



# Agenda

REGULAR MEETING OF  
THE GOVERNING BODY  
JANUARY 28, 2009  
CITY COUNCIL CHAMBERS

## AFTERNOON SESSION – 5:00 P.M.

CITY CLERK'S OFFICE

DATE 1-23-09 TIME 3:03 pm

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

RECEIVED BY \_\_\_\_\_

*[Signature]*

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: Special City Council Meeting – January 5, 2009  
Reg. City Council Meeting – January 14, 2009
8. PRESENTATIONS
  - a) Muchas Gracias – Commissioner Paul Campos and Commissioner Jack Sullivan. (5 minutes)
  - b) New Mexico Youth Athletic Association (NMYAA) (Richard Morris). (5 minutes)
  - c) Muchas Gracias – Santa Fe Spirit All Stars. (Coach Christy Baca) (5 minutes)
  - d) Affordable Housing Round Table Report. (Ed Rosenthal) (5 minutes)
9. CONSENT CALENDAR
  - a) Request for Approval of Updated 2008 Parks Bond Implementation Plan. (Robert Romero)
  - b) Bid No. 09/20/B – Arroyo Chamiso Trail Extension and Construction Agreement; Star Paving Company. (Leroy Pacheco)
  - c) Bid No. 09/21/B – East De Vargas Park Renovation and Agreement Between Owner and Contractor; Westwind Landscape Construction, Inc. (Ben Gurule)



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- d) Request for Approval of Change Order No. 4 – Police Department Renovations; Samcon, Inc. (Chip Lilienthal)
- e) Request for Approval of Change Order No. 2 – Zona Del Sol – Phase II; Lockwood Construction Company. (Chip Lilienthal)
- f) Request for Approval of Change Order No. 2 – Santa Fe Plaza Renovations – Phase II; AIC General Contractor. (Chip Lilienthal)
- g) Request for Approval of Procurement Under State Price Agreement – Various Park and Play Structures for Parks, Trails and Watershed Division; The Playwell Group. (Ben Gurule)
- h) Request for Approval of Amendment No. 1 to Grant Agreement – Increases Agreement from Three (3) Projects to Six (6) Projects in the 2008 State of New Mexico Severance Tax Projects Appropriation; Department of Finance and Administration, Local Government Division. (David Chapman)
  - 1) Request for Approval of Budget Increase – MRC CIP and Convention Center Funds.
- i) Request for Approval of Amendment No. 3 to Cooperative Project Agreement – Santa Fe Railyard Bikeways and Walkways Project; New Mexico Department of Transportation. (Bob Siqueiros)
- j) Request for Approval of Change Order No. 18 – Santa Fe Community Convention Center; Cameron Swinerton, LLC. (Martin Valdez)
- k) Request for Approval of Amendment No. 8 to Legal Services Agreement – Legal Services for Buckman Direct Diversion Project; Modrall Sperling, P.A. (Rick Carpenter)
- l) Request for Approval of Budget Increase for General Fund from Wildland Fires In and Out of State. (Chief Chris Rivera)
- m) Request for Approval of Budget Increase for Tierra Contenta Effluent Line Project Grants. (Southwest Sector Effluent Line) (Bryan Romero)



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- n) Request for Approval of Amendment No. 1 to Professional Services Agreement – Provides Psychological Screenings to Police and Fire Candidates for Employment; Elisabeth Scherf Perry, Phd. (Kristine Kuebli)
- o) Request for Approval of Budget Increase from Department of Tourism for Creative Cities Conference. (Sabrina Pratt)
- p) Request for Approval of Memorandum of Understanding – Elementary Schools Artworks Program; Santa Fe Public Schools. (Sabrina Pratt)
  - 1) Request for Approval of Budget Increase – Grant Fund.
- q) Request for Approval of Carry Forward Amounts from FY 2007/2008 to FY 2008/2009 for Wayfinding and Sister Cities. (Sabrina Pratt)
- r) Request for Approval of Grant Award – Santa Fe Arts Commission Artworks Program; Brindle Foundation. (Sabrina Pratt)
  - 1) Request for Approval of Budget Increase – Grant Fund.
- s) Request for Approval of Sole Source Procurement Under Federal Price Agreement – Firefighting Self Contained Breathing Apparatus for Fire Department; Fire Service Equipment, Inc. (Charlie Velarde)
  - 1) Request for Approval of Budget Increase – Fire Property Tax Fund.
- t) Request for Approval of Procurement Under State Price Agreement – Two (2) Vehicles for Water Division; Bob Turner's Ford Country. (Robert Rodarte)
- u) Request for Approval of Procurement Under State Price Agreement – Athletic Recreational Equipment for Genoveva Chavez Community Center; Gardenswartz Team Sales. (Peter Greene)
- v) Request for Approval of Amendment No. 2 To Professional Services Agreement – Development, Implementation and Programs for the City of Santa Fe's 400<sup>th</sup> Anniversary; Santa Fe 400<sup>th</sup> Anniversary. (Darlene Griego)



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- w) Request for Approval of Memorandum of Agreement – Santa Fe Trails FY 2008/2009 Ridefinders Program; New Mexico Department of Transportation. (Jon Bulthuis)
- x) CONSIDERATION OF RESOLUTION NO. 2009-\_\_\_\_\_.  
A Resolution Relating to a Request for Approval of First Quarter Budget Adjustments Ending September 30, 2008. (Cal Probasco)
- y) CONSIDERATION OF RESOLUTION NO. 2009-\_\_\_\_\_. (Councilor Bushee)  
A Resolution Calling Upon the New Mexico Department of Transportation to Cease Using a Certain Method of Paving State Highways that has Proved to be Detrimental to the Safety of Bicyclists. (Bob Siqueiros)
- z) CONSIDERATION OF RESOLUTION NO. 2009-\_\_\_\_\_. (Councilor Dominguez, Councilor Calvert, Councilor Bushee and Councilor Trujillo)  
A Resolution Supporting the Federal "Safe Routes to Schools" Program by Working with the Santa Fe Public School District to Identify and Provide Necessary Safety Improvements to Access Public Schools. (John Romero)
- aa) CONSIDERATION OF RESOLUTION NO. 2009-\_\_\_\_\_. (Councilor Bushee, Mayor Coss, Councilor Trujillo, Councilor Romero, Councilor Dominguez and Councilor Calvert)  
A Resolution Requesting that Upright Headstones be Installed in the Santa Fe National Cemetery. (Jeanne Price)
- bb) CONSIDERATION OF RESOLUTION NO. 2009-\_\_\_\_\_. (Councilor Calvert, Councilor Trujillo, Councilor Ortiz and Councilor Bushee)  
A Resolution Sponsoring the 2009 Santa Fe Children's Water Fiesta and Waiving the Fee for the Use of the Santa Fe Community Convention Center. (Randy Sugrue)
- cc) CONSIDERATION OF RESOLUTION NO. 2009-\_\_\_\_\_. (Mayor Coss and Councilor Dominguez)  
A Resolution Supporting Legislation for Protection of Pets in Domestic Violence Situations. (Jeanne Price)



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- dd) CONSIDERATION OF RESOLUTION NO. 2009-\_\_\_\_\_. (Councilor Bushee, Mayor Coss, Councilor Calvert, Councilor Trujillo and Councilor Dominguez)  
A Resolution in Favor of HB21 & SB12, The Domestic Partner Rights and Responsibilities Act. (Jeanne Price)
- ee) CONSIDERATION OF RESOLUTION NO. 2009-\_\_\_\_\_. (Mayor Coss and Councilor Bushee)  
A Resolution Urging the State of New Mexico to do Everything in its Power to Avert Layoffs and to Work Collaboratively with Cities, Counties, Public School Districts, Universities, and Employee Organizations to Find Ways to Continue Supporting Existing Services, Employment, and Benefits Particularly PERA and ERA. (Jeanne Price)
- ff) Request for Approval of Appointment of Precinct Officials for the March 10, 2009 Special Municipal Election. (Yolanda Y. Vigil)
  - 1) Request for Approval to Extend City Clerk's Office Hours on February 26, 2009 from 5:00 p.m. to 9:00 p.m. to Allow Precinct Officials to Vote Absentee for the March 10, 2009 Special Municipal Election
- 10. Request for Approval of Amendment No. 1 to Professional Services Agreement – Business Innovation Projects for Artisan Program; Museum of New Mexico Foundation. (Fabian Trujillo) (**Postponed at January 14, 2009 City Council Meeting**)
- 11. State of the Municipal Court Semi-Annual Report. (Judge Yalman)
- 12. Report of Public Campaign Financing Advisory Committee. (Frank Katz)
- 13. 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) (Postponed at December 10, 2008 City Council Meeting) (**Postponed to February 25, 2009 City Council Meeting**)
- 14. MATTERS FROM THE CITY MANAGER



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15. MATTERS FROM THE CITY ATTORNEY

EXECUTIVE SESSION:

- a) Discussion of Negotiations with Various Labor Organizations with the City, Pursuant to §10-15-1 (H) (5) NMSA 1978.

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) CONSIDERATION OF RESOLUTION NO. 2009-\_\_\_\_\_. (Councilor Wurzbarger, Councilor Romero, Councilor Calvert and Mayor Coss)  
A Resolution Endorsing and Adopting the Water Division 10 Year Financial Plan. (Gary Martinez) **(Postponed at January 14, 2009 City Council Meeting)**



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- a) CONSIDERATION OF BILL NO. 2008-61: ADOPTION OF ORDINANCE NO. 2009-\_\_\_\_\_. (Councilor Wurzbarger, Councilor Romero and Mayor Coss)  
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. (Gary Martinez) **(Postponed at January 14, 2009 City Council Meeting)**
- b) CONSIDERATION OF BILL NO. 2008-66: ADOPTION OF ORDINANCE NO. 2009-\_\_\_\_\_.  
An Ordinance Amending Chapter 25 SFCC 1987 Exhibit B, Water Rate Schedule 1; Increasing the Monthly Volume Rates and Monthly Service Charge by 10.3% Per Year for Five Years for Residential, Multi-Family and Commercial Customers of the City's Water System. **(Postponed at January 14, 2009 City Council Meeting)**
- c) CONSIDERATION OF BILL NO. 2008-67: ADOPTION OF ORDINANCE NO. 2009-\_\_\_\_\_.  
An Ordinance Amending Chapter 25 SFCC 1987 Exhibit B, Water Rate Schedule 1; Increasing the Monthly Volume Rates and Monthly Service Charge by 9.15% Per Year for Five Years for Residential, Multi-Family and Commercial Customers of the City's Water System. **(Postponed at January 14, 2009 City Council Meeting)**
- d) CONSIDERATION OF BILL NO. 2008-68: ADOPTION OF ORDINANCE NO. 2009-\_\_\_\_\_.  
An Ordinance Amending Chapter 25 SFCC 1987 Exhibit B, Water Rate Schedule 1; Increasing the Monthly Volume Rates and Monthly Service Charge by 8.20% Per Year for Five Years for Residential, Multi-Family and Commercial Customers of the City's Water System. **(Postponed at January 14, 2009 City Council Meeting)**



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- e) CONSIDERATION OF BILL NO. 2008-69: ADOPTION OF ORDINANCE NO. 2009-\_\_\_\_\_.  
An Ordinance Amending Chapter 25 SFCC 1987 Exhibit B, Water Rate Schedule 1; Increasing the Monthly Volume Rates and Monthly Service Charge by 7.20% Per Year for Five Years for Residential, Multi-Family and Commercial Customers of the City's Water System. **(Postponed at January 14, 2009 City Council Meeting)**
- f) Other Options for Implementing the Water Division 10 Year Financial Plan. **(Postponed at January 14, 2009 City Council Meeting)**
- 2) CONSIDERATION OF BILL NO. 2008-65: ADOPTION OF ORDINANCE NO. 2009-\_\_\_\_\_. (Mayor Coss and Councilor Chavez)  
An Ordinance Amending Section 14-4.3(D) SFCC 1987 To Create a Hospital Zoning District Within Las Soleras and Making Such Other Changes as are Necessary. (Tamara Baer and Jeanne Price)
- 3) CONSIDERATION OF RESOLUTION NO. 2009-\_\_\_\_\_.  
**Case #M 2008-27. Las Soleras General Plan Amendment.** Beckner Road Equities, Inc. Requests Approval of a General Plan Future Land Use Map Amendment to Change the Designations of 545.30 Acres. The Area is Located South of Governor Miles Road, East of Cerrillos Road, North of I-25 and West of Richards Avenue. (Lucas Cruse)
- 4) CONSIDERATION OF BILL NO. 2009-4: ADOPTION OF ORDINANCE NO. 2009-\_\_\_\_\_.  
**Case #M 2008-28. Las Soleras Annexation.** Beckner Road Equities, Inc. Requests Annexation of 545.30 Acres of Land Located South of Governor Miles Road, East of Cerrillos Road, North of I-25 and West of Richards Avenue. Beckner Road Equities, Inc. Additionally Requests Annexation of 16.41 Acres of Cerrillos Road Right-of-Way Adjacent to Las Soleras. (Lucas Cruse)
- 5) **Case #SD 2008-15. Las Soleras Lot Line Adjustment and Road Dedication Plat.** Beckner Road Equities, Inc. Requests Approval of a Plat Providing Lot Line Adjustments and Dedication of Major Streets Allowing Adjustment of Existing Lot Lines to be Consistent with Proposed Zoning Districts. (Lucas Cruse)





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- 6) CONSIDERATION OF BILL NO. 2009-5: ADOPTION OF ORDINANCE NO. 2009-\_\_\_\_\_.  
**Case #ZA 2008-11. Las Soleras Rezoning.** Beckner Road Equities, Inc. Requests Rezoning for 545.30 Acres. The Tracts are Located South of Governor Miles Road, East of Cerrillos Road, North of I-25 and West of Richards Avenue. (Lucas Cruse)
- 7) **Case #M 2008-44. Las Soleras Variance.** Beckner Road Equities, Inc. Requests a Variance to Allow a 70-foot Height for a Hospital with Ambulance and Air Ambulance Facilities for a 40-Acre Tract Located East of Cerrillos Road between Beckner Road and Arroyo de los Chamisos. (Lucas Cruse)

## H. ADJOURN

**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  
January 28, 2009**

<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]	1-2
APPROVAL OF CONSENT CALENDAR	Approved [amended]	2
CONSENT CALENDAR LISTING		2-5
<b><u>APPROVAL OF MINUTES</u></b>		
Special City Council Meeting – January 5, 2009	Approved	6
Regular City Council Meeting – January 14, 2009	Approved	6
<b><u>PRESENTATIONS</u></b>		
MUCHAS GRACIAS – COMMISSIONER PAUL CAMPOS AND COMMISSIONER JACK SULLIVAN		6
NEW MEXICO YOUTH ATHLETIC ASSOCIATION (NMYAA). (RICHARD MORRIS	Postponed to 02/11/09	6
MUCHAS GRACIAS – SANTA FE SPIRIT ALL STARS		6-7
AFFORDABLE HOUSING ROUND TABLE REPORT		7
<b><u>CONSENT CALENDAR DISCUSSION</u></b>		
REQUEST FOR APPROVAL OF BUDGET INCREASE FROM DEPARTMENT OF TOURISM FOR CREATIVE CITIES CONFERENCE	Approved	7-8
CONSIDERATION OF RESOLUTION NO. 2009-15. A RESOLUTION REQUESTING THAT UPRIGHT HEADSTONES BE INSTALLED IN THE SANTA FE NATIONAL CEMETERY	Approved	8-9

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
CONSIDERATION OF RESOLUTION NO. 2009-16. A RESOLUTION IN FAVOR OF HB32 AND SB12, THE DOMESTIC PARTNER RIGHTS AND RESPONSIBILITIES ACT	Approved	9
***** END OF CONSENT CALENDAR DISCUSSION *****		
REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT – BUSINESS INNOVATION PROJECTS FOR ARTISAN PROGRAM; MUSEUM OF NEW MEXICO FOUNDATION	Approved	10
STATE OF THE MUNICIPAL COURT SEMI-ANNUAL REPORT	Information/discussion	10-11
REPORT OF PUBLIC CAMPAIGN FINANCING ADVISORY COMMITTEE	Information/discussion	11-12
REQUEST FOR APPROVAL AND CONSENT FOR SOLID WASTE MANAGEMENT AGENCY TO ACCEPT WASTE FROM NORTH CENTRAL SOLID WASTE AUTHORITY AND LOS ALAMOS COUNTY	Postponed to 02/25/09	12
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MATTERS FROM THE CITY ATTORNEY EXECUTIVE SESSION	Information/discussion Approved	12 12
MOTION TO COME OUT OF EXECUTIVE SESSION	Approved	13
<u>EVENING SESSION</u>		
CALL TO ORDER AND ROLL CALL	Quorum	14
PETITIONS FROM THE FLOOR		14-15
<u>APPOINTMENTS</u>		
Mayor's Committee on Disability	Approved	15
Extraterritorial Land Use Commission	Approved	15-16
Board of Adjustment	Approved	16

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
<b><u>PUBLIC HEARINGS</u></b>		
CONSIDERATION OF RESOLUTION NO. 2009- 17 A RESOLUTION ENDORSING AND ADOPTING THE WATER DIVISION 10 YEAR FINANCIAL PLAN	Adopted	16-35
a) CONSIDERATION OF BILL NO. 2008-61; ADOPTION OF ORDINANCE NO. 2009- ____ . 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	No action	36
b) CONSIDERATION OF BILL NO. 2008-61; ADOPTION OF ORDINANCE NO. 2009- ____ . AN ORDINANCE AMENDING CHAPTER 25 SFCC 1987, EXHIBIT B, WATER RATE SCHEDULE 1; INCREASING THE MONTHLY VOLUME RATES AND MONTHLY SERVICE CHARGE BY 10.3% FOR FIVE YEARS FOR RESIDENTIAL, MULTI-FAMILY AND COMMERCIAL CUSTOMERS OF THE CITY'S WATER SYSTEM	No action	36
c) CONSIDERATION OF BILL NO. 2008-61; ADOPTION OF ORDINANCE NO. 2009- ____ . AN ORDINANCE AMENDING CHAPTER 25 SFCC 1987, EXHIBIT B, WATER RATE SCHEDULE 1; INCREASING THE MONTHLY VOLUME RATES AND MONTHLY SERVICE CHARGE BY 9.15% FOR FIVE YEARS FOR RESIDENTIAL, MULTI-FAMILY AND COMMERCIAL CUSTOMERS OF THE CITY'S WATER SYSTEM	No action	36
d) CONSIDERATION OF BILL NO. 2008-61; ADOPTION OF ORDINANCE NO. 2009- 2 . AN ORDINANCE AMENDING CHAPTER 25 SFCC 1987, EXHIBIT B, WATER RATE SCHEDULE 1; INCREASING THE MONTHLY VOLUME RATES AND MONTHLY SERVICE CHARGE BY 10.3% FOR FIVE YEARS FOR RESIDENTIAL, MULTI-FAMILY AND COMMERCIAL CUSTOMERS OF THE CITY'S WATER SYSTEM	Adopted [amended]	36-49

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
e) CONSIDERATION OF BILL NO. 2008-61; ADOPTION OF ORDINANCE NO. 2009- ____ . AN ORDINANCE AMENDING CHAPTER 25 SFCC 1987, EXHIBIT B, WATER RATE SCHEDULE 1; INCREASING THE MONTHLY VOLUME RATES AND MONTHLY SERVICE CHARGE BY 7.20% FOR FIVE YEARS FOR RESIDENTIAL, MULTI-FAMILY AND COMMERCIAL CUSTOMERS OF THE CITY'S WATER SYSTEM	No action	49
f) OTHER OPTIONS FOR IMPLEMENTING THE WATER DIVISION 10-YEAR FINANCIAL PLAN	No action	50
*****		
END OF ITEM G(1)		
*****		
CONSIDERATION OF BILL NO. 2009-65; ADOPTION OF ORDINANCE NO. 2009- 3. AN ORDINANCE AMENDING SECTION 14-4.3(D) SFCC 1987, TO CREATE A HOSPITAL ZONING DISTRICT WITHIN LAS SOLERAS AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY	Approved	50-54
CONSIDERATION OF RESOLUTION NO. 2009- ____ . <u>CASE #M 2008-27</u> . LAS SOLERAS GENERAL PLAN AMENDMENT. BECKNER ROAD EQUITIES, INC. REQUESTS APPROVAL OF A GENERAL PLAN FUTURE LAND USE MAP AMENDMENT TO CHANGE THE DESIGNATIONS OF 545.30 ACRES. THE AREA IS LOCATED SOUTH OF GOVERNOR MILES ROAD, EAST OF CERRILLOS ROAD, NORTH OF I-25 AND WEST OF RICHARDS AVENUE	Council comment/questions/action & Public hearing postponed to City Council Meeting of 02/11/09	54-60
CONSIDERATION OF BILL NO. 2008-46; ADOPTION OF ORDINANCE NO. 2009- ____ . <u>CASE #M-2008-28</u> . LAS SOLERAS ANNEXATION. BECKNER ROAD EQUITIES, INC., REQUESTS ANNEXATION OF 545.30 ACRES OF LAND LOCATED SOUTH OF GOVERNOR MILES ROAD, EAST OF CERRILLOS ROAD, NORTH OF I-25 AND WEST OF RICHARDS AVENUE. BECKNER ROAD EQUITIES, INC., ADDITIONALLY REQUESTS ANNEXATION OF 16.41 ACRES OF CERRILLOS ROAD RIGHT-OF-WAY ADJACENT TO LAS SOLERAS	Council comment/questions/action & Public hearing postponed to City Council Meeting of 02/11/09	61

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
<b><u>CASE #SD-2008-15.</u> LAS SOLERAS LOT LINE ADJUSTMENT AND ROAD DEDICATION PLAT. BECKNER ROAD EQUITIES, INC., REQUESTS APPROVAL OF A PLAT PROVIDING LOT LINE ADJUSTMENTS AND DEDICATION OF MAJOR STREETS ALLOWING ADJUSTMENT OF EXISTING LOT LINES TO BE CONSISTENT WITH PROPOSED ZONING DISTRICTS</b>	<b>Council comment/questions/action &amp; Public hearing postponed to City Council Meeting of 02/11/09</b>	<b>61</b>
<b>CONSIDERATION OF BILL NO. 2009-5; ADOPTION OF ORDINANCE NO. 2009- ____ <u>CASE # ZA-2008-11.</u> LAS SOLERAS REZONING. BECKNER ROAD EQUITIES, INC., REQUESTS REZONING FOR 545.30 ACRES. THE TRACTS ARE LOCATED SOUTH OF GOVERNOR MILES ROAD. EAST OF CERRILLOS ROAD, NORTH OF I-25 AND WEST OF RICHARDS AVENUE</b>	<b>Council comment/questions/action &amp; Public hearing postponed to City Council Meeting of 02/11/09</b>	<b>61</b>
<b><u>CASE #M-2008-44.</u> LAS SOLERAS VARIANCE. BECKNER ROAD EQUITIES, INC., REQUESTS A VARIANCE TO ALLOW A 70-FOOT HEIGHT FOR A HOSPITAL WITH AMBULANCE AND AIR AMBULANCE FACILITIES FOR A 40-ACRE TRACT LOCATED EAST OF CERRILLOS ROAD BETWEEN BECKNER ROAD AND ARROYO DE LOS CHAMISOS</b>	<b>Request withdrawn by Applicant</b>	<b>61</b>
<b>MATTERS FROM THE CITY CLERK</b>	<b>None</b>	<b>62</b>
<b>COMMUNICATIONS FROM THE GOVERNING BODY</b>		<b>62</b>
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**MINUTES OF THE  
REGULAR MEETING OF THE  
GOVERNING BODY  
Santa Fe, New Mexico  
January 28, 2009**

**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 January 28, 2009, 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 Wurzbarger, Mayor Pro-Tem  
Councilor Patti J. Bushee  
Councilor Christopher Calvert  
Councilor Miguel Chavez,  
Councilor Carmichael A. Dominguez  
Councilor Matthew E. Ortiz  
Councilor Rosemary Romero  
Councilor Ronald S. Trujillo

**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 has asked that Item 8(b) under Presentations and Item 9(k) under the Consent Calendar be withdrawn from the Afternoon Agenda.

**Councilor Ortiz moved, seconded by Councilor Bushee, to postpone Items G(2) through G(7) on the Evening Agenda to the next Council meeting, and to approve the agenda as amended.**

**Discussion:** Councilor Chavez said he doesn't believe this is the right direction to go, noting we have known for many years that we were facing this.

**The motion failed to pass on the following Roll Call vote:**

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

**Against: Councilor Calvert, Councilor Chavez, Councilor Romero and Councilor Wurzburger.**

**The resulting vote was a tie, and Mayor Coss cast a vote against the Motion.**

**Councilor Chavez moved, seconded by Councilor Wurzburger, to approve the agenda as amended.**

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

**For: Councilor Calvert, Councilor Chavez, Councilor Romero and Councilor Wurzburger.**

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

**The resulting vote was a tie, and Mayor Coss cast a vote in favor of the Motion.**

#### **6. APPROVAL OF CONSENT CALENDAR**

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

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

**Against: None.**

- a) REQUEST FOR APPROVAL OF UPDATED 2008 PARKS BOND IMPLEMENTATION PLAN. (ROBERT ROMERO)**
- b) BID NO. 09/20/B – ARROYO CHAMISO TRAIL EXTENSION AND CONSTRUCTION AGREEMENT; STAR PAVING COMPANY. (LEROY PACHECO)**
- c) BID NO. 09/21/B – EAST DE VARGAS PARK RENOVATION AND AGREEMENT BETWEEN OWNER AND CONTRACTOR; WESTWIND LANDSCAPE CONSTRUCTION, INC. (BEN GURULE)**
- d) REQUEST FOR APPROVAL OF CHANGE ORDER NO. 4 – POLICE DEPARTMENT RENOVATIONS; SAMCON, INC. (CHIP LILIENTHAL)**



- e) **REQUEST FOR APPROVAL OF CHANGE ORDER NO. 2 – ZONA DEL SOL – PHASE II; LOCKWOOD CONSTRUCTION COMPANY. (CHIP LILIENTHAL)**
- f) **REQUEST FOR APPROVAL OF CHANGE ORDER NO. 2 – SANTA FE PLAZA RENOVATIONS – PHASE II; AIC GENERAL CONTRACTOR. (CHIP LILIENTHAL)**
- g) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – VARIOUS PARK AND PLAY STRUCTURES FOR PARKS, TRAILS AND WATERSHED DIVISION; THE PLAYWELL GROUP. (BEN GURULE)**
- h) **REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO GRANT AGREEMENT – INCREASES AGREEMENT FROM THREE (3) PROJECTS TO SIX (6) PROJECTS IN THE 2008 STATE OF NEW MEXICO SEVERANCE TAX PROJECTS APPROPRIATION; DEPARTMENT OF FINANCE AND ADMINISTRATION, LOCAL GOVERNMENT DIVISION. (DAVID CHAPMAN)**
  - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – MRC CIP AND CONVENTION CENTER FUNDS.**
- i) **REQUEST FOR APPROVAL OF AMENDMENT NO. 3 TO COOPERATIVE PROJECT AGREEMENT – SANTA FE RAILYARD BIKEWAYS AND WALKWAYS PROJECT; NEW MEXICO DEPARTMENT OF TRANSPORTATION. (BOB SIQUEIROS)**
- j) **REQUEST FOR APPROVAL OF CHANGE ORDER NO. 18 – SANTA FE COMMUNITY CONVENTION CENTER; CAMERON SWINERTON, LLC. (MARTIN VALDEZ)**
- k) **REQUEST FOR APPROVAL OF AMENDMENT NO. 8 TO LEGAL SERVICES AGREEMENT – LEGAL SERVICES FOR BUCKMAN DIRECT DIVERSION PROJECT; MODRALL SPERLING, PA. (RICK CARPENTER)**
- l) **REQUEST FOR APPROVAL OF BUDGET INCREASE FOR GENERAL FUND FROM WILDLAND FIRES IN AND OUT OF STATE. (CHIEF CRIS RIVERA)**
- m) **REQUEST FOR APPROVAL OF BUDGET INCREASE FOR TIERRA CONTENTA EFFLUENT LINE PROJECT GRANTS (SOUTHWEST SECTOR EFFLUENT LINE). (BRYAN ROMERO)**
- n) **REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT – PROVIDES PSYCHOLOGICAL SCREENINGS TO POLICE AND FIRE CANDIDATES FOR EMPLOYMENT; ELISABETH SCHERF PERRY, PHD. (KRISTINE KUEBLI)**
- o) ***[Removed for discussion by Councilor Chavez]***

- p) REQUEST FOR APPROVAL OF MEMORANDUM OF UNDERSTANDING – ELEMENTARY SCHOOLS ARTWORKS PROGRAM; SANTA FE PUBLIC SCHOOLS. (SABRINA PRATT)**  
**1) REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND.**
- q) REQUEST FOR APPROVAL OF CARRY FORWARD AMOUNTS FROM FY 2007/2008 TO FY 2008/2009 FOR WAYFINDING AND SISTER CITIES. (SABRINA PRATT)**
- r) REQUEST FOR APPROVAL OF GRANT AWARD – SANTA FE ARTS COMMISSION ARTWORKS PROGRAM; BRINDLE FOUNDATION. (SABRINA PRATT)**  
**1) REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND.**
- s) REQUEST FOR APPROVAL OF SOLE SOURCE PROCUREMENT UNDER FEDERAL PRICE AGREEMENT – FIREFIGHTING SELF CONTAINED BREATHING APPARATUS FOR FIRE DEPARTMENT; FIRE SERVICE EQUIPMENT, INC. (CHARLIE VELARDE)**  
**1) REQUEST FOR APPROVAL OF BUDGET INCREASE – FIRE PROPERTY TAX FUND.**
- t) REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – TWO (2) VEHICLES FOR WATER DIVISION; BOB TURNER'S FORD COUNTRY. (ROBERT RODARTE).**
- u) REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – ATHLETIC RECREATIONAL EQUIPMENT FOR GENOVEVA CHAVEZ COMMUNITY CENTER; GARDENSWARTZ TEAM SALES. (PETER GREENE)**
- v) REQUEST FOR APPROVAL OF AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT – DEVELOPMENT, IMPLEMENTATION AND PROGRAMS FOR THE CITY OF SANTA FE'S 400<sup>TH</sup> ANNIVERSARY; SANTA FE 400<sup>TH</sup> ANNIVERSARY. (DARLENE GRIEGO)**
- w) REQUEST FOR APPROVAL OF MEMORANDUM OF AGREEMENT – SANTA FE TRAILS FY 2008/2009 RIDEFINDERS PROGRAM; NEW MEXICO DEPARTMENT OF TRANSPORTATION. (JON BULTHUIS)**
- x) CONSIDERATION OF RESOLUTION NO. 2009- 9. A RESOLUTION RELATING TO A REQUEST FOR APPROVAL OF FIRST QUARTER BUDGET ADJUSTMENTS ENDING SEPTEMBER 30, 2008. (CAL PROBASCO)**

- y) **CONSIDERATION OF RESOLUTION NO. 2009- 10 (COUNCILOR BUSHEE). A RESOLUTION CALLING UPON THE NEW MEXICO DEPARTMENT OF TRANSPORTATION TO CEASE USING A CERTAIN METHOD OF PAVING STATE HIGHWAYS THAT HAS PROVED TO BE DETRIMENTAL TO THE SAFETY OF BICYCLISTS. (BOB SIQUEIROS)**
- z) **CONSIDERATION OF RESOLUTION NO. 2009- 11 (COUNCILOR DOMINGUEZ, COUNCILOR CALVERT, COUNCILOR BUSHEE AND COUNCILOR TRUJILLO). A RESOLUTION SUPPORTING THE FEDERAL "SAFE ROUTES TO SCHOOLS PROGRAM," BY WORKING WITH THE SANTA FE PUBLIC SCHOOLS DISTRICT TO IDENTIFY AND PROVIDE NECESSARY SAFETY IMPROVEMENTS TO ACCESS PUBLIC SCHOOLS. (JOHN ROMERO)**
- aa) ***[Removed for discussion by Councilor Bushee]***
- bb) **CONSIDERATION OF RESOLUTION NO. 2009- 12 (COUNCILOR CALVERT, COUNCILOR TRUJILLO, COUNCILOR ORTIZ AND COUNCILOR BUSHEE). A RESOLUTION SPONSORING THE 2009 SANTA FE CHILDREN'S WATER FIESTA AND WAIVING THE FEE FOR THE USE OF THE SANTA FE COMMUNITY CONVENTION CENTER. (RANDY SUGRUE)**
- cc) **CONSIDERATION OF RESOLUTION NO. 2009- 13. (MAYOR COSS AND COUNCILOR DOMINGUEZ). A RESOLUTION SUPPORTING LEGISLATION FOR PROTECTION OF PETS IN DOMESTIC VIOLENCE SITUATIONS. (JEANNE PRICE)**
- dd) ***[Removed for discussion by Councilor Bushee]***
- ee) **CONSIDERATION OF RESOLUTION NO. 2009- 14 (MAYOR COSS AND COUNCILOR BUSHEE). A RESOLUTION URGING THE STATE OF NEW MEXICO TO DO EVERYTHING IN ITS POWER TO AVERT LAYOFFS AND TO WORK COLLABORATIVELY WITH CITIES, COUNTIES, PUBLIC SCHOOL DISTRICTS, UNIVERSITIES AND EMPLOYEE ORGANIZATIONS TO FIND WAYS TO CONTINUE SUPPORTING EXISTING SERVICES, EMPLOYMENT AND BENEFITS, PARTICULARLY PERA AND ERA. (JEANNE PRICE)**
- ff) **REQUEST FOR APPROVAL OF APPOINTMENT OF PRECINCT OFFICIALS FOR THE MARCH 10, 2009 SPECIAL MUNICIPAL ELECTION. (YOLANDA Y. VIGIL)**
  - 1) **REQUEST FOR APPROVAL TO EXTEND CITY CLERK'S OFFICE HOURS ON FEBRUARY 26, 2009, FROM 5:00 P.M. TO 9:00 P.M. TO ALLOW PRECINCT OFFICIALS TO VOTE ABSENTEE FOR THE MARCH 10, 2009 SPECIAL MUNICIPAL ELECTION.**

**7. APPROVAL OF MINUTES: Special City Council Meeting – January 5, 2009  
Regular City Council Meeting – January 14, 2009**

Councilor Wurzbarger moved, seconded by Councilor Dominguez, to approve the minutes of the Special City Council Meeting of January 5, 2009, as presented. The motion was approved on a voice vote, with Councilors Bushee, Calvert, Chavez, Dominguez, Ortiz, Romero, Trujillo and Councilor Wurzbarger voting for the motion and none against.

Councilor Calvert moved, seconded by Councilor Romero, to approve the minutes of the Regular City Council Meeting of January 14, 2009, as presented. The motion was approved on a voice vote, with Councilors Bushee, Calvert, Chavez, Dominguez, Ortiz, Romero, Trujillo and Wurzbarger voting for the motion and none against.

**8. PRESENTATIONS**

**a) MUCHAS GRACIAS – COMMISSIONER PAUL CAMPOS AND  
COMMISSIONER JACK SULLIVAN.**

Mayor Coss presented Muchas Gracias certificates to outgoing Santa Fe County Commissioners Paul Campos and Jack Sullivan, and thanked them for their eight years of dedicated and exemplary service to Santa Fe County. He spoke briefly about the role of these Commissioners in successful efforts between the City and the County.

Commissioner Campos thanked the City Council for the work done by the City Council and for their assistance and support in collaboration with the County Commission, noting some of the accomplishments during his term of office.

Commissioner Sullivan added his thanks, emphasizing the successful joint efforts on transit. He said there are still many things yet to be done including the annexation. He thanked his wife Vicki for her support.

Councilors Wurzbarger, Chavez, Bushee, Dominguez and Trujillo thanked the Commissioners for their work, their leadership and for the opportunity to work jointly with the County during their terms, and wished them good luck in future endeavors.

**b) NEW MEXICO YOUTH ATHLETIC ASSOCIATION (NMYAA). (RICHARD  
MORRIS.**

This item was removed from the agenda.

**c) MUCHAS GRACIAS – SANTA FE SPIRIT ALL STARS. (COACH CHRISTY  
BACA)**

Mayor Coss presented the Santa Fe Spirit All Stars and congratulated them for winning competitions, saying he has a Muchas Gracias Certificate for each of the m.

Coach Baca said in 2008 the group had first and second place wins in the UCA competitions; participated in the Santa Fe Fiesta Parade; performed at local events such as YAFL and at local high school football and baseball games; provided Christmas gifts to children in an orphanage in Mexico; organized collections of winter gloves and hats for the homeless. She said their sponsors are the Boys & Girls Club of Santa Fe, and thanked them. Coach Baca introduced her Assistant Coaches Janine Ledger, Gina Branch, and Debbie Smith .

Mayor Coss presented a plaque of appreciation to Coach Baca. He congratulated the team and thanked their parents for the support they give to these fine young people.

Coach Baca thanked the City for this honor.

**d) AFFORDABLE HOUSING ROUND TABLE REPORT. (ED ROSENTHAL)**

A packet of information from the Santa Fe Affordable Housing Roundtable is incorporated herewith to these minutes as Exhibit "1."

Ed Rosenthal, New Mexico Director of New Mexico Community Partners, formerly the Enterprise Foundation, reviewed the information in Exhibit "1" on the Santa Fe Affordable Housing Roundtable. He said they have trained 6,327 homebuyers, noting there are virtually no defaults on loans once the homebuyers receive this training.

Mayor Coss thanked Mr. Rosenthal for his work.

**CONSENT CALENDAR DISCUSSION**

**9(o) REQUEST FOR APPROVAL OF BUDGET INCREASE FROM DEPARTMENT OF TOURISM FOR CREATIVE CITIES CONFERENCE. (SABRINA PRATT)**

Councilor Chavez said there is not a lot of information in the packet, and he presumes the \$85,000 is a part of the overall budget. He asked for a brief overview on what is pending and what has been spent.

Ms. Pratt said she didn't bring the overall budget figures with her. She said this request is to correct an accounting misstep, because it wasn't put into the budget. This is being put into the revenue side of the budget to balance the expenses. She said all of the expenses are almost wrapped up. She said staff plans to bring a report to the Council in February.

Responding to Councilor Chavez, Ms. Pratt said the budget for the Creative Cities Conference was approximately \$350,000. She said the sources include State funds, City funds and funds from local community foundations and businesses.

Councilor Chavez asked if this \$85,000 is included in the \$350,000.

Ms. Pratt believes it would, although it is for two different years. Some of the funds were spent in planning in the previous fiscal year, and some in this fiscal year, and she doesn't have the breakout of those figures.

Councilor Chavez said then this will be included in the report and in the cost-benefit analysis which would be done for that Conference. He said then this is a separate source of funds from the Department of Tourism and asked if the 85,000 would be a grant.

Ms. Pratt said yes.

**Councilor Calvert moved, seconded by Councilor Wurzburger, to approve this request. The motion was approved on the following roll call vote:**

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

**Against: None.**

**9(aa) CONSIDERATION OF RESOLUTION NO. 2009-15 (COUNCILOR BUSHEE, MAYOR COSS, COUNCILOR TRUJILLO, COUNCILOR ROMERO, COUNCILOR DOMINGUEZ AND COUNCILOR CALVERT). A RESOLUTION REQUESTING THAT UPRIGHT HEADSTONES BE INSTALLED IN THE SANTA FE NATIONAL CEMETERY. (JEANNE PRICE)**

Councilor Bushee recognized the veterans in attendance and the members of the Baca family. She said the Baca family is here in memory of their father Carlos G. Baca who is deceased, and want to see his memory recognized and the headstones uprighted.

Councilor Bushee read a letter into the record from Lynn Clark, President of the Historic St. Catherine's Neighborhood Association, who wants to correct the record on behalf of the Neighborhood, as follows.

*It has been erroneously reported that the Historic St. Catherine's Neighborhood Association, the neighborhood which borders the eastern side of the cemetery, was responsible for the Cemetery's decision to begin installing flat grade markers instead of the traditional used upright ones. As President of this Neighborhood Association, I have researched this issue and the past records. I've spoken with past Association officers. There is no record or recollection of this ever being addressed at an Association meeting. Therefore, our Association has no position on the issue, and has no opposition a reversion to a policy of using upright markers.*

She said the neighborhood has "weighed in," and supports the cause. She wants to make sure the City follows up with the Veteran's Administration and our U.S. Congressional Delegation to make sure this happens. She thanked all of the cosponsors.

**Councilor Bushee moved, seconded by Councilor Trujillo, to adopt Resolution No. 2009-15.**

**Discussion:** Councilor Trujillo said he is glad to see this action, noting his father is buried in this cemetery. It always concerned him as to the reason his father wasn't given the

honor of having an upright stone, while others do. He said he has been speaking to our Congressional Delegation for some time about this, prior to coming on the Council. The excuse he was given was that it was because of the neighborhood, but it was due to language inserted by Senator Domenici. He hopes this is clarified, and the veterans there will get the upright stones. He thanked the veterans for their service to our country as well.

Mayor Coss, on half of the whole City, thanked the Vietnam Veterans for their service to their country which has never stopped.

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

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

**Against: None.**

**Explaining his vote:** Councilor Chavez congratulated the veterans, their families, and the Baca family for their efforts to make this happen.

**Explaining his vote:** Councilor Dominguez said his father is a Vietnam veteran, and he thanked all of the Vietnam veterans for their service, noting he has great respect for veterans.

**9(dd) CONSIDERATION OF RESOLUTION NO. 2009-16 (COUNCILOR BUSHEE, MAYOR COSS, COUNCILOR CALVERT, COUNCILOR TRUJILLO AND COUNCILOR DOMINGUEZ). A RESOLUTION IN FAVOR OF HB32 AND SB12, THE DOMESTIC PARTNER RIGHTS AND RESPONSIBILITIES ACT. (JEANNE PRICE)**

Councilor Bushee asked her fellow Councilors to consider testifying on this issue at the Legislature, noting Mayor Coss testified today. She said this issue also impact senior citizens who aren't willing to marry, but need this recognition. She said this is an economic justice issue and urged everyone to contact their local legislators and lend their support.

**Councilor Bushee moved, seconded by Councilor Calvert, to adopt Resolution No. 2009-16. The motion was approved on the following Roll Call vote:**

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

**Against: None.**

Councilor Wurzburger asked staff to be sure she is added as a cosponsor of this bill.

\*\*\*\*\*  
**END OF CONSENT CALENDAR DISCUSSION**  
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**10. REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT – BUSINESS INNOVATION PROJECTS FOR ARTISAN PROGRAM; MUSEUM OF NEW MEXICO FOUNDATION. (FABIAN TRUJILLO)**  
**(Postponed at January 14, 2009 City Council Meeting)**

Councilor Chavez explained the proposed Amendment No. 1 to the Professional Services Agreement. Please see Fabian Trujillo's Memorandum which is in the Council packet.

**Councilor Chavez moved, seconded by Councilor Wurzburger, to approve this request. The motion was approved on the following roll call vote.**

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

**Against: None.**

**11. STATE OF THE MUNICIPAL COURT SEMI-ANNUAL REPORT. (JUDGE YALMAN)**

Judge Ann Yalman presented information from the report which is in the Committee packet. She thanked the Mayor and Council for its support of the Court. She said the Council has been generous with regard to the Teen Court, and the Drug/DUI Court. Judge Yalman reported as follows:

- \*\*** It is hoped to begin the remodeling next week. She said news articles said over half of the people with DWI citations don't get sent to treatment, but that isn't true in Santa Fe. She sends everyone for some kind of treatment. People with a second or third conviction are sent to the Drug/DWI Court. She has never seen anyone back in her Court with another DWI, once they have attended that Court.
- \*\*** The Court is now doing the Phone Tree to call and remind people about their appointment in Court, but it's not completely automated. It has been so successful they have had to alter the schedule because it is based on half the people not showing up. She said fewer bench warrants have been issued as a result.
- \*\*** The Bench Warrant project is moving forward. She said there are two lists of outstanding warrants – hers and the one the Police Department has – and they're not the same. She has had numerous meetings with the Police Department and ITT has put together a program that can sort the data. She said the plan is to have just one list, and once that's done, they will check on a monthly basis.



- \*\* Behavioral Health Continuum. She said a group is working together to come up with a way to work with people so the jail is no longer the warehouse for the mentally incompetent, and to get people to St. Vincent's or the State Hospital. There is no real system in place. This has resulted in a good working relationship with all the jail and other involved parties.
- \*\* Motor Vehicle Division – she is working more closely with the MVD to get questions answered, noting Arlene Sisneros has worked effectively to help people with issues.
- \*\* Homeless Court is working effectively. She noted that St. Elizabeth's primary help for those in Homeless Court.
- \*\* Animal Mediation has been very successful, primarily due to the effectiveness of mediator Tony DeSilva, a volunteer.
- \*\* Traffic Scofflaws. She said staff is sending Orders to Show Cause, and if people don't show, then she sends out bench warrants. She is getting some of the repeat offenders who usually don't pay attention.
- \*\* She said there has been no turnover in staff in a year. She said the staff attended training at the State level, and people know their jobs. She is working on cross training where possible. She said the staff works very very hard.

Judge Yalman reviewed statistical information attached to the Report.

Mayor Coss thanked Judge Yalman for her report and service to the City.

## **12. REPORT OF PUBLIC CAMPAIGN FINANCING ADVISORY COMMITTEE. (FRANK KATZ)**

Patricio Larragoite, Chair of the Public Campaign Financing Advisory Committee, thanked this Governing Body for being one of the most progressive in the nation for creating open City government. He thanked the other members of the Committee.

Chair Larragoite presented information regarding this matter from the Report and the materials in the packet. He noted there is a proposed Ordinance Amendment in the packet for implementation of the Public Campaign Financing Ordinance. He thanked the subcommittee which drafted the Report and staff from the City Attorney's and City Clerk's Office.

Chair Larragoite said the Committee recommends a full public finance operation versus a partial one, noting the Report explains how they reached that consensus. He hopes this Governing Body will take some of the measures in election reform one step further, and give direct to the current Ethics Committee, to create further language in the City ordinance to create campaign limitation caps regarding expenditures and raising funds for a campaign.

Chair Larragoite thanked the Mayor and Council for the opportunity to serve on this Committee.

Mayor Coss thanked the members of the Committee for its work and for finishing the work on time.

- 13. 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). (Postponed at December 10, 2008 City Council Meeting) (Postponed to February 25, 2009 City Council Meeting)**

This item is postponed to the City Council meeting of February 25, 2009.

**14. MATTERS FROM THE CITY MANAGER**

There were no matters from the City Manager.

**14. MATTERS FROM THE CITY ATTORNEY**

Mr. Katz said the Mayor and Councilors have been provided with the decision from the District Court in the Short Term Rentals case. He said the Court affirmed the City's ordinance regulating short term rentals, but said the fee needs to come back to the Council because it appears it might be a little high, given the estimated receipts versus the cost. He said we now have more experience with the cost of the regulation and can bring this back to the Council with better facts, and adjust the fee to the appropriate level.

**EXECUTIVE SESSION:**

- a) DISCUSSION OF NEGOTIATIONS WITH VARIOUS LABOR ORGANIZATIONS WITH THE CITY, PURSUANT TO §10-15-1(H)(5) NMSA 1978.**

**Councilor Calvert moved, seconded by Councilor Wurzbarger, that the Council go into Executive Session for the purpose of discussion of negotiations with various labor organizations with the City, pursuant to §10-15-1(H)(5). The motion was approved on a roll call vote as follows:**

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

**Against: None.**

The Council went into Executive Session at 6:14 p.m.

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

**At 7:21 p.m., Councilor Calvert moved, seconded by Councilor Wurzbarger, that the City Council come out of Executive Session and stated that the only items which were discussed in executive session were those items which were on the agenda, and no action was taken.**

**The motion was approved unanimously on a voice vote with Councilors Bushee, Calvert, Chavez, Dominguez, Ortiz, Romero, Trujillo and Mayor Pro-Tem Wurzbarger voting for the motion and no one voting against.**

Mayor Coss moved Items 16 and 17 to the end of the Agenda.

### **END OF AFTERNOON SESSION AT 7:21 P.M.**

*The Council moved directly into the Evening Session without a break*

## **EVENING SESSION**

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

The Evening Session was called to order by Mayor David Coss, at approximately 7:22 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 Miguel Chavez,  
Councilor Carmichael A. Dominguez  
Councilor Matthew E. Ortiz  
Councilor Rosemary Romero  
Councilor Ronald S. Trujillo

#### **Others Attending**

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

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

**Terence Loveway**, presented an Editorial from *The Santa Fe New Mexican*, dated Sunday, November 3, 2008, entitled "Night Sky Protection Gains Global Attention." He said the article was concerned about the lights which are taking away the ability to look at and view the beautiful night skies in Santa Fe. Mr. Loveway said he replied in a letter to be in a column called "My View," but it wasn't published, as follows:

*Just to comment on your November 20<sup>th</sup> editorial, "Night Sky Protection Gains Global Attention," which I totally support. Look, up in the sky, it's a bird, yeah, it's probably a desert raven. It's a plain. Wait. It is a plane. An unmarked jet spewing long vapor like plumes visible since 1999, that filled the skies with milky residue that unlike water vapor con trails which go away in ten seconds, remain suspended in our once clear blue skies, and spread out over time, filling our skies with cloudy particulates such as barium and aluminum.*

Mr. Loveway said he spoke with then Congressman, now Senator Udall whom he has known for twenty years. He said Senator Udall cited the U.S. standard that they are simply con trails, which Mr. Loveway says is a lie. He said the other day he counted six unmarked 737 size jets laying these chem trails over Santa Fe in crisscross fashion. He said there were none today. If you don't care about what other countries and states are being sprayed with, then care about the fact that our beautiful, once untainted skies are being taken away. Senator

Udall's office told me that he would give this a closer look if I presented him with a petition signed by 2,000 citizens. He is beginning that petition on February 2, 2009. He asked the Mayor, Council and Legislators for protection from more than City lights. He presented photographs demonstrating con trails and chem trails. He said this needs to be investigated. He has lived here for 36 years and every day jets fly over Santa Fe leaving con trails, but not the chem trail jets.

**Margaret Josena Campos 1509 Galisteo**, said the agenda speaks about school safety and school zones. She said School Board has told her they can't stop it. She hopes the Councilors go see E.J. Martinez and see that even the buses are speeding and the cars that are speeding. She is also asking you to relook at the City Bus route. She said the bus in their area only carries 1-2 people in her area. She said we are a priority one and part of the Hospital Zone. You need to remind people that it is a 25 mph and school zone. She said 85% of the residents in the neighborhood are elderly, and it is the elderly versus the big Park and Ride and people driving high speeds. She talked with the Mayor, and Robert Romero placed a 25 mph speed trailer. She asked the District Councilors from her district, Mayor Coss, Councilor Trujillo and the City Manager to put out a survey to the people in District and start talking about and listing to the problems. She said "we" ask that no City staff attend the meeting.

#### **F. APPOINTMENTS**

##### **Mayor's Committee on Disability**

Mayor Coss appointed the following individuals to the Mayor's Committee on Disability:

Delores J. Martinez – Reappointment – term ending 01/2013;  
Ronda K. Butler-Villa – Reappointment – term ending 01/2013; and  
Alice Morse Lee – term ending 01/2013.

Mayor Coss said he is unable to appoint Alexandra Fischer to the Committee because she is not a resident of the City.

**Councilor Calvert moved, seconded by Councilor Bushee, to approve these appointments. The motion was approved unanimously on a voice vote, with Councilors Bushee, Calvert, Chavez, Dominguez, Ortiz, Romero, Trujillo and Wurzbarger voting for the motion and none against.**

##### **Extraterritorial Land Use Commission**

Mayor Coss appointed the following individuals to the Extraterritorial Land Use Commission:

Boni Armijo (Alternate) – term ending 12/2010; and  
Angela Schackel Bordegaray (Alternate) – term ending 12/2010.

**Councilor Trujillo moved, seconded by Councilor Chavez, to approve these appointments. The motion was approved unanimously on a voice vote, with Councilors Bushee, Calvert, Chavez, Dominguez, Ortiz, Romero, Trujillo and Wurzburger voting for the motion and none against.**

#### **Board of Adjustment**

Mayor Coss appointed the following individual to the Board of Adjustment:

Alexandra Ladd – to fill unexpired term ending 09/2011.

**Councilor Calvert moved, seconded by Councilor Bushee, to approve the appointment. The motion was approved unanimously on a voice vote, with Councilors Bushee, Calvert, Chavez, Dominguez, Ortiz, Romero, Trujillo and Wurzburger voting for the motion and none against.**

Responding to Councilor Bushee, Mayor Coss said there are 1-2 positions on the Board of Adjustment to be filled.

Councilor Bushee said one of her constituents has submitted a resume, and is interested in serving on the Board.

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

- 1) CONSIDERATION OF RESOLUTION NO. 2009-17 (COUNCILOR WURZBURGER, COUNCILOR ROMERO, COUNCILOR CALVERT AND MAYOR COSS). A RESOLUTION ENDORSING AND ADOPTING THE WATER DIVISION 10 YEAR FINANCIAL PLAN. (GARY MARTINEZ) (Postponed at the January 14, 2009 City Council Meeting)**

A copy of a Memorandum dated January 28, 2009, to Gary Martinez, Water Division Director, from Rick Carpenter, Senior Water Resources Coordinator and Buckman Direct Diversion Project Manager, is incorporated herewith to these minutes as Exhibit "2."

A copy of "Packet Page Nos. Reference Guide, Water Rate Increase," for Item G(1)(a) through (e) for the Council meeting of January 28, 2009, is incorporated herewith to these minutes as Exhibit "3."

A copy of a White Paper on "Proposed City of Santa Fe Water Rate Increases," prepared by City Water Division staff, is incorporated herewith to these minutes as Exhibit "4."

A petition containing 25 pages of petition signatures, entitled, "APPLY PRECAUTIONARY PRINCIPLE TO BUCKMAN DIRECT DIVERSION PROJECT," entered for the record by Joanie Arends, is incorporated herewith to these minutes as Exhibit "5."

Gary Martinez, Water Division Director, said the Council has been provided: (1) a description of the five scenarios before the Council which staff has worked on; (2) a White Paper, produced by Water Division Staff has been provided to the Council for reference; and (3) a Memorandum from Rick Carpenter providing information on the BDD. He said David Millican, Finance Director, will be giving a presentation on the fine details of finance

Mr. Martinez said this process has taken about one year, with reviews by several City Committees, numerous public meetings and with the review of the current and previous Finance Directors. He said staff is before the Council to request adoption of a water rate increase. He said Mr. Millican has reviewed the 10-year Finance Plan and is comfortable with the major assumptions used to develop the revenue requirements.

Mr. Martinez said the current revision has a more conservative bond financing approach recommended by the City's independent financial advisor resulting from a turmoil in the recent credit markets. He said we also refined our operating costs and revenue estimates and continued the critical review of our capital infrastructure plan.

Mr. Martinez said the level and timing of recommended rate increases are driven by the cash demands up front as rates have to be high enough to issue debt in fiscal years 2009 and 2010 to ensure that debt coverage requirements are met and to provide an adequate cushion to assure investors of our ability to pay.

Mr. Martinez said the current Plan and rate recommendations between the five scenarios as follows, is the best balance City staff and City consultants were able to achieve:

- |                   |  |
|-------------------|--|
| <u>Scenario 1</u> | A smooth rate increase with deferral of most of our water capital improvements until FY 2011-2012. Initiated after BDD is built and results in five annual increments of 9.5%.   |
| <u>Scenario 2</u> | Adds an additional component to Scenario 1, of a 2% reduction of assumed GRTs for the next two years of our financial plan as recommended by our Finance Director. Results in five annual increments of 10.3% – basically where we are today if we consider our anticipated 2% decrease in GRTs. |
| <u>Scenario 3</u> | We added an additional component to Scenario 2 of a low interest loan that staff is seeking to help reduce the customers rate increase impact. Staff and the loaning entity are relatively confident the loan will occur this fiscal year and this results in five annual increments of 9.15%.   |

- Scenario 4 Adds an additional component to Scenario 3 of a deferral of the interfund loan beyond the ten year finance plan. It results in five annual increments of 8.2%. At the last Finance Committee meeting on January 20, 2009, this scenario was recommended and approved by the Finance Committee with two amendments attached to it.
- Scenario 5 Adds an additional component to Scenario 4 of subsidizing the Water Division with another interfund loan in the amount of \$10 million and applied in the first two years of our finance plan which results in five annual increments of 7.2%.

Councilor Chavez asked if the background information provided is the information which was requested at the Finance and Public Works Committee meetings, and Mr. Martinez said yes.

Mr. Martinez, responding to a question from Councilor Chavez, said there is a 5-page White Paper which was emailed to the Councilors as well as placed in their Council boxes.

Councilor Chavez suggested as we move forward we refine the White Paper and the Memorandum of January 28, 2008, and combine them into one document to be provided to the public on the web page as well as hard copies at the different City libraries. He said this is information for the public to understand the current situation and the situation as we move forward.

Councilor Ortiz noted he just received the White Paper at 2:00 p.m., which is the document which is supposed to explain the reason for the rate increase. He has a lot of questions on some of the assumptions in the White Paper. He said these are being presented as facts when he believes some of these things can be challenged. He asked the Mayor how he intends to proceed with some of the information we are being given in the White Paper.

Mayor Coss said he intends to let Mr. Millican make his presentation, then have questions to staff and proceed with the public hearing.

David Millican, Finance Director, said the important things to remember about the plan is that the timing and implementation of the rate increase has to do with the cash on hand at the beginning. He said two issues arose. He said we discovered that a miscommunication between the consultant and the Finance Department had overstated the beginning cash. He said the correction calculated a rate increase of about 11.92%. Staff, feeling the 5% from the original proposed increase was too high, prepared an addition provision for 5 years at 9.5%, achieved primarily by deferring capital projects outside the 10-year plan and into the last half of the 10-year plan.

Mr. Millican said the second question was what happens if we wait and don't implement until it is "just in time" before the bonds are to be issued. He said information from the consultants said rather than 9.5%, there would be one increase of 15% in 2010, followed by an increase of 35% in 2011. He said those figures have since been revised to 50.7% with an



additional increase of 12.8% in 2015. He said for Scenario 4, the rate increase would require a rate increase in 2011 of 43.6% rather than the 8.2% increase, and an increase in the subsequent year of 6.8%.

Mr. Millican said bond rating agencies like incremental rate increases, and want to see the revenue produced by the increase which has been collected when they do the bond rating. They want to see that the cash is building, the rate is building and the City's commitment to increase rates to finance. He said George Wiliford, our consultant told him that when agencies try to hold off until the last minute, there could be political shocks resulting from high rate increases which would cause rate rollbacks which could affect the increased political risk in the bond issue. High rate increases also can affect consumers in that they will buy different amounts of water and the previous revenue assumptions are no longer valid. He said investors may buy the debt and charge a higher price for it.

### **Public Hearing**

Mayor Coss gave each person three minutes to speak to this issue in the public hearing.

**Reverend Pamela Gilchrist, 1909 Proctor Court**, quoted from Rachel Carson, "In an age when man has forgotten his origin and is blind even to the most essential need for survival, water, along with other resources, has become the victim of his indifference." She is concerned about LANL's radioactive, toxic and hazardous contaminants flowing into the Rio Grande above the Buckman project. She believes this crisis needs to be addressed before the City Council pursues financing options for the completion of the project. She asked why the Council is considering a water rate increase when LANL hasn't taken the necessary steps to stop or clean up the migration of radioactive, toxic and hazardous contaminants to the Rio Grande in our drinking water supplies. She has read the arguments in favor of passage of the rate increase, but said those don't reflect her understanding of the extreme risk of using water from the BDD project. She said the New Mexico Environment Department documents deficiencies in LANL's testing wells, including the location of the test wells, well screen, poor sampling methods, the use of organic fluids and special clay drilling mud which masks the presence of radionuclides. She said these deficiencies result in the flawed sampling of water. She believes an independent review of LANL water quality needs to be done, and we need the results before making suggestions or decisions about funding. She said the City must be vigilance about health risks to its citizens. She believes that the City has tremendous leverage to press LANL for needed cleanup.

**Corina Noltin, 333 Sanchez**, said she has a problem with LANL contamination. She said there was a study published that the diminishing water is so contaminated that by 2050 there will be no potable water for ½ of the population. She doesn't dispute the need for the rate increase, but believes we first need the study. She said it would be stressful for many families in Santa Fe to pay for the increase. She would like increases to be tied to the levels of usage directly related to the size of households. She would like to see the City eliminate things such as swimming pools. She said this is a difficult decision, and the implications are vast. She

would like to see a study about the financial impacts of golf courses in relation to the number of users. She thinks the increase should be on a sliding scale based on income.

**Dena Aquilina, 327 Sanchez,** said the realities of living in the high desert are becoming recognized. She understands a rate increase is needed, but there are issues of equity and appropriateness. She said there are those who are dedicated to water conservation, noting the City has done a great job in this regard. She doesn't believe the rate increase for these people should be the same as for those whose usages are published in the newspaper as the top ten water abusers. She believes exorbitant users should pay exorbitant prices. She said in the 70s Oakland, California outlawed private lawns during droughts. She said lawns are a good thing in City parks and in common areas, but are not appropriate in a high desert.

**Lorena Russell Shilov a/k/a La Cit, 2300 West Alameda, at the Commons.** She understands many of the arguments for the need for extra water, including having water in the river which she supports. The BDD will bring an additional 7,000 afy of water, of which 1,700 afy will go to Las Campanas to allow 1,700 new houses to be built in an area where we don't have the water to support that many families to move in. She thinks the project may be a foregone conclusion. She said a lot of the money should be allocated for cleaning to be sure the water is purified, so if there are contaminants, such as chromium, PCBs, radionucleides which she says are coming from Los Alamos, those can be removed the water.

**David Van Winkle, 21 Delilah Lane, Chair, Northern New Mexico group of the Sierra Club,** which supports the BDD because it improves the sustainability of the water supply for the City and County. He said the continued use of underground water will lead to catastrophic problems in the future and for this reason they support the BDD. They also support the rate increase, to be primarily targeted at large users who have the capability to reduce consumption through conservation and have the ability to pay. He said they oppose significant increases to those who can't pay or conserve. He said they support increases to new developments which are causing part of the increase in demand for this project. He said they support utilization of clean and renewable energy for this project. The BDD, at full capacity in 2023 will consume 25 million KWHs per year. He said this is a lot of carbon dioxide which will go into the atmosphere if not produced by clean, renewable energy. In September 2008, the Council adopted Resolution 2008-80 which said the City would utilize renewable energy for the long range water supply plan and they appreciate the commitment. He said they have been working with the Water Division, Rick Carpenter and Nick Sciavo, to develop plans and alternatives that can make this happen. He said the current rate increase contains no funding for that, and he said, "What we're trying to accomplish, is to accomplish this without any incremental cost. He spoke about PNM's program which allows 1 MW facilities for solar and returns 15 cents in renewable credits, which would make many projects very economical including BDD, water purification plant, water treatment plant and many major facilities. He asked for support for this in the future.

**Neva Von Peski, 622 Paseo de la Loma**, said she is in favor of the rate increase as part of the Water Division's ten-year finance plan. When we voted to purchase the water company, we assumed it would be well run, which means to keep up with inflation, the rates have to be increased periodically. She said ideally there should be small increases every year, but since the City hasn't done that, there now has to be five years of more substantial increases. She said in Santa Fe, where the cost of providing water is high and each new source is more expensive than the last, there always will be a conflict in increasing rates sufficient to run the system well and provide water for people who truly cannot afford further rate increases. She said that is best handled by a program which aids low income households, rather than setting rates below the level needed to pay for the cost of providing water and making up the difference from other City funds.

Ms. Von Peski said it is useful for people to know the true cost of the water they use. She favors raising rates now, rather than waiting to see if the City will get money from some federal program that will make a rate increase unnecessary or keep it lower. She said an amendment has been introduced which requires that any such funds which might be received later can be used only to reduce the approved rate increases. This amendment removes whatever good reasons there may have been to delay the increase. However, not all of the reasons given for delaying the increase are good. She said some are so bizarre that many people have concluded that the real reasons for opposing the rate increase are political reasons that haven't been put on the table. She said the Finance Committee voted last week to recommend a financing scenario which requires an annual rate increase of 8.2% for five years. She would be more comfortable with a scenario requiring a higher increase, but this one is acceptable. What is not acceptable is further delay in approving this rate increase. Everyone to whom she has talked recognizes the need to raise water rates, and the reasons for raising rates now, rather than later, have been amply explained to the Council.

**Carolyn Cook, 1374 Santa Rosa Drive**, said she is a retired educator, noting she is speaking for four people including her neighbors who couldn't attend. She compliments the Council on raising the water rate issue, because it takes real courage. She asked the Council to be even more courageous, and bring the increase to 9.15% which she thinks is reasonable. She looked at her water consumption for the past year to see what it would cost her. She has a small vegetable garden. In July, she used 17,000 gallons of water and her bill was \$146.00, and with a 9.15% increase, it would have been \$13 more, which isn't a huge hit for her. In January, she used 1,700 gallons and her bill was \$21.40, and would be \$23.39 with the increase, or \$1.95 more. She asked the Council to be courageous and vote tonight for a water rate increase. She said you are the closest thing we have to a "water fairy," and asked the Council to vote for the increase to take care of this problem.

**Josena Campos, 1509 Galisteo**, said she attended the first meeting at the Hospital, and she asked if they know there are 15 fills LANL never knew about. She said they don't drink the water in her neighborhood because it tastes funny. She said after the Department of Energy paid on the death of her father, they told her they didn't know there were still 15 fills which were contaminated and were covered over. She asked Richard Carpenter if he could tell

her that the water isn't going to be contaminated, and he told her they would work on it and "we're really going to work on it and make sure and the whole thing." She said, "So, we have to have faith that that's not going to happen." She asked if the rate hike will include all of the pipes that you are going to have to take out of the roads from all the old neighborhoods because they're rusted and bad and which carry water to us. She said there are a lot of elder people in the neighborhoods, and she tried to explain how it would be for low water users. She asked if you are going to put restrictions on people with lots of trees, hot tub, a pond and wash clothes all day. She said they should stick to regulations and be fined if they're not sticking to the regulations, because the people who have lived here for years conserve. She asked the Council to be reasonable.

**Karl Sommer** said he is here to speak on behalf of the proposed rate increase, and he supports the recommendation for a 8.2% increase. He said the City isn't faced with the question of whether to raise rates, because we know the City has to raise rates. The BDD is underway and it has to be paid for, as well we have to pay for the other capital improvements which have to be made. He said we have to spend the money. The only question is when we are going to raise rates and how much. He said experience tells us, with respect to this water system, that waiting doesn't make things cheaper. He said when we waited to purchase the water system, we paid \$20 million more than when we could have bought it the first time. After we bought the system, waiting to invest has gotten use in this position where rates have to be raised. He said Mr. Millican has said the "wait until the last minute 50% is not going to be easy." He said rate increases are bad news, and bad news does not get better with age. It isn't going to get easier for us to tackle this problem later. He said the sooner you do it, the better. He supports the rate increase, as difficult as it will be for many Santa Feans who are already struggling, but it's not going to get easier for any of us. He requested that the Council do the rate increase now.

**Virginia Miller, 125 Calle Don Jose**, said she supports a rate increase because we need a reliable source of drinking water, but only if it is not an undue burden on the fixed income residents and small businesses, and if it encourages conservation. She asked that the City limit the growth and development of Santa Fe, and balance that with the limited water resources. She is concerned about preventing LANL contaminants from going into the Santa Fe water system at the Buckman site. She visited the site, noting the location of Sandia Canyon and Mortendad Canyon, saying the prevailing hexavalent chromium found in the regional aquifer there is high. She said these are right above the Buckman site. She said they found plutonium at the Buckman well #1, and upstream in an old river channel nearby they found plutonium there as well. She said the hexavalent chromium is higher than it should be under EID standards. She asked the City Council to ensure that its water is monitored and tested for all the contaminants produced at LANL during the years of nuclear weapons production, and to continue to monitor and test each of the wells individually, especially the nine near the Rio Grande. She asked the City Council to ask our Congressional Delegation to stop all pit production at LANL and fund effective cleanup LANL, and to ask President Obama and his administration to provide U.S. leadership for global nuclear abolition. She said LANL can assist in this process, otherwise our water is in risk of contamination at the Buckman river

site. She is willing to pay more for her water, but she wants to know it is safe, drinkable water for everybody.

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*Stenographer's Note: There is no complete recording of the remarks of David Grunfeld and Craig Roepke, due to a temporary problem with the City's equipment.*

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**David Grunfeld, 1021 Camino Santander**, Director of the Santa Fe Watershed Association, said the Association supports the rate increase, and read an email into the record which he emailed to the Councilors on behalf of the Board. The Association is committed to restoring flow to the Santa Fe River and protecting the health of the river, the aquifer and the watershed.

**Craig Roepke, San Fernando** said he supports the rate increase and delays could raise the costs, and will be even more severe on our low income citizens. He said the water which flows through the Buckman Diversion will be a renewable water source. He said a renewable water resource is a precious resource in this area. He said the only other supply is the water in the aquifers. He said continued dependence on groundwater pumping is a losing bet. He said if we don't save what remains of the aquifers they can't sustain us through droughts. He said, given the current climate change projections, it is even more important to look toward moving from dependence on groundwater and utilizing what surface water is available. He said the maintenance of a healthy and vibrant environment, requires decent base flows. He said base flows are closely linked to aquifer levels. He said if these are overpumped, our quality of life will disappear. He said more important to him than a bigger water bill would be the prospect of a future of brown parks and playing fields, dying trees, a dry and dusty Santa Fe River, and in the end a much bigger rate hike. This is an urgent issue which demands both foresight and timely action by a focused and resolute leadership. He said the rate hike will allow us to provide for our water future, protect the environment and enhance our quality of life, and without it our quality of life, the environment and our pocketbooks will suffer. He said with provisions to support those truly in need and incentives for conservation, he urged the Council to approve the rate increase now.

**Bill Loeb, 218 Camino Encantado**, said when the Council approves whatever version of the rate increase, it will have the critics attention. This is an opportunity to make it clear that conservation is a very important component. He believes conservation considerations should be built into this bill. He said it is important to build into conservation a chance for people who can't afford this to do intense conservation in lieu. He thinks the City should give the low income people an opportunity to save themselves through the constructive means of conservation.

**Anna Hanson, 2008 Kiva Road**, said she approves of the 8.2% rate increase, because we definitely need to move forward and take care of our community. She also would like to see

the Council to ask for money from the Obama bailout plan, and instead of \$4 million ask for \$8 million. She said she hasn't heard anything about reclamation. She believes we should take the recycled water and use it for irrigation. She said every single new development should be required to do reclamation. She said potable water shouldn't be used for irrigation. She noted she served for five years as the Chair of Citizens for Nuclear Safety. She said she organized in the aftermath of the Cerro Grande fire, and she knows the amount of contaminants which are "running down off of that mountain." She said this Council has a tremendous amount of power to talk to the "powers that be" – the State, the federal government, LANL – about containment to stop the runoff. She said cleanup is essential. She said the cleanup at the labs could be done by putting people to work through the bailout and the federal stimulus package. She supports and practices conservation and reclamation. She said Las Soleras shouldn't be using potable water to irrigate.

**John Bookser, Member of the River Commission and a volunteer leader with the Sierra Club.** Mr. Bookser said he is speaking on his own behalf. He supports the rate increase. It is appropriate for the community to pay for the water that it uses. He said it would be wonderful to return to a sustainable situation. He would like to reinstate the river which once flowed through the City. This would enhance tourism as well as recharging the aquifer which is critical. He said we have been in the unsustainable situation of pumping our aquifer for the past 50 years, and the Buckman will change that situation and allow us to use that water in times when there is adequate water diverted into the Rio Grande from the Colorado River Basin. He said we do not need to create a new problem by adding more carbon dioxide in the air. He said the Sky Blue Program would add ten cents per person per household to the rate base, and in the longer term solar is the most cost effective for the City to pursue. He said conservation has to be a key feature, and increased rates will reduce water use. He would like to see a more steeply graduated rate structure, so high water users are paying more. He is pleased that the City changed the business rate to make it more comparable to the residential rate. He would like to see additional funds for monitoring of the stream flow of the flood events from Los Alamos for plumes coming in.

**Joanie Arends, Citizens for Nuclear Safety,** said over the years the Citizens brought the LANL contaminants to the table. They appreciate City's efforts to address this issue, and the opportunity to meet with the BDD consultants, lawyers and staff. At this time, Ms. Arens presented a petition containing 25 pages of signatures to the City Clerk [Exhibit "5."].

Ms. Arends said she will now make her personal comments. She said we have been told the BDD project is for resting the wells. However, she hasn't seen anything in writing that says if we divert a certain amount of water, the wells will be rested. She would like to see something to this effect in the Resolution. She said the White Paper says the BDD isn't for growth, and she would like to see evidence of that. She wants to see something in writing that says if we divert so much water from the river, that a certain amount of water will flow down the Santa Fe River. She wants it to be clear to everyone that this is what is happening. Ms. Arends supports the Sierra Club's remarks about reducing electricity and reducing the carbon. We really need to look at running wind during the night and solar during the day to pump the water.

She believes these costs are a huge part of the rate increase. She said we need to understand PNM's proposed base rate and how that will be accelerated.

Ms. Arends said, in terms of City services, she would encourage the Council to adopt annual cost of living increases for City services to avoid these kinds of crisis situations. She believes the Council could adopt a Resolution providing that there will be an annual cost of living increase for City Services. She supports that.

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

Councilor Wurzbarger thanked everyone's for testimony, and said this Council is concerned about contaminants. She said this is of concern to every person involved in this project, and invited Ms. Arends to talk to the BDD Board further about this.

**Councilor Wurzbarger moved, seconded by Councilor Calvert, to adopt Resolution 2009-17 endorsing and adopting the Water Division 10 Year Financial Plan as presented to and approved by the Finance Committee.**

**Discussion:** Councilor Ortiz said he understands the reason for the rate increase is to cover all aspects of the 10-year plan, which includes the infrastructure costs of the City water system improvements as well as the Buckman Direct Diversion

Mr. Martinez said this is correct.

Councilor Ortiz said in Option (d), roughly 50% of the costs are related specifically to the Buckman Direct Diversion.

Mr. Martinez said a large portion of the capital improvement costs are related to the Buckman Direct Diversion, but he doesn't have the exact percentage.

Councilor Ortiz said we have always put this together as one big package and that this rate increase will cover all of the plan. He asked, if we were to bifurcate the plan, and talk about the Direct Diversion plan, what would be the cost to complete the City's portion of the Buckman Direct Diversion.

Mr. Millican said the total capital plan is \$200 million and the City's portion of the Buckman Diversion Project is \$100 million of that amount, noting the total BDD cost is \$216 million.

Councilor Ortiz said the 10-year plan gives rise to the different rate scenarios which we have been discussing.

Mr. Millican said the rate is handling three different things. Staff calculated, for example, if there was no Buckman Project, that the rate increase needed to cover operations and to comply with the bond covenants is 3.85%. The Buckman Project cost is the amount over that.



Councilor Ortiz said, then under the 10-year plan, under any scenario, the cost to fund the Buckman is the amount above the 3.85%, and Mr. Millican said this is correct.

Councilor Ortiz asked what parts of the 10-year plan allocate City resources for water health.

Mr. Martinez said the Engineering Supervisor did a breakdown, and there is a graph in the White Paper, noting the majority is for the BDD. He said it contains building improvement renovations, reliability/redundancy, permit federal requirements and safety improvement. So the cost for water health and safety would be included under Reliability/Redundancy and a portion would be under Permit/Federal Requirements. He said in talking about water quality there are always unfunded mandates with which to deal, and we are always dealing with the reliability aspect.

Councilor Ortiz asked where it is found in the Plan, noting the White Paper isn't part of the plan.

Mr. Martinez said there are two different breakdowns in the Plan. One is O & M and the other is directly related to CIP. Under O&M, there are portions which are directly related to water quality. In the CIP Plan, there are aspects which are directly related to water quality. For example, the CIP Plan includes funds for arsenic and uranium remediation on some of the wells. In O & M, there are standard budgetary numbers on an annual basis which deal with water quality issues, sampling, testing, compliance and everything of that nature.

Councilor Ortiz said the Resolution which we are discussing, adopts and endorses the Water Division 10-Year Plan. On page 13 of the Resolution, the WHEREFORE, says that we adopt the Plan attached hereto as Exhibit A. He asked where in Exhibit A are the line items for the protection for water safety or for water quality which the White Paper says the rate increase is supporting.

Mr. Martinez said all Table 1's are similar in all scenarios. He said there is one Buckman Well Uranium Remediation for Buckman Well No. 2 that deals with that. There are also Canyon Road Water Treatment Plant Improvements which also deals with Phase 3 aspects of water quality and treatment.

Councilor Ortiz said we've all supported the improvements to the Canyon Road Water Treatment Plant which treats the water from the Santa Fe River. He said he is talking about the other question which has been raised, which is that the White Paper says the rate increase is supposed to pay for protection to our water quality. He asked where that is found and if it is under Buckman Arsenic Treatment.

Mr. Martinez said basically those are the factors. He said Table 2 looks at several different aspects. One deals with contracts for laboratory analysis, etc. There are items for professional contracts where we get funding for all the testing and implementation that is required. He said operating supplies is another line function of the water treatment facility which deals with that. He said safety supplies deals mainly with the safety of employees and doesn't deal with laboratory or compliance issues. He said there are other items which are



directly related to that. He said Legal Contracts would take you into areas that may deal with the legal aspect of compliance. He said most of the analysis, the testing and compliance, are done with small contracts and all are in the Finance Plan.

Councilor Ortiz said, regarding Legal Contracts and Professional Services Contracts, the Legal Contracts start low and then escalate from \$377,000 in the next FY to \$481,000 – so, between \$400,000 and \$500,000 per year which is in this plan we're approving is just to pay the lawyers.

Mr. Martinez said not necessarily. He said legal contracts has different areas which are used for different items. He said legal contracts pay for lawyers as well as for any issue that we have.

Councilor Ortiz said last year we spent \$1.3 million and this year we expect to spend \$5.4 million going up to \$7 million, and asked if this is the Camp Dresser McKee contract where we're averaging about \$6 million per year.

Mr. Martinez said no. This is mainly the JAN lease which is being pulled out of there, so prior to the termination of the JAN lease that number stayed in there.

Councilor Ortiz asked if the numbers need to be backed out of these figures.

Mr. Martinez said they ran another scenario with the JAN lease numbers removed, and it didn't make much difference to the proposed scenarios.

Councilor Ortiz said he understood the City would receive some benefit on the rates by dropping the JAN lease.

Mr. Martinez said the City is receiving a huge benefit past the 10-year plan, and that will be when the impact will take its course.

Councilor Ortiz asked if there are other numbers of which we're not aware in the plan which is being discussed for approval.

Mr. Martinez said no, the numbers include JAN at \$500,000 per year.

Responding to Councilor Ortiz, Yolanda Vigil said Table 2 for Scenario 4 is on page 77 of the packet.

Councilor Ortiz said then page 75 is the Scenario 4 Exhibit A we're talking about in the 10-year water plan.

Mr. Martinez said yes.

Councilor Ortiz asked how the JAN lease is still included.

Mr. Millican said the Jicarilla lease (JAN) required a penalty payment and four years

before it terminates. He said the savings from the termination will happen after the debt has to be issued and after the coverage requirements are met. The benefit will happen later and could allow you to reduce rates later or moderate increases caused by other factors.

Responding to Councilor Ortiz, Mr. Millican said the escalation continues, so those numbers are built in at 4½ % as part of the model.

Mr. Katz said there are increases every other year for CPI and then the other years for the market rate increase, and the CPI may not go up next year.

Councilor Ortiz said then in 2014-2015, there will be no payments for the JAN lease.

Mr. Millican said it will begin in 2012-2013 because it is a calendar year lease term.

Councilor Ortiz asked for an explanation of the reason the number is still there for FY 2013 forward.

Mr. Millican said when this material was presented, that hadn't been completed, and "when we asked our consultants to look at what happened to the rate as a result of the cancellation of the Jicarilla, I think it had, what, five hundreds of a percent [0.005]."

Councilor Ortiz asked, if we take \$20 million out of Table 2, doesn't it make sense to reduce the amounts we need in Table 1 by \$20 million. And, if we reduce it by \$20 million, doesn't it require a recalculation of what the rate would be for \$173 million instead of \$193 million.

Mr. Millican said Table 1 actually contains capital expenditures and the Jicarilla Lease is in the Operations part of the budget.

Councilor Ortiz said then either way, we are paying capital as well as operation and maintenance.

Mr. Millican said then you would have lower costs in the back half of the plan, and it would not change the rate increases significantly which are needed to support the debt. One of the issues is that the high threshold rate for the rate increases is the debt issuance to complete Buckman when we run out of accumulated cash and have to borrow.

Councilor Ortiz said we're just talking about \$20 million in the plan which was not backed out, and asked if it will be spent on something else.

Mr. Martinez said when the scenarios were started we were under the assumption that the Jicarilla Lease would cost a certain amount based on water rights which were previously sold. Based on that analysis, the water rates were higher than anticipated. Therefore the cost for the third and fourth year of the Jicarilla lease, even with the termination, was a lot higher than we would ever have anticipated. He said this almost compensates for the additional years for that line item, and we will have to use it for the third and fourth years which requires us to

propose the same scenarios within 0.005, noting on two scenarios it was higher because of that.

Councilor Ortiz said, if we needed this money in the Plan in a different line item because of bond requirements and such, it is understandable – if we had the numbers. However, he said we have the one plan we are being asked to approve. He asked if \$20 million from \$200 million is a change of 10%. He said at the back end of the Plan there are amounts listed for three years from \$6 to \$7 million, which is about \$20 million which we could back out of the plan and run new numbers. He believes it when Mr. Millican says it won't be a significant change, but we are being asked to approve this Plan without seeing those numbers in writing.

Councilor Ortiz said the assumption all along is that the BDD and the Water System Improvements are tied and can't be severed. If we had a chance to sever those and pay the BDD now, and develop another financing option for the balance of the funds for the water system improvements, that would be a change. He reiterated his belief that the \$20 million from termination of the lease could be backed out.

Mr. Millican said he isn't sure the number is \$20 million.

Councilor Ortiz quoted from the Professional Contracts line item: "Fiscal Year 2016-2017, \$6.930033, Fiscal Year 2015-2016 \$6.722722, Fiscal Year 2014-2015 \$6.521.... that comes out to about \$20 million.

Mr. Martinez said that line items also includes \$2 million annually for other contracts, so it's not all for JAN.

Councilor Ortiz asked what other contracts are in the line item.

Mr. Martinez said one is the annual payment to the BOR and for other contracts for which we are obligated.

Councilor Ortiz asked if Camp Dresser McKee [CDM] is one of the contracts, or if CDM will be paid off once we complete the BDD.

Maya Martinez, Water Division, said the Professional Contracts include annual contracts for the Water Division – regulatory contracts, water payments, acequia payments, and such. It contains all contracts the Water Division has for its operations each year. She thinks the CDM to which he is referring is a BDD contract which is a completely different line item and under CIP in Table 1.

Councilor Ortiz asked what is the percentage of the JAN Lease in the Professional Contracts.

Mr. Martinez said staff estimated JAN at \$3.5 million annually, which was the assumption at the time the scenarios were prepared.

Councilor Ortiz asked what "Average Escalation Rate" means.

Mr. Millican said some categories receive a separate escalation rate because they don't behave consistently with the general rate of inflation, so the average escalation is the inflation rate built in for certain O & M costs.

Councilor Ortiz pointed out that some are smaller than others.

Mr. Millican said those are historical, average, escalation rates, which change from year to year, and those at the top are projected escalation rates which, for certain line items, are adjusted based on history and the experience of the consultants with those cost items.

Councilor Ortiz said then the higher the escalation rate, the assumption is, the more expensive that particular line item is over time.

Mr. Millican said yes, and what they're trying to indicate is that each line item does not behave according to a general formula.

Councilor Ortiz said the staffing is included as well.

Mr. Millican said yes. He said these are our share of the Buckman operating cost.

Councilor Ortiz said, with regard to this particular line item as it relates particularly to the JAN lease, there is the potential for significant dollar savings which could have been outlined, highlighted or changed and that could be before us. Instead, we have this plan before us and this plan will generate the rate increases we're going to discuss. He said he would again encourage his colleagues to consider having *bona fide* numbers before us before we take this action.

Councilor Bushee said it sounds as if we are generally treating for water quality concerns, but not specifically for anything coming out of Los Alamos.

Mr. Millican said that isn't broken out in these numbers, and he would have to defer to the engineering group. He said the City will develop a treatment plan in connection with the BDD which will be monitoring the quality of the water released from the treatment plant. He has heard from staff that those monitoring costs are built into the operation of the project and the associated plant.

Councilor Bushee asked Mr. Carpenter if treating for general water quality concerns not specific to Los Alamos is built into this plan.

Mr. Carpenter said, "Treating for general water quality constituents as we understand them today, are built into, first of all, the design, the capital cost for the BDD, and then, on the other side of the plan that has to do with operations, general monitoring, sampling and water treatment that you would normally expect to see in any water treatment plan. There is nothing built in to deal with, for example, LANL water quality issues."

Councilor Bushee asked about the early warning system.

Mr. Carpenter said, "That is something that we're working through with LANL currently. They have committed to paying for that early warning system, so it is not included in the plan."

Councilor Bushee asked if that commitment is in writing.

Mr. Carpenter said, "We're working on an MOU with LANL right now that would outline that, but they have committed, in letter form, that they support their financial contribution towards that early warning system."

Councilor Bushee asked if it is a financial contribution or a complete payment.

Mr. Carpenter said, "A complete payment."

Councilor Bushee asked, if the system has to be shut down, if there is a cost to that and who pays that cost.

Mr. Carpenter said, "I guess it depends on what you mean by shutting down the system."

Councilor Bushee said there is an early warning system which will tell you something specific – shutting down the system. She wants to know what that plan is, and who pays for it.

Mr. Carpenter said, "The situations that we're able to foresee, as we understand them today, with regard to LANL origin contaminants, happen very infrequently and they are short in duration, most of which would be less than twelve hours. If that is the case, and the early warning system tells the operators they need to shut down the Water Division and the system, there would be minimal costs associated to do that. The plant is designed to do that. A twelve hour shutdown is not going to be a big deal. If, on the other hand, the event last for weeks and weeks, and then we have to go into another type of a shutdown, it's more involved and it's more complicated and there would be costs associated with that. And those are the items, among others that we are discussing with LANL currently, that we would put into a future MOU so it would cover our costs if they do occur."

Councilor Bushee said, "So, you're comfortable in not building any of those potential costs into this plan."

Mr. Carpenter said, "We don't know what those scenarios would cost at this point. We don't think that they're going to be significant. We don't think they're going to happen very often. If they do, we intend to build contingencies into the MOU that would deal with that, and let LANL pay for it, so it shouldn't be in the plan."

Councilor Bushee said she would feel more comfortable if there were a plan before us regarding this situation.

Councilor Bushee commented on the few dollars which are generated through the Utility Expansion Fees (UECs). She asked why an increase in the UECs not a part of the plan. She said we try to cover the cost of growth by asking developers to bring water rights and pay

UECs. She asked why we don't build some of the infrastructure costs into the UECs, and how the UECs compare with those of other municipalities.

Mr. Martinez said increases to the UECs have been reviewed, but can be used only for growth and not sustainability. He said in any event, it would not result in significant revenue, and receipts have gone down this year to \$800,000. He said this has been reduced because there hasn't been much growth in the City.

Councilor Bushee said, "When I look back on page 14 of whichever scenario I'm looking at, it says, supply expansion is \$124 million essentially. And you are calling this just sustainability, but in my estimation... I mean BDD is not for growth necessarily, but it is where we're going to put our new water rights. You're calling it supply expansion. I'm asking why we didn't consider as part of this plan, for a ten year plan, to raise UEC charges. I understand we have less construction going on with the given situation in the economy. But, if you're trying to truly reflect.... because being up here for me tonight is not so much about a rate increase as to.. you know the questions were posed, well you know, when and how much. The question for me is who pays. And so I'm not seeing a lot of money coming out of our utility expansion fees, not just because of lack of construction. I'm not seeing our... maybe our fees are high. But, I don't get that we made any attempt to go there as part of our plan in terms of generating revenues."

Mr. Martinez said this is correct, because the UEC is pretty detailed and not something you can turn around with a finance plan like this. The UEC has to be evaluated, and it will be evaluated, and the intent of staff is to get the finance plan, and then immediately follow through with a UEC study to see what impact that would have. He understands it's not part of the finance plan informal revenues, but it will take a substantial effort to get the UEC fees analyzed appropriately.

Responding to Councilor Bushee, Councilor Wurzbarger said the motion on the floor is to adopt the Plan, not any of the other options at this point.

**Friendly Amendment:** Councilor Chavez would like to amend the motion to give direction to staff to accept the two position papers as drafts.

**Discussion on the Friendly Amendment:** Councilor Chavez suggested that Mr. Martinez can combine the two because both speak to the overall system which includes the Sangre de Cristo Water Company and all of the upgrades and replacements. It includes future upgrades to the treatment plant. It includes the Buckman Well Field, future maintenance and everything related to that portion of the system and the Buckman Direct Diversion. There would be construction costs, ongoing operation and maintenance. He said all of these components need to be articulated a little better in the position paper.

**Clarification of the Friendly Amendment:** Councilor Wurzbarger said then the intent is to add these as an amendment to the plan, and Councilor Chavez said this is correct.

**The amendment was friendly to the maker and the second, and there were no objections by the other members of the Governing Body.**

Councilor Dominguez said for FY 2008-2009, there is an allocation of \$705,000 for Buckman arsenic treatment, and there is nothing after Buckman is complete. He asked what that amount buys.

Mr. Martinez said that capital improvement project was slated for the first three years under a new arsenic standard requiring compliance by January 1, 2008. The City is compliant with that standard because of blending water sources within the Buckman Well Field. So, staff felt it was best to defer that CIP project, but the first \$705,000 in the plan was for the analysis, the study and the evaluation of what would be required for that treatment, noting funding is appropriated for construction.

Councilor Dominguez said the \$705,000 is not for the BDD, but the other \$8 million is for the BDD.

Mr. Martinez said this is incorrect. It is all for the Buckman Well Field and it has to do with arsenic treatment.

Councilor Dominguez said we need to have a sound business plan for the operation. He asked if some of the line items can be moved later in the project, so the increase isn't so steep and flattens out given the opportunities for more federal monies or the things which could change. He asked if this was discussed, such as the \$3 million for priority line replacement.

Mr. Martinez said there was a lot of discussion, and started with the operational needs, and involved decision making with regard to what we can and cannot live with. He said they kept the things shown because staff believes this is what we need.

Councilor Dominguez asked what "priority line replacement" means. Is this for lines which exist, or should exist.

Mr. Martinez would like Mr. Bryan Romero to explain this.

Bryan Romero said "priority line replacement" is for replacement or rehabilitation of existing lines in various categories. He said there are a lot of 2 inch galvanized lines in the system which are considered to be a "ticking time bomb," because they become pitted and cause problems. He said there are areas where there are undersized lines for fire protection. He said this line item is to rehabilitate existing lines to bring them to fire standards.

Councilor Dominguez asked, with regard to O & M, if there is an allocation for conservation personnel, for conservation or reclamation measures, and asked how those fit into this plan.

Mr. Martinez said anything done by water conservation is directly related within the budget, and is all part of this plan.

Councilor Dominguez said there are line items in 2007-2008 and then they end -- the reconnection fee, emergency drought commercial and sale of capital assets

Mr. Martinez said a lot of that was carryover from the previous FY.

Councilor Dominguez asked if there is any way to generate revenues from these particular line items.

Mr. Martinez said if there was direction or new policy, revenue could be generated, but these have been eliminated. He said the scrap sales are related to the sales of scrap by the Water Division., and is a source of revenue, although it can't be predicted.

Councilor Dominguez said the White Paper says, regarding the need to raise rates now, "The City of Santa Fe hasn't had a natural water rate increase since 2003, because of the City Council efforts to keep rates low for customers." It also says, "In 2002, the consultant recommended early implementation of higher rates to be adjusted on a regular basis to assure the financial soundness of the system." He wonders where we would be if that had happened. He asked, for the record, the difference between a water rate increase and a water rate restructure.

Mr. Martinez said, "The way I understand it, a water rate increase is an increase to the current rate structure that you currently have. A rate structure in itself, is intended to make a cost of study for all the users that are out there, and it comes back with a revenue neutral approach to what the customer should be paying for their actual use. So, basically you should have a cost of service study first, then you have a rate structure and then you implement your rate increases based on that rate structure. This was done, maybe backwards, but that's the way it should be done."

Councilor Dominguez said the rate restructure does, to some degree have an impact and could be an increase to some people.

Mr. Martinez said it could be an increase to people who may not have been paying their fair share at the time that the cost of service analysis was done.

Councilor Dominguez said the rate restructure we just passed hit others beside that.

Mr. Martinez said it probably hit some of our customers harder than others. Again, the intent was to remain revenue neutral which it did, but it impacted different customers differently.

Councilor Trujillo asked about the Rio Tesuque Offset Project.

Claudia Borchert said that falls into the category of projects which are required by some sort of federal or state mandate. In this case, it is a federal Court case – Aamodt. She said the City, as a party to Aamodt has agreed to work with the Pueblo of Tesuque to deliver some water to the Rio Tesuque. This agreement is still under negotiation and hasn't been brought to the Council. Staff estimates it will cost about \$1 million to implement it – to offset the impacts from the northwest well and the Buckman wells on the Rio Tesuque with wet water, rather than purchasing and retiring water rights. She said it is moving through the federal system and being signed by the feds and it will be on a fast track as soon as that is done, which should be any day now.



Councilor Trujillo asked, with regard to the Hospital Tank for replacement and improvement, if this is the tank which was leaking which was discussed at Public Utilities.

Mr. Martinez said this is correct, but the intent of the line item isn't to reline or repair the tank. He said there is a 30 foot vault that we would like to rehabilitate – basically it is to provide safety for the waters and it is to take away a confined space entry issue. It has nothing to do with the lining of the tank.

Councilor Trujillo asked how many water storage tanks the City has.

Mr. Martinez said there are six tanks and it will cost \$500,000 to paint each of the tanks, noting some have never been rehabilitated or painted or such. At some point, we have to do the required maintenance.

Councilor Ortiz said he has questions on the White Paper he can ask if it is going to be included as a part of the plan.

**Withdrawal of the Friendly Amendment:** Councilor Chavez withdrew his friendly amendment to make the Memorandum and White Paper part of the plan. **The maker agreed with the withdrawal of the friendly amendment.**

Councilor Chavez thanked Mr. Martinez for his work on both position papers, and encourages him to do that as direction to staff.

**Clarification of the motion:** Councilor Wurzburger said the City Clerk said two votes were needed, so this Motion is to adopt G(1) Exhibit A. The proposed amendment by Councilor Dominguez will be on the ordinance.

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

**For: Councilor Calvert, Councilor Chavez, Councilor Romero and Councilor Wurzburger.**

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

**The resulting vote was a tie, and Mayor Coss cast a vote in favor of the Motion.**

**Explaining his vote:** Councilor Ortiz said, "We have done this before. We are adopting the Plan with a set of costs that are not based in reality. And as we learned on the short term rental, that exposes us to problems. We have \$20 million reported here that we do not have to pay, that we're probably not going to pay, and yet we're adopting this plan with this \$20 million in, and this is not the way that you're supposed to do things. I vote no."

- a) **CONSIDERATION OF BILL NO. 2008-61; ADOPTION OF ORDINANCE NO. 2009- \_\_\_\_ (COUNCILOR WURZBURGER, COUNCILOR ROMERO AND MAYOR COSS). 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, MULTI8-FAMILY AND COMMERCIAL CUSTOMERS OF THE CITY'S WATER SYSTEM. (GARY MARTINEZ) (Postponed at the January 14, 2009 City Council Meeting)**

No action.

- b) **CONSIDERATION OF BILL NO. 2008-66; ADOPTION OF ORDINANCE NO. 2009- \_\_\_\_ . AN ORDINANCE AMENDING CHAPTER 25 SFCC 1987, EXHIBIT B, WATER RATE SCHEDULE 1; INCREASING THE MONTHLY VOLUME RATES AND MONTHLY SERVICE CHARGE BY 10.3% PER YEAR FOR FIVE YEARS FOR RESIDENTIAL, MULTI8-FAMILY AND COMMERCIAL CUSTOMERS OF THE CITY'S WATER SYSTEM. (GARY MARTINEZ) (Postponed at the January 14, 2009 City Council Meeting)**

No action.

- c) **CONSIDERATION OF BILL NO. 2008-67; ADOPTION OF ORDINANCE NO. 2009- \_\_\_\_ . AN ORDINANCE AMENDING CHAPTER 25 SFCC 1987, EXHIBIT B, WATER RATE SCHEDULE 1; INCREASING THE MONTHLY VOLUME RATES AND MONTHLY SERVICE CHARGE BY 9.153% PER YEAR FOR FIVE YEARS FOR RESIDENTIAL, MULTI8-FAMILY AND COMMERCIAL CUSTOMERS OF THE CITY'S WATER SYSTEM. (GARY MARTINEZ) (Postponed at the January 14, 2009 City Council Meeting)**

No action.

- d) **CONSIDERATION OF BILL NO. 2008-68; ADOPTION OF ORDINANCE NO. 2009-2 . AN ORDINANCE AMENDING CHAPTER 25 SFCC 1987, EXHIBIT B, WATER RATE SCHEDULE 1; INCREASING THE MONTHLY VOLUME RATES AND MONTHLY SERVICE CHARGE BY 8.20% PER YEAR FOR FIVE YEARS FOR RESIDENTIAL, MULTI8-FAMILY AND COMMERCIAL CUSTOMERS OF THE CITY'S WATER SYSTEM. (GARY MARTINEZ) (Postponed at the January 14, 2009 City Council Meeting)**

Councilor Wurzbarger moved, seconded by Councilor Calvert, to adopt Ordinance No. 2009-02, which is Scenario #4, Item G(1)(d), increasing the monthly volume rates and monthly service charge by 8.20%, including the two amendments which were approved at the Finance Committee as follows:

1. On page 17, line 3, after the word "year" insert the following: "Any federal or state funds that are received for water projects covered in the water division's 10 year plan adopted by Resolution No. 2009-17 shall be used solely for reducing the rate increases that are planned for the four years subsequent to adoption of Ordinance No. 2009-2. None of these funds shall be used for plan expansion;" and
2. On page 17, line 8, insert the following: "**REVIEW:** Upon adoption of Ordinance No. 2009-2, the water division shall immediately begin a rate structure review. As part of this review, a recommendation shall be produced regarding a third tier for excessive use of water for Rate Schedule 1, an expansion of the poverty exemption set forth in 15-1.3 SFCC 1987 for low income customers, and an increase in the utility expansion charge set forth in Rate Schedule 8. The review and recommendation shall be completed as soon as possible in order to be in place for the May 2009 billing date."

**Friendly Amendment:** Councilor Chavez said there is another amendment sheet dealing with water rates which also creates a new Section 15-1.3, which provides, "Poverty Exception. Qualified customers shall be exempt from the following monthly residential sewer assessment: refuse, residential service charge for water if individually metered. He said, "It reads on. Significant change is that the household's gross annual income would not exceed, instead of 120%, it would be 200% of the most recent federal poverty guidelines issued by the U.S. Department of Health and Human Services. This speaks to those ratepayers that are on a fixed or limited income. And I certainly would not use 'poverty,' because many of these people are seniors. They raised their families. They own their homes. Many of them built the homes that they live in. I would say that they are financially challenged for many reasons. So, I would propose that we change that language and that it would read 'income verified exception.' And we would use the 200% of the most recent federal poverty guidelines, and that this section would be reviewed and updated on an annual basis, so that we are current with the most recent guidelines that are issued by the U.S. Department of Health and Human Services. So, I would ask that this be considered as a friendly amendment. And, actually this is introduced by Mayor Coss, but I wanted to speak to it and add the language changes."

**Discussion on the Friendly Amendment:** Councilor Wurzbarger understood that in putting this amendment together which went to Finance, that we were going to leave it generic and weren't going to yet address whether it is 120% or 200%. We were directing staff to come back with a number before May.

Responding to Councilor Chavez, Councilor Wurzbarger said. "Well, we could say expansion of the poverty exemption to include financially challenged individuals in the

community... I think that picks up the... without the percentage. I just felt that we needed to further work on the percentage, but I may be wrong."

Councilor Chavez said, "Well no, I think you're right, and the message that we want to send, I think, in looking to do more research is that we want to cast that net just a little broader, so we can capture more of our customers that might need that financial assistance. That's why poverty exception just didn't seem to fit right."

Mayor Coss said, "I had just dropped the 200%, raising it from 120% to 200%. But, I think the Finance Committee action asked for that to be reviewed in a little more detail before we act on it. So, I'm okay... I'm just trying to be sensitive to Councilor Chavez's position. You know, poverty is one thing in this country, and low income is something else."

Responding to Councilor Wurzbarger, Jeannie Price said, "Well, I think the way it's written by the Finance Committee, we are referring to the existing expansion of the poverty exemption. I mean that's the name of it currently, and we are using the words 'for low income customers.' So, I think the low income implies broader than poverty."

Councilor Calvert said, "I think the poverty exemption is technically how it is referred to in our ordinance right now. So, I think you have to continue that language and you can amplify the description to however you want, but it's the language..."

Councilor Wurzbarger said, "For the process we're about to go through in doing this, we can be more sensitive to the language and also a different number. Are you okay with that."

Councilor Chavez said, "And language... that would be fine."

Councilor Wurzbarger said this is the intention.

Councilor Chavez said, "And I think 'low income' would include those that are on a fixed income as well."

Councilor Wurzbarger suggested changing it to "low/fixed income."

**The amendment was friendly to the maker and second as discussed above, and there were no objections by the other members of the Governing Body.**

**Continuation of Discussion on the Main Motion, as amended.** Councilor Dominguez said, with regard to Amendment No. 2, months ago Mr. Martinez was adamant about not being able to do this immediately, and that he needed to have this time period to be able to make that analysis. He asked Mr. Martinez his position, as the person who is going to have to implement this.

Mr. Martinez said, "Councilor Dominguez, staff will do whatever is required, but it would be a little difficult to bring the rate analysis by May 2009."

Councilor Calvert said the language provides that the total rate structure analysis will begin immediately, but it doesn't say the whole thing will be done by May 2009, but an attempt will be made to make certain minor adjustments by that date. He said the total rate structure analysis review that we're asking to begin immediately might take years, because it did last time.

**Friendly amendment:** Councilor Dominguez said he isn't necessarily talking about the debate. He said, "I'm talking about whether or not... I think that we need to establish that time frame and say that after three years, or whatever staff feels comfortable with... that the analysis be done and that it be presented to the Governing Body, not that we have to have... because it's the broad bureaucracy that makes it so difficult. But, I'd, at least, make it a little bit more definitive and say that it be done in three years. **The amendment was friendly to the maker and second, and there were no objections by the other members of the Governing Body.**

Councilor Bushee said she wants to be clear about what we're passing. She said when she attended the Finance Committee Meeting, Dave Millican indicated to her that very general generic language, "and suggesting as you're about to go out and apply for bonds that you really can't upset the apple cart in terms of suggesting a new tier or any of that. So, I think this language that was just passed out tonight is much more general and maybe you can have Dave reiterate what he said at that Finance Committee meeting in terms of kind of messing with things as you go out to pass bonds. Am I incorrect as to what you said to us that night."

Mr. Millican said the concern he would have in making the bond rating presentation to the bond rating agencies, is if we had in process such significant changes to the rate and rate restructuring that it could throw a lot of uncertainty into the amount of revenue that we would be likely to collect. He believes we will have to think through that as we consider rate restructuring possibilities when we get into those.

Councilor Bushee said there are proposed amendments to it.

Mr. Millican said, "I'm trying to keep track of that. I think that will be part of the Council's decision making process, part of advice from staff, as you look at that information you get regarding the restructuring. But, I would say, that if we're contemplating something that is intended to dramatically increase conservation, which I think is something... that the long term objective of the Council has been... that could be a problem in terms of issuing the debt to build Buckman."

Councilor Bushee said Mr. Millican has seen the amendment language, which generally says "to begin a review and a recommendation shall be produced."

Mr. Millican said this is non-threatening language.

Councilor Bushee doesn't believe we can tinker with the poverty exemption, because that's recognized language, and suggested perhaps we could add the "kinder, gentler" language later.

Mr. Millican said the levels discussed so far aren't likely to result in material changes in the revenue stream.

Councilor Bushee said she doesn't recall the City sitting on rate increases, other than the Council was told we were going to restructure "and it would take forever and it took forever. And that's really where it stalled out any other consideration. We were so busy waiting for the next how we were going to do the tiered rate system, which I think has been a success to some degree. And I don't think you also mentioned in the white paper the 2005 gross receipts tax, but maybe you do under a different section."

Mr. Buller noted that is on page 3.

Councilor Ortiz said, "We are approving a rate increase to pay for the Buckman Direct Diversion Project that we need to pay for, and if it is half of the expected cost, then it seems to me likely that what we actually need to adopt now is half of the expected increase. And, I believe, just like what we did in eighty-five, just like we did in ninety-five, when some of you were here and some of you were not, we'd go out on a referendum and ask for the voters to approve spending this additional money on the water system improvements that need to happen. I think that the more equitable way of doing that, is to impose that, not on the existing rate base, but to impose it upon, particularly those areas that are going to be the biggest tax to our water system, which are those areas that are coming in under the Annexation Agreement that we signed with the City and the County. I don't know if that's legal or not. But, I do know that whatever this white paper says, and whatever people try and say on this Council to justify their vote, that Direct Diversion Project is going to be the place where development, big development, parks their water rights, water rights that they're required to bring into the City. And those water rights that they park at the Buckman Direct Diversion, that they're going to utilize because they're required to bring in the water, they're going to benefit from the construction of that Direct Diversion Project. They're going to contribute their portion when they come on line. But, they're going to have the advantage of the existing rate base of us paying for that system to be built. And I think that is imminently unfair and imminently inequitable. And when we agreed to that Settlement with the County, we absorbed all of those properties that would otherwise have been coming in on the County side of the Buckman Direct Diversion. And that to me, is something that we need to consider when we're looking at this rate increase.

Councilor Ortiz continued, "I think that it is more equitable to bifurcate the two different sides of our 10-year plan that we just approved. I think that if the immediate and pressing need is on Buckman Direct Diversion, then we need to fund that rate increase. And, I'm prepared to support a rate increase that is commensurate with the cost for paying for the Buckman Direct Diversion. If Buckman Direct Diversion is roughly 50% of that 10-year plan, then I think the rate increase that we should be proposing is 4.1%, not 8.2%, strictly for Buckman Direct Diversion. And I think that we fund the rest of the 10-year plan with a referendum – going out to the public and asking them to approve a property tax increase to pay for the water system improvements that is the only way that there can be some equity derived from this particular scenario."

**Friendly amendment:** Councilor Ortiz asked to amend the motion to bifurcate the cost of the Buckman Direct Diversion Plan, and that we fund a 4.1% increase over five years, strictly

to cover the Buckman Direct Diversion. **The amendment was not friendly to the maker.**

**Councilor Ortiz moved, seconded by Councilor Trujillo, to amend the motion to bifurcate the cost of the Buckman Direct Diversion Plan, and that the City fund a 4.1% water rate increase over the next five years which shall be used strictly to cover the costs of the Buckman Direct Diversion Project.**

**Discussion:** Councilor Ortiz said, "The reasons for the Buckman Direct Diversion, if you were to believe some of these white papers, we are being told that it is meant to rest our aquifer and it is meant to recharge our aquifer. In fact, there's even some promises being made, or maybe political calculations being made, that we are going to pay for the watering of the Santa Fe River as part of this. All of those things are not true. All of those things are not what the Buckman Direct Diversion Plan is going to do. And, I think that what it needs to be, is we need to be open and honest with the public, and realistically say, we're in this project because we're required to be in it with the County and with Las Campanas. "

Councilor Ortiz continued, "And, the tax, again being touted in this white paper, it was a tax that is in large part funding the County's portion of the Buckman Direct Diversion Project and we're getting a small amount of those proceeds. But we, as City taxpayers are paying for the increase in the County property tax which is going toward the County side. And, we are being asked to foot the bill on the rate side. For City taxpayers, that is inequitable. That is unfair. This diversion project is going to.... it is going to be used for future development which is going to occur on the fringes of the City limits. And if anyone on this Council says that it's not, they obviously don't know where those water rights are going to be parked. Because, right now those water rights are being parked in our Buckman well field and can only be used once the Direct Diversion comes on line. And when the Buckman Direct Diversion comes on line, there is a whole host of development on the County side, and I think on the City side that are going to utilize that diversion project in order to access their water rights. We should be cognizant of that. We need to be open and honest with the public about that."

Councilor Ortiz continued, "And, do we want to continue this existing rate base. Do we want to continue to front that particular cost. I mean, I think that is... for those of you who have stood on, for years, this principle that new development should pay it's own way, well to support just a blanket rate increase is to go against your principles, and to go against, really, what you've talked about and really fought for years. I think that's the wrong move. I think that we need to pay for it now. I think it's 4.1% and not 8.2%. I think that then, when we go to the public and ask them for a referendum, then we can get the additional cost through property tax, by the way, a much more secure revenue stream that will allow us to go out and still issue bonds based upon property, much like what we did with our Parks Bond that we just passed. We passed the property tax... the public passed the property tax of \$30 million. I'm confident that the public, if presented with true and straight facts, would pass an increase if it was related, fruitfully, to what the true costs are of our water system improvements. I think that's the approach that we need to take, and I think that this approach – bunching it all together – it's not courageous and it's not even wise. It is a reaction that's in response to information that's being brought to us by staff. And I think that we have a higher obligation than just rubber-stamping the rate increase that's before us."

Councilor Bushee asked Councilor Ortiz to restate the motion, with the point of clarification that he wants to separate the two pieces of funding and go for a referendum on a property tax increase, or just whether or not they want to fund more things."

**Restatement of the Motion to Amend:** Councilor Ortiz said, "The amendment is to reduce the amount of the increase from 8.2% to 4.1%, that's the motion. I have an amendment that asks for a referendum to ask the public whether or not they would support a property tax increase to fund the water system improvements.

Councilor Bushee said she's looking for creative, but she is unsure she heard it in the motion.

Councilor Wurzbarger said property tax is creative if you're willing to do that.

Councilor Ortiz said, "Let the amendment get passed out and I'll add it to the motion."

**Reiteration of Clarification of the Motion to Amend:** Councilor Ortiz said, "My motion is to reduce the amount of the increase from 8.2% to 4.1%, to fund the immediate, pressing need to finish the City's contribution to the Buckman Direct Diversion. "

**Amendment to the Motion to Amend:** Councilor Ortiz said, "In addition, I would also ask that Paragraph 1(b) also be included on page 17, line 7, that the following language be inserted:

*'Upon adoption of Ordinance No. 2009-02, City staff shall take all necessary steps to prepare a referendum to be placed on the regular municipal election [ballot] for March 2010, that seeks a property tax increase in an amount sufficient to complete necessary improvements to the City's water infrastructure, including all aspects of the City Water Division's 10-year plan.'*

**Clarification of the Amended Motion to Amend:** Councilor Ortiz said it's just Paragraph 1(b), the others were different scenarios where I thought..." Councilor Bushee asked if his motion is 1(b). Councilor Ortiz said it is just 1(b), and cutting the rate increase in half is part of the motion.

**Continuation on the Discussion of the Amended Motion to Amend:** Councilor Trujillo said he believes it would be good to sever. He said the entire community thinks this is all about the Buckman Diversion, noting \$100 million is our share of the Buckman. He believes 4.1% is a better deal, and he supports going out to the voters for a referendum. He said the public stepped up to the plate for the Recreation Bond, and believes it will do the same for water system improvements as well.

Councilor Trujillo said we have a fund and we want the river to run. He said a lot of people have told him, in view of this increase, they will no longer contribute to that fund.



Councilor Trujillo said, with regard to the motion, "So, if we were to receive federal funding from the stimulus, we would immediately implement it."

Councilor Wurzbarger asked how soon we could lower the rate if we receive funds.

Mr. Millican said, " Depending on the conditions attached to the money, in other words is they let you withdraw your funding and replace it with their funding, as opposed to just add their funding, because, they're trying to increase spending as opposed to offset spending. They are looking for shovel ready projects and Buckman is in process, so it's as shovel ready as it gets from that standpoint. And implementing the rate increase would still be the same kind of 60-90 day issue. The difficulty you would have is you may, by the time it's available, already have issued debt and have a number of other issues that you are going to have to deal with from a financial management scheme. Because, if the debt's issued with call protection, then calling that debt might be difficult. But you would certainly re-evaluate the rates, probably the model that's built now would allow you to plug the cash in and reevaluate rates, so you could take action fairly quickly.

Councilor Calvert said it depends on the timing of when have to start the rate increase, and when we get the funds. He said this is the reason he suggested applying it to the remaining four years, because the Congressional Delegation has indicated it might be summer or later before we actually get those funds.

Councilor Trujillo said we have discussed what happens once we pay for all of this, and that perhaps the City will go back to what it was paying originally, and asked if you think that will happen.

Councilor Wurzbarger said it depends on who's "setting up here."

Councilor Calvert said part of it is for the Buckman construction, and part of it is operation and maintenance, so it will be a continuing new expense. He said the ongoing expenses for the existing system won't go down. A part of it will go away.

Responding to Councilor Wurzbarger, Mr. Carpenter said \$100 million is the correct number for the Buckman.

Councilor Wurzbarger asked if there are other machinizations which would result in a number other than 4.2% as opposed to, for example, 4.7% – are the assumptions correct to split it in half.

Mr. Millican said, "One of the difficulties we have with the idea of splitting the rate exactly in half, is that of the \$200 million that is going to be spent during the course of the 10-year plan, the entire Buckman expenditure will be made between now and 2011, but only 20-25% of the non-Buckman plan would be spent. So, we would actually have to look at a rate model that got us high enough, and we would have to borrow money to finish Buckman. So, we'd have to look at rate increases that would assure that we could borrow enough money to complete Buckman, so I really can't give you an immediate answer."

Councilor Wurzburger said then it's not a real, absolutely clear, linear 4.2%.

Councilor Wurzburger said she has heard a lot tonight in citizens' comments, as well as from Councilors, referencing that we waited and didn't do things in the past, and so now we're really talking about waiting for two more years to do things we need to do right now with the current system. She asked if this is correct.

Councilor Ortiz believes that is correct, commenting that is the plan we just adopted in the water rates plan. It basically deferred all capital improvements in the water system.

Councilor Wurzburger said she just heard from staff that it is 25% now, and it was not all 100% Buckman.

Councilor Ortiz said, "Look on the Plan that you've just adopted, Councilor Wurzburger, and you can see that the assumption that we took when we adopted this particular Plan, Exhibit A, was we deferred basically all significant capital improvements to the City water system out two years, and that we're paying for Buckman as the big majority. It is Buckman that is the most pressing."

Councilor Wurzburger said Buckman is the most pressing, but she didn't recall that everything was deferred for two years, and asked if this is correct.

Mr. Martinez said other than Buckman, there is still one important project which is the Canyon Road Water Treatment Facility and \$8 million for the first year of that is included.

Councilor Wurzburger said then that wouldn't be in there if we did a true 50-50 split, and the \$8 million would have to be added.

Councilor Bushee asked where the \$100 is included as a line item.

Mr. Martinez said it is \$93 million, and Table 1 displays the \$93,383,671 for the Buckman.

Councilor Bushee said then you are close to the \$100 million when you add the \$8 million for the Canyon Road Project.

Councilor Wurzburger said when we are looking at the options, her own personal bias is that people are so nervous about losing their job and their home, that a property tax increase is more threatening than a water rate increase. She said this is her perception in talking to people about property tax paying for this.

Councilor Chavez said he doesn't see a property tax increase any less of a burden than a water rate increase. He said Councilor Ortiz is concerned about the new growth areas we have identified, and suggesting that the new growth and those people pay a larger share than what we currently are paying now. He said if he wants to shift the burden to this growth, that it will be shifting the burden to our sons and daughters who might want to stay in Santa Fe. He said whether it is an increase in water rates or in the property tax, that is just in the course of

doing business. He said the cost for acquisition of water and the distribution system will not go away and it should keep up with inflation. He sees no reason to shift that burden, to wait any further or to capture it in property tax, and it gets us no closer and is a step backward.

Councilor Dominguez said, then any funds we would get from the feds would go directly to reduce the 4.1%.

Councilor Ortiz said that amendment would stay in place.

Councilor Calvert said he is somewhat confused with Councilor Ortiz's discussion. He seemed to be arguing against Buckman because he thought it would favor future growth, but yet the part he's willing to pay for right now is the Buckman, but the part for the entire community would have to wait. He said he would suggest that we already have mechanisms for ensuring that future growth pays its fair share which will come when we do the full rate structure and the full UEC analysis. He said we can ensure that growth pays for itself with the mechanisms we currently have by updating the UECs. He said we don't know the extent, but we do know the UECs are reduced. We can give it a conservative bump in the short term and fully adjust it when we do the full rate restructure analysis.

Councilor Ortiz said to explain the amendment and answer some of the questions which have been raised, he can give three reasons why his proposal is more equitable than the rate increase:

- (1) From an open and transparency perspective, when we purchased the water system in 1995, we asked voters if they wanted the City to issue revenue bonds to acquire the water system. There was a lot of discussion and true number crunching and the public decided what to do with its water system. He believed this was a good thing.
- (2) The second relates to equity. He said the rate increase rests with the existing ratepayer base. He said if we were to do this through property tax, property owners on private wells, not using water, but get a benefit from the aquifer being rested, have to pay for the cost of the improvements to the system just like everyone else. He said some of these homes are in a higher range of property tax. So, there is an equity among the different residents of the City.
- (3) He said we have been placed in the situation of paying immediately for a big ticket item, and that can't be glossed over, and we take that seriously. He said this doesn't mean all of the other costs – anything in the operation and maintenance – have to be paid with the rate increase. He said our most immediate and pressing obligation is the BDD most pressing. He said \$100 million is less than \$200 million, and it costs less to issue \$100 million in debt. He said it may not be linear, but it will be less than 8.2%.

Councilor Ortiz said Mr. Millican has said if we are to get federal funds, those funds will go for shovel-ready projects which have an immediate economic impact. He said we have been given information that the BDD project has the ability to help our local economy. It is unlikely

the government would provide these funds to offset funds, and would give money in advance of that.

Councilor Ortiz said, "This idea that this needs to happen now, that we've taken too long, that we need to have this done now and we can't continue to push off this decision, is not necessarily true, especially when it comes to receiving federal stimulus money. I asked the City Manager for the request that we gave to our Delegation for what our proposals were. And, the letter that I got from him, was the generic letter that came from the Conference of Mayors. We have yet, as a City actually asked our Delegation to ask the federal government, can we get some of this federal money in."

Councilor Wurzbarger said, "That's the only thing you've said with which I disagree, and I would like to at least have that clarified if you don't mind. Rick would you please come clarify that, with respect to what our actual application was and how we're monitoring it with our lobbyist and so forth."

Mayor Coss said this is regarding the request for federal stimulus money.

Mr. Carpenter said, "There was a request made from the Mayor's Conference, but there was also a separate letter that was sent, signed by you, Mr. Mayor, requesting from between \$10 and \$15 million. It was sent to Senator Bingaman's office asking for his assistance in federal stimulus money is well. Is that what you are referring to Councilor."

Councilor Ortiz said he stands corrected, commenting that he didn't have that information. He said these are his reasons for getting the smaller rate increase on line. He said the BDD needs to come on line, but the other stuff doesn't have to come on line, and in fact the assumption is that it is not, and questioned why a hefty rate increase and suggested a small one.

Councilor Bushee likes Councilor Ortiz's attempt at some more creative or equitable distribution of the "pain," commenting this won't be the last discussion on water rate increases, and will keep happening as we transition to the more expensive imported water from Colorado. She doesn't believe UEC charges will pay for growth, and we need growth to impose those fees. She said the projections are for reduced UEC fees, even if the rate is increased, although she believes this needs to be done.

Councilor Bushee said she can support Councilor Ortiz's proposed rate increase. She said she did her own study, and the City per capita use is 100 gallons per day per person, and only one other community Jemez Springs with 100 users, charges more than Santa Fe. She said we are three times higher than Las Cruces who uses 229 gallons of water a day. Artesia pays the lowest water rates, but they use 344 gallons per capita per day. She said Las Campanas used 500 gallons per capita per day.

Responding to Councilor Bushee, Mr. Martinez said the use for Las Campanas is listed in the materials in the packet at 500,000 gallons per year, with the assumption that they're building their own treatment facility along with BDD. At that point, they will be utilizing their own water source.

Councilor Bushee asked how we can send the same conservation message to places like Las Campanas which is using our water. She asked how to distribute the pain. She doesn't think the same model we keep coming up with each time is the answer. She said she has been on the Council since the beginning of the water company, through the time political courage was really needed, and there were issues of billing. She said nobody on the Council is against the BDD and getting us off our groundwater supply and making it more sustainable. She said her decision is how to equitably distribute those costs, and the scenarios presented aren't original in thinking. She said we were told we had to do the JAN Lease, and it appears that was a costly mistake. She noted we subsidized commercial rates with residential rates "forever." We sent an inverse conservation message. She said Albuquerque's commercial rates, however, are three times higher than ours. She is concerned that "we can't just sorta shoot from the hip on 4.2, 8.1," but she can't support the other scenario. She is concerned that we have been told the stimulus funds would only reduces the rate by one-quarter. She will support Councilor Ortiz's motion to get more creative in distributing the costs.

Councilor Romero said when the issue went before the voters to purchase the system, "there was the fear of God put into us also." She said right now PNM is requesting an 18% increase in electric and/or gas rates. She said when the water system purchase went before the voters, we thought it was great and we could control our destiny. She said we should have known that we were "purchasing a used car that had a lot of infrastructure issues, so we weren't buying a brand new system that we were going to walk off a lot with. We were purchasing a used system that needed a lot of work." She said here we are ten years later with a system that needs a lot of work. She said if this were to go to the voters, it's not a "feel good" thing like a Park Bond. She said her sense is that the voters wouldn't approve a rate increase. She said she has received a lot of emails from the public and people really don't understand rate structures, bonding, the issues of the BDD, and linking a variety of contamination issues from Los Alamos. She said there are a variety of misperceptions by the public, and she believes a vote of the public wouldn't be the wise way to proceed.

Councilor Romero said comparing our water rates with others around the State or the Southwest isn't a fair question. She said if we compare ourselves to other municipalities or states, the answer is dependent on whether they own their own system, their infrastructure. She said the State Engineer's study done in 2006 by UNM, indicates Santa Fe isn't that different from other systems. That study compared water systems from smaller municipalities and then other systems. She said as a municipality, Santa Fe tries hard to conserve water and we could do better. She doesn't think it's fair that we compare to this city or that city, when we have a completely different scenario. She encouraged people to look at the State Engineer's study. She said she is prepared to vote and move forward soon.

Councilor Calvert said conservation is a double-edged sword and we encourage it to keep our water supply sustainable, so we build that into everybody's daily habits. However, it doesn't create revenue, and actually takes away revenue. He said what conservation will do ultimately could avoid a project like Buckman. However, we are past that. Some of the others with lower rates aren't conserving as well as we do and are getting more revenue, but some day they will need to do an infrastructure improvement. So, you have to look at all of the factors in total. He said the City encourages conservation to keep our water supply sustainable, but it doesn't pay the bills.

Mayor Coss said he thinks everyone supports Buckman. He said, "And I want to get it on the record very cleanly, that we are all part of the problem of groundwater mining. It's not just growth, it's not just in people. It's all of us that drink water here whether we are conserving or not. We are mining the aquifer, and this project was always intended to stop that. There was a claim that there's no proof of that. It is in the 40-year Plan, it is in the NEPA documents, and it's been in the plan for a long time. And, I just have to object to the characterization that we're rubber-stamping staff work. You know, as demeaning as that is to staff, and as demeaning as that is to us, you know we've been working on this since at least 2002 when we thought we were going to run out of water in 2002 and we wanted emergency wells, we agreed that we would pursue the San Juan/Chama diversion project as a condition of approval of those wells. And this discussion has been ongoing before then and since then. And, I find it really strange that we would object to a draft, narrative, white paper that, gee, we only saw at two o'clock, but now we should vote for something that we saw at ten o'clock, when this has been in front of Councilor Wurzbarger's committee and Councilor Ortiz's committee since at least June. You know, you can propose a property tax and not do the last four years of the increase. There's a lot of things that you could do, but to propose it at ten and then accuse all of us of just rubber-stamping staff's work, and denigrating the last ten years of work in the community on the water company.... You know, I don't support this. I don't know if I'll get to vote, but I don't support this amendment. I think we need to act. We need to act strongly. We need to move forward. Maybe next year we can ask the public, 'Do you want a water rate increase or a property tax increase.' But, tonight we need to move forward."

**The motion to amend was defeated on the following Roll Call vote:**

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

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

**The resulting vote was a tie, and Mayor Coss cast a vote against the Motion.**

**The main motion, as amended, was approved on the following roll call vote:**

**For: Councilor Calvert, Councilor Chavez, Councilor Romero and Councilor Wurzbarger.**

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

**The resulting vote was a tie, and Mayor Coss cast a vote in favor of the Motion.**

**Explaining his vote:** Councilor Chavez voted in favor of the motion after clarifying that these are the amendments which are in the packet from the Finance Committee; and we are

expanding the property exception and it's not the same as before and it will include low and fixed income customers on our system .

**Explaining his vote:** Councilor Dominguez thanked the staff for the work they have done and the Council as well, saying he has no animosity toward anyone. He said this is an issue we have to deal with. He spoke about people who lose their jobs, or those who lose their homes, and those who are ill who don't meet the poverty level. He said he really wants to support this motion for all the reasons articulated this evening, but the reality is that there are people who are really struggling. He said there is never a good time to increase rates, but there is a bad time to raise rates, and this is one of those bad times, so he votes no.

**Explaining his vote:** Councilor Ortiz said, "There is a pattern that we have set in place in the past three years, in which we refuse to actually look at and cut costs, and we instead pass those costs on to the taxpayers, in this case, it's the ratepayers. And yes, ten years ago this system was in a shambles, and we almost defaulted on our bonds and we had to raise rates in order to save ourselves, and we loaned ourselves a chunk of money and we've been doing all of this from up here, without ever going back to the public, the same public that we entrusted to actually purchase the water company. We take this position that now the public can't decide for themselves what's more important and how to spend their resources. And I think that what you're seeing here is, you're seeing again that particular act of just a bare majority of the Governing Body who believes that they know what's best for everyone else. And that they believe, even in these historically bad economic times, that people are going to be able to absorb this cost, and that I think is a shame. And I think that that there's other ways of doing it. In fact, back in June and July I asked this administration to come up with different options and they did nothing except come up with different variations of the same idea, which is raise rates on people. And that's all of the information that I've received. And so, because of that, I vote no."

**Explaining his vote:** Councilor Trujillo said, With the way the economy is today, this is the wrong time to be doing this. I'm going to vote no. And I just want to let you all know the House passed the economic stimulus, so let's see what happened.

- e) **CONSIDERATION OF BILL NO. 2008-69; ADOPTION OF ORDINANCE NO. 2009- \_\_\_\_ . AN ORDINANCE AMENDING CHAPTER 25 SFCC 1987, EXHIBIT B, WATER RATE SCHEDULE 1; INCREASING THE MONTHLY VOLUME RATES AND MONTHLY SERVICE CHARGE BY 7.20% PER YEAR FOR FIVE YEARS FOR RESIDENTIAL, MULTI-FAMILY AND COMMERCIAL CUSTOMERS OF THE CITY'S WATER SYSTEM. (GARY MARTINEZ) (Postponed at the January 14, 2009 City Council Meeting)**

No action.

**f) OTHER OPTIONS FOR IMPLEMENTING THE WATER DIVISION 10 YEAR FINANCIAL PLAN. (Postponed at the January 14, 2009 City Council Meeting)**

No action.

*There was a break from 10:39 to 10:53 p.m.*

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Mayor Coss said the Council will now hear Items G(2), (3), (4), (5), (6) and (7).

Councilor Calvert said in the packet it appears that G(2) stands alone and G(3) through (7) are together, and asked Mayor Coss if he is including Item G(2) as well.

Karl Sommer said it would be easier for him if the Council could hear Item G(2) the variance request separately from the other items regarding Las Soleras, because if it is approved by the Council, the Applicant will withdraw its request for a variance.

Mayor Coss said, due to the lateness of the hour and the need to make the presentations, we will do the Las Soleras presentations this evening and continue the public hearing, discussion and action for these items as the first order of business at the meeting of February 11, 2009, commenting that we could hear G(2) separately from the others now. .

**Councilor Ortiz moved, seconded by Councilor Wurzbarger to hear Item G(2) separately from Items G(3), (4), (5), (6) and (7). The motion was approved on a voice vote, with Councilors Bushee, Calvert, Chavez, Dominguez, Ortiz, Romero, Trujillo and Wurzbarger voting for the motion and none against.**

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**2) CONSIDERATION OF BILL NO. 2009-65; ADOPTION OF ORDINANCE NO. 2009- 3 (MAYOR COSS AND COUNCILOR CHAVEZ). AN ORDINANCE AMENDING SECTION 14-4.3(D) SFCC 1987, TO CREATE A HOSPITAL ZONING DISTRICT WITHIN LAS SOLERAS AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY. (TAMARA BAER AND JEANNE PRICE)**

A Memorandum dated December 4, 2008 for meeting of December 10, 2008, with attachments, to the Governing Body from Jeanne Price, Legislative Liaison, is incorporated herewith to these minutes as Exhibit "6."

Jeanne Price presented information regarding this matter from Exhibit "6," noting there is an amendment from staff in the packet which amends the bill regarding the maximum floor area ratio. Staff is proposing a floor area ratio maximum of 1.8, rather than the lot coverage. She said maximum floor area ratio is a better way to address a multi-story building like the hospital that is proposed.



## **Public Hearing**

### **Presentation by the Applicant**

**Karl Sommer** said the whole purpose behind this request is to fill a gap in the City's Code that does not address anything other than the existing hospital facilities as an overlay zone. He said what we are finding is that this doesn't work on an ongoing basis. He said the tract has been purchased by Presbyterian Health Care Services and they are in accord and in support of this, and the ones which would be restricted. He said they filed their application in the next case with a variance request, which goes away if this is approved and this zone is approved. It brings and narrows the uses for the tract owned by Presbyterian to the kinds of uses that have been represented to staff and to other bodies that they propose to use on this property. He said they will answer questions as to how it fits in the plan, noting the owner of the property is here to answer any questions. He understands they are in support of this amendment to the Code which would obviate the necessity for variances.

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

**Councilor Chavez** moved, seconded by Councilor Romero, to adopt Ordinance No. 2009, with the amendments, and an amendment from the EZA as follows:

**"Prior to the submittal for development plan approval for each phase of development within the Las Soleras Hospital Zone District, the applicant must conduct and submit a market analysis and fiscal impact analysis that analyzes in detail the need for the proposed hospital. The market analysis shall address demand, protected service capacity and build-out; identify primary and secondary market area; estimate projected revenue and expense and also identify the scale and extent of local competition. The fiscal impact analysis shall contain an estimate of net local public costs, including capital outlay and operating expenses, and revenues attributable to the proposed project. Additionally, as a condition for and prior to the granting of development plan approval, any new hospital to be constructed within the Las Soleras Hospital Zone District must participate in meetings with the Santa Fe County Health Policy and Planning Commission, St. Vincent Regional Medical Center and all local and regional health care providers to address impacts of dual hospitals in the community;"**

**and with disclosure to the Council and the public regarding the Hospital District as it relates to St. Vincent's Hospital that his wife is employed by St. Vincent's, and the only conflict of interest would be her employment.**

**Discussion:** Mr. Sommer said he remembers this language from the conditions of approval and he has asked the representative from Presbyterian Health Care Services about that, and since it doesn't add any additional burden than they already have in the zoning in the County, it is acceptable as a condition of approval in this zoning ordinance since it would have this singular application.

Councilor Chavez said more importantly, it helps us to identify what our health care needs are in the future and hope to address and meet those needs in a group effort.

Councilor Ortiz asked if we adopt this Ordinance it gives them the 70 ft. height automatically, even though the restriction for St. Vincent is 36 feet. He asked if this hospital will be twice as big as St. Vincent and the reason the 70 foot height is needed.

**Jim Jebson, Administrator Director for Real Estate for Presbyterian Health Care Services**, said they have purchased this 40 acres, but currently they have no plans to do any development on the 40 acres. He said they have no capital put forward, and all they've done is to purchase the property, so when the time is ready they hopefully would be ready to be an asset here. He said they probably would develop the property in 3 phases, stressing that there are no plans to do that right now. He said they would develop a clinic and some ambulatory things first. The second phase would be an additional clinic, perhaps a 24 hour ED. The third phase would be the hospital, commenting this is what everyone is concerned about. He said his guess is that it would be a lot of years, if ever, before they would build a hospital. Mr. Jebson said, "We do not want to come to Santa Fe and split this community and go through what Las Cruces went through a few years ago." He said they really are just planning for the future.

Mr. Jebson said, with regard to the question about the height variance, typically hospitals build 15 ft. floor-to-ceiling heights, and so this would be a four-story building. He said typically in the hospital on the first floor there is maintenance, the cafeteria, pharmacy, support services; on the next floor there is the ED, radiology, OR's entry way and then patient floors on top of that. He said it is must more safe and efficient to move a patient from the emergency room to intensive care and from intensive care to a cath lab. He said the hospital isn't intended to be a lot large, hopefully just efficient. He said he isn't here asking to build a hospital anywhere in the foreseeable future.

Councilor Ortiz asked why 70 feet is needed, and if the anticipation is that when you build the hospital it will be at least four floors.

Mr. Jebson said the reason for asking for that today is because they have purchased the property and made a \$10-\$15 million investment in the first and second phases. He said 15 years later when they are ready to build a hospital after making a huge investment, to be told they can't build a hospital would change their thinking, phasing and planning in the early phases. He said, "If we were going to build clinic buildings today, and detach them from a hospital, we would probably build them.... and I hate to say today... three years from now, five years from now, we would probably build them in another part of Santa Fe and buy other property. But, our intention, as we go forward, would be to put all these buildings together. And, so what we don't want to do is make an investment in property and building in the early phases, and then years from now, not be able to attach a hospital to it and master plan for that."

Councilor Ortiz asked Mr. Jebson if he is saying that you would not build your buildings on this property if you do not get this 70 ft.

Mr. Jebson said, "Probably not."

Responding to Councilor Bushee, Mr. Jebson said the height would be 70 feet – 15 ft. floor-to-ceiling for four stories and then 10 ft. of mechanical on top of that.

Councilor Bushee asked how tall St. Vincent is.

Councilor Ortiz said he presumes it's 36 feet.

Ms. Price said she doesn't know the height of St. Vincent, but the St. Vincent Hospital District that we have on the books now and that is zoned is not the hospital itself, it is the neighborhood around the hospital.

Mr. Sommer said Presbyterian made a commitment to invest in this community over the long term and they did so in an area outside the City of Santa Fe, because the land that they needed for their long term plans wasn't available in the City on the scale we're discussing. He said when they bought the property they went to the EZA and the EZC and told them their long term plans. He said before they completed the process of buying and closing on the property, they made sure that the governmental bodies which were looking at their plans told them they could have a 70 ft. height allowable and a helicopter pad. He said the annexation is now underway, and they are going to be brought into the City, they want to make sure that they have the same thing that they thought they invested in for the long term. He said he doesn't believe that they're standing here saying, well we want to speculate on the future. He said they went through this very methodically. He said they were assured by the EZA about what they were doing and it was then that they made the investment in the community.

Mr. Sommer said he is pointing this out, because he believes it is only fair to Presbyterian that they get that consideration.

Councilor Bushee said then she assumes the District 2 Councilors don't have any concerns about the helipad and the flight pattern. *There was non-verbal communication that they don't have concerns.*

Councilor Romero said to be clear on the flight patterns, she believes St. Vincent has worked hard with the surrounding neighborhood about flight issues. She attended a meeting several months ago to talk with the CEO of Christa St. Vincents. She said neighbors were there as well and it was a very collaborative effort to resolve the problems including wind shear, contractors who didn't know protocol and such. She doesn't believe this issue is relevant to this current situation.

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

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

**Against: None.**

**Explaining his vote:** Councilor Ortiz said he never got an answer with regard to the height of St. Vincent, and Ms. Price said she doesn't know, and initially passed on the vote. When asked for his vote again by the City Clerk, he said the information that was given was interesting and it enumerated something we haven't been privy to. He wants to reiterated that nothing that the EZA gave or that the EZA approved has any relevance or bearing on what we're discussing tonight. That was specifically put in the settlement agreement. He said with that caveat, he votes yes.

**Karl Sommer said the Applicant would withdraw that portion of the application which requests a variance related to the helipad and the height, Item G(7).**

- 3) CONSIDERATION OF RESOLUTION NO. 2009- \_\_\_\_ . CASE #M 2008-27. LAS SOLERAS GENERAL PLAN AMENDMENT. BECKNER ROAD EQUITIES, INC. REQUESTS APPROVAL OF A GENERAL PLAN FUTURE LAND USE MAP AMENDMENT TO CHANGE THE DESIGNATIONS OF 545.30 ACRES. THE AREA IS LOCATED SOUTH OF GOVERNOR MILES ROAD, EAST OF CERRILLOS ROAD, NORTH OF I-25 AND WEST OF RICHARDS AVENUE. (LUCAS CRUSE)**

Mayor Coss said it is the consensus among all parties that presentations will be made to the Council by the staff and the Applicant this evening, but the Public Hearing, Council discussion and action on Items G(3), (4), (5) and (6), are postponed to the Council meeting of February 11, 2009.

*Items G(3), (4), (5) and (6) were combined for purposes of presentation, but will be voted upon separately at the Public Hearing on February 11, 2009.*

A Memorandum dated January 16 for January 28, 2009 Santa Fe City Council Meeting, with attachments, to Mayor and City Council, from Lucas Cruse, Senior Planner, Current Planning Division, is incorporated herewith to these minutes as Exhibit "7."

A Memorandum dated January 27 for January 28, 2009 Santa Fe City Council Meeting, with attachments, to Mayor and City Council, from Lucas Cruse, Senior Planner, Current Planning Division, regarding Las Soleras additional submittals, is incorporated herewith to these minutes as Exhibit "8."

A binder containing Exhibit "A", "Las Soleras General Plan Amendment, Annexation, Lot Line Adjustment, Rezoning and Variance Plan Report, including a letter dated January 16, 2009, with attachments, to Mayor David Coss and Santa Fe City Councilors, from Joseph M. Karnes, Sommer, Karnes & Associates, LLP, regarding *Las Soleras Annexation, General Plan Amendment, Rezoning, Lot Line Adjustment and Variance Application*, is incorporated herewith to these minutes as Exhibit "9."

A copy of a power point presentation to the City Council, dated January 28, 2009, "Las Soleras General Plan Amendment, Annexation, Lot Line Adjustment, Rezoning and Variance Plan," is incorporated herewith to these minutes as Exhibit "10."

***[STENOGRAPHER'S NOTE: Exhibits "7," "8," "9," and "10," will be carried forward as exhibits for these combined agenda items to the City Council meeting of February 11, 2009, for the Public Hearing, questions and comments and Council action.]***

The staff report was presented by Lucas Cruse which is contained in Exhibits "7" and "8." Please see these exhibits for specifics of this presentation.

## **RECOMMENDATIONS:**

On December 18, 2008, the Planning Commission moved to recommend the City Council approve all five of the Las Soleras applications subject to the conditions outlined in the attached conditions table [EXHIBIT B]. Additional conditions of approval recommended to City Council by staff regarding traffic impacts are outlined in the memo from John Romero dated January 15, 2009 [also in EXHIBIT B]. The findings of fact and conclusions of law are attached in EXHIBIT C.

The size and complexity of the Project warranted and received extensive coordination by the Land Use Department with various City Departments and the Santa Fe Public School District. Staff identified concerns that were addressed with the Applicant over several months, and are delineated in the conditions of approval recommended by the Planning Commission and detail required further coordination. Some of the conditions of approval will not specifically apply until the time of Development Plan or subdivision plat review, and are included at this point to guide the development of individual parcels in anticipation of the applications that will come forward. No specific development will occur directly as a result of these applications. All Development Plans and Subdivision Plats for each individual parcel will come back to the Planning Commission for review and determination.

It should be noted that the variance requested as part of this application will be withdrawn from consideration if proposed revisions to the HZ zoning district, to also be considered at the January 28, 2009, City Council meeting are adopted.

## **Presentation by the Applicant**

**John Mahoney, Applicant, was sworn.** Mr. Mahoney thanked the Council for allowing them to share their vision of Las Soleras with them. He introduced his business partner, Skip Skarsgard. He said they are joined with the members of the four families that own the properties. He said these families have been in this community for many years. He said the property was purchased in 1957. He has been working on this for ten years and dealing with the changes: a Settlement Agreement one year ago, as well as the Rail Runner and a fairly

strong reversal in the economy. He said these elements called for changes in the plan, but those changes offer them opportunity.

Mr. Mahoney said the Rail Runner offers the opportunity to reduce the use of automobiles and to encourage people to walk more. He said the addition of the Settlement Agreement "has taken us from a position of strife to a position of seeking a common goal." He said, The Settlement Agreement gives us the opportunity to move forward together." He said the downturn in the economy challenges them to find new ways to create jobs in our community and to keep the jobs that we have.

Mr. Mahoney said when they signed the Settlement Agreement, they agreed they would come forward with the plan and work with the City staff, the Planning Commission and the City Council to respond to the changes. He said they didn't anticipate it would take fourteen months to come before the Council. However, the hard work and the time it took has paid off, because it has given them the opportunity to bring a plan forward which will allow an opportunity to create more jobs. He said they will define the City's edge in the future in a very defined and attractive way and they will leverage the State's \$500 million investment in the Rail Runner into an opportunity to create a community where people can work, live, recreate and get back and forth other than in an automobile.

**Karl Sommer, Attorney, was sworn.** Mr. Sommer said this evening they will be presenting a broad overview of what this annexation, rezoning and general plan amendment are about. He said Jim Siebert will be presenting a series of slides to give a broad overview and a foundation. He said Tim Rood, Transportation Planner, who is working with MR COG doing planning of a particular type. For our project, he doing transportation oriented development and planning. He will be focusing on explaining how this will work at Las Soleras and how we will leverage that asset. He said Baker Morrow, a Landscape Artist, will walk you through what this urban edge of our town could look like and what we intend it to look like through the use of open space, landscaping techniques and ideas he is helping us to develop as we move forward.

**Jim Siebert, Planner [previously sworn]** presented information via overhead from Exhibit "10," demonstrating the subject site. Mr. Siebert highlighted the information as follows. He said this will be the limit of the urban area until 2029, as defined in the Settlement Agreement, and he said his assumption is it probably will be the end of the urban area for 40-50 years, noting it is approximately two miles across the length of the site. He said this is somewhat of an infill project. He noted there is a major water line through the property, so the infrastructure is there, noting this is the same for the sewer line, electricity and gas. He said the bottom line is that all of the infrastructure is in place to serve this development.

Mr. Siebert reviewed the residential component, noting this is a mixed use area. There are 7 points of access, 5 of which are existing or have been approved, and 2 will be constructed in the future. He said on the far east side, adjacent to Richards, a neighborhood commercial is proposed, and then a 50 acre business park. He said at the center is the Rail Stop which was approved by the MPO on December 11, 2008. The idea is that this is a very walkable area. He said the most important element is the transit oriented development [TOD] which will be

possible with the train station. He said most people can walk to the station within ten minutes. Mr. Siebert said the hospital is a major aspect to this development. He said there is the potential in Las Soleras for 6,000 to 8,000 jobs. He reiterated that they were forced to locate outside the limits to acquire the necessary land, and demonstrated other businesses and entities which have done likewise.

Mr. Siebert said their vision is that this will be a walkable, rider community with safe access to schools, that will protect the visual quality of the built berm as seen from I-25, create a sense of place through design, landscape and mix of uses. It would also provide for multiple modes of transportation – bus, train, walking and biking.

Mr. Siebert said the Highway Corridor issue is important to them and to the community, noting that Baker Morrow will be talking about that. He demonstrated the current activity along the corridor, which represents 70% of the highway corridor between Richards Avenue and St. Francis Drive, noting it has 100 foot setback. He said the setbacks were the result of a noise study done in 1998, and it was based on the assumption that the corridor would be mostly residential and that the standard would be 65 decibels, which doesn't apply to commercial which is a much higher noise level. He said, "In fact, there really is no standard for commercial development." He said no allowance was made for terrain conditions when the study was done, because it would be complicated. So, where there are cut situations, the study didn't consider that and there would be a natural reduction in noise which would result from the cuts along the roadway. He demonstrated several areas within the subject site. He said this really does begin to create a hard edge and something we're trying to avoid..

**Tim Rood, Planner TOD previously sworn]**, presented information via power point on Transit-Oriented Development from Exhibit "10." Please see Exhibit "10" for specifics of this presentation.

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**At 11:48 p.m., Councilor Bushee moved, seconded by Councilor Calvert, to suspend the rules and continue past midnight. The motion was approved on a voice vote, with Councilors Bushee, Calvert, Chavez, Dominguez, Ortiz, Romero, Trujillo and Councilor Wurzburger voting for the motion and none against.**

\*\*\*\*\*

**Baker Morrow, Landscape Architect [previously sworn]** presented information via power point. Please see Exhibit "10" for specifics of this presentation.

Mr. Morrow said all of the municipalities in New Mexico which have been expanding rapidly in the post-war era face many of the same problems at their edges. One of the big difficulties is the ragged-edge or crumbling of the City toward its extremities. He said what happens in Santa Fe happens elsewhere. He said this is a difficult problem to solve. In working on Las Soleras, he looked at the edge to incorporate it, make it a uniform whole and a part of the project so we don't have the crumbling, while doing something unusual.

Mr. Morrow said this project is about two miles of frontage, the distance is covered in two minutes at 75 mph. Mr. Morrow demonstrated the view from the Interstate going north and south with colored photographs. He said going south the slopes which have been cut have not revegetated successfully, and we see swales which is an opportunity to create a view into Las Soleras as well as to block objectionable landscape in the middle distance and highlight the mountains. He said, "There is a chance to bring the Las Soleras landscape out to the edge of the highway, and to bring the highway edge landscape into the property, and frame those distant views. So, that was one of our objectives." He said, as seen in the slides shown by Mr. Siebert, the hard edge which sometimes accompanies the highway is just another road, so the setback doesn't get much.

Mr. Morrow spoke about working with the setbacks going north on the interstate. He said the road in most cases rises in the middle and blocks the view of the Las Soleras property, and the primary view becomes the mountains in the distance. The northbound view is entirely different than southbound. In both cases, there are about two minutes to glance into the site.

Mr. Morrow said Condition #19 from the Planning Commission deals with how to treat the edge and to prevent another strip from developing along the edge. He has been working on the idea of "saw teeth" into the property. The open space occurs along the edge, but they can take the open space and bend it so that it makes its way into the property. They have identified three vistas which he demonstrated with color photographs. He said the open space and landscaping can do three things really well:

- (1) take the idea of the berms along the edge of the highway and create additional berms to help frame the views or to block objectionable view into the property;
- (2) take the open space and connect the highway open space through the property to the open spaces we are working on along Beckner; and
- (3) bundle the open space and landscape space which will be required by the City and make it work in conjunction with the sawteeth coming into the property, which enhances the open space in a very effective way.

Mr. Morrow demonstrated some of the open spaces in Las Soleras with photographs from Exhibit "10." He noted it is difficult to incorporate an arroyo into a City edge and make it work, noting Las Golondrinas and in La Cienega. He said this is an effective way of utilizing open space which already exists and combining it with agricultural inspiration and in Las Soleras, creating a brand new landscape feature which ties into the central park.

Mr. Morrow said the roadways are very nicely landscaped. The goal is to capture every drop of water that falls on the site. There are inverted crowns in the center of the roadway as well as on the roadsides. He said the power line, running through the center of the property, is developed so it has a very nice walking trail.

Mr. Morrow said, "These kinds of developments work well, I think, because we're trying to pay attention to detail. In every case we are capturing water, creating shade and making it easy for people to get about, either on bicycle or on foot, and we also want to bring nature to



people, to anybody who wants to take the time to get out into the walkways on Las Soleras." He presented a sketch from Exhibit "10" which shows what the arroyo would like. He said they fully expect to rehab the arroyo, capture water and let it recharge the aquifer. He said they expect to create watering points along the trail for wildlife – sunken terra cotta basins – and places for people to sit and observe the wildlife.

Mr. Morrow said they have been discussing the park with Fabian Chavez with regard to what is expected in the large central park. There are planned community gardens, passive space, fields, good slope protection and arroyo buffers which tie into the roadway landscape.

Mr. Morrow said there are a lot of landscape opportunities at Las Soleras, including La Rambla, the arroyo, the station, the arroyo trail and others, which he demonstrated with "movies" and drawings from Exhibit "10."

Mr. Morrow said, "In summary, we see a huge series of opportunities here, and a very good chance to do something with a City edge which has not been done well ever in New Mexico. He believes it will be quite an experience for people passing back and forth on I-25 to come into Las Soleras."

Mr. Morrow noted the slopes of the arroyo are reconditioned and restored, and in many cases the arroyo is undercut. They plan to bring people to the edge of the arroyo so the water is to the left – the flow patterns at the bottom of the arroyo. He said going toward some of the highway and street crossovers, the grade separation is an important aspect of the planning. The trails continue and you don't have to cross a road. There are plenty of places to sit as you begin to approach the road. At the top of the road, there are connections which go right back to La Rambla. They expect to have full circulation of trails and roadways which lead throughout the development.

Mr. Sommer said the presentation related to the Highway Corridor focuses on the change to Condition #19 from the Planning Commission, and "we can get into that next time we come, to address that more specifically." He thanked the Governing Body for letting them make the presentations. He would like to reserve the ability to close their presentation at the next time.

Councilor Ortiz said, "Because of the lateness of the hour, I'd ask that we reserve the ability to ask questions of the applicant, so the first thing that we'll do on the hearing is ask you questions, then have the public hearing, then you have your rebuttal time."

Mr. Sommer said that will be fine.

Councilor Bushee asked, regarding the parking where the rail comes, if surface parking is tucked away.

Mr. Sommer said it is not necessarily all surface parking. He said they have the ability to do a great deal of surface parking, as well as to do shared parking in structures. He said it all depends on the manner in which it gets designed, so there is no plan that says it's all surface parking.

Councilor Bushee asked if the surface parking will be screened or set back.

Mr. Sommer said the intention is to shield it with buildings, berms and inside structures. He said, obviously, you won't get off all visible parking, but you can do a lot with the natural berms and additional berms, as demonstrated by Mr. Morrow's drawing.

Councilor Bushee said she will ask more questions about the highway corridor, noting the 100 ft. minimum, and the last sentence which says, "The applicant may seek approval of development plans containing improvements located at a depth of less than 100 ft., subject to the Planning Commission's discretion." She asked why they would go less than 100 ft.

Mr. Sommer said the highway corridor along the property has many variations in topography. He said Condition #19 requires them to do a comprehensive study of a highway corridor plan on the property, so that we would establish where it would be appropriate to have 100 ft., 200 ft., 250 ft., or 50 ft. if it was completely behind the berm.

Councilor Bushee said she saw the sawtooth idea with berms, but she didn't understand that it would need to be less than 50 ft. at any point.

Mr. Baker said they are so early in the process of looking at the edge, he has had only the opportunity to do the sketch study. He is unsure it would need to be less, but it might, and they would like to continue their study and do something which is comprehensive, so they can come back and actually tell you what we think. The key elements are that they don't want a strip of obstructive berms, and he really wants to try the integrated sense of sawtooth edges, so they can create a very handsome landscaped edge.

Councilor Bushee said the Highway Corridor setback would be far more than 100 ft. if it was applied as intended, and she understands this isn't residential, so she has less issues with commercial being closer to the edge. She understands his desire to soften that edge. However, she is wary of going less than 100 ft., given that the existing other commercial entities are within that range.

Mr. Baker said, even within the highway right-of-way, they are looking hard at collecting a lot of the erosion and extending the project landscape close to, within the highway right-of-way where it seems to make sense. None of the edge of the property looks as though it's untended and they really want it to shine.

Councilor Calvert suggested, to save staff time and to save paper since we are carrying this item forward, that we reuse the existing materials in the packet for Items G(3) through (7) at the next meeting.

- 4) **CONSIDERATION OF BILL NO. 2008-46; ADOPTION OF ORDINANCE NO. 2009- \_\_\_\_ . CASE #M-2008-28. LAS SOLERAS ANNEXATION. BECKNER ROAD EQUITIES, INC., REQUESTS ANNEXATION OF 545.30 ACRES OF LAND LOCATED SOUTH OF GOVERNOR MILES ROAD, EAST OF CERRILLOS ROAD, NORTH OF I-25 AND WEST OF RICHARDS AVENUE. BECKNER ROAD EQUITIES, INC., ADDITIONALLY REQUESTS ANNEXATION OF 16.41 ACRES OF CERRILLOS ROAD RIGHT-OF-WAY ADJACENT TO LAS SOLERAS. (LUCAS CRUSE)**

See Item G(3) above for presentation by the Applicant. The Public Hearing, Council discussion and action on Items G(3), (4), (5) and (6), are postponed to the Council meeting of February 11, 2009.

- 5) **CASE #SD-2008-15. LAS SOLERAS LOT LINE ADJUSTMENT AND ROAD DEDICATION PLAT. BECKNER ROAD EQUITIES, INC., REQUESTS APPROVAL OF A PLAT PROVIDING LOT LINE ADJUSTMENTS AND DEDICATION OF MAJOR STREETS ALLOWING ADJUSTMENT OF EXISTING LOT LINES TO BE CONSISTENT WITH PROPOSED ZONING DISTRICTS. (LUCAS CRUSE)**

See Item G(3) above for presentation by the Applicant. The Public Hearing, Council discussion and action on Items G(3), (4), (5) and (6), are postponed to the Council meeting of February 11, 2009.

- 6) **CONSIDERATION OF BILL NO. 2009-5; ADOPTION OF ORDINANCE NO. 2009- \_\_\_\_ . CASE # ZA-2008-11. LAS SOLERAS REZONING. BECKNER ROAD EQUITIES, INC., REQUESTS REZONING FOR 545.30 ACRES. THE TRACTS ARE LOCATED SOUTH OF GOVERNOR MILES ROAD. EAST OF CERRILLOS ROAD, NORTH OF I-25 AND WEST OF RICHARDS AVENUE. (LUCAS CRUSE)**

See Item G(3) above for presentation by the Applicant. The Public Hearing, Council discussion and action on Items G(3), (4), (5) and (6), are postponed to the Council meeting of February 11, 2009.

- 7) **CASE #M-2008-44. LAS SOLERAS VARIANCE. BECKNER ROAD EQUITIES, INC., REQUESTS A VARIANCE TO ALLOW A 70-FOOT HEIGHT FOR A HOSPITAL WITH AMBULANCE AND AIR AMBULANCE FACILITIES FOR A 40-ACRE TRACT LOCATED EAST OF CERRILLOS ROAD BETWEEN BECKNER ROAD AND ARROYO DE LOS CHAMISOS. (LUCAS CRUSE)**

This item was withdrawn from the Agenda by the Applicant.

**16. MATTERS FROM THE CITY CLERK**

None.

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

A copy of the list of all "Bills and Resolutions Scheduled for introduction by members of the Governing Body," for the City Council meeting of January 28, 2009, is incorporated herewith to these minutes as Exhibit "11."

A copy of all bills and resolutions listed in Exhibit "11," is incorporated herewith to these minutes as Exhibit "12."

It was the consensus among the Governing Body not to stay for this agenda item.

**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 12:15 a.m.

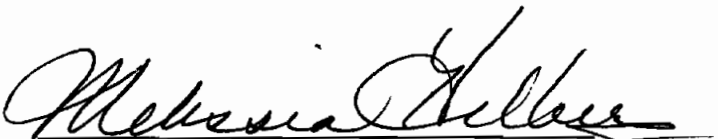
**Approved by:**

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

**ATTESTED TO:**

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

**Respectfully submitted:**

  
\_\_\_\_\_  
**Melessia Helberg, Stenographer**