



# Agenda

REGULAR MEETING OF  
THE GOVERNING BODY  
NOVEMBER 12, 2008  
CITY COUNCIL CHAMBERS

## AFTERNOON SESSION – 5:00 P.M.

CITY CLERK'S OFFICE

DATE 11-7-08 TIME 2:15pm

SERVED BY \_\_\_\_\_

RECEIVED BY Indomiguery

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. INVOCATION
4. ROLL CALL
5. APPROVAL OF AGENDA
6. APPROVAL OF CONSENT CALENDAR
7. APPROVAL OF MINUTES: Reg. City Council Meeting – October 29, 2008
8. PRESENTATIONS
  - a) Employee of the Month for November 2008 – Nick Schiavo, Energy Specialist, HCD. (5 minutes)
  - b) 2007/2008 City Volleyball Champion Trophy – Capital High School Jaguars. (Councilor Trujillo) (5 minutes)
  - c) 2008 City Football Champion Trophy – Santa Fe High School Demons. (Councilor Trujillo) (5 minutes)
  - d) Muchas Gracias – Gary Ehlert.
9. CONSENT CALENDAR
  - a) Request for Approval to Publish Notice of Public Hearing on December 10, 2008:
    - 1) Bill No. 2008-59 – An Ordinance Amending Article 2-16 SFCC 1987 for the Purpose of Deleting the Department of Civil Preparedness and Creating the Office of Emergency Management. (Mayor Coss and Councilor Trujillo) (Joyce Purley)
    - 2) Bill No. 2008-60 – An Ordinance Amending Article 20-1 SFCC 1987 Regarding the Power of the Mayor During an Emergency. (Mayor Coss and Councilor Trujillo) (Joyce Purley)



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- 3) CONSIDERATION OF RESOLUTION NO. 2008-\_\_\_\_\_. (Councilor Wurzburger, Councilor Romero and Councilor Calvert)  
A Resolution Endorsing and Adopting the Water Division 10 Year Financial Plan. (Gary Martinez)
- a) Bill No. 2008-61 – An Ordinance Amending Chapter 25 SFCC 1987 Exhibit B, Water Rate Schedule 1; Increasing the Monthly Volume Rates and Monthly Service Charge by 9.50 Percent Per Year for Five Years for Residential, Multi-Family and Commercial Customers of the City's Water System. (Councilor Wurzburger, Councilor Chavez and Councilor Romero) (Gary Martinez)
- b) CONSIDERATION OF RESOLUTION NO. 2008-\_\_\_\_\_. (Mayor Coss and Councilor Trujillo)  
A Resolution Adopting the National Incident Management System ("NIMS") so that the City of Santa Fe may Work Effectively and Efficiently with Federal and State Government to Prepare for, Respond to, and Recover from Domestic Incidents. (Joyce Purley)
- c) CONSIDERATION OF RESOLUTION NO. 2008-\_\_\_\_\_. (Councilor Romero)  
A Resolution Urging the New Mexico State Legislature to Pass the Health Security Act. (Terrie Rodriguez)
- d) CONSIDERATION OF RESOLUTION NO. 2008-\_\_\_\_\_. (Councilor Romero, Mayor Coss, Councilor Calvert and Councilor Dominguez)  
A Resolution Supporting Leaving No New Mexico Child Inside. (Terrie Rodriguez)
- e) CONSIDERATION OF RESOLUTION NO. 2008-\_\_\_\_\_. (Councilor Calvert)  
A Resolution Amending Table 37 of the City Of Santa Fe "Impact Fees Capital Improvements Plan and Land Use Assumptions, 2007-2012" To Include the Railyard Park and Plaza, a Regional Park, as an Eligible Project to Receive Impact Fee Funds. (Frank Archuleta)



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- f) CONSIDERATION OF RESOLUTION NO. 2008-\_\_\_\_\_. (Councilor Trujillo)  
A Resolution Directing Staff to Research and Study the Establishment of a Family-Friendly "Movies in the Park" Program. (Terrie Rodriguez)
- g) CONSIDERATION OF RESOLUTION NO. 2008-\_\_\_\_\_. (Councilor Chavez and Councilor Wurzbarger)  
A Resolution Directing Staff to Coordinate a Meeting with the New Mexico Department of Cultural Affairs, the New Mexico Economic Development Department and the Museum of New Mexico Foundation Regarding the Museum of New Mexico Foundation's Licensing Program. (Fabian Trujillo)
- h) Request for Approval of Sole Source Procurement – Theatrical Equipment for Santa Fe Community Convention Center; Hogle's Theatrical Supplies. (Chip Lilienthal)
- i) Request for Approval of Change Order No. 2 – Railyard Offsite Improvements Projects Adjustments for New Items and Over/Under Items Not Part of Original Bid; A.S. Horner, Inc. (Peter Manzanares)
  - 1) Request for Approval of Budget Increase – Project Fund.
- j) Request for Approval of Budget Increase for Installation of Pavement Marking and Signing for City Streets Rehabilitation Program. (Rick Devine)
- k) Request for Approval of Municipal Arterial Program Cooperative Agreement – Road Improvements to Airport Road; New Mexico Department of Transportation. (Desirae Lujan)
  - 1) Request for Approval of Budget Increase – Project Fund.
  - 2) CONSIDERATION OF RESOLUTION NO. 2008-\_\_\_\_\_. (Councilor Dominguez)  
A Resolution in Support of the Map Cooperative Agreement for Funding Road Improvements to Airport Road. (Desirae Lujan)



# Agenda

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- l) Request for Approval of State Grant Agreement Airport Projects and Award – Construction of Radar Facility at Santa Fe Municipal Airport; New Mexico Department of Transportation Aviation Division. (Jim Montman)
- m) Request for Approval of Amendment No. 1 to Lease – New Premises, Building and Related Improvements Located at 1614 Paseo De Peralta; Warehouse 21 and City of Santa Fe. (Robert Siqueiros)
- n) Request for Approval of Amendment No. 1 to Lease Agreement; Increase Acreage and Use – Leased Parcel Located with the Siler Road Yards; City of Santa Fe, Kitchen Angels, Inc. and the Food Depot. (Edward Vigil and Terrie Rodriguez)
- o) Request for Approval of Agreement – Juvenile Programs and Services; State of New Mexico Children, Youth and Families Department. (Richard DeMella)
  - 1) Request for Approval of Budget Adjustment – Grant Fund.
- p) Request for Approval of Sole Source Procurement and Professional Services Agreement – Intensive Community Monitoring Services; Mary Louise Romero. (Richard DeMella)
- q) Request for Approval of Sole Source Procurement – Voice and Data Communications Services for City Offices; Qwest Communications. (Thomas Williams)
- r) Request for Approval of Lease Agreement – Two (2) Buses for Santa Fe Trails; Creative Bus Sales, Inc. (Jon Bulthuis)
- s) Request for Approval of Proposed Revisions to Affordable Housing Trust Fund Administrative Procedures. (Lee Depietro)
- t) Request for Approval of City/County Annexation Phasing Agreement; City of Santa Fe and Santa Fe County. (Reed Liming and Frank Katz)
- u) Request for Approval of Addendum Supplemental List of Unexpended Fiscal Year 07/08 Budget Carry Forward Recommendations. (David Millican)



# Agenda

REGULAR MEETING OF  
THE GOVERNING BODY  
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- v) Recommendation to Appropriate Remaining Balance of GRT Allocation Adjustment as an Economic Contingency Reserve. (David Millican)
- w) CONSIDERATION OF RESOLUTION NO. 2008-\_\_\_\_\_. (Councilor Dominguez)  
A Resolution Amending and Re-Adopting the Governing Body Procedural Rules. (Yolanda Y. Vigil) **(Postponed at October 29, 2008 City Council Meeting)**
- x) Request for Approval of Professional Services Agreements to Provide Alcoholic Beverages at the Santa Fe Community Convention Center; Rio Chama Steakhouse. (Darlene Griego)
- y) Request for Approval of Non-Exclusive License Agreement – Daily Stagecoach City Tours at Santa Fe Railyard off Market Street; City Different Tours. (David Chapman) (Postponed at October 29, 2008 City Council Meeting) **(Postponed to December 10, 2008 City Council Meeting)**
- 10. Request for Approval and Consent for Solid Waste Management Agency to Accept Waste from North Central Solid Waste Authority and Los Alamos County. (Randall Kippenbrock and Bill DeGrande) (Postponed at October 29, 2008 City Council Meeting) **(Postponed to December 10, 2008 City Council Meeting)**
- 11. Update on Homeless Winter Overflow Shelter. (Terrie Rodriguez) (Postponed at October 29, 2008 City Council Meeting) **(Postponed to December 10, 2008 City Council Meeting)**
- 12. MATTERS FROM THE CITY MANAGER
- 13. MATTERS FROM THE CITY ATTORNEY

## EXECUTIVE SESSION

- a) Discussion of Northwest Quadrant and Santa Fe Public Schools, Pursuant to §10-15-1 (H) (8) NMSA 1978.
- b) Update and Discussion of the Jicarilla Apache Nation (JAN) Lease, Pursuant to §10-15-1 (H) (8) NMSA 1978.



# Agenda

REGULAR MEETING OF  
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- c) Pending Litigation for Money Owed by Santa Fe Horse Park, LLC to Wastewater Division, Pursuant to §10-15-1 (H) (7) NMSA 1978.
- 14. Action Regarding Northwest Quadrant and Santa Fe Public Schools. (Frank Katz)
- 15. Action to Approve Filing of Suit Against Santa Fe Horse Park LLC. (Maureen Reed)
- 16. MATTERS FROM THE CITY CLERK
- 17. COMMUNICATIONS FROM THE GOVERNING BODY

## **EVENING SESSION – 7:00 P.M.**

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE
- C. INVOCATION
- D. ROLL CALL
- E. PETITIONS FROM THE FLOOR
- F. APPOINTMENTS
- G. PUBLIC HEARINGS:
  - 1) Request from Dog Eyes, LLC for a Restaurant (Beer & Wine) Liquor License to be located at Dish N' Spoon Café & Gifts, 620 Old Santa Fe Trail. (Yolanda Y. Vigil)
  - 2) Request from Youssef Enterprises, LLC for a Restaurant (Beer & Wine) Liquor License to be located at Cleopatra Cafe, 3482 Zafarano Drive, Suite #D. (Yolanda Y. Vigil)



# Agenda

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- 3) CONSIDERATION OF BILL NO. 2008-57: ADOPTION OF ORDINANCE NO. 2008-\_\_\_\_\_  
**Case # ZA 2008-08. Vista Bonitas Phase II Rezoning.** Linda Tigges, Agent for Dennis Branch, Requests Rezoning of 2.146± Acres of Land from MHP (Mobile Home Park) to RM-1 (Residential Multi-Family, 21 Dwelling Units Per Acre). The Property is Located on the Vacated Access for Calle Griego, North of Airport Road and South of Rufina. (Tamara Baer) **(Postponed at October 29, 2008 City Council Meeting) PUBLIC HEARING IS CLOSED**
- 4) **Case #A 2008-04. 333-1/2 Rosario Hill Building Permit Appeal.** Kim Z. Padilla Appeals the Board of Adjustment's Decision on May 20, 2008 for Denial of Case Number AB 2008-03 Regarding the Appeal for the Issuance of Building Permits 07-2269 and 08-181 by the Land Use Department for Development at 333-1/2 Rosario Hill. (Dan Esquibel)
- 5) CONSIDERATION OF BILL NO. 2008-49: ADOPTION OF ORDINANCE NO. 2008-\_\_\_\_\_.  
An Ordinance Authorizing the Issuance and Sale of The City of Santa Fe, New Mexico Gross Receipts Tax Refunding Revenue Bonds, Series 2008B in an Aggregate Principal Amount Not to Exceed \$23,930,000 for the Purpose of Defraying the Cost of Refunding, Paying and Discharging the Outstanding City of Santa Fe, New Mexico Gross Receipts Tax Refunding And Improvement Revenue Bonds, Series 1997A; and City of Santa Fe Gross Receipts Tax Improvement Revenue Bonds, Series 1999; Providing that the Refunding Bonds will be Payable and Collectible From the Gross Receipts Tax Revenues Distributed to the City; Providing for the Disposition of the Receipts Derived from the Gross Receipts Tax Revenues; Establishing the Form, Terms, Manner of Execution and Other Details of the Refunding Bonds; Authorizing the Execution and Delivery of a Bond Purchase Agreement, in Connection with the Refunding Bonds; Providing for Redemption of the Series 1997A and 1999 Bonds; Approving Certain Other Agreements and Documents in Connection with the Refunding Bonds; Ratifying Action Previously Taken in Connection with the Refunding Bonds; Repealing All Ordinances in Conflict herewith; and Related Matters. (David Millican) **(Postponed at October 29, 2008 City Council Meeting)**

H. ADJOURN



# Agenda

REGULAR MEETING OF  
THE GOVERNING BODY  
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**Pursuant to the Governing Body Procedural Rules, in the event any agenda items have not been addressed, the meeting should be reconvened at 7:00 p.m., the following day and shall be adjourned not later than 12:00 a.m. Agenda items, not considered prior to 11:30 p.m., shall be considered when the meeting is reconvened or tabled for a subsequent meeting.**

NOTE: New Mexico law requires the following administrative procedures be followed when conducting "quasi-judicial" hearings. In a "quasi-judicial" hearing all witnesses must be sworn in, under oath, prior to testimony and will be subject to reasonable cross-examination. Witnesses have the right to have an attorney present at the hearing.

\*Translator for the hearing impaired available through the City Clerk's Office upon 5 days notice.



**SUMMARY INDEX  
SANTA FE CITY COUNCIL MEETING  
November 12, 2008**

<b><u>ITEM</u></b>	<b><u>ACTION</u></b>	<b><u>PAGE #</u></b>
<b><u>AFTERNOON SESSION</u></b>		
CALL TO ORDER AND ROLL CALL	Quorum	1
APPROVAL OF AGENDA	Approved [amended]	1
APPROVAL OF CONSENT CALENDAR	Approved [amended]	2
CONSENT CALENDAR LISTING		2-5
APPROVAL OF MINUTES: Reg. City Council Meeting – October 29, 2008	Approved	5
<b><u>PRESENTATIONS</u></b>		
EMPLOYEE OF THE MONTH FOR NOVEMBER 2008 – NICK SCHIAVO, ENERGY SPECIALIST, HCD	Presentation	5
2007/2008 CITY VOLLEYBALL CHAMPION TROPHY – CAPITAL HIGH SCHOOL JAGUARS	Postponed to 12/10/08	5
2008 CITY FOOTBALL CHAMPION TROPHY – SANTA FE HIGH SCHOOL DEMONS	Presentation	5-6
MUCHAS GRACIAS – GARY ELHERT	Presentation	6
<b><u>CONSENT CALENDAR DISCUSSION</u></b>		
REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON DECEMBER 10, 2008: CONSIDERATION OF RESOLUTION NO. 2008- ____ . A RESOLUTION ENDORSING AND ADOPTING THE WATER DIVISION 10 YEAR FINANCIAL PLAN BILL NO. 2008-61 – AN ORDINANCE AMENDING CHAPTER 25 SFCC 1987, EXHIBIT B, WATER RATE SCHEDULE 1; INCREASING THE MONTHLY VOLUME RATES AND MONTHLY SERVICE CHARGE BY 9.50 PERCENT PER YEAR FOR FIVE YEARS FOR RESIDENTIAL, MULTI-FAMILY AND COMMERCIAL CUSTOMERS OF THE CITY'S WATER SYSTEM	Postponed to 12/10/08	6-8

<b><u>ITEM</u></b>	<b><u>ACTION</u></b>	<b><u>PAGE #</u></b>
CONSIDERATION OF RESOLUTION NO. 2008- 104 A RESOLUTION DIRECTING STAFF TO COORDINATE A MEETING WITH THE NEW MEXICO DEPARTMENT OF CULTURAL AFFAIRS, THE NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT AND THE MUSEUM OF NEW MEXICO FOUNDATION REGARDING THE MUSEUM OF NEW MEXICO FOUNDATION'S LICENSING PROGRAM	Postponed to 12/10/08	8-9
REQUEST FOR APPROVAL OF CITY/COUNTY ANNEXATION PHASING AGREEMENT; CITY OF SANTA FE AND SANTA FE COUNTY	Approved a/a	9
***** END OF CONSENT CALENDAR DISCUSSION *****		
REQUEST FOR APPROVAL AND CONSENT FOR SOLID WASTE MANGEMENT AGENCY TO ACCEPT WASTE FROM NORTH CENTRAL SOLID WASTE AUTHORITY AND LOS ALAMOS COUNTY	Postponed to 12/10/08	9
UPDATE ON HOMELESS WINTER OVERFLOW SHELTER	Postponed to 12/10/08	10
MATTERS FROM THE CITY MANAGER	None	10
MATTERS FROM THE CITY ATTORNEY EXECUTIVE SESSION	Approved	10
MOTION TO COME OUT OF EXECUTIVE SESSION	Approved	11
ACTION REGARDING NORTHWEST QUADRANT AND SANTA FE PUBLIC SCHOOLS	Approved	11
ACTION TO APPROVE FILING OF SUIT AGAINST SANTA FE HORSE PARK, LLC	Approved	11
MATTERS FROM THE CITY CLERK	Informational	11
COMMUNICATIONS FROM THE GOVERNING BODY	Information	11-14

<b><u>ITEM</u></b>	<b><u>ACTION</u></b>	<b><u>PAGE #</u></b>
<b><u>EVENING SESSION</u></b>		
CALL TO ORDER AND ROLL CALL	Quorum	15
PETITIONS FROM THE FLOOR		15-16
APPOINTMENTS	None	16
<b><u>PUBLIC HEARINGS</u></b>		
REQUEST FROM DOG EYES, LLC, FOR A RESTAURANT (BEER & WINE) LIQUOR LICENSE TO BE LOCATED AT DISH N' SPOON CAFÉ & GIFTS, 620 OLD SANTA FE TRAIL	Approved	16-17
REQUEST FROM YOUSSEF ENTERPRISES, LLC, FOR A RESTAURANT (BEER & WINE) LIQUOR LICENSE TO BE LOCATED AT CLEOPATRA CAFÉ, 3482 ZAFARANO DRIVE, SUITE #D	Approved	17
CONSIDERATION OF BILL NO. 2008-49; ADOPTION OF ORDINANCE NO. 2008-55. AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF SANTA FE, NEW MEXICO GROSS RECEIPTS TAX REFUNDING REVENUE BONDS, SERIES 2008B IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$24,000,000 FOR THE PURPOSE OF DEFRAYING THE COST OF REFUNDING, PAYING AND DISCHARGING THE OUTSTANDING CITY OF SANTA FE, NEW MEXICO, GROSS RECEIPTS TAX REFUNDING AND IMPROVEMENT REVENUE BONDS, SERIES 1997A; AND CITY OF SANTA FE GROSS RECEIPTS TAX REVENUE BONDS, SERIES 1999; ETC.	Approved	18-19
CONSIDERATION OF BILL NO. 2008-57; ADOPTION OF ORDINANCE NO. 2008-____. <u>CASE #M 2008-21</u> . VISTA BONITAS PHASE II REZONING. LINDA TIGGES, AGENT FOR DENNIS BRANCH, REQUESTS REZONING OF 2.146± ACRES OF LAND FROM MHP (MOBILE HOME PARK) TO RM-1 (RESIDENTIAL MULTI-FAMILY, 21 DWELLING UNITS PER ACRE). THE PROPERTY IS LOCATED ON THE VACATED ACCESS FOR CALLE GRIEGO, NORTH OF AIRPORT ROAD AND SOUTH OF RUFINA	Approval denied	20-33

<b><u>ITEM</u></b>	<b><u>ACTION</u></b>	<b><u>PAGE #</u></b>
<b>CASE #A 2008-04. 333½ ROSARIO HILL BUILDING PERMIT APPEAL. KIM Z. PADILLA APPEALS THE BOARD OF ADJUSTMENT'S DECISION ON MAY 20, 2008, FOR DENIAL OF CASE NUMBER AB 2008-03 REGARDING THE APPEAL FOR THE ISSUANCE OF BUILDING PERMITS 07-2269 AND 08-181 BY THE LAND USE DEPARTMENT FOR DEVELOPMENT AT 333-½ ROSARIO HILL</b>	<b>Appeal Denied</b>	<b>33-47</b>
<b>ADJOURN</b>		<b>47</b>

**MINUTES OF THE  
REGULAR MEETING OF THE  
GOVERNING BODY  
Santa Fe, New Mexico  
November 12, 2008**

**AFTERNOON SESSION**

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor David Coss, on November 12, 2008, at approximately 5:00 p.m., in the City Hall Council Chambers. Following the Pledge of Allegiance and Invocation, roll call indicated the presence of a quorum, as follows:

**Members Present**

Mayor David Coss  
Councilor Rebecca Wurzburger, Mayor Pro-Tem  
Councilor Patti J. Bushee  
Councilor Christopher Calvert  
Councilor Carmichael A. Dominguez  
Councilor Matthew E. Ortiz  
Councilor Rosemary Romero  
Councilor Ronald S. Trujillo

**Members Excused**

Councilor Miguel Chavez,

**Others Attending**

Galen Buller, City Manager  
Frank Katz, City Attorney  
Yolanda Y. Vigil, City Clerk  
Melessia Helberg, Council Stenographer

**5. APPROVAL OF AGENDA**

Mr. Buller said staff requests moving Item G(5) on the Evening Agenda to be heard right after Item G(2), because we are going forward with this and the bond attorneys are here.

**Councilor Trujillo moved, seconded by Councilor Bushee, to approve the agenda as amended.**

**The motion was approved on a voice vote with Councilors Bushee, Calvert, Dominguez, Ortiz, Romero, Trujillo and Wurzburger voting for the motion and none against.**

**6. APPROVAL OF CONSENT CALENDAR**

**Councilor Calvert moved, seconded by Councilor Wurzbarger, to approve the following Consent Calendar, as amended. The motion was approved on the following Roll Call vote:**

**For: Councilor Bushee, Councilor Calvert, Councilor Dominguez, Councilor Ortiz, Councilor Romero, Councilor Trujillo and Councilor Wurzbarger.**

**Against: None.**

- a) REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON DECEMBER 10, 2008:**
  - 1) BILL NO. 2008-59 – AN ORDINANCE AMENDING ARTICLE 2-16 SFCC 1987, FOR THE PURPOSE OF DELETING THE DEPARTMENT OF CIVIL PREPAREDNESS AND CREATING THE OFFICE OF EMERGENCY MANAGEMENT (MAYOR COSS AND COUNCILOR TRUJILLO). (JOYCE PURLEY)**
  - 2) BILL NO. 2008-60 – AN ORDINANCE AMENDING ARTICLE 20-1 SFCC 1987, REGARDING THE POWER OF THE MAYOR DURING AN EMERGENCY (MAYOR COSS AND COUNCILOR TRUJILLO). (JOYCE PURLEY)**
  - 3) *[Removed for discussion by Councilor Wurzbarger]***
- b) CONSIDERATION OF RESOLUTION NO. 2008- 97 (MAYOR COSS AND COUNCILOR TRUJILLO). A RESOLUTION ADOPTING THE NATIONAL INCIDENT MANAGEMENT SYSTEM (“NIMS”) SO THAT THE CITY OF SANTA FE MAY WORK EFFECTIVELY AND EFFICIENTLY WITH FEDERAL AND STATE GOVERNMENT TO PREPARE FOR, RESPOND TO, AND RECOVER FROM DOMESTIC INCIDENTS. (JOYCE PURLEY)**
- c) CONSIDERATION OF RESOLUTION NO. 2008- 98 (COUNCILOR ROMERO). A RESOLUTION URGING THE NEW MEXICO STATE LEGISLATURE TO PASS THE HEALTH SECURITY ACT. (TERRIE RODRIGUEZ)**
- d) CONSIDERATION OF RESOLUTION NO. 2008- 99 (COUNCILOR ROMERO, MAYOR COSS, COUNCILOR CALVERT AND COUNCILOR DOMINGUEZ). A RESOLUTION SUPPORTING LEAVING NO NEW MEXICO CHILD INSIDE. (TERRIE RODRIGUEZ)**
- e) CONSIDERATION OF RESOLUTION NO. 2008- 100 (COUNCILOR CALVERT). A RESOLUTION AMENDING TABLE 37 OF THE CITY OF SANTA FE “IMPACT FEES CAPITAL IMPROVEMENTS PLAN AND LAND USE**

**ASSUMPTIONS, 2007-2012" TO INCLUDE THE RAILYARD PARK AND PLAZA, A REGIONAL PARK, AS AN ELIGIBLE PROJECT TO RECEIVE IMPACT FEE FUNDS. (FRANK ARCHULETA)**

- f) CONSIDERATION OF RESOLUTION NO. 2008- 101 (COUNCILOR TRUJILLO). A RESOLUTION DIRECTING STAFF TO RESEARCH AND STUDY THE ESTABLISHMENT OF A FAMILY-FRIENDLY "MOVIES IN THE PARK" PROGRAM. (TERRIE RODRIGUEZ)**
- g) *[Removed for discussion by Councilor Romero]***
- h) REQUEST FOR APPROVAL OF SOLE SOURCE PROCUREMENT – THEATRICAL EQUIPMENT FOR SANTA FE COMMUNITY CONVENTION CENTER; HOGLE'S THEATRICAL SUPPLIES. (CHIP LILIENTHAL)**
- i) REQUEST FOR APPROVAL OF CHANGE ORDER NO. 2 – RAILYARD OFFSITE IMPROVEMENTS PROJECTS ADJUSTMENTS FOR NEW ITEMS AND OVER/UNDER ITEMS NOT PART OF ORIGINAL BID; A.S. HORNER, INC. (PETER MANZANARES)**
  - 1) REQUEST FOR APPROVAL OF BUDGET INCREASE – PROJECT FUND.**
- j) REQUEST FOR APPROVAL OF BUDGET INCREASE FOR INSTALLATION OF PAVEMENT MARKING AND SIGNING FOR CITY STREETS REHABILITATION PROGRAM. (RICK DEVINE)**
- k) REQUEST FOR APPROVAL OF MUNICIPAL ARTERIAL PROGRAM COOPERATIVE AGREEMENT – ROAD IMPROVEMENTS TO AIRPORT ROAD; NEW MEXICO DEPARTMENT OF TRANSPORTATION. (DESIRAE LUJAN)**
  - 1) REQUEST FOR APPROVAL OF BUDGET INCREASE – PROJECT FUND.**
  - 2) CONSIDERATION OF RESOLUTION NO. 2008- 102 (COUNCILOR DOMINGUEZ). A RESOLUTION IN SUPPORT OF THE MAP COOPERATIVE AGREEMENT FOR FUNDING ROAD IMPROVEMENTS TO AIRPORT ROAD. (DESIRAE LUJAN)**
- l) REQUEST FOR APPROVAL OF STATE GRANT AGREEMENT, AIRPORT PROJECTS AND AWARD – CONSTRUCTION OF RADAR FACILITY AT SANTA FE MUNICIPAL AIRPORT; NEW MEXICO DEPARTMENT OF TRANSPORTATION AVIATION DIVISION. (JIM MONTMAN)**
- m) REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO LEASE – NEW PREMISES, BUILDING AND RELATED IMPROVEMENTS LOCATED AT 1614 PASEO DE PERALTA; WAREHOUSE 21 AND CITY OF SANTA FE. (ROBERT SIQUEIROS)**

- n) **REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO LEASE AGREEMENT; INCREASE ACREAGE AND USE – LEASED PARCEL LOCATED WITH THE SILER ROAD YARDS; CITY OF SANTA FE, KITCHEN ANGELS, INC., AND THE FOOD DEPOT. (EDWARD VIGIL AND TERRIE RODRIGUEZ)**
- o) **REQUEST FOR APPROVAL OF AGREEMENT – JUVENILE PROGRAMS AND SERVICES; STATE OF NEW MEXICO, CHILDREN, YOUTH AND FAMILIES DEPARTMENT. (RICHARD DE MELLA)**
  - 1) **REQUEST FOR APPROVAL OF BUDGET ADJUSTMENT – GRANT FUND.**
- p) **REQUEST FOR APPROVAL OF SOLE SOURCE PROCUREMENT AND PROFESSIONAL SERVICES AGREEMENT – INTENSIVE COMMUNITY MONITORING SERVICES; MARY LOUISE ROMERO. (RICHARD DE MELLA)**
- q) **REQUEST FOR APPROVAL OF SOLE SOURCE PROCUREMENT – VOICE AND DATA COMMUNICATIONS SERVICES FOR CITY OFFICES; QWEST COMMUNICATIONS. (THOMAS WILLIAMS)**
- r) **REQUEST FOR APPROVAL OF LEASE AGREEMENT – TWO (2) BUSES FOR SANTA FE TRAILS; CREATIVE BUS SALES, INC. (JON BULTHUIS)**
- s) **REQUEST FOR APPROVAL OF PROPOSED REVISIONS TO AFFORDABLE HOUSING TRUST FUND ADMINISTRATIVE PROCEDURES. (LEE DePIETRO)**
- t) ***[Removed for discussion by Councilor Calvert]***
- u) **REQUEST FOR APPROVAL OF ADDENDUM SUPPLEMENTAL LIST OF UNEXPENDED FISCAL YEAR 07/08 BUDGET CARRY FORWARD RECOMMENDATIONS. (DAVID MILLICAN)**
- v) **RECOMMENDATION TO APPROPRIATE REMAINING BALANCE OF GRT ALLOCATION ADJUSTMENT AS AN ECONOMIC CONTINGENCY RESERVE. (DAVID MILLICAN)**
- w) **CONSIDERATION OF RESOLUTION NO. 2008- 103 (COUNCILOR DOMINGUEZ). A RESOLUTION AMENDING AND RE-ADOPTING THE GOVERNING BODY PROCEDURAL RULES. (YOLANDA Y. VIGIL). (Postponed at October 29, 2008 City Council Meeting)**
- x) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENTS TO PROVIDE ALCOHOLIC BEVERAGES AT THE SANTA FE COMMUNITY CONVENTION CENTER; RIO CHAMA STEAKHOUSE. (DARLENE GRIEGO)**



- y) **REQUEST FOR APPROVAL OF NON-EXCLUSIVE LICENSE AGREEMENT – DAILY STAGECOACH CITY TOURS AT SANTA FE RAILYARD OFF MARKET STREET; CITY DIFFERENT TOURS. (DAVID CHAPMAN) (Postponed at October 29, 2008 City Council Meeting). (Postponed to December 10, 2008 City Council Meeting)**

**7. APPROVAL OF MINUTES: Reg. City Council Meeting – October 29, 2008**

**Councilor Calvert moved, seconded by Councilor Romero, to approve the minutes of the Regular City Council Meeting of October 29, 2008, as presented. The motion was approved on a voice vote, with Councilors Bushee, Calvert, Dominguez, Ortiz, Romero, and Wurzburger voting for the motion, none against and Councilor Trujillo abstaining.**

**8. PRESENTATIONS**

- a) **EMPLOYEE OF THE MONTH FOR NOVEMBER 2008 – NICK SCHIAVO, ENERGY SPECIALIST, HCD.**

Mayor Coss read the letter of nomination into the record and presented Mr. Schiavo with a plaque and a check for \$200 from the Employee Benefit Committee.

Mr. Schiavo thanked Richard MacPherson and his coworkers and said it is a pleasure working with the City.

Councilor Bushee asked Mr. Schiavo if he can help Costy save funds in terms of cogeneration at the solid waste disposal plant.

Councilor Ortiz commended Mr. Schiavo and said he should have a special award for his work to get the Franchise Agreement and Facilities Plan approved.

- b) **2007/2008 CITY VOLLEYBALL CHAMPION TROPHY – CAPITAL HIGH SCHOOL JAGUARS. (COUNCILOR TRUJILLO)**

Councilor Trujillo said this has to be postponed because the team is playing in a round-robin tournament in Albuquerque.

- c) **2008 CITY FOOTBALL CHAMPION TROPHY – SANTA FE HIGH SCHOOL DEMONS. (COUNCILOR TRUJILLO)**

Councilor Trujillo presented the 2008 City Football Champion Trophy to the Santa Fe High School Demons and Coach Mike Mares. He said the team defeated St. Michaels and Capital High, with a record of 4-5 for the year, barely missing the playoffs. He admonished the team to be very proud of what they've accomplished.

Coach Mares thanked the City for this honor saying they are setting the foundation for the future, noting many members of the team are graduating, many of whom are going to school next year on athletic scholarships. He said these young men will be honored at a banquet in December.

Councilor Dominguez congratulated the coaches and the team, and thanked the parents for their support of these young men. He said he played football at Santa Fe High and it helped to define him to some degree. He encouraged them to take what they've learned and apply it to life in the future.

Councilor Trujillo said he, Councilor Dominguez and Mayor Coss all played football as Santa Fe High Demons.

**d) MUCHAS GRACIAS – GARY ELHERT.**

Mayor Coss presented a Muchas Gracias certificate to Gary Elhart for his thoughtful service as a founding member of the Business and Quality Life Committee, and as a member of the RDC, for his advocacy for the development of green building codes at the State and City level, and for his willing to advise the City on issues important to all Santa Feans.

Mr. Elhart thanked Mayor Coss for his accessibility and willingness to listen to the people and for appointing him to committees. He thanked Mayor Pro-Tem Wurzburger. He said he intends to remain involved in City matters. He thanked the Governing Body for this honor.

Councilor Wurzburger acknowledged her respect for all he has done in the City, and for his work through the Homebuilders and his work on a green building code.

Councilor Ortiz thanked Mr. Elhart as well for his consensus building, and his work and leadership with the Homebuilders, and he looks forward to his continued participation. He said the park in his neighborhood would not have been built except for Mr. Elhart's cooperation in working with the City and the residents of the Pueblos del Sol neighborhood to create this wonderful park. He said that was the genesis for all of the other parks and park improvements which were supported in the last bond cycle. He said Mr. Elhart's leadership will be felt in this community and at City Hall for years to come and looks forward to working with him.

Mr. Elhart thanked the Councilors for their kind words and said he will continue to give his time to better the quality of life for all the citizens who live, work and visit here.

**CONSENT CALENDAR DISCUSSION**

**9(a) REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON DECEMBER 10, 2008:**

**3) CONSIDERATION OF RESOLUTION NO. 2008- \_\_\_\_ (COUNCILOR WURZBURGER, COUNCILOR ROMERO AND COUNCILOR**

**CALVERT). A RESOLUTION ENDORSING AND ADOPTING THE WATER DIVISION 10 YEAR FINANCIAL PLAN. (GARY MARTINEZ)**

- a) BILL NO. 2008-61 – AN ORDINANCE AMENDING CHAPTER 25 SFCC 1987, EXHIBIT B, WATER RATE SCHEDULE 1; INCREASING THE MONTHLY VOLUME RATES AND MONTHLY SERVICE CHARGE BY 9.50 PERCENT PER YEAR FOR FIVE YEARS FOR RESIDENTIAL, MULTI-FAMILY AND COMMERCIAL CUSTOMERS OF THE CITY'S WATER SYSTEM (COUNCILOR WURZBURGER, COUNCILOR CHAVEZ AND COUNCILOR ROMERO). (GARY MARTINEZ)**

Councilor Wurzburger said she is pulling this item and postponing it to the next Council meeting, with the requirement that in the interim at the Public Utilities Committee they can look at the options staff has been working on.

**Councilor Wurzburger moved, seconded by Councilor Calvert, to postpone this item to the meeting of December 10, 2008.**

**Friendly amendment:** Councilor Dominguez would like to direct staff that there be a public outreach component to this. He suggested an additional public meeting where staff would be available to answer questions from the public, as well as including an education component in the water bills so customers understand what is going on. **The amendment was friendly to the maker and second, and there were no objections from the other Councilors.**

**Discussion:** Councilor Romero would rather that meeting would be more of a workshop. She said a lot of dialogue is needed between staff, community and the Governing Body. She would encourage more of a workshop format, because we need a different format for the kind of discussion which is needed. She would support a one page fact sheet in whatever format staff thinks is appropriate to get out to the public.

Councilor Dominguez said he has no problem with this, and wants it to be formatted in a way that there is meaningful dialogue, and hopes staff can make that happen. He said the fact sheet shouldn't be technical, and should be articulated in a way that everyone can understand.

Councilor Bushee asked how many people have attended the public meetings, and if it has been the same people. She said we have done this over the years, and there generally is a reaction after they get their bill. She welcomes the public input, but she is looking for more creative options and wonders how to achieve that. She said we always go back to the existing ratepayers.

Mayor Coss said he is always in favor of creative solutions, but sometimes "the numbers are just the numbers." He said it was good the City bought the water company, and since that time we have been working on a sustainable water supply which the Buckman Direct Diversion gives us. He said we have had to make some very hard decisions about water rates and policy over the years, and those have been made to the benefit of the community. He said we do need more public education, noting there was a lot of misinformation and alarmist talk in today's Editorial in The New Mexican which isn't helpful. He will introduce proposed

amendments to the utility Lifeline Program to raise it to 200% of poverty. He said he also wants to create another tier for the very, very high end water users. He said a difficult decision is coming, and he welcomes creativity and public information.

Councilor Bushee said she wants to get some different staff responses, and we all know it is coming, but not to this magnitude. She needs information on the \$25 million which is no longer in the Water Company's reserves. She thinks this needs to be aired and opened up. She said the discussion has never been that we didn't want to be in a sustainable situation with regard to the water, but it has been how to spread out the costs and who we will impact. She sees the usual thing which is to come back to the same rate base, and we need it now, we need it faster because there is more of an urgency. She wants these discussions. She wants to see if there are other ways to spread out the cost, "rather than the existing customer base only in the mix."

Councilor Wurzburger said the first part of her request is exactly what was requested at Public Utilities. She understands Mr. Martinez has done some work to present to the Committee which is less than the 9%. She said it's not going to be decreased to 4%, 5% or 6%, and it won't be that creative. She said Mr. Martinez was given very clear direction by the Public Utilities Committee, and we will have the results of that at the next PUC meeting and at the next Council meeting.

**The motion, as amended, was approved on a voice vote with Councilors Bushee, Calvert, Dominguez, Ortiz, Romero, Trujillo and Wurzburger voting for the motion and none against.**

**9(g) CONSIDERATION OF RESOLUTION NO. 2008- \_\_\_\_ (COUNCILOR CHAVEZ AND COUNCILOR WURZBURGER). A RESOLUTION DIRECTING STAFF TO COORDINATE A MEETING WITH THE NEW MEXICO DEPARTMENT OF CULTURAL AFFAIRS, THE NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT AND THE MUSEUM OF NEW MEXICO FOUNDATION REGARDING THE MUSEUM OF NEW MEXICO FOUNDATION'S LICENSING PROGRAM. (FABIAN TRUJILLO)**

Councilor Romero said she pulled because she thinks it needs more work. She said Cultural Affairs and the Museum are one component, and others would be involved to develop mechanisms for more training and further discussions about how to create opportunities for economic development. She would like to direct staff to help to coordinate the meetings and reach out to other agencies.

**Councilor Romero moved, seconded by Councilor Wurzburger, to send this back to staff with more direction to include other agencies, and to be brought forward to the next Council meeting.**

**Discussion:** Councilor Wurzburger said she believes this could have been handled with a phone call.

**Friendly amendment:** She said now that we are moving in a different direction, and

staff will be doing some rewrite, she would like the Resolution to be modified to reflect the significant work that the Foundation has already done with respect to this issue, noting more than \$400,000 has come back to Santa Fe artists. She is uncomfortable with the implication that the Foundation has not been addressing the involvement of artists in the community. **The amendment was friendly to the maker, and there were no objections from the other Councilors.**

**The motion, as amended, was approved on a voice vote with Councilors Bushee, Calvert, Dominguez, Ortiz, Romero, Trujillo and Wurzbarger voting for the motion and none against.**

**9(t) REQUEST FOR APPROVAL OF CITY/COUNTY ANNEXATION PHASING AGREEMENT; CITY OF SANTA FE AND SANTA FE COUNTY. (REED LIMING AND FRANK KATZ)**

A copy of the Action Sheet from the Finance Committee meeting of November 3, 2008, with attached updated Annexation Phasing Agreement, is incorporated herewith to these minutes as Exhibit "1."

Councilor Calvert said he removed this item because the Finance Committee made amendments which were not included in the packet, but are now on our desks [Exhibit "1"]. Councilor Calvert explained that the amendment was to spread-out the phases to give us more time, especially in this economic climate.

**Councilor Calvert moved, seconded by Councilor Wurzbarger, to approve this request as amended by the Finance Committee. The motion was approved on the following Roll Call vote:**

**For: Councilor Bushee, Councilor Calvert, Councilor Dominguez, Councilor Ortiz, Councilor Romero, Councilor Trujillo and Councilor Wurzbarger.**

**Against: None.**

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**END OF CONSENT CALENDAR DISCUSSION**  
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**10. REQUEST FOR APPROVAL AND CONSENT FOR SOLID WASTE MANGEMENT AGENCY TO ACCEPT WASTE FROM NORTH CENTRAL SOLID WASTE AUTHORITY AND LOS ALAMOS COUNTY. (RANDALL KIPPENBROCK AND BILL DeGRANDE) (Postponed to December 10, 2008 City Council Meeting)**

This item is postponed to the December 10, 2008 City Council meeting.

**11. UPDATE ON HOMELESS WINTER OVERFLOW SHELTER. (TERRIE RODRIGUEZ)  
(Postponed at October 29, 2008 City Council Meeting) (Postponed to December  
10, 2008 City Council Meeting)**

This item is postponed to the December 10, 2008 City Council meeting.

**12. MATTERS FROM THE CITY MANAGER**

There were no matters from the City Manager.

**13. MATTERS FROM THE CITY ATTORNEY**

**EXECUTIVE SESSION:**

- a) **DISCUSSION OF NORTHWEST QUADRANT AND SANTA FE PUBLIC SCHOOLS, PURSUANT TO §10-15-1(H)(8) NMSA 1978.**
- b) **UPDATE AND DISCUSSION OF THE JICARILLA APACHE NATION (JAN) LEASE, PURSUANT TO §10-15-1(H)(8) NMSA 1978.**
- c) **PENDING LITIGATION FOR MONEY OWED BY SANTA FE HORSE PARK, LLC TO WASTEWATER DIVISION, PURSUANT TO §10-15-1(H)(7) NMSA 1978.**

Frank Katz, City Attorney, said three items are listed for executive session, but he believes it is not necessary to have an executive session on Item 13(b), because we are not asking to do anything on that. It was going to be in the nature of a report, and he said we need more information for the Governing Body before then.

**Councilor Calvert moved, seconded by Councilor Bushee, that the Council go into Executive Session for the purpose of the discussion of the Northwest Quadrant and Santa Fe Public Schools pursuant to §10-15-1(H)(8) and pending litigation regarding money owed by the Santa Fe Horse Park, LLC, to the Wastewater Division pursuant to §10-15-1(H)(7). The motion was approved on a roll call vote as follows:**

**For: Councilor Bushee, Councilor Calvert, Councilor Domínguez, Councilor Romero and Councilor Trujillo.**

**Against: None.**

**Absent: Councilor Ortiz and Councilor Wurzbarger.**

The Council went into Executive Session at 5:45 p.m.

## **MOTION TO COME OUT OF EXECUTIVE SESSION**

At 6:20 p.m., Councilor Calvert moved, seconded by Councilor Trujillo, that the City Council come out of Executive Session and stated that the only items which were discussed in executive session were Items 13(a) and 13(c) which were on the agenda, and no action was taken.

The motion was approved unanimously on a voice vote with Councilors Calvert, Dominguez, Ortiz, Romero, Trujillo and Wurzbarger voting for the motion, no one voting against and Councilor Bushee absent.

### **14. ACTION REGARDING NORTHWEST QUADRANT AND SANTA FE PUBLIC SCHOOLS. (FRANK KATZ)**

Councilor Ortiz moved, seconded by Councilor Wurzbarger, to authorize the Mayor and the City Manager to execute the letter which was shown to us in Executive Session and we further direct staff to take the actions that we told them in Executive Session.

The motion was approved on a voice vote with Councilors Calvert, Dominguez, Ortiz, Romero, Trujillo and Wurzbarger voting for the motion, none against and Councilor Bushee absent.

### **15. ACTION TO APPROVE FILING OF SUIT AGAINST SANTA FE HORSE PARK, LLC. (MAUREEN REED)**

Councilor Calvert moved, seconded by Councilor Ortiz, to approve the filing of a suit against Santa Fe Horse Park, LLC.

The motion was approved on a voice vote with Councilors Calvert, Dominguez, Ortiz, Romero, Trujillo and Wurzbarger voting for the motion, none against and Councilor Bushee absent.

### **16. MATTERS FROM THE CITY CLERK**

Yolanda Vigil, City Clerk, said the next meeting of the City Council will be on December 10, 2008, and it will be held at the Santa Fe Community Convention Center.

### **17. COMMUNICATIONS FROM THE GOVERNING BODY.**

#### **Councilor Calvert**

Councilor Calvert had no communications.

### **Councilor Trujillo**

Councilor Trujillo had no communications.

### **Councilor Ortiz**

Councilor Ortiz had no communications. He noted that he and Councilor Trujillo have to leave to attend a community meeting and will be a little late for the evening session.

### **Councilor Wurzbarger**

Councilor Wurzbarger had no communications.

### **Councilor Dominguez**

Councilor Dominguez introduced two resolutions:

- a) A Resolution urging the New Mexico Legislature to adopt gang related legislation. A copy of this Resolution is incorporated herewith to these minutes as Exhibit "2."
- b) A Resolution supporting the efforts of Santa Fe County in organizing "Youth Can Do It" positive youth development conference. A copy of this Resolution is incorporated herewith to these minutes as Exhibit "3."

Councilor Dominguez congratulated the country and President-elect Obama, commenting that we're on the right track.

Councilor Dominguez said he will be hosting a meeting with the people in the Hopewell Mann area, and he will want staff to attend. He will provide the details as soon as he gets those.

### **Councilor Romero**

Councilor Romero introduced two Resolutions:

- a) A Resolution to amend the local Liquor Excise Tax to authorize all New Mexico counties to impose a local liquor tax upon approval of the local voters and authorizing the use of the tax to fund social service programs serving persons impacted by alcohol and drug abuse. A copy of this Resolution is incorporated herewith to these minutes as Exhibit "4."



- b) A Resolution directing staff to bring forward a recommendation to the Governing Body for the creation of a Historian Laureate Program. A copy of this Resolution is incorporated herewith to these minutes as Exhibit "5."

*Councilor Bushee arrived at the meeting*

**Mayor Coss**

Mayor Coss introduced the following Resolutions on behalf of Councilor Chavez:

- a) A Resolution authorizing and approving the submission of an executed agreement for financial assistance to the New Mexico Environment Department for the planning, design, engineering and construction of a water line and a sewer line for the 2400 block of Agua Fria. A copy of this Resolution is incorporated herewith to these minutes as Exhibit "6."

Councilor Dominguez asked to cosponsor this Resolution.

- b) A Resolution directing staff to pursue funding from the Legislature and other sources for the construction of the Tierra Contenta Subdivision area effluent water line and the design and construction of a future extension from this line along the Arroyo Chamiso to Governor Miles Road. A copy of this Resolution is incorporated herewith to these minutes as Exhibit "7."

Mayor Coss introduced the following Resolution and Ordinance amendments:

- a) An amendment to the Water Rates Ordinance and to the Lifeline Utility Ordinance which would (1) create another tier for high end residential water users over 15,000 gallons per month and (2) extend the Lifeline Utility bill for households gross annual income not exceeding 200% of the most recent federal poverty guidelines. It is currently at 120%, and he would like the Council and Community to look at this number to see if it is adequate, noting he has heard a lot about the impacts of the rate increase on persons with fixed and low incomes. He asked that it go straight to PUC. A copy of this Ordinance amendment is incorporated herewith to these minutes as Exhibit "8."
- b) A Resolution directing the City Manager to take certain actions to move our economy forward, and provide jobs for our citizens; and encouraging our Congressional Representatives and our President to act quickly to invest in the real economies of our cities in partnership with cities around the country by fully funding the Main Street Stimulus Package. He said the Resolution is cosponsored by Councilor Romero. He would like it to go to the committees in time for action at the December Council meeting. A copy of this Resolution is incorporated herewith to these minutes as Exhibit "9."

Councilor Wurzbarger asked to cosponsor this Resolution, and will incorporate the amendments she discussed with the Mayor at the Finance Committee.

- c) An amendment to the Campaign Code regarding hearings before the Ethics and Campaign Review Board suggested by the Campaign & Ethics Committee. A copy of this Ordinance amendment is incorporated herewith to these minutes as Exhibit "10."

**Councilor Bushee**

Councilor Bushee introduced a Resolution initiating efforts to acquire or otherwise secure the State owned Archives building at the corner of Montezuma and Guadalupe in order ensure that the Railyard will serve as a hub to promote and accommodate alternate modes of transportation. She said this is a great opportunity at that corner to conduct all of our operations for people coming in on the Rail Runner to be able to rent or share a bicycle or an automobile and/or have a parking shuttle operation. She said she wants to add another Whereas to find other interested parties to send letters of support of this idea to the various entities. She said the Resolution is cosponsored by Councilors Dominguez, Trujillo, Ortiz, Calvert, Romero and Wurzbarger and Mayor Coss. A copy of this Resolution is incorporated herewith to these minutes as Exhibit "11."

**END OF AFTERNOON SESSION AT 6:30 P.M.**

## **EVENING SESSION**

### **A. CALL TO ORDER AND ROLL CALL**

The Evening Session was called to order by Mayor David Coss, at approximately 7:00 p.m. Roll Call indicated the presence of a quorum as follows:

#### **Members Present**

Mayor David Coss  
Councilor Rebecca Wurzbarger, Mayor Pro-Tem  
Councilor Patti J. Bushee  
Councilor Christopher Calvert  
Councilor Carmichael A. Dominguez  
Councilor Matthew E. Ortiz  
Councilor Rosemary Romero  
Councilor Ronald S. Trujillo

#### **Members Excused**

Councilor Miguel Chavez,

#### **Others Attending**

Galen Buller, City Manager  
Frank Katz, City Attorney  
Yolanda Y. Vigil, City Clerk  
Melessia Helberg, Council Stenographer

### **E. PETITIONS FROM THE FLOOR**

**Barbara Levin, Member Candlelight Neighborhood Assn**, said she is here about the Railyard plan, which will come before the Council soon. She said the Association wants the Council to know that they have numerous concerns about the proposed plan in its current form and want to speak on it in whatever form it might come before you.

Councilor Bushee asked if they want to come before the BTAC, and if that would help.

Mayor Coss said he believes their issues are with the Transit District proposal.

Ms. Levin said they are concerned about the overbuilding in the area in the whole corridor, around the Zia Station particularly.

**Celeste Newbrough, Candlelight Neighborhood Association**, said since she learned of the rail corridor and the rail station to be at Zia/St. Francis, a station which she supports as well as the associated building and development which could be beneficial, she has done a lot of internet and library research on the whole issue of transit oriented planning and development. She would like the City to consider what it's doing to do in light of the national financial crisis, and said she believes the Council should take its time and do it right. She has

found a lot of the assumptions behind TOD are not proven. She said many of the ideas are wonderful, but there is research which indicates that there have been failures. She doesn't want Santa Fe to imitate others, but to carefully consider all information before making a decision.

**Sheila Hewitt, Candlelight Neighborhood Association**, said she lived around a train station for many years back east which became solid concrete and commuters. She would like for the City to do a very thorough traffic study of the intersection of Zia/St. Francis and the implications on Rodeo Road. She spoke of the current traffic problems in that area during the 8:00 a.m. rush hour. She said it is proposed to put 600 more parking spots between Zia and Rodeo. She doesn't think it's realistic to think that only 20 people from Eldorado will come and use the Zia Station. She said the Council really needs to look at the practicality before making commitments, otherwise the City will spend a ton of money and have a lot of frustration trying to fix something which hasn't been thought through.

**Norm Budow, Candlelight Neighborhood Association**, said where he lived previously, there was strong plea for a stop light, but they were told that the volume of traffic didn't warrant it. Only when people were killed was there an effort to make it right. He said it is important to consider the safety of the neighborhood.

#### **F. APPOINTMENTS**

There were no appointments.

#### **G. PUBLIC HEARINGS**

- 1) **REQUEST FROM DOG EYES, LLC, FOR A RESTAURANT (BEER & WINE) LIQUOR LICENSE TO BE LOCATED AT DISH N' SPOON CAFÉ & GIFTS, 620 OLD SANTA FE TRAIL. (YOLANDA Y. VIGIL)**

The staff report was given by Yolanda Vigil, noting the location is not within 300 feet of a church or school, and staff is requesting that this business be required to comply with all of the City's ordinances.

#### **Public Hearing**

There was no one speaking for or against this request.

#### **The Public Hearing was closed**

**Councilor Bushee moved, seconded by Councilor Calvert, to grant the request for a Restaurant (Beer & Wine) Liquor License to be located at Dish n' Spook Café & Gifts, 620 Old Santa Fe Trail.**

**The motion was approved on the following Roll Call Vote:**

**For: Councilor Bushee, Councilor Calvert, Councilor Dominguez, Councilor Romero, and Councilor Wurzbarger.**

**Against: None.**

**Absent: Councilor Ortiz and Councilor Trujillo.**

Mayor Coss thanked Dish N' Spoon Café for participating in the Creative Cities Taste of Santa Fe.

- 2) REQUEST FROM YOUSSEF ENTERPRISES, LLC, FOR A RESTAURANT (BEER & WINE) LIQUOR LICENSE TO BE LOCATED AT CLEOPATRA CAFÉ, 3482 ZAFARANO DRIVE, SUITE #D. (YOLANDA Y. VIGIL)**

The staff report was given by Yolanda Vigil, noting the location is not within 300 feet of a church or school, and staff is requesting that the business be required to comply with the City's ordinances.

**Public Hearing**

There was no one speaking for or against this request.

**The Public Hearing was closed**

**Councilor Bushee moved, seconded by Councilor Calvert, to grant the request for a Restaurant (Beer & Wine) Liquor License to be located at Cleopatra Café, 3482 Zafarano Drive, Suite #D.**

**The motion was approved on the following Roll Call Vote:**

**For: Councilor Bushee, Councilor Calvert, Councilor Dominguez, Councilor Romero and Councilor Wurzbarger.**

**Against: None.**

**Absent: Councilor Ortiz and Councilor Trujillo.**

- 5) **CONSIDERATION OF BILL NO. 2008-49; ADOPTION OF ORDINANCE NO. 2008-55. AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF SANTA FE, NEW MEXICO GROSS RECEIPTS TAX REFUNDING REVENUE BONDS, SERIES 2008B IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$24,000,000 FOR THE PURPOSE OF DEFRAYING THE COST OF REFUNDING, PAYING AND DISCHARGING THE OUTSTANDING CITY OF SANTA FE, NEW MEXICO, GROSS RECEIPTS TAX REFUNDING AND IMPROVEMENT REVENUE BONDS, SERIES 1997A; AND CITY OF SANTA FE GROSS RECEIPTS TAX REVENUE BONDS, SERIES 1999; PROVIDING THAT THE REFUNDING BONDS WILL BE PAYABLE AND COLLECTIBLE FROM THE GROSS RECEIPTS TAX REVENUES DISTRIBUTED TO THE CITY; PROVIDING FOR THE DISPOSITION OF THE RECEIPTS DERIVED FROM THE GROSS RECEIPTS TAX REVENUES; ESTABLISHING THE FORM, TERMS, MANNER OF EXECUTION AND OTHER DETAILS OF THE REFUNDING BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, IN CONNECTION WITH THE REFUNDING BONDS; PROVIDING FOR REDEMPTION OF THE SERIES 1997A AND 1999 BONDS; APPROVING CERTAIN OTHER AGREEMENTS AND DOCUMENTS IN CONNECTION WITH THE REFUNDING BONDS; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION WITH THE REFUNDING BONDS; REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND RELATED MATTERS. (DAVID MILLICAN). (Postponed October 29, 2008 City Council Meeting)**

David Millican presented information regarding this matter from his Memorandum of November 12, 2008, to the City Council which is in the Council packet. He noted there were savings of \$986,000, more than was expected, which will be realized in the first four years of payments. He said George Wiliford of First Southwest and Duane Brown of the Modrall Firm have worked very hard to sell the bonds, and are in attendance to answer any questions.

Mayor Coss asked if we know what changed since August.

Mr. Millican said he doesn't know, but it is hoped that investors who were looking at the market rationally understood that local government are great, and Santa Fe has an excellent bond rating.

#### **Public hearing**

There was no one speaking for or against this request

#### **The Public Hearing was closed**

**Councilor Wurzbarger moved, seconded by Councilor Dominguez, to adopt Ordinance No. 2008-55.**

**The motion was approved on the following Roll Call Vote:**

**For: Councilor Bushee, Councilor Calvert, Councilor Dominguez, Councilor Romero and Councilor Wurzburger.**

**Against: None.**

**Absent: Councilor Ortiz and Councilor Trujillo.**

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Councilor Dominguez said Councilors Ortiz and Trujillo are interested in Item G(3) and he would like to hear G(4) next so they can be in attendance for Item G(3).

**Councilor Dominguez moved, seconded by Councilor Wurzburger, to amend the Agenda to hear Item G(4) next on the agenda, and to approve the agenda as amended.**

**The motion was approved on the following Roll Call Vote:**

**For: Councilor Bushee, Councilor Calvert, Councilor Dominguez, Councilor Romero and Councilor Wurzburger.**

**Against: None.**

**Absent: Councilor Ortiz and Councilor Trujillo.**

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***Councilor Trujillo and Councilor Ortiz arrived at the meeting at this time.***

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**Councilor Bushee moved, seconded by Councilor Wurzburger to amend the agenda to reverse the previous motion and to hear Item G(3) next on the agenda, and to approve the agenda as amended.**

**The motion was approved on the following Roll Call Vote:**

**For: Councilor Bushee, Councilor Calvert, Councilor Dominguez, Councilor Ortiz, Councilor Romero, Councilor Trujillo and Councilor Wurzburger.**

**Against: None.**

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While waiting for Ms. Baer to arrive at the meeting, Mayor Coss asked the Weebelos in attendance to introduce themselves and welcomed them to the meeting. In attendance were: [inaudible] Gonzales, Eric Cheek, Andy Ortiz, Cameron Atkins and Santiago Gonzales.  
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- 3) **CONSIDERATION OF BILL NO. 2008-57; ADOPTION OF ORDINANCE NO. 2008- \_\_\_\_\_. CASE #M 2008-21. VISTA BONITAS PHASE II REZONING. LINDA TIGGES, AGENT FOR DENNIS BRANCH, REQUESTS REZONING OF 2.146± ACRES OF LAND FROM MHP (MOBILE HOME PARK) TO RM-1 (RESIDENTIAL MULTI-FAMILY, 21 DWELLING UNITS PER ACRE). THE PROPERTY IS LOCATED ON THE VACATED ACCESS FOR CALLE GRIEGO, NORTH OF AIRPORT ROAD AND SOUTH OF RUFINA. (TAMARA BAER) (Postponed at October 29, 2008 City Council Meeting). PUBLIC HEARING IS CLOSED.**

A Memorandum dated November 3 for November 12, 2008 City Council Meeting, with attachments, to the City Council, from Donna Wynant, Senior Planner, Current Planning Division, is incorporated herewith to these minutes as Exhibit "12."

A copy of a letter dated July 30, 2008, with attachments, to "Dennis," from Maggie Monroe-Cassel, Executive Director, Santa Fe Habitat for Humanity, entered for the record by Dennis Branch, is incorporated herewith to these minutes as Exhibit "13."

A copy of a drawing, "New Duplex Units for Vermejo Park Construction," entered for the record by Dennis Branch, is incorporated herewith to these minutes as Exhibit "14."

Four original pages of a petition, with attached color photos of the area, containing 17 signatures, entered for the record by Leroy Romero, with a petition heading as follows:

"Petition to ask the City of Santa Fe/City Council NOT to approve the ordinance which changes CALLE GRIEGO to HIGH DENSITY HOUSING DEVELOPMENT for Dennis Branch DBA Vistas Bonitas Subdivision."

The petition pages are incorporated herewith to these minutes as Exhibit "15."

A copy of the building/lot footprint for the housing proposed, entered for the record by Dennis Branch, is incorporated herewith to these minutes as Exhibit "16."

### **Consideration to reopen the Public Hearing**

Councilor Dominguez said some of our constituents are in attendance, and asked that Mayor Coss allow public comment, and said he would move to allow this if that is required.

Mayor Coss said a motion/second isn't necessary, and with no objections from the City Councilors, reopened the Public Hearing.

### **Staff Report**

The Staff Report was presented by Tamara Baer, Planner Manager, Current Planning, which is contained in Exhibit "12." Ms. Baer noted that the relevant portion of the minutes from



the meeting of October 29, 2008, where the Council approved the General Plan Future Land Use Map amendment to change the designation from Medium Density to High Density Residential, are in the Council packet [Exhibit "12"].

Ms. Baer said staff recommends approval based on the Findings from the Planning Commission, noting that any motion for approval of Case #ZA-2008-08, should include a correction to the Findings, which inadvertently identified the Sierra Vista Mobile Home Park as having been zoned R-7, and it is zoned "Mobile Home Park."

**Recommendation:** The Planning Commission and staff, on August 7, 2008, recommended approval of the request for General Plan Amendment and Rezoning from MHP to RM-1 based on approval criteria in Sections 14-3.2 and 14-3.5 SFCC 2001, respectively, and in compliance with requirements as provided in the following City Department review memos at the time of application for permits:

- 1) Public Works Dept. – Traffic Review Memo.
- 2) Technical Review Division – Engineer Review Memo.
- 3) Fire Department Review Memo.
- 4) Technical Review Division – Landscaping Review Memo.
- 5) Trails and Open Space Review Memo.
- 6) Wastewater Division Review Memo.
- 7) Solid Waste Division Review Memo.

As stated above [under Background in the Memorandum] the City Council approved the General Plan Amendment to High Density Residential at its 10/29/08 meeting.

### **End of Staff Report**

Mayor Coss asked Ms. McCormick to speak to the changes in the Affordable Housing Agreement since the last meeting.

Ms. McCormick said Mr. Branch had offered to do this as a 100% affordable project. The Council asked her to sit with him and develop a proposal which she has with her, but which isn't in the packet. She said in the Santa Fe Homes Program ("SFHP") there are four tiers of pricing for sale housing, and they use tiers 2, 3 and 4. Mr. Branch has proposed, and the staff recommends, that there would be 9 homes in tier 1 which is the most affordable, 7 homes in tier 2 which is the second most affordable and the balance of 14 would be in tier 3. She said staff recommends this because in a 100% affordable project "you want to be sure that you have a mix of pricing and income within a development as opposed to what was proposed earlier, which was to set aside 20 homes for Habitat."

Ms. McCormick said she spoke with Ms. Monroe-Cassel, and she advised that she can do only do the tier 1 homes because of the mission of Habitat at 50% of the AMI.

Councilor Dominguez asked to see the Agreement.

*[Stenographer's note: The proposed Santa Fe Homes Program Agreement as agreed to by Mr. Branch and staff was given to the Governing Body for its inspection, but a copy was not entered for the record.]*

Councilor Dominguez asked Ms. Baer to articulate the findings from the last Council meeting in support of the General Plan Amendment.

Ms. Baer said the Council adopted the Findings from the Planning Commission so they would be the same.

Councilor Dominguez said then basically staff followed the Planning Commission Findings and those are the Findings which were used for the approval of the General Plan amendment.

Councilor Dominguez said his question relates to the correlation between the Planning Commission Findings and whether or not those contradict the spirit and/or the letter of the Southwest Area Master Plan. He said he didn't see that conversation anywhere in the minutes from the Planning Commission, and are not part of the Findings. He asked what discussion was held in that context.

Ms. Baer said there wasn't a lot, partly because this is an old road easement, and was originally part of the Sierra Vista Mobile Home Park, so it was zoned Mobile Home Park and the General Plan showed it as medium density, which is what the Mobile Home Park is. It was never envisioned as a separate piece of property which would be developed for housing because it is so long and skinny.

Councilor Dominguez said when he looks at the Future Land Use Map it is actually identified as low density.

Ms. Baer said she has the map, noting it is confusing, but it is part of the mobile home park in the Future Land Use Map of the General Plan. Ms. Baer approached Councilor Dominguez's desk and demonstrated the subject site on the map.

Mayor Coss reiterated for the public is that the question is what is the current zoning of this parcel and it is Mobile Home Park as shown on the Land Use Map.

Ms. Baer said the question went back to the General Plan Future Land Use Map designation and it's not shown on the General Plan which is in the GIS as a separate parcel, but in fact, it's part of the mobile home park which is shown as Medium Density.

## **Public Hearing**

### **Those Speaking to the Request**

All those speaking were sworn en masse. Mayor Coss gave each person three minutes to speak to the request.

**Linda Tigges, Agent for the Applicant [previously sworn]**, introduced Dennis Branch the Applicant, and Maggie Monroe-Cassel, Santa Fe Habitat for Humanity.

Ms. Tigges reiterated that this is a small portion of land between the Sierra Vista Mobile Home Park and the existing Vista Bonitas Subdivision, and indicated the site on an enlarged drawing. She demonstrated the subject site which she said is surrounded by mobile home parks, and the Planning Commission requested that it provide a different kind of development. She said previously it was part of the Sierra Vista Mobile Home Park and the idea was that it would be a road between Rufina and Airport Road. However, the road wasn't built to City standards and was never dedicated to the City. She said when Roadrunner Development came in they built the northern part to City standards and it was dedicated to the City.,

Ms. Tigges said the mobile home park came in under City standards and built ponding areas for terrain management, noting the site on the map. She said because of the drought, there was never water in the ponds, so they filled one of the ponds and paved it to be used for RV parking. When it began to rain, the water drained down onto the lower area creating a large pothole 3-5 feet deep which became a problem. She noted there are two pictures in the handout [Exhibit "13"] which show this pothole along with letters of complaint to the City. She said the City couldn't do anything about it because it was part of the mobile home park.

Ms. Tigges said the Applicant is developing Vistas Bonitas which is a 70% affordable housing subdivision, and the question was what to do with the long, narrow strip of land. Mr. Branch purchased it from the Sierra Vista Mobile Home Park, and there was still the question of what to do with it. If left alone, it would become a place for transients and would be a problem area.

Ms. Tigges distributed a "plan that shows how the parcels will look, the building footprint," [Exhibit "16"] and said she will answer any questions from the Governing Body.

**Dennis Branch, Applicant [previously sworn]**, said it is actually the Roadrunner Mobile Home Park that owned the property. He said the Sierra Vista Mobile Home park in front of it is the older park, and they're the ones that caused part of the problem with the water by damming its existing drainage. He said they wanted to get rid of the property because it became a liability to them. He said it became a liability to him in the first phase. He knew if he walled it he would end up with a 50 ft. x 2,000 ft. strip with no lighting and such. So he developed several plans as to how to resolve the issue. He said Habitat needed lots and he has no issue in building all of it 100% affordable.

Mr. Branch said one of the reasons he is requesting this zoning is that Mobile Home zoning goes to 8. He said he requested RM-1 because there is an additional lot that the City owns. The original plan has 31 lots. He said medium density is sufficient because they've taken the City lot out of the mix, and hopefully the City will do something with it because it will be a "dark black hole there." He said the medium density suits his needs, and with the 15% bonus, it provides sufficient lots. Mr. Branch said he was caught between zonings and had to go to the next one.

**Maggie Monroe-Cassel, Habitat for Humanity [previously sworn]**, said Habitat has put 62 families in homes in Santa Fe. She said there are hundreds of volunteers in Santa Fe who believe in what Habitat does. She is in favor of this proposal because it will benefit the homeowners and the volunteers who like to build the houses for them. She said at the last Council meeting there were issues about the size of the house and the lot. She said this is perfect for Habitat, the smaller the house the better in many ways, because their motto is simple, decent, and affordable. She said she brought a floor plan for a three-bedroom house which is 1,106 sq. ft. and believes anyone would be happy to buy the house. It is a beautiful, small, well designed house. She said they can build a small house which is attractive and beneficial to the neighborhood. She said she is not a City planner, but as a person who is concerned with housing and the environment, she believes we have no choice but to look into the future of higher density and smaller houses. She said building smaller is part of building green. She said Habit is an organization that sets a new standard for the size of houses we really should be living in and the density that makes sense, as opposed to the sprawl and the bigger land. She said this is her personal opinion, more than speaking from her position with Habitat. She said Habitat is excited about the possibility of getting nine houses and it would help their mission greatly.

**Leroy Romero, 5316 Circita del Norte, Vista del Norte Subdivision [previously sworn]**, said he spoke with some of the residents of Vista Bonitas and he got signatures from 100 of those people he spoke with that don't want this to happen, and submitted the signatures for the record [Exhibit "15"]. He said they don't want more development "out there." He said it is an eyesore and will add more traffic, and spoke about the difficulties during the peak traffic hours, saying in the morning it takes about 10 minutes to make left turn toward Ramirez Thomas School. He said that School is overflowing and doesn't have the capacity to handle more children. He said at the last meeting, Councilor Romero asked about the park. He referred to the pictures attached to the petitions [Exhibit "15"] saying the park is a hole with weeds. He said the developer said he will remove the water by pumping it, and he believes it will go into the hole in the park. He said it is a "sink hole." He said 100% of the people with whom he spoke don't want this, and over 50% of the residents have signed the petition.

**Alicia Vadillo, 5316 Circita del Norte [previously sworn]**, said she is really concerned about this project and building something in a street. She doesn't know what will happen with all the cars, because the street right now is very tight and she is concerned with increased traffic. She teaches at Ramirez Thomas, and said the school is very full and they don't have more space, and asked what will happen with these families who deserve all the services for their families.

**Rose Block, 5312 Circita del Norte, Lot 54 [previously sworn]**, said she came here unopposed to Mr. Branch, saying he has put together a very nice development. This is the reason she chose to live there and is very happy with her home and all the esthetics in planning phase 1 of the development. However, as an owner, she was not informed of this change in any way. She understands a sign was put on the end where few people exit on Rufina, and she

is concerned she was left out of the loop of information. She is also concerned, because the road that runs through the development is used by a lot of people outside the development to get from Airport Road to their homes on Rufina. It is a narrow street, and is already seeing people driving at a high speeds around the curve and believes this will present traffic and safety issues down the road. She said we are now talking about increasing density, and asked if anyone has done traffic studies to see what the future will be of the current road being used by their development and neighboring residents living on Airport and Rufina. She asked the Council not to make a decision tonight. She believes we need to look at this in greater detail to see how the traffic will impact this space. She asked, with regard to this property nobody knows what to do with, why we can't open it as a road and improve the grade so it's not a sink-hole. This would be a more logical, safe use of that space. She isn't opposed to Habitat and thinks it's great they want more affordable homes. She doesn't think enough thought has been given to the additional traffic and what's going to happen here.

**Karen King, subscription manager for Outside Magazine [previously sworn]**, said she bought a house in Vistas Bonitas with the idea that there would be medium density. She's concerned about traffic, saying she lives on the corner of Circita and Calle Nueva Vista. She hears the traffic and has experienced graffiti on her wall. She sees the water that sits in the back road, and asked if the road is raised, where all the water will go. She is concerned about property values. She has a lot of concerns about this.

**Ellen Klein, 5301 Circita del Sur [previously sworn]** said she was one of the first people to buy in the subdivision. She said the subdivision was explained when she bought the home, but now they are making changes. She wasn't notified of the changes, nor did she see the sign, noting it is at only one entrance to the subdivision and most people use the other end. She did learn about and attended the first meeting, and there was a proposal for more homes for Habitat than now proposed, and they were going to increase the density by more than 70%. She is glad this has been reduced, but she is still very concerned because the road is a hazard and can't take any more traffic. She said about 50% of people going in and out of the Mobile Home Park use that road right now. She said there will be a lot more people using the road when the Subdivision is finished. It is a very narrow, very dangerous road. She said in one place two cars going in opposite directions have to stop to let the other one go through. It's not wide enough for much traffic. She agrees with Rose that the best use would be to make it an access road which isn't entered from driveways and children coming in and out of the houses. It could be a road at the back of the houses and that would be a better thoroughfare from Rufina to Airport.

Ms. Tigges asked to rebut some of the comments.

Mayor Coss said we are just taking additional public comment, but believes people have questions for her.

### **The Public Hearing Was Closed**

Councilor Bushee said this subdivision would be 30 units on 2.41 acres, and asked how many units that would be with at 15% density bonus.

Ms. McCormick said she wants to check with Ms. Baer, saying this is the first she's heard about a density bonus.

Councilor Bushee said, "It is in the thing you handed out."

Ms. McCormick said it is automatic under Santa Fe Homes to get a 15% density bonus, but that doesn't include more units.

Councilor Bushee said, "But your agreement says a 15% density bonus."

Ms. McCormick said the 30 units includes the 15% density bonus.

Councilor Bushee said, "It also says we do submittal fees wherever there are building permit fees, impact fees or extension fees and a reduction to the water extension fee and exemption from retrofit and consumptive water right requirements."

Ms. McCormick said that is all provided when doing an affordable project.

Councilor Bushee said she's not against small houses, noting the first house she bought was 850 sq. ft., which was perfect for a single person living alone, and it was on a 5,000 sq. ft. lot which is standard where she lives. She said it is good to build 100% affordable. She said we are asking people to be green in the NWQ, to reduce water use, and other things. She said 14 of the units in this very dense subdivision will be at the high end, \$194,000. She said this doesn't achieve enough for her. She is concerned about adding to and compounding an already bad road and drainage situation. She said, "This is a trailer park of homes." She said the City is giving a lot here. She said, although she isn't the Councilor from this District, she would not be seeking this kind of development in any part of town.

Ms. McCormick said, "The only thing I can really respond to, are things that you all need to decide, is... under the Santa Fe Homes Program, this project would only be required to have 9 units as affordable. And so what we did is have all of those 9 units, which essentially would be the Habitat, and then we just mixed and matched the balance of 2, 2 and 3, given that the 30% requirement was at the entry level. The rest... I don't have a comment on."

Councilor Bushee said she is stunned at the density, commenting she has never seen a proposal for 30 units on 2.41 acres to come before this Council. She said that's a lot of houses and we're waiving all kinds of fees which we need to do for affordable housing. However, she believes the applicant can do better.

Councilor Dominguez said it is important to provide affordable housing in the community which is desperately needed. However, he believes there are issues of quality of life amenities or scenarios. He said the Southwest Area Master Plan is a good guiding document with good planning principles which are intended to provide and promote the high quality of life that the people in that part of our community absolutely deserve. He said now that the Plan has been

adopted, it talks about how important density is in that part of our community, because there already are a large number of high density projects there. That plan says there is a desire to accept the continuation of densities at or near the Las Acequias Subdivision which is at 6-7 units per acre. He said this is a significant jump.

Councilor Dominguez said it is obvious that the Applicant didn't use the Southwest Area Master Plan as the guiding document. He asked why the Applicant didn't propose a density which is included in that Plan which is 6-7 units per acre.

Mr. Branch said he never wanted this property, and he will sell it to the City to make a road out of it.

Councilor Dominguez said he is curious about the rationale for the proposed density.

Mr. Branch said it was because of the size of the piece of property and because it will take \$750,000 to fix the problem, noting the 9 foot differential between this and the adjoining property. He said the current density is at the Mobile Home Density. He was trying to develop a way to help Habitat and fix the problem. They thought this was the best way to do this. He said they actually meet medium density. He said, "The other lot that belongs to the City, we're not asking for that lot. We were trying to fix that when we did the project, thinking otherwise we're going to end up with a 100 foot by 50 foot hole, instead of a 2,000 foot by 50 foot hole."

Councilor Dominguez said there were some economics in his rationale to promote the density he's requesting.

Mr. Branch said this is because it is a break-even project, and it's "economics to provide housing." He said when they talked with Kathy McCormick about this, they said they didn't expect to build anything above 80% of the project and were willing to put that in writing. He said, "They put that program together and asked us if we were okay with that program. They didn't want Habitat to take more than nine, because they wanted to stretch them out a little bit. We don't expect anything there is going to sell more than \$160,000 to \$170,000 dollars."

Councilor Dominguez said dangling affordable housing as a way to promote a development is one thing. He said another principle in the Southwest Plan is that neighborhoods should have a variety of housing lots, and he doesn't see this commitment given the layout Mr. Branch has provided on the lots. He asked Mr. Branch if he lives along the Airport Road Corridor, and Mr. Branch said no. Councilor Dominguez is concerned about how to promote the quality of life as articulated in the Southwest Area Master Plan, given this example of lot sizes.

Mr. Branch said that example was based on a question from Councilor Bushee. He said all of the subdivisions are approved, R-7 subdivisions, noting there are 30 lots in Tierra Vista and 49 lots in Casas Bonitas.

Councilor Dominguez asked Mr. Branch how what he is proposing promotes the Southwest Area Master Plan principle that neighborhoods should have a variety of lot sizes.



Mr. Branch said he doesn't know that it promotes that, but it promotes putting people in houses who otherwise couldn't own a home.

Councilor Dominguez said that is important and all of the Councilors value the need for affordable housing. However, along with that comes a high quality of life that they deserve just like everyone else.

Councilor Dominguez said the Staff Report says, "The Applicant anticipates the side yard setbacks to be 5 feet, except for the second story, the front yard setback to be 15 feet and the rear yard setback to be 10 feet, with buildings separated by 10 feet." He said he doesn't see any setback at 15 feet.

Mr. Branch said on the original plan he designs, Habit builds its own houses. He said he spent several thousand dollars designing homes, which are shown in the packet. He said in the affordable housing he put a garage in every house where it will fit. He has asked for that so he can put in a car port. He said, "Otherwise, if your ordinance doesn't require... it requires 1,100 sq. ft., 1½ bath, no garages... and we've gone way beyond that. And we're building the greenest houses in the City of Santa Fe."

Councilor Dominguez asked Mr. Branch again, how what he has proposed is consistent with the staff's report. He sees nothing in there saying there will be 15 foot setbacks. He said primarily young families purchase affordable housing, and these families need houses, noting his first house was an affordable unit. He is concerned that some of these affordable homes will be placed on very small lots which isn't conducive to a high quality of life. He asked Mr. Branch if he has thought about that, or if it is strictly a matter of economics.

Mr. Branch said they have a very successful project and they are providing a lot for the money and the buyers appreciate that. He said these are good families, noting about ½ of the residents are single. He said he spoke with Ms. Monroe-Cassel who told him a lot of their demand now is for two-bedroom houses from single mothers. He spoke about the demographics of the subdivision, saying there are a lot of single mothers. He said the footprint, "and not that little thing that Linda drew," allows for the same yards as for the R-7 and he doesn't need RM-1 or 21-29 per acre, but they do need 12 per acre to accomplish what they need for a break even project. He said at a lower density, he can't do 100% affordable and will do 30% as required.

Councilor Dominguez asked Mr. Branch if the goal should be to provide as many affordable units as possible without necessarily considering the quality of life which goes along with the affordable homes. This is what he sees. He said this project is being touted as providing all these affordable homes, but the quality of life hasn't been given thought, especially given that the Southwest Area Master Plan hasn't been used as a guiding document in this project.

Councilor Dominguez said his question is, what is more important: providing more affordable homes, or making sure that there is a good balance of affordable homes with a high quality of life, or is it just about providing as many affordable homes as possible.



Mr. Branch said, "Well, it's not about that, but we are building more affordable homes than anybody in Santa Fe right now... and that will be 95 affordable homes that we will be building in the three different Subdivisions."

Councilor Dominguez asked what quality of life amenities he is proposing, such as large lots.

Mr. Branch said, "Large lots are impossible on this side of town. Not necessarily on this side of town, but in this specific strip of property. There's no way they can have the size of lot of Councilor Bushee's.." He said if we go to a different density, he can do that. However, he will have to completely redo the Affordable Housing Agreement. He said otherwise, he will block off the road.

Councilor Dominguez said then economics is the main thing.

Mr. Branch said economics is important in everything and it can't be accomplished without it.

Councilor Dominguez said a traffic contribution is being made from Rufina on this project. He quoted from the Staff Report, "The project meets the future needs of the City for small, attached housing on small lots near the shopping and employment centers of Airport Road." He asked how the impacts on Rodeo Road will be mitigated, especially in view of the fact that a traffic study hasn't been conducted.

Ms. Baer said she can't speak for the Traffic Engineer, but his memorandum does state that the condition of approval requires a contribution of \$13,500 toward traffic signals along Rufina. She said she supposes, for a new subdivision, they look at the service area, and not necessarily spread that out, but put it toward that particular intersection which is most needing of improvements at this time.

Councilor Romero said Councilor Dominguez has talked about the SW Sector Plan and she understands that one doesn't contradict the other. She said the General Plan calls for some consistency around the creation of affordable housing. She said on page 25 of the Council packet it says this proposal is consistent the General Plan which calls for creation of affordable housing and a mix of housing and housing types. She doesn't believe it would have been approved without that consistency with the General Plan, so the Southwest Sector Plan fits into the General Plan, and asked if this is correct.

Ms. Baer said this is generally true. The General Plan as it was adopted had more general and broad policy statements, and the Southwest Area Master Plan looked at the specific areas and tried to integrate those policies to the extent that it was possible. So, there may be some conflicts there. And sometimes when policies do conflict, it is a matter of which policy you want to follow. The General Plan supports infill, a variety of housing and certainly this proposal does do those things.

Councilor Romero asked about the issue with regard to the notification to neighbors which didn't come up at the previous meeting. She said it seems the protocol was followed for

notification and asked Ms. Tigges to speak to the notification of the neighbors.

Ms. Tigges said they used the County Assessors records as they are required to do, realizing that some of the recent purchasers wouldn't have gotten their names through the process, as they should, but often don't. This is the reason they did the signage and they did mail them to resident at the address and they may have gone astray that way.

Councilor Romero said you usually have to certify that it has gone to all of the surrounding neighbors.

Ms. Tigges said the notice was sent by certified mail and she has those certifications. She guesses the County Assessor hadn't caught up to some of the more recent property owners.

Councilor Romero said she understands this really isn't a road.

Ms. Tigges said it was part of the Roadrunner development, and was intended to be a City right-of-way dedicated to the City, but it wasn't dedicated to the City as a right-of-way. She said you can have streets and roads on easements and that's essentially what it was, but it was never a dedicated right-of-way.

Councilor Romero said as far as she could tell, it's not the City's problem.

Ms. Tigges said that is the issue, since it wasn't the City's problem and the City could never arrive at a solution because it wasn't a City road.

Councilor Romero asked Ms. Tigges if she would like to clarify any information the Council should know.

Ms. Tigges said the park is a City park and has been dedicated to the City, and that is one of the amenities. She said what Mr. Branch has been trying to say is that we did apply for RM-1 zoning because it seemed that was the correct zoning. When they looked at the way the affordable housing worked they could go for RMLD zoning which is RM-12, which would provide the number of units, but it wouldn't be such a heavy impact in terms of zoning.

Responding to Councilor Wurzbarger, Ms. McCormick said she got an email from Linda Tigges talking about the Habitat homes which would be provided. What they proposed was that 20 homes would be built by Habitat and the rest of them would be in range 4. However, the direction from Council was to do a mix of income, so it was a little bit of back and forth, so we said 30% of the units for Habitat and the rest would be in 2 and 3. Because 30% was being set aside at the most affordable range, the mid tier would be 7 and the 4<sup>th</sup> tier with the higher price point. So, it was basically just back and forth – negotiated.

Councilor Wurzbarger said she is uncomfortable about how that evolved.

Councilor Bushee said the Vistas Bonitas is a very green subdivision, noting she saw this in the Sustainable Santa Fe book and that is to be applauded.

Responding to Councilor Bushee, Mr. Branch said there are 23 families in that current subdivision that have closed. He said they have built 30 homes and are starting on some more. He said Linda worked on that project years ago for someone else, and he just bought it about a year ago, and the average lot is about 4,500 sq. ft.

Councilor Bushee said the ad says starting price \$194,755 which similar to the tier 4 price, and asked how many of the homes which have been purchased are the lowest tier. She wants to know how many amenities people get for that price. She said the ad says they are energy efficient, energy star rated, large yards, granite counter tops with solar heated hot water on all of them.

Mr. Branch said the first 20 have those amenities. He said all but two are market homes, noting it was a Type A project at \$189,755, plus they added garages, solar and the other amenities, and they negotiated with the City for the additional \$5,000, noting they added \$15,000 in extras, but they're all priced at \$194,755.

Councilor Bushee asked why he can't do this for this Subdivision, and asked if the 14 units can get all these amenities.

Mr. Branch said everything they build gets those amenities, that is their standard procedure.

Councilor Bushee asked if they get solar heated hot water.

Mr. Branch said, "Solar heated, it's just... we're \$4,000 to \$5,000 off on the solar. We did it on the first 20 houses. We wanted to show that you can build affordable houses with solar, plus on demand hot water heaters and all the other systems. We have plumbed the next 4-5 without the solar... if we could sell the others at \$194,755, but we can't. Those lots are smaller and we need a mix. I picture the balance that Habitat doesn't take, selling at \$165,000 to \$170,000 which is about the 80% today."

Councilor Bushee said, "Aren't you actually required to finish out the rest of the subdivision in an agreement with the City, in terms of solar, or no."

Mr. Branch said, "No. Absolutely not."

Councilor Bushee said, "You know, that's a lot to get for that price, and 14, the majority of the tier that you're going to be selling these homes at, are priced at that. And very tiny lots, which I think would be harder to sell, but I'm not seeing any, you know, promises of all of this."

Mr. Branch said, "You can have everything on that page. I just can't guarantee the solar. We're trying to work in order to get some funds, additional funds, just to provide the solar. We've plumbed for them, we're ready for them in the last 4 I think, or 5 that I built."

Councilor Bushee said then you think you'll have no problem selling them with those tiny lots.

Mr. Branch said, "Not at \$195,000, no, but probably at \$165,000, all day long. That's the tier.. those are the difficult tiers, those medium tiers are just so difficult. We've lost 20-30 buyers that cannot stretch to that \$194,000, but we can give them a similar house, a little smaller maybe for \$165,000 or \$159,000, or whatever it ends up being. And we were glad to do that and we talked about that, that we would agree to not go beyond 80%."

Councilor Bushee said, "But, so you're not committing to this arrangement of 9-7-14."

Mr. Branch said he is committing and that's what they requested him to do today and he told them fine, he was okay with that.

Councilor Bushee said it is about putting people in homes, but she is concerned about the density and she can't vote for this proposal.

Mr. Branch said there were two building inspectors at the project because he and Kim Shanahan are trying to educate them on the City's new HERS rating and there's a lot they don't understand. They're seeing first hand how we're doing it in the affordable price range and we know it can be done, and he's glad to help them anytime they want to come and see.

**Councilor Bushee moved, seconded by Councilor Dominguez, to deny the zoning of RM-1 in Case #ZA 2008-08.**

**Friendly amendment:** Councilor Ortiz would like to add his findings as friendly amendments as follows:

- 1) he finds the applicant has failed with burden of proof to comply with the rezoning criteria specified in Chapter 14;
- 2) he finds that the Applicant did not show any evidence that there was an error in the existing zone map;
- 3) he finds that the Applicant did not present credible evidence that there were changed neighborhood or community conditions to justify the change;
- 4) he finds that this particular request is in contradiction with, in particular, the Southwest Area Master Plan; and
- 5) he finds that no evidence has been produced that this different use category that's being proposed is more advantageous to the community, both the surrounding neighborhood as defined as community as well as the community as a whole, especially in light of the Southwest Area Master Plan.

**Discussion on the friendly amendment:** The maker of the motion, Councilor Dominguez said he wants to make sure that one of the findings in the record is that it is not consistent with the Southwest Area Master Plan.

**The amendment was friendly to the maker and second and there were no objections from the other Councilors.**

Councilor Calvert asked Ms. McCormick asked how the mix conforms to the Housing

Needs Assessment, and if we see the need for different priced homes in the affordable category. He asked if the formula reflects that, or was it just back and forth and a bargaining.

Ms. McCormick said, "I would say the formula more reflects that, because we know that the greatest need is for households who are earning 50% or less of the AMI, the ones that are very tough to get into which is why you have the nine units in Habitat. The other seven units that are the tier 3 which are tough to find houses that are in that price point for those families. So, we add those two together, the 9 and the 7, so you get 16."

Councilor Calvert asked about tier 4.

Ms. McCormick said this is the tier where you see more choice for people, and they have more opportunities to buy some market rate product, optimally that's what's being produced by Cen-Tex and quite a bit in Tierra Content that might not be under the program guidelines. Those units are still continuing to sell. She agrees with Dennis that there are people who could stretch to buy, but have a difficult time stretching to buy more, which is why ranges 2 and 3 are so important to us in the program.

Councilor Calvert asked if the Housing Needs Assessment say we need more of the lower ones.

Ms. McCormick said it does. She said, "The other tier, of course, which is a different program strategy, is what we call the workforce group, which is the 100% to 50% of AMI. And we have, of course, other programs that we're working with on that."

Councilor Wurzbarger asked, with respect to the workforce housing, if that would be people who could qualify for 3 and 4, and they would be in that program.

Ms. McCormick said, "Exactly."

**The motion to deny, as amended, was approved on the following Roll Call vote.**

**For: Councilor Dominguez, Councilor Ortiz, Councilor Trujillo and Councilor Bushee.**

**Against: Councilor Calvert, Councilor Romero and Councilor Wurzbarger.**

- 4) CASE #A 2008-04. 333½ ROSARIO HILL BUILDING PERMIT APPEAL. KIM Z. PADILLA APPEALS THE BOARD OF ADJUSTMENT'S DECISION ON MAY 20, 2008, FOR DENIAL OF CASE NUMBER AB 2008-03 REGARDING THE APPEAL FOR THE ISSUANCE OF BUILDING PERMITS 07-2269 AND 08-181 BY THE LAND USE DEPARTMENT FOR DEVELOPMENT AT 333-½ ROSARIO HILL. (DAN ESQUIBEL)**

The Findings of Fact and Conclusions of Law in this case, with attachments, including a

Memorandum dated November 3, 2008 for the November 12, 2008 Governing Body Meeting, to Governing Body, from Daniel A. Esquibel, Land Use Planner Senior, Current Planning Division, is incorporated herewith to these minutes as Exhibit "17."

A copy of the Appeal of Decision of City of Santa Fe Board of Adjustment, regarding Building Permit Numbers 07-2269 and 08-181 in Case #AB 2008-03, is incorporated herewith to these minutes as Exhibit "18."

The staff report was presented by Dan Esquibel via power point, which is contained in Exhibit "17." Mr. Esquibel said there are three basic areas of appeal:

- 1) slope greater than 30%;
- 2) the easement which was relocated; and
- 3) the easement which Mr. Rios purchased from the Rosario Hill Condominium, however this particular item wasn't addressed at the Board of Adjustment, nor was it made part of the Findings of Fact from the Board and staff didn't address it in the memorandum.

Mr. Esquibel said, "One of the issues that was dealt with, and I didn't get a chance to put it in here, because I didn't finish it, however, was the easement and the relocation of that easement." Mr. Esquibel said Chapter 14 doesn't address relocating an easement, but within the Early Neighborhood Notification section it identifies that if you abandon an easement, it should go to the Planning Commission. However, it doesn't address relocating that easement and whether that's an administrative process or that it goes to the Planning Commission.

Mr. Esquibel said, "The easement that was abandoned apparently was for PNM's use and I stuck those in your packet as well. And I researched those areas, and on both ends of the easement, where that power was supposed to go in and out, it didn't go anywhere. The utility lines came up from the south of the property, past the guest house and then went to the central point of that Chevron-shaped easement and then down to the Padilla's house. So, what I believe that easement relocation did is it moved it closer to the point along that guest house and then crossed that line and they gave him an easement to actually access the house. Again, I'm not sure whether or not the relocation would require to go to the Planning Commission or not, and whether or not it is a vacation or just a relocation."

## **Public Hearing**

### **Presentation by the Appellant**

**Richard Glassman, Attorney for the Applicant** said he would like to make a brief presentation and then open it for questions to Mr. Grace the Surveyor and Ms. Padilla who may know something about the history of the property. He said they have been given some information on the issue of the unnatural slope, but they had not see the particular information which was just shown, saying, "It's a little bit mysterious, but Ms. Padilla may know something about it." Responding to the Mayor, Mr. Glassman said his presentation will take about ten minutes.

*Everyone speaking was sworn en masse*

**Richard Glassman, attorney for the Appellant [previously sworn].** Mr. Glassman said, "Kim's grandmother, I believe, owned the two lots. There was a lot split in the mid-80s. She had initially raised some issues about that mid-80s lot split. That is not before City Council right now, but there were some funny things about the Medrano lot split. The survey in a distance between the two houses was wildly inaccurate. An easement was cut through her steps, porch and part of her living room, that's not for this, but I raise it just to show you that she has been suspicious about a lot of the process."

Mr. Glassman continued, "In 2005, the Padillas hired Mr. Grace to do some preparation for their work in getting the permit for some courtyards on the back of their house that is immediately adjacent to this area where the house will go in for the Applicant. Coincidentally, he did this topographic work and did it with one foot intervals, and that's important. One foot intervals. Significantly it was showing a 30% slope. Then, as part of the Applicant's submission for their building permit, they put in a survey, I think that they did for the grading, with 1% increments. It did not have a key for the slopes. You can't just tell, as a layman, what the slope is. Mr. Grace has told me... it's interesting, it's not identical, it's similar to his 2005 analysis that he did before the courtyard went in. They're similar. [inaudible] at the time of the Board of Adjustment, but you know it now, they're very similar. And we think it's because they're the one foot increments. That was the Medrano's document from July 3, 2006."

Mr. Glassman continued, "Then in August of six, there is an actual topographic document from Mr. Medrano that was relied on by staff. It is a two foot increment, not a one foot. So, when Mr. Esquibel says, well it's two foot and it's similar to our GIS data, that is also two foot. I think what you're seeing is that at two foot, different things happen than at one foot. You have more accuracy. So, as we perceive this, and we were told after the Board of Adjustment hearing, if I understand what I heard from staff and so forth... there's an [inaudible] that it is in fact about a 30% slope where the house is to be located. Mr. Grace can address this survey, he can address the July 06 document from Mr. Medrano."

Mr. Glassman continued, "When I asked for some data, because it was indicated there were new submissions from the applicant...and when I got his... the same July 3, 2006 document, but this time... and there was no new date on it, in fact I misread the six for an eight, I thought it was new, but it's not... it shows a key with the slope and there is more 30% slope on that, and it includes where the house was. And there's a little note that just says '30% slope, not natural, man made.' That's it. It doesn't say where. So, you have that document that's actually very different from what Mr. Esquibel just showed you. He showed you the two foot increment documents that we think are just simply inaccurate. They're just inaccurate. And, I think that's being acknowledged. So, the real issue is, well how did it get to be 30%. Well, we didn't realize until just now that there were going to be photos from decades before, and I'll have to ask Ms. Padilla to address any of that."

Mr. Glassman continued, "What I can tell you is we were given a series of photos from the Applicant, this was just a few weeks ago, showing the two thousand... I think 2005 courtyard construction on the Padilla property. The improvement there is that they did do some cut into their own property, but naturally, they did not touch the Applicant's property. That'd be a trespass. They can only work on their own property. So, if you have one foot increments or any... unless you have huge increments... the work you do on your side of the line is going to

have zero effect on the slope on the other side of the line. So, the courtyards could not have made a difference."

Mr. Glassman continued, "What Ms. Padilla happened to bring here today coincidentally, is an older photograph before her courtyards went in. It shows a wall that she can explain and it shows... we don't know exactly the vintage of this photo, but it's probably from the nineties and she can address it. And it shows the incline at this time. And if I may approach... I apologize, I just have the single copy, but if I may approach, you may take a look at that.."

*[Stenographer's note: the photograph was shown to the Governing Body, but was not entered for the record. Mr. Glassman then used the overhead projector to project the photograph which I presume is the photograph which was shown to the Governing Body, but which was not entered for the record]*

Mr. Glassman said, "What I'm pointing to right here is a stone wall on the Padilla property. This has been moved. Ms. Padilla can address when... and a stucco retaining wall is in its place at the end of this courtyard which was permitted, and it was for that permit that Mr. Grace did this work. And, you can look at it. The land just goes straight uphill. It's actually quite steep. Now, as you move to the right, and it's hard to tell from this sort of view to the right, the slope is not so bad. The whole thing is not 30% slope, but a major part of this on the left side is well over thirty percent. And this is very steep. You've seen Mr. Esquibel show a few old photos, and I can't tell from that what he's referring to, what was done and how that changed the old slope. But I do think there's an acknowledgment before you. The slope is significant. It's very significant if you have a one foot increment. You need... the actual slope is very steep and different increments can hide that."

Mr. Glassman continued, "Now Mr. Grace is here to address any questions on the surveys, but I would like Ms. Padilla to come up and explain the vintage of this photo and to explain anything that you saw on the presentation from Mr. Esquibel and about any changes in.. any man made changes in the slope, because that appears to be the only issue that we still have. One last thing from myself... The legality of the PNM easement and vacating it and [inaudible] about moving it. That's unclear to us as well. We've raised it. It's hard to understand what should have happened, and if it did happen or not. There's an access easement coming on the right side of the Padilla house. She is complaining that that was open space for the Rosario Hill Condominiums. However, as far as we know, the Applicant did purchase an easement so he can cross it. So, the problem may lie strictly with the condominium and whether they have insufficient open space. But, our focus here tonight has got to be the slope issue."

**Kim Z. Padilla** said, "I would like to say that this wall... this little retaining wall was there before I inherited the house. I'd lived there all my life, so I assume that my grandpa built this retaining wall years ago. And, we never got onto the other side of this wall at all. We always stayed into our own land. We never put any supplies onto the opposite side. We never had any of our construction workers go onto that side at any time. And, I have tried to express and come to the City that there has been numerous problems. I've had it resurveyed also, and I've tried to... I've contacted Mr. Rios and tried to get this corrected and they just refuse to work with



me. And I did hire a surveyor and we had it resurveyed. I had Allen... I actually had two surveys. I had Allen when we had the wall done... Allen Grace. And he came and he did the boundary survey and also showed that the easement that they're claiming is twenty-feet is not, it's coming into my whole front porch of my house and into my kitchen. That was another issue that I had that I explained to them and they said, 'Oh, well that's not a problem.' So now they have obtained this easement from the development which has already been dedicated open space.. I'm not sure what this is."

Mr. Glassman asked Ms. Padilla, "Were you able to notice anything from Mr. Esquibel's slides about the history and the use of the property past this wall. I understand this wall is near the boundary of your property, and can you explain the work you did with the courtyard in reference to this photo."

Ms. Padilla said, "Well we didn't, like I say, we didn't get onto that land at all, we brought it over onto ours in order to do the footing, so we were not on his land at all at any time."

Mr. Glassman asked Ms. Padilla, "Kim, is that stone wall still there."

Ms. Padilla said, "No, that's not."

Mr. Glassman asked Ms. Padilla, "What is at that spot right now."

Ms. Padilla said, "The retaining wall. We had to remove that wall in order to build the retaining wall that we put in."

Mr. Glassman asked Ms. Padilla, "And do you recall what was... I think it's north, or above that wall in past decades, as shown by Mr. Esquibel. I couldn't actually see what he was showing. I wonder if you could see it."

Ms. Padilla said, "No, I did not, but this land has always been the same. It has never been... we've never... we didn't go up there with a Bobcat, it has never been changed in any way, and I've lived there all my life. I'm 44 years old, and nothing has ever changed. And as for the utility... PNM, our utility easement I was using... that was mainly right behind my house on the north side. I was basically the only person using it. Then it went over and I was not asked or anything, he just came and decided they wanted to move the pole and moved it onto the other side of one of my neighbor's house, which was very unhappy to that. He agreed to work with her and remove one pole that was there. There's actually two poles. And she thought that that was going to happen, but once he got his pole over there without my consent, he just said, 'No, this is the way it is and this is the way I want it, and I'm not willing to work with anybody,' you know. And that's the attitude he's had since the beginning. He's just come in and... and I, when he went to go buy this house, it was foreclosed. I went up there and I put him on notice that this was not correct, that this survey is incorrect. I've come over here. I have proof, I don't have it with me now. I spoke to Reyes and I spoke to Wendy Blackwell. There's numerous problems that I feel need to be worked out before this goes through."

Mr. Glassman said he would like for Allen Grace to speak and then the Appellant's presentation will be completed.

**Allen Grace, Land Surveyor [previously sworn]** noting he is also "your" County land surveyor.

Mr. Glassman asked Mr. Grace, "Alvin, did you do a slope analysis of this area in 2005."

Mr. Grace said, "Yes and no. About 2005, Mr. and Ms. Padilla called me in and asked me if I could help them obtain a building permit. One of the requirements of that building permit was a topographic survey, which I perform on a regular basis for projects throughout the City."

Mr. Glassman asked Mr. Grace, "And did you find significant areas of 30% or higher slope on this [inaudible] area above the stone wall in this photo."

Mr. Grace said, "Yes. In this photo, there were considerable amounts of 30%. One of the requirements, if I can expand and give background information. One of the requirements the City makes the surveyors go through, is show any areas that may be inundated or there will be potential impact, whether it be upstream or downstream. And, in protection of the Padillas, I made sure that I showed enough topographic area, both off the property, off site, and supplied it to their engineer, who we hired in the process to obtain a building permit through the City for their new retaining walls and the courtyard. That rock wall that he's talking about right there, is what was existing. You can see it if you have a copy of my survey. I'm not quite sure if it's part of the Applicant's... I don't think it is part of the Applicant's process. You would have to have a separate building application from the Padillas in front of you to see my survey in there, but it does show the upper level tier of the topography that would have impacted these walls that they had applied to build. Therefore, we showed background information so that an engineer could design any flow, or what have you, and make sure that the retaining walls were going to work and not destroy their home."

Mr. Glassman asked Mr. Grace, "Allen, do you have your 2000 Plat Survey with you."

Mr. Grace said, "I do have a rough copy of it, a sealed, but not signed copy. This is my working copy."

Mr. Glassman said to Mr. Grace, "I'm going to remove the photo Allen, if you can put the main part of it here [on the overhead]. Can you point out where the Rios property is on this survey and where the 30% slope area is."

Mr. Grace said, "The Rios property is separated by this dark line right here. They are to the north... that's north."

Mr. Glassman asked Mr. Grace, "And where is the 30% slope area as shown on your topographic survey."

Mr. Grace said, "I'm showing a 30% slope running from about 50 feet on the northerly line, running through the property at a slight angle here, like this."

Councilor Dominguez said then this is the portion of the map that has the square pattern.

Mr. Grace said yes, noting his legend is at the bottom, and asked Councilor Dominguez if he has a copy of this before him. He said the legend is: blank is 0-10%, cross-hatched is 10.1 to 20%, the zigzag is 20.1 to 30% and above 30% is square tiled.

Mr. Glassman asked Mr. Grace, "And, Allen, does your slope analysis in large part agree with the July 06 Medrano slope analysis."

Mr. Grace said, "It does agree... it largely agrees with the new topographic survey that I just received from Mr. and Mrs. Padilla."

Mr. Glassman asked Mr. Grace, "And have you reviewed a copy of the August 2006 topographic survey submitted by Mr. Medrano?"

Mr. Grace said, "I have."

Mr. Glassman asked Mr. Grace, "And is that the one that shows the house outline on it?"

Mr. Grace said, "Yes. I was supplied a copy showing a proposed house outline on it."

Mr. Glassman asked Mr. Grace, "Okay. And was there 30% slope on any part of that house area?"

Mr. Grace said, "On the new slope analysis and topographic map that was certified to in 06, the July 06, both his and mine would show that that house substantially encroaches upon 30% slopes. On the one that they... the August 06 survey that they superimposed... or outlined it on, it did not."

Mr. Glassman asked Mr. Grace, "And your survey uses a one foot increment."

Mr. Grace said, "Yes. One foot contour."

Mr. Glassman asked Mr. Grace, "One foot contour. And the July 06 Medrano work, that was also one foot."

Mr. Grace said, "The original topographic map that the Padillas supplied me through the permitting process, it was a one foot contour interval that I largely agreed with as being almost identical to mine."

Mr. Glassman asked Mr. Grace, "When you were out there, did you see anything indicating changes in the natural slope on the Rios property, the Applicant's property?"

Mr. Grace said, "I visited the Padilla property in 05 to do the survey. I visited the Padilla property right before they were permitted, and while they were in the permitting stage, and there was no change. I also visited the Padilla property at the time they were about to go to construction and advised them to make sure that the lands to the north and the property corners were to not be disturbed whatsoever, understanding what was about to ensue, knowing that another building permit was being applied for, to preserve those locations. As a surveyor,

a little bit more technical on that aspect, the field books and notes that we maintain are genuine enough to absolutely go out there and differentiate the actual position of those corners to see if they've changed. And she actually hired another surveyor right after their construction, I believe, to go verify those positions to make sure that they had not moved. And it wasn't me that measured those."

Mr. Glassman asked Mr. Grace, "Have you looked at that other survey, is that that Morris survey you're talking about."

Mr. Grace said, "Yes. That's a survey by Mr. Richard Morris."

Mr. Glassman asked the Governing Body if they have questions for Mr. Grace.

Councilor Wurzbarger asked when he was in the field, how he verified the natural slope.

Mr. Grace said by measurement.

Councilor Wurzbarger said to Mr. Esquibel, "When you inferred from your staff presentation there is an implication in this discussion that any changes of the natural slope that have been caused in the past 3-4 years by this changing [inaudible]. You answered, from the 30 foot shown, was that the changes might have occurred much much earlier. Is that a correct inference from staff perspective."

Mr. Esquibel responded, "This is correct. Those photos are not intended to imply that any trespassing by the current owners had occurred. It was only to reference the fact that that property had been used which is now identified as Tract A. And in its use, the terrain has been altered through its use. And over time, it is no longer what it used to be, which is what the natural state was. So, when we flew our aerial in order to identify that topography, it addressed what the slope was, what the topography was. And the difference between a one foot contour and a two foot contour isn't going to be that great versus a one foot contour and a five foot contour. So, understanding how the ten files generate and the points are placed in there, I mean, ultimately, the data is pretty much the same unless something occurred. Now Mr. Grace went out there and he used GPS... he uses GPS. He measured the property as it is right now, and under the permit process, we also had that same information, which was identical, almost identical to Mr. Grace's survey. But, that was there to address the grading so that none of the drainage would impact the Padillas adversely. It didn't indicate what the slopes were, because it was a different part of the application. The slopes itself, were based on the slope analysis. And, again, we did get an additional map from James Medrano who did certify it as being not natural."

Councilor Dominguez asked Mr. Esquibel how you tell the difference between what is a natural slope and a manmade slope, and is there a way to tell if a slope is natural.

Mr. Esquibel said the only way staff could do that was through his research and going through City photos to determine what's happened on the property. His said his research confirmed only that the property was used, and in its use as they built footings or trenched or using it for access points of parking, that the terrain was altered through its use, noting we don't

what the angled objects were. Mr. Esquibel said he has one copy of the addendum from Jim Medrano which certifies that those slopes are not natural. *[Stenographer's note: the document was presented to the Governing Body, but was not entered for the record.]*

Councilor Dominguez asked Mr. Grace to answer the same question.

Mr. Glassman said, "I'd like to hand this to Allen to answer the question about manmade and natural, but this new Medrano document just says slopes are manmade. Do we know why he said that, how he came to certify that, what his information is. You can't just go out in 2006 and say I can see it's all manmade. The whole thing to me is very questionable and I'm going to hand this to Allen now to address the question."

Councilor Dominguez asked, "Well, if it's been identified as a natural slope, how do you determine that?"

Mr. Grace said, "At the time that I surveyed it and walked the property, it would appear that it was the same today as it was back then.. The weeds, the trees, so on and so forth. There were no scars that a shovel may have overturned. There was actually a difference though when you talk about natural, there was already an erosion running through the middle of the 30% slope here, like a small stream or a creek, a trickle of water. So, you can tell the difference right there on what's happening on the lands that are north of that that are above 30%, and you can see where the water's running from up above that. Now, that's what I would have done. An example, say I was going to build a house and I would topo what's above it so I could know what to prepare for. So, that's the way I would have looked at it."

Councilor Dominguez said then's just basic observation of the land to determine whether or not it's natural, and there is no standard that you apply to that determination.

Mr. Grace said, "Well, had there been a change in ... and my topographic survey actually shows and noted upon the rock wall and pointed to and then above it, remnants of an old footing or rock foundation. And it's shown on my survey if you can see it or read it. And I actually pointed those things out because those are issues that need to be preserved during the process in case, in my experience, there's historic value or we have to come before this body to determine something."

#### **Presentation by the Appellee**

**Juan Rios, Appellee [previously sworn]** read a statement into the record as follows:

"Mayor Coss, Councilors, good evening. My name's Juan Rios and I'm here tonight with my partner Estevan Rael-Galvez. We own the property at 333½ Rosario Hill. Tonight's appeal before the City Council regarding the issuance of our building permit to construct our home is a final, definitive step in the City's land use process. What we have had to undertake and endure is not something that I would wish on anyone. The City's process is very time consuming, very arduous and extremely costly for any working class person. It's not only an issue of money but it's a tremendous emotional toll that takes place. All

this is in an effort to simply build a home to live in.

"Over the course of the last 4 to 5 years, that's how long we've been going back and forth on this issue to get our permit, which was eventually issued in February of this year. We've been required to jump over hurdle after hurdle by a City Hall process that's allowed anyone to merely challenge others when the empirical evidence clearly indicates and confirms that our legal lot of record is buildable.

"As we proceeded through this public process, we have been approached by people in the neighborhood who have gone to neighborhood meetings and public hearings and told us that they don't want our kind of people in their neighborhood. And, in my mind, that's an issue, to me, to keep us from building our home. And, it's not only a land use matter in my mind, to me is a clear undercurrent of homophobia here that's going on.

"Our permits were issued on February 6, 2008. They were appealed to the Board of Adjustment who ultimately upheld the issuance of our building permits by the City. Tonight, nearly 10 months after issuance of the building permit, and after years of being made to go through different hoops, we're finally before the Council to present ourselves and again defend ourselves on much of the same deficient and ineffectual information that has been presented before, in hopes of keeping us out of the neighborhood.

"We're here to answer any questions you may have. And I urge the Council to recall the BOA's Finding of Facts and Conclusions of Law, as well as your staff's review and analysis as they relate to the City's issuance of our permits. Through the course of this year's long meandering, the premise of the City's determination to issue the building permits remains sound and compliant with previous appeals and findings. I appreciate everyone's time, and I thank you for your consideration. We're here to stand to answer any questions, Mayor and Councilors."

### **Speaking to the issue of the Appeal**

**Dr. Charles Leo Martinez, 331 Rosario Hill [previously sworn].** Dr. Martinez said you have witnessed a very good presentation on the video technology system. He doesn't want this to interfere with what's going here. He said everything you are seeing tonight wasn't part of the meeting when "they" went to Planning and Zoning to get "their" variances. He said they didn't have surveys to justify their request. He said my cousin did some surveys for "them" to be able to make "their" point, just like "they're" borrowing the videos tonight to make "their" point. Dr. Martinez gave a brief history of his family, noting his great grandfather Jose Martinez owned the property, and his grandfather Pedro Martinez inherited some of it. He said he owns a piece of land in the heart of the neighborhood which he doesn't intend to sell. He is keeping the property because it is a beautiful piece of the history of Santa Fe. He said Ms. Padilla's house is 250-300 years old. This is a piece of the tapestry of the history of Santa Fe. He said there are condominiums adjacent to them, and he is concerned someone will condemn their property and take it over. He said suggested that the Mayor and Council not be influenced by the videos and media they've seen tonight, and to open their eyes to see where the problem is.

He said people are making a big deal about the property because it's part of the neighborhood and at one time DeVargas had an armory there. He said this house should be in the registry, if it's not, it's because the people in the neighborhood don't understand how to do that. He said if that had been done, you would find out it is "older than most of the properties in Santa Fe."

Dr. Martinez continued, saying some of the information on the topography of the property only goes back to 1986, but the property is 250 years old. He said legitimate surveys have been done. He said the Governing Body should have the technical information on moving earth, on the slopes of the property, at its disposal. He asked the Governing body not to make a decision until they have all of this technical information available to them, otherwise they may not be the keepers of the City of Santa Fe, but lending to the evaporation or damage of the property.

**Carmela Aldeis, 327 Rosario Hill [previously sworn]**, said the road is like a horseshoe, and she and her uncle have the center property. She is opposed because of the drainage issue, saying she gets the drainage from the condos. She said the property is too small to build a house on it. She doesn't believe it's not because they don't want "that kind," saying this is ridiculous. She said this is a property issue with a drainage issue. She reiterated that she lives at the bottom of the slope that gets all the drainage from all the condos and anything they do and from any kind of development.

**Steve Arias [previously sworn]**, said he is here as an interested citizen, because he grew up in the neighborhood and the house belonged to his great grandmother and great grandfather. He said his great uncle built the wall discussed this evening, and he and his cousin used to play on that wall. He said all of the people opposing this decision this evening are his cousins. He empathizes with the Governing Body in making these kinds of tough decisions, the toughest of which are voting against things you think are wrong. He said this is wrong. The topography is wrong, and he is personally concerned with the drainage situation which may occur. The topography has been there since he was a young boy, and it hasn't changed. The wall is different, and his great uncle's wall is no longer there, he is sad to say. He asked the Governing Body to give deep thought to the decision it has to make. He thanked them for all of the work they do for all of the citizens of Santa Fe.

**Alan Holmes, owner of the property at 410 Rosario Hill [previously sworn]**, said he has concerns about this. He said Mr. Grace spoke about the 30% and the "little river" cutting through there and draining to the surrounding property. He said this was done by the developer above who disturbed Rosario Hill at the top. He said a map provided by Jack Hiatt which shows there is disturbance of more than 60,000 sq. ft., and they have to restore it. He said the driveway that was given was already dedicated open space by the development, commenting they are at 40% of the 60-40. He said if this was conveyed or granted to these people, that would throw it over 40% building area. He said perhaps "they" should make appropriate accommodations to cut back one of "their" condos to provide "them" the access or the square footage for "their" easement.



**Maria Sandra Aguilar, agent for Juan Rios and Estevan Rael-Galvez [previously sworn].** She said with regard to the discussion of the various topo maps, the initial request by the City was for the topo to show what was considered to be the natural terrain before doing anything else. She said they made photocopies of everything. She said there was a meeting and the City staff person was Mark Brooks. She said he they will have to first create the topo that shows what we can presume was there, and then we actually have to create a topo of what was there before there was any disturbance. She said it is important to know the history of the lot itself. She said it was all one lot and then was subdivided. [Ms. Aguilar's remarks here are inaudible]. She talked about the easement, saying they tried to figure another way to approach it, including removing the guest house and approaching the property from there, but saw how prohibitive that would be and probably would create more of a drainage problem. They looked at the entire property and Mr. Brooks suggested we purchase an adjacent property. She said that property was purchased as an additional easement driveway access easement to the property, so it would not negatively impact the Padillas. She said her history differs from that of what Appellant Padilla has said. She said there discussions and an attempt to find things. There is a lot of history about the land – who bought it, who sold it, who they are, and all of this became intertwined, so I hope it doesn't confuse you. She is in attendance to answer questions, and said she didn't come here to present the case. She is speaking on their behalf as a friend.

**Estevan Rael-Galvez, Appellee/Applicant [previously sworn]** said most people know what he does for a living – he studies change over time. He said the evidence you have been given from the Appellant has distorted a lot of those issues, based on insignificant issues that are before you today. He said, "The significant issue that is before you, is to determine whether that hill, at least one of the issues, whether that hill is manmade or natural. And, so the evidence you've been given is someone going up in 2005 and not really being able to fully tell you how they made that determination of whether it was manmade or natural, as opposed to what Mr. Esquibel has shown you, which is the sort of analysis that I bring to bear upon my work as a scholar, is to study change over time based on critical analysis of the documents and based on some sort of [inaudible]. He showed you, in the first case, how to study that over a period of time based on photographic memory that the City itself holds here. If anyone else wants to talk about history, I would welcome further analysis, but I think you've been given plenty of evidence to make the determination that is before you today. And, again, just to echo Juan's point, we simply want to build our home so that we can live there. Thank you."

#### **Concluding Statement by the Appellee**

Mr. Glassman said, "I would just like to make a very few, short remarks. A guest house has been referred to, in other words there is a house existing on the subject property. If this permit is denied, there's an existing house and people live there. I think it's a rental. Second, not all of this vacant property is 30% slope and higher. As I mentioned, there is some to the right on that photo that is less than 30%. It seems possible, but I can't say for sure that a good architect could come up with a different plan that would be less than 30% slope and get something through, you know, that we would not challenge. And finally, one of the witnesses said that the slope here has not changed, he's seen this property a long time. I honestly still



don't understand what those old photos really showed, and how anybody could look at those and say, oh the slope has changed, it was once more level and now it's a hillside. So, I think that you can look at that and say they are simply insufficient as [inaudible] the existing slope is manmade."

### **The Public Hearing was Closed**

[Councilor Calvert's remarks here are inaudible as his microphone wasn't turned on.] He quoted from a report from Mr. Esquibel as follows, "The evidence supporting compliance with the slope requirement, the August survey was not presented to the Board. It is addressed here only because it was in the staff file." He said on the next page at the top it says, "In the summer of 2008, months after the hearing, staff suggested to counsel that the August survey on which staff relied had been withdrawn. The applicant now recognizes the slope is indeed over 30% and that the applicant will now argue that the excessive slope is permissible because it's not natural."

Councilor Calvert asked, "Do you agree with the appellant's assertion that whatever is there now is over 30% in the area, or at least part of the area where they intend to build," and Mr. Esquibel said yes.

Councilor Calvert said the only question is whether that which is over 30% is natural or not, and Mr. Esquibel said this is correct.

Councilor Calvert said he couldn't tell from the two dimensional pictures going back in time what that showed him on the slope. He could see changes in vegetation, but he really couldn't tell anything on the slope. He did hear from Mr. Arias who had lived there that it hadn't changed. He said if we went out there it would be subjective as to whether or not it is natural. However, he is hearing testimony from people who have experienced and/or lived in the area for a long time that it appears that it is what is the natural slope. He doesn't hear anybody telling him how it got unnatural. He isn't hearing the evidence that says that this is not natural. He understands the photographs Mr. Esquibel showed, but he saw nothing other than something in two dimension and it's hard for him to understand slope from those pictures.

**Councilor Calvert moved to uphold the appeal in Case #A 2008-04. The motion died for lack of a second.**

**Councilor Ortiz moved, seconded by Councilor Wurzbarger, to deny the appeal in Case #A-2008-04, and to uphold the Findings of Fact of the Board of Adjustment, with additional findings that based upon the testimony of Mr. Grace, procured by Mr. Glassman as the representative for the Appellants, Mr. Grace stated that his survey was substantially the same as the Medrano Survey and based upon the Medrano Survey, certified by Mr. Medrano in July 2006, in which he made the statement on his survey that the slopes exceeding 30% are not natural, I find that there is no basis for upholding the appeal.**

**Discussion:** Councilor Bushee said our lawyers discourage the Councilors from going

to a site on an appeal. She said it is very difficult to tell the slope issue from the topos that have passed to the Council.

Councilor Bushee asked Mr. Glassman if he is down to just the slope issue. She said, to be honest, it feels to some degree that we're just a stop over before District Court. She doesn't want to be part of making the records here, noting she hasn't seen the property and doesn't have any physical evidence. She asked Mr. Glassman, "So tell me, just a little bit here, as far as, are you down to just the slope issue, or are you looking at..."

Mr. Glassman said, "That's really the primary issue, as I mentioned earlier and Mr. Esquibel mentioned. I think there's some confusion about how to really evaluate the change in location of that PNM easement from where it was created in the mid-80's lot split to some other spot nearby. I mean I can't come here and say I absolutely understand that and it was totally wrong. Ms. Padilla is bothered that she didn't know about and couldn't participate, so there does seem to be a problem, and I don't pretend to really grasp that at this point. As far as the open space, it does appear that the Applicant purchased an easement from the condominium over what we think is open space, but if he does seem to own that so he could use it for access, that may create a problem for the condominium. And it does get very confusing..."

Councilor Bushee said she only wants a summary, and asked if his main contention is the slope.

Mr. Glassman said, "The slope is the main contention."

Councilor Bushee said this is the hardest thing to say that you have produced evidence that this is an unbuildable side.

Mr. Glassman said, "Staff is conceding that the existing slope is over 30%. And so... which was not conceded at the Board of Adjustment by the way.... and part of it is and part of it isn't. So, he thinks the burden is on the applicant to show that it is manmade and I would have to agree with Mr. Calvert, that I couldn't tell anything from those photos either, and I hadn't been given those. I'd been given color photos of the courtyard construction by the Padillas, which has no bearing on any of this. And, just as an aside, Mr. Grace is not agreeing with the manmade notation on that July 2006 survey. And to be clear about this. In the July 2006 survey I received from the City files in the spring or summer, it doesn't have that notation. That notation was added, and I didn't see that until October of this year when it was emailed to me from Mr. Esquibel. In other words, the one in the file at the Board of Adjustment hearing did not have that notation. What Mr. Grace is saying is that the slope analysis of the one foot contours are very similar, but he is not affirming the indication of it being manmade. In fact, as I stand here, none of us know why Mr. Medrano said that, what his information is, and we can't see in those photos either. We were just told that nobody knows what changes could happen in there."

Councilor Bushee said, "Looking at this live map that's here, that site does not look unbuildable with regard to terrain. That's all I can say. The site up above it definitely looks like it's causing some drainage issues, but that doesn't necessarily..."

Mr. Glassman said, "I guess I'm not sure what photo you're looking at, because I thought...."

Councilor Bushee said it's just a live search zeroing in on the site, because we're not allowed to go out and tromp around.

Mr. Glassman said, "All I can tell you, and you can all have a different impression if we were out there looking at the slope. Well, I can tell you is that it's conceded there is an above 30% slope that is not supposed to be built on. And the only question before you, I think is, is there evidence that that was manmade, and I personally don't understand that there's any evidence that it's manmade, unless you can see something from those old old photos..."

Councilor Bushee said she has questions for Mr. Esquibel. She said the permit was issued, staff looked at the old photos, but also at new surveys and new topo maps, and asked, to be clear for the record, what was the determination by staff.

Mr. Esquibel said, "Our determination is that those slopes are not natural and that we issued the permit based on the surveyor's submittals on that permit. After the appeal process, the research that we did affirmed that those slopes were not natural, as such, the permit was still issued in accordance with the Code. And the issues related to drainage were looked at by our staff and they will be controlled with the development that gets placed onto that property."

Councilor Bushee said she hopes whatever bad blood which has been engendered between people that may be future neighbors is worked out. She said we are relying on staff's evidence which has been produced. She has seen nothing else to contradict that to date. She reiterated that she doesn't like to see long time families in the community to start out on a difficult path, and hopes that is corrected.

**The motion was approved on the following Roll Call vote.**

**For: Councilor Dominguez, Councilor Ortiz, Councilor Romero, Councilor Trujillo, Councilor Wurzbarger and Councilor Bushee.**

**Against: Councilor Calvert.**

## **H. ADJOURN**

There being no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 9:55 p.m.

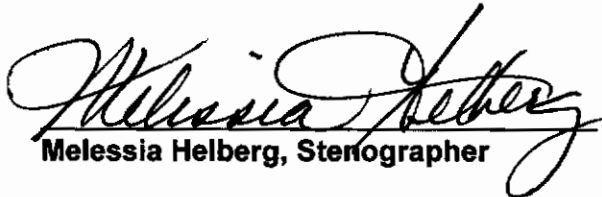
**Approved by:**

\_\_\_\_\_  
**Mayor David Coss**

**ATTESTED TO:**

\_\_\_\_\_  
**Yolanda Y. Vigil, City Clerk**

**Respectfully submitted:**

  
**Melessia Helberg, Stereographer**