

CRESTONE ANNEXATION

of the

BACA GRANDE

December 2008

*p*olicy
*r*esearch
*a*ssociates

8857 N. Awl Rd.
Parker, CO 80138

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INTRODUCTION

For several years, residents of the Crestone/Baca community have discussed reorganization of the agencies that provide public services, so that services would be provided more efficiently and effectively. The three agencies in question are the Town of Crestone, the Baca Grande Water & Sanitation District, and the Baca Grande Property Owners Association. Also serving the area are the Northern Saguache County Fire Protection District and the Northern Saguache County Ambulance District, although those districts serve a much wider area than the immediate Crestone/Baca community.

The Crestone/Baca community borders large tracts of land owned by multiple federal agencies. The Sand Dunes National Park is directly to the southeast, and individuals in the community have had conversations with the National Park Service about opening a north entrance to the Park. The Baca National Wildlife Refuge is west of the Baca Grande area, although there are apparently no immediate plans to open that to the public. To the east and north are the Rio Grande National Forest and Bureau of Land Management property. Many popular trails access wildlife and outdoor recreation opportunities including some of Colorado's most notable 14,000-foot climbing challenges.

Members of the Baca Grande Property Owners Association have considered incorporation of a municipality separate from the Town of Crestone.¹ A 2003 feasibility analysis determined that incorporation would cost the Baca Grande area \$710,340 annually, requiring a levy of 47.5 mills, assuming the same level of service as provided by the Property Owners Association would be performed by the new municipality.

Many residents of the Baca Grande recognize that they frequent and relate to the Town of Crestone, and that incorporating a new municipality may not be in the best interests of the community at large. Annexing to the Town may be less expensive and provide all the residents of the area with a more effective, unified government structure than would otherwise exist.

Annexation generally requires the consent of the property owners and residents of the area to be annexed, with some limited exceptions. The process is initiated by an annexation petition signed by owners of land to be annexed, and thus it is driven by the desire of landowners outside of the municipality to be included within the town's boundaries. Annexation can lead to a more cohesive community, avoiding the disparate level of services between the Town's jurisdiction and outlying areas, but may offer other advantages as well.

This report is designed to address the expected results of an annexation in terms of its advantages and disadvantages. The benefits of improved governance will be explained, along with the costs associated with annexing. It is left to the citizens of the area to evaluate whether the matter should be pursued.

The report will address only property, facilities and services currently within the Town of Crestone and the Baca Property Owners Association. It will not consider the many outlying properties outside the boundaries of either agency, which include a number of group facilities that serve as destinations for spiritual organizations.

There are at least two aspects of this project that make it more interesting than a usual annexation. First, most annexations involve an undeveloped parcel of land, owned by

development interests. In this case, the parcels in the Baca Grande area are almost all owned by individuals, even though many individual parcels have not been improved. In addition, the operative agency providing public services in the Baca Grande is a private nonprofit corporation. The blending of public and private agencies makes this project more complex, since each type of corporation has unique characteristics and advantages.

The Town of Crestone has commissioned this report to examine the feasibility of annexing the Baca Grande area. The report explores the annexation process, the financial impact, and the structural effects of annexation, and provides information necessary to decide whether it makes sense for citizens to pursue. The focus of the report is on two agencies: the Town of Crestone and the Baca Grande Property Owners Association. The services and finances of the Baca Grande Water and Sanitation District are also addressed.

It should be noted that the observations and cost estimates made in this report are based on current conditions, as they can best be determined by means of current data and through *ad hoc* interviews. If annexation is going to be seriously pursued, each issue and service should be thoroughly re-examined, so as to be sure that the most recent and complete information is available.

¹ The Baca Grande Governance Research Committee produced an analysis of the feasibility of incorporation in March 2003.

THE AGENCIES

The Town of Crestone

Crestone (the Town) has been an active community in Saguache County, Colorado since 1880, and an incorporated municipality under Colorado law since 1901. Crestone was one of a number of small mining towns along the western foothills of the Sangre de Cristo Mountains in eastern Saguache County, and the only one to survive after the area's mining boom played out.²

The Baca Grande Property Owners Association

Originally part of the Luis Maria Cabeza de Baca Ranch land grant, the Baca Grande development began in 1971.³ The Baca Grande Property Owners Association (the POA) was created in 1972 as a 501(c)(4) private nonprofit corporation to administer Protective Covenants and Restrictions in the development, assess and collect dues from its members, and provide services to them.

The Baca Grande area consists of about 14,000 acres, originally about 10,800 lots,⁴ and was subdivided into five units: Chalet Units I, II and III, The Grants, and Mobile Home Estates, known as Casita Park.⁵ A commercial area was developed along the north side of County Road T west of the Town of Crestone, consisting of an inn, a lake, a nine-hole golf course, a library, a camp ground, a mobile home park, a ballfield, an ambulance bay, and a building housing the POA administrative offices and maintenance shop. Within this same area is the residential enclave called Casita Park.

Several spiritual groups have established centers in the area, many of which are outside the boundaries of the Baca Grande.⁶ Since 1989, the nonprofit Manitou Foundation has given grants of land adjacent to the Baca Grande to some of these groups.⁷

Throughout this report, the term "Baca Grande" is used to refer to the area encompassing the subdivision and "POA" refers to the operations of the private nonprofit corporation.

The Baca Grande Water & Sanitation District

The Baca Grande Water and Sanitation District (the District) was organized in 1972 to provide domestic water and sanitary sewer services to properties in the Baca Grande. Today the District provides those services directly to some properties outside the POA boundaries, and also receives effluent from the Town for treatment.

² More history of Crestone can be found at http://en.wikipedia.org/wiki/Crestone,_Colorado

³ One account of the early history of this land can be found at <http://www.bacapoa.org/Baca-Grande-History~120603~14064.htm>

⁴ In the original Baca Grande Development Plan there were about 10,800 lots, but a number of these have been vacated or consolidated; Design Guidelines and Requirements, Baca Grande Property Owners Association, 2004, p. 88.

⁵ A sixth unit, called Tract 1, is technically within Mobile Home Estates, but is considered to be part of that unit.

⁶ The exact number of spiritual groups is not clear; estimates have run as high as 21.

⁷ Design Guidelines and Requirements, Baca Grande Property Owners Association, 2004, p.89-90.

ANNEXATION

Process

An annexation begins with a petition filed with the Town Clerk,⁸ along with a map⁹ of the area to be annexed.

Petition

A petition can follow one of two alternative processes:

1. If the petition is signed by 100 percent of landowners in the area to be annexed, is found to be proper, and complies with all legal annexation requirements,¹⁰ then the annexation can be accomplished by ordinance without further action.

2. If the petition is signed by more than 50 percent of landowners in the area to be annexed, and the Town finds that the petition meets all legal requirements,¹¹ then the Board must conduct a public hearing to determine if (a) the property is eligible for annexation, (b) that the annexation will not cause the Town to exceed the limitations on annexation, and (c) whether an annexation election is required.¹² If the Town Board determines that all the requirements have been met, it may annex the area by ordinance, unless a petition for an annexation election is filed.¹³
 - a. A petition for annexation election may be filed by 40 qualified electors¹⁴ of the area to be annexed. If sufficient, the petition requires the Town to hold an annexation election.¹⁵

Eligibility

An area is eligible for annexation when the Town, at a public hearing, finds that the following four conditions are met:

1. At least one-sixth of the perimeter of the area to be annexed is contiguous to the Town.¹⁶ If contiguity does not occur naturally, the Town may establish it in either one or both of two ways:
 - a. by annexing one or more parcels in a series at one time
 - b. by annexing a public transportation right-of-way, such as County Road 71 (Birch St. south out of Town to Camino Baca Grande)¹⁷
2. A “community of interest” exists between the area to be annexed and the Town
3. The area to be annexed is urban in nature, or will be urbanized in the near future
4. The area to be annexed is integrated, or capable of being integrated, with the Town¹⁸

A finding of one-sixth contiguity can be the basis for establishing the other three conditions: that there is a “community of interest,” the area is urban or can be urbanized, and the area is, or can be, integrated with the Town.

For the Baca Grande to be eligible for annexation, portions of County Road 71 and County Road T would have to be annexed to establish contiguity. This would cause these segments to be within the Town, requiring the Town to maintain these sections of road.¹⁹ The Town could then invoke the statute allowing annexation of parcels in a series (1.a., above), having annexing the roads to establish contiguity with those parcels.

It should be noted that establishing contiguity by using the roads would not be necessary if properties between the Town and the Baca Grande were to be annexed. At this point that eventuality cannot be relied upon, but the same petition process outlined above would have to be followed.

The statute allowing road annexation does not prescribe any process for doing so. Since a good working relationship with the county is desired by the Town, it would be necessary to negotiate the details of any road annexation well in advance. A petition for annexation of the roads from the county would be a satisfactory outcome of these discussions, which would be preceded by executing a pre-annexation agreement. Another option could be to use another public right-of-way of some sort, although annexation would likely result in the Town having responsibility for that area, as with the roads.

Limitations

The Town may not annex properties that cause the boundaries of the Town to be extended for more than three miles in any direction from any point of the existing municipal boundaries. (There is some disagreement whether “any one year” means a calendar year or any 12-month period between annexations.²⁰) This limitation may be exceeded if the three-mile limit would have the effect of dividing a property held in identical ownership.²¹

Another caveat on this limitation is that no contiguous parcels held in identical ownership can be divided by annexation into separate parts without the written consent of the landowners, unless divided by a road or other public right of way.²² This could have the effect of extending an annexation beyond the three-mile limit, if some of the parcels outside the boundary were so held. Determination of this fact would have to be done after ownership of specific parcels outside the limit are identified.

The Three-Mile Limit

The effect of the limitation in this case would allow an initial annexation of most of the Chalet I properties southeast nearly to South Spanish Creek, as well as a northeast portion of the Grants and the eastern half of the Casita Park unit, including the RV Park, golf course, Charter School, POA headquarters and White Eagle Lodge. A few properties within the Chalet I unit may be beyond the southern extremity of the three-mile annual limit, which can only be verified with an engineering survey.²³

A second, subsequent annexation would be necessary to include the entire remaining portion of the Baca Grande area, and thus encompass the Chalet II, Chalet III and Grants areas, as well as the western portion of Casita Park. These will be referred to in this report as Annexation 1 and Annexation 2. (See Appendix E for a map.)

Plan and Impact Report

The Town must have an Annexation Plan describing the location, character and extent of any public or private right of way or area, waterways, open spaces and utilities, and it must be updated annually.²⁴ This plan should include a statement of goals and policies that generally outline how the Town would view a particular annexation request. It should be developed apart from and prior to any specific annexation request, and could be included in the Town’s Comprehensive Plan.²⁵

The Town must also have prepared an Impact Report concerning any specific proposed annexation, including

- a. A map of the municipality and the area to be annexed, including streets, utilities, ditches and land-use patterns around and within the area to be annexed
- b. A statement of the proposed services to be provided to the area and their financing
- c. Identification of any existing districts in the area²⁶

A copy of the Impact Report must be filed with the Board of County Commissioners.

Steps for Annexation

Each of these actions takes time, and although it is not possible to predict barriers to any of them, it is reasonable to expect the following general steps:

Prior to annexation

Town develops an Annexation Plan
 Preannexation agreements are developed between the Town and potential petitioner(s), including the county

After Annexation Petition is received

Town Board must find petition to be substantially complete
 Set hearing date
 Begin notice procedures
 Begin annexation impact report
 Hold hearing, determine eligibility
 Town decides it desires annexation
 Write ordinance and set dates for first and second readings
 Annexation passes at second reading of annexation ordinance

A period no less than four months would have to pass in order to accomplish all these steps during a normal schedule, given that the Town Board meets only once per month. A flow chart showing the annexation process can be found in Appendix F.

⁸ 31-12-107(1)(a), C.R.S.

⁹ 31-12-107(1)(d), C.R.S.

¹⁰ In this case, all the requirements of 31-12-107(1) must be met.

¹¹ 31-12-107(1)(c), C.R.S.

¹² 31-12-107(2)(e) and 31-12-109, C.R.S.

¹³ 31-12-111, C.R.S. The petitioners must also constitute 50 percent of the landowners in the area.

¹⁴ A qualified elector is defined as a registered elector who is a resident of the area to be annexed. [31-12-103(9), C.R.S.]

¹⁵ 31-12-107(2), C.R.S.

¹⁶ 31-12-104(1)(a), C.R.S.

¹⁷ 31-12-104(1)(a), C.R.S.

¹⁸ 31-12-104(1)(b), C.R.S.

¹⁹ This is covered in the "Cost of Annexation" section below.

²⁰ Annexation in Colorado, Colorado Municipal League, 2003, p. 24.

²¹ 31-12-105(1)(e), C.R.S.

²² 31-12-105(1)(a), C.R.S.

²³ As of this writing, it has not been determined which specific properties beyond the three mile limitation are contiguous and in common ownership with properties within the three miles. Also, if sufficient public roads were annexed as a flagpole first, it is possible that a wider Annexation 1 area could be annexed as a second step.

²⁴ 31-12-105(1)(e)(I), C.R.S. There are other restrictions in this section of law, which do not appear to apply in the Town of Crestone's case.

²⁵ Annexation in Colorado, Colorado Municipal League, 2003; page 11.

²⁶ 31-12-108.5, C.R.S. There a few other items that must be included in the report, which, in Crestone's case, are not material.

CURRENT SERVICES

Current Town Services

The Town manages of its governmental activities, including public elections and financial and administrative functions, in a manner that complies with myriad state laws requiring open records, public meetings, and financial disclosure. These relatively invisible functions do not usually come to mind when most people think of public services. Instead, citizens usually think of what they can see: public safety (including law enforcement and fire protection), ambulance, water, sewer, streets, and park, recreation, and cultural facilities.

General Police Powers

The Town issues licenses and permits for various activities, some of which are required by state law. This is a function of the “general police powers” that state law confers on the Town Board.²⁷ While this includes the power to regulate a police department, it also provides much broader authority, such as the enforcement of ordinances regulating health, nuisances, rubbish removal, disorderly conduct, and cruelty to animals. The power of the Town to enforce zoning restrictions also stems from the general police power, as do licensing and regulation of businesses.

Law Enforcement

As an incorporated municipality in Colorado, the Town has legal jurisdiction over matters within its boundaries that are delegated by law to a municipality. These include issues covered by local municipal ordinances. The Town has invoked its legal privilege to appoint a Town Marshal for enforcement of Town ordinances.²⁸ The Town Marshal position falls under the definition of “peace officer” under the criminal statutes, and must be certified by the state Peace Officer Standards and Training Board (POST), as do the County Sheriff and deputies.²⁹

Law enforcement within the Town is also provided by the County Sheriff, subject to some limitations. The Sheriff’s office cannot be called upon to enforce Town ordinances, so that responsibility must with the Town. In addition, the Sheriff’s office response to incidents in the Town is somewhat discretionary, and may be without the resources to respond to any but the most serious matters that arise under state law. State law allows the Town and the County to enter into a contract for law enforcement services, including enforcement of municipal ordinances.³⁰ The Town has discussed with the Sheriff a higher level of law enforcement within the Town’s boundaries.

In order to provide a full-time, around-the-clock police department, public safety experts consider it necessary to have a minimum of five officers. Some smaller towns in Colorado have professional police forces of only two or three officers, and rely upon the county sheriff for full-time coverage. In either case, having a police department is an expensive proposition and would not be possible under the Town’s current revenue structure.

Land Use and Zoning

The Town’s Zoning Regulations³¹ provide four types of residential zones (rural, low density, medium density and high density), a mobile home district and a commercial district. A map of these zones is on file at Town Hall. Conditional uses can be approved by the Town

Board at the recommendation of the Planning Commission, and nonconforming uses can be continued under most circumstances.

Fire Protection

The Town is within the boundaries of the Northern Saguache County Fire Protection District (NSCFPD), which has a substation within Town limits. (See map in Appendix G.) NSCFPD is an all-volunteer department, with the exception of one paid administrator, and there are nine volunteers on call out of the Crestone station. Response equipment in the station includes:

- 2001 GMC 4x4 – Wildland / Quick response truck, 225-gallon skid tank with pump
- 1979 Ford L9000 water tender, 3,000 gallons water, 400 GPM PTO pump, pump and roll capability, with spray bars. Equipment carried 2,500-gallon portable tank and a portable pump capable of 590 GPM
- 1984 Chevy 4x4 midi rescue/pumper, 300-gallon tank, 400 GPM PTO pump, and generator with scene lighting, misc equipment
- Other equipment: 2,500- and 1,500-gallon portable tanks, 150 GPM portable pump, six SCBA's with spare bottles, PPV ventilation fan, 24-foot extension ladder, 14-foot roof ladder, traffic control equipment, first responder jump kit

The Town has recently improved its ISO³² rating to 8, with the addition of a new truck, and is expected to move to a 7 with the construction of a community water system (see below).

The Town budgets expenses related to fire mitigation efforts, since the NSCFPD limits its operation to providing response services only. Properties in Town pay 7.480 mills in property tax to the NSCFPD, and the total tax revenue the district received from the Town was \$7,006 in 2008.

Ambulance

The Town is within the jurisdictional boundaries of the Northern Saguache County Ambulance District (NSCAD), which has a contract in effect with the POA to provide local ambulance service to the Town. (See map in Appendix G.) The POA Ambulance Department charges \$100 per call to respond within the Town. Properties in the Town pay total property tax of \$4,683 to the NSCAD, which levies 5.000 mills.

Streets

The Town maintains a total of 7.93 lane miles of streets, 2.34 miles of which are paved and 5.59 miles are unpaved. Another way of measuring is to convert these to “centerline” miles, which is roughly half of the lane-mile amount: 4 centerline miles. In 2007, the Town received \$7,452 from the state Highway Users Tax Fund for street maintenance.

Water

Currently, properties within the Town are served by individual water wells. The Town owns four wells, the rights to which are owned by the Town, and is considering development of a water delivery and distribution system, sponsored by a grant and loan from the Department of Local Affairs. The project would proceed in two phases, first to install

well pumps, chlorination and a well house, then to install 3400 feet of a 4-inch transmission line to provide fire protection and prevent freezing lines.

The system has 38 paid taps, 21 of which are expected to connect to the new system initially. Each served property would pay a base fee of \$34 per month for up to 4,000 gallons, plus a progressive fee above the base amount per month:

- \$4 per thousand gallons from 4,000 to 8,000 gallons
- \$6 per thousand gallons from 8,000 to 12,000 gallons
- \$8 per thousand gallons above 12,000 gallons

There are 33 households tapped on the sewer system that are not using the water system. Connection to the water system has been voluntary, and each of these 33 households is on an individual well.

Sewer

The Town owns and operates a wastewater collection system. Wastewater is transmitted to the District through a sewer interceptor, constructed in 2003, and treated at the District's treatment plant.

The Town's system has 69 taps,³³ and connection to the system is mandatory within the sewer district. The monthly user charge is \$20 per tap,³⁴ plus a \$1.50 monthly administrative fee. The Town pays a processing fee to the District of \$3 per thousand gallons with an average monthly flow of 150,000 gallons.

Drainage

Drainage has historically been a major problem in the Town. The natural drainage is generally to the southwest, off the Sangre de Cristo Mountains. Westerly weather patterns crossing the San Luis Valley tend to bring regular storm events, some of which arrive with substantial precipitation. In 1911, North Crestone Creek flooded and destroyed a number of buildings, and other flood events occurred in 1936 and 1987. As a result, future plans call for opening north/south streets and avoiding the opening of platted east/west streets whenever possible.

A 2008 study done by students from Colorado State University estimated the cost to mitigate flooding in the Town's commercial district to be \$604,000. Improving the Town's storm drainage would cost an estimated \$783,170, according to a Professional Engineering Report from Davis Engineering in 2005.³⁵ Property owners downstream would have to be satisfied that improvements would not impair flow. The U.S. Fish and Wildlife Service in the Department of Interior, owner of the Baca Wildlife Refuge, is particularly sensitive to this issue.

Culture & Recreation

The Town operates and maintains a community building and two parks. The Town's historic school building is used as a community center, providing meeting space for community groups. Town revenue from business licenses is dedicated to the community building's maintenance.³⁶ The Town also owns and operates the Town Park, which contains playground equipment, and Little Pearl Park, purchased in 2006, which to date is undeveloped.

Current POA Services

Law Enforcement

Properties and residents in the Baca Grande receive law enforcement from the Saguache County Sheriff because they are in an unincorporated portion of Saguache County.³⁷ If service were found to be inadequate, a Law Enforcement Authority could be formed under a specific statutory procedure. This would allow a separate mill levy to be imposed in the area, the proceeds from which would pay for the Sheriff's office to increase its level of activity and buy additional equipment to support the personnel necessary for the higher level of service.³⁸

Land Use

One of the purposes of the POA, as stated in the Articles of Incorporation, is to administer the protections and restrictions in the Declaration of Covenants within POA boundaries. This is accomplished by the Environmental and Architectural Committee (EAC) and its review process. For governmental land use restrictions, the Baca Grande residents rely upon the county land use system.

Saguache County has created the Crestone/Baca Planning Commission to deal specifically with planning, zoning and land use issues that arise in the area. This arrangement offers the residents of the Baca Grande some input on county decisions based on the local needs and desires.

Fire Protection

The Baca Grande Volunteer Fire Department (BGVFD), operated by the POA, responds to structure fires, wildland fires, motor vehicle accidents and other all-hazard incidents in the Baca Grande area staffed by 27 volunteers. The area is characterized as Wildland Urban Interface (WUI), which includes 739 houses in the response area. The average response time is 30-45 minutes.

The department operates the following equipment out of a station in the Chalet I subdivision:

- 1975 Dodge Mini Pumper
- 2005 International 7400 wildland engine
- 1997 International 2000G water tender
- 1977 Ford LN750 equipment van
- 1979 Chevrolet ¾-ton pickup truck

All firefighters are equipped with full structural turnout gear (helmet with shield, bunker coat, bunker pants, structure boots, gloves, hood, flashlight, gear bag and accountability tag), and full wildland PPE gear (helmet, goggles, nomex pants and shirts, shroud, hot shield, respirator inserts, ear protection, gloves, headlamp, spanner wrenches, fire shelter, gear bag and accountability tag).

The POA has a mutual aid agreement with the Northern Saguache County Fire Protection District (NSCFPD) through the San Luis Valley Firefighters Association. The Baca Grande is not within the jurisdiction of the NSCFPD, but the agreement allows the POA fire department to call on NSCFPD personnel and equipment from Crestone, Moffat and Villa Grove.

Properties within the Baca Grande in Chalet I, Chalet II and Chalet III, where the water system has roadside hydrants, have an ISO rating of 7, with an ISO rating of 9 in the Grants.

The POA has adopted a Community Wildfire Protection Plan (CWPP), approved by the Colorado State Forest Service pursuant to the 2003 Healthy Forests Restoration Act, which emphasizes community planning. Among the benefits is the option to establish a localized definition and boundary for the wildland-urban interface (WUI) and the opportunity to help shape fuel-treatment priorities for surrounding federal and non-federal lands. The CWPP brings together diverse local interests to discuss their mutual concerns for public safety, community sustainability and natural resources, and addresses local firefighting capability, the need for defensible space around homes and subdivisions, and where and how to prioritize land management – on both federal and non-federal land.³⁹

Ambulance

The POA operates an ambulance department, staffed by National Registry-credentialed EMTs:

- One EMT Paramedic
- Two Registered Nurses
- Three EMT Intermediates
- Seven EMT Basics⁴⁰
- Two First Responders

The first three classifications in the above list have advanced life support EMT certification. Transport time to a medical facility is at least one hour, depending upon the destination. The cost per transport is \$1,000 plus mileage, charged to the patient. The collection rate was 33% in 2005.

The Baca Grande community is not within the boundaries of the Northern Saguache County Ambulance District, which has the same boundaries as the NSCFPD (see map in Appendix G).

Water & Sewer

The entire Baca Grande area except the Grants unit is served by the Baca Grande Water & Sanitation District.

Roads and Streets

Saguache County maintains all the paved roads within the Baca Grande, plus a few unpaved segments, totaling 18.29 centerline miles.⁴¹ All other gravel roads within the Baca Grande, approximately 88 miles, are maintained by the POA road department, including grading, gravel application, culvert cleaning and replacement and snow removal. These POA-maintained roads do not have any prospect of the county assuming their maintenance.

Drainage

Streets and roads within the Baca Grande suffer damage from flood events along Willow Creek and Spanish Creek. Many of the major corridors in the Baca Grande are laid out northwest/southeast, following the general contour of the Sangre de Cristo foothills. Drainages flowing west downhill from the mountains do extensive damage to the roads,

interrupting transportation and affecting emergency service access. In July 2006, a heavy rain caused flash floods that resulted in extensive damage to roads throughout the Chalet I subdivision. Through the next six months of that year, the POA spent over \$94,000 for major flood damage repairs.

It would appear that remedial work could be done to mitigate such events in the future, but the POA has not to date pursued any professional evaluation of the situation. Therefore, the cost of responding to these events can be expected to continue in the future, especially with regard to road repair.

Cultural and Recreation Facilities

The POA operates and maintains a ball field, a nine-hole golf course, tennis courts, a library, three playgrounds and a campground (Camper Village). A library membership is \$10 per year for adults, and \$2 per year for children. The POA also owns and leases horse stables and a rifle range to private operators. The POA maintains a number of trails, parks and greenbelts throughout the area.

The District

Water and Sewer

The District is a public, quasi-municipal corporation organized in 1972 under Colorado law. Originally serving the Baca Grande area, the District has included the Baca Grande Meadows property (known locally as the townhouses), which includes Colorado College facilities, and other areas outside the original Baca Grande area.

The District operates and maintains a water transmission and distribution system, requires meters of all its customers, and uses an automated monthly billing system.⁴² The District leases water from the U.S. Department of Interior's Fish and Wildlife Service at the Baca Ranch.

The District has 620 taps for both water and sewer service.⁴³ The charge for sewer service is \$20 per month. Water is \$22 per month for the first 4,000 gallons, then \$1.50 per thousand gallons thereafter. The District charges each customer an additional \$9 per year as a hydrant fee and \$21 per year as a system-improvement fee; the total of \$30 per year averages to \$2.50 per month. A combined water and sewer tap fee is \$7,500.

The district's wastewater treatment plant was upgraded in 2003 to meet current U.S. Clean Water Act discharge standards. The District also treats sanitary sewerage from the Town under an intergovernmental agreement.

²⁷ 31-15-401 *et seq.*, C.R.S.

²⁸ 31-4-306, C.R.S.

²⁹ POST is a program administered by the office of the Colorado Attorney General. Peace Officers, which include town marshals. [16-2.5-101 *et seq.*, C.R.S and 24-31-305, C.R.S.]

³⁰ 30-11-410, C.R.S.

³¹ A copy of these requirements is available from the Town upon request, and also is on file with the County Clerk and Recorder of Saguache County.

³² Insurance Services Office assesses the risk on which property and casualty insurance rates are based in specific areas, thus a lower ISO rating can be translated into actual dollars saved on premiums.

³³ There are 33 properties with a sewer tap which have not paid to tap into the water system.

³⁴ This charge per tap is for an “equivalent residency”; multifamily and commercial taps would pay a different monthly rate.

³⁵ The Colorado composite cost index for road construction has increased over 88% in the past five years.

³⁶ Ordinance 1992-1.

³⁷ Although the POA is a Colorado corporation (nonprofit), reference to “unincorporated” in this report refers to whether or not the place in question is located within a public corporation, i.e., a municipality.

³⁸ 30-11-401 *et seq.*, C.R.S.

³⁹ <http://www.csfs.colostate.edu/cwpp.htm>.

⁴⁰ Three of the EMT Basics are in training to become Intermediates.

⁴¹ Source: Saguache County Road & Bridge Department.

⁴² Water & sewer service applies only in Casita Park and the Chalet I, II and II areas; the Grants subdivision is served by individual well and septic systems.

⁴³ Source: Baca Grande Water and Sanitation District.

ATTITUDES OF THE CITIZENS

The Town and the POA have each surveyed their citizens about services within their respective agencies. The Town survey was conducted in 2007 as part of a Master Plan being developed by the Crestone Planning Commission. The POA survey was conducted in 2005; the results were published in the Winter 2006 issue of the Newsletter of the Baca Grande Property Owners Association.

Town Survey

The Town survey was in four parts, addressing general attitudes (Part 1, 36 multiple-choice questions), opinions about specific actions that might be taken (Part 2, 17 yes/no questions), queries on their feelings about incorporation or annexation of the Baca Grande community (Part 3, two open-ended questions), and a general solicitation of their wish list for the Town (Part 4, 7 open-ended questions). The survey also asked about length of residency, demographics, and other factual information.

One hundred sixty surveys went to residents, business owners and property owners, and 83 responses were received. Colorado State University's Rural Technical Assistance Program provided statistical analysis for Parts I and II. An informal tally of responses to the annexation questions (part III) showed 26 in favor of annexation, 21 undecided/need more information, 20 opposed, 16 no response.

An analysis of the survey resulted in the following summary of the needs and desires expressed for the Town:⁴⁴

Environmental quality (w/some reverence *and* sacrifice), including water rights and quality, ecology, hiking/biking trails, pedestrian-friendly town, sustainability, recycling, open space

Historic Preservation and Small Town Ambience: commercial core, historic structures, neighborhood planning, beautification

Town Infrastructure: road maintenance, municipal water and sewer, fire protection, enforcement, erosion

Economic Development: commercial core, cottage industry, green building/projects, affordable housing, youth activities

POA Survey

The POA survey was conducted with a written survey instrument in four sections:

1. General information about motivation, and duration of ownership, residence within the community, and general sources for their knowledge of the Baca Grande community and Crestone area in general.
2. Values and attitudes (28 multiple choice questions, one of which included space for open-ended comment)
3. Support for specific actions (36 questions, three of which included space for open-ended comment)
4. Services and amenities (rating of 13 current and seven potential services/amenities)

The results of the survey were reported in the newsletter to include the unadjusted numerical score for each multiple-choice question, and were not summarized or interpreted in the publication. Of the 2,605 surveys mailed to members, 670 (26%) were returned, and

41% of respondents lived in the Baca Grande. The multiple-choice questions that received an overwhelming response (i.e., over 90% agreement or disagreement) included:

- Having some plan for how the neighborhood around my property develops is important (94% agreement)
- Protecting the natural, ecological environment of the Baca is important to me (95% agreement)
- Having the Baca be a place where open space is preserved, and, when feasible, increased is important to me (92% agreement)
- A Baca/Crestone lifestyle that is easy on the environment, even if it means giving things up that I may want is important to me (94% agreement)
- Having the Baca be a place that is known for environmental stewardship is important to me (93% agreement)

All these questions were within the survey's Section 2 – Values and Attitudes. There were many other questions with a very positive response, such as 89 or 88 percent.

Comparison of the Two Surveys

Although the results were presented differently, the values and attitudes of the respondents to the two surveys were strikingly similar. Both groups overwhelmingly support environmental quality and sustainability, maintaining the appearance of neighboring properties, neighborhood planning, enforcement of community rules and requirements, and good basic public services, including roads, drainage, fire, emergency medical, water and sewer. Both also support protection of property values while maintaining a small town atmosphere.

Another area of agreement is the need for development of a diverse economy, although both groups offered limited support for economic growth and additional services – in the range of 50-70%.

In the Town survey, the answers to the issue of annexing the Baca are not interpreted in the published summary. Instead, it recommends that the responses be more carefully studied. The POA survey did not ask about that.

⁴⁴ The analysis was reported in a summary report prepared by the Crestone Planning Commission.

BENEFITS OF ANNEXATION

The benefits that could be realized by the Town annexing the Baca Grande area appear to coincide with many of the attitudes of the citizens of the greater Crestone area.

Land Use

By annexing to the Town, the Baca Grande community would be able to rely upon more locally-driven governmental powers in land use matters than exist today. This could prove to be more effective and responsive to local needs than the current sub-county zoning system combined with POA covenant enforcement. A municipal land use system may also be less costly to enforce than the current POA covenant restrictions, but to properly evaluate that issue, the difference between the current POA/county system would have to be closely compared to the Town's enforcement mechanisms.

The Town's current zoning regulations control land use within the Town's boundaries. It is possible that if the Baca Grande community were annexed, POA covenant standards could be separate zoning standards for Baca Grande properties. In that way, current standards within the Baca Grande could remain in place, if they proved to be harmonious with the Town's land use ordinances.

The 2003 Incorporation Study, developed by the Baca Grande Governance Research Committee, stated

The primary interest in incorporation is to control the extent and quality of land use and to provide services on a more equitable and efficient basis.⁴⁵

Annexation to the Town would gain the authority to accomplish these goals within the Baca Grande.

Extraterritorial Control

One of the major issues facing the Baca Grande community is the prospect of Lexam Explorations, a Canadian energy development firm, drilling test wells for gas in the National Wildlife Refuge (NWR), immediately to the west of the Baca Grande. There has been a good deal of discussion in the Baca Grande about whether having a municipality could control such activity.

The sole extraterritorial jurisdiction that a statutory town, such as Crestone, could enforce under Colorado law is the ability to control activity in the municipal watershed

...for the purpose of maintaining and protecting the same from injury and the water from pollution, their jurisdiction shall extend over the territory occupied by such works and all reservoirs, streams, trenches, pipes, and drains used in and necessary for the construction, maintenance, and operation of the same and over the stream or source from which the water is taken for five miles above the point from which it is taken and to enact all ordinances and regulations necessary...⁴⁶

To consider using this power for controlling the methods used in gas well drilling, there would have to be a municipality in place, operating a water system within the five-mile

area. The POA, as a private corporation, does not qualify. Although the District arguably could claim this power as a “quasi-municipal corporation,”⁴⁷ thus having the same authority as a municipality, its ability to do so is open to question. The Town is considering development of an ordinance to exercise control over activities outside its boundaries that might affect the community water supply.

Many in the Baca community contend that a home rule municipality⁴⁸ could have the authority to control drilling activity in the nearby area. Article XX of the Colorado Constitution allows a town to adopt a home rule charter, and thus supersede state laws in “local and municipal matters.”⁴⁹ Many home rule municipalities in Colorado have adopted charter provisions regarding their exercise of power outside of municipal boundaries.⁵⁰ A number of legal cases, however, have held that the power of the state to declare public policy was not relinquished by this constitutional provision. In one case, the Colorado Supreme Court held that the state can preempt a home rule ordinance that totally prohibited oil and gas drilling within a municipality.⁵¹

For a town to challenge the basic right of a company to access its property, albeit underground, whether within or outside of municipal boundaries, would no doubt lead to a lengthy and costly court battle in which there is little chance of prevailing. It may be reasonable to place certain land use restrictions upon the methods used to explore for and extract resources, using the Town’s general police powers and/or watershed control authority. However, they would have to be framed in terms of issues that the town has the right to control, such as watershed protection, or peace, health, safety, noise, nuisance or disturbance control within the boundaries, which are clearly set out as municipal statutory powers.⁵²

Economic Development

The Crestone/Baca community is ideally situated to take advantage of the recreational opportunities in the Forest Service, National Park and Wildlife Refuge areas that are found nearby. Access to some of these lands is best achieved by passing through the community. It is possible that a unified Crestone/Baca community could cooperatively fashion a successful approach to socially sustainable economic development, focused on developing commerce from the traffic to and from these natural resources.

Cooperation certainly would be possible without annexation, but could easily lead to competition between the Town and the Baca Grande area. While competition is not necessarily bad, in this case it could prevent the Crestone/Baca community at large from the maximum benefit that might accrue from developing economic opportunities that these recreational resources present.

Cooperation

A long-term benefit of annexing the Baca Grande area to the Town would be gaining a unified voice for the Crestone/Baca community in intergovernmental affairs. This would help governmental planning efforts, many of which could have considerable local impact, as well as enhance competition for scarce grant funds.

A good deal of the property surrounding the Crestone/Baca community is federal land managed by the Bureau of Land Management, U.S. Fish & Wildlife Service and U.S. Forest Service. The community is considered to be a “gateway” to these public lands and the agencies responsible for their management must include the Town in their planning efforts, as a function of the National Environmental Policy Act of 1969 (NEPA).⁵³ In some cases, the Town, as a “general local government,” can have the same status as a federal agency when a project is proposed.⁵⁴ In other cases, the Town would be considered a “cooperating agency,” which allows a formal role in an Environmental Assessment, or Environmental Impact Statement when a public project is proposed on those lands.⁵⁵ The POA does not always enjoy that status, as a private nonprofit agency, although federal agencies would likely seek community input as part of any planning process.

Many granting agencies, both governmental and foundation-supported, rely upon local consensus in awarding grant funds for local projects. A unified community of a population over 1,500 would present a much stronger case for a grant award than a small town, such as Crestone, a separate nonprofit, such as the POA, or even any combination of the two. In many programs, the POA would not be eligible for direct grant assistance, since it is not a governmental unit. In those cases, the Baca Grande would have to rely upon Saguache County to represent its interests and may have to compete with other areas of the county for county-wide priority.

In general, a unified municipality, such as would exist after a final annexation, would be more competitive and speak with a stronger voice on behalf of the citizens of the Crestone/Baca community.

Liability

The POA provides a number of public services that carry a high exposure to a liability loss as a private agency, including fire protection/suppression, emergency medical services and road maintenance. The Town, as a public agency, enjoys the protections of the Colorado Governmental Immunity Act (CGIA). This statute balances the governmental interest of managing operations while predicting liabilities with the interest of the public in seeking redress for injuries caused by public entities and their employees.

The CGIA provides immunity to governments in Colorado as protection of the public treasury from unlimited liability. The law limits recovery for damages against public entities or public employees to \$150,000 per individual and \$600,000 per occurrence.⁵⁶ Immunity is waived in certain areas,⁵⁷ and these waivers are conditioned on a requirement of written notice.

The CGIA’s protection of the Town’s liability certainly lowers its exposure to possible losses due to tort actions, which in turn no doubt serves to lower its liability insurance premium. The Town’s 2007 expenditure item “Insurance and Bonds” of \$2,856 is about 12% of the \$25,029 spent by the POA in that year on liability and Directors & Officers insurance.⁵⁸ Although this is not a perfect comparison, it may indicate less expensive liability coverage. A full cost estimate for the Town’s coverage from CIRSA⁵⁹ would have to be developed, using the greater operational span of the POA, in order to fully evaluate this possibility.

Governance

The Town, as a public agency, must be accessible and its operations must be transparent, as a matter of law. The Local Government Budget Law⁶⁰ requires a financial plan be accomplished in full view at publicly-noticed hearings and meetings, offering citizens the opportunity to examine and comment on them. The budget law also requires certain items to be included in the adopted budget, such as a budget message outlining the important features of the plan, inclusion of all fund balances and a budget summary that states the basis for accounting in the plan. These requirements are intended to make it easier for interested citizens to understand the plan, so it can be more easily evaluated.

The Local Government Audit Law⁶¹ requires an accounting of past financial activity by a certified public accountant, using generally accepted accounting principles within six months of the end of the completed fiscal year. It must note any violations of law, including spending above the governing body's appropriation or other limits. A small government, such as the Town, may apply for an exemption from these audit requirements under regulations issued by the Office of the State Auditor, but must complete financial statements under fairly rigorous standards nonetheless.

The Open Meetings Law⁶² restricts the way that the public's business can be conducted in a variety of ways, requiring proper notice for meetings and discussions of policy between members of the Town Board be held in public. The Colorado Open Records Act⁶³ requires that all public records in the state be open for inspection by any person.

These and other mandates on local governments are in place so that citizens may discover virtually anything about the way the town government operates. Some of these requirements can be burdensome to the Town at times, but there is no doubt that the state policy of accessibility to public agency policy discussions and decisions intends to err, if at all, on the side of the citizen.

Recent statutory changes require the POA to manage and disclose the details of their operations in much the same way as the Town is required to do. The POA is a "common interest community," under the definitions of the Colorado Common Interest Ownership Act (CCIOA),⁶⁴ by virtue of the mandatory assessments levied against property owners. The CCIOA, as amended in 2005 and again in 2007, includes provisions that require public discussions and disclosure that are somewhat similar to those of a public agency. Annexation would offer the area uniform standards affecting disclosure of agency operations.

Financial Flexibility

The different revenue-raising abilities of the Town and the POA offer the unique possibility of a blended fiscal system that can pay the expenses necessary in the community while keeping costs low for everyone. The challenge will be to find the optimal delineation of service responsibilities between the Town and the POA, which may be dictated by how best to pay for them.

Both the Town and the POA possess distinct powers, which together would have considerable flexibility in financing public services within the Crestone/Baca community. Each entity considered alone, however, has restrictions in its ability to raise funds to pay for

services. This difference offers distinct advantages in consolidating the two systems, which can be accomplished by annexing the Baca Grande area and continuing POA operations.

The Town, as a government agency, has the power to tax, a considerable authority. If a property owner does not pay property taxes, the Town, through the county's Public Treasurer, can collect the amount due through the sale of a tax lien by the county.⁶⁵ If three years pass without the lien being satisfied, deed to the property is given to the owner of the lien, which can result in loss of title to the property. This power, and the threat implicit in failing to pay taxes, demands serious attention from property owners. The result is very high compliance with payment of taxes due.

An additional benefit to paying a tax instead of an assessment is that taxes can be deductible on a property owner's federal tax return. Thus, the net cost of paying a tax levy would be reduced by the taxpayer's rate of federal income tax, an advantage not offered under the POA assessment system.

However, the Town's taxes must be levied on an equal basis that treats everyone the same. The same burden of tax rate must be levied on the value of all property that is not legally exempt from taxation, regardless of its value.⁶⁶ In the case of property taxes, this results in unimproved properties paying significantly lower taxes than comparable properties with improvements.⁶⁷ The Town cannot legally make disproportionate assessments or any other fees that are not based upon a service differential. For example, the Town cannot simply charge every property owner a specific amount per year for the privilege of having services available, as the POA can.

If the Town were to pay for all the services that the POA currently provides by means of a property tax, the burden of that tax would have to be extraordinary, since there are many vacant lots within the Baca Grande boundaries whose tax burden would be negligible. This problem was discovered by the Baca Grande Governance Research Committee in 2003.

The flexibility available under the POA current private corporate status offers at least one distinct advantage over the Town in the ability to raise revenue from membership assessments. This gives the POA the ability to raise revenue from nonresident owners of unimproved lots, which helps pay for the services currently available to all members and their properties, while keeping costs to the residents low.

The POA, as a "common interest community," has the authority to raise revenue to the extent necessary for fiduciary responsibility. This allows the POA to assess all lots within its boundaries in the same amount, regardless of the value of the property, which pays for the many miles of roads and other services maintained for the benefit of each property individually.

As a private corporation, however, the POA does not have recourse to the same collection methods as the Town, and must rely upon liens against property that are collectible only upon sale of the property.

Therefore, the primary financial advantage of being an incorporated municipality is having the power to tax, even with the limitations on how much tax levied. This contrasts

with the POA advantage of collecting the same amount from all properties, although with a somewhat more limited collection ability. Combining these two systems would provide the Crestone/Baca community with the possibility of a powerful system with the flexibility to accommodate the varied characteristics of the properties and provide for the unique needs in financing public services.

Disadvantages to Annexation

It should be noted that a possible disadvantage to the Town in annexing the Baca is the loss of its current advantageous status in certain programs. The state Water Pollution Control Revolving Fund, for example, considers the Town to be “disadvantaged,” since the Town’s Median Household Income (MHI) is currently less than 60% of the statewide MHI. As such it would qualify for a loan at 0% interest. If the Town included the entire Baca Grande area, their MHI would be in the 61% - 80% range, requiring an interest rate of 1.75%, an increase of about \$2,500 in annual payments.

Clearly the additional cost to residents could be considered another disadvantage to annexation. The initial cost of annexation is one issue, and another is the extension of the Town’s property levy into the Baca Grande. (See the section “Costs of Annexation” below for more on these costs.) Perhaps the dollar amount is minor enough, and the advantages to annexation sufficient, to not adversely affect public support for annexation. This is a subjective decision that no amount of factual data can completely inform.

⁴⁵ Baca Grande Incorporation Feasibility Analysis, Baca Grande Governance Research Committee – March 2003; page 10.

⁴⁶ 31-15-707(1)(b), C.R.S.

⁴⁷ 32-1-305(6), C.R.S.

⁴⁸ There is no distinction in the law between a home rule city and a home rule town; the word chosen for the name of such a municipality appears to be a matter of style.

⁴⁹ Art. XX, Sec. 6, Colo. Const.

⁵⁰ See Matrix of Colorado Home Rule Charters, Colorado Municipal League, 1978; pages 112-115.

⁵¹ *Voss v. Lundvall Brothers, Inc.*, 830 P.2d 1061 (Colo.1992)

⁵² The issue of municipal home rule is explored further in the section entitled “Service Provision After Annexation,” below.

⁵³ 42 USC 4331

⁵⁴ 40 CFR 1508.12

⁵⁵ See Having Your Voice Heard: A Citizen Guide to the NEPA, Council on Environmental Quality, Office of the President, December 2007.

⁵⁶ 24-10-114, C.R.S.

⁵⁷ There are six areas where immunity is waived: (1) the operation of a motor vehicle, (2) operation of any public hospital, correctional facility or jail, (3) dangerous condition of any public building, (4) a dangerous condition of a state or municipal highway, road or street from failure to realign a stop sign or from an accumulation of snow and ice (note that county roads are not included), (5) a dangerous condition of any public facility located in any park; and (6) the operation and maintenance of any public utility. [24-10-106(1), C.R.S.]

⁵⁸ The Town budgeted \$3,560 and the POA budgeted \$52,882 for this item in 2007, indicating the possibility of a greater cost for each agency, which, fortunately, did not occur.

⁵⁹ The Colorado Governmental Risk Sharing Agency, Denver, provides liability insurance coverage to the Town.

⁶⁰ 29-1-101 *et seq.*, C.R.S.

⁶¹ 29-1-601 *et seq.*, C.R.S.

⁶² 24-6-401 *et seq.*, C.R.S.

⁶³ 24-72-202 *et seq.*, C.R.S.

⁶⁴ 38-33.3-101 *et seq.*, C.R.S.

⁶⁵ 39-11-117, C.R.S.

⁶⁶ Art. X, Sec. 3, Colo. Const.

⁶⁷ Sales taxes are levied only when tangible personal property sold at retail, of which there is very little within POA boundaries.

DEMOGRAPHICS AND GEOGRAPHIC STATISTICS

The greater Crestone area is in Block Group 3 within the northern Saguache County Census Tract 9776, so certain statistics are readily available from the 2000 Census. Block Group 3 does not distinguish between the Baca Grande area and other surrounding geography, so the Block Group data is not specific enough to inform us about the Baca Grande’s demographic statistics. The Town of Crestone, which is also within that Block Group, is dealt with separately in the Census statistics, as well as in the state of Colorado’s ongoing population estimates, since it is an incorporated municipality, therefore the Town’s demographic data are more readily available.

In order to develop data for the Baca Grande area, we must apply some statistical calculations. The Baca Grande was broken into smaller geographies for the Census 2000 data, known as Blocks. Although demographic data for specific Census Blocks are available, we must be cautious about attributing much accuracy to the data, since they are based on a survey sample. Those are the only specific data available, however, so we can use them for estimating purposes, with the caveat that the only way to be sure they are accurate is to perform a scientific community survey, but that is outside the scope of this report.

The area of the Baca Grande within an initial three-mile annexation limitation includes all or part of 65 census blocks, which can be broken down between three subdivisions within its jurisdictions. This area consists of Chalet I, a northern section of The Grants, and the area in the eastern half of Casita Park.⁶⁸

A standard method of estimating population is to allocate numbers of people by geographical percentage of the area. For example, the 2000 Census reported that 98 people lived in Census Block 3000. Only about 1% of the geographical area in Block 3000 is within the three-mile radius from the Town’s boundaries, so, under this methodology, we would allocate one person to that Block within the annexation target area. However, when we look at that geography on a map, it appears that most of Block 3000 is uninhabited and, in fact, all those 98 people probably live within the three-mile area.⁶⁹

A more reasonable way to estimate population in this case is to use the household count data kept current by the POA Fire Department, and multiply that by 1.88,⁷⁰ the average household size in Census Tract 9776, Block Group 3.⁷¹ Thus, we instead arrive at an estimated population for Census Block 3000 of 186, which compares more reasonably to the 2000 Census count than does only one person. The table in Figure 1 compares the two methodologies in this example.

Figure 1 – Population Estimate Example
Source: U.S. Bureau of Census & SLVGIS

BLOCK	Geographic Allocation			HH Size Calc.	
	Total Pop.	% of area	Trimmed Pop.	Addresses	New Pop.
3000	98	1.00%	1	99	186

This methodology allocates residents to every address where there is a residential structure. Given that some may be vacant, or only seasonally occupied, it may be higher than the actual population.

The Town

Crestone’s total population on April 1, 2000 was 73, according to the decennial census. The Town’s population has been increasing gradually; the current population estimate was 130 on July 1, 2007.⁷²

The Town of Crestone consists of .25 square miles, and is made up of 603 platted lots. The Town owns 8½ lots, which include the Community Building (2½ lots), the Town Park (4 lots), Little Pearl Park (one lot), and one lot that is undevelopable. The Town Hall is not on a platted lot, but instead is in the middle of a platted street which is not expected to be developed because of the proximity of North Crestone Creek.

The Baca Grande

Given the Household Size methodology outlined above, the current estimate of the Baca Grande’s population within the first three mile annexation limit is 844 people,⁷³ and the population within the second three-mile annexation area is 566,⁷⁴ for a total of 1,410 after full annexation is accomplished. Please note that the methodology used to derive this number is based on using all residential structures, many of which may be uninhabited or only used on a seasonal basis. Many people in the Crestone/Baca community believe that this figure is too high, and that the correct figure should be somewhere in the range of 1,000 to 1,200 people. Without a more in-depth analysis of this matter it is not possible arrive at a factual number, but the analysis of finances and costs that follow later in this report are not affected in any practical way by using the figure of 1,410, instead of one that is to 15% to 30% lower.

The Baca Grande covers an area totaling about 14,000 acres, with a total of 4,214 lots.

Figure 2 - Lots Subject to POA Assessment
[Source: Baca Grande POA]

	<u>Lots</u>	<u>Improved</u>	
Casita Park	306	32	10.5%
Chalet I	1,577	359	22.8%
Chalet II	995	146	14.7%
Chalet III	48	10	20.8%
Grants	<u>1,288</u>	<u>146</u>	<u>11.3%</u>
	4,214	693	16.4%

In addition to these 4,214 lots, there are 21 lots owned by the POA, 33 dedicated to open space and owned by the Crestone Baca Land Trust, and 13 owned by the County. These 67 lots are not charged annual assessments.⁷⁵

⁶⁸ See Appendix A for a list of Census Blocks, and Appendix C for a map.

⁶⁹ See map in Appendix C.

⁷⁰ The 2003 Baca Grande Governance Research Committee's incorporation study estimated the average household size to be 1.5 (page 5).

⁷¹ This comprises the eastern part of northern Saguache County, including the Crestone/Baca area; see Appendix C.

⁷² July 1, 2007; Office of the Colorado State Demographer.

⁷³ See table in Appendix A.

⁷⁴ See table in Appendix B.

⁷⁵ Section 5.4 of the Baca Grande Property Owners Association Amended and Restated Declaration of covenants specifically exempts lots owned by the POA and the District from assessments.

FINANCES

The Town

Crestone's 2007 Finances are summarized in Figure 3.

Figure 3 - Town of Crestone Finances, FY 2007⁷⁶

Source: Colorado Department of Local Affairs

<u>2007 REVENUES</u>		<u>2007 EXPENDITURES</u>	
TOTAL TAXES	\$86,578	GENERAL GOVERNMENT	\$96,136
General Property	\$4,515	JUDICIAL	\$0
Specific Ownership	\$709	TOTAL PUBLIC SAFETY	\$2,450
General Sales and Use	\$81,322	Law Enforcement and Jail	\$0
Franchise	\$0	Fire	\$2,400
Employment Occupation	\$0	Other Public Safety	\$50
Other	\$32	TOTAL PUBLIC WORKS	\$6,230
Unclassified	\$0	Streets	\$5,544
LICENSES, PERMITS, CAP FEES	\$2,588	Solid Waste	\$686
INTERGOVERNMENTAL	\$9,696	Other Public Works	\$0
Highway Users Tax	\$7,452	HEALTH	\$0
Cigarette Tax	\$399	CULTURE and RECREATION	\$5,100
Motor Veh. Reg. Fees	\$633	SOCIAL SERVICES	\$0
Conservation Trust Fund	\$1,212	MISCELLANEOUS EXPENDITURES	\$4,976
Social Services	\$0	TOTAL OPERATING EXPENDITURES	\$114,892
All Other Intergovernmental	\$0	TRANSFERS to OTHER GOVT./ENT.	\$700
CHARGES for SERVICE	\$2,066	CAPITAL OUTLAY	\$5,060
FINES and FORFEITS	\$0	PRINCIPAL PAYMENTS	\$0
MISCELLANEOUS REVENUE	\$5,290	INTEREST PAYMENTS	\$0
TRANSFERS from ENTERPRISES	\$218	GENERAL ACTIVITY DEBT OUTSTANDING	
TOTAL REVENUE	\$106,436	General Obligation Debt	\$0
		Revenue Debt	\$0
		Other Debt	\$0
		PUBLIC ENTERPRISE ACTIVITIES	
FUND:	Water	Sewer	
Charges for Services	\$0	\$20,041	
Capital Fees	\$0	\$1,600	
Intergovernmental Revenue	\$8,593	\$0	
Transfers In	\$0	\$0	
Interest	\$708	\$113	
Other Revenue	\$0	\$0	
TOTAL REVENUE	\$9,301	\$21,754	
Operating Expenditures	\$1,154	\$10,310	
Principal Payments	\$0	\$2,509	
Interest Payments	\$0	\$2,707	
Capital Outlay	\$19,169	\$1,074	
Transfers Out	\$218	\$0	
TOTAL EXPENSE	\$20,541	\$16,600	
Current Assets (fund)	\$127,117	\$11,666	
Current Liabilities (fund)	\$136	\$300	
DEBT OUTSTANDING			
General Obligation Debt	\$0	\$0	
Revenue Debt	\$0	\$0	
Other Debt	\$138,220	\$51,629	
YEAR END TOTALS (ALL ACTIVITIES)			
CURRENT ASSETS	\$258,690		
CURRENT LIABILITIES	\$812		

The Town's finances can be analyzed using a per capita measurement for both revenue and expenditures. First we must separate the revenues which are paid by the

residents of the Town from those funds derived from outside Town. This is often referred to as “own source” revenue. Although sales taxes may be paid partly by people from outside Town buying tangible personal property within the Town, we cannot separate the two types of buyers, so we will designate all sales tax as being from the Town’s “own source.” The same applies to licenses and fees. We will attribute all taxes, including property, sales, specific ownership and “other” taxes, as paid by residents of the Town, as well as licenses, permits, motor vehicle license fees and other fees.

On the other hand, all intergovernmental revenue (except motor vehicle registration fees) which includes Highway User Tax Fund, cigarette tax, and Conservation Trust Fund, is paid to the Town by the state, but are derived from sources outside of Town. Therefore, we conclude that the local, “own source” share of the Town’s revenue in 2007 includes taxes (\$86,578), licenses (\$2,588), motor vehicle registration fees (\$633) and other fees (\$2,066), for a total of \$91,865. The remaining \$23,027 of the Town’s total expenditures (\$114,892) is received from sources outside of Town.⁷⁷

Given the Town’s population of 130 in 2007, we can calculate the cost of Town government for each resident of the Town to be $\$91,865 \div 130 = \707 annually per person. This is actually a slightly inflated cost to each individual, since some of this revenue is actually paid by people who do not live in town – the sales tax, for example – but it gives a rough estimate of individual burden. The Town spends over 90% of General Fund revenue – on “General Government” activities, more than half of which is spent on staff and professional service expenses.

The Town has no General Fund indebtedness, but has been awarded a loan for each of its enterprise funds when awarded a combination loan/grant. A \$65,000 loan for 2002-03 construction of the sewage collection system has remaining principal of \$48,995 as of 9/1/08. The Water Enterprise Fund received a \$138,220 loan in October, 2007, that must be entirely spent before any of the \$500,000 grant may be disbursed. This project is classified by the Town’s as construction in progress, with approximately \$19,000 spent in 2007 for engineering design. The Sewer Enterprise loan is being repaid from monthly sewer service charges, and the Water Enterprise Fund Loan is being repaid from tap fee revenue until monthly water service charges begin. These enterprise funds are accounted for separately from the Town’s General Fund.

The POA

The POA regularly charges \$285 annual assessment for each lot, but in 2007 the net assessment was \$260.⁷⁸ The total annual assessment revenue in 2007 was \$1,095,589, which indicates that all 4,214 lots paid the \$260 assessment. The Financial Summary (Appendix H of this report) shows that assessments are divided between Administration (\$841,389, or 76.8%) and Reserves (\$254,200 or 23.2%). The share for Administration is then used to pay for expenses in departments that operate at a net loss, such as Fire, Ambulance and Library operations, and is also used for actual administrative and ongoing maintenance expenses.

All expenses to provide services within the POA in 2007 was \$1,516,707. Assuming the current resident population of 1,410, the cost would be calculated at \$1,076. However,

since only 33% of the lot assessments in the Baca Grande are owned by residents, 67% of the total lot assessment cost is borne by nonresidents. These payments by people who do not live in the Baca Grande lower the cost per resident by $\frac{2}{3}$, to a net average of \$355.

Using the 2007 financial summary (see Appendix H), the \$260 for each lot's assessment can be broken down between the POA functions to calculate how much each assessment pays for each department's service by allocating each assessment's share of the losses in those departments which do not turn a profit.

Figure 4 - Allocation of POA 2007 Assessments

	<u>2007 Expenditures</u>			<u>Share of Assessment</u>
Total Assessments	1,095,589	100%		\$260
Reserve	254,200	23.2%		\$60
Operations	841,389	76.8%		\$200
<u>Dept.</u>	<u>Net Income⁷⁹</u>	<u>/Loss⁸¹</u>	<u>%</u>	<u>Applied to \$200 Share of Assessment</u>
Administration	655,231			
Maintenance		-387,599	-46.1%	-\$92.13
Casita Park		-7,815	-0.9%	-\$1.86
Ballfield		-2,409	-0.3%	-\$0.57
Camper Village	5,172		0.0%	-
Stables		-1,771	-0.2%	-\$0.42
Parks & Green Belts		-17,250	-2.1%	-\$4.10
Fire		-118,349	-14.1%	-\$28.13
Ambulance		-105,841	-12.6%	-\$25.16
Library		-95,142	-11.3%	-\$22.62
Land Use		-32,221	-3.8%	-\$7.66
Elk Park		<u>-736</u>	-0.1%	<u>-\$0.17</u>
Total		-769,133		-\$182.82

23.2% is allocated to a Reserve Fund, which is \$60 of each \$260 assessment, leaving a balance of \$200 used to pay for operations. The \$200 balance can then be allocated to pay the net losses in those departments that do not realize a profit, which is ten of the thirteen departments, totaling \$769,133.⁸⁰

The unallocated balance of \$182,82 remains, about \$17 per member, or 6.5% of each assessment. This could be considered to be an "ending balance," or could be allocated to Reserves, depending upon how the POA Board's policies treat that excess. If allocated to

reserves, this would raise the share of each assessment allocated to reserves from \$60 to \$77 per lot, from about 23% of the \$260 assessment to nearly 30%.

The District

The Baca Grande Water & Sanitation District's 2006 finances are summarized in Figure 5.

Figure 5 - Baca Grande Water & Sanitation District Finances, FY 2006⁸¹

Source: Colorado Department of Local Affairs

	<u>Water & Sewer</u>
2006 REVENUES	
Property Tax	\$402,023
Specific Ownership Tax	\$0
Sales and Use Tax	\$0
Charges for Services	\$473,427
Capital Fees	\$155,017
Intergovernmental Revenue	\$0
Transfers In	\$0
Interest	\$6,520
Miscellaneous Revenue	\$136,427
Debt Proceeds	\$15,000
TOTAL REVENUES	\$1,188,414
2006 EXPENDITURES	
Operating Expenditures	\$885,220
Principal Payments	\$171,985
Interest Payments	\$69,049
Capital Outlay	\$722,106
Intergovernmental	\$0
Transfers Out	\$0
Miscellaneous Expenditures	\$0
TOTAL EXPENDITURES	\$1,848,360
NET INCOME	-\$659,946
Current Assets	\$461,256
Cash And Investments	\$59,147
Current Liabilities	\$899,285
DEBT OUTSTANDING	
General Obligation Debt	\$0
Other Debt	\$1,393,193
TOTAL DEBT	\$1,393,193
Service Schedule:	
2007	\$213,339
2008	\$198,602
2009	\$166,217
2010	\$143,841
2011	\$143,839
Debt Authorized & Unissued	\$0

The District accounts for water and sewer as a combined enterprise function, so separate financial information on each individual service is not available. The District also imposes an “availability of service” (AOS) charge of \$40 per year for any lot that is not connected to both the water and sewer systems. The District collected \$58,300 in 2007 from this source.⁸² The AOS is charged annually to 1,450 lots that meet certain legal criteria, including

- The revenue collected from the AOS charge can only be used for the purpose of paying principal and interest on outstanding indebtedness
- AOS charges can only be imposed where water or sewer lines, or both, are within 100 feet of the property line and are not connected to the system
- AOS charges cannot exceed 50 percent of the fee for services of the district⁸³

The total monthly service charge for use of the system by a single-family dwelling unit, according to the 2008 rate schedule, can be summarized as follows:⁸⁴

Service charge – water	\$22.00
– sewer	\$20.00
Fire protection & System improvement fees ⁸⁵	<u>\$ 2.50</u>
Total monthly cost	\$44.50

In addition, the District levies 38.792 mills on the taxable property within its boundaries. The average value of a residential property within the Chalet I subdivision is \$143,560,⁸⁶ whose owner is liable for an annual property tax bill of \$443. This adds another \$37 per month to the cost of service from the District.

Thus, the average annual cost to each lot in Chalet I that directly benefits from the District’s services is $\$44.50 + \$37 = \$81.50/\text{month} \times 12 = \978 .

The unimproved lots in the District that benefit from the proximity of water and sewer services pay the Fire & System Improvement fees of \$30 per year, plus the \$40 annual AOS charge. Therefore, in addition to the property taxes due (which are minimal on undeveloped lots), the owners of unimproved lots are liable for \$70 per year, which amounts to an additional \$6 per month.

(NOTE: the District placed three questions on the November 4, 2008 ballot, which would (a) raise the operation mill levy to 46 mills, and (b) authorize the District to issue bonds of up to three million dollars for water and (c) authorize bonds of up to three million dollars for sewer. All three were approved by the voters.)

⁷⁶ 2007 is the Town’s last completed fiscal year; a local government fiscal year is defined as the calendar year [29-1-102(9), C.R.S.].

⁷⁷ The summary indicates \$106,436 in 2007 revenue and \$114,892 in expenditures. The Town Board decided to spend this amount in 2007 for extraordinary purposes one time only, the difference of \$8,456 being spent out of the fund balance in the General Fund, indicated in this summary as part of “Current Assets” at the bottom of the list.

⁷⁸ The assessment originally was \$400, but later a \$140 credit was given to all lot owners. A 2007 Reserve Study, done by Hammersmith Reserve Services, called for the POA Reserve Fund to be increased by \$1.36 million to fully fund reserves to pay for the necessary improvements through the year 2037.

⁷⁹ Per POA 2007 Financial Summary (Appendix H).

⁸⁰ These are net amounts, after considering any revenue generated by that department.

⁸¹ 2006 audited financial statements are the last processed by the Department of Local Affairs; the 2007 audit was approved at an October district Board meeting.

⁸² This applies only to the Casita Park and Chalet I, II and III areas.

⁸³ There are other limitations in the statute. [32-1-1006(1)(h), C.R.S.]

⁸⁴ For usage of 4,000 gallons or less per month; there are separate irrigation rates, which follow a schedule of charges based upon the size of the service line.

⁸⁵ A fire protection fee of \$9 and a system improvement fee of \$21 are each imposed annually; this totals \$30, divided by twelve months equals \$2.50.

⁸⁶ \$11,427 taxable value, assessed at 7.96% of market value. [Source: Saguache County Assessor]

SERVICE PROVISION AFTER ANNEXATION

Annexation of the Baca Grande area raises a number of issues, some of which can be addressed by outlining options available in service provision.

Alternatives

As noted in the Introduction to this report, annexation of the Baca Grande is an unusual proposition, given that the potentially annexed area has been receiving public services from the POA for many years. The different combinations of service provision after annexation are nearly unlimited, and could be designed in a variety of ways. Presented here are a series of possible alternatives for some of the most basic services. We have taken the simplest possible approach, requiring the least change from the current arrangement. From that starting point, layers of complexity can be added, as may be desired.

Home Rule

Home rule is one alternative that could be pursued if the Baca Grande were annexed. While not specifically connected to annexation, home rule appears to be the desired municipal structure for both the Town Board and a number of Baca Grande residents if annexation were to occur. For that reason, it is being addressed briefly in this report.

Although it may not be possible to eliminate all activities that may be undesirable to residents, such as natural gas exploration, by means of a home rule charter,⁸⁷ there are a number of benefits that can result from the flexibility a home rule charter would allow. (Note: the Baca Grande Governance Research Committee's 2003 incorporation study recommended a statutory town as the preferable alternative for incorporation, as opposed to a home rule municipality, due to the added cost, time and complexity in adopting a home rule charter.⁸⁸)

“Home rule” is a form of government under as much control of local citizens as possible, and as such it is a form of self-government. Home rule municipalities in Colorado derive their authority directly from Article XX of the Colorado Constitution, allowing some protection from the state in “local and municipal matters.”⁸⁹

Home rule in Colorado offers the advantage of greater flexibility in organization and structure, powers, functions, procedures and limitations than those available under state laws for statutory municipalities. Examples of such flexibility include:

- Within certain limits, new tax sources can be created to meet local standards
- A Unique governmental form and administrative structure can be created
- The Town can have available broader powers of eminent domain outside municipal boundaries
- The Town can have available broader and more flexible taxing powers, including
 - the ability to administer and enforce sales and use taxes, and determine what transactions are subject to, or exempt from, sale and use taxes
 - the authority to levy taxes not available to statutory municipalities, such as lodgers taxes, admissions taxes and other excise taxes

- The Town can have broader and more flexible land use, zoning and planning powers⁹⁰

There is some concern that the Town would lose direct control of matters within their current boundaries by increasing its population tenfold, since the Town Board after annexation could be dominated by members from the Baca Grande. It is possible to create wards under a home rule charter, so that geographical representation is assured, but they would probably have to have reasonably equal population.⁹¹ Therefore, under a home rule town ward system the Baca Grande area would have greater representation on the Board than the old Town's area. If some members were elected "at large" to the Town Board, it is possible that residents of the old town would be elected to fill those seats, but that can't be guaranteed.

Law enforcement

Both the 2007 Town survey and 2005 POA survey found strong support for enforcement of community rules and requirements. However, a prior POA survey conducted by the Governance Research Committee found "enforcement of ordinances, laws and rules" to be a low priority.⁹² There are at least two options available to the Town in providing law enforcement, whether all, any, or none of the Baca Grande area were to be annexed.

The current system, using a Town Marshal, could be continued, although we cannot tell how the workload might be affected by annexation. This is the least expensive option, since the Marshal is currently an unpaid volunteer. If the workload were to increase substantially by increasing the Town's population from 130 to 1,540, it is possible that the demand on the Marshal's time would require the Town to reevaluate the current system.

Another option is for the Town to contract with the County Sheriff for municipal law enforcement. The Town has discussed this option with the county, for partial coverage within the current Town boundaries, although no terms have been reached. The County Sheriff addressed the Town Board in March 2008, stating that a halftime deputy (20 hours per week) would cost about \$36,000 per year for salary and benefits alone.⁹³ The cost of purchasing, equipping and maintaining a vehicle would be additional, and fuel costs could be expected at \$75 to \$150 per month.⁹⁴

Should the use of a jail become necessary, state law allows a municipality to use the county jail for incarceration of offenders, with the consent of the Board of County Commissioners.⁹⁵ The county will, no doubt, require reimbursement of their expense to house an inmate, probably based upon a daily rate. This would also have to be memorialized in a contractual agreement.

Fire Protection

The Northern Saguache County Fire Protection District (NSCFPD) includes the Town in its jurisdiction, but not the area south of County Road T, where most of the Baca Grande area lies. [See map in Appendix G]

There are at least three options available to a consolidated Crestone/Baca community in providing fire response and suppression services. First, the entire Town, including the newly-annexed area, could be within the NSCFPD, which would require the annexed Baca

Grande area to be included within the NSCFPD. This can be accomplished by petitioning the district for inclusion and holding an election in the area if at least 20% of the landowners sign the petition.⁹⁶ This option might allow the POA the possibility of lowering the assessments on each lot within the affected area, since the property owners would be paying the NSCFPD mill levy as well as POA assessments. It is unclear whether the POA could offer a credit equal to taxes paid for this purpose, allowing those who paid a higher tax burden to receive a larger credit. This option, if available, would give a measure of equity, since those properties would otherwise have to be paying twice for fire protection.

A second option would be for the current Town area to be excluded from the NSCFPD, which would place the entire Town outside of that district, as the Baca Grande is now.⁹⁷ Mutual aid and other cooperative agreements could make fire prevention and protection services relatively seamless in the Crestone/Baca community, but the NSCFPD assets in Town would probably have to be purchased from the district if their service remains necessary. In this alternative, the property owners in Town would likely be assessed an amount for their share of the cost of fire service from the POA, replacing the mill levy that they now pay. The process for exclusion from a special district begins with a petition to the district's board, and requires the signatures of 100 percent of the owners of property within the area to be excluded.⁹⁸ Since this consensus opinion is required, this "non-district" option may not be viable.

A third option would be to leave the fire services in the community just as they are now, with the area north of County Road T being served by the NSCFPD and leaving the Baca Grande area to have their own department under the POA.⁹⁹ Contractual agreements between the two areas could lead to eventual consolidation sometime in the future.

From a service standard point of view, consolidation would not seem to present much of a practical problem. Current volunteers for both the Crestone and Baca Grande volunteer fire departments have quite a few members in common, so staffing wouldn't appear to present any real issues. Both agencies receive fire mitigation grant funds: the Town from the county in sales tax grants and Title III funds, and the POA from the state Forest Service. Those would likely be able to continue without any conflict.

Streets and Roads

The Town would have to annex the following segments of county-maintained roads outside the POA boundaries, in order to attain contiguity with properties in the Baca Grande area, as is required by law:

- .39 centerline miles of CR 71 from the Town limit to the south, across County Road T, to the POA kiosk
- 4.1 centerline miles west on County Road T, extending past the Camper Village area, to the Casita Park "gate"¹⁰⁰

The County currently maintains 18.3 centerline miles of roads within the Baca Grande. In annexing the entire Baca Grande area, the Town would annex those road segments, including the following major segments of county roads inside the Baca Grande:

- approximately 4.19 miles of County Road 71S (Camino Baca Grande)
- 2.37 miles of County Road S71 (Baca Grant Way, Skyview Way, a segment of Moonlight Way, and various connected cul-de-sacs)

- 4.03 miles of County Road 72S (Camino Real)
- 1.93 miles of County Road S72 (Wagon Wheel Road)
- .88 miles of County Road S72S.3 (Badger Road)

(A complete list of the county-maintained roads within the Baca Grande is included as Appendix D.)

Maintenance of these roads would become the responsibility of the Town, and cease to be maintained by the county Road and Bridge Department. The Town would report the mileage on the roads to the Colorado Department of Transportation as being in the Town for the purpose of calculating the Town's share of Highway User Tax Fund distributions.

Ambulance

Ambulance service in the Crestone/Baca community's area is similar to fire protection in that the area north of County Road T is within the Northern Saguache County Ambulance District (NSCAD) and the Baca Grande is not. The NSCAD boundaries are identical to those of the NSCFPD, therefore the options are similar.¹⁰¹

There are at least three options available to a consolidated Crestone/Baca community in providing emergency medical services. The first option would be for the entire Town, including the newly-annexed area, to remain within the NSCAD. This would require the annexed Baca Grande area to be included within the NSCAD, which can be accomplished by petitioning the district for inclusion and holding an election in the area, if 100% of the landowners do not sign the petition.¹⁰²

A second option would be for the current Town area to be excluded from the NSCAD, which would take the entire Town outside of that district, as the Baca Grande is now. Mutual aid and other cooperative agreements could still provide emergency medical services provision relatively seamlessly in the Crestone/Baca community, especially because the POA currently provides that service within the Town. As with the fire protection district, the process for exclusion from the district begins with a petition to the district's board, and requires the signatures of 100 percent of the owners of property within the area to be excluded.¹⁰³

A third option would be to leave the emergency medical services in the community just as they are now, with the area north of County Road T being served by the NSCAD under a contract with the Baca Grande Ambulance Department and leaving the Baca Grande area served by their own department. Contractual agreements between the two may not be necessary, since a consolidated ambulance service exists today. This would be the simplest course of action.

Drainage

As previously stated, drainage improvements are called for throughout the Crestone/Baca community. A consolidated effort, covering both the Town and the Baca Grande, could accomplish a number of things, including the possibility of less cost-per-unit for the needed engineering and construction, since it would be a bigger project.

Cost is a definite issue with drainage projects. Construction costs for all projects have skyrocketed. Colorado's construction cost index for highway construction components (in which such a project might be categorized) is indicative: from 2003 through the second quarter of 2008 the index rose 88.4 percent.

Planning would also be better, as the entire area could be evaluated at once. It is also possible that the objections of neighboring property owners could be more easily handled with an approach that takes a wider geographic scope.

Land Use

Extension of the Town's land use authority throughout the Baca Grande would offer a more reliable method of enforcing land use restrictions, a stated desire in the POA citizen survey.¹⁰⁴ Using the Town's zoning powers would probably be a more effective and efficient localized mechanism than the current practice within the Baca Grande, which depends upon enforcement by private action of the POA, backed up by the zoning powers of Saguache County.

Water

If an initial annexation of the Chalet I area is completed and followed by annexation of the Chalet II and III areas, it is possible that 85 percent of the area of the District would be within the Town's boundaries. When this threshold is met, state law allows the Town to file an application with the District's Board to dissolve the District, which the Board is required to pursue.¹⁰⁵

An application for dissolution of the District must include a dissolution plan which provides that the services of the district will be continued by another government, such as the Town. One advantage in exercising this strategic option is that the considerable power of the Town to exercise some measure of extraterritorial control over a watershed (see "Extraterritorial Control" under Benefits of Annexation, above) could then be invoked for the area above the source of the District's water supply, a more effective exercise of authority than exists in the Baca Grande today.

If this strategy were of interest to the residents, considerable legal research would be necessary to determine if this option is worth pursuing. The specific sources of the District's water supply would have to be surveyed to see just how much territory might be involved, and whether or not it included the area where the possible natural gas exploration wells would be sited. Also, the depths of the interjurisdictional issues that would arise from the water source being on federal land would have to be plumbed. Admittedly, this is complicated, and may not have much chance of success.

Administration

If Annexation 1 were to occur, we estimate 844 people would be added to the Town's population and another 566 would follow with Annexation 2. The first phase would increase the Town's population nearly 750%, which, with a second phase, would add up to an eventual increase of 1,410 people, greater than a tenfold increase over the Town's current population of 130.

With this growth would come additional work for the Town staff. Board meetings would become more complex, and probably take longer; workload dealing with streets, law enforcement, permits and zoning would increase; simply having that large a population would create a great deal more traffic in and out of the Town Hall, especially given the inquisitive and politically active nature of the residents.¹⁰⁶

With this work will come the need for more Town staff. Currently, the Town employs two individuals in administrative positions,¹⁰⁷ paid from the General Fund, filling a total of five part-time positions:

<u>Position</u>	<u>Paid Hours/Week</u>	<u>Employee #</u>
Town Manager	5.0	1
Town Clerk	28.0	1
Planning Commission Secretary	3.0	1
Treasurer	10.5	2
Deputy Clerk	<u>16.0</u>	2
Total	62.5	

The Town’s current two employees are paid for the following number of hours:

Employee #1	36 hours
Employee #2	26.5 hours

Eventual annexation of the entire Baca Grande and the increase in workload will present demands which exceed the ability of current Town staff to perform on a part-time basis. Therefore, more staff will be required to fill some of the current positions. It is reasonable to expect some equilibrium within a few years which could allow staffing to be reduced, but the high demand could continue for some time. During that time the following changes can be expected:

- The Town Manager can be expected to work 40 hours per week. This will be due primarily to two factors. First, there are a variety of complex issues that have to be dealt with, such as negotiating intergovernmental agreements with the county and developing a number of contractual relationships with the POA. Also, the increase in supervisory responsibilities connected to doubling the Town’s administrative staff will add to the Manager’s workload.
- The Town Clerk, currently staffed at 28 hours per week, will be expected to work a 40-hour work week. This will result from (a) the increased workload as Secretary to the Planning Commission, as the Town’s zoning and land use ordinances are updated, and (b) longer and more complex Town Board meetings, among other things.
- The Treasurer’s duties are expected to demand 32 hours per week, as attention will be needed to deal with the increased activity resulting from annexation. Retail sales outlets will have to be identified, so that the Town is assured that the proper sales taxes are collected, and accounting for various intergovernmental agreements and other contracts will have to be set up. It is possible that the demand will recede to some extent after a few years, but that is not something on which the Town can rely.

- The Deputy Clerk will be able to handle citizen inquiries on the telephone and in person, and will be required to provide full-time staffing at the Town Hall front counter.

Therefore, the Town’s employee roster after both annexations, is expected to be as follows:

Position	Paid Hours/Week	Employee #
Town Manager	40	1
Town Clerk	32	2
Planning Commission Secretary	8	2
Treasurer	32	3
Deputy Clerk	<u>40</u>	4
Total	152	

The employee hours per week will more than double, requiring four employees to properly staff the Town’s administrative duties.

⁸⁷ See “Extraterritorial Control” under Benefits of Annexation, above.

⁸⁸ Baca Grande Incorporation Feasibility Analysis, Baca Grande Governance Research Committee, March 2003, p. 23.

⁸⁹ Art. XX, Sec. 6, Colo. Const. For the history of home rule, see An Overview of Municipal Home Rule, Colorado Municipal League, August 2006.

⁹⁰ Each of these has been the subject of at least one court decision. For more information, see Home Rule Handbook, Colorado Municipal League, 1999.

⁹¹ Statutory cities can create a ward system [31-4-104, C.R.S.], but there is no such provision for statutory towns. A statutory city is defined as having population greater than 2,000. [31-1-101(2), C.R.S.]

⁹² Incorporation Study, p. 13. This survey was completed by 100 POA members; the 2005 study included 670 members.

⁹³ \$17.50 per hour for an entry-level officer.

⁹⁴ The Town of Saguache has a similar arrangement with the County Sheriff, and these costs were estimated from their experience.

⁹⁵ 31-15-401(1)(k), C.R.S.

⁹⁶ 32-1-401, C.R.S.

⁹⁷ The POA area north of County Road T is currently within the NSCFPD.

⁹⁸ 32-1-501(1), C.R.S.

⁹⁹ This option would not affect the current state of taxation for the taxable properties within the POA north of County Road T, which essentially have this double payment.

¹⁰⁰ These two segments would make up the “flagpole,” necessary for contiguity with the annexed property at their terminus. [See the table of road segments in Appendix D.]

¹⁰¹ See Appendix G for a map of the NSCAD boundaries.

¹⁰² 32-1-401, C.R.S.

¹⁰³ 32-1-501(1), C.R.S.

¹⁰⁴ “2005 Baca Grande Membership Survey” results published in The Baca Grande Property Owners Association newsletter, Winter Issue, 2006; Questions #20, #30, #36 & #41.

¹⁰⁵ 32-1-701(3), C.R.S.

¹⁰⁶ As noted earlier in this report, any capital costs that might be necessary, such as the need for larger Town facilities, are not being addressed here.

¹⁰⁷ The Town also employs a Public Works coordinator and a Custodian, each of whose workload could be increased by annexation, depending upon policies adopted by the Town Board.

COSTS OF ANNEXATION

The essential question for members of the Crestone-Baca community is: “Do you believe you will receive value in return equal to or greater than any cost in annexing?” On issues such as governance and community development, this benefit/cost analysis is very subjective, since it is impossible to place dollar values on the benefits. To make this analysis more difficult, there are not many services available from the Town that the residents of the Baca Grande are not already receiving, other than the possible benefit inherent in municipal local self-governmental powers.

From the Town’s standpoint, annexation cannot be quantified in any usual way, such as when owners of an undeveloped area want to annex for town water to allow the property to be developed, for example. Residents of the Town are expected to ask how much it might cost to extend municipal services into the Baca Grande area. If the additional revenue to the Town resulting from annexation is insufficient to pay for the expense of providing services to the annexed area, it will be difficult to find any benefit of annexation from the Town’s point of view.

Among the variables available to evaluate annexation, there are certain revenues and expenditures, both for the Town and the Baca Grande residents, which can be measured and used to evaluate the economics of annexation. Other less tangible costs and/or benefits must be evaluated by the residents to complete this relatively complex equation. There are two types of monetary costs that must be considered. One is the cost of actually accomplishing the annexation itself, and the other is the ongoing, annual operational cost of providing municipal services in the annexed area. This second cost will be balanced to some extent by additional revenue to the Town.

In order to simplify the fiscal analysis of how service provision might best be provided after annexation, we assume that the POA will continue its normal operations within its present area. In this way, the revenue-raising advantages of the POA can be retained. However, there are certain responsibilities that the Town will have to assume in the newly-annexed area.

Cost to Annex

Legal expenses comprise the majority of the expense that would be incurred by the Town in annexation. A rough estimate of the legal and surveying expenses involved in each annexation action is \$5,000, so two annexations would total \$10,000. This is based on the assumption that the annexations are the simplest possible with no legal objections, which can add considerably to the expense, depending upon their complexity, legal appeals, and other factors.

Also, note that two is the lowest possible number of annexations that could occur in order to annex the entire Baca Grande, due to the three mile annual statutory limitation. It is very possible that a larger number of annexation requests could be received, and that annexation could occur in a much less linear, deterministic fashion. If many smaller areas were to request annexation, the incremental annexation of the entire Baca Grande area would eventually cost a great deal more. Therefore, \$10,000 is considered to be absolute minimum expense for the Town for the eventual annexation of the Baca Grande.

In estimating the first-year cost of this item, we will assume that there are three annexations, each within the three-mile statutory limitation, for a total cost to the Town of \$15,000. Note that there are other costs involved in annexing properties to the Town. For example, the Town will probably require a survey to be done, the cost of which is traditionally borne by the property owners and would be addressed in a pre-annexation contractual agreement with the Town. This expense would provide an incentive for property owners to consolidate a number of properties under one annexation action, thus lowering the cost per owner and making the annexation more affordable.

An Annexation Plan would have to be developed by the Town, as required by state statute:

that generally describes the proposed location, character, and extent of streets, subways, bridges, waterways, waterfronts, parkways, playgrounds, squares, parks, aviation fields, other public ways, grounds, open spaces, public utilities, and terminals for water, light, sanitation, transportation, and power to be provided by the municipality and the proposed land uses for the area.

This plan is required to be updated at least once annually by the Town.¹⁰⁸ The cost to prepare an Annexation Plan is estimated to be \$3,000.

A formal Impact Report of the annexation would also have to be done. This feasibility report could partly serve as the basis for a formal Impact Report, but it would have to be updated with (a) more recent and specific cost data, and (b) some of the statutorily-required matters, such as

- The present streets, major trunk water mains, sewer interceptors and outfalls, other utility lines and ditches, and the proposed extension of such streets and utility lines in the vicinity of the proposed annexation
- The existing and proposed land use pattern in the areas to be annexed
- A copy of any draft or final pre-annexation agreement, if available
- A statement setting forth the plans of the municipality for extending to or otherwise providing for, within the area to be annexed, municipal services performed by or on behalf of the municipality at the time of annexation
- A statement setting forth the method under which the municipality plans to finance the extension of the municipal services into the area to be annexed¹⁰⁹

The Impact Report should be designed to complement the Annexation Plan, showing how the proposed annexation meets the standards of the Town in cost and character, among other things. The cost to prepare the Impact Report is estimated to be a minimum of \$5,000, depending upon the size of the proposed annexation.

The Town's Zoning Regulations will have to be updated, specifying which zones apply to the different areas of annexed property. The exact cost of this work is not precisely known since it cannot be predicted without a specific annexation in mind, but it is estimated to cost about \$5,000 in the simplest case.

An increase in Town administrative staff will require the purchase of office equipment and computers, which are expected to cost \$3,000 for each of two employees.

Finally, developing and adopting a home rule charter is a relatively expensive proposition. A charter commission has to be elected, and the actual work of developing a charter requires considerable legal work, including meetings extending over a minimum of six months. Another election is then required to adopt the charter commission’s recommendation. This process could be expected to cost \$30,000, if it was fairly quick, simple, and met with no legal objections.

Each of these is a one-time expenditure, and will not accrue to the Town’s normal operating budget. Also note that capital expenditures have not been included in this list. Some capital expenditures may require changes to the operating budget as well. For example, if the increase in administrative staff necessitates expansion of the Town Hall, the current workload of the custodial staff could change.

Figure 6 – First Year, One-time Costs of Annexation and Home Rule

Legal	\$15,000
Annexation Plan	\$3,000
Impact Report	\$5,000
Zoning update	\$5,000
Office Equipment	\$6,000
Home Rule Process	<u>\$30,000</u>
Total	\$64,000

Long-Term Operations - Revenues

Property Tax

Costs will increase to Baca Grande owners of taxable real and personal property from the Town’s 5.683 mill levy which will be levied within the annexed area.

Annexation 1 would include most of the Chalet I subdivision, where the average taxable value is \$11,427.¹¹⁰ Applying the Town’s mill levy to a property with this hypothetical value would result in an additional \$65 in property taxes due per year. An individual owner can calculate 45 cents per \$1,000 of the market value of their property (i.e., “actual value”¹¹¹) as an estimate of their annual tax increase. The total property tax revenue to the Town from the Chalet I unit would be \$46,492 if the entire unit were to be annexed.¹¹²

Eventual annexation of the entire Baca Grande area would produce the property tax totals shown in Figure 7.

Figure 7 – Baca Grande Property Taxes Resulting From Annexation

Unit	Average Taxable Value	Average Taxes Due	Town Property Tax Revenue
Chalet I	\$11,427	\$78	\$46,492
Chalet II	\$ 4,072	\$23	\$22,701
Chalet III	\$ 4,449	\$26	\$ 1,214
Grants	\$ 4,463	\$25	\$32,794
Casita Park	\$ 2,033	\$12	<u>\$ 5,201</u>
Total			\$108,402

The Town's 2008 property tax revenue was \$4,776. The total amount of annual property tax revenue to the Town resulting if all the Baca Grande property were to have been annexed in that year would be \$108,402 + \$4,776 = \$113,178.

It should be noted that the collection of all property tax revenue from an annexation would not be received by the Town until July of the second year following the annexation. This is due to the statutory delay of the effective date of an annexation until the next January 1.¹¹³ In that year the county Assessor will attribute the value of the annexed property to the Town and collection of the revenue will not occur until the following year, when taxes are due and payable.¹¹⁴

Specific Ownership Tax

Specific Ownership taxes (S.O. tax) are paid by owners of motor vehicles upon registration, based upon the vehicle's value. It is distributed to every local government that levies a property tax within the county. The amount of a local government's property tax revenue, as a percentage of the total property taxes levied within the county, is used to distribute the S.O tax collected by the county.¹¹⁵

Since the Town's property tax revenue would increase upon annexation, the Town's share of the S.O tax would also increase. The simplest way to estimate this increase is to assume it is in direct proportion to the property taxes collected.¹¹⁶ The Town collected \$709 of S.O. tax in 2007, about 15.7% of its \$4,515 property tax revenue. Therefore the Town's estimated property tax revenue resulting from annexation of \$108,402 times 15.7% is estimated to result in additional S.O. tax revenue of \$17,019.

Sales Tax

The sales tax imposed by the Town is levied at a rate of 3% on taxable sales of tangible personal property and will be extended within the annexed area. Statutory municipalities, such as Crestone, must levy a sales tax on the same transactions as the state sales tax is levied, but may choose to tax eight of the state-exempt categories: machinery or machine tools, food for home consumption, occasional sales by a charitable organization, farm equipment, low-emitting vehicles or power sources and their parts, residential home heating fuel and electricity, food sold through vending machines, and pesticides.¹¹⁷

The state collects sales tax for 154 statutory municipalities including Crestone, whose rates range from 1% to 5%. 63 home rule municipalities collect their own sales tax revenue, with rates ranging from 1.5% to 5%, and may also define their own exemptions to the tax, which are many and varied.¹¹⁸

There are retail sales establishments within the Baca Grande, although there is no commercial area as such,¹¹⁹ and their sales tax licenses are issued by the Colorado Department of Revenue. Data are not available from the state on where those licenses have been issued within the Baca Grande or how much their taxable sales might be, therefore it is not possible to estimate how much sales tax revenue might accrue to the Town after annexation.

Sagauche County has access to sales tax figures levied within the 81131 zip code, but precise figures for collections within the Baca Grande are not available. By deducting the Town sales taxes from the amount for the entire zip code and discounting it to some extent for properties that charge sales tax but are not in the POA boundaries (such as the Desert Sage restaurant in the townhouse area), we estimate the sales tax revenue that might have been collected by the Town in 2008 to be \$18,000.

The Town receives so-called “cigarette tax” distributions from the state as well, which are based upon the percentage of state sales tax collected within the Town compared to total state sales tax collections.¹²⁰ We know that this source of revenue may also increase to some extent by annexing the Baca Grande area, but it will not amount to much revenue so we will estimate the increase in this revenue to be zero.

Conservation Trust Fund

A portion of the state’s revenue from lottery sales is distributed to all counties, municipalities and park and recreation districts through the Conservation Trust Fund (CTF), based upon the local government’s population. The Town received \$1,212 in CTF payments in 2007, based upon the 2006 population estimate of 123. These funds can only be used

for park or recreation purposes, for all types of open space, including but not limited to floodplains, greenbelts, agricultural lands, or scenic areas, or for any scientific, historic, scenic, recreational, aesthetic, or similar purpose.¹²¹

Assuming lottery sales remain constant, the Town might expect the same share of CTF revenue in the future, about \$10 per person. Assuming the population of the Town would be increased by 1,410 after annexation, its CTF share would grow by \$14,100.¹²²

Motor Vehicle Fees

The Town and the county receive \$4.00 for each vehicle registered within their boundaries for “urban” or “rural” registrations, based upon the place of residence of each vehicle owner. The law requires this money to be spent on highways, roads and streets located within the Town’s boundaries.¹²³

The amount of motor vehicle registration fees can be estimated using population. The Town’s revenue from this source was \$633 in 2007, based on a population of 130. If we assume the same incidence of vehicle ownership in the Baca Grande as in Town, we can

apply the factor of \$4.87 per person to the Baca Grande’s annexed population of 1,410, for an estimate of \$6,867 additional revenue.¹²⁴

Licenses and Permits

Any licenses or permits issued after annexation would also produce additional revenue to the Town, although that amount would probably not be substantial. In any case, the number of licenses and/or permits cannot be predicted. Therefore, we will assume that there will be no additional revenue received for licenses or permits.

Streets

There are two types of municipal revenue that normally would increase as a result of annexation: the property tax “shareback” from the County’s road and bridge mill levy, and the Highway User Tax Fund (HUTF) intergovernmental payments from the state, both of which are required by statute.¹²⁵ Saguache County does not levy a property tax specifically for road and bridge purposes, so the Town will not realize any gain from that source.

HUTF payments are made by the state to the county and the Town, based upon miles of roads in the county or streets in the Town, using a relatively complex formula in state law.¹²⁶ The Town has budgeted \$7,311 in 2008 as revenue from the HUTF, as a result of the approximately four centerline miles of roads within the Town’s boundaries. Future HUTF distributions are difficult to estimate, since they are based on many variables. Not the least of these is the amount of revenue the state receives for the HUTF from gasoline taxes (per gallon, not dollar amount of sale), sales taxes, and other sources which are known to be declining. Thus, the effect of reduced gasoline consumption, due to higher prices and increased vehicle gas mileage, has a negative effect. The Town’s HUTF revenue has declined in all but two of the past eight years.

The best estimate of HUTF revenue to the Town is to predict the same amount per mile that the Town currently receives.¹²⁷ Dividing the Town’s expected \$7,311 in 2008 by the four centerline miles of road within Town, gives us an annual average of \$1,828 per centerline mile. Using this, if 18.3 centerline miles of Baca Grande roads were to be annexed, the Town’s HUTF revenue would increase by \$33,452.¹²⁸ Also, segments of Road T (4.1 miles) and Road 71 (.39 miles) would annexed as “flagpoles,” for a total of another 4.49 centerline miles for another \$8,208 in HUTF revenue.

Figure 8 - Annexation of County-maintained Roads		
	<u>Miles</u>	<u>HUTF \$</u>
Baca Grande roads	18.30	\$33,452
County Roads	<u>4.49</u>	<u>\$ 8,208</u>
Total	22.79	\$ 41,660

The county currently receives HUTF payments for these 22.79 miles which would cease in the first year after annexation, at which point the Town would begin receiving the additional funds for their maintenance.

One assumption is that the 88 miles of road currently maintained by the POA will not qualify for HUTF reimbursement, and therefore will not generate any additional intergovernmental revenue from the state. If the POA would continue to maintain the streets and roads within their boundaries, that agency could continue using the current assessment structure for those costs. This will likely have to be done under a contractual agreement between the Town and the POA, since the maintenance of these public rights-of-way will be the legal responsibility of the Town after annexation. If information should become available showing that some of these miles of road would qualify to be included in the HUTF system, there could be additional revenue to the Town.

Long-Term Operations - Expenditures

Streets

The county currently maintains roads within the Baca Grande which would become the Town’s responsibility after annexation. An average of \$6,200 per mile of gravel road and \$8,400 per mile of paved road is a reasonable estimate of the annual cost of maintenance.¹²⁹

Road segments the county maintains, both within and outside the Baca Grande, are listed in Appendix D, and are summarized with their annualized costs in Figure 9.¹³⁰

	Baca <u>Miles</u>	County <u>Miles</u>	Total <u>Miles</u>	<u>cost/mile</u>	<u>total</u>
Paved	18.3	4.49	22.79	\$8,400	\$191,436
Gravel	<u>2.1</u>	-	<u>2.1</u>	\$6,200	\$13,020
Total	20.4	4.49	24.89		\$204,456

Law Enforcement

Assuming the Town would continue the current system, the Marshal would have the responsibility of keeping the peace in the annexed area. Since the Marshal is currently an unpaid volunteer, there would be no fiscal impact from annexation on providing law enforcement under this arrangement. However, if there were even a marginal increase in workload on the Marshal, some other arrangement might have to be made, from which would likely result a significant fiscal impact. In any case, the County Sheriff would retain authority to investigate and bring charges against violators of state law.

Therefore, we will assume no increased cost for law enforcement resulting from annexation, while recognizing that this may not be feasible in the long run.

Administration

The increase in staff expense, necessary for the expected increased workload resulting from annexation, is estimated to be \$75,005 annually. The 2009 payroll expenses for administrative staff is budgeted at \$52,906, which includes all benefits, such as Social

Security, unemployment insurance and workers compensation insurance. The total payroll costs if annexation of the Baca Grande were already complete, would be \$127,911.

¹⁰⁸ 31-12-105(1)(e)(I), C.R.S.

¹⁰⁹ 31-12-108.5, C.R.S.

¹¹⁰ \$143,560 market value, assessed at 7.96% of market value. [Source: Saguache County Assessor] Only about 23% of the lots in Chalet I are developed.

¹¹¹ This figure is certified to each owner by the county assessor in May of each year. Under normal circumstances, the value only changes in odd-numbered years, when property is reappraised by the county for tax purposes. [39-1-103, C.R.S.]

¹¹² This does not include the Casita Park or Grants area that could be annexed within the three-mile limitation. That cannot be calculated until the properties that would be annexed within the three-mile limit is exactly determined, since Annexation 1 would divide the units.

¹¹³ 31-12-113(3), C.R.S.

¹¹⁴ 39-10-102(1)(b)(I), C.R.S.

¹¹⁵ 42-3-107(24), C.R.S.

¹¹⁶ The actual calculation, while more precise, is too complex to have any practical value in this application.

¹¹⁷ 29-2-105(1)(d), C.R.S.

¹¹⁸ See Colorado Department of Revenue publication DRP 1002: www.revenue.state.co.us/PDF/drp1002.pdf

¹¹⁹ Note that the “townhouse” area, which includes a small commercial area, is not within the boundaries of the POA, and thus not included in the scope of this report.

¹²⁰ 39-22-623, C.R.S.

¹²¹ 29-21-101(1)(e), C.R.S.

¹²² This estimate is subject to the caveats offered on the population-estimating methodology used here, as outlined in the section “Demographics and Statistics,” above.

¹²³ 42-3-310(4), C.R.S.

¹²⁴ This estimate is subject to the caveats offered on the population-estimating methodology used here, as outlined in the section “Demographics and Statistics,” above.

¹²⁵ 43-2-202(2), C.R.S. and 43-4-208, C.R.S., respectively.

¹²⁶ 43-4-207 and 208, C.R.S.

¹²⁷ The actual amount will be dependent upon many variables, too numerous to rely upon for forecasting, so this approach is intended only as an estimate.

¹²⁸ $\$1,828 \times 18 = \$32,900$.

¹²⁹ The source of these estimates is the Saguache County Road & Bridge Department. Annualized figures are the average per year over a twelve-year period, which includes annualized costs for weed control and mowing, line painting and signage. The actual annual amount will be less for years in which major maintenance is not needed, such as chip and seal or overlay on paved roads, and new gravel or roadbase on unpaved roads; it will be more in that one year during that time that such major maintenance is necessary.

¹³⁰ Note that the county is planning to pave .17 miles of Badger Road and 1.93 miles of Wagon Wheel Road in 2009, after which all the county-maintained roads within the POA will be paved.

Summary of Revenue and Expenditures

Additional recurring annual revenues that can be expected after annexation include property taxes (\$10,402), S.O. taxes (\$17,019), Conservation Trust Fund (\$14,100), HUTF (\$41,660) and motor vehicle registration fees (\$6,867). Ongoing annual expenditures will be increased in the areas of streets (\$204,456) and administrative support (\$75,005). Note that these are the only annually recurring items that can be estimated in this analysis. Other costs will likely increase, such as legal due to additional Town responsibilities, insurance due to increased exposure, accounting due to greater fiscal complexity, and publishing and recording due to the increased activity and population. In addition there may be additional revenue, some of which is noted above that cannot be forecast at this time, such as cigarette tax and additional HUTF-eligible roads in the Baca Grande.

Combining these revenue and expenditure changes with line items in the Town's existing budget, including the \$64,000 one-time costs of accomplishing the annexations, would result in the adjustments shown in Figure 10.

Figure 10 - Summary of Annual Revenue and Expenditures – 1st Year			
	Existing Budget	Change from Annexation	Total
GENERAL FUND			
Revenues			
Property Taxes	\$4,776	\$107,649	\$112,425
S.O. Taxes	\$600	\$16,901	\$17,501
Cigarette Taxes	\$340	0	\$340
Sales Taxes	\$77,700	\$18,000	\$95,700
Licenses and Permits	\$2,352	0	\$2,352
HUTF	\$7,311	\$41,660	\$48,971
M.V. Registration Fees	<u>\$675</u>	<u>\$6,867</u>	<u>\$7,542</u>
Total	\$93,754	\$191,077	\$284,831
Expenditures			
One-Time Annexation Costs	0	\$64,000	\$64,000
Law Enforcement	0	0	0
Administrative Staff	\$52,906	\$75,005	\$127,911
Roads	<u>\$4,720</u>	<u>\$204,456</u>	<u>\$209,176</u>
Total	\$57,626	\$343,461	\$401,087
CONSERVATION TRUST FUND			
Revenues	\$1,212	\$14,100	\$15,312

Note that the summary in Figure 10 includes only the items discussed in the narrative above and does not represent a full budget picture. There are many budgetary items not included here such as insurance and accounting/auditing expenses that will have to be bid before their costs can be determined. Also certain additional revenues that may occur are not included in this summary. Therefore, the \$51,385 deficit indicated in Figure 10 (excluding the \$64,000 one-time cost of annexation) is not complete.

The largest increase in expenditures is in assuming responsibility for the county-maintained roads. Taking on an estimated maintenance cost of \$204,456, while receiving only \$48,527 in HUTF and motor vehicle registration fees, prevents the budget from being in balance. It should be noted that the county is under no obligation to lower local revenues such as property tax, even though they are relinquishing responsibility for maintenance expenses on those roads. The county will receive less in state HUTF payments but, as the figures show, state payments do not pay for all the expenses incurred in maintaining roads.

This initial summary of costs might be reduced in a number of ways. For example, it is possible that the county would be interested in keeping some of these roads under their maintenance program so as to assure uniform standards on major thoroughfares throughout the county. If so, the county might be sufficiently motivated to offer a maintenance contract for less than the full amount of the cost of maintaining those roads, thus reducing that line item in the Town's budget. As with forecasting the cost of professional services, this level of detail cannot be accomplished in an analysis of this type. Bid solicitation and subsequent negotiations must occur before these costs are possible to forecast. Any expected maintenance contract would be memorialized in a pre-annexation agreement with the county.

Alternatively, it is possible that the POA would decide to make payments to the Town in order to balance the budget. After annexation, the Town would receive an additional \$14,100 in Conservation Trust Funds, which can only be spent on parks and open space. If the Town were to decide at some point that the current town parks did not need the extra funds, they could be spent to benefit parks within the Baca Grande, allowing other POA funds to be freed up to help pay for maintenance of the annexed roads. Conceivably, the members of the POA could decide that the benefits of annexation simply are worth paying extra to the Town for road maintenance. Any such arrangement would also be reflected in a pre-annexation agreement.

As a final alternative, a general tax increase could balance the budget. In order to balance only the \$51,385 listed in the partial budget above, it would be necessary to levy an additional 2.694 mills, an increase of 47% over the current 5.683 mills. This alternative, if pursued, would no doubt be the subject of considerable public and private discussion.

QUESTIONS, COMMENTS AND CONCLUSIONS

Annexing within the Town's three mile statutory annual annexation limitation is no guarantee that the rest of the Baca Grande area would follow in later phases. It is possible that subsequent annexations would not occur, leaving part of the Baca Grande within the Town and other sections outside? Would this be an undesirable outcome? Would it pose service delivery problems?

Some residents appear motivated to want a "sustainable economy," with more local jobs, shopping and food, built upon a limited but stable commercial base. The Town Survey found that the citizens would probably support such an effort,^{cxxxix} and the POA 2005 survey got similar results.^{cxxxix} There is nothing to prevent that goal from being pursued today, except for possible competition between the Town and Baca Grande which could be counterproductive. If there were a more cohesive Crestone/Baca community created by the Town annexing the Baca Grande area, a coordinated economic development effort might be pursued with more energy than if approached separately, and barriers could be more easily identified and possibly overcome. The same could be said for community-wide drainage improvements.

In the previous section some of the costs of annexation are identified. Another question the Crestone/Baca community might explore is, "Are there other ways to minimize the expense of annexation?" The improved lots in the Baca Grande will have a higher value than those which are vacant, and their owners will therefore be responsible for paying a higher level of property tax than the owners of vacant land. This is a simple function of the way an *ad valorem* tax operates.

If there was support for annexation, the community could explore possible ways of offsetting the costs of extending of the Town's mill levy into the Baca Grande. For example, is it possible to give a credit against the POA assessment for those who pay a higher property tax to avoid double payment for the same service? Such a system could operate in a similar way to the Water and Sanitation District's "availability of service" charges. The vacant lots that benefit from making services available pay a premium for those services being close at hand, since they would have to be in place for development to occur. An alternative would be to lower all POA assessments, while still respecting the need for overall financial responsibility, and then add an "availability of service" surcharge for each vacant lot, based on the benefit from the proximity of available services.

This report is intended to offer the basic facts that need to be considered to objectively evaluate annexing the Baca Grande area to the Town. We expect a next step to be a thorough discussion within the community of the pros and cons of such an action. Annexation of an area that may have as many as 1,400 residents by a Town of 130 people would be an unusual accomplishment, especially in two or more phases. Deciding how best to combine the advantages offered by the Town, as a public corporation with governmental authority, and the POA, with the financial and service flexibility of a private company, is a daunting task. We look forward to facilitating those efforts in any way possible.

^{cxxxix} Questions 11 through 16.

^{cxxxix} Questions 23-24 and 39.

Appendix A - Census Blocks Within First 3 Mile Area

The following table lists the Census blocks within the first three mile annual annexation limitation that are also within the Baca Grande. The table shows the comparison of two different methodologies: one simply trimming the Census Block population data to the percentage of the Block's area within the annexation limit, the other multiplying the number of addresses by the average household size of 1.88. (Source: SLV GIS/GPS Authority)

BLOCK	Geographic Allocation			HH Size Calc.	
	Total Pop.	% of area	Trimmed Pop.	Addresses	New Pop.
3000	98	1.00%	1	99	186
3001	2	100.00%	2	4	8
3002	0	100.00%	0	1	2
3003	1	100.00%	1	6	11
3004	13	100.00%	13	15	28
3005	10	100.00%	10	6	11
3006	8	100.00%	8	6	11
3007	4	100.00%	4	8	15
3008	5	100.00%	5	7	13
3009	43	100.00%	43	20	38
3010	4	100.00%	4	6	11
3011	4	100.00%	4	3	6
3012	4	100.00%	4	0	0
3013	2	100.00%	2	2	4
3014	1	100.00%	1	9	17
3015	35	100.00%	35	14	26
3016	11	100.00%	11	11	21
3017	13	100.00%	13	13	24
3018	20	100.00%	20	17	32
3020	66	24.20%	16	11	21
3048	0	100.00%	0	0	0
3049	5	100.00%	5	5	9
3050	0	100.00%	0	1	2
3051	8	100.00%	8	6	11
3052	1	100.00%	1	9	17
3053	0	100.00%	0	1	2
3054	4	100.00%	4	11	21
3055	0	100.00%	0	7	13
3056	0	100.00%	0	10	19
3057	3	100.00%	3	5	9
3058	0	100.00%	0	1	2
3059	1	100.00%	1	3	6
3060	1	100.00%	1	2	4

Block	Geographic Allocation			HH Size Calc.	
	Total Pop.	% of Area	Trimmed Pop.	Addresses	New Pop.
3061	2	100.00%	2	3	6
3062	7	100.00%	7	5	9
3063	5	100.00%	5	6	11
3064	9	100.00%	9	8	15
3065	8	100.00%	8	4	8
3066	20	23.24%	5	14	26
3067	20	8.14%	2	3	6
3068	0	5.70%	0	0	0
3070	0	100.00%	0	1	2
3071	0	100.00%	0	0	0
3072	0	100.00%	0	0	0
3108	3	4.12%	0	0	0
3109	3	95.33%	3	14	26
3110	7	100.00%	7	7	13
3111	10	100.00%	10	5	9
3112	3	100.00%	3	5	9
3113	2	100.00%	2	7	13
3114	5	100.00%	5	7	13
3115	4	100.00%	4	6	11
3116	0	100.00%	0	0	0
3117	4	89.07%	4	9	17
3118	3	100.00%	3	6	11
3119	6	98.20%	6	5	9
3120	7	2.35%	0	2	4
3120	7	48.35%	3	0	0
3121	22	13.66%	3	6	11
3122	20	10.05%	2	3	6
3123	0	100.00%	0	1	2
3193	0	95.82%	0	0	0
3194	7	100.00%	7	3	6
65	560		328	449	844

Appendix B - Census Blocks Within Second 3 Mile Area (3 – 6 miles)

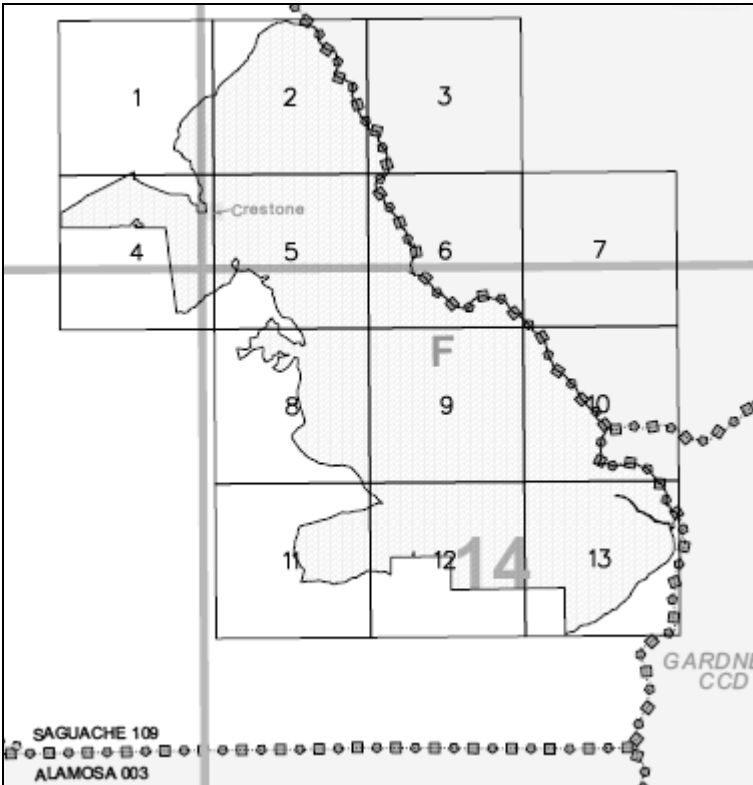
The following table lists the Census blocks within a second three mile annual annexation limitation that are also within the Baca Grande area. The table shows the methodologies used in this report: multiplying the number of addresses by the average household size of 1.88. (Source: SLV GIS/GPS Authority)

Block	HH Size Calc.	
	Addresses	New Pop.
3000	15	28
3020	40	75
3074	5	9
3102	5	9
3103	3	6
3104	1	2
3105	14	26
3106	6	11
3107	5	9
3108	1	2
3117	1	2
3120	5	9
3121	4	8
3122	7	13
3124	5	9
3125	3	6
3126	4	8
3127	6	11
3128	3	6
3129	2	4
3130	2	4
3131	7	13
3132	1	2
3133	2	4
3134	1	2
3135	18	34
3136	2	4

Block	HH Size Calc.	
	Addresses	New Pop.
3141	2	4
3142	3	6
3143	2	4
3144	4	8
3145	8	15
3146	1	2
3148	51	96
3149	1	2
3150	3	6
3151	3	6
3152	3	6
3153	7	13
3154	1	2
3156	2	4
3157	11	21
3158	3	6
3159	3	6
3160	3	6
3161	5	9
3162	5	9
3163	3	6
3164	2	4
3167	1	2
3168	2	4
3169	4	8
Total	303	566

Appendix C - Census Block Group 3, Tract 9776

The area F in the map below is Census Block Group 3, Census Tract 9776, according to the U.S. Bureau of Census, Census 2000. The Baca Grande area is confined almost exclusively to the areas F4, F5, F8 and F9. (source: U.S. Bureau of Census)



Appendix D (cont'd) County-Maintained Road Segments Subject to Annexation

route	segmID	routeName	fromFeature	segmDir	toFeature	length	priSurf
71S	100	CAMINO BACA GRANDE	BGN	NW	R76	0.69	40 Soil, Gravel or Stone
71S	400	CAMINO BACA GRANDE	MINOR	N	72S	1.35	61 High Flexible
71S	600	CAMINO BACA GRANDE	72S	NW	T	2.15	61 High Flexible
71S.1	100	DRAGON OL	CDS	NW	S71	0.08	51 Bituminous Surface-Treated
71S.2	100	ALPINE OL	S71	NW	CDS	0.02	40 Soil, Gravel or Stone
71S.3	100	PINEWOOD OL	S71.2	NE	CDS	0.07	51 Bituminous Surface-Treated
71S.4	100	EVERGREEN OL	CDS	N	S71.7	0.05	51 Bituminous Surface-Treated
71S.5	100	CASCADE OL	CDS	N	S71.7	0.04	51 Bituminous Surface-Treated
71S.6	100	BELLEVUE OL	CDS	N	S71.7	0.04	51 Bituminous Surface-Treated
71S.7	100	FOOTHILL OL	S71	N	CDS	0.06	51 Bituminous Surface-Treated
71S.8	100	CANYON OL	S71	N	CDS	0.03	51 Bituminous Surface-Treated
71S.9	100	FOOTHILL OL	CDS	N	S71.7	0.04	51 Bituminous Surface-Treated
72S	100	CAMINO REAL	BGN	N	71S	4.03	61 High Flexible
72S.3	100	BADGER RD	72S	NW	SRFCH	0.17	40 Soil, Gravel or Stone
72S.3	200	BADGER RD	SRFCH	NW	71S	0.71	52 Mixed Bituminous
ME.1	100	DEL SOL LN	67.1	N	LA PAZ LN	0.06	40 Soil, Gravel or Stone
ME.2	100	LA PAZ LN	DEL SOL LN	NE	CDS	0.1	40 Soil, Gravel or Stone
ME.3	100	ARISTO LN	CDS	N	67.1	0.12	51 Bituminous Surface-Treated
ME.4	100	HUERTA CT	ARISTO LN	E	END	0.07	51 Bituminous Surface-Treated
ME.5	100	CAMINO DEL LA	67.1	NW	END	0.2	51 Bituminous Surface-Treated
ME.6	100	FRESNO LN	CAMINO DEL LA	E	END	0.12	51 Bituminous Surface-Treated
ME.7	100	PALISADES CT	67.1	SE	CDS	0.07	51 Bituminous Surface-Treated
R76	100	CAMINO DEL REY	S72	E	71S	1.13	61 High Flexible
S71	100	BACA GRANDE WY	71S	E	END	1.37	51 Bituminous Surface-Treated
S71.1	100	PALAMINO WY	71S	E	END	0.23	40 Soil, Gravel or Stone
S71.2	100	SKYVIEW WY	S71	SE	S71	0.47	51 Bituminous Surface-Treated
S71.3	100	MOONLIGHT OL	CDS	SE	71S	0.17	51 Bituminous Surface-Treated
S71.4	100	ASPEN OL	CDS	NE	71S	0.03	51 Bituminous Surface-Treated
S71.5	100	CRESTONE OL	CDS	NE	71S	0.05	51 Bituminous Surface-Treated
S71.6	100	N. CRESTONE OL	71S	NE	CDS	0.06	51 Bituminous Surface-Treated
S71.7	100	MOONLIGHT WY	71S	NE	SRFCH	0.33	52 Mixed Bituminous
S71.7	200	S71.7	MOONLIGHT WY	NE	S71	0.14	40 Soil, Gravel or Stone
S71.8	100	SUNSET OVERLOOK	S71.2	NW	CDS	0.06	51 Bituminous Surface-Treated
S71.9	100	S71.9	RAINBOW OL	NW	CDS	0.03	40 Soil, Gravel or Stone

Appendix D (cont'd) County-Maintained Road Segments Subject to Annexation – page 2

S7110	100	S7110	SUNDOWN OL	NW	CDS	0.03	40 Soil, Gravel or Stone
S72	200	WAGON WHEEL RD	72S	SE	STR	0.63	40 Soil, Gravel or Stone
S72	200	WAGON WHEEL RD	72S.3	SE	72S	0.32	40 Soil, Gravel or Stone
S72	400	WAGON WHEEL RD	STR	SE	R76	1.3	40 Soil, Gravel or Stone
67.1	100	CAMINO DEL O RD	T	N	ARISTO LN	0.28	51 Bituminous Surface-Treated
67.1	200	CAMINO DEL O RD	ARISTO LN	N	DEL SOL LN	0.22	40 Soil, Gravel or Stone
67.5	100	BACA AIRPORT RD	BGN	N	T	1.17	40 Soil, Gravel or Stone
TOTAL ELIGIBLE MILES BACA AND CASITA PARK						18.29	

Appendix E – Three Mile and Six Mile Annual Annexation Limits
(Source: SLV GIS/GPS Authority)



Legend

- ▲ Physical Addresses within 3 miles
- ▲ Physical Addresses within 6 miles
- 3 mile Boundary
- 6 mile Boundary
- Census Blocks within Baca Grande and 3 miles
- Census Blocks within Baca Grande and 6 miles
- Municipalities
- Public Lands
 - BLM
 - COLORADO
 - NPS
 - USFS
 - USFWS

10/29/2008



Casita Park

Crestone

Chalet 1

Chalet 2

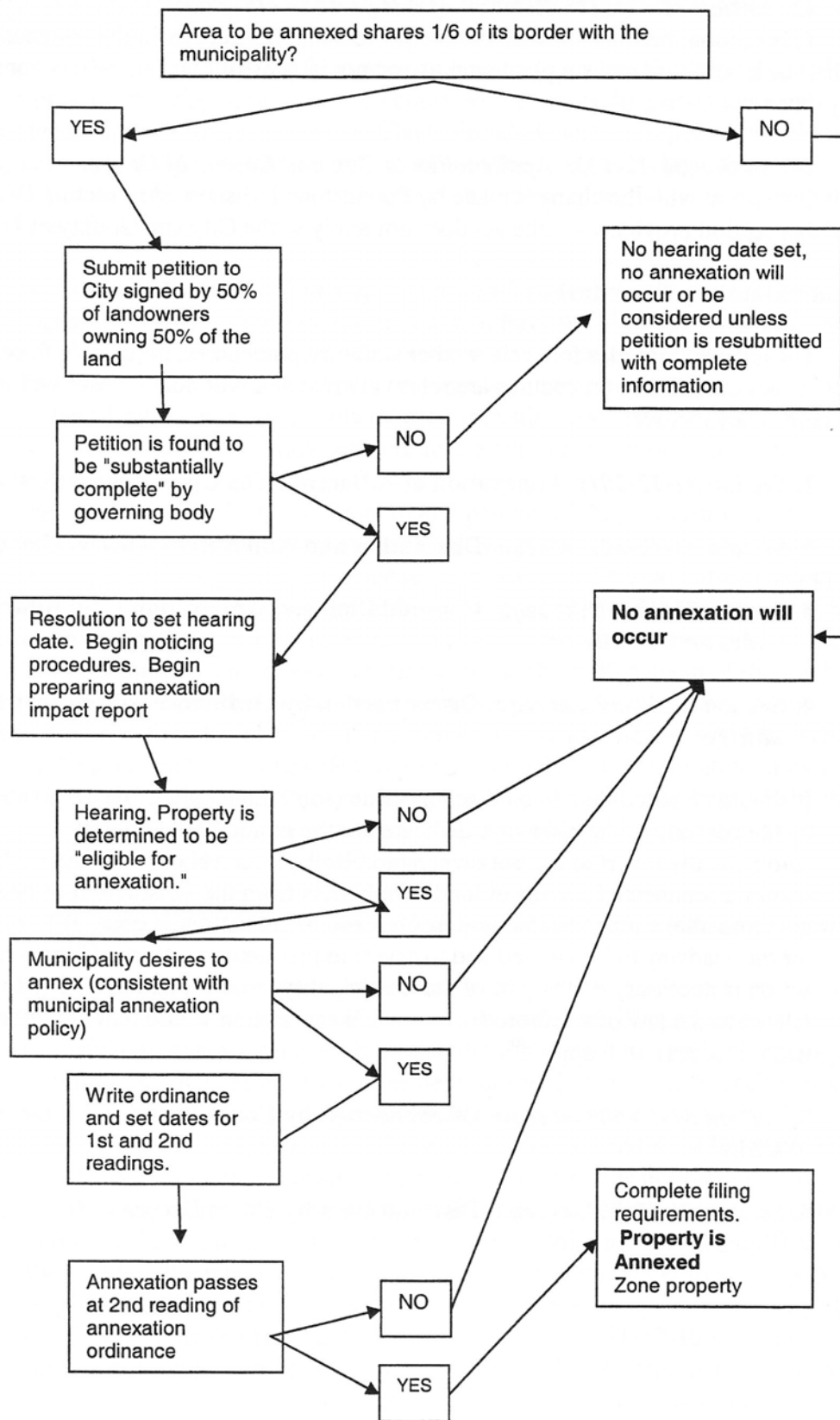
Chalet 3

The Grants



Appendix F – Flow Chart of Annexation Process

(Source: Annexation in Colorado, Colorado Municipal League; Denver, 2003)



Appendix G – Map of NSCFPD and NSCAD
(Source: SLV GIS/GPS Authority)

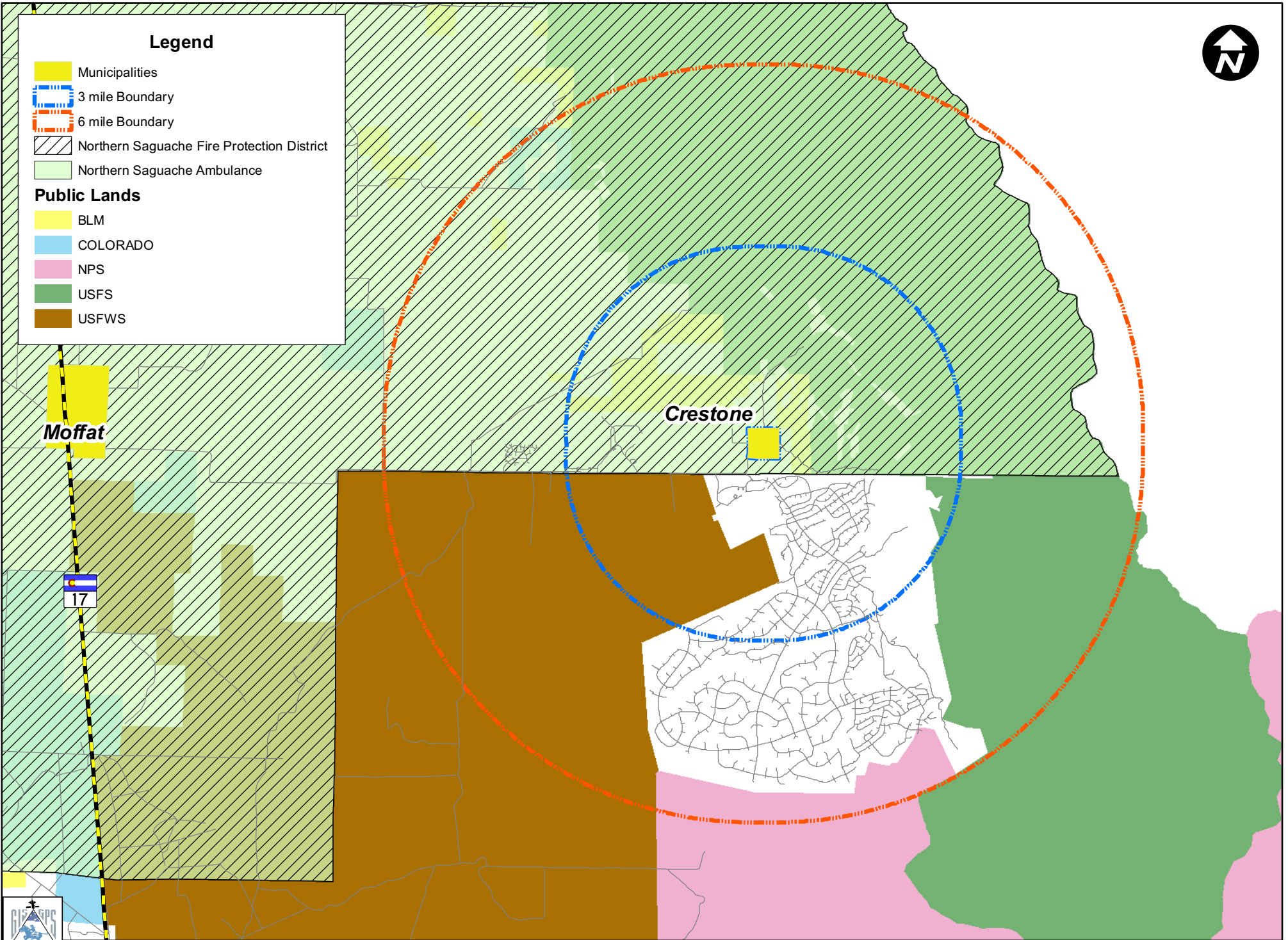


Legend

- Municipalities
- 3 mile Boundary
- 6 mile Boundary
- Northern Saguache Fire Protection District
- Northern Saguache Ambulance

Public Lands

- BLM
- COLORADO
- NPS
- USFS
- USFWS



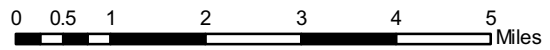
Moffat

Crestone

17



11/4/2008



Appendix H - POA Finances - 2007

(Source: Baca Grande POA)

	ADMIN	MAINT.	CASITA PK.	BALLFIELD	CAMPER VILL.	STABLES	PARKS & GR. BELTS
Income							
Contributed support	420	0	0	0	0	0	0
ANNUAL MEMBERSHIP ASSESSMENTS	841,389	0	0	0	0	0	0
LIBRARY MEMBERSHIPS	0	0	0	0	0	0	0
INTEREST INCOME	57,360	0	0	0	0	0	0
FEES	62,376	25	0	0	220	0	0
FINES	56,857	0	0	0	435	0	0
FUEL SALES	0	18,949	0	0	0	0	0
FACILITY & STORAGE RENT	780	0	0	0	26,782	4,800	100
AMBULANCE RECEIPTS	0	0	0	0	0	0	0
EMERGENCY RESPONSE	0	0	0	0	0	0	0
REIMBURSED EXPENSES	40,224	0	0	0	0	0	3,116
MISCELLANEOUS INCOME	2,112	1,185	0	0	0	0	0
Total Income	1,061,517	20,159	0	0	27,437	4,800	3,216
Expense							
VEHICLE EXPENSES	40	41,656	0	0	0	0	0
EQUIPMENT EXPENSES	1,898	35,306	0	0	337	0	114
GRANT & CONTRACT EXPENSE	2,520	0	0	0	0	1,350	0
SALARIES & WAGES	118,897	135,368	0	0	0	0	0
PENSION PLAN CONTRIBUTIONS	2,947	5,344	0	0	0	0	0
EMPLOYEE BENEFITS - NOT RETIREM	11,118	22,881	0	0	0	0	0
PAYROLL TAXES	12,528	12,527	0	0	0	0	0
PROFESSIONAL FEES	74,859	0	0	0	2,415	0	0
TEMPORARY HELP - CONTRACT	6,922	0	0	0	0	0	0
OTHER PERSONNEL EXPENSES	81,782	0	0	0	2,415	0	0
NON-PERSONNEL EXPENSES	32,163	67,524	0	0	1,306	534	33
OCCUPANCY EXPENSES	21,913	22,932	6,757	2,409	15,795	886	13,916
TRAVEL & EDUCATION EXPENSES	4,544	74	0	0	0	0	0
DEPRECIATION & AMORTIZATION EXP	8,881	26,873	1,058	0	0	1,627	4,903
MISCELLANEOUS EXPENSES	40,851	19,239	0	0	1,327	2,175	1,500
BUSINESS EXPENSES	65,322	749	0	0	1,085	0	0
BOARD EXPENSES	883	0	0	0	0	0	0
Total Expense	406,286	390,471	7,815	2,409	22,265	6,571	20,466
Net Ordinary Income	655,231	-387,599	-7,815	-2,409	5,172	-1,771	-17,250
Expense as % of Total	26.8%	25.7%	0.5%	0.2%	1.5%	0.4%	1.3%

(POA 2007 Finances, page 2)

	FIRE DEPT.	AMBULANCE	LIBRARY	LAND USE	ELK PARK	RESERVES	TOTAL	% of total
Income								
Contributed support	82,392	7,171	331	0	0	0	90,314	5.3%
ANNUAL MEMBERSHIP ASSESSMENTS	0	0	0	0	0	254,200	1,095,589	64.8%
LIBRARY MEMBERSHIPS	0	0	3,596	0	0	0	3,596	0.2%
INTEREST INCOME	379	54	393	0	0	12,474	70,661	4.2%
FEES	0	0	0	41,749	0	0	104,369	6.2%
FINES	0	0	1,312	6,401	0	0	65,005	3.8%
FUEL SALES	0	0	0	0	0	0	18,949	1.1%
FACILITY & STORAGE RENT	0	0	0	0	0	0	32,462	1.9%
AMBULANCE RECEIPTS	0	24,018	0	0	0	0	24,018	1.4%
EMERGENCY RESPONSE	137,502	0	0	0	0	0	137,502	8.1%
REIMBURSED EXPENSES	0	0	0	0	0	0	43,340	2.6%
MISCELLANEOUS INCOME	42	0	783	0	0	0	4,122	0.2%
Total Income	220,316	31,244	6,415	48,150	0	266,674	1,689,928	100.0%
Expense								
VEHICLE EXPENSES	36,104	4,238	0	0	0	0	82,037	5.4%
EQUIPMENT EXPENSES	5,702	2,051	156	0	0	0	45,565	3.0%
GRANT & CONTRACT EXPENSE	0	0	0	0	0	0	3,870	0.3%
SALARIES & WAGES	47,714	34,809	62,478	28,707	0	0	427,972	28.2%
PENSION PLAN CONTRIBUTIONS	1,556	1,733	1,570	0	0	0	13,149	0.9%
EMPLOYEE BENEFITS - NOT RETIREM	9,606	6,178	3,997	3,862	0	0	57,642	3.8%
PAYROLL TAXES	4,959	3,198	6,313	2,692	0	0	42,216	2.8%
PROFESSIONAL FEES	839	1,306	0	17,585	0	0	97,004	6.4%
TEMPORARY HELP - CONTRACT	92,224	7,736	449	2,730	0	0	110,061	7.3%
OTHER PERSONNEL EXPENSES	93,063	9,042	449	20,315	0	0	207,065	13.7%
NON-PERSONNEL EXPENSES	77,081	20,487	4,048	1,362	0	0	204,537	13.5%
OCCUPANCY EXPENSES	7,700	4,481	5,578	0	726	0	103,091	6.8%
TRAVEL & EDUCATION EXPENSES	26,647	16,162	554	1,201	0	0	49,181	3.2%
DEPRECIATION & AMORTIZATION EXP	26,294	17,608	2,500	0	0	0	89,744	5.9%
MISCELLANEOUS EXPENSES	2,239	16,762	2,935	0	0	0	104,315	6.9%
BUSINESS EXPENSES	0	338	10,980	21,181	10	2,010	101,675	6.7%
BOARD EXPENSES	0	0	0	1,051	0	0	1,934	0.1%
Total Expense	338,665	137,085	101,557	80,370	736	2,010	1,516,707	100.0%
Net Ordinary Income	-118,349	-105,841	-95,142	-32,221	-736	264,664	155,934	
Expense as % of Total	22.3%	9.0%	6.7%	5.3%	0.0%	0.1%	100.0%	