

SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS
MEETING

October 27, 2009

Harry Montoya, Vice Chair – District 1
Kathy Holian – District 4
Liz Stefanics – District 5
Virginia Vigil – District 2

[Michael Anaya, Chair – District 3 - excused]

COUNTY OF SANTA FE
STATE OF NEW MEXICO

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BCC MINUTES
PAGES: 80

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Valerie Espinoza
County Clerk, Santa Fe, NM



SFC CLERK RECORDED 12/09/2009

SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

October 27, 2009

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 11:30 a.m. by Vice Chair Harry Montoya, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

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

Members Present:

Commissioner Harry Montoya, Vice Chair
Commissioner Kathleen Holian
Commissioner Liz Stefanics
Commissioner Virginia Vigil

Members Excused:

Commissioner Mike Anaya, Chair

V. INVOCATION

An invocation was given by Margie Romero.

Commissioner Montoya extended condolences to the family of Anthony Gonzales who passed away this week. Anthony was the husband of Gigi Gonzales from the Human Resources Department and also the brother of former County Commissioner Javier Gonzales.

VI. APPROVAL OF THE AGENDA

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- B. Tabled or Withdrawn Items**

ROMAN ABEYTA (County Manager): Thank you, Mr. Chair. Staff has the following amendments to the agenda, the first coming under X. Matters from the Commission. Staff will be tabling item C, which is a status report on the results for the

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Supplied Solutions Workshop. And we added an item D, which is a resolution to adopt a Countywide policy on transparency and public access to information.

Turning to page 4 of the agenda, Mr. Chair, under the Consent Calendar, item C. Miscellaneous, we're tabling item number 2, which is request approval to hire one FTE for the County Clerk's office. On page 5 of the agenda, the Findings of Fact, CDRC Case APP 05-5040, the Kirkpatrick Family Transfer Appeal, we are tabling that item.

Lastly, Mr. Chair, under Matters from the County Manager, the new judicial courthouse complex update, we would like to hear that at 2:00 p.m. today. And those are the amendments from staff, Mr. Chair.

CHAIR MONTOYA: Okay. Any other amendments? Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. On page 4, I'd like to remove item XII. C. 4 for discussion.

CHAIR MONTOYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. Item XIII. A, I've consulted with Commissioners and nobody, at least that's present here, is familiar with bringing forth this item. I'm wondering if it was brought forth by our chair and him not being here, I'd like to have him be here if in fact that was the case to address this issue. And with that, Mr. Chair, I think I move that we table this. So I do that in the form of a motion.

COMMISSIONER HOLIAN: Second.

CHAIR MONTOYA: Okay. Motion to table item XIII. A. by Commissioner Vigil, second Commissioner Holian.

The motion passed by unanimous [4-0] voice vote.

CHAIR MONTOYA: So we're back still under any other amendments to the agenda?

COMMISSIONER HOLIAN: Mr. Chair, I move for approval with amendments.

CHAIR MONTOYA: Motion by Commissioner Holian.

COMMISSIONER STEFANICS: Second.

CHAIR MONTOYA: Second Commissioner Stefanics. Discussion?

The motion passed by unanimous [4-0] voice vote.

VII. APPROVAL OF CONSENT CALENDAR

A. Consent Calendar Withdrawals

CHAIR MONTOYA: Are there any withdrawals?

COMMISSIONER STEFANICS: Mr. Chair, I already withdrew one item.

CHAIR MONTOYA: Okay.

COMMISSIONER STEFANICS: And so I would move approval of the Consent Calendar as already amended.

CHAIR MONTOYA: Okay. Motion by Commissioner Stefanics.

COMMISSIONER HOLIAN: Second.

CHAIR MONTOYA: Second Commissioner Holian. Discussion?

The motion passed by unanimous [4-0] voice vote.

XII. CONSENT CALENDAR

A. Community Funds

1. **Approval of an Expenditure of Community Funds in the Amount of \$1,000 in Support of the Pojoaque Baseball Athletics (Commissioner Montoya)**
2. **Approval of an Expenditure of Community Funds in the Amount of \$2,500 for the Chimayo Boys and Girls Club in Support of Their After School/ Summer Recreational Programming (Commissioner Montoya)**
3. **Approval of an Expenditure of Community Funds in the Amount of \$500 to Big Brothers Big Sisters to Support Screening and Follow Up for Matching Children with a Big Brother or Sister (Commissioner Vigil).**
4. **Approval for an Expenditure of Community Funds in the Amount of \$500 to Warehouse 21 for the Production of Anti- Graffiti Outreach Materials (Commissioner Vigil).**
5. **Approval for an Expenditure of Community Funds in the Amount of \$5,000 for the Vista Grande Public Library (Commissioner Stefanics)**
6. **Approval for an Expenditure of Community Funds in the Amount of \$5,000 for the Turquoise Trail Charter School (Commissioner Stefanics)**
7. **Approval for an Expenditure of Community Funds in the Amount of \$3,000 for the Santa Fe Mountain Center (Commissioner Stefanics)**

B. Budget Adjustments

1. **Resolution 2009-185. A Resolution Requesting an Increase to the General Fund (101) to Budget a Grant Awarded by the New Mexico Historical Records Advisory Board Through the Commission of Public Records for the 2010 Indexing Records Project/\$5,100 (County Clerk's Office)**
2. **Resolution 2009-186. A Resolution Requesting an Increase to the**

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- General Fund (101) to Budget a Memorandum of Understanding between Santa Fe County and the Village of Pecos for E-911 Rural Addressing/\$8,379 (Administrative Services Department)**
- 3. Resolution 2009-187. A Resolution Requesting an Increase to the Lodger's Tax Advertising Fund (215) to Budget Prior Fiscal Year Cash Carryover for Advertising Requests for Fiscal Year 2010/\$37,000 (Administrative Services Department)**
 - 4. Resolution 2009-188. A Resolution Requesting an Operating Transfer from the General Fund (101) to the Water Enterprise Fund (505) for a Water Rights Purchase Agreement for 133.6 Acre Feet of Pre-1907 Consumptive Use Water Rights As Offsets in the Buckman Well Field/\$2,404,800 (Growth Management Department/Water Resources)**
 - 5. Resolution 2009-189. A Resolution Requesting an Increase to the Corrections Operations Fund (247) to Budget Revenue Received from St. Vincent's Hospital for Charges for Medical Services At the Adult Jail Facility/\$67,075 (Corrections Department)**
 - 6. Resolution 2009-190. A Resolution Requesting an Increase to the State Special Appropriations Fund (318) to Budget a Grant Awarded Through the New Mexico State Library for the Vista Grande Library/\$17,627.95 (Community Services Department)**
 - 7. Resolution 2009-191. A Resolution Requesting a Budget Decrease to the Road Projects Fund (311)/Various Road Projects to Realign the Fiscal Year 2010 Budget with the Available Grant Balances Awarded Through the New Mexico Department of Transportation / - \$321,542 (Growth Management Department)**
 - 8. Resolution 2009-192. A Resolution Requesting an Increase to the Economic Development Fund (224) to Budget Funds Awarded Through the U.S. Department of Energy Efficiency (\$264,000) and Funds Awarded Through the New Mexico Department of Transportation for the Santa Fe Rail Trail (\$100,000) Pursuant to the American Recover Investment Act of 2009 (Growth Management)**
 - 9. Resolution 2009-193. A Resolution Requesting an Increase to the Emergency Medical Services Fund (206) to Include the Actual Allotment of the Fiscal Year 2010 EMS Fund Act Distribution and Available Fiscal Year 2009 Cash Balance for Expenditure in Fiscal Year 2010/\$71,159 (Community Services Department/Fire)**
 - 10. Resolution 2009-194. A Resolution Requesting an Increase to the Law Enforcement Operations Fund (246) to Budget a Grant Extension for the Domestic Highway Enforcement Funds for the**

11. **Region III HIDTA Program/\$8,896.83 (County Sheriff's Office)**
Resolution 2009-195. A Resolution Requesting an Increase to the Law Enforcement Operations Fund (246) to Budget Funds Awarded Through the U.S. Department of Justice FY 09 American Recovery Act Edward Byrne Memorial Justice Assistance Grant Program for Radio Communication Equipment/ \$318,119. (County Sheriff's Office)
12. **Resolution 2009-196. A Resolution Requesting an Increase to the Law Enforcement Operations Fund (246) to Budget a Grant Awarded Through the U.S. Department of Justice FY 09 Edward Byrne Memorial Justice Assistance Grant Program to Purchase Tasers/ \$75,581 (County Sheriff's Office)**
13. **Resolution 2009-197. A Resolution Requesting Approval for the Nambe Park and Community Center Fund (318) in the Amount \$50,000 Per Receipt of State of N.M. Department of Finance and Administration 2009 General Fund Grant Agreement (Community Services Department)**

C. Miscellaneous

1. **Resolution 2009-198. A Resolution Requesting Approval for the 2010 Employee Calendar (Human Resources)**
2. **Request Approval to Hire One FTE for County Clerk's Office**
TABLED
3. **Resolution 2009-199. A Resolution Proclaiming October As Santa Fe County Fire Prevention Month (Fire Department)**
4. **Resolution 2009__ A Resolution (Repealing and Replacing Resolutions 2003-61 and 2004-80) Establishing the Process and Procedures for Acquisition of Real Property Under the County's Open Space and Trails Program (Community Services Department) ISOLATED FOR DISCUSSION**
5. **Approval of Agreement between the County of Santa Fe and the Albuquerque Bernalillo County Water Utility Authority to Lease Storage Space in Abiquiu Reservoir**
6. **Request Approval of the Accounts Payable Disbursements Made for All Funds for the Month of September 2009 (Administrative Services Department)**
7. **The Accounts Receivables for All Funds for the Month of September 2009 (Administrative Services Department)**
8. **Creation of an Additional FTE Resulting from the Findings of the IRS Examination of Calendar Year 2007. An Independent Contractor (Handled As Such in Previous Years) for the Sheriff's Office Must Be Transitioned Into an Employee Status in Order to**

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- Show Corrective Action and Compliance with the IRS Rules and Regulations. The Position Will Be Classified as a "Term" Employee Mainly Due to the Funding Sources (Finance Division)**
9. **Resolution 2009-200. A Resolution of Support for County Participation in the 2009/2010 New Mexico Department of Transportation Local Government Road Fund Cooperative Agreement for Pavement Rehabilitation and Improvements of County Road 17 (Martin Road) in Santa Fe County, New Mexico Under the School Bus Route Program Project No. CAP-5-10 (452) (Growth Management Department)**
 10. **Resolution 2009-201. A Resolution in Support of County Participation in the 2009/2010 New Mexico Department of Transportation Local Government Road Fund Cooperative Agreement for Pavement Rehabilitation and Improvements of County Road 17 (Martin Road) in Santa Fe County, New Mexico Under the School Bus Route Program Project No. SP-5-10 (107) (Growth Management Department)**
 11. **Resolution 2009-202. A Resolution of Support for County Participation in the 2009/2010 New Mexico Department of Transportation Local Government Road Fund Cooperative Agreement for Pavement Rehabilitation and Improvements of County Road 17 (Martin Road) in Santa Fe County, New Mexico Under the School Bus Route Program Project No. SB-7789 (982) 10 (Growth Management Department)**
 12. **Request Approval of 2009 State of N.M General Fund Grant Agreement in the Amount of \$768,800 for Reauthorized Projects (Community Services Department)**
 13. **Resolution 2009-203. A Resolution Authorizing Execution of a Building Lease Agreement by and between the Board of County Commissioners of Santa Fe County and Esperanza Shelter for Battered Families, Inc. for the Use of a County Owned Modular Building to Be Placed At 3130 Rufina Street in the City of Santa Fe and Authorizing the Chair to Execute Same and Seek Approval of the State Board of Finance (Community Services Department)**
 14. **Request Approval of a Building Lease Agreement between the County and Esperanza Shelter for Battered Families, Inc. for a County Owned Modular Building Located at 1318 3130 Rufina Street in the City of Santa Fe for Administrative Services for a Battered Family Shelter in Santa Fe County (Community Services Department)**

D. Findings of Fact

- 1. CDRC CASE # APP 05-5040 Kirkpatrick Family Transfer Appeal. Robin Sommers, Appellant, Shelby Robinson, Agent, Requested an Appeal of the County Development Review Committee's Decision to Uphold the Land Use Administrators Decision to Approve a Request by James Kirkpatrick for a Family Transfer Land Division of Four 20-Acre Lots into Eight 10-Acre Lots (Case # DL 05-3026). The Property Is Located At 8, 28A, 28B and 28C Shaggy Peak Trail, Within Section 22, Township 16 North, Range 10 East (Commission District 4). John M. Salazar, Case Manager (DENIED) TABLED**

VIII. APPROVAL OF MINUTES

A. September 29, 2009

COMMISSIONER HOLIAN: Mr. Chair, I move for approval.

COMMISSIONER STEFANICS: I'll second.

CHAIR MONTOYA: Motion by Commissioner Holian, second Commissioner Stefanics. Discussion?

The motion passed by unanimous [4-0] voice vote.

IX. MATTERS OF PUBLIC CONCERN – NON-ACTION ITEMS

CHAIR MONTOYA: Is there anyone who would like to address the Commission on issues that are not on the agenda? Okay, seeing none, we'll move on.

X. MATTERS FROM THE COMMISSION

- A. Resolution 2009-204. A Resolution Designating the Polling Places of Each Precinct in Santa Fe County, New Mexico (Commissioner Montoya)**

CHAIR MONTOYA: I'll ask Denise Lamb from the Clerk's office to present this.

DENISE LAMB (Elections Bureau Director): Commissioner Montoya and Commissioners, every two years the County Commission in every county is required to designate the polling places for the succeeding election cycle, and so that's what this resolution is. As Exhibit A are the polling places; none have changed with the exception of the new polling place at the tribal office out at Nambe Pueblo. We were before you with that a few

months ago.

So these will be the polling places that will be used for the primary and the general election of 2010.

COMMISSIONER VIGIL: Move to approve, Mr. Chair.

CHAIR MONTOYA: Motion by Commissioner Vigil.

COMMISSIONER HOLIAN: Second.

CHAIR MONTOYA: Second by Commissioner Holian.

COMMISSIONER STEFANICS: Mr. Chair, I have a question.

CHAIR MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Denise for the presentation. These polling places are not necessarily the polling places for special elections. Is that correct?

MS. LAMB: That is correct. The polling places for school elections, for example, or bond elections or for example the upcoming fire protection excise tax. The governing body of each entity in those elections is permitted by the Election Code to consolidate polling places. Because the turnout is so small in most special elections to fully staff every polling place would be an enormous expense to these entities, so the Election Code recognizes that and allows them to consolidate polling places for those smaller elections.

COMMISSIONER STEFANICS: Okay. And so Mr. Chair, Denise, we do have a fire tax coming up. Is that correct?

MS. LAMB: That is correct. On the 17th of November, it is for the unincorporated areas only of the county. In other words, the residents of the City of Santa Fe, Edgewood and Española are not voting in this election. We will be having 25 polling places, I believe, for that election, and have recently got all the information about the election – sample ballots, etc. posted on our website. We're currently doing absentee voting in our office so I would urge the Commissioners who are residents of the county and don't live in the City of Santa Fe to stop by our office and vote in the election.

COMMISSIONER STEFANICS: So Mr. Chair and Denise, when will we be publicizing the locations for that election?

MS. LAMB: We already have. A resolution was published in the newspaper. We did a press release in our office with a link to our webpage and our telephone number, and the proclamation will be in the newspaper as well. We will get to the newspapers all those polling places. But everything is on our webpage.

COMMISSIONER STEFANICS: Thank you very much, Mr. Chair.

CHAIR MONTOYA: Okay. Any other discussion?

The motion passed by unanimous [4-0] voice vote.

X. B. A Proclamation Recognizing November 9-13, 2009 as Sustainability Education Week (Commissioner Holian)

COMMISSIONER HOLIAN: Thank you, Mr. Chair. Is Christina Selby here? Oh, great. Thank you. The United Nations has declared 2005 to 2014 as the Decade of Education for Sustainable Development. Now, the word sustainable is used a lot. In fact I think we even overuse it a little bit. So I thought that it would be good for me to look up a definition for sustainability that listed in human terms, and I found something that I really liked. It says, Sustainable development is meeting the needs of the present without compromising the ability of future generations to meet their own needs. So where better for us to have a focus of sustainability than in our schools?

So I would like to read the proclamation and then I would like to present it to Christina and ask her to say a few words, because she's the one who brought this to my attention. By the way, she's with Earth Care International.

Santa Fe Proclamation to recognize November 9 through 13, 2009 as Sustainability Education Week.

Whereas, the week of November 9 through 13, 2009 be devoted to the recognition of students, teachers, colleges and education and the larger community working to create sustainable communities; and

Whereas, the week of November 9 through 13, 2009 be designated as National Sustainability Education Week; and

Whereas, sustainability resides at the intersection of a vibrant economy, an equitable society, and a healthy environment, in the interest of meeting present needs without compromising the ability of future generations to meet their needs; and

Whereas, humanity and the planet today face unprecedented challenges, such as climate change, food and water shortages, environmental degradation, conflict, and global health issues, which must be addressed through critical and creative thinking and innovative problem solving; and

Whereas, young people today have the motivation and ability to make important contributions to the creation of a sustainable world, both now and for future generations; and

Whereas, sustainable education helps students learn skills, perspectives and values that can guide and motivate them to seek sustainable livelihoods, fully participate in a democratic society, and live in a sustainable manner; and

Whereas, colleges of education and teachers play a vital role in creating a more just and sustainable world; and

Whereas, sustainable literacy is a prerequisite for participating in the emerging green economy and for engaging with critical local, regional and global issues; and

Whereas, young people will benefit academically and personally from expanded opportunities to engage in sustainable education learning experiences; and

Whereas, young people should be valued for the idealism, passion, energy, creativity and commitment they bring to the challenges in their community; and

Now, therefore, be it resolved by the Board of County Commissioners by this proclamation recognizing November 9 through 13, 2009 as Sustainability Education Week. Thank you.

CHRISTINA SELBY: Thank you for allowing me to address you and for signing this resolution for Sustainability Education Week. I wanted to say that by doing this Santa Fe County joins the ranks of cutting edge communities around the world, led by the UN Decade of Sustainable Development. The Mayor of Santa Fe is working on a proclamation. Governor Richardson has signed a proclamation as well as governors in Washington, Connecticut, Maryland and others that are soon to come. Here in Santa Fe Earth Care and out partner schools and non-profits are providing opportunities for youth and adults to address real world challenges to sustainability through education, service, green jobs and civic engagement. We will be promoting youth projects throughout the year, around Martin Luther King, National Day of Service, Cesar Chavez Day, and culminating in Global Youth Service Days, which is April 23rd to 25th.

So this week is just the beginning of a year-long and more project to make our community and our county sustainable. So I'd like to invite you all the Earth Care community celebration on November 6th at the farmers market from 5:30 to 8:30 where we'll be celebrating youth leadership, the release of the Sustainable Santa Fe Guide, which highlights all the incredible work going on in Santa Fe and that's it. So thank you very much for this. I really appreciate it.

X. D. Resolution 2009-205. A Resolution to Adopt a Countywide Policy on Transparency and Public Access to Information (Commissioner Montoya)

CHAIR MONTOKA: I'll just briefly say that the resolution isn't in my packet. So I'm not sure we can act on it without having you all review it prior to me trying to explain what was going on.

COMMISSIONER STEFANICS: Mr. Chair, maybe we could go on to Matters from the Commission while somebody brings us something.

CHAIR MONTOKA: Okay. Commissioner Stefanics, do you want to go ahead?

X. OTHER MATTERS FROM THE COMMISSION

COMMISSIONER STEFANICS: Thank you, Mr. Chair. I hadn't planned a lot of remarks for this morning, but I did want to let the public know that we're doing a lot of work on affordable housing. We did have a study session this morning. Our study sessions are always open to the public and we had a good gathering of folks this morning to talk about affordable housing, possible development of some affordable housing, and then some actions we might

take this year and next year. And so I'm very encouraged by all that, and I believe that the County is looking out for affordable housing for members of our community and for our County employees. So I hope that this works out well.

The other thing is I did ask several questions of Denise Lamb this morning, but we do have a fire tax coming up in the future and I think some times that the voters and the public aren't aware of some of these special elections. So as we move on and especially November 10th, I'd like to make sure we re-discuss, perhaps put it on the agenda formally to talk about why we're doing this and what it's for. Thank you very much, Mr. Chair.

CHAIR MONTTOYA: Okay. Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. I just wanted to report to the Commission that last week I participated in a law seminar telebriefing that was called New Solar Development on Public Land. There were two representatives from the BLM. There was once from the Natural Resources Defense Council, and one from the Solar Industries Association. What they were talking about is that BLM is now going through a process to identify areas in the southwestern United States that are suitable for large, large-scale – I want to emphasize that – solar energy development.

They are studying 24 areas currently. They are doing a rigorous analysis of those areas that includes an environmental analysis as well as how suitable those areas are actually for large-scale applications. Now, of course I was very interested in where those areas were, which is part of the reason that I signed up for the telebriefing, and I don't know if it's good or bad but none of them are actually in northern New Mexico. There are three in the southern part of the state but nothing in Santa Fe County itself.

But I think it is really a good process that they're going through because it's a pro-active process, not a reactive process. They're trying to in advance identify the areas that would be suitable for that and to actually identify the areas that are absolutely not suitable for it like riparian areas or areas that have diverse plant and wildlife and so on. So I think that they plan to be done about in spring of 2011 when they will actually make their report and will start accepting applications from various entities would like to put the solar developments on BLM land. So I just thought I'd report that.

One other thing is that this morning I attended the Regional Community Leaders breakfast that was sponsored by Los Alamos Lab. The emphasis at this particular breakfast was on education and I have to say that I'm really impressed. The lab is really involved in about 50 different programs throughout the region that have to do with education starting from the very young to the very old like me even. And that was really interesting. But one other just sort of a side-note that I thought I would make you all aware of is that in their budget this year the lab has received \$200 million extra for environmental cleanup. So they are hosting a job fair. There are actually going to be some new jobs created in our areas and I think that's going to be in the next couple weeks and I think it's going to be at the Ohkey Owingeh site. So I just thought people might want to know about that.

CHAIR MONTTOYA: Thank you, Commissioner Holian. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chair. I just want to congratulate

our legislators, our Santa Fe delegation and all other legislators for the hard work that they put into a special session that I was thoroughly engaged in. Most of the discussions were had there of course had to do a lot with budget cutbacks and there is a proposal that's gone to the Governor. The Governor, as most people know by now, because the news has had wonderful coverage of this, is going to be speaking with constituents today and evaluating the bill as it's gone up to him. It does impact our educational systems and I know Santa Fe Public Schools is conducting a meeting with community leaders this coming Monday night at 6:00 at their Alta Vista administration building. If you haven't received it you'll be receiving an invitation to participate in that. I applaud them for bringing in the leadership of Santa Fe County to assist them. I don't think there's anything more important than caring for our educational system. It is of the utmost priority. There's many things that are probably as important but this should never be low in a priority hierarchy. It should always be up there, Mr. Chair.

So I want to just state that I also wanted to say that my experience in the last couple of weeks – I want to bring to the focus of listeners out there because it has to do with jurisdictional issues and it has to do with transparency. Many times County Commissioners, City Councilors, legislators get approaches with regard to prospective projects that may or may not happen in the community. I felt very grateful that I was approached about a project that may come to Santa Fe County that involved windmills and a windmill farm. It is a project that we have no jurisdiction over. It is a project that is being looked at with regard to a partnership with BLM. But as we look at alternative energy and renewable energy projects, New Mexico, as Commissioner Holian emphasized, while northern New Mexico has not been a site identification through the process through the federal government, it still is being sought after through many alternative sites. And some of these sites are not within the jurisdiction of local or state government. They're within the jurisdiction of federal government.

So I think the public needs to know that as we move forward in these areas we will be looking at farms, both solar and windmill farms. And I say that from the perspective of be forewarned. We will be looking at it and we may not have any authority to deal with it. Thank you, Mr. Chair.

CHAIR MONTROYA: Very good points there, Commissioner Vigil. I just had a couple. One, we're having a townhall this Thursday at 6:00 at Nambe to do the discussions about the community center there in Nambe and I just want to remind people that careful out there when you're trick or treating this Saturday. Kids are going to be running around. Please take extra precaution on that.

X. D. Resolution 2009-205. A Resolution to Adopt a Countywide Policy on Transparency and Public Access to Information (Commissioner Montoya)

CHAIR MONTROYA: I want to go back now to the resolution on transparency. Hopefully you all have had a chance to look at it, but really the reason for doing this is that we

want to make sure that people are receiving the information that they're requesting. I believe that our staff is doing a really good job at doing that and what this policy does is put into practice or actually solidifies exactly the practice that we are doing already. We have a lot of this already listed on our website and it's available to those who ask in terms of what are you doing in terms of transparency. And this puts it into policy. So we're practicing that now. We have a policy to back it up. So that was the intent of this and I would attempt to answer any questions. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chair. This is probably more for Stephen Ulibarri because it's more of a technical question. I am so pleased that we're moving forward on getting Spanish translations for all of the information that we're disseminating. There are actual – with regard to our website there are actual programs that can fit into websites and do an automatic translation in Spanish. Is that something we could do? And those, to my knowledge and to my experience are at no cost, but is that something that we can do? Is that something you've looked at?

STEPHEN ULIBARRI (Public Information Officer): Mr. Chair, Commissioner Vigil, the programs that exist to translate language information to different languages –

COMMISSIONER VIGIL: Or audio.

MR. ULIBARRI: Well, into audio as well, is not always accurate. To actually to it accurately I've looked into it. You have to build an entirely separate website just for that. Do a website, one in English, one in Spanish which is really costly but something we can look into in the future. But that is something we can do.

COMMISSIONER VIGIL: Okay. And with regard to our in-house requests for documentation, when they are requested to be done in Spanish, because it's really based on request currently, I think there will be a day when there's going to be a streamlined automatic development in exposure of both Spanish and English. But at this point in time do we contract with someone specifically for that? Or do we do that in-house?

MR. ULIBARRI: Mr. Chair, Commissioner Vigil, via contract with someone to do that for us.

COMMISSIONER VIGIL: Okay. And because it's a public record request are there additional charges for that?

MR. ULIBARRI: Mr. Chair, Commissioner Vigil, we're fortunate in that there are some staff who are able to translate some documents. For more technical language translation services we do have to contract that out. Roman, do you know, do we have a charge for that? I'm not aware of any.

MR. ABEYTA: Mr. Chair, Commissioner Vigil, no, I'm not aware of us charging extra for a Spanish translation version.

COMMISSIONER VIGIL: Okay. I think these are all on the horizon. These are all issues that we probably are going to need to deal with. *Bueno, pues me da tanto orgullo que estamos haciendo así. Gracias*

CHAIR MONTROYA: *¿Puede hacernos una moción, por favor?* Can we have a motion, please?

COMMISSIONER HOLIAN: Move for approval.

CHAIR MONTOYA: We have a motion by Commissioner Holian. I'll second.
Any further discussion?

The motion passed by unanimous [4-0] voice vote.

XI. APPOINTMENTS/REAPPOINTMENTS/RESIGNATIONS

- A. Appointment of Gail West As the Alternate Member to Area 15 of the Road Advisory Committee, Within Commission District III (Growth Management Department)**

COMMISSIONER VIGIL: Move to approve.

CHAIR MONTOYA: Motion by Commissioner Vigil.

COMMISSIONER STEFANICS: Second.

CHAIR MONTOYA: Second, Commissioner Stefanics. Discussion?

The motion passed by unanimous [4-0] voice vote.

- XI. B. Appoint Renee Villareal As County Manager Designee to the Joint City and County of Santa Fe Policy Council on Food**

COMMISSIONER STEFANICS: I'll move for approval.

COMMISSIONER VIGIL: Second.

CHAIR MONTOYA: Motion by Commissioner Stefanics, second
Commissioner Vigil.

The motion passed by unanimous [4-0] voice vote.

- XI. C. Re-Appointment of Kristi Readyhough, Kim Straus, Lara Yoder, Magi Gerety, Jill Reichman, and Janet Aboytes to the Maternal and Child Health Planning Council.**

COMMISSIONER VIGIL: Move to approve.

COMMISSIONER HOLIAN: Second.

CHAIR MONTOYA: Motion, Commissioner Vigil. Second, Commissioner Holian. Discussion?

The motion passed by unanimous [4-0] voice vote.

XI. D. Resignation of Cindy Bernard and Tanya Montoya from the Santa Fe County Maternal and Child Health Planning Council.

COMMISSIONER HOLIAN: Move for approval.

COMMISSIONER STEFANICS: Second.

CHAIR MONTOYA: Motion Commissioner Stefanics, second Commissioner Stefanics.

The motion passed by unanimous [4-0] voice vote.

XI. E. Resignation of Dan Burke and Tanya Montoya from the Santa Fe County Health Policy and Planning Commission.

COMMISSIONER VIGIL: I have a question.

CHAIR MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I will of course move to approve but I do have a question and I'll wait for a second.

COMMISSIONER HOLIAN: Second.

CHAIR MONTOYA: There's been a motion by Commissioner Vigil. Second by Commissioner Holian.

COMMISSIONER VIGIL: Rebecca, I thought we already accepted Dan Burke's resignation. Or was that just an informal letter of resignation to us?

REBECCA BEARDSLEY (DWI Coordinator): Mr. Chair, Commissioner Vigil, that was an informal letter and so we're taking formal action now, so that we can open up those positions and accept applications.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIR MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you. And Mr. Chair, I would ask that we not bring forward any names for the Health Policy and Planning Commission until the County Manager brings forward a plan for restructuring of this and a few other committees or commissions. And that we not move ahead in a fast manner on this.

MS. BEARDSLEY: Mr. Chair, Commissioner Stefanics, I will pass that on to the chairman of the Health Policy and Planning Commission.

CHAIR MONTOYA: Okay.

COMMISSIONER VIGIL: There is a vacancy coming up. What district is that vacancy in?

MS. BEARDSLEY: I believe it's in your district, Commissioner Vigil.

COMMISSIONER VIGIL: Okay. And I know that we want to restructure and it does need to be evaluated. How soon can this be done because I actually have been approached

by many people who want to represent that district in the Health Policy and Planning Commission. How soon could it be done?

COMMISSIONER STEFANICS: Mr. Chair, could I comment on that question?

CHAIR MONTTOYA: Commissioner Stefanics, on that point.

COMMISSIONER STEFANICS: Mr. Chair and Commissioner, I think that a lot of us have been approached by constituents who want to sit on this, and I think that one of the things that I and some other Commissioners have asked the County Manager is to look at the composition of the HPPC to determine whether or not we should have a different kind of structure – Community Services with HPPC as a subset or whatever he comes forward with. But that may be the providers that are sitting on the HPPC, not necessarily voting members, maybe advisory members. So I'd like for some recommendations to come forward at least by January, since we're only meeting one more time before January. And I do believe there are many people in the public who want to participate in this and there's really not an opportunity.

COMMISSIONER VIGIL: Mr. Chair, thank you. I think we're aligned in our thinking with regard to this. And I think the timing's about right, based on some of the emails I've gotten. The HPPC is going to look at some recommendations, the structure is going to be reviewed and we'll be able to make an appointment in January. That's just a month later. Or no, it's actually within the same timeframe. Is that not right, Becky? To fill this vacancy?

MS. BEARDSLEY: Mr. Chair, Commissioner Vigil, I believe they will be meeting again. I know they're meeting again at the beginning of November to look at some of those issues and then I'm hoping they'll have them ironed out by the beginning of December. Provided we can get some direction from you all to go ahead and accept applications for that then I do believe the appointment could be made at the January meeting.

COMMISSIONER VIGIL: Okay. The only input I would have to that, and I'm in total agreement that we need to look at restructuring, but with regard to representations in each separate district, I would advocate for that. My particular district has had a couple of issues that need to be represented in the area of health, and without someone from that district I'm not too sure that through the HPPC process that district's health issues would be represented. I think there are bigger issues than that within the composition but I would strongly advocate, because I can't be there, that the health issues from District 2 be a part of this process. As a result of that I would want the composition and the structure to consider that representation component.

I think when the HPPC was first formed that five-district representation was a core component of it. How it expanded into other areas is its own evolutionary story and where we're at now, let's look at the community as a whole and what's in the best interest. But I think one of the positions I would take is to allow for that core representative capacity to be still a part of the HPPC. Thank you, Mr. Chair.

MR. ABEYTA: And Mr. Chair, I just want to add and make it clear that we don't want to be accepting applications at this time or pursuing that because we need to deal with this kind of bigger issue, with not just the HPPC but all of our other boards.

CHAIR MONTTOYA: Thank you, Roman.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIR MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Mr. Chair, on Commissioner Vigil's point, I think that the HPPC deserves more than one person from each district. The districts are important to us in representing our constituents and our needs and so I think that as we move forward looking at this we certainly should look at representatives from our Commission districts who are going to speak to the different needs of our communities. So I hope it's not just limited to one and that as we work with the County Manager we kind of let him know what we really need or want on that group. Thank you.

CHAIR MONTOYA: Okay. Any further discussion? We have a motion and second.

The motion passed by unanimous [4-0] voice vote.

XII. C. 4. Resolution 2009-206. A Resolution Repealing and Replacing Resolutions 2003-61 and 2004-80) Establishing the Process and Procedures for Acquisition of Real Property Under the County's Open Space and Trails Program (Community Services Department)

COMMISSIONER STEFANICS: Thank you. I would just like a little more explanation about this. I'm not opposed. I just want to make sure that we're all understanding what we're doing. Thank you for coming.

COLLEEN BAKER (Open Space & Trails): Sure. Mr. Chair and Commissioners, to give you the background of this is original acquisition and process for the Open Space and Trails program was adopted as part of the plan in the year 2000. It's been amended a couple of times, the first time to add urgent projects criteria that allowed us to deal with projects that had some kind of time sensitivity or other sensitivity that we had to handle in a quicker time frame than what we normally would. And then the second amendment was to clarify the process and actually establish an annual review process for all acquisitions of open space property.

What the committee felt and what staff felt at this time with the way the program has matured and changed is that some of the acquisition process didn't allow us the flexibility we needed to respond to circumstances that were happening with land development and changes. The main points that we changed in this document were to include the Open Lands and Trails Planning Advisory Committee review of all open space acquisitions, not just the acquisitions that were using the original bond monies. The original acquisition process focused just on the two bonds that were passed in 1998 and 2000. It didn't include grants that we could apply for or gross receipts tax monies that we could use for acquisitions. So we wanted to clarify that we wanted the committee to weigh in on all of those open space acquisitions, not just those that

were under the original two bond issues.

The other change that the committee felt strongly about and made in this document was to do away with the annual review process and the urgent project criteria and just be able to handle and propose open space acquisition projects as they matured and came forward. So it would give the committee and staff the flexibility to actually strategically look for properties that we felt were important to preserve and start working on those without having to wait a year to apply, or justify it through the urgent process criteria.

CHAIR MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Colleen and thank you, Mr. Chair. My question is that by doing away with the annual review, and even in considering acquisitions, are acquisitions considered with an eye to the future for maintenance and upkeep?

MS. BAKER: Yes.

COMMISSIONER STEFANICS: It would seem to me that an annual review would allow you to come forward and say COLTPAC has determined that these areas require budget for the upkeep and maintenance for the areas that have been acquired. And I know that this is an area that we are not funding fully, and I'm just wondering if we're shortchanging those needs.

MS. BAKER: That's a good point. I think we're constantly trying to consider that, and certainly COLTPAC is very aware that that needs to be under consideration and we're trying to use the mechanism of the five percent donation that's required back from the landowners to be able to anticipate that. I think the feeling was amongst the COLTPAC committee was that the annual review process just forced us to consider too many properties under the urgent project criteria instead of evaluating them on their own merit under the criteria as the opportunities came forward. We didn't want to miss opportunities give the way land transactions happen.

COMMISSIONER STEFANICS: Okay, so Mr. Chair and Colleen, that brings up another question for me. If COLTPAC has determined that there are three priorities this year and some project of urgency comes up along the way, then all the study and work that's gone into those three priorities can just be tossed because of something that's considered urgent.

MS. BAKER: I'm not clear on what you're trying to get at.

COMMISSIONER STEFANICS: Well, what I'm asking is whether or not the process you're proposing is just changing how the committee has prioritized their work or evaluating the prioritization that the committee has come up with.

MS. BAKER: The committee felt like this is what they wanted to do, so as far as their priorities, I think they were feeling like the revised resolution would actually give them the flexibility to work on their priorities rather than just responding to landowners that wanted to see if we wanted to buy their property. That they would actually have a little more of a driver's seat as far as strategically going after areas they thought were priorities for protection. We've kind of been in the receiving mode for applications rather than giving us the flexibility and to be more strategic in our planning of areas that we wanted to protect. So my understanding from the committee is they felt like this change would actually allow them to establish those priorities

and come up with a strategic plan for what they wanted to see acquired, rather than just waiting for applications to come down.

COMMISSIONER STEFANICS: Thank you, Mr. Chair.

CHAIR MONTOYA: Okay, any other questions, discussion?

COMMISSIONER HOLIAN: Move for approval.

CHAIR MONTOYA: Motion by Commissioner Holian.

COMMISSIONER VIGIL: Second.

CHAIR MONTOYA: Second by Commissioner Vigil. Further discussion?

The motion passed by unanimous [4-0] voice vote.

XIII. B. Administrative Services Department

1. Review and Discussion of the Quarterly Financial Report

TERESA MARTINEZ (Finance Director): I gave you the first quarterly report and it's very cursory and tentative. It's the standard format that you get. It's a little early in the year. Obviously, our property tax collections don't materialize till December. The budget for the first few months of the fiscal year are rather small when it comes to property tax, so there's no issues there as of yet. And gross receipts tax is staying above budget so that the good thing. We're averaging about four percent better than budget, and we're fluctuating anywhere between six and 11 percent, given the month from prior year collections. We're actually down from what we collected in the previous fiscal year, but we're staying above budget.

CHAIR MONTOYA: Down 6 to 11 percent from the previous year?

MS. MARTINEZ: Yes. If you look at it cumulatively it's down 9 percent for the first four months of the fiscal year. So we've collected nine percent less than the previous fiscal year. The expenditures are pretty much in line. We do have some overtime issues that we're working with the different departments. Many of our cost-saving measures are still in place. Essential staff are still being filled if the need is there, and I will stand for questions. I don't really have a lot of information regarding collections and areas of weakness or concern.

CHAIR MONTOYA: Okay. Questions? Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. So how's the Corrections Department doing in general compared to last year?

MS. MARTINEZ: Right now, we're probably holding our own relative to last year. The population at the juvenile facility is basically staying the same. We're fluctuating between 15 to 20 paying beds. The goal is to have 24 paying beds at all times. So it looks like that population is increasing. We're seeing more requests, so that's a good thing. At the adult, we're staying pretty much in line with what we had in the previous fiscal year. I know that they have actively been working the contracts with the coordination of the Legal office to other entities so if the need arises and they need a place to bring their inmates we hope we will have an agreement in place with them. I know she's out recruiting as much as she can. I don't believe

we have any interest yet from the State of New Mexico, the Department of Corrections as of yet. So that was a big contract for us in years past. So it's basically staying in line with what we were seeing as of last year.

CHAIR MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you. Thank you, Teresa. The six percent, the five to six percent collections less than prior years, if that remains consistent over the years will our adjusted budgets come in within the parameters if it continues to be six percent less every quarter?

MS. MARTINEZ: Mr. Chair, Commissioner Stefanics, it would, and what I pay attention to is the percentage that's better than budget or at budget. So if it stays better than budget then we'll be consistent with our more recent budget cuts. So as of right now we are looking good.

COMMISSIONER STEFANICS: Okay, so if, Mr. Chair, if in fact we're doing better on budget for the first quarter with this lower projection, is it feasible that we'll have a reserve or we'll have an excess at the end of the year?

MS. MARTINEZ: Mr. Chair, Commissioner Stefanics, that is correct.

COMMISSIONER STEFANICS: And I know it's way too early to look at what that could be but perhaps that could be in the next quarter if we remain consistent with that collection and the six percent less maybe we could even project for the end of the year?

MS. MARTINEZ: We can, and let me tell you that I have a projection for the first quarter. I'm putting together a format based on your last request and I'm hoping I can get that to you by the end of the week. It's a little tentative in the first quarter of the fiscal year because it's so early, but I've put together the format. So you'll see that. I've made some assumptions with regard to spending habits in the previous fiscal year, and then made a trend assumption. So you'll see that. But definitely by the next quarter you can see. I can tell you right now for the GRT, countywide gross receipts tax, we are \$468,000 better than budgeted. That put us 4 percent better than budget cumulatively and 9.6 percent down from prior year collections. So we have a format that you can take a look at and give us any suggestions.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. And also, Teresa, we passed a resolution allowing property tax bills to be paid over ten months. Does that start this year?

MS. MARTINEZ: I believe it starts this year and we've already received a list of people that are interested.

COMMISSIONER STEFANICS: Okay. So when – I know there are individuals that pay their taxes through their PITIs with their mortgage payments won't be affected. But it would be good for us to note if that's going to impact our cash flow. I know it won't affect our cash flow because we draw down, but the tax collections. If that will decrease revenues so that our projections change.

MS. MARTINEZ: Mr. Chair, Commissioner Stefanics, I can look at that for you. I don't suspect that it's going to be a huge impact because they will retain, based on the prior year's bill, and it will be that final payment where they'll correct it with the actual billing.

So I'm not forecasting that it will have a huge impact but we'll keep an eye on that and report back.

COMMISSIONER STEFANICS: Okay. Thank you very much.

CHAIR MONTTOYA: Thank you. Are there other questions? Okay. Thank you, Teresa. Appreciate it. Not bad news, so that's good.

COMMISSIONER VIGIL: Not too bad.

COMMISSIONER STEFANICS: But Mr. Chair, may I make a comment?

CHAIR MONTTOYA: Sure.

COMMISSIONER STEFANICS: Several entities have asked, constituents as well, about services, and I again want to reiterate to the public, if they're not aware of our budget study sessions and our adjustments to the budget, that we have taken several cuts in our budget, based on what the County Manager and staff have initiated so that we can continue to provide the services to the public. So while we are not in the same straits as other governmental entities around us, primarily the state, the County is being conservative in taking note of the taxpayers' money. So we just need to reassure them that we're being conservative with their money. Thank you.

CHAIR MONTTOYA: Prudent. Thank you for those comments, Commissioner. So, next, do we want to do this and then take a lunch break?

XIII. B. 2. Discussion and Approval of Proposed Increases to the Current Travel and Per Diem Rates Authorized by Santa Fe County (Finance Division)

MS. MARTINEZ: Mr. Chair, we brought this forward because when the federal government makes an increase to per diem rates it usually serves a lot of questions from staff as to whether or not we will be increasing. Santa Fe County currently follows the DFA rule, so whatever changes the Department of Finance and Administration makes we make. So I tried to put a suggestion forward for you to consider, and also my recommendation. What we did, having recently gone through the IRS examination is compared the state rates and the same rates that the County uses to that of the IRS and then made a recommendation that in our opinion we do not believe that we need to increase the per diem rates at this time. It was noteworthy to note that most of our employees travel based on actuals, which means they get paid for every dollar they spend on that trip. So if they rent a car they'll get full reimbursement for the car rental, the lodging costs, the meal costs.

So right now, as far as I know, I haven't heard any complaints with regard to our employees suffering when traveling on County business, and given that most of them travel on actuals we thought it was probably safe to say that we could continue as we all. And the other issue was that if we did increases we have to be very conscientious of the IRS rates. Because if you exceed the IRS rate then we create a potential taxable fringe benefit for our employees, which would then mean more additional income reported on their W-2's.

So we wanted to inform you of the changes in the differences between state and federal and also recommend that we continue status quo. And I'll stand for questions.

CHAIR MONTOYA: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. Thank you, Teresa. I just have a question. How people decide whether they use a per diem rate or the actual expense rate when they travel?

MS. MARTINEZ: They will submit the request on a travel voucher to their supervisors and their directors and it's basically at the discretion of the director.

COMMISSIONER HOLIAN: And what percentage would you say actually travel on actual expense rates?

MS. MARTINEZ: I would say in Santa Fe County 80 to 90 percent of our staff based on actual rates.

COMMISSIONER HOLIAN: Okay. Thank you. Thank you, Mr. Chair.

CHAIR MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair and Teresa. Would it – as I was reading through this, I had to read it a couple times to get the gist of this in trying to think about how it could be standardized. Would it be fair to say that a per diem could be used when traveling throughout the State of New Mexico and that actuals could be used when traveling out of state?

MS. MARTINEZ: Mr. Chair, Commissioner Stefanics, not in all case. Depending on where they're traveling. Santa Fe is a high area, but when you travel to certain areas sometimes most of the money from the per diem could go towards the lodging and it leaves them very little for the meal allowance. Now, like in my office, they'll go to a conference and I'll analyze it. Do they provide a meal? If they provide a meal then I'll send them on per diem because then I'll know they have enough money left over to cover that dinner. So it depends on the location and it depends on the lodging costs. So they might suffer in some cases.

COMMISSIONER STEFANICS: And so Mr. Chair and Teresa and Roman, do we have a policy that indicates that all employees should travel and utilize government rates at lodgings?

MS. MARTINEZ: Mr. Chair, Commissioner Stefanics, it's encouraged. I don't know that we specifically cite it in our policies but it's part of the A/P trainings. It's part of, if you look at the DFA rules they'll always encourage the government rates. So I can't speak that every department is consistent in trying to attain the government rates but a lot of the conferences that we go to will have the government rates and if we do the early registration, those types of things, we definitely encourage that for saving money.

COMMISSIONER STEFANICS: Well, Mr. Chair, Teresa, what I was looking at here is that if we have employees that accrue higher than the IRS rate, it means more paperwork and more bookkeeping for the County.

MS. MARTINEZ: That is correct.

COMMISSIONER STEFANICS: Which means additional costs.

MS. MARTINEZ: And the paperwork isn't what it's what is fearful. It's the

additional burden to the employees. So having to implement a lot of the IRS findings have caused quite a stir and confusion because, well, this is your mistake, or you didn't know about it. You should pay for it. That type of thing. Even if the County were to pay for it that would be additional burden to the employee through additional income, additional taxes. So I am more fearful of the impact to the employees and the reported additional income than I am the additional burden. Although I'm not in favor of the additional burden of paperwork and administrative procedures. But yes. So that was why I recommended no. We've had a huge undertaking just to implement the few findings and then to have more additional income for each employee, I don't think it's worth it. I think it's cumbersome.

COMMISSIONER STEFANICS: Okay, so to make it clear, Mr. Chair, Teresa, you are not recommending an increase to the existing per diem rates.

MS. MARTINEZ: That is correct. And even without an increase there will be a couple of times in the course of the fiscal year where we will have to review each travel voucher. And if they exceed the IRS rate, which is cumbersome, because it's dependent on the time of the year that you're in and it's dependent on the travel area. So you literally have to look at a 10 to 15-page breakdown of every city within the state and make sure they did not exceed that rate. And if they do then I will have to go and increase that 6 to 15 to whatever the dollar value is on that traveler's W-2.

COMMISSIONER STEFANICS: Well, Mr. Chair, the reason I'm asking that is because our item talks about discussion and approval of proposed increases.

MS. MARTINEZ: Mr. Chair, Commissioner Stefanics, I left it open in the event you were interested in increasing the rates. So that way if you wanted to take action you could.

COMMISSIONER STEFANICS: Okay, so Mr. Chair, Roman, I'm assuming that you concur with the negative recommendation.

MR. ABEYTA: Mr. Chair, Commissioner Stefanics, yes.

COMMISSIONER STEFANICS: Thank you very much, Mr. Chair.

CHAIR MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I move we go with staff's recommendation to keep the per diem as is.

COMMISSIONER STEFANICS: I'll second.

CHAIR MONTOYA: Okay. Motion and second. Motion, Commissioner Vigil, second, Commissioner Stefanics. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. Teresa, with regard to the cutbacks that we've actually implemented with regard to travel, have we seen any impact on that to our budget? Because I think we're currently at a place where we're only doing essential travel, certification travel, emergency travel, those kinds of things. Are you getting less and less requests for per diem?

MS. MARTINEZ: Mr. Chair, Commissioner Vigil, we are, and internally what we have done is we had asked all departments to prepare a list to identify to us all staff that had specialized licensure or trainings that they were accomplishing and in the middle of and then basically those will be the only travel allowed this fiscal year. So staff is very well aware of that

and the amount of claims that are coming in are definitely reduced. So we should have some savings within our travel category by the end of the fiscal year if things continue status quo.

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

CHAIR MONTTOYA: Okay. So there is one increase and it's going to take effect January 1st and that will be the mileage from 40 to 44 cents. Is that correct?

MS. MARTINEZ: Mr. Chair, that's correct. And the way we created the original resolution that put our travel policy in place we basically worded it as such that any time DFA makes a change we follow the corresponding change. So when that increase is implemented we'll implement it as well.

CHAIR MONTTOYA: Okay. So does that require approval from the Board?

MS. MARTINEZ: No, sir.

CHAIR MONTTOYA: Okay. That's an automatic.

MS. MARTINEZ: Yes.

CHAIR MONTTOYA: Okay. We have a motion and second.

The motion passed by unanimous [4-0] voice vote.

CHAIR MONTTOYA: Okay. We will adjourn till 2:00. And then at 2:00, the first item back will be the new judicial courthouse complex update.

[The Commission recessed from 12:35 to 2:05.]

CHAIR MONTTOYA: I'd like to call this meeting back to order. I hope everyone had a good lunch.

XIII. C. Matters from the County Manager

2. New Judicial Courthouse Complex [Exhibit 1: Power Point Presentation]

MR. ABEYTA: Thank you, Mr. Chair. We've been waiting for this presentation for quite some time now, so I, along with the Commission look forward to hearing what Joseph Gutierrez and the staff have to say. Joseph.

JOSEPH GUTIERREZ (Community Services Director): Thank you, Mr. Chair. What we have for you today is an update and the update is we're bringing a lot of information to you that we've covered over the last six or seven months. The last two months we made a lot of progress in terms of a plan to address the environmental issues at the courthouse and get the project started. The purpose of today's meeting is basically just to give you an update of where we're at. We're going to let you know what costs are involved and our plan is to come back to you on November 10th for approval of a change order to the contractor and approval of an amendment to the architect at that point, but we're not going to

do that today.

As we get started, we have a lot of expertise that's been involved in this, and I want to start by just introducing the project team and if you all can just stand up when I call your name. With the architect we have John Lehman, who is with NCA. The contractor is Bradbury Stamm and we have two representatives. We have Dan Lyons and we have John Brown. We have another company that's working with us. They're not here today. That's Souder Miller. The County's environmental consultant is – the company is Intera and with us today we have Joe Tracy. We also have an environmental attorney with us today who's representing Santa Fe County on these matters and his name is Ned Kendrick.

We also have representatives here from NMED. We have Jim Norton who is the director of the Petroleum Storage Tank Bureau. We have Jim Davis who is also with the same division. And we also have Susan Van Gotten who's also with NMED, a project manager. In addition we have Judge Pfeffer with us today, Judge Hall.

The first thing that we're going to cover today, and I'm not going to cover that but the presentation will cover all the environmental findings that we have basically on the site and off the site. As we go through this presentation you'll see how we address matters that on the County site and issues that we have offsite. We want to look at – we are looking at the design features that are going to protect the building and the things that we need to put in place to move this project forward. We're going to cover the additional costs that these items are going to require to keep the building free of contamination and keep the area clean over both offsite and onsite.

Through this process we've been coordinating all the efforts with NMED. Like I said before, the last two months NMED has joined us. We have weekly project meetings on the courthouse and NMED has been at all these meetings starting in September and we've made significant progress over the last two months. There's three items that cover what's going to be onsite, basically. There's three issues, protective measures that we need to take place on our site and the first one is what we call the barrier wall, and we'll have an expert testify to that, bring you some information on that. But this is basically the piece of the project that is going to basically get us to the site much quicker and expedite the construction process of the courthouse.

In addition to that we have to look at the contamination removal, removing all the soil that's contaminated on the County site and then for long-term protection of the building, we refer to this and this is actually something that we've been looking at since March, and we call it the bathtub. It's an outer protective concrete wall that basically protects the lower level parking garage. That's the second level. And to go into these protective measures I want to introduce Joe Tracy with Intera and he'll cover some of these items.

JOE TRACY: Mr. Chair, members of the Commission, thank you for the opportunity to present here today, the opportunity to work for you all. What we'd like to show you in this first slide is basically the work that we've conducted most of the summer and early fall 2009. Basically, most of the wells you see there were installed by Intera. What we're showing here is basically the County site outlined in black. That green line that you see

is the construction excavation. We're showing the former Texaco where the Santa Fe Journal building is now is the blue line immediately east. Then to the south across Montezuma you have the Hinkle Building which is the 210-218 Montezuma petroleum release site, and then immediately east of there across Galisteo is the Saveur Restaurant which was the former capitol, also a petroleum release site.

Essentially we installed approximately 25 borings and then installed maybe 20 wells on the County property and two wells to the north of the County site in an effort to try to define where the LNAPL is located. Again, LNAPL stands for light non-aqueous phase liquid. Essentially what that means is that's the gasoline in this case, leaded gasoline that's located at or near the surface of the water table.

Just to give you a little bit more background about other things that we've been doing, we've also, been performing – there's six wells that are located to the east and immediately north of the east side of the excavation that we've been skimming LNAPL out of. The County was very adamant about they wanted some sort of interim remediation going forward while we were studying and investigating prior to more formal and larger remediation activities. So we've recovered about 350 gallons of LNAPL to date and we'll continue that process on until we increase our remediation efforts.

Other things that we've done that you may or may not know, we've been monitoring the air in the DA building. We sample it twice a month and that work will continue for the next several months and hopefully continue to confirm that we don't have any air issues in that building.

The other work that we've done this summer was we have begun a voluntary remediation approach with NMED and working toward a solution. Basically, we've met several times and we've had countless meetings in trying to determine how best to remediate this problem of onsite and regionally. They've been very helpful. We've made a lot of progress.

Here's a joint configuration of our interpretation of the LNAPL plume. Again, the County excavation area for construction is outlined in green. What's outlined there in purple is the area of our interest. That is where we're going to do our soil removal work. So to give you the background, what happened was in early September Governor Richardson and Secretary Curry and other members of the Environmental Department decided to make this regional area a State Lead Petroleum Storage Tank Bureau remediation site. And the agreement was that they would take care of all of the LNAPL and dissolved phase groundwater contamination and the County is responsible for the LNAPL and the contaminated soil that you see outlined there in purple. Now, essentially, that is where the two-story subsurface garage is going to be underneath the plaza.

To that end, again, we talked about this back in May, I believe, when we were here. The construction is offering us a very good opportunity to remove quite a bit of mass. It helps NMED on a regional level because we are going to be taking so much soil out of the ground and it is impacted with quite a bit of LNAPL.

The map here is basically what the project team has agreed is the best remediation

effort for the County property as well as for the region and that is the installation of this injection grout wall and that would be installed in situ basically all the way around the area that we have to excavate. It's high pressure grout that's installed in the subsurface from approximately two feet above the water table to about 18 feet below. So it's a 20-foot vertical wall, essentially two to three feet thick. And what it allow us to do is to – we would have to dewater less in order to remove the soil and then also it causes us to minimize the effect it will have on the LNAPL around the County property.

So here we show in cross section the way we're going to do the removal. Essentially, this is if you're at Montezuma looking north. You see we have shown there the overburden soil that's located – that's still there. We'll end up removing that, screening it and using it eventually for backfill. What's located just below that is where most of the impacted soil is, where the LNAPL is, just at the surface or at the near surface of the groundwater table. You can see on each side, essentially what we're going to have there is this injection grout wall and again, that's going to limit the amount we're going to have to dewater and it provides us a good barrier to the LNAPL when we go ahead and dig that soil out.

We're removing approximately 8,500 cubic yards is our estimate that will need to come out and be disposed of. There's a large cost associated with disposal of that material. The zone that you see there of contamination, that's essentially a 12-foot deep area. It starts just above the water table as you can see and extends approximately 10 feet below the water table. We think at that depth we'll pretty much be through the most grossly contaminated soil. The way the work will proceed is that that top three feet, when that's removed, it will basically get a large majority of the contamination there. What we remove below that is helpful but we'll do that as we dewater. The top two feet will be taken out and also we'll have some tanker trucks in there to such the LNAPL out of the excavation. It will be kind of an LNAPL-water mixture.

Here's what we're showing. Essentially, when we're on the way back, the backfill will have an amendment added to it that will help the groundwater remediation. The backfill will be brought up just to basically where the construction team needs to start installing their grade beams. That grade beam, essentially – and there's other folks here that can explain it better, but that sets on the piers that support the floor for the garage. There's a liner. It's essentially a geo-textile project that's going to be below the parking structure. It's going to be below the secure parking area. It's going to line the walls of the excavation. And that prevents vapors as well as it waterproofs the building.

The next level of protection is the bathtub, and that's a 12-inch thick steel reinforced concrete slab sidewalls as well as the floor. Robert Martinez with Gerald Martin is going to come up here now and describe a little bit more about the bathtub and how it's constructed.

ROBERT MARTINEZ: Mr. Chair, Commissioners. Hi. I'm Robert Martinez with Gerald Martin, owner's representative for the project. I think what I'm going to do here is just touch upon the things that Joe already talked about. Essentially, right now you already have this barrier wall underground that's built that protects the site from recontamination of the LNAPL or the gasoline, and from the water table flooding the site any further. So now

that you've got the site protected you need to protect the building, which is what this liner is all about. We call it the bathtub method because what you're doing is essentially wrapping the entire site, i.e., the building, with this liner that protects you from any further contamination as well, any of the dissolved phase manners.

So the liner as you can see goes from the east side on the right, it goes all the way down below the structure, all the way over to the west and back up to the ground surface level. In addition to that the walls, the building as Joe had indicated, are 12 inches thick. Now, the base of this or the floor of this structure used to be six, it is now 12 as well. So essentially what you're doing is wrapping the building and creating somewhat of a bathtub effect, hence the name.

CHAIR MONTROYA: Thank you, Robert.

MR. GUTIERREZ: The next slide will talk about the finances to this. And I know that we have two Commissioners that weren't here when we set up the revenues and the budget structure for the courthouse. I'm just going to go back a little bit and let you all know the funds that we do have for the courthouse. We did receive early on \$1,026,500 from the state. These were state capital outlay grants. I'd say about 99 percent of that fund has been expended. We had a voter-approved 2007 general obligation bond for \$25 million. We had a revenue bond sale, and that was off the unallocated 1/16 County GRT. That generated \$30 million. Some of this fund is in the bank, so we earn interest while it's there. Today we've earned about \$2.7 million interest. So what we have available for this project is \$58, almost \$59 million.

What we've expended to date is, as you can see, a little under \$14 million. We have purchase orders in place. We have the old contract for the building, the architect, the construction manager, some environmental services. Many things we have in there. In addition to that, in that \$41 million figure, we started the project with a \$3.8 million contingency. We put 10 percent of the budget away to allow for contingency. To date we haven't expended that contingency. And even after that, right now we have available that's unallocated is about \$3.2 million.

So we go to the next slide, and if I take the available balance and I take the contingency that's not spent, that leaves us about \$7 million available to deal with issues that are arising on this project. Again, I mentioned earlier on that on November 10th, in order to get this project going again and implement the things that we need to do starting in November, December and January, these are the costs associated with it. The first cost there is the architectural redesign for the bathtub and some HVAC units, and that's \$44,000. The barrier wall, which is a grout wall, this is an estimated \$875,000. Our contractor is going to solicit proposals and we're hoping that that number will come down a little bit. I don't think it will come down significantly, but it may be a little bit lower.

The process to remove the contaminated soil, we have a contractor on board, and that cost will be approximately \$450,000. To dispose of the soil is a very expensive process because of the contamination levels, and on the high end now we're estimating that to be \$825,000. And the final component of this is the bathtub, which provides the long-term protection for

the building. That's a little under \$1 million. All of these things total approximately \$3.2 million. And again, I emphasize these are the items that we'll bring for approval on November 10th.

The remaining balance after we make expenditures for these items will be this \$3.8 million for the project. And I have to inform you that this \$3.8 million is not unallocated at this point; there are costs that we're incurring for the delays and those types of things, and we're looking at all the costs associated with the continuation of this project. This \$3.8 million at this point seems like it would be enough, but it's a very tight number at this point.

In order to get the project going, get these preventative measures in place, this is in a capsule basically an executive summary of where the funding is, what we need to place, what we're going to ask you to approve on November 10th. With that, I want to introduce Jim Norton and he'll cover what the New Mexico Department of the Environmental is doing offsite.

JIM NORTON: Thank you, Joseph. I'm Jim Norton, director of the Environmental Protection Division at the Environmental Department. I wanted to emphasize that the state and the County have been working really well together on this project. We initially did some additionally drilling, and the County was drilling on one side and we were drilling on the other side of the anticipated pollution plume and we've pretty well delineated now where that pollution is. And we were meeting regularly to share our results and make sure that we all knew what each other knew.

The game really changed for us in early September when Governor Richardson told us to take this as a State Lead Site. That really helped, because it opened up the Corrective Action Fund, which is a fund that's set up specifically to clean up leaks from underground gas tanks and above-ground gas tanks. So we will now be in a position to do the cleanup around the outside of the construction site. We'll be hearing in just a minute from Jim Davis who's the Bureau Chief of the Petroleum Storage Tank Bureau, and Mike McVay from Daniel B. Stevens, the consultant that we've selected to do this really quite innovative cleanup. We're excited about the technology that will be used to do this clean up here.

We really have two sort of similar priorities. The first is to clean up the site and we're confident that this will be able to happen. And the second is we want to do it quickly, because we know about the needs of the County to get this courthouse in place. Jim Davis will be talking a little bit in more detail about the process that we've gone through to get our contractor on board and then you'll be hearing from Mike McVay about some of the specifics of the cleanup that will take place. Thanks for having me back here. Last time I was here I had a terrible accident and I'm glad to be standing.

JIM DAVIS: Thank you, Mr. Chair, members of the Commission. My name is Jim Davis. I'm Bureau Chief of the Petroleum Storage Tank Bureau. I think it's going to be my turn to faint today. As Jim indicated and as others have said before me, the Governor directed us on September 3rd to take this as a State Lead Site. We immediately initiated what we call an expedited procurement process through the state procurement code. We published an RFP. It was a competitive selection. We had three good respondents. We actually had a

good group of respondents to choose from and we picked the best one, both in terms of their technology as well as in their cost of proposals. We are aware that we need to manage the fund careful, and accordingly we are going to do our best to do that.

This process took us a month and we did go through and has been indicated we selected Daniel B. Stevens and Associates as the winning contractor. We are currently working with them. We have sufficient budget authority and we are beginning to obligate money and we're moving forward rapidly with this. And I'll let Mr. Mike McVay talk in detail about the proposed technology. As Jim Norton did say it's innovative. We're going to be using horizontal wells. One of the things that allows us to do this is the fact that the construction area is still open and we can get down into that vertical face and drill horizontal wells through that vertical face and then surface them at some distance away. And I'll introduce Mike right now and I'll sit down and shut up.

CHAIR MONTOYA: Thank you, Jim.

MIKE MCVAY: Mr. Chair, Commissioners, I want to briefly discuss the approach that the New Mexico Environmental Department is going to take in remediating the site. The primary focus that the New Mexico Environmental Department has is to remove LNAPL outside of the construction site area. To do this we're going to install a remediation system. The major components of the system are noted here. It will include two secure equipment enclosures with thermal oxidizing and hot air injection technologies, and I'll discuss those briefly in a minute. Nine vertical and two horizontal vapor extraction wells, five vertical and one horizontal air injection well, and five new groundwater monitoring wells for doing a pilot test and determining some of the subsurface characteristics to make sure that we've got our wells spaced properly and those kind of things.

Basically the technology, simplistically, is that we will install a number of soil vapor extraction wells, and what those wells do is you'll apply a vacuum to those wells, which will suck contaminants out of the subsurface. At the same time that you're creating a vacuum and sucking vapor out of the subsurface you're also injecting hot air into the subsurface which enhances volatilization of the organics and makes it more readily available to be removed from the subsurface.

If you'll notice on the map here the figure that I have overhead, you can notice that there are SVE 1 through 9. You'll notice those are the red triangles. Those will be vertical vapor extraction wells that will be installed to about 40 feet below the subsurface. And then the three yellow lines that you see there are the horizontal wells. The two outside ones will be vapor extraction wells and the inside one will be an air injection well, again, with the idea that you inject hot air in the middle, and this is where a major portion of the LNAPL plume is and it's very difficult to get at.

We looked at a lot of different approaches to addressing the LNAPL under the building but the best was to actually get under the building. So these wells will actually be installed as Jim had mentioned through the north face of the excavation. So we're going to drop the excavation depth down about ten feet and we're actually going to install these wells into the face at a depth of about 25 to 30 feet below ground surface. So we'll drill directly

into the north facing wall for a distance of about 175 feet, and then we will surface those wells on the north side of the DA building.

The installation of these horizontal wells will not affect activities in the DA building. Again, they're going to be 25 to 30 feet below ground surface so there won't be any interference in that regard. You'll also notice the two green rectangles on the site. These will be temporary, secure buildings that will blend in with the surroundings, and they're put up to house the remediation equipment that we will need to operate the system, to inject the hot air and to extract the vapor from the subsurface.

The estimated costs through this FY that we're going to expend in the next seven to eight months is currently estimated to be about \$2.9 million. Now, of utmost importance to us in the New Mexico Environment Department, obviously, is coordination with the County. It's our desire to move this thing forward. The County and the New Mexico Environmental Department, the two project teams have been working closely together. So we are going to be actively coordinating throughout this process, particularly during the time when we need to install those horizontal monitor wells, or the horizontal extraction and air injection wells. That will really be the only time that the New Mexico Environmental Department will be actually inside the excavation. So we're making sure that we have our efforts coordinated, that we're not going to slow down the process or stop the construction process on the County courthouse. So again, very close interaction, scheduling between parties there.

The complete remediation of the LNAPL, we're estimating that we can get the LNAPL out of the ground in a period of about 24 to 36 months using this technology that we've proposed. And then once we've removed the LNAPL then the remaining contamination, dissolved phase contamination in the groundwater then we can allow to naturally attenuating. Thank you.

CHAIR MONTOYA: Thank you.

MR. GUTIERREZ: In closing I just want to mention in terms of what you've heard in the presentation, and hearing from the Commission several times in terms of your priority was that the hazard is moved from the site, the contamination, and the public and staff would be safe in the building. So we feel that we've addressed this in this plan. Also there's not the need to eliminate any parking. We'll keep two levels of parking with this plan. The additional design features will protect the users in the building. Again, this process is going to cost – the need for additional dollars for the project, as I mentioned and showed you in terms of where we stand on the budget – all these efforts have been closely coordinated with NMED, and as Mike mentioned, the schedules, we have our project team, their project team, in terms of we have the schedule down to the day and the week for the next four or five months, so there's going to be a lot of activity there. And with all this being said, right now we're looking at completion of the courthouse – and this is a rough estimate but I think it's close, we're looking at some time between February and April of 2012 with this schedule.

A lot is going to be determined by how quickly we start these activities and how well they move forward over the next probably three to four months. And with that, I stand for any questions. We have a lot of expertise here that can address any questions that you have.

CHAIR MONTTOYA: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. I have a couple of questions about the extraction wells. One is do they operate 24 hours a day? And secondly, are they noisy? And thirdly, it sounds like you get vapor that's coming out of it, so how do you collect the vapor and how do you dispose of the vapor?

MR. MCVAY: These wells again are completed to a depth of about 45 feet. They are – the actual head of the well sits about three feet below ground surface. But the way that the wells are connected is through a series of pipes that are run in trenches. So what we'll be doing is we'll be trenching between wells and then we'll have pipes running between the wells that actually connect the wells. That trench will then be backfilled with a cement or something like that, and then brought to grade. So to answer quickly no, there will be no noise. There will be no vapors associated with the wells themselves because they'll be sealed. Everything coming out of the wells will be contained within those pipes and then be conveyed to the equipment buildings.

COMMISSIONER HOLIAN: And then the vapor itself, is it condensed and then taken offsite somehow? Where does it go?

MR. MCVAY: The vapor itself, the thermal oxidizer, in a simplistic explanation is basically a big furnace. And so what happens is you draw the vapors, the contaminated vapors into the thermal oxidizer and they're burned up. They're combusted.

COMMISSIONER HOLIAN: I see. And can the – it wasn't entirely clear to me, but can the construction start before the cleanup is completed? And how much cleanup has to be completed before it can start?

MR. TRACY: Essentially, the barrier wall has to go in first and that's the advantage of having that. We can go ahead and do the contaminated soil removal and then immediately start backfilling and start construction while Mike and his team are working offsite. That barrier wall gives us that buffer and security that the LNAPL is on the other side of that, and it gives these times to get it out.

COMMISSIONER HOLIAN: Okay. Thank you.

CHAIR MONTTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. I would really like to thank all the parties that have been working together on this and I really appreciate that we have a plan and we're moving ahead. I would also ask specifically to the Environmental of the state if there are any action steps that you believe the County is still lacking. I know that we've been cooperating and coordinating on this process, but I know that there's been questions from the public and concerns that we're not always doing what you want us to do from the state level side. I just want to find out if you feel that there's some piece that's missing or are those things that we will learn as we continue to go or whatever? And I don't know if you want to answer that, Mr. Norton.

MR. NORTON: Thank you for the question. The County's been working really well with us and there aren't any missing links at this stage. As you know, there were some problems early on, some months ago, but that's all behind us and we've been working

really well together. There will be some permits that the County will need to get for both air quality and for groundwater, but we're already working on those together, and I don't anticipate there will be any problems with meeting all the necessary requirements on those as well, and I really do want to emphasize the County's been great and we're working really well together and there aren't any missing pieces that aren't being addressed.

COMMISSIONER STEFANICS: Well, again, Mr. Chair, I really want to thank all the parties for the cooperation and coordination and just ask that our County keep open the lines of communication that we don't hit a stumbling block six months down the line or 12 months down the line so that we can keep moving on this. I know that the taxpayers are very concerned, not only about the money but also about protecting the public and the employees and making it a safe environmental. So it's great, and I hope that we just continue the great communication. Thank you, Mr. Chair.

CHAIR MONTOYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, and I guess I'm just wanting further clarification on it. The barrier wall needs to be placed before we can even start any kind of construction. Do you have a specific timeframe? Or what is the average amount of time? Give me something to look forward to here.

MR. TRACY: Yes, the barrier wall right now – right now, the construction schedule is as that the barrier wall will go in or start in November and should be done some time in early January, and then our hope is that we begin the contaminated soil removal sometime later in January.

COMMISSIONER VIGIL: Okay. Is that kind of construction subject to weather?

MR. TRACY: No, actually. I can't speak to if the weather gets really bad it may cause some minor delays. But everything's done with a probe. The equipment is at the surface and it's injected downward so we don't anticipate any significant delays from weather.

COMMISSIONER VIGIL: Okay. More specifically, the barrier wall needs to get in there. Does the bathtub need to get in there before we can start construction?

MR. TRACY: No, the bathtub is the first phase of construction, if you will.

COMMISSIONER VIGIL: So the bathtub is before the barrier wall?

MR. TRACY: No, the barrier wall is first, and then we talked about that liner material, that vapor/waterproofing. That would be second. And then the third thing would be the bathtub.

COMMISSIONER VIGIL: Okay. So construction can begin when the barrier wall is constructed and erected and it does not have to wait for the bathtub?

MR. TRACY: Right. The barrier wall goes in. We do the contaminated soil removal. The clean fill goes in, then the liner and then the bathtub.

COMMISSIONER VIGIL: So is it fair to say when we approve any kind of budget on this that construction would begin sometime in January for the actual judicial complex?

MR. TRACY: Yes, I think that's fair to say. The way the current schedule is is that the barrier wall is considered construction. Bradbury and their superintendent will be back on site. He starts construction essentially then. There will be work going on. There's not a whole lot the construction team can do until that contaminated soil removal process is done but what that's over with and we're backfilled then they can go to work.

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

CHAIR MONTOYA: Okay. In terms of the – you said 350 gallons of the LNAPL has been collected so far? What might be anticipated, given that we've collected that much so far, just from this one site – if we were to look at the bigger picture of the whole site?

MR. TRACY: Well, we did some testing. Essentially our model showed that there's about 29,000 gallons that were released onsite and we thought we could recover a good portion of that. So the skimming – it's very helpful but it's not a remediation technique that is going to get a lot of material out of the ground quickly.

CHAIR MONTOYA: Okay.

MR. TRACY: So again, the process that we're going to take onsite with doing the LNAPL removal, plus the contaminated soil removal is a very effective remediation technique. It goes quite quickly. The schedule right now is approximately 30 to 42 days for the contaminated soil removal, 17 or 18 days for the backfill and get ready for construction.

CHAIR MONTOYA: And this is with a commencement date of November 1st this year?

MR. TRACY: November 17th. It's going to have to be after the next Commission meeting I think.

CHAIR MONTOYA: Okay. I guess that leads me to the next question then. In terms of the \$3.1 million we're going to be asked to approve on November 10th, is this all from the revenues that we've generated for the construction of this courthouse?

MR. GUTIERREZ: Mr. Chair, that's correct. Right now we're not looking at bringing additional dollars to this project, but approval of the \$3.1 million or \$3.2 million probably won't be the last approval process of expenditures that are going to take place for the construction of this project.

CHAIR MONTOYA: Okay. Then, the Corrective Action Fund, is any of that fund available to offset some of these costs for the contamination cleanup?

MR. DAVIS: Mr. Chair, Commission members, the \$2.9 million that we presented a little while ago is coming from the Corrective Action Fund and that's what we anticipate will materialize this fiscal year before June 30th, and that's what our plans are right now for expenditures. Now, this is outside of the construction footprint. This is the surrounding area both owned by the County as well as owned by others – mixed ownership – but that's for the work that's done outside of the construction footprint, which involves these vapor extraction wells, equipment compounds, etc.

CHAIR MONTOYA: So the \$2.9 million is anticipated to cover the cleanup outside of our site then.

MR. DAVIS: Outside of the construction area, that's correct. Yes, sir.

CHAIR MONTTOYA: Okay. So that pretty much takes care of that fund then, in terms of any other available resources. Is there a balance beyond the \$2.9 million that we could apply for? Or is \$2.9 million the total amount that's in that Corrective Action Fund?

MR. DAVIS: No, by no means, Mr. Chair, is it the total amount. The revenues to the fund fluctuate a little bit but run between \$18 and \$19 million a year. We use \$12 million of that for dirt work for these kinds of projects. We have probably 30 or 40 engineered systems like this operating at various locations around the state, so we use the fund to support all of these activities. This \$2.9 million is specific for this one project but it by no means represents the entire fund.

CHAIR MONTTOYA: Okay. So my question then is are we eligible to apply for any of that funding as part of our cleanup?

MR. DAVIS: The short answer, Mr. Chair, is no. When we took this as a State Lead Project, we were directed to take this as a State Lead Project, our responsibility is, we understood it and continue to understand it, is to clean up the contamination that is outside of the construction footprint. And that's it, and that's what we will do. Now, the way the fund is triggered, and this is not a typical case. What we're dealing with here with the County is somewhat unusual as I'm sure everyone would agree. The Corrective Action Fund is established by state law to provide the environmental remediation insurance required by federal law for all owners and operators of petroleum storage tanks. The County, to our knowledge, never has been an owner or operator of a storage tank at this location. So the only way we could use the fund is if we took this as a State Lead Site, otherwise we would not have been able to access the Corrective Action Fund, because of these statutory limits that are placed on its utilization. So the short answer is no, the County's not eligible to apply for anything because the County was never a tank owner. The fund applies to tank owners except when we're dealing with an area-wide contamination plume like this where we take it as a State Lead Project and then we clean it up.

CHAIR MONTTOYA: Okay. Commissioner Vigil, on that point.

COMMISSIONER VIGIL: On that point. Do you as a state agency become a party to any litigation against tank owners who contributed to that?

MR. DAVIS: Mr. Chair, Commissioner Vigil, I'm not a lawyer so I will start my answer with that caveat. The state always retains the right to cost-recover against entities that are considered responsible for pollution. And so we do retain that legal authority to attempt to cost recovery. But we are not subject to tort law. We can't be sued. There may be a third party lawsuit between property owners but the state does not get involved in that.

COMMISSIONER VIGIL: I'm looking at recovery dollars. So would your department look at the history of the ownership of those underground water tanks and try to seek recovery dollars for them?

MR. DAVIS: No, again, Mr. Chair and Commissioner Vigil, when we take a site State Lead we remove the potential of cost recovery. We are directly the project under a contract that we hold and the State Lead designation sweeps aside responsible parties. It is

different when we're remediating a privately owned gasoline facility that is operating at the corner of 123 4th Street in Somewhere, New Mexico. There we have an entity that we can point to and say this entity was responsible for this mass of pollution and we do retain the right to cost recover; we very rarely do it. And again, the reason is because if a facility owner is in compliance with our body of regulations then the Corrective Action Fund serves as their insurance policy, and as long as they're in compliance with our regulation there is no cost recovery issue presented to us. We pay for the cleanup as long as they're in compliance with the regulations.

Now, when we have a State Lead site, that's different. We sweep all of those things into it and we don't cost recover. We don't even attempt to.

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

CHAIR MONTOYA: I guess I would just comment that we would probably need to revisit that statute being that we inherited this contamination and now there's no recourse for us to seek any sort of remediation assistance. So if that's the way that statute's written in terms of eliminating people who inherit the problem, the potential to seek resources to be able to offset some of the costs that we're going to have to incur, well then I think we really need to take a look at that.

MR. DAVIS: Mr. Chair, if I could explain a little bit more, this in no way precludes any landowner from taking action against another landowner. That's a third party issue, something the state's not involved in.

CHAIR MONTOYA: But in terms of the Corrective Action Fund and the criteria to be eligible for it, it leaves people who have inherited out completely. Right?

MR. DAVIS: If you were never a tank owner, you were never eligible for the fund to begin with. You have no claim on the fund to begin with if you were not a tank owner. It's only under circumstances where it's a State Lead site and we don't ask the question about a tank owner. But if you were a tank owner and you experienced a release, and that release trespassed onto a neighbor, that's a third party issue. The state does not get involved in that.

CHAIR MONTOYA: But I think we still need to take a look at something in there that has some sort of protection for people that do assume the contamination as we have done so. In terms of the cleanup that was mentioned, I don't know if either one of you three are familiar with the cleanup at the Deming site, in terms of one of the fuel tanks that they have down there that had contamination and they cleaned it up. Is that going to be the same process? If you don't know that's okay.

MR. DAVIS: Mr. Chair, we have over 900 sites statewide and we have, off the top of my head I think we probably have three or four active sites in Deming right now. I'm not sure which one you're referring to.

CHAIR MONTOYA: Okay.

MR. DAVIS: But fundamentally, we do this – I hate to use the word routinely, but quite frankly we do. We clean up hundreds of sites around the state. We have about 35 or 40 engineered systems operating. We have about 300 work plans open right now. We spend

\$12 million a year here year in and year out doing this, so it's a relatively routine action for us.

CHAIR MONTTOYA: Okay. Thank you, Jim. Any other questions or comments? Roman.

MR. ABEYTA: Mr. Chair, we'll be back in two weeks like Joseph said with the action items so that we can move forward.

CHAIR MONTTOYA: Okay. All right. Thank you, gentlemen. Appreciate the update. Thank you.

XIII. D. 1. Update on Various Issues

MR. ABEYTA: Thank you, Mr. Chair. I've asked Rudy Garcia to give us a brief update regarding the special legislative session that just ended so that he can tell us how we're going to be impacted as a result of the special session. So if I could call Rudy up to give us that update. Thank you.

RUDY GARCIA (Community Services Department): Mr. Chair, Commissioners, good afternoon. As you know, the legislative session ended on Friday roughly about 7:30 in the evening. There's roughly about anywhere from 35 to 40 bills that were introduced by both the Senate and the House of Representatives. Roughly eight bills made it through both chambers and one Senate Joint Memorial. Actually there was a House Bill 1, which is actually the feed bill, that's the actual feed bill which is the operating budget for the special session. Then there was actually a House Bill 3. House Bill 3 is actually a bill that dealt with fund transfers and appropriated voids.

This proposed a fund transfer of about \$106 million from the state funds to the general fund which voided any appropriations back in 2008, which is about \$1.2 million. That bill, once again which did get passed and is on the Governor's desk for signature affected college affordability endowment funds, the pre-K fund, workman's compensation fund, uninsured employers fund, the federal aid fund. There's a lot of agencies and funds that that bill, House Bill 3, affected. One of the areas that it did affect was the state's E-911 addressing section from the state.

House Bill 6 is a bill that once again got passed. It allows the tax stabilization reserve and operating revenue to the general fund to address the fiscal year 2009 and 2010 budget shortfall. There was a House Bill 16 which reduces the general fund appropriation and in 2009 this actually cut permitted offices by 5.3 percent, which came out to about \$839,000.

There's also a Senate Bill 24 and Senate Bill 25. Those bills actually dealt with the public education, which is the state schools. Senate Bill 24 basically allowed the schools' capital outlay fund, which is roughly about \$29 million, is allowing the schools to pay for their insurance and contractual services. Senate Bill 25 authorizes the school districts to make temporary cash transfers into operational accounts from unexpended balances of last year, so they basically once again will be allowed a fluctuation in their Senate Bill, their operating

bill, to pay for insurances, contracts, contractual services, as well as janitorial services.

Senate Bill 29 allowed basically for any capital outlay projects that are basically going to replace them with STB so they took that general fund money and replaced it with STBs which is the sponge term that they were talking about throughout the session. And the important bill was actually House Bill 17. This was a bill that was introduced by Representative Lucky Varela and I have a copy of that bill here, the fiscal impact of that bill, so I'll hand it out. [Exhibit 2] The first page is actually a summary of the bill. This bill has several different sections, anywhere from Section 1 all the way to Section 11 and just actually describes what the state did and where they took money from and where they allocated money. How they're going to use the federal reserve monies to fill in the gap of the monies that they're actually going to allocate for the budget shortfall throughout the state.

So I won't go into this bill actually in detail but if you have any questions about it you're welcome to give me a call or I can see if I can answer any of those questions. One of the important things that everybody read in the paper this morning is regarding the capital outlay. That's something that the County is very interested in. We actually have several projects that DFA had said they were going to cut. LFC had said they were going to cut. We did meet with the representatives from Pojoaque Pueblo, James Rivera. We did manage to hopefully save about \$1,070,000 for a Pojoaque wastewater funding that we have there. There were several other, the Esperanza Shelter, the Santa Fe Mountain Center, there were a lot of projects that we did talk back and forth with, with like I said, DFA and LFC. We thought those projects were actually safe.

As everybody read in the paper the Governor actually has issued an executive order to freeze all capital outlay. There's been questions into whether he can do that or not. I've heard from some sources at DFA that the State of New Mexico constitution allows him to do that if there's a deficit in the budget. So there's still a question as to what is going to happen, whether it can, whether it won't. We don't know yet.

I did also hear from DFA this morning that they're going to send all local governments, meaning the counties and the cities in the State of New Mexico a standard grant agreement that takes away all of the previous grant agreements that we have with local government, which will actually freeze all of our grants that we have for any project in regards to capital, and they will meet with us to go over each project individually to see whether or not we have a third party contract with them, whether we have – how much money we have encumbered, and so on and so forth. So we'll be waiting to see how DFA is actually going to handle that. I stand for any questions if you all have any.

CHAIR MONTROYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thanks. We have already gone to DFA to identify the projects that are third party contracts, haven't we?

MR. GARCIA: Mr. Chair, Commissioner Vigil, yes, we have.

COMMISSIONER VIGIL: Okay. So they have as much information as we do right now. And perhaps maybe there are some straggling projects that they still need further information about. I think it's really good for us to know what those projects are. I think it's

good for us to have an update on the project status that require capital dollars. And one of the benefits of that is freezing capital could have unintended consequences, like some of these capital dollars that were transfers from general fund to severance tax bonds, if no sponge bonds are sold and severance tax increases – so many consequences could occur to the extent that I think we need to have as much information before us to evaluate how we want to move forward with projects.

For example, there are projects that we could reauthorize dollars for. We really need to identify those projects so those dollars don't get lost for Santa Fe County. And I can think of several projects that we could do that for. So I think this is a good opportunity for us to step back, and Roman, I'll defer to you for leadership and guidance on this to really have an accurate accounting of our capital projects, to know what the criteria is. If it's third party agreements, which ones do, which ones don't. And to be able to strategize as a result of that knowledge, how we want to move forward in our capital requests.

MR. GARCIA: Mr. Chair, Commissioner Vigil, I totally agree and the County Manager and myself and the Projects Division, anybody who has a project that's affected by this freeze on projects, we have a meeting scheduled next Tuesday. I think it's 1:30 with the County Manager to go over just exactly what you're talking about.

COMMISSIONER VIGIL: Thank you very much. Thank you, Mr. Chair.

CHAIR MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair, and on this point, perhaps, Roman, we could put this on the agenda for November 10th, if not a long presentation at least a spreadsheet on what's different. I know that we had the spreadsheet before on the capital projects of the \$10 million to \$6 million, but any other contracts that might be affected as well. Thank you.

CHAIR MONTOYA: All right, Rudy. Thanks. And do we know when more or less we might find out whether or not that is constitutionally viable.

MR. GARCIA: Mr. Chair, as it moves forward, as I hear things I'll keep you all informed as I've been doing, emailing you guys. And the Governor has up to the 12th of November to sign any bill that's on his desk.

CHAIR MONTOYA: Okay. Commissioner Stefanics.

COMMISSIONER STEFANICS: I just – earlier today I received an email saying that Diane Denish, our Lt. Governor agreed with the Governor on the freeze on capital and sent out a little press release. So I think they're getting a little united on this. Whether or not it's constitutional is a different question.

CHAIR MONTOYA: Yes, that's my question, can they do that. To be continued.

MR. GARCIA: Thank you.

CHAIR MONTOYA: Thank you, Rudy.

XIII. D. 3. Santa Fe City and County Alcohol Abuse 60-Day Report Findings and Recommendations [Exhibit 3: Summary]

MR. ABEYTA: Mr. Chair, we had a detailed presentation near the end of September, beginning of October where we presented all of the findings of the City-County Alcohol Abuse Task Force and the subcommittees. I have those recommendations in the packet. What I am requesting now is approval of the findings and recommendations by the Board. Our next step as a City and County is to do a fiscal impact analysis and the County's taking the lead on that. So we're going to analyze the fiscal impact to both the City and County of these different recommendations and these recommendations will only be implemented based on our ability to fund them as a City and County. And we will make that clear and reiterate that in January when we present a 90-day report to the City and the County.

So there haven't been any changes to any of the recommendations since October when we presented the details to the Commission at a joint City-County meeting and the City of Santa Fe has adopted the recommendations, again, subject to there being adequate funding in place. So staff would recommend that the County do the same today.

CHAIR MONTOYA: Okay. Any discussion on that?

COMMISSIONER STEFANICS: Mr. Chair.

CHAIR MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: I'll wait for discussion. If not, I'll have a motion.

COMMISSIONER VIGIL: Can we take action on this the way it's been noticed? Santa Fe City and County Alcohol Abuse 60-day report findings and recommendations?

MR. ABEYTA: Just accepting the recommendations? Yes, we can, because we're accepting the recommendations.

COMMISSIONER VIGIL: Okay, to accept the recommendations.

COMMISSIONER STEFANICS: So, Mr. Chair, I would move that we accept the recommendations with the stipulation that they either be budget-neutral or that an identified source of revenue be clear before we enact any of them. Thank you.

COMMISSIONER VIGIL: Second.

CHAIR MONTOYA: Okay, we have a motion by Commissioner Stefanics, second Commissioner Vigil. Discussion?

The motion passed by unanimous 4-0] voice vote.

XIII. D. Matters from the County Attorney

1. Executive Session

- a. Discussion of Pending or Threatened Litigation**
- c. Discussion of the Purchase, Acquisition or Disposal of Real Property**

MR. ROSS: Mr. Chair, we need a closed executive session, brief one, to discuss pending or threatened litigation and purchase, acquisition, disposal of real property.

COMMISSIONER HOLIAN: Mr. Chair, I move that we go into executive session where we will discuss pending or threatened litigation and discussion of purchase, acquisition or disposal of real property or water rights.

CHAIR MONTOYA: We have a motion by Commissioner Holian.

COMMISSIONER STEFANICS: Second.

CHAIR MONTOYA: Second, Commissioner Stefanics.

COMMISSIONER VIGIL: I wonder if that motion needs to be amended to include collective bargaining? Does it? No. Thank you. I just thought it might.

The motion passed by unanimous [4-0] roll call vote with Commissioners Holian, Stefanics, Vigil and Montoya all voting in the affirmative.

[The Commission met in executive session from 3:10 to 4:52.]

CHAIR MONTOYA: Let's call this meeting back to order. Can I have a motion to come out of executive session please?

COMMISSIONER STEFANICS: I move that we come out of executive session without having made any decisions.

CHAIR MONTOYA: I'll second.

The motion passed by unanimous [4-0] voice vote.

MR. ROSS: Mr. Chair, we should also state for the record and I can do that now, that we only discussed pending or threatened litigation and discussion of the purchase, acquisition or disposal of real property.

CHAIR MONTOYA: Okay. Thank you, Steve.

XIII. D. 2. Ordinance No. 2009-11. An Ordinance to Prohibit Excessive Unnecessary and Unreasonable Noise and Public Nuisances

COMMISSIONER STEFANICS: Mr. Chair, I move for approval.

COMMISSIONER HOLIAN: Second.

CHAIR MONTOYA: Motion by Commissioner Stefanics, second by

Commissioner Holian. Any discussion?

COMMISSIONER STEFANICS: I would like to thank the Commissioner for bringing this forward.

COMMISSIONER HOLIAN: And I would like to second that.

CHAIR MONTOYA: Okay. I'll third it.

The motion passed by unanimous [4-0] roll call vote with Commissioners Holian, Stefanics, Vigil and Montoya all voting in the affirmative.

XIII. E. Growth Management Department

1. Staff Recommendation for Conjunctive Management Well Locations-Based Input from Public Meetings (Water and Wastewater Operations) [Exhibit 4: Support Material]

KAREN TORRES (County Hydrologist): Thank you, Mr. Chair, Commissioners. This afternoon is actually just an update on this program. This is not for a vote today. I tried to make the deadline for the packet. I just finished my analysis yesterday. At any rate, I just wanted to give you a brief update on what's happening with this. The analysis for this well is complete but we do want to seek public input before we have our final recommendation to the Board. We're requesting to come forward on November 10th with our final recommendation. But in the meantime I just wanted to update you on what we have done.

The staff has conducted six public meetings. We've gotten significant input from the public. We started out this analysis as a map-based analysis with ten factors. Now we have increased that to 11 factors for a map-based analysis and have added four other factors based on public input. And those other factors are primarily site-specific factors which I won't get into in big detail today. But at any rate we have gone through and modified our analysis, modified the data set, and we have a preliminary ranking that we'd like to share today.

With the map I've included it shows more or less where these wells are located at. The kind of map that you're looking at, which is kind of a crazy looking map, actually, probably one of the weirdest maps I've ever created, but it's the adding all the 11 factors together and you'll see that the wells have a label on them and below them is the ranking based on what we're calling the map-based analysis or these map-based factors.

And then all these suitability factors are described in a little spreadsheet there that has the gray bar on the top. And then what we ended up doing was taking input from the public and adding these other site-specific factors onto that. We added a well specific factor, meaning is there a well onsite for the property? If there is a well, what is the production? So we bandaged it out that way. We also looked at cost-specific factors. We have a cost estimate on connection of these well sites to our infrastructure, and we also looked at depletions to springs and streams. So those are additional factors that were put on there.

So we took all these suitability factors, added them all up, and I'm just going to name off the top five well sites. And I don't think this is going to change too much after public input but we'll see after that. The highest scoring site was actually tied, our Public Works well site and the Rancho Viejo site were our top scoring sites as far as costs and all the other factors that we looked at. And after that the rodeo grounds, which actually surprised me, so that was our number 3 site. The proposed Las Campanas site is our number 4, and a proposed site near the Public Works which we're calling the Cook site, which is an acre of land, is our number 5 ranked well site.

So that's the top five. Like I said, after public input this may change, but at any rate, that's what I wanted to report and I will stand for questions.

CHAIR MONTOYA: Go ahead.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. First of all, thank you, Karen, for all this work. This is an incredible amount of work to put this together, and I really, truly appreciate your going out into the community and soliciting so much input. I know you had a number of meetings. My question is is how many wells do we need as backups? How many do we have to choose?

MS. TORRES: Well, I was wanting to select five well sites. It doesn't mean that we have to have five big production wells working at this point, but it does leave us expansion for the future. So our need right now is for the folks on the County utility is about 400 acre-feet, and then once we start wholesaling to Las Campanas that's going to be about 600 acre-feet total water usage that we're going to have to back up immediately. So we do have need for additional backup supply immediately.

COMMISSIONER HOLIAN: And do each of these wells have a different amount of acre-feet in water rights that they have associated with them?

MS. TORRES: Well, none of these wells is actually permitted at this point. This is why we're going through this exercise and looking at the depletions and things like that. The amount of water rights that we have in basin is about 196 acre-feet of water rights. That includes our Hagerman water rights. So the analysis that I did looking at the depletions on the streams and the springs presumes that each of these well sites will be pumping that 196 acre-feet of water from that site.

As another component though, as we outlined in the conjunctive plan, we may be seeking a rolling average. So we may be increasing the pumping. I'm meeting with John Utton on Friday to discuss that, which will mean a whole other round of modeling efforts. But I think that can be accomplished in time for our meeting on November 10th.

COMMISSIONER HOLIAN: And what exactly is the decision that we're going to be making on November 10th?

MS. TORRES: What we're going to suggest is on our pending groundwater application we had cited, I believe, 14 different wells on there, and some of those wells really aren't suitable for production wells and production sites. We wanted to narrow that down to five sites. So we wanted to get a decision on what wells sites we wanted to pursue, and also we wanted to amend our application, our pending application to include our Hagerman water

rights and potentially include the rolling average too. So our strategy was if we're going to have to amend our application to add a well site we might as well amend it to include a lot of other things that we'd like to do.

COMMISSIONER HOLIAN: And the rolling average will be brought before us on November 10th as well?

MS. TORRES: Yes. If we decide to do it with this pending application. We might do it as a separate application, but again, we'll be discussing that with our water rights attorney as to the best way to go.

COMMISSIONER HOLIAN: Thank you, Karen.

CHAIR MONTTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. Thank you, Karen. Is it the rodeo grounds or is it the fairgrounds?

MS. TORRES: They're one and the same. It's the property that's owned by the County. I believe it's still one parcel.

COMMISSIONER STEFANICS: I was told that the rodeo grounds is owned privately.

MS. TORRES: Oh, really. The well site that's there, actually it's near where the Extension building is. So we call it the rodeo grounds well, so I apologize if that causes confusion.

COMMISSIONER STEFANICS: So let's clarify it. Are the fairgrounds and the rodeo grounds owned separately?

MR. ROSS: They're owned separately, Commissioner. We own the east side of the property and the rodeo owns the west.

COMMISSIONER STEFANICS: Thank you very much.

MS. TORRES: It would be on the east.

COMMISSIONER STEFANICS: So it would be the fairgrounds, the parcel that the County owns.

MS. TORRES: That's what we're looking at, yes.

COMMISSIONER STEFANICS: But the rodeo grounds are privately owned. So I think we need to clarify that for the private owner. Thank you.

MS. TORRES: Certainly. I apologize. It's the common name for that well.

CHAIR MONTTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Okay. And you are going to, I guess go out and seek some more public input on this, right?

MS. TORRES: Yes. My goal is to email – I've been emailing out information to most of the interested parties and they've been pretty good about getting feedback to me that way. So I have not emailed this out yet. Again, I just finished it up yesterday.

COMMISSIONER VIGIL: Well, this is huge. Thank you so very much. I remember when we were looking at sites and getting lots of feedback from all of our constituents saying no, yea, no, yea. So to really undertake this project and systemize it to the extent that you have some criteria to identify five top priorities is huge. Thank you so much.

Question with regard to timeline. The first priority well is in our Public Works area, and then the fifth priority well is right next to our Public Works area. So are we going to be able to move forward in identifying when – and I assume one of the first wells that we look into in this conjunctive management will be a production well, so that it would make sense to me that if we moved forward in a timeframe for a production well, we looked at this priority that the Public Works and the Cook well would be production wells. Because we would be investing in infrastructure so close to each other. There's some conclusions you can draw from the site locations here. Also not only are they prioritized and probably this has a lot to do with the criteria. They're right next to the Buckman Direct Diversion line, so the production well adjacent to that is also huge. Are we going to be able to decide those kinds of things in the future? Will your public input give us information on that in terms of setting up a timeline for identifying production wells and backup wells and those kinds of things?

MS. TORRES: Well, I think the best way to proceed, once we identify the areas that we do like, and if we can get buy-in from the public about these sites for our groundwater application, then we can start delving more quickly into what site we should look at first and how we can integrate that. Because I know with these two sites so close together we don't want to drill a brand new production well that's going to impair our existing Public Works well. But there's an opportunity to combine infrastructure to make this as cost-effective as possible.

As I mentioned earlier, we don't need to have all the production online immediately. So we do have a little bit of leeway for planning and for funding of this. So my hope is that we can get at least two wells into production by the time BDD goes on line, that we will have enough backup at that point. And then we can start looking at the other sites and the other costs and the other feasibility with that.

The Cook site is something that I wouldn't mind getting permitted for. Where the Public Works site is located is actually on state land that is leased. So we need to look at whether making additional improvements there is in the County's best interest. Fortunately, we have an existing well and two 10,000-gallon tanks there so the cost of improvements aren't as expensive as drilling a new well in another site. So there's pros and cons to every site. So I'm trying to make it as flexible as we can for the future so then we can make the best decisions.

COMMISSIONER VIGIL: Thank you, Mr. Chair. Just one more question, Karen. In terms of the timeline as when BDD does get on board, because I know the conjunctive plan's principal focus if not it's primary is to be able to have backup water should BDD not be available. These are all new projects. We don't know ultimately what our experience is going to be with them. Are we on a good timeline to have these wells in production as backup wells?

MS. TORRES: With the permitting from the State that's always a little bit of a question, especially when your application is protested. That can be held up in district court and go on for a long time. But I think that the State is very sympathetic to that, so if we had the infrastructure in place and ready to go and an emergency came up we could seek an

emergency authorization to pump water to do that. But we also have our 500 acre-feet of contract water with the City that we can also tap into in the event that we have no supply from the BDD. So we do have 500 acre-feet that we can count on, but our need is 600. So that's where the uncertainty comes in.

Right now the Public Works well can produce about 150 gpm, which is about 150 acre-feet. So if you only got that well into production, which we can do relatively quickly, we're covered.

COMMISSIONER VIGIL: Thank you. Thank you, Karen. Thank you, Mr. Chair.

CHAIR MONTTOYA: Okay. Karen, regarding the 10 wells, why are they numbered differently on the map than they are – is that they're final score?

MS. TORRES: On the map, the score that's on here is solely the map-based score, which is the first 11 factors. So a maximum would be 33 points, based on how we did this analysis. And then – and those hopefully match up, and if they didn't I do apologize.

CHAIR MONTTOYA: Okay. And then the second question that I have is that we're likely going to have another pipeline going from the BDD to Las Campanas. Is that correct? Is it reflected on this?

MS. TORRES: I think we're going to replace the City pipeline that goes to the Buckman wellfield, a section there between Booster Station 3 and Booster Station 4. But yes. It's not actually reflected on this map but it is almost smack dab where that Las Campanas well is located. Where the fire station is located over there, the pipeline goes right there. So it's actually a pretty sweet spot.

CHAIR MONTTOYA: Okay. Thank you, Karen. Thank you, Marvin, for this information. It's very helpful.

COMMISSIONER VIGIL: Karen, do you have a public meeting schedule?

MS. TORRES: My goal to get public input is I've gotten the email addresses and contact information of everyone that's attended the public meetings, so I've been emailing them with updates to this analysis. And it seems to work relatively well. I can try to get another meeting scheduled, but it's in two weeks. I can try something. But I know our interested parties are all over the place, and they seem okay with doing it through email, but if there's a direction I'm happy to take it, to have another meeting.

COMMISSIONER VIGIL: If it's been running smooth so far I hate to break something that's working. You may do an inquiry and say to those interested parties the Board of County Commission wants to know whether or not you think it's necessary to have another public meeting. And that can be done shortly.

MS. TORRES: Sure.

COMMISSIONER VIGIL: We can schedule something for – the probably will also give you direct input but it's always favorable to try for as many public meetings as possible.

MS. TORRES: Sure. I'm ready to do so.

COMMISSIONER VIGIL: Unless anyone on the Commission thinks there's

no need for that.

CHAIR MONTTOYA: What has the feedback been so far?

MS. TORRES: There's been – it's been overall relatively positive. They're glad that we're doing this analysis and trying to be thorough. There's been a lot of suggestions on adding stuff and taking things away and blacking out certain areas and things like that. And I try to accommodate it as much as possible. The biggest question was about areas that are on domestic wells. It was a really tough problem because the data set that we have for domestic wells isn't very accurate. There's large blocks of areas that are missing. There's excess wells, wells that don't exist that are there. So I ended up doing an analysis based on actual domestic structures that we have and making some presumptions and it came out pretty good. I think they were relatively satisfied with that. That was the biggest question – why aren't you looking at distance to domestic wells. So I took a stab at isolating areas that are solely served by domestic wells and doing a density analysis. And it came out, and it's not great and it doesn't replace a site-specific analysis, looking at nearest wells of other ownership. But I think that was the biggest concern and I think I was able to address that okay.

CHAIR MONTTOYA: Okay. Thank you, Karen. Is there a time on XIV. 2? If not could be move that up?

MR. ABEYTA: We could move that up, but we really have to do the Rancho Viejo Fire Station today because we have bids that are waiting to go out for construction. So that's fine that we move it up but we've got to take care of that one.

COMMISSIONER STEFANICS: Mr. Chair, I think these next couple ones will go pretty fast.

XIII. E. 2. Resolution 2009-207. A Resolution Approving a Submission of Application to the Water Trust Board Requesting Funding for Water System Improvements to Address a Critical Need for Good Quality Water Supply to the Sombrillo/Arroyo Seco Area of Santa Fe County

COMMISSIONER STEFANICS: Mr. Chair, I move approval of submission of application to the Water Trust Board.

COMMISSIONER HOLIAN: Second.

CHAIR MONTTOYA: Okay, I have a motion and second. Any discussion?

The motion passed by unanimous [3-0] voice vote. [Commissioner Vigil was not present for this action.]

XIV. PUBLIC HEARING

A. Growth Management

- 1. CDRC CASE # V 09-5370 Rancho Viejo Fire Station Variance.**
Santa Fe County, Applicant, request a variance of Ordinance 2000-12, Section 6.A, Matrix G.5.a (Community College District Ordinance) to allow the Rancho Viejo Fire Station to Exceed the Height Requirements of the Fringe Zone of the Community College District. The Property is Located at 37 Rancho Viejo Blvd., within Section 24, Township 16 North, Range 8 East (Commission District 5)

JOSE LARRANAGA (Development Review): Thank you, Mr. Chair. On October 1, 2009 the County Development Review Committee met and acted on this case, the decision of the CDRC was to recommend approval of the variance request. Santa Fe County received property from SunCorp and is proposing construction of a Fire Station within the Rancho Viejo Subdivision. The 14,000 square foot facility will be manned 24/7 by Santa Fe County Fire personnel, and will serve the entire Community College District as well as the surrounding areas.

Santa Fe County Community Projects Division is requesting a variance of the height requirements within the Fringe Zone of the Community College District to allow functionality of the building. The structure at the highest point, will be twenty-nine feet from the lowest grade adjacent to the apparatus parapet. The apparatus that will be housed within the structure will require a minimum of twenty feet of clearance from the overhang of the entrance. The truss design needed to support the mechanical system and parapet height required to conceal this equipment necessitate the height of this structure to exceed the twenty foot height requirements.

The Community College District Ordinance, Section 6.A, designates this parcel within a Fringe Zone. Matrix G.5.a limits the height of any structure within the Fringe Zone to a maximum height of twenty feet.

Staff has reviewed this application and has found the following facts to support the variance request: The property where the proposed fire station is separated from residential areas. The equipment to be housed in the proposed building will be beneficial to the well being of the Rancho Viejo Community and the surrounding areas. Strict compliance with the height requirements of the Community College District Ordinance will impede the efficiency of this facility.

The purpose of the Code is to provide for safety and preserve the health of the county and its inhabitants. This facility will provide an important service to the community and will be located in a major growth area of the county. Staff feels that allowing the height of this facility to exceed the twenty-foot requirement in order to facilitate the function of a critical facility such as this could be considered an easing of the code, therefore, staff recommends approval of this request.

CHAIR MONTOYA: Okay, questions for staff?

MR. ABEYTA: Mr. Chair, it is a public hearing.

CHAIR MONTOYA: Yes, so I would like to open it up for public hearing. If there is anyone who would like to speak on behalf of or in opposition to this variance request please come forward. Okay, seeing none, this public hearing is closed. What are the wishes of the Commission?

COMMISSIONER STEFANICS: Mr. Chair.

CHAIR MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: I move for approval of the variance for CDRC Case 09-5370.

COMMISSIONER HOLIAN: Second.

CHAIR MONTOYA: Motion, Commissioner Stefanics, second, Commissioner Holian. Further discussion?

The motion passed by unanimous [4-0] voice vote.

- XIV. 2. Ordinance No. 2009-12. An Ordinance Approving the Formation of the Santa Fe County Renewable Energy Financing District Pursuant to the Renewable Energy Financing District Act, Chapter 180, Laws of New Mexico 2009; Making Findings in Connection with Supporting Documentation Requesting Approval of the Formation of the District; Determining the Method of Including Real Property Within the District and the Purposes for which the District is Being Formed; Approving the Manner of Collection of a Renewable Energy Improvement Assessment to Be Imposed Upon Real Property Included in the District; Approving a Form of Agreement between the County and the Owners of Real Property for Inclusion of Real Property in the District; Providing for Governance of the District; Providing for the Inclusion of Real Property Within the District by Subsequent Resolutions; Ratifying Certain Actions Heretofore Taken; Repealing All Actions Inconsistent with This Ordinance [Exhibit 5: District Map]**

DUNCAN SILL (Economic Development): Mr. Chair, Commissioners, I'm here today in front of you to present the request for the approval of the formation of the renewable energy financing within the county. Previously, in July, at the end of July, this Commission adopted an interim resolution to provide for a mechanism to move ahead with the formation of the renewable energy financing district in Santa Fe County. In September this Commission also authorized the publishing of title and summary and we have done that since and this leads us into tonight where we have first a public hearing portion of this process and then the consideration of the adoption.

There is a memo from our bond counsel, written by Peter Franklin and Sam Gill with Modrell Sperling that outlines certain issues that we could have discussions tonight as well as the draft ordinance and if I may approach, I also have a draft district map that I'd like to hand to you right now. *[Exhibit 5]*

With that said, I'd like to turn it back to you for the public hearing and then we could hear from our bond counsel with discussion items. If that's okay I'll turn that over to you.

CHAIR MONTOYA: Okay, so questions for staff? Commissioner Stefanics, then Commissioner Holian.

COMMISSIONER STEFANICS: Mr. Chair, at the RPA we brought up the question about tribal entities and how that figures into the issue of government. Did we have an answer for that?

MR. SILL: Mr. Chair, Commissioner Stefanics, yes we did. I have consulted with our bond counsel and also referred back to the enabling legislation, which only authorizes municipalities and counties within the county to opt into – to pursue this particular arrangement. So to the best of my understanding, and that's something that the bond counsel could convey in greater detail, the tribal entities are not eligible to be included pursuant to the state legislation.

COMMISSIONER STEFANICS: So, Mr. Chair, Duncan, and any counsel who wants to answer, does that mean that tribal entities are excluded? Like members of tribal entities excluded from participation?

PETER FRANKLIN (Bond Counsel): Mr. Chair, Commissioner Stefanics, the difficulty with including property located on tribal land is that the County doesn't have any ability to collect property taxes or assessments as contemplated by this legislative program. It may be possible to enter into some sort of collaborative arrangement with tribal governments to do something that would resemble this but at the moment the statute really addresses only land under County jurisdiction, County property taxing jurisdiction.

COMMISSIONER STEFANICS: But it identifies municipalities and counties?

MR. FRANKLIN: Correct. Yes.

COMMISSIONER STEFANICS: Okay. Thank you very much, Mr. Chair.

CHAIR MONTOYA: Okay. Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. This is a question for either our County Attorney or Peter Franklin. In the version of the ordinance that I have in my packet, on page 5 and 6 there are a couple of different portions of the resolution that are in brackets. So I am assuming that in the case of Section 3, Paragraph C that that will be removed because the municipalities of Santa Fe and the Town of Edgewood have not yet consented to inclusion in the district. Is that correct?

MR. ROSS: Mr. Chair, Commissioner Holian, yes, those are not in the final version because those municipalities have not yet consented.

COMMISSIONER HOLIAN: And then in Section 4 there's also some wording that's in brackets, where it says "following determination by County staff or the

contractor that the application is complete.” Did we leave “or the contractor” in?

MR. ROSS: Yes.

COMMISSIONER HOLIAN: And also, how about in Section 6, The district may issue one or more series of special assessment bonds, or enter into a loan agreement. We kept that in?

MR. ROSS: That’s still in. Yes.

COMMISSIONER HOLIAN: Okay. So otherwise what I’m looking at here is pretty much the same as what we would be voting on.

MR. ROSS: Yes. There haven’t been substantive changes.

COMMISSIONER HOLIAN: Okay. Thank you.

CHAIR MONTOYA: Okay. Any other questions for staff? Okay, if not, this is a public hearing. If there’s anyone that would like to speak on behalf of or in opposition to this ordinance would you please come forward and identify yourself.

BRIAN CASSETT: Sure. My name is Brian Cassett. I actually live at 600 Central in Albuquerque, New Mexico. First of all, I just want to thank Santa Fe County for their leadership on this issue. A lot of us have been working on this for over a year now. It’s very exciting to see it come to this point. I’m here with a few different hats on today. First as a representative from the Renewable Energies Industries Association, as someone who’s been appointed to guide the effort for special assessment financing districts throughout the state, and again, glad to see that Santa Fe County is leading the way.

To the industry this measure is paramount. The ability to spread the costs of renewable energy out over a period of time is so important to our industry, and we feel like we’ve hit a point where we have a lot of the incentive structure in place that we need to create an industry, and financing is truly the last missing piece. Special assessment financing can hit a target of the population that has no other financing options but would otherwise be well qualified applicants for a solar installation.

I’m also here on behalf of the New Mexico Association of Counties as a hired contract project manager to assist the Association of Counties in gathering information, centralizing a process and helping to export this program to other areas of the state. And we are excited that Santa Fe County is moving forward and look forward to helping however we can, and in turn looking at Santa Fe County for leadership moving forward. Again, I appreciate the effort, and that is what I have to say. Thank you, Mr. Chair.

CHAIR MONTOYA: Thank you, Brian. Appreciate it. Next.

MICHAEL JOHNS: How are you doing today? My name is Michael Johns, and my address is 1203 Morelia Street in Santa Fe, New Mexico. I work for Consolidated Solar Technologies. I’m a sales associate here in Santa Fe for them, and I’ve been working for them since August and around that time we’ve been following the assessment program and the status of it closely. I can definitely say there’s been a very strong interest from the public here in Santa Fe County for the program. I’m in favor of the program. It really stretches all across the board. I have young families. I have old families. New homeowners, old homeowners. Real simply, a lot of these people are in good financial standing but they

may be a little wary of taking out a home equity loan or a personal loan. They do want to do improvements to their property. They're very interesting in going green and doing renewables, but taking out a big loan is a difficult thing for them, especially if they're considering in five or ten years. The assessment program is a great way for them to get involved in this without putting any money really up front, just kind of rolling it onto their property taxes.

I have a gentleman, Dan Woodward, who lives right here in Santa Fe. He's planning on retiring in Mexico in ten years but he's going to leave his home to his young daughter and he really wants to make sure that he does something that in the long term saves her money, adds value to the home, and is beneficial for the environment. So a lot of people have really been following this closely. I've been sending out emails this week telling some folks about the vote and trying to reach you guys to be in favor of it. I think it's a great program. I hope it moves forward. It's been very successful in Berkeley, California and Boulder, Colorado. Those are very forward-thinking communities and I think Santa Fe is a very forward-thinking community and hopefully you guys will agree and vote in favor of the assessment. Thank you much.

CHAIR MONTOYA: Thank you, Michael. Anyone else. Okay, seeing no one else this public hearing is closed. I'll open it up. Commissioner Holian.

COMMISSIONER HOLIAN: I move for approval for purposes of discussion.

CHAIR MONTOYA: Okay. Motion by Commissioner Holian. I'll second.
Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. First of all I would really like to thank Peter Franklin and Sam Gill because your expertise was absolutely crucial in putting this ordinance together. And I would also like to very much like to thank Duncan. I don't know what we would have done without you because I think the reason – I know a lot of people have said that it's taken us a while to get to this point but I think that actually, considering the work that was required, that we've made very fast progress on this, and it's because of all of your hard work.

I would like to make a few comments to the public about this. One is that this is just another step on the road to implementation. It really is an important step and a crucial step, but we're really not quite there yet. For one thing, we have to actually set up the program, and I would like to let people know that we have an RFP in the works. I think it might have come out today; I'm not sure. But it will be coming out very shortly. It's an RFP for help with program development, administration help, that is processing applications and things like that, as well as financing for the renewable energy projects. So all those will have to be set up before we actually start taking applications.

Also, another important point, a really important point that this ordinance as it's written now is only for people who live in the unincorporated areas. And so the City of Santa Fe, the Town of Edgewood and the City of Espanola, if they want to take part in this will have to pass resolutions opting into this ordinance. Duncan and I have an appointment to go speak with the Public Utilities Committee in the City next week to explain what they have to

do in order to opt into this and so I'm very hopeful that they will move quickly as well, but I can't really speak on behalf of the City.

In any event, those amendments can be made as we go along and so my hope is that eventually, essentially everybody in Santa Fe County will be eligible for this program. So again, I want to thank you and I just couldn't be more pleased that I'm here making this motion. Thank you.

CHAIR MONTOYA: Okay. Commissioner Stefanics.

COMMISSIONER STEFANICS: Mr. Chair, I do have a question of Commissioner Holian and Duncan. I understand that there's quite a bit to still do in terms of putting the program into place once this ordinance is passed. Is there a suggested timeline for when the public would be starting to apply?

MR. SILL: Mr. Chair, Commissioners, yes, there is. There's the pursuant effective date after the adoption of the ordinance today and then given that we could proceed with contracting with a vendor who is qualified to help us with the administrative program services and financial assistance then we're looking in a period probably as early as sometime in December that you would be able to work directly with applications. So I previously included a timeline on our website and I think that timeline reflects that schedule. So again, depending on what Commissioner Holian was alluding to, the residents within the municipalities such as the City of Santa Fe, if they move ahead with the resolution or an interim agreement with Santa Fe County then that window of implementation could shortly follow as well.

COMMISSIONER STEFANICS: Okay. Mr. Chair, Duncan, what I'm really asking about is when can the first homeowner apply? You're suggesting that county residents, those living in the county, perhaps by the middle of December? Is that really realistic? I'm seeing yeses and noes from bond counsel. I'm seeing yes from Duncan and no from Peter.

COMMISSIONER HOLIAN: Do we have to stake our life on this?

MR. SILL: I give way to Peter.

COMMISSIONER STEFANICS: Well, Mr. Chair, the reason I'm asking is the public has asked and if it's not going to be ready before January 1 we should just say it's not going to be ready before a certain date. We can be hopefully that something would be ready by a certain date, but that isn't the reason I'm asking the question.

COMMISSIONER HOLIAN: Could I add something?

CHAIR MONTOYA: Sure. Commissioner Holian.

COMMISSIONER HOLIAN: Well, I think it will become a lot clearer when we have the vendor in place, and that is a discussion that we will have immediately. And as soon as we start developing a timeline with them, which I think will be more realistic we will post that information on the website immediately. We will send the information out to the people on all of our email lists who are interested in this. I think at this very second in time it is difficult to exactly pinpoint when we can take that first application.

COMMISSIONER STEFANICS: Okay. I would ask that we put this on the

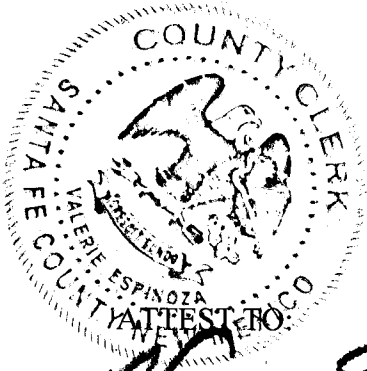
agenda for January 13th for a report of where are – a status report. That's all. Thank you.

CHAIR MONTOYA: Okay. All right. Any other discussion? Commissioner Holian, I just want to say thank you for your leadership in getting this done. Appreciate it.

The motion passed by unanimous [4-0] roll call vote with Commissioners Holian, Stefanics, Vigil and Montoya all voting in the affirmative.

XV. ADJOURNMENT

Vice Chairman Montoya declared this meeting adjourned at approximately 5:35 p.m.



Valerie Espinoza
VALERIE ESPINOZA
SANTA FE COUNTY CLERK

Approved by:

Harry Montoya
Board of County Commissioners
Harry Montoya, Vice Chairman

Respectfully submitted:

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

SFC CLERK RECORDED 12/09/2009

Santa Fe County
Board of County Commissioners

Update
1st Judicial Courthouse
Project

October 27, 2009

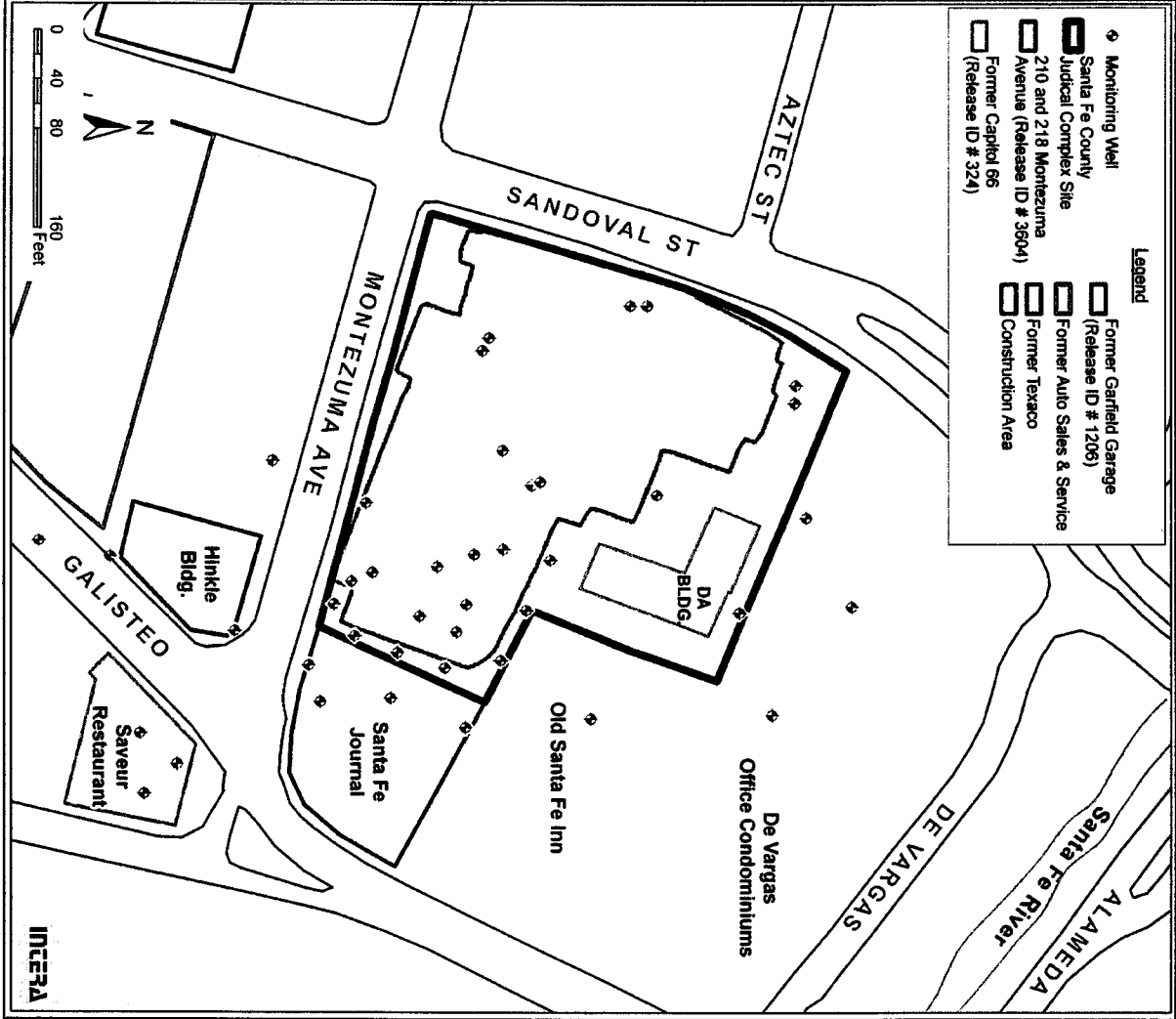
Presentation Overview

- Project Team
- Summary of environmental findings
- Design features to protect users and keep building free of contamination
- Additional Project Costs
- Coordination with New Mexico Environment Department (NMED)

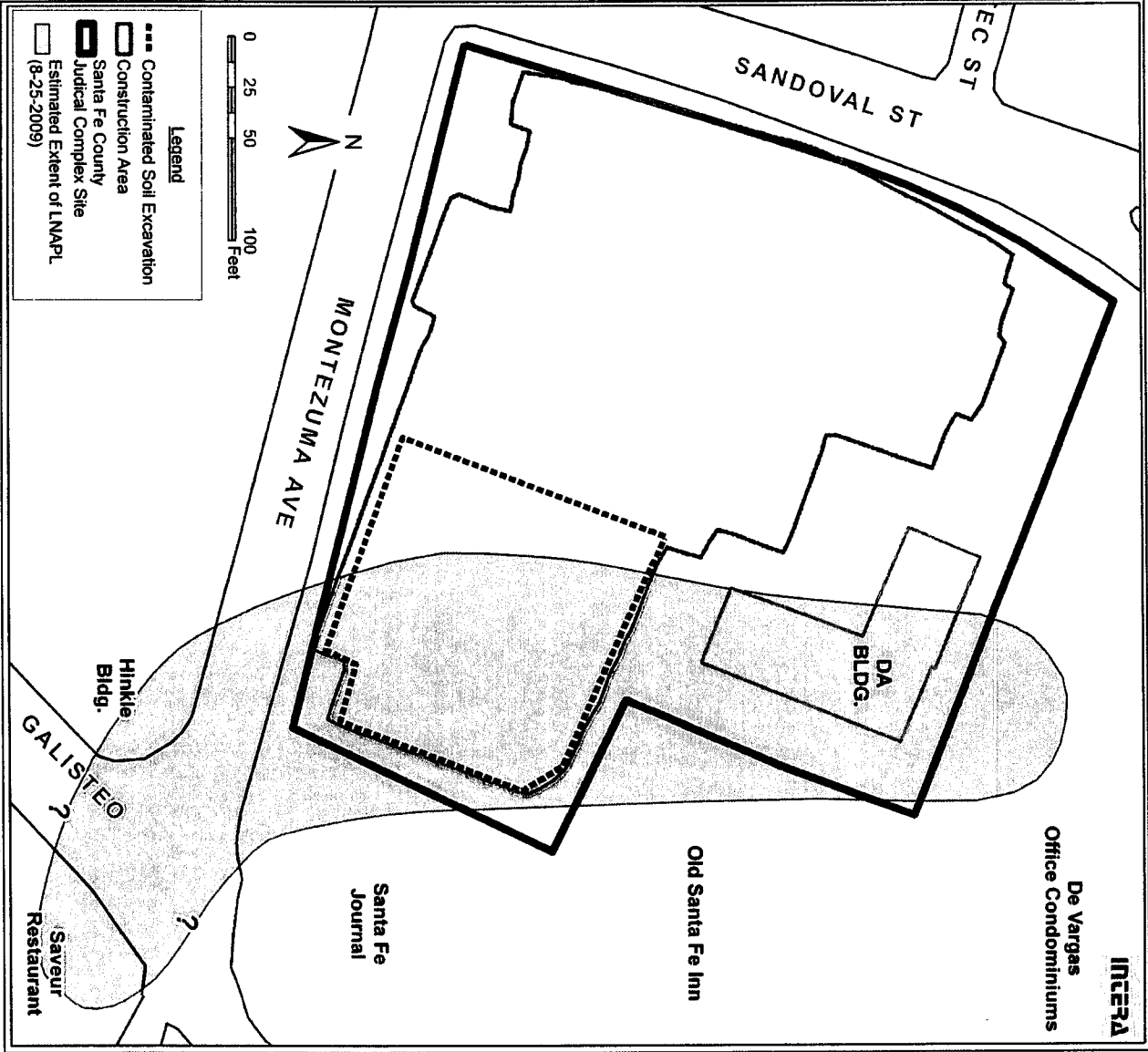
Protective Measures

- Protection of building and site from contamination by construction of barrier wall and enhance overall remediation
 - Injection grout wall
 - Water/vapor barrier liner
- Contamination Removal
 - Soil removal, replacement fill
 - De-watering and water treatment
- Bath tub construction
 - Steel reinforced concrete walls and floor in parking garage

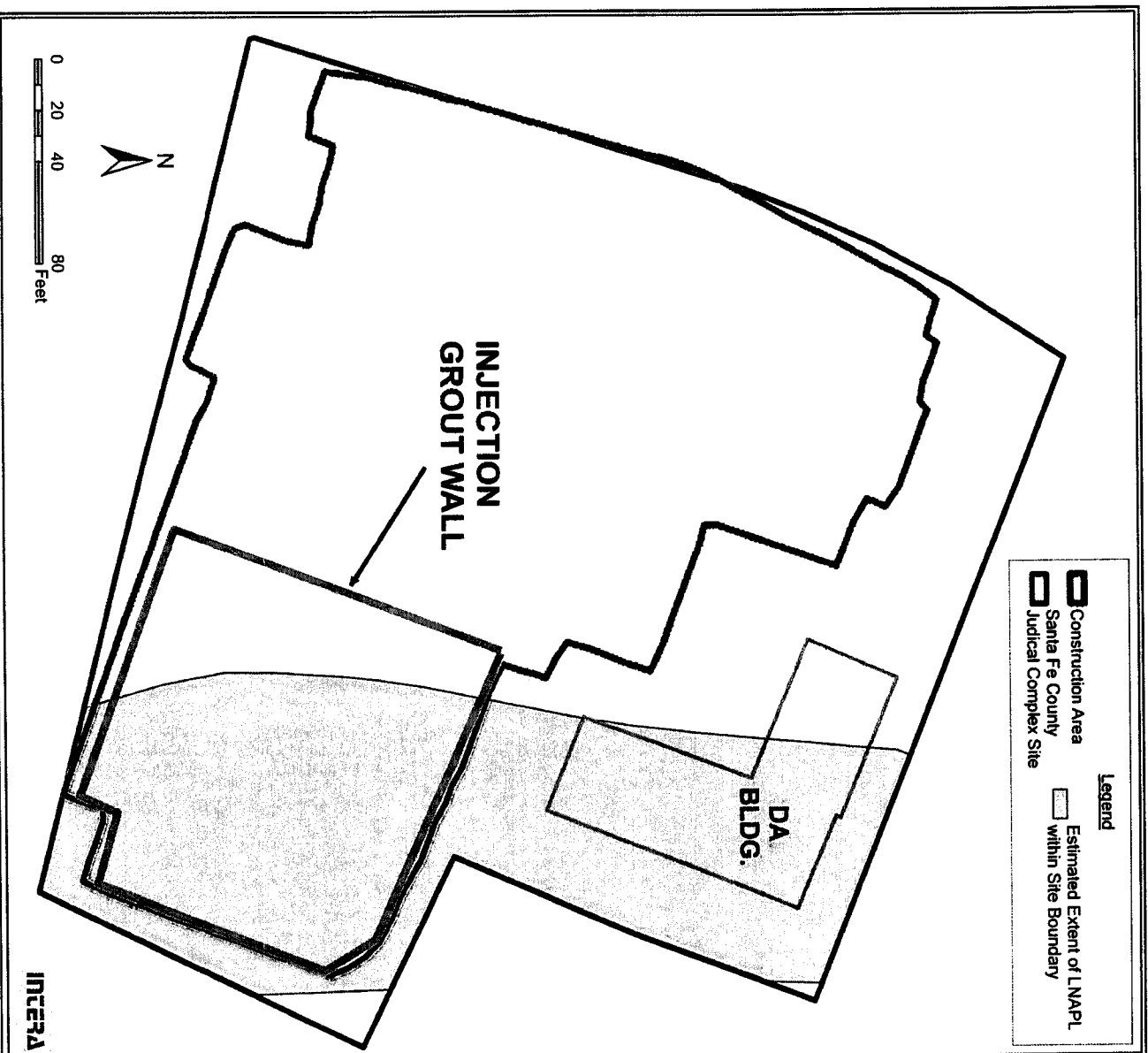
Environmental Findings



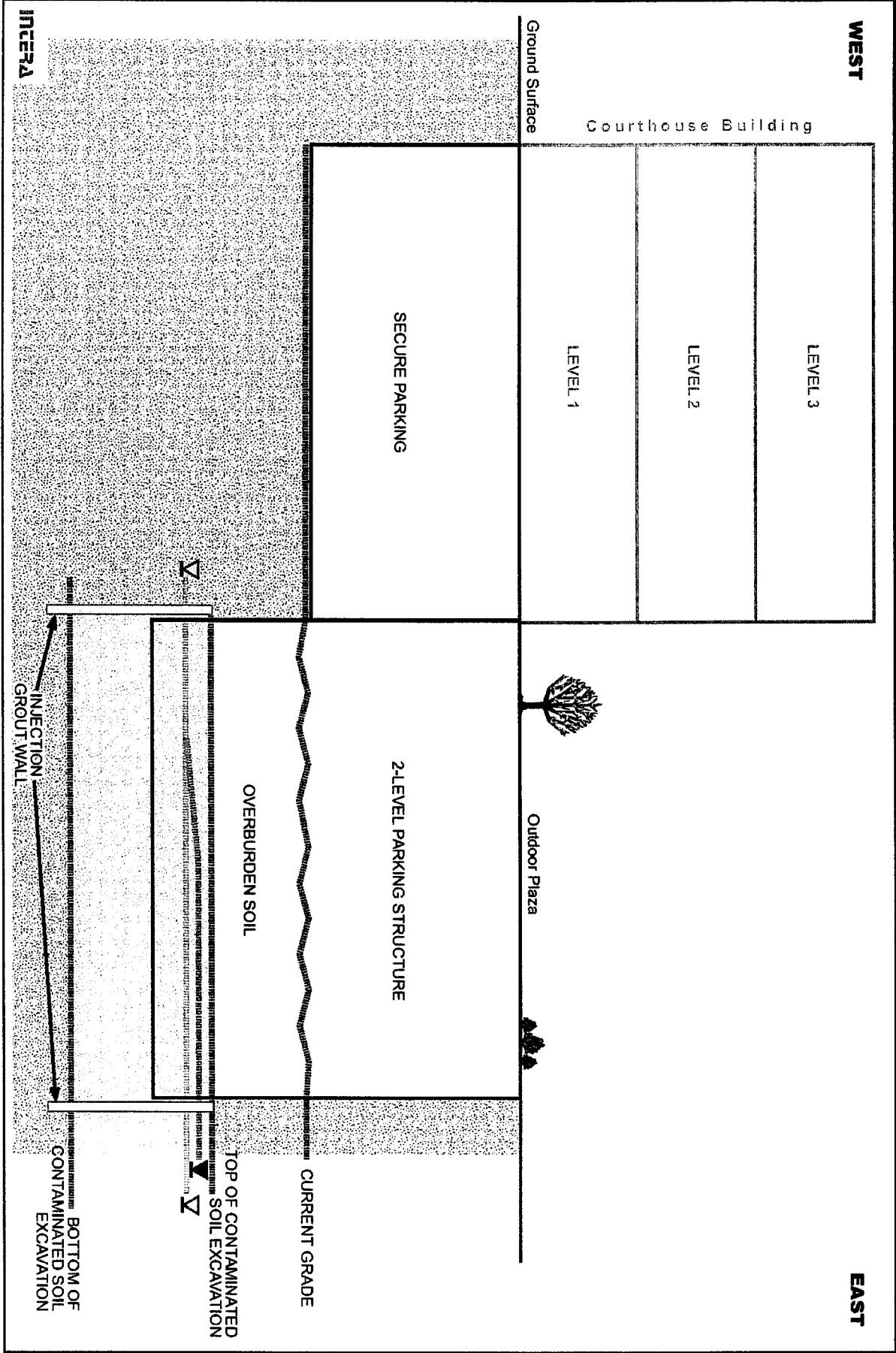
LNAPL Contamination



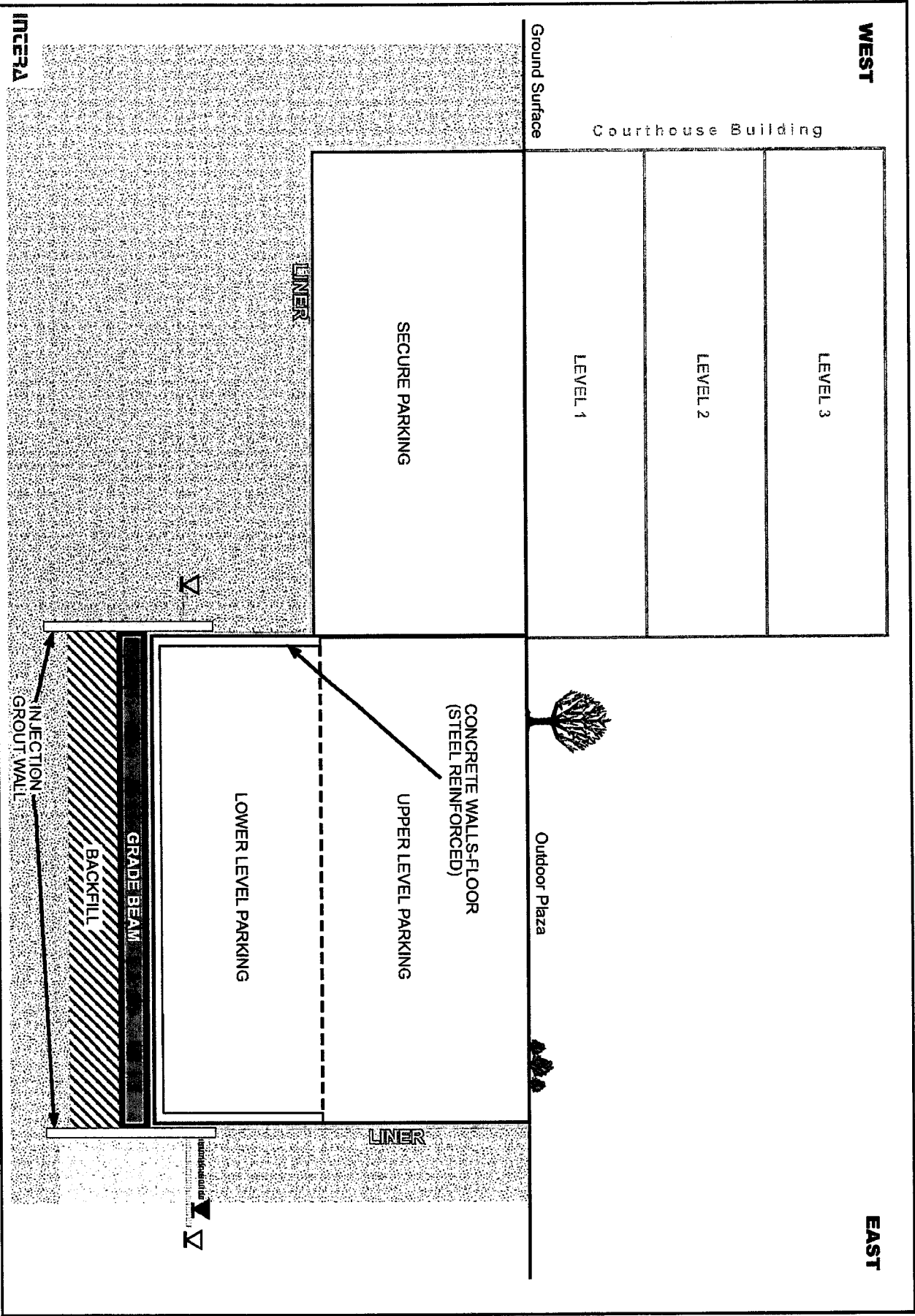
Barrier Wall



Soil Clean Up



Bath Tub



Current Fiscal Overview of Courthouse Project

Revenues:

State Funds	\$ 1,026,500.00
2007 GO Bond	\$25,000,000.00
2008 Revenue Bond	\$30,000,000.00
Interest Income and Other	\$ <u>2,713,425.63</u>

Total \$58,739,925.63

Expended to date	\$13,939,284.37
Outstanding Purchase Orders *	<u>\$41,553,277.31</u> *
Remaining Balance	\$ 3,247,363.95

* Note: Includes \$3.8 Million Contingency

Site Clean Up Costs

Current Available Balance \$7,047,363.95
(includes remaining balance and contingency)

Redesign * \$ 44,683.00
Barrier Wall * \$ 875,000.00
Contaminated Soil Removal * \$ 450,000.00
Soil Disposal * \$ 825,000.00
Bath Tub * \$ 980,000.00

Clean-up sub-total \$3,174,683.00

Remaining Balance \$3,872,680.95

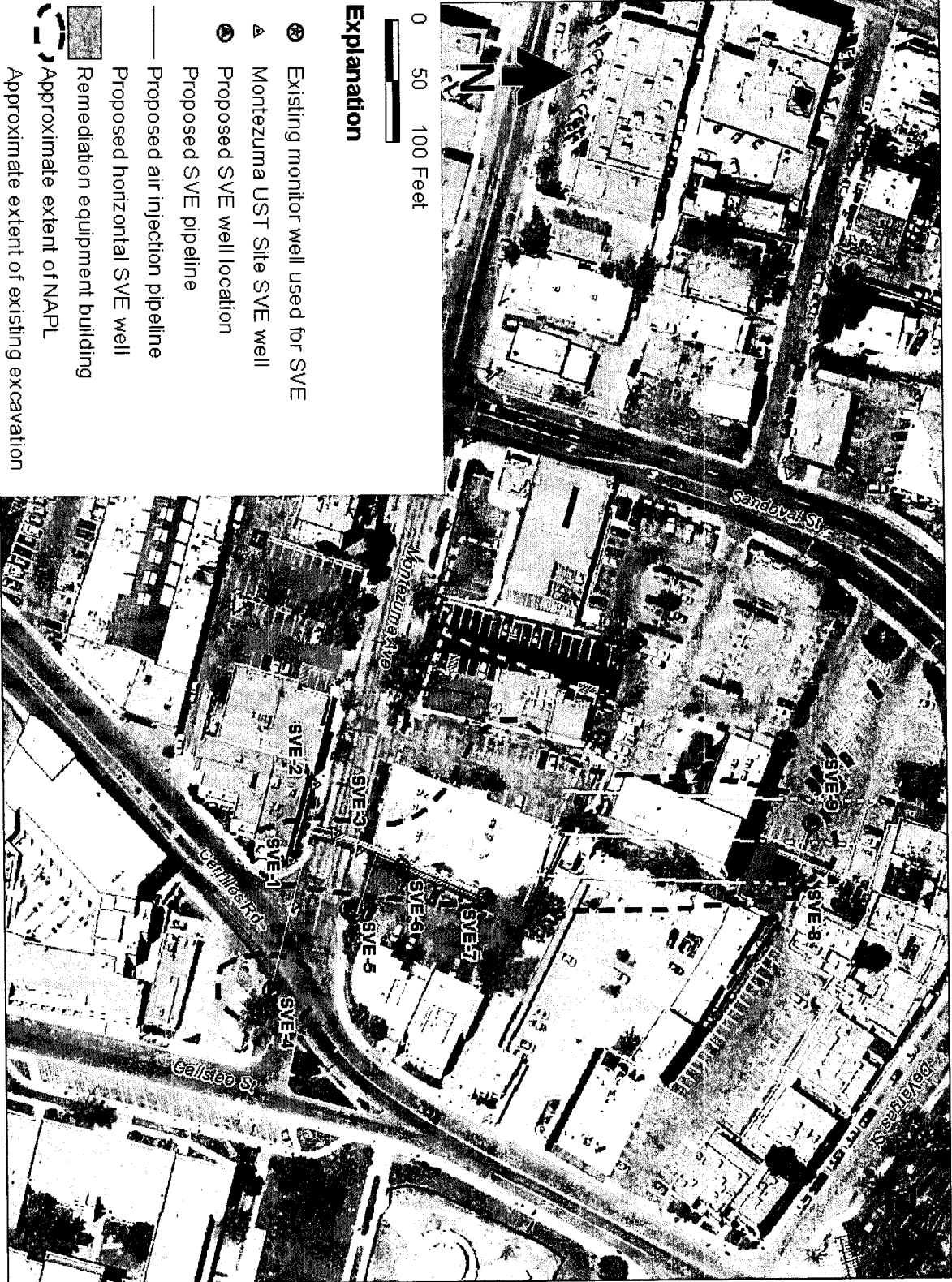
* Note: Items for BCC approval on 11/10/09

NMED Remedial Action

- Focuses on LNAPL removal outside the County's construction area
- Major Components:
 - Two secure equipment enclosures with thermal oxidizing and hot air injection technologies
 - Nine vertical and two horizontal vapor extraction wells
 - Five vertical and one horizontal hot air injection wells
 - Five new groundwater monitoring wells

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NMED Remediation Sites



NMED Implementation

- Estimated costs currently \$2.9 million dollars
 - includes \$75,000 for temporary remediation and \$500,000 for O&M and ground water monitoring & reporting
- Schedule coordination with County construction activities
- Complete remediation of LNAPL in 24 to 36 months
- With LNAPL removed, remaining contamination will undergo monitored natural attenuation

Conclusion

- County will conduct environmental clean-up on the site
 - Protect public, staff and building
 - Clean environmental hazard
 - Remove contamination from site
- Building will retain two levels of parking
- Additional design features will protect users and keep building free of contamination
- Environmental clean-up requires additional project costs
- Project actions coordinated directly with NMED
- Estimated project completion date – early 2012

SUMMARY

Synopsis of Bill

This bill reduces general fund appropriations in Laws 2009, Chapter 124 (General Appropriation Act) in Sections 4 and 5 by various amounts; allocates funds remaining from the Recovery and Reinvestment Act of 2009, State Fiscal Stabilization Fund; appropriates cash balances from the Tobacco Settlement Program Fund; appropriates emergency supplemental funding for public schools in FY10 and appropriates \$29 million from the Public School Capital Outlay Fund to the New Mexico Public School Insurance Authority for the purpose of paying property insurance premiums on behalf of school districts and charter schools.

FISCAL IMPLICATIONS

Section 2

Subsection 1 reduces Legislative Building Services by 4 percent.

Subsection 2 reduces judicial agencies, district courts, Bernalillo Metropolitan Court, the District Attorneys and the Administrative Office of the District Attorneys by 2 percent.

Subsection 3 reduces general fund appropriations in Section 4 of the 2009 General Appropriation Act by 4 percent for elected state officials other than the Governor, and reduces the Attorney General by 2 percent.

Subsection 4 reduces general fund appropriations in Section 4 of the 2009 General Appropriation Act by an aggregate of 7.5 percent for all state agencies under the direct control of the Executive.

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This subsection gives the executive branch discretion and flexibility to manage appropriation reductions under the control of the executive

The Public Defender Department is reduced by 2 percent.

Exceptions are the Department of Health, Developmental Disabilities Support Program and the Medical Assistance Program at Human Services Department. The Medical Assistance Program is reduced by \$16 million, which will be offset by \$12 million in federal funds and \$4 million in cash balances from the tobacco settlement program fund. The Developmental Disabilities program is reduced by \$2 million, which will be offset by \$2 million in federal funds.

Subsections 5 reduce the instruction and general appropriations for colleges and universities by 4 percent and 6.5 percent for special projects. Institutions have full flexibility to make reductions to research and public service projects.

Subsection 6 reduces the three special schools (NMSD, NMSBVI, NMMI) instruction and general appropriations by 2 percent and 6.5 percent for special projects.

Subsection 7 reduces the state equalization guarantee (SEG) by 2 percent and most “below the line distributions by 6.5 percent with the exception of the transportation distributions which are reduced by 4 percent and the Indian Education Fund is not reduced.

Section 3

This section distributes \$45.5 million of the remaining \$93.2 million from the American Recovery and Reinvestment Act of 2009, State Fiscal Stabilization Fund allocation awarded to New Mexico and directs that it shall be distributed through the State Equalization Guarantee (SEG) distribution to districts in FY10.

This section provides the funding for public schools and higher education for one-time federal education stimulus funds, including \$20 million of the funding set aside for other government services allocation.

This section also appropriates \$20 million awarded as part of the state fiscal stabilization fund to New Mexico for other government services. Under this provision of the federal law, the Governor may use up to \$58 million for public safety and other government services. Based on the State Fiscal Stabilization Fund Application submitted by Office of the Governor on June 4, 2009, to the U.S. Department of Education, 3 percent of the total allocation was estimated to be used for “public assistance” and 97 percent was “undetermined”.

Section 4

Reduces a nonrecurring appropriation made in Section 5 of the General Appropriation Act of 2009, to the Department of Information Technology by \$1.5 million for the New Mexico Computing Applications Center. The appropriation is for staff and operational costs of the center.

According to the New Mexico Computing Applications Center, they are expected to generate \$2.2 million in other revenue from private sources which they could use to replace this general fund reduction.

Section 5

This section appropriates \$4 million in cash balances from the tobacco settlement program fund to the Human Services Department for expenditure in fiscal year 2010 for the Medical Assistance Program. This appropriation is an offset to the reduction to the Medical Assistance Program discussed above.

Section 6

This section appropriates \$3 million from the general fund to the emergency supplemental distribution for expenditure in FY10 so the Public Education Department may make emergency distributions to small rural school districts in financial need and further defines a rural school district as one with a total membership of less than 600 in elementary, middle and high schools. The bill also prohibits funds to be distributed to any school district with cash and invested reserves, or a combination of other resources equal to 5 percent or more of the school district's operational budget.

Section 7

The appropriation of \$29 million contained in this bill is a nonrecurring expense to the Public Schools Capital Outlay Fund. (PSCOF) Any unexpended or unencumbered balance remaining at the end of Fiscal year 2010 shall revert to the Public School Capital Outlay Fund.

The FY10 awards from the Public School Capital Outlay Fund were made in August 2009 and a number of projects have begun construction. The use of \$29 million from the fund, combined with the use of \$41.5 million of supplemental severance tax bond capacity in Senate Bill 26 would under fund FY10 awards from the PSCOC by \$11.8 million causing a number of school building construction projects to be delayed or moved to subsequent fiscal years.

The proposed legislation would also push back approximately \$30 million of additional awards which were expected to be made in FY10.

The PSCOF, primarily dedicated for capital outlay projects, is already used to fund the Capital Improvements Act (SB-9), New School Development Act, the lease payment assistance program, CID reimbursement, assistance for master facility plans, demolition allocations, and emergency allocations. As the annual uses from the fund have increased, the amount available for standards-based projects is reduced accordingly.

The Department of Finance and Administration notes that there may be legal issues with using severance tax bond proceeds to pay for insurance related expenditures. However, this issue has yet to be reviewed and discussed with the State Board of Finance bond counsel.

Section 8

This section appropriates \$2 million from the federal American Recovery and Reinvestment Act of 2009, Unemployment Insurance Modernization funding to the Workforce Solutions Department for operating expenses in FY10.

Section 9

This section provides Department of Finance and Administration with the necessary authority to reduce FY10 operating budgets and adjust allotment accordingly. In addition, it provides DFA with the necessary authority to re-coup a general fund over-allotment in order to comply with this act.

Section 10

This section requires Department of Finance and Administration, the Higher Education Department and the Public Education Department to report on adjusted operating budgets for state agencies, higher education institutions and public schools. The oversight agencies shall provide a report to the Legislative Council, Legislative Finance Committee and the Legislative Education Study Committee and the reports shall be published on the departments' web sites.

Section 11

This section requires the recurring general fund reductions provided in this act to be carried forward in the FY11 Executive Budget recommendations.

SIGNIFICANT ISSUES

- FY09 recurring revenue fell \$98 million short of the August 2009 forecast.
- FY10 revenue is down by \$219 million and FY11 by \$224 million.
- FY09 revenue fell \$214 million short of appropriations.
- Absent legislative action, FY10 ending balances would be minus \$324 million.
- FY10 changes of \$653 million are needed to reach a target reserve of 6 percent.

As the economy has deteriorated and revenues have fallen significantly, the October 2009 revenue estimate now projects a deficit for FY10 of \$324 million. It is necessary that the Legislature and the governor move quickly to address this shortfall. This bill is part of a comprehensive approach that will address the fiscal solvency while maintaining a reserve level greater than 5 percent at the end of FY10. Maintaining a prudent reserve level in the current fiscal year is critical as the economy has shown only modest signs of improving and downside risks to the revenues still exist.

This bill along with its companion bills will address the current \$324 million deficit (based on the October 2009 revenue estimate) and maintain approximately 5 percent reserves. LFC believes these actions are necessary to avoid possible legal issues regarding interfund transfers (Section 6-4-6 NMSA 1978) and to comply with a constitutional mandate that appropriations not exceed revenues.

Despite the solvency measures for FY10, the FY11 "new money" outlook is still bleak, because projected revenue would still be less than post-solvency FY10 appropriations and because of the need to replace federal stimulus funds.

The \$29 million appropriation to the Public School Insurance Authority for FY10 to pay insurance premiums on behalf of school districts and charter schools will free up an equal amount of district operational funds for other uses such as salaries and benefits for teachers and other direct instruction costs.

The PSCOF, primarily dedicated for capital outlay projects, is already used to fund the Capital Improvements Act (SB-9), New School Development Act, the lease payment assistance program, CID reimbursement, assistance for master facility plans, demolition allocations, and emergency allocations. As the annual uses from the fund have increased, the amount available for standards-based projects is reduced accordingly.

ADMINISTRATIVE IMPLICATIONS

Department of Finance and Administration (DFA) will be required to reduce the operating budgets, appropriations and adjust agency allotment distributions accordingly. DFA, State Budget Division and LFC staff should review the adjusted FY10 operating budgets in a timely manner.

The General Appropriation Act of 2010 will include FY09 supplemental appropriations and supplemental FY10 BAR authority thus allowing another opportunity to consider agencies with additional needs and flexibility to manage the reductions in this bill.

COMPANIONSHIP

This is a companion bill to other bills that are also part of a solvency solution.

- A bill that (1) voids capital outlay and (2) swaps general fund appropriated for certain projects and replaces with severance tax bond funding.
- A bill that reduces FY10 appropriations for Legislative offices; Laws 2009 Chapter 1 (Feed Bill).
- A bill that implements a 2 year delay for the increase in the employer contribution for the Educational Retirement Board and delays implementation of Laws 2009, Chapter 287 which contains a monthly distribution to the Retiree Health Care Authority.
- A bill which transfers money from various state funds in the treasury to the general fund.
- A bill that transfers money from the reserve accounts to the appropriation account.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

1. Failing to pass solvency measures would result in a violation of Section 6-4-6 NMSA 1978 and possibly require the Secretary of Department of Finance and Administration to suspend issuing warrants and the State Treasurer to suspend the redemption of warrants.
2. The state will incur a budget deficit in violation of Article IX of the New Mexico Constitution.

CTF:PA:DA/svb

SFC CLERK RECORDED 12/09/2009

SANTA FE CITY & COUNTY: ADDRESSING ALCOHOL ABUSE

INTERVENTION RECOMMENDATION SUMMARY

DATE

September 6, 2009

COMMITTEE NAME

Law Enforcement & Judicial Committee

PROBLEM DESCRIPTION

Santa Fe County residents treat drinking and driving as common practice. In 2007 Santa Fe had 1,233 DWI arrests and 114 severe crashes involving DWI resulting in injury or death and an undetermined number of cases were not adequately prosecuted due to loopholes in state law. In addition, many of these crashes were first time offenders. For the most heinous DWI offenses the State of New Mexico lacks the ability to apply second degree murder charges.

INTERVENTION RECOMMENDATION

Actively support Governor Richardson DWI crime package on DWI with a Santa Fe community campaign that includes elected officials, community members, youth and nonprofits

ESTIMATED COST

Need to develop.

RECOMMENDATION OWNERS

Name	Contact phone	Email
Law Enforcement & Judicial Committee		
City and County elected officials and staffs		
Community at Large		

INTERVENTION SCOPE OF WORK

Develop advocacy team comprised of City and County officials as well as members of the public and local nonprofit community to work in concert with the Governor's Office and Rachel O'Connor, DWI CZAR during the 2010

TIMEFRAME FOR COMPLETION

March 15, 2010

PROPOSED INTERVENTION OUTCOMES

Successful support of the Governor's DWI crime package will lower DWI incidence and related harms by increasing DWI offender penalties and closing DWI loopholes, thereby insuring swift and certain punishment for first time and repeat offenders, and thus increasing the deterrent effect of DWI laws and their enforcement.

COMMUNITY INPUT

This recommendation requires on going community engagement. The Committee recommends that to kick off this campaign with a joint City/County town meeting be held to introduce the legislation and gather community support.

YOUTH INPUT

Mayor's Youth Advisory Council as well as schools will be invited and encouraged to be a strategic partners in this campaign.

MEDIA/COMMUNICATION PLAN

- Develop Santa Fe campaign that engages and calls to action community in support of Governor's DWI crime package.
- Free media (letters, editorial column to print publications).
- Community meetings with Santa Fe County State Legislators
- Utilize radio partnerships for community DWI education.
- Develop web campaign through paid and nonprofit outlets.

STATUS

In Development.

Please complete for each recommendation.

Click or tab to move from cell to cell. Type in your information—boxes will expand to accommodate text.

Factor #	Suitability Factors	Well Location Suitability			Weighting
		High Suitability	Moderate Suitability	Low Suitability	
Factor 1	Areas of favorable Hydrogeology	Tesque Formation	Pre-Cambrian Granite	Espinaso or Galisteo	1
Factor 2	Proximity to Areas of Existing Groundwater Contamination	Exceeds Maximum Contaminant level	Within Margin of Error for Maximum Contaminant Level	Less than Maximum Contaminant Level	1
Factor 3	Areas Served by Domestic Wells	None	Less than 1 dwelling per 1000 square feet	Greater than 1 dwelling per 1000 square feet	1
Factor 4	Feasibility of Pressure Zones	Pressure Zone 1 - 6	Pressure Zone 7 & 8	Pressure Zone 9 -11	1
Factor 5	Proximity to Drainages	>500 feet	100 feet to 500 feet	<100 feet	1
Factor 6	Proximity to Springs	>1/2 mile	500 feet to 1/2mile	<500 feet	1
Factor 7	Proximity to Faults	>300 feet	100 feet to 300 feet	<100 feet	1
Factor 8	Areas of Aquifer Decline	>1/2 mile	500 feet to 1/2 mile	<500 feet	1
Factor 9	Slope	0 - 15 %	15% - 33%	> 33%	1
Factor 10	Distribution Potential	Can Serve All Utility	Can Serve Portion of Utility	Cannot Easily Serve Utility	1
Factor 11	Proximaty to Communtiy and Municipal Wells	>1/2 mile	1000 feet to 1/2mile	<1000 feet	1
Factor 12	Well Specific Suitability	Well on Site with production greater than 100 gpm	Well on Site with production of less than 100 gpm	No Well on Site	1
Factor 13	Cost Suitability	Less Than 1.5 Million	Between 1.5 Million and 2.0 Million	Over 2 million	1
Factor 14	Water Right Suitability (Streams)	Less than .5 acre-foot Increased depletion	Between 0.5 to 3.0 acre-foot increased depletion	Greater than 3.0 acre-foot increased depletion	1
Factor 15	Water Right Suitability (Springs)	Less than 1.0 acre-foot Increased depletion	Between 1.0 to 3.0 acre-foot increased depletion	Greater than 3.0 acre-foot increased depletion	1

Well Ranking 10-27-09

Well Rank	WELL Site	Well Suitability Score (Based on Factors)	Well Specific Suitability Score*	Cost specific Factors	Water Right Suitability (Streams)	Water Right Suitability (Springs)	Total Score
1	Public Works	29	3	3	2	3	40
2	Rancho Viejo	28	3	3	3	3	40
3	Rodeo Grounds	29	2	2	3	3	39
4	Las Campanas	31	1	2	1	3	38
5	Cook	29	1	1	2	3	36
6	Valle Vista 2	28	2	2	3	1	36
7	Valle Vista 6	28	2	2	3	1	36
8	Valle Vista	28	2	2	3	1	36
9	Public Safety	28	1	2	3	1	35
10	Valle Vista 3	27	2	2	3	1	35
11	Valle Vista 4	27	2	2	3	1	35
12	Valle Vista 5	27	2	2	3	1	35
13	Elmer Garcia	27	2	2	3	1	35
14	Suerte del Sur	26	3	1	1	3	34
15	Valle Vista 9	27	1	2	3	1	34
16	Valle Vista 7	26	2	2	3	1	34
17	Valle Vista 8	26	1	2	3	1	33
18	Agua Fria Park	26	2	n/a	n/a	n/a	28
19	CR 62 LLC	26	2	n/a	n/a	n/a	28
20	CR 62 LLC	26	2	n/a	n/a	n/a	28
21	Haggerma	25	3	n/a	n/a	n/a	28



Public we

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26

Hawthorne

Agua Park

26

599




Y

Santa Fe County
Renewable Energy
Financing District

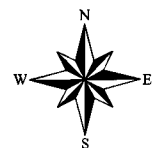
District Boundary Map

EXHIBIT "A" to
Ordinance No. 2009 - _____

Legend

-  Santa Fe County
-  Renewable Energy Financing District
- Municipalities (Not Included in District
and Can Opt into District)
-  Major Roads

DRAFT



This information is for reference only.
Santa Fe County assumes no liability for
errors associated with the use of these data.
Users are solely responsible for confirming
data accuracy when necessary.



Santa Fe County
Growth Management
Department
Planning Division

Oct. 27, 2009
renewable_energy_financing_district

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