURTZBURGER: I certainly agree with that principle, as you all well know. And I do think it's important. The problem I had with the language that was drafted by the County was by not recognizing or at least mentioning the role of the task force. There's a level of specificity there that I think can be a guiding principle not in terms of the number but there's some very important strategies that I think we've all started to look at and that's why I felt that both pieces should be referenced in the motion.

CHAIRMAN CAMPOS: Okay, that's clear enough to me by at least two councilors.

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: I hesitate now to provide any amendments to the amendments having been soundly trounced, reprimanded for that last one. However, having said that - I'm going to anyway. Rather than referring to the Affordable Housing Task Force report which is incomplete and by the way didn't include income limitations and only included the costs of housing. And the report we got, by the way, was 30 percent not 37.

Could we say with the respective, i.e. the City and the County, affordable housing ordinances or principles or guidelines or policies. Because they're going to change. The City has a HOP

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program. The County doesn't and you're probably not going to change that, you may add to it but we're probably not going to get a HOP program and we'll do something different and that's because of how we're located space-wise

Gerald, let me ask you. Does that add any comfort zones here?

MR. GONZALES: One way perhaps and it would be a one-word tinkering that could get us there, instead of saying "using" if we say - it's two word tinkering - if we say "guided by."

COUNCILOR ORTIZ: Guided by instead of using, again we're getting into the -

COUNCILOR BUSHEE: We have to revote.

COUNCILOR LOPEZ: I don't see a difference.

COMMISSIONER SULLIVAN: I don't think there's a difference.

COUNCILOR LOPEZ: Whatever it takes.

COUNCILOR ORTIZ: We've got a motion that's been amended, Mayor.

MAYOR DELGADO: Wait a second, Councilor, these people need to talk. Councilor Bushee.

COUNCILOR BUSHEE: The motion is just to approve the entire -

COUNCILOR ORTIZ: The main motion with the two amendments.

COUNCILOR WURTZBURGER: With the clarification that we've just stated in terms of the principles and the intention.

COUNCILOR BUSHEE: Just to respond to Commissioner Sullivan, if you remember that report we're really trying to move towards joint policies on affordable housing. I don't actually think our HOP works all that well and I like what you've been doing in the community college in terms of district and percentages and across the board I think you're generating more housing so I don't take the spirit of the amendment that was offered in any way as trying to dictate or to interfere with as how the County is going to perform on affordable housing.

The idea was that we were both here and now commit our future resources toward making those goals happen and I think those goals are mutual. And I think the intention is to move toward having a mutual policy as I understood our last sort of hold hands and [inaudible] meeting around the Affordable Housing Task Force report.

MAYOR DELGADO: Okay, I think those were very nice statement but they didn't have anything to do with the main motion. Councilor Heldmeyer.

COUNCILOR HELDMEYER: Thank you, Mr. Mayor. That's what I was going to saying that after we finishing waxing poetic - let's get back to water.

This draft is a lot better than what we've seen in the past and it's also something that has gone through a lot of changes and I thank Councilor Coss and Commissioner Campos for most of the changes not all, most. I'm thinking out loud is what I'm doing.

What prompted this was the County's need for water and the City's need for money to have the Buckman Direct Diversion and from two sources. One, money that was offered by the County and I think one of the big improvements in this is for a 50/50 governance the County agrees to pay 50/50. There's some problems with that 50/50 because the question is who is really paying and a lot of times it is people who live within City limits who are paying both to the County and to the City and I think people are going to figure this out eventually. But it's better than all the other drafts that came before some of which were so screwy I didn't know what they meant. So 50/50 is good.

So then we get to the question of water and who gets what and how much. It's 500 acre-feet that we entered into with the Wheeling agreement nine years that implied and sometimes said that the

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County would do certain things which unfortunately for the most part they haven't been able to do or have only been able to do very, very recently. I think I said to some approbation last night that the City had always pretty much said 500 afy and we understand that you've allocated it already. We understand that people are out there turning on their faucets in Rancho Viejo and that probably will remain pretty much the same although there certainly were in previous incarnations many other ways of dealing with it, making the 500 acre-feet go away after the BDD. But we've got 500 acre-feet. And then because the County needs more rather than including the 375 acre-feet of SJC rights in the 500, they are asking for that in addition.

And you can say, well, 500, 375 that's not so bad. But then we get to drought protection and that is why I tried to put changes into this because in the time of drought the City is responsible for providing to the County the 500 acre-feet that we inherited from the wheeling agreement plus 850 acre-feet from elsewhere, wherever elsewhere is. Whatever the drought is. However bad the drought is. And that's a very difficult pill to swallow because even though, you know, there's a lot of nice words in here about working together and conjunctive use and cooperation the reality is that some parts of this are nice words and some parts are numbers and when push comes to shove, the numbers are going to prevail. And when a drought happens the City is going to be responsible to provide the County with 1,350 acre-feet of wet water regardless of what else is going on.

My attempts to change it to at least make some compromise language were basically "no, we're not interested...we think it's fine the way it is." I don't think it's fine the way it is. I wish I could and this is a better agreement but, no I just can't get past that 1,350 acre-feet of water and I'm not going to vote for it.

MAYOR DELGADO: Anybody else on the main motion. Councilor Pfeffer.

COUNCILOR PFEFFER: Thank you, Mayor. First of all, some of Councilor Heldmeyer's points are well taken in terms of concern for what water the city would be obligated to provide in the case of a drought but I believe a plain reading of that paragraph will show that it is up to 875 acre-feet and not more than. So it would be a pretty big stretch to believe that the river is going to be totally dry and that the County will not be getting anything off of it from here on out. It would be a pretty big stretch also to believe that the City itself is not going to have additional water resources in the 50 to 100 years of a lifespan of this project. I feel comfortable with that point.

But more germane to the overall issue. First of all, I'd like to add my kudos to Councilor Coss and to Commissioner Campos, also to Councilor Wurtzburger who also participated pretty heavily when the Mayor appointed this committee awhile back. And Councilor Coss did not give up on the process of trying to get us to the table like this. We can all recollect what the last occasion was like when we were sitting at the table like this. And so I would think that we're giving by voting for this the County I believe and hope it would find quite livable in terms of the spirit of compromise. It's not perfect on either side, but is a heck of a lot better than no agreement at all which is what this vote is now about. And I believe it would give our congressional and state delegations the kind of cooperation that they have urged on us and that it would go well for all of us, both County and City. It also leave open, it mentions the possibility of regional water authority in the future which is an acknowledgment on our part that the County may very well want to pursue issues at the state legislature and that maybe we can be engaged in that process rather than being opposed to the process and I think to say no to the proposal on the table is to say 'no, we're not going to come to an agreement.' So, I will be voting yes on the motion as amended. Thank you.

MAYOR DELGADO: Anybody else on the motion?

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Whereupon the main motion with the two amendments passed by majority [7-1] roll call vote as follows:

Councilor Ortiz:	Yes
Councilor Wurtzburger:	Yes
Councilor Heldmeyer:	No
Councilor Bushee:	Yes
Councilor Chavez:	Yes
Councilor Pfeffer:	Yes
Councilor Coss:	Yes
Councilor Lopez	Yes

MAYOR DELGADO: And, Mr. Chair, before I turn the meeting over to you and the Commission, I would like to thank Councilor Coss and you Commissioner I know you put many hours into, and Councilor Wurtzburger. I think that we all contributed here and there but thank you.

COUNCILOR WURTZBURGER: And Councilor Pfeffer was the third member of that team.

MAYOR DELGADO: This was not easy by a long shot. I got involved somewhat at the end there but it was not an easy job at all. The floor is yours, Mr. Chair.

CHAIRMAN CAMPOS: Thank you, Mayor.

We have a motion to take this up or down and there are two amendments; how does the Commission want to deal with it.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER DURAN: I move to approve the agreement with the two amendments identical to what the City has –

COMMISSIONER SULLIVAN: We already have a motion – we have to go to the amendments.

COMMISSIONER DURAN: Oh, that's right. Yes, to add the two amendments as approved by the City.

CHAIRMAN CAMPOS: Is there a second.

COMMISSIONER SULLIVAN: I have to make the friendly amendment because I made the motion to approve and I accept the two amendments.

COMMISSIONER DURAN: Second.

COMMISSIONER SULLIVAN: Okay, well we've got three hours here for the County's time. It's now 9 o'clock and we started at 6 we have a few things –

COMMISSIONER MONTOYA: I have a number of questions that just need some clarification.

CHAIRMAN CAMPOS: Right now?

COMMISSIONER MONTOYA: Yeah.

CHAIRMAN CAMPOS: Okay.

COMMISSIONER MONTOYA: Before I vote. I need clarification on the issue on 3.c. where it talks about contributions to the project from Las Campanas and other funding sources.

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Does that mean Las Campanas is going to have ownership as well?

CHAIRMAN CAMPOS: No, this is going to be owned by the County and City 100 percent.

COMMISSIONER MONTOYA: Okay, could you tell me why that is?

CHAIRMAN CAMPOS: Well, it's my sentiment that this should be publicly owned. That's what Councilor Coss feels and I think that's the consensus of the two bodies. This should be a publicly owned operation.

COMMISSIONER MONTOYA: And that has been the negotiations that have taken place over the years?

CHAIRMAN CAMPOS: I don't know. I don't ever remember -

COMMISSIONER MONTOYA: They have never been mentioned?

CHAIRMAN CAMPOS: I've never heard that as ownership.

COUNCILOR HELDMEYER: There was some discussion about whether their water company constituted a public semi-public entity.

MAYOR DELGADO: And they will be part of the fiscal end of it?

CHAIRMAN CAMPOS: Yes, they will be customers.

COMMISSIONER MONTOYA: And then on 4.e.; is there any projection, Gerald, in terms of how much we're going to pay for that piece?

MR. GONZALEZ: Are we speaking of the 50/50?

CHAIRMAN CAMPOS: The BOR payment, the 375.

MR. GONZALEZ: No, I don't think -

MR. HARWOOD: I believe it would be the ongoing BOR price which is about \$45 an acre-foot. So it would be \$45 times 375 per year.

MAYOR DELGADO: Now has the County - you haven't made a payment -

COMMISSIONER DURAN: Sure we have.

MR. GONZALEZ: If I could, Mr. Chair, a point of clarification. There is a point of view that when the Wheeling agreement was created that embedded in the rates being paid by the County was the payment to the Bureau of Reclamation for the County's portion. You can argue it either way and I've heard this issue raised periodically that the County hasn't paid its share. But that share theoretically should have been embedded in the rates that were being charged the County over the years.

COMMISSIONER MONTOYA: Regarding 2.b., what is the relationship between the agent and Sangre de Cristo?

CHAIRMAN CAMPOS: Sangre de Cristo is the water company that is owned by the City and the owner agent would be an independent contractor that would contract with the governing body to oversee the designing and building.

COMMISSIONER MONTOYA: So this person would be like a contract manager over Sangre de Cristo?

COUNCILOR COSS: No, the project manager would report to Sangre de Cristo but ultimately to the BDD governing body.

COMMISSIONER MONTOYA: Okay, thank you. Mr. Chair, my last comment is that I was contemplating that this would have been over in an hour but I'm glad that I kept speeding on my way from Las Cruces.

COUNCILOR WURTZBURGER: It's too bad you didn't do that in the City we could

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have gotten a lot of money.

COMMISSIONER MONTROYA: Oh, no, I slowed down in the City. But I really want to commend Councilor Coss and you Mr. Chair, in terms of the work that has been put here before us. It has been said by the Councilors that voted favorably for this agreement that at least we're taking a step forward in terms of what needs to be done for the consumers in our County. I need to look at this beyond the City limits as well and I think it does well for the people that I represent as well.

CHAIRMAN CAMPOS: Mr. Sullivan.

COMMISSIONER SULLIVAN: Mr. Chair, I support the motion and the agreement and offer my thanks as well to all members of the committee and the City Council and the Commission as we've been going through this process and in particular to you two for carrying it further. I think as we came forward with the 50/50 concept we realized that the people in the City are County residents and the we're supplying water on a regional concept to everyone and if 80 percent of those people live in the City, that's fine. That's their decision to live there, and they pay taxes and as a joint entity we should be able to provide them with a safe reliable water supply. So, I think that works quite well.

Just a couple of comments about the issues that were brought up regarding taxes or bonds. It's only by considering this as a regional concept that I think we will be able to sell to the voters the bond issues that we currently have out to the voters for \$51 million. Bear in mind, that were we not able to do this the City residents would pay for 100 percent of the cost of the direct diversion of \$100 million. And that would all have to be taxed to City residents. As it is now, people in Pojoaque, people in Edgewood, and others will be helping to pay for this start of a regional system which won't benefit them immediately but will benefit them ultimately. I think there's some advantages there to taking that particular financing route.

Just a small point, Councilor Heldmeyer, in your 1,350 issue is that, of course, in a drought situation the 500 will be cut back as well. So it won't be 1,350, it would be 1,350 less whatever the reduction would be in the 500 that's supplied to us through wheeling.

I think beyond that the amendments I'm fine with. It's a little confusing on the affordable housing. We are very, very committed to affordable housing. We talked at great length about the conjunctive use strategy and put a minor amendment in and then took it out. But I do just want to read one part of this for the audience who may not have copies of it, and it says and we've all agreed to this:

"The City and the County will develop a comprehensive City/County joint conjunctive use and sustainability strategy that places use of surface water as a higher priority than ground water pumping and which manages the regional aquifer on a sustainable basis."

Now, that's a very strong statement to me, even though it has no numbers in it, to me that's a very strong statement and that tells me as a Commissioner what my direction is and I would think to the City as well. I like that. I think that works very well and supports the agreement and I look forward to working with the City on the next step.

Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Duran.

COMMISSIONER DURAN: I would like to thank all of you for showing some real leadership, the Council and the Commission. I've been working towards this agreement through the RPA for a long time and I just think it's a wonderful time for all of us. Thank you.

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CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair. I would like to thank the Mayor and the City Councilors for taking this big step in the right direction. [audio difficulties] recognized Representatives Jim Trujillo and Peter Wirth. I want to recognize and thank Commissioner Sullivan, Councilor Wurtzburger, Councilor Coss, Councilor Pfeffer, Commissioner Campos, for all working very hard to bring us together on this. It was a big task and I thank you.

Commissioner Anaya went on to say he spoke with a representative of Congressman Udall's office and Senator Bingaman's office who were very pleased to hear about the entities progress.

He mentioned that the County was paying 50 percent of the project and receiving 19 percent of the water. He said it was good for the City and the County. The County has a water harvesting and conservation ordinance and plans on working hard for affordable homes.

In closing, Commissioner Anaya thanked Representative Trujillo, the Department of Transportation, the Council and Commission for assistance in naming a building in his father's memory.

CHAIRMAN CAMPOS: Okay, in 30 days I would like to see the first draft of an agreement and would like to direct our staff to bring the first draft of an agreement at least in outline form within 30 days; does that make sense? Mr. Mayor, how does that sound to you?

MAYOR DELGADO: That's fine. That's one of the first things we'll talk about in the morning.

CHAIRMAN CAMPOS: It is on the next Council agenda and on the next BCC agenda. Okay, let's have a roll call on the motion.

Whereupon, the agreement as amended passed by unanimous roll call vote as follows:

Commissioner Sullivan	Yes
Commissioner Anaya	Yes
Commissioner Montoya	Yes
Commissioner Duran	Yes
Commission Chair Campos	Yes

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ADJOURNMENT

Having completed the agenda and with no further business to come before the bodies, this meeting was declared adjourned at approximately 9:15 p.m.

Approved by:
Board of County Commission

Paul Campos, Chair

Approved by:
City Council

Larry Delgado, Mayor

Respectfully submitted:

Karen Farrell

ATTEST TO:

Rebecca Bustamante
County Clerk

ATTEST TO:

Yolanda Vigil
City Clerk

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC MINUTES
PAGES: 40

I Hereby Certify That This Instrument Was Filed for
Record On The 24TH Day Of January, A.D. 2005 at 16:30
And Was Duly Recorded as Instrument # **1364191**
Of The Records Of Santa Fe County

Deputy)
Witness By Hand And Seal Of Office
Valerie Espinoza
County Clerk, Santa Fe, NM

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This version of the BDD Principles shows those recommendations made at the 10/6/04 PUC mtg that have been accepted by the County and new County language on several topics. This version is the Cross-Campos subcommittee recommendation to the City and County Governing Bodies.

BDD Principles of Agreement
10/7/04

1. Buckman Direct Diversion Project (BDD): Title, Ownership
 - a. The City and the County will each own 50% of the BDD project and related infrastructure.

2. BDD Management
 - a. Governance will be through a five member board consisting of two County Commissioners and two City Councilors and a qualified person (to serve a one year term but without term limits) appointed by a majority of the four Elected Officials (hereinafter called the Governing Board)". The Governing Board shall govern the permitting, design, construction, operation and maintenance of the BDD, as described in the Environmental Impact Statement (EIS) for the project.
 - b. The City and the County will jointly hire an Owner's Agent to oversee design and construction of the BDD under a design/build delivery method. The owner's agent will report directly to the Governing Board. The Governing Board will approve the design and construction contract, approve any contract changes and have authority to approve any change orders.
 - c. The Sangre de Cristo Water Company will, through a contract with the BDD Governing Board, design, construct, operate and maintain the BDD. The contract with the Sangre de Cristo Water Company will terminate on December 1, 2015. The Board shall have authority to enter into a contract for the operation and maintenance of the BDD with any one of the following: (1) Sangre de Cristo Water Company; (2) the Santa Fe County Water Utility or (3) a Regional Entity. The contract will be reviewed at the discretion of the BDD Governing Board at least every seven years following implementation.
 - d. The City will provide fiscal agent services which will include serving as the procurement agent for the BDD Owner-Agent contract, and for the design, procurement, construction, operation and maintenance of the BDD pursuant to a fiscal agency agreement(s) (which will include a fee schedule for fiscal agent services) between the County and City. The fiscal agent services agreement will terminate on December 1, 2015 at which point the City and County will designate a new fiscal agent and enter into a new fiscal agent agreement with either the City, the County or the Regional Water Authority. Thereafter the fiscal agent agreement (s)

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will be reviewed periodically at least every seven years following implementation. The fiscal agent will report to the BDD Governing Board and will need the Board's approval for decisions on expenditures over a given threshold to be specified in the fiscal agent agreement.

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3. BDD Cost Sharing

- a. The City and County agree to contribute \$30 million each to design and construct the BDD.
- b. The City and the County agree to seek State and Federal assistance to help pay for the costs of the project.
- c. Outstanding design and construction costs (after crediting the City and County contributions of \$30 million each, State and Federal assistance, contributions to the project from Las Campanas, and other funding sources) will be shared between the City and County as follows: 50% City, 50% County
- d. Las Campanas will pay for its proportional share of that part of the system it will actually use (the diversion structure, sediment pond and related infrastructure).
- e. After implementation, the costs of operating, maintaining and repairing the BDD that can be attributable to each party's variable or proportionate share of water deliveries (such as electrical costs) shall be shared according to each party's proportionate share of water deliveries. After implementation, the costs of operating, maintaining and repairing the BDD that are fixed or capital costs and that are attributable to the facility as a whole shall be shared equally. The BDD Governing Board shall determine periodically which costs are fixed and which are variable.

4. San Juan Chama Water Rights and Wholesale Water Deliveries

- a. Of the 8,730 afy of BDD capacity: 5,230 afy shall be allocated to the City, 1,700 afy shall be allocated to the County, and 1,800 afy shall be allocated to Las Campanas. Each entity's diversions shall be based upon its own water right or contract right.
- b. Each entity is responsible for acquisition and maintenance of its own water rights.
- c. An allocation of 375 afy of San Juan Chama Project water to the County will be recognized. The 375 afy of water will be included in the total 1,700 afy County capacity in the BDD. An allocation of 5,230 afy of San Juan Chama Project water to the City will be recognized.
- d. The City and County will enter into a wholesale contract for the sale of up to 875 afy from the City to the County until implementation of the BDD. After water is diverted from the BDD, deliveries pursuant to the wholesale agreement shall be reduced to 500 afy and continue in perpetuity. The 500 afy of water delivered under the wholesale contract will be in addition to the total 1,700 afy County capacity in the BDD.

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- e. Following implementation of the BDD, the County will pay its proportionate share of payments for San Juan Chama Project Water to the Bureau of Reclamation.
- f. The City and the County will enter into a wheeling and system coordination agreement so that the City and County can make use each other's infrastructure where it makes sense to do so.

5. Conjunctive Use and Drought Protection

- a. The City and the County will develop a comprehensive City/County joint conjunctive use and sustainability strategy that places the use of surface water as a higher priority than groundwater pumping and which manages the regional aquifer on a sustainable basis. The strategy will include a shortage sharing agreement that will help guide management decisions made by the BDD Governing Board, the Growth Management Plan of the Regional Planning Authority, and incorporate the principle that the County and City consult prior to the drilling of new wells in the area around the City and County water systems as they exist at the time of signing of the agreement so as to encourage cooperation and avoid conflict and impairment of water rights.
- b. Under drought conditions (or other shortages) to be defined under 5.a., above, the City would provide the County additional water from its system, in an amount not to exceed 50% of the County's total 1,700 afy of diversion capacity from the BDD. When the County's diversion of surface water from the BDD drops below 850 afy (50% of 1,700 afy), the City would provide the County the necessary water to maintain 850 afy of delivery from the City system to the County utility. Drought protection provided by the City will be based on the amount of the County's use of the BDD in the year that the drought occurs. The wholesale water deliveries pursuant to paragraph 4.d. shall be subject to shortage sharing that provides for a pro-rata reduction in daily deliveries to the County.
- c. The County reserves the right to drill in-Basin wells and commence permitting additional wells. The County will consult with the City on the locations of any proposed wells.

6. Forms of Agreement

- a. Forms of agreement implementing the principles in the document may consist of: (1) Memorandum of Understanding, (2) Joint Powers Agreement, (3) Operational Protocol, (4) Fiscal Agency Agreement, and (5) Water Wholesale Contract.