



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
MARCH 11, 2009
CITY COUNCIL CHAMBERS

AFTERNOON SESSION – 5:00 P.M.

CITY CLERK'S OFFICE

DATE 3-6-09 TIME 3:45 pm

SERVED BY _____

RECEIVED BY Hydominguez

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. SALUTE TO THE NEW MEXICO FLAG
4. INVOCATION
5. ROLL CALL
6. APPROVAL OF AGENDA
7. APPROVAL OF CONSENT CALENDAR
8. APPROVAL OF MINUTES: Special City Council Meeting – February 16, 2009
Reg. City Council Meeting – February 25, 2009
9. PRESENTATIONS
 - a) Employee of the Month for March 2009 – Fernando Hernandez,
Recreation Coordinator. (5 minutes)
10. CONSENT CALENDAR
 - a) CONSIDERATION OF RESOLUTION NO. 2009-_____.
A Resolution Relating to a Request for Approval of Second Quarter
(Midyear) Budget Adjustments for Fiscal Year 2008/2009 (Quarter Ending
December 31, 2008). (Cal Probasco)
 - b) Request for Approval of Additional Departmental Budget Reduction
Adjustments for FY 2008/2009. (Cal Probasco)
 - c) Request for Approval of Amendment No 4 to Professional Services
Agreement – Advertising Services for Santa Fe Convention and Visitors
Bureau; Vaughn Wedeen Creative, Inc. (Keith Toler)
 - d) Request for Approval of Change Order No. 3 – Cerrillos Road
Reconstruction Project Phase IIA – Richards Avenue to Cielo Court – New
Items Not Included in Original Bid; A.S. Horner, Inc. (Eric Martinez)



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- e) Siler Road Extension Project:
 - 1) Request for Approval of Grip2 Cooperative Project Agreement – 2007 Legislative Appropriations for Siler Road Extension Project; New Mexico Department of Transportation. (Desirae Lujan)
 - a) Request for Approval of Budget Increase – Project Fund.
 - 2) Request for Approval of Memorandum of Agreement – 2007 Legislative Appropriations for Grip2 Siler Road Extension Project; New Mexico Finance Authority.
- f) Request for Approval of Amendment No. 4 To Professional Services Agreement – Prairie Dog Relocation Services at City Parks and Municipal Airport; Eco Solutions. (Robert Woods)
 - 1) Request for Approval of Budget Increase – CIP Funds.
- g) Request for Approval of Memorandum of Agreement – Replace Four Separate FAA Lease Agreements at the Santa Fe Municipal Airport; Federal Aviation Administration. (Jim Montman)
 - 1) Request for Approval of Amendment No. 7 to Lease Agreement – Seven (7) Additional Paid Parking Spaces at Santa Fe Municipal Airport; Santa Fe Airport Grill.
- h) Request for Concept Approval of Sale of Real Estate – Located Within the Northerly Portion of Governor Miles Road Right-of-Way; Crowne Santa Fe, LLC. (Edward Vigil)
 - 1) Request for Concept Approval of Sale of Real Estate – Located Within the Southerly Portion of Governor Miles Road Right-of-Way; Las Soleras Oeste, Ltd Co.
- i) Request for Approval of Amendment No. 1 of Lease Agreement – Rights of Usage and Removing a Two Acre Parcel from Original Lease at Camino Entrada; New Mexico Department of Public Safety. (Edward Vigil)



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- j) Request for Approval of Purchase of School District Property/Loan Terms – Master Plan for Northwest Quadrant; Santa Fe Public Schools. (Kathy McCormick)
- k) CONSIDERATION OF RESOLUTION NO. 2009-_____. (Councilor Trujillo)
A Resolution Establishing an Advisory Workgroup Consisting of City Departments, Surrounding Local Governments, State Agencies, Federal Agencies, Private Sector and Non-Profit Organizations for the Purpose of Advising the City of Santa Fe Office of Emergency Management Regarding the Ongoing Preparation, Implementation, Evaluation and Revision of the City of Santa Fe Emergency Management Program. (Joyce Purley)
- l) CONSIDERATION OF RESOLUTION NO. 2009-_____. (Councilor Trujillo)
A Resolution Withdrawing from the Joint City/County Division of Emergency Management. (Joyce Purley)
- m) Request for Approval to Publish Notice of Public Hearing on April 8, 2009.
 - 1) Bill No. 2009-11 – An Ordinance Amending Sections 14-3.14 and 14-5.2 (B) SFCC in Order to Establish Procedures for the Demolition of Landmark Structures and to Require Minimum Maintenance of Landmark Structures; and Making Related Changes (Councilor Calvert, Councilor Bushee and Councilor Romero) (Jeanne Price)
 - 2) Bill No. 2009-12 – An Ordinance Establishing a Rural Residential Zoning District; and Making Such Other Related Changes. (Councilor Wurzbarger and Councilor Bushee) (Jeanne Price)
- n) CONSIDERATION OF RESOLUTION NO. 2009-_____. (Councilor Dominguez)
A Resolution Amending Rule 9.20 of The City of Santa Fe Personnel Rules And Regulations so that City Employees who are Candidates for Political Office may Take Annual Leave During a Political Campaign. (Kristine Kuebli)



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- o) Request for Approval of Proposed Changes to Local Preference Certification Requirements: Local Preference Certification Form Section 15.4 of the City of Santa Fe Purchasing Manual. (Robert Rodarte)
- p) CONSIDERATION OF RESOLUTION NO. 2009-_____. (Councilor Calvert)
A Resolution Establishing a Plaza Round Table and Directing Staff to Work With the Plaza Event Organizers to Mitigate the Impacts of Plaza Events. (Fabian Chavez)
- q) CONSIDERATION OF RESOLUTION NO. 2009-_____. (Councilor Bushee)
A Resolution Supporting the Adoption of House Bill 572 Which Would Enact the Solar Energy Improvement Special Assessment Act. (Nick Schiavo)
- r) Request for Approval of Exclusive Agreement – Photo Red Light and Speed Enforcement Program; Redflex Traffic Systems. (Police Chief Eric Johnson and Captain Robbin)
- 11. CONSIDERATION OF RESOLUTION NO. 2009-_____. (Councilor Ortiz)
A Resolution Authorizing Staff to Continue Charging a Reduced Annual Fee for Downtown Tour Companies. (Bill Hon)
- 12. MATTERS FROM THE CITY MANAGER
- 13. MATTERS FROM THE CITY ATTORNEY
- 14. MATTERS FROM THE CITY CLERK
- 15. COMMUNICATIONS FROM THE GOVERNING BODY

EVENING SESSION – 7:00 P.M.

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE



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C. SALUTE TO THE NEW MEXICO FLAG

D. INVOCATION

E. ROLL CALL

F. PETITIONS FROM THE FLOOR

G. APPOINTMENTS

H. PUBLIC HEARINGS:

- 1) Request from Izmi Sushi Bar Inc., for a Restaurant (Beer & Wine) Liquor License to be located at Izmi Sushi Restaurant, 720 St, Michael's Drive. (Yolanda Y. Vigil)
- 2) CONSIDERATION OF BILL NO. 2008-12: ADOPTION OF ORDINANCE NO. 2008-_____. (Councilor Chavez)
An Ordinance Creating a New Section 14-5.10 SFCC 1987 Regarding Neighborhood Conservation Overlay Districts; and Making Such Other Changes as are Necessary. (Jeanne Price) **(Postponed at October 29, 2008 City Council Meeting)**
- 3) CONSIDERATION OF BILL NO. 2009-7 ADOPTION OF ORDINANCE NO. 2008-_____. (Councilor Calvert, Mayor Coss, Councilor Wurzbarger, Councilor Bushee, Councilor Romero and Councilor Dominguez)
An Ordinance Creating a New Article 7-4 SFCC 1987, Green Building Codes; Creating a New Section 7-4.1 SFCC 1987, Residential Green Building Code (Single Family Attached and Detached); and Replacing Section 7-15 SFCC 1987 Energy Audits. (Katherine Mortimer)
 - a) CONSIDERATION OF RESOLUTION NO. 2009-_____. (Councilor Calvert, Mayor Coss, Councilor Wurzbarger, Councilor Bushee, Councilor Romero and Councilor Dominguez)
A Resolution Adopting the Administrative Procedures For The Santa Fe Residential Green Building Code. (Katherine Mortimer)



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- b) CONSIDERATION OF RESOLUTION NO. 2009-_____. (Councilor Dominguez, Mayor Coss, Councilor Calvert, Councilor Wurzbarger, Councilor Bushee, and Councilor Romero)
A Resolution Adopting an Education and Outreach Program for the Implementation of the City of Santa Fe's Residential Green Building Code. (Katherine Mortimer)
- c) CONSIDERATION OF RESOLUTION NO. 2009-_____. (Councilor Calvert, Mayor Coss, Councilor Wurzbarger Councilor Bushee, Councilor Romero and Councilor Dominguez)
A Resolution Establishing Incentives for Green Building that Exceeds the Requirements of the Santa Fe Residential Code. (Katherine Mortimer)
- d) CONSIDERATION OF RESOLUTION NO. 2009-_____. (Councilor Calvert, Mayor Coss, Councilor Wurzbarger, Councilor Bushee, Councilor Romero and Councilor Dominguez)
A Resolution Establishing Target Goals for the City of Santa Fe's Residential Green Building Code to Meet the Goals Set Forth in the U.S. Mayors Climate Agreement. (Katherine Mortimer)
- 4) CONSIDERATION OF BILL NO. 2008-64 ADOPTION OF ORDINANCE NO. 2008-_____. (Mayor Coss)
An Ordinance Amending Section 6-16.4 SFCC 1987 Regarding Hearings Before the Ethics and Campaign Review Board; and Amending Various Sections of Article 9-2 SFCC 1987 Campaign Code. (Yolanda Vigil)
- 5) CONSIDERATION OF BILL NO. 2009-8 ADOPTION OF ORDINANCE NO. 2008 _____. (Councilor Wurzbarger and Councilor Bushee)
An Ordinance Establishing a Rural Residential Zoning District for that Area Referred to as Area 1 in the Settlement Agreement and Mutual Release of Claims Entered into by the City of Santa Fe, Santa Fe County and Other Parties Dated May 19, 2008 and Generally Located West of the Current City Limits and North of Agua Fria Street; and Making Such Other Related Changes. (Jeanne Price) **(WITHDRAWN)**

I. ADJOURN



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REGULAR MEETING OF
THE GOVERNING BODY
MARCH 11, 2009
CITY COUNCIL CHAMBERS

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.

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SANTA FE CITY COUNCIL MEETING
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CONSIDERATION OF BILL NO. 2008-64; ADOPTION OF ORDINANCE NO. 2009-10 (MAYOR COSS). AN ORDINANCE AMENDING SECTION 6-16.4 SFCC 1987 REGARDING HEARINGS BEFORE THE ETHICS AND CAMPAIGN REVIEW BOARD; AND AMENDING VARIOUS SECTIONS OF ARTICLE 9-2 SFCC 1987 CAMPAIGN CODE	Approved	28
CONSIDERATION OF BILL NO. 2009-8 ADOPTION OF ORDINANCE NO. 2008- ____ . AN ORDINANCE ESTABLISHING A RURAL RESIDENTIAL ZONING DISTRICT FOR THAT AREA REFERRED TO AS AREA 1 IN THE SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF CLAIMS ENTERED INTO BY THE CITY OF SANTA FE, SANTA FE COUNTY AND OTHER PARTIES DATED MAY 19, 2008, AND GENERALLY LOCATED WEST OF THE CURRENT CITY LIMITS AND NORTH OF AGUA FRIA STREET; AND MAKING SUCH OTHER RELATED CHANGES	Withdrawn from agenda	29
<u>CONSENT CALENDAR DISCUSSION</u> <i>[from Afternoon Agenda]</i>		
REQUEST FOR APPROVAL OF EXCLUSIVE AGREEMENT – PHOTO RED LIGHT AND SPEED ENFORCEMENT PROGRAM; REDFLEX TRAFFIC SYSTEMS	Approved [amended]	29-43
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**MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
March 11, 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 March 11, 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 Miguel Chavez,
Councilor Carmichael A. Dominguez
Councilor Matthew E. Ortiz
Councilor Rosemary Romero
Councilor Ronald S. Trujillo

Members Excused

Councilor Rebecca Wurzbarger, Mayor Pro-Tem
Councilor Patti J. Bushee
Councilor Christopher Calvert

Others Attending

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

5. APPROVAL OF AGENDA

Councilor Trujillo would like to pull item 10(4) from the Consent Agenda and postpone it to the end of the evening agenda.

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

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

6. APPROVAL OF CONSENT CALENDAR

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

For: Councilor Chavez, Councilor Dominguez, Councilor Ortiz, Councilor Romero and Councilor Trujillo.

Against: None.

- a) CONSIDERATION OF RESOLUTION NO. 2009- 35. A RESOLUTION RELATING TO A REQUEST FOR APPROVAL OF SECOND QUARTER (MIDYEAR) BUDGET ADJUSTMENTS FOR FISCAL YEAR 2008/2009 (QUARTER ENDING DECEMBER 31, 2008). (CAL PROBASCO)**
- b) REQUEST FOR APPROVAL OF ADDITIONAL DEPARTMENTAL BUDGET REDUCTION ADJUSTMENTS FOR FY 2008/2009. (CAL PROBASCO)**
- c) REQUEST FOR APPROVAL OF AMENDMENT NO. 4 TO PROFESSIONAL SERVICES AGREEMENT – ADVERTISING SERVICES FOR SANTA FE CONVENTION AND VISITORS BUREAU; VAUGHN WEDEEN CREATIVE, INC. (KEITH TOLER)**
- d) REQUEST FOR APPROVAL OF CHANGE ORDER NO. 3 – CERRILLOS ROAD RECONSTRUCTION PROJECT PHASE IIA – RICHARDS AVENUE TO CIELO COURT – NEW ITEMS NOT INCLUDED IN ORIGINAL BID; A.S. HORNER, INC. (ERIC MARTINEZ)**
- e) SILER ROAD EXTENSION PROJECT:**
 - 1) REQUEST FOR APPROVAL OF GRIP2 COOPERATIVE PROJECT AGREEMENT – 2007 LEGISLATIVE APPROPRIATIONS FOR SILER ROAD EXTENSION PROJECT; NEW MEXICO DEPARTMENT OF TRANSPORTATION. (DESIRAE LUJAN)**
 - a) REQUEST FOR APPROVAL OF BUDGET INCREASE – PROJECT FUND.**
 - 2) REQUEST FOR APPROVAL OF MEMORANDUM OF AGREEMENT – 2007 LEGISLATIVE APPROPRIATIONS FOR GRIP2 SILER ROAD EXTENSION PROJECT; NEW MEXICO FINANCE AUTHORITY.**
- f) REQUEST FOR APPROVAL OF AMENDMENT NO. 4 TO PROFESSIONAL SERVICES AGREEMENT – PRAIRIE DOG RELOCATION SERVICES AT CITY PARKS AND MUNICIPAL AIRPORT; ECO SOLUTIONS. (ROBERT WOODS)**
 - 1) REQUEST FOR APPROVAL OF BUDGET INCREASE – CIP FUNDS**

- g) REQUEST FOR APPROVAL OF MEMORANDUM OF AGREEMENT – REPLACE FOUR SEPARATE FAA LEASE AGREEMENTS AT THE SANTA FE MUNICIPAL AIRPORT; FEDERAL AVIATION ADMINISTRATION. (JIM MONTMAN)

 - 1) REQUEST FOR APPROVAL OF AMENDMENT NO. 7 TO LEASE AGREEMENT – SEVEN (7) ADDITIONAL PAID PARKING SPACES AT SANTA FE MUNICIPAL AIRPORT; SANTA FE AIRPORT GRILL.
- h) REQUEST FOR CONCEPT APPROVAL OF SALE OF REAL ESTATE – LOCATED WITHIN THE NORTHERLY PORTION OF GOVERNOR MILES ROAD RIGHT-OF-WAY; CROWNE SANTA FE, LLC. (EDWARD VIGIL)

 - 1) REQUEST FOR CONCEPT APPROVAL OF SALE OF REAL ESTATE – LOCATED WITHIN THE SOUTHERLY PORTION OF GOVERNOR MILES ROAD RIGHT-OF-WAY; LAS SOLERAS OESTE, LTD. CO.
- i) REQUEST FOR APPROVAL OF AMENDMENT NO. 1 OF LEASE AGREEMENT – RIGHTS OF USAGE AND REMOVING A TWO ACRE PARCEL FROM ORIGINAL LEASE AT CAMINO ENTRADA; NEW MEXICO DEPARTMENT OF PUBLIC SAFETY. (EDWARD VIGIL)
- j) *[Removed for discussion by Councilor Chavez]*
- k) CONSIDERATION OF RESOLUTION NO. 2009- 36 (COUNCILOR TRUJILLO). A RESOLUTION ESTABLISHING AN ADVISORY WORKGROUP CONSISTING OF CITY DEPARTMENTS, SURROUNDING LOCAL GOVERNMENTS, STATE AGENCIES, FEDERAL AGENCIES, PRIVATE SECTOR AND NONPROFIT ORGANIZATIONS FOR THE PURPOSE OF ADVISING THE CITY OF SANTA FE OFFICE OF EMERGENCY MANAGEMENT REGARDING THE ONGOING PREPARATION, IMPLEMENTATION, EVALUATION AND REVISION OF THE CITY OF SANTA FE EMERGENCY MANAGEMENT PROGRAM. (JOYCE PURLEY)
- l) CONSIDERATION OF RESOLUTION NO. 2009- 37 (COUNCILOR TRUJILLO). A RESOLUTION WITHDRAWING FROM THE JOINT CITY/COUNTY DIVISION OF EMERGENCY MANAGEMENT. (JOYCE PURLEY)
- m) REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON APRIL 8, 2009:

 - 1) BILL NO. 2009-11 – AN ORDINANCE AMENDING SECTIONS 14-3.14 AND 14-5.2(B) SFCC IN ORDER TO ESTABLISH PROCEDURES FOR THE DEMOLITION OF LANDMARK STRUCTURES AND TO REQUIRE MINIMUM MAINTENANCE OF LANDMARK STRUCTURES; AND MAKING RELATED CHANGES (COUNCILOR CALVERT, COUNCILOR BUSHEE AND COUNCILOR ROMERO). (JEANNE PRICE)

- 2) **BILL NO. 2009-12 – AN ORDINANCE ESTABLISHING A RURAL RESIDENTIAL ZONING DISTRICT; AND MAKING SUCH OTHER RELATED CHANGES (COUNCILOR WURZBURGER AND COUNCILOR BUSHEE). (JEANNE PRICE)**
- n) **CONSIDERATION OF RESOLUTION NO. 2009- 38 (COUNCILOR DOMINGUEZ). A RESOLUTION AMENDING RULE 9.20 OF THE CITY OF SANTA FE PERSONNEL RULES AND REGULATIONS SO THAT CITY EMPLOYEES WHO ARE CANDIDATES FOR POLITICAL OFFICE MAY TAKE ANNUAL LEAVE DURING A POLITICAL CAMPAIGN. (KRISTINE KUEBLI)**
- o) **REQUEST FOR APPROVAL OF PROPOSED CHANGES TO LOCAL PREFERENCE CERTIFICATION REQUIREMENTS; LOCAL PREFERENCE CERTIFICATION FORM SECTION 15.4 OF THE CITY OF SANTA FE PURCHASING MANUAL. (ROBERT RODARTE)**
- p) **CONSIDERATION OF RESOLUTION NO. 2009- 39 (COUNCILOR CALVERT). A RESOLUTION ESTABLISHING A PLAZA ROUND TABLE AND DIRECTING STAFF TO WORK WITH THE PLAZA EVENT ORGANIZERS TO MITIGATE THE IMPACTS OF PLAZA EVENTS. (FABIAN CHAVEZ)**
- q) **CONSIDERATION OF RESOLUTION NO. 2009- 40 (COUNCILOR BUSHEE). A RESOLUTION SUPPORTING THE ADOPTION OF HOUSE BILL 572 WHICH WOULD ENACT THE SOLAR ENERGY IMPROVEMENT SPECIAL ASSESSMENT ACT. (NICK SCHIAVO)**
- r) **REQUEST FOR APPROVAL OF EXCLUSIVE AGREEMENT – PHOTO RED LIGHT AND SPEED ENFORCEMENT PROGRAM; REDFLEX TRAFFIC SYSTEMS. (POLICE CHIEF ERIC JOHNSON AND CAPTAIN ROBBIN)**

**7. APPROVAL OF MINUTES: Special City Council Meeting – February 16, 2009
Regular City Council Meeting – February 25, 2009**

Councilor Romero moved, seconded by Councilor Chavez, to approve the minutes of the Special City Council Meeting of February 16, 2009, as presented. The motion was approved on a voice vote, with Councilors Chavez, Dominguez, Ortiz, Romero and Trujillo voting for the motion and none against.

Councilor Trujillo moved, seconded by Councilor Chavez, to approve the minutes of the Regular City Council Meeting of February 25, 2009, as presented. The motion was approved on a voice vote, with Councilors Chavez, Dominguez, Ortiz, Romero and Trujillo voting for the motion and none against.

8. PRESENTATIONS

a) EMPLOYEE OF THE MONTH FOR MARCH 2009 – FERNANDO HERNANDEZ, RECREATION COORDINATOR.

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

Mr. Hernandez thanked his co-workers and the Governing Body for this honor.

Councilor Trujillo commended Mr. Hernandez for going above and beyond in the performance of his duties, and thanked him for helping our people.

CONSENT CALENDAR DISCUSSION

10(j) REQUEST FOR APPROVAL OF PURCHASE OF SCHOOL DISTRICT PROPERTY/ LOAN TERMS – MASTER PLAN FOR NORTHWEST QUADRANT; SANTA FE PUBLIC SCHOOLS. (KATHY MCCORMICK)

Councilor Chavez said, "Mayor, the only thing I wanted to do is record, for the minutes, my concern for the project, not its merits, but the concern that I have for the timing and the expense to the City in developing the Northwest Quadrant, the funding mechanism that will fund this portion, which is the purchase of land from the School District. And I just want to go on record as not supporting the concept behind the project, but not the merits of the project."

Councilor Ortiz moved, seconded by Councilor Dominguez, to approve this request as originally recommended and approved by the Finance Committee.

Discussion: Mayor Coss asked Mr. Buller if there was any discussion from the schools about how to pay, or the payment schedule or anything like that.

Mr. Buller said there was none that came through his office.

The motion was approved on the following roll call vote:

For: Councilor Dominguez, Councilor Ortiz, Councilor Romero and Councilor Trujillo.

Against: Councilor Chavez

The Roll Call Vote did not result in the number of affirmative votes required to approve this request. Mayor Coss voted in favor of the motion, and the motion was approved.

END OF CONSENT CALENDAR DISCUSSION

11. CONSIDERATION OF RESOLUTION NO. 2009- 41 (COUNCILOR ORTIZ). A RESOLUTION AUTHORIZING STAFF TO CONTINUE CHARGING A REDUCED ANNUAL FEE FOR DOWNTOWN TOUR COMPANIES. (BILL HON)

Bill Hon presented information regarding this matter to the Council. He said the change in circumstances which negatively impacted the tour companies has been reversed, noting Lincoln Street is now two-way again and the Museum will be opening Memorial Day. He said the Santa Fe pickup has a stop on Palace. He said, as indicated in the FIR, the Parking Enterprise Fund relies on parking revenues to support and maintain all parking services, and due to the economic condition, revenues are down and the Parking Division isn't meeting its revenue projections, noting its O&M costs are subsidized from revenue from the Parking Meters. This loss of revenue will adversely affect the services provided by the Parking Division's newly-implemented shuttle service which services commuters.

Mr. Hon said he realizes \$2,000 isn't a lot of money, but \$2,000 here and there over a year does amount to a lot. He asked for Council consideration not to pass this Resolution.

Councilor Ortiz said he sponsored this Resolution a few years ago because of the construction. He said he received telephone calls from the tour operators who asked him to consider keeping the fees at the current level because of the downturn in the economy. He agrees with Mr. Hon, but this benefits only three tour companies which conduct its operations around the Plaza. He pointed out that in addition to shuttling tourists, the companies also do weddings and such for the local people. He noted that Councilor Chavez originally voted against this Resolution in committee.

Councilor Ortiz moved, seconded by Councilor Chavez, for purposes of discussion, to adopt Resolution No. 2009- 41.

Discussion: Councilor Chavez said, in response to Councilor Ortiz, he saw it both ways. He said there is a contradiction in the action sheets in the Council packet, because it indicates he supported it at both Finance Committee and Public Works Committee, although he did have questions. He said even though the physical constraints and barriers have been removed, we still haven't seen a turnaround in the economy. He said we are hearing that some of the downtown landlords are reducing their rents because of the economy. He did think about the value added components for the locals as well as the people the Rail Runner is bringing here. He said the tour companies are the interface between the visitors and the City. He said at this juncture, at least for the term of the Resolution, he believes it will be beneficial to keep the reduced rates. He said hopefully the Resolution will sunset and we can look to increasing the fees when the economy improves.

Councilor Romero said of the discussion at Public Works was around the current reality and its getting better every day, and these three companies are benefitting and we had previously given them a

reduced rate. She said they were trying to balance the Parking Division deficits with this, and believes it needs to go up and would look to Mr. Hon to recommend a higher rate which would be less than the old rate.

The motion was approved on the following roll call vote:

For: Councilor Chavez, Councilor Dominguez, Councilor Ortiz and Councilor Trujillo.

Against: Councilor Romero

The Roll Call Vote did not result in the number of affirmative votes required to approve this Resolution. Mayor Coss voted in favor of the motion, and the motion was approved.

12. MATTERS FROM THE CITY MANAGER

Mr. Buller said over the past two days there have been difficulties with the telephones at Customer Service at the Water Division, both Building Utility and Sangre de Cristo. He said IT has spent most of the last two days working to resolve the situation, and it appears the interconnection between the phones and the computer system are affected by a virus. He said people with emergencies can call the City Manager's office, 955-6848. He said they are working on a solution and hopefully everything will be fixed tomorrow or Friday.

13. MATTERS FROM THE CITY ATTORNEY

There were no matters from the City Attorney.

14. MATTERS FROM THE CITY CLERK

Yolanda Vigil, City Clerk, presented the unofficial returns from the Excise Tax election: For – 3,845 and Against – 4,557. She will present the official Canvass at the next Council meeting for approval.

Councilor Romero thanked Ms. Vigil her for her hard work on the election in addition to her other duties.

15. COMMUNICATIONS FROM THE GOVERNING BODY.

A copy of "Bills and Resolutions scheduled for introduction by members of the Governing Body," for the Council meeting of March 11, 2009, is incorporated herewith to these minutes as Exhibit "1."

Councilor Ortiz

Councilor Ortiz said in light of the issues raised by Bill Hon and the shortfall at the Railyard, he would like to introduce a Resolution to study making the Railyard Parking and associated costs subject to an improvement district to try to cover some of the shortfall. He previously did an improvement district resolution and will get that to Ms. Price, hopefully by the end of the evening. He said this idea needs a lot of scrutiny and it needs to go to the stakeholders at the Railyard for their input. He said one of the mechanisms we can use to meet costs is through an improvement district which would attach to the property itself to cover some of the costs of the parking garage and other parking improvements which will be needed at the Railyard as it continues to build out.

Councilor Dominguez

Councilor Dominguez had no communications.

Councilor Romero

Councilor Romero had no communications.

Councilor Trujillo

Councilor Trujillo wished his wife's grandmother a happy 90th birthday.

Councilor Trujillo said there are two badly tagged train cabooses at Rodeo Road where the tracks cross. He would like staff to contact Santa Fe Southern to do something about the tagging.

Councilor Chavez

Councilor Chavez said unloading in front of the Community Gallery in the underground is difficult and there isn't an unloading zone on the ground level. He said artists and craftsmen are being ticketed while loading/unloading their works for the Community Gallery. He would like signs indicating "Loading Zone," and identify the Gallery separate from the Convention Center.

Councilor Chavez said the commission to the City on sales of arts and crafts from the Community Gallery haven't been set by resolution, noting a committee of the Arts Commission is sort of managing the space. He would like to bring forward a Resolution which would lock the commission at 30%, versus 50-50 or 40-60 which is standard at the downtown galleries, and present the Resolution to the Arts Commission so there is a more formal policy. He said the main focus of the Gallery is to represent those local artists and craftsmen who aren't represented in downtown galleries.

Mayor Coss

Mayor Coss thanked everyone involved with launching the "Buy Into It" campaign yesterday, and encouraged everyone to check out the web page and participate the Buy Into It challenge. It is a good collaborative effort.

Mayor Coss thanked Yolanda Vigil and staff for their work on the Special Election, noting we set a record for turnout for a special election.

Mayor Coss said he toured the homeless overflow shelter along with Councilor Dominguez and Councilor Bushee. He commended the volunteers, noting they have had 50,000 volunteers who produced over 50,000 nights during the winter for people to sleep out of the cold.

Yolanda Vigil asked to formally enter the Ordinances into the record, listed in Exhibit "1" to these minutes, as follows:

1. Councilor Chavez: An Ordinance amending Section 14-8.14(A) SFCC 1987, Regarding the applicability of impact fees to the territory outside the corporate limits upon agreement of the Extraterritorial Land Use Authority [ELUA]. Councilor Ortiz asked to be added as a cosponsor of the ordinance. A copy of this Ordinance is incorporated herewith to these minutes as Exhibit "2."
2. Councilor Romero: An Ordinance amending Section 14-8.10 SFCC 1987 establishing the purpose of the Sign Code; establishing requirements for electronic messaging signs; and making such other changes as are necessary. A copy of this Ordinance is incorporated herewith to these minutes as Exhibit "3."
3. Councilor Wurzbarger: An Ordinance amending Section 14-4.3(1) SFCC 1987, regarding the purpose and requirements of PRC Planned Residential Community Districts. A copy of this Ordinance is incorporated herewith to these minutes as Exhibit "4."

END OF AFTERNOON SESSION AT 5:30 P.M.

EVENING SESSION

A. CALL TO ORDER AND ROLL CALL

The Evening Session was called to order by Mayor David Coss, at approximately 7:00 p.m. Following the Pledge of Allegiance and Salute to the New Mexico Flag, 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

F. PETITIONS FROM THE FLOOR

Manuel Romero said he is a Santa Fe native, and is with Positive Role Models of Santa Fe, which are break dancers performing in many places. He said they have had an ongoing issue at the Chavez Center, and recently it has resulted in a physical incident. He said the police were involved with Ricky Rodriguez, one of the members of the group. He said a security guard picked Mr. Martinez up and dropped him on his neck. He said all they want to do is to dance. They have practiced at the Chavez Center for many years since the grand opening. He said they practice at the corner of the basketball court. There is a dance studio upstairs, but they can't use it. He said mirrors were broken and they found out one of the Chavez Center employees did it, although their group was initially blamed. He said they have been told they are not allowed back in the Chavez Center until they speak with Ricky Rodriguez. He said Mr. Rodriguez has made appointments, but Liz Roybal said she doesn't have time for him now. He said they practice 5-6 times a week. He said recently a couple of his crew were allowed to go in, but they won't let him nor Ricky back in because they are a part of what happened on Saturday. He asked what they can do

to be back in the Community Center, commenting that they feel they are being singled out for doing something bad. He said they are here to give back to the youth in Santa Fe and Northern New Mexico.

Mayor Coss said staff will work on this.

Rick Martinez said he is here to express his disappointed with the way the approval of the property in the Northwest Quadrant has taken place. There has been no public involvement or input. He said he has attended meetings to try to understand the process, saying he always thought the public was invited in this process. He said the City is spending \$850,000 on 15 acres of undeveloped land in the Northwest Quadrant and giving 10 acres for a school site, so we're paying for \$850,000 for 5 acres of land. He said we gave the Schools 25 acres of property so they can build 19 market rate homes with no affordable housing. He said there should be more public input in this process, noting the Governing Body is making deals without the public being there. .

Sagemaya Dandi, 1492 Upper Canyon Road, said because of the controversy over the "affordable housing tax," he encourages Donna Reynolds to continue with her lawsuit. He is appalled that Councilors from Districts 1 and 2 would vote for this. He said the only property which would be taxed is on the east and northeast side. Mr. Dandi encouraged the Council not to say the Pledge of Allegiance, because he doesn't understand how taxing people with property on the east and north side is "liberty and justice for all." He said he has been unable to get a response from the City Manager or the Director of Finance to his requests for information. He said we want to trace how the money is spent because this Council is making decisions which affect everybody. He urged the City to hire a Bicycle/Pedestrian Coordinator.

G. APPOINTMENTS

Occupancy Tax Advisory Board

Mayor Coss appointed the following individual to the Occupancy Tax Advisory Board:

Victoria Bruneni (Lodgers) ~ to fill unexpired term ending 02/2010.

Councilor Ortiz moved, seconded by Councilor Chavez, to approve this appointment.

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.

Mayor's Youth Advisory Board

Mayor Coss appointed the following individuals to the Mayor's Youth Advisory Board:

Adrian Salazar – to fill unexpired term ending 12/2009;
Moises Saenz Tarango – to fill unexpired term ending 12/2010;
Nick Gordon – to fill unexpired term ending 12/2009;
Kamon Maris Tari – to fill unexpired term ending 12/2010; and
Santana Shorty – to fill unexpired term ending 12/2010

Councilor Romero moved, seconded by Councilor Dominguez, 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.

H. PUBLIC HEARINGS

- 1) REQUEST FROM IMZI SUSHI BAR, INC., FOR A RESTAURANT (BEER & WINE) LIQUOR LICENSE TO BE LOCATED AT IZMI SUSHI RESTAURANT, 720 ST. MICHAEL'S DRIVE. (YOLANDA Y. VIGIL)**

The staff report was given by Yolanda Vigil, noting that because the corporate structure changed, the business has to reapply and get another Restaurant Liquor License. She said the business is not within 300 feet of a church or school, and staff recommends this business be required to comply with all City Ordinances.

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

Councilor Bushee moved, seconded by Councilor Calvert, to grant the request for a Restaurant (Beer & Wine) Liquor License to be located at Imzu Sushi Bar, Inc., 720 St. Michael's Drive.

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.

- 2) **CONSIDERATION OF BILL NO. 2008-12; ADOPTION OF ORDINANCE NO. 2008-_____ (COUNCILOR CHAVEZ). AN ORDINANCE CREATING A NEW SECTION 14-5.10 SFCC 1987 REGARDING NEIGHBORHOOD CONSERVATION OVERLAY DISTRICTS, AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY. (JEANNE PRICE)**
(Postponed at October 29, 2008 City Council Meeting.)

Jeanne Price presented information from her Memorandum prepared March 5, 2009 for the meeting of 11, 2009. Please see this document for specifics of this presentation.

Councilor Chavez observed that the bill noticed this evening has been in the system for about 1½ years, and has gone through extensive committee scrutiny. He asked the difference between the proposed bill and the version of the bill currently before the Council, in context, fiscal impact and ability of staff to adequately allocate time for both the neighborhood plan and enforcement. He hopes this will play out during the discussion and these remarks are meant for a later discussion, noting the substitute bill has not been published.

Councilor Romero said no bill has been put out at this time.

Public Hearing

Mayor allowed people three minutes each to speak to this issue.

Nancie Broadhead, 753 Viento Circle, read her statement into the record indicating her support for this bill in its original form, urging the Council to adopt it this evening and don't postpone it. A copy of Ms. Broadhead's statement is incorporated herewith to these minutes as Exhibit "5."

Carolyn Agard, 2218 Brillante Street, said she is in favor of the Neighborhood Conservation Overlay District and supports the neighborhood planning process and hopes the Council considers that.

Carla Romero, 2068 Calle Sombra, read a statement into the record indicating support for the bill, saying it will benefit her neighborhood. A copy of Ms. Romero's statement is incorporated herewith to these minutes as Exhibit "6."

Robert Ake, 2068 Calle Sombra, said he attended 5 recent ENNs, and said the difference between an ENN and the proposed ordinance will put the neighborhood into a seated stature. He said any process would be better than the presentation of four incomplete plans which didn't include the details of what was to be done and how we would address it legally. He believes the ordinance would have worked for the developer and the neighborhood. He believes a neighborhood plan is very important and the City's tools present an "ambiguous nebula for neophytes." He said a neighborhood overlay district which is fair to both sides provides a forum. He said they need something with statute and ordinance power, rather than

just a resolution. He is in favor of the Neighborhood Conservation District, noting he is the President of the Calle de Cerros Neighborhood Association.

Barbara Fixe, a resident of the Baca/Sierra Neighborhood, said she is speaking on her own behalf. Ms. Fixe said they have an active neighborhood, noting they fought the Baca Street well and ended up with the City owning the water system and a top notch treatment system. She said her neighborhood always has been reactive. She said this ordinance will allow them to be proactive. She thanked Councilor Chavez for really pushing them to get organized. She said normally it is the neighborhood versus developers. Her hope is that this ordinance will help to preserve the integrity of a neighborhood from development, as well as a way for the City to help the neighborhoods to protect themselves from the City.

Rosemary Menard, 534 Alarid, said she is here to speak on behalf of the bill. She said the key to her support is that this is an ordinance, saying they need the "teeth of law." She lives in the Alarid/Juanita Street neighborhood and she knows what can happen to a neighborhood and the potential destruction of its character without an enforceable law. She said if people think they have a chance to prevail and their interests will be protected by an ordinance, she believes there will be better participation and the result will be the success that comes with the kind of development which enhances a neighborhood and does not destroy its character.

Mary Dikton, 1824 Arroyo Chamiso Road, said patience isn't her virtue. She has attended all of the meetings, and complimented Nancy Broadhead's remarks. She said Councilor Heldmeyer has done what no Councilor has ever done, saying Councilor Heldmeyer was with the ACSYL neighborhood 24/7 during their battle about the pumice plant. She said somewhere it says "we the people," and we the people are speaking. She sees procrastination and doesn't know why it is taking so long to adopt this Ordinance. She said she is representing herself this evening. She said they are very concerned about the air quality in Santa Fe and wants testing to be done, saying St. Francis Drive may already be a "killer," and noting St. Francis has the greatest concentration of schools immediately downwind from St. Francis. She said neighbors want to conserve their neighborhoods, and "we the people" want something done on this particular ordinance with teeth in it – "we want law."

Rick Martinez 725 Macias Road, he said the first step was for the City to hire Patrick Nicholson as the Neighborhood Planner to work with neighborhoods. He said the next step is to do neighborhood plans, just as the Casa Linda Neighborhood did. He said this will give neighborhoods ways to preserve their identity. He said it gives the neighborhoods a way to create the kind of neighborhood they want to live in. He supports the ordinance, and said whatever is done, it is important not to give up on the neighborhoods which are the biggest part of the community. He said a lot of hard work has gone into this over the years, and urged the Council to listen to and support the neighborhoods.

Reggie Cox, 314 Delgado, said she has lived there in the same house for more than 30 years. She wants to speak on behalf of the Neighborhood Conservation Overlay District. She said in the early

1980s, 6 people, including herself, were hit with a "slap suit," by a person who wanted to put a second story on three properties they purchased in the neighborhood, and that took about three years. She asked the Council to preserve all neighborhoods in the City, saying "we desperately need this Neighborhood Conservation Ordinance."

Former Councilor Karen Heldmeyer, 325 E. Berger, said this isn't about her. It is about all the people who came on very short notice this evening and the hundreds who participated in this process which led to the development of this ordinance. She said there are many existing neighborhoods that want to preserve what is important to them, and those generally are neighborhoods of a certain age, but not old enough to be historic. These are neighborhoods where generations grow up, grow old together and see the next generations come on. She said there was a lot of talk on the Council about workforce housing, and most of these neighborhoods are the City's workforce housing. She said when these neighborhoods get changed beyond recognition, the people in them move out, often out of the City. She said this has already happened to two neighborhoods and potentially can happen to other neighborhoods without protection. She said these are everyday Santa Fe citizens not the "high rollers," who can take care of themselves.

Councilor Heldmeyer said these people need an ordinance of some sort, not a resolution nor a nice statement. She asked why they need a Neighborhood Conservation District Ordinance, and said because it is pro active and allows neighborhoods to say in advance what they want to preserve, and it provides developers and others coming into neighborhoods the certainty they say they want. She said this is democratic and is based on a vote of the neighborhood. She said the Planning Commission liked this concept because they hear a lot of the cases where developers are proposing something which the neighborhoods don't like and they have to decide. She said the Planning Commission worked very hard in a subcommittee to come up with another version.

Councilor Heldmeyer said this isn't the only way to protect neighborhoods, but it meets all the criteria she just mentioned. She understands there is another version of the ordinance floating around. She asked the process. She said it has been over one year since the ordinance was tabled. If there is another version floating around or if there are other ideas, why haven't those been part of the community conversation.

Councilor Heldmeyer thanked Councilor Chavez for following through on this. She said he had an incredibly hard time finding out if this was to be heard tonight, and was given different answers by different people over the last several weeks. This is the reason those in attendance tonight had such short notice. She said one of the things that has been mentioned, but hasn't been introduced, is the idea of doing a neighborhood plan. She said neighborhood plans are okay, but they take a lot of time, a lot of energy, and you have to do a lot more work for them than you have to do for a neighborhood conservation district ordinance. She said there is a lot of stuff in there, such as an existing conditions report, which you don't necessarily have to do for a neighborhood conservation district. She said some of the problems in the

General Plan happened because they spent all their money and time on an existing conditions report, and never got around to saying what the plan would be.

Councilor Heldmeyer said, under the existing law, a neighborhood plan is a resolution, even if it's adopted as part of the General Plan. She said people are asking for some certainty, some protection, and within a reasonable length of time. She said if every neighborhood has to do its own plan, which takes a year, it is going to be a moot point, and all the neighborhoods which developers want to overrun will be overrun. These neighborhoods are in all four districts and it's not the problem of a specific district – it's the entire City. She said she isn't saying her way is the only way, but there has to be a way that's adopted quickly, that neighborhoods can deal with quickly and it has to be done fairly soon with a lot of public input, and not just a behind the scenes kind of discussion.

The Public Hearing was closed

Councilor Chavez said it has taken a long time to get to this place, and not all of the details have been worked out. He said ordinances and the General Plan are living documents which can be amended from time to time if necessary. His interest in the Overlay District was to have a blanket policy which would assist all neighborhoods throughout the City which is the challenge. He said the pilot project can be used as a testing ground to learn to streamline the process and to be more cost effective, and if the substitute bill speaks to this, he would be willing to listen. He said we have learned through past experiences that there is neighborhood interest. He said we should learn from these experiences and not repeat those patterns as we move forward. Councilor Chavez spoke about an issue in the Hickox/Baca/Sierra Vista neighborhood where high condo type development was being sought as affordable housing. He said a neighborhood plan should allow neighborhoods to be part of the planning process instead of outside forces doing the planning of their future. He said development should happen at the right place, at the right time and should not adversely impact the existing residents.

Councilor Chavez said he is hearing from staff that reality is setting in and the economy has caught up with us. He said all departments are being asked to reduce their budgets by 15%, but he's hearing from staff that to implement the ordinance and the plan will require additional staff training and additional staff which means an increase in the budget. If there is a way to streamline the process and not delay further, he would be open to that.

Councilor Chavez moved, seconded by Councilor Romero, for purposes of discussion, to adopt Ordinance 2009-9.

Discussion: Councilor Romero said she appreciates people coming out this evening to support the ordinance. She said the Council decided to move forward with the pilot project in her neighborhood and that was done in a very public way. She offered her neighborhood because of the 25 acre development by the NMDOT because of the Rail Runner with a variety of issues. She said they have learned a lot. She said the neighborhood plan is in draft form which has not been approved, and has been

moving through the process, with regular reports on what we've learned from the process. She said it is important to protect our neighborhoods, and they moved as quickly as possible in developing the plan. She said this has been a grass roots, from the bottom up, neighborhood planning effort.

Councilor Romero asked Mr. Nicholson to give a brief overview of the neighborhood planning process to date. She said she will be moving forward with an alternate proposal, but it's not here this evening. She said it will have merits and it combines neighborhood planning with the Neighborhood Conservation Overlay District. She said there is a better way to do this process. She said this hasn't been done behind closed doors.

Patrick Nicholson, Neighborhood Planner, said the Casa Linda Neighborhood Plan, the pilot project has been ongoing since late spring. It was worked in conjunction with the neighborhood, primarily a steering committee, which held several meetings. There have been door-to-door surveys and they have tried to be as open and transparent as possible. He said the draft Plan is on the City's website at the Land Use Site. He said they have learned several things throughout the process which could better inform the Neighborhood Conservation Overlay District ("NCOD"), originally proposed, which he believes is the purpose of the pilot project. In the interim, staff has come up with some recommendations to strengthen that bill. He said, as mentioned by Councilor Chavez, there are very real constraints with budget and staff. He said they took that into consideration in drafting a substitute bill.

Councilor Chavez said learning and education are lifetime endeavors, and it is good we have learned from one pilot project for one neighborhood. In April, he thought it was out of order that we wouldn't vote for an ordinance, and select one neighborhood over all the others for a pilot project. He said the Baca/Hickox/Sierra Vista neighborhood would meet the same criteria because of the Baca Street Railyard. He said the ordinance was never set up to be about one neighborhood. He said we should be open to continue to learn from all neighborhood planning process, because each one is different. He doesn't understand why one had to wait for the other. He said we did learn from the pilot project is that it is very labor intensive and public participation takes time. He said he doesn't see how the budget constraints would differ from the substitute bill, commenting that he was a little taken aback by the new bill.

Mr. Nicholson said the potential revised version of the Ordinance, as drafted, would allow a more efficient use of resources and could allow for multiple neighborhoods to be done simultaneously.

Councilor Chavez pointed out that we're talking about a bill that hasn't been introduced. He would like to have some discussion about the two bills. He said we were led to believe a year ago that we were going to do a pilot project and then adopt an ordinance, and now we're led to believe there will be a substitute bill. He said some of the suggested language could have been considered as amendments. However, if the text or context changes too much, then it trips that threshold and produces a substitute. As the main sponsor on this ordinance, he wasn't approached to consider introduction of a substitute bill which he finds interesting. He said there is demonstrate commitment from the neighborhoods to do the overlay district and the neighborhood plan, and he doesn't argue that we don't need to do it in a more

efficient and timely manner. We will have to do it within the current economic constraints.

Councilor Romero said this is not a substitute bill. It is a new bill which is fully enhanced and includes the learnings from the pilot project which are open to the whole City. She believes the current bill would be diffused with what they're trying to address. She is introducing a new bill, because she believes the new language enhances the planning for neighborhoods more comprehensively. It addresses neighborhood planning at its best, from the grass roots up, and is all encompassing and will lead to the NCOD. She believes this is the way to go and it comes from her 20 plus years of public involvement and community planning, so it's not new to her, and she believes this is the best way to move forward to protect the neighborhoods. She is confident in the bill she's introducing, but she wasn't comfortable in amending the bill. The new bill will be introduced shortly.

Councilor Bushee said she is uncomfortable in discussing something which hasn't been introduced or advertised. Her concern is the timing. She would like to have that information before her in order to make a good decision. This bill hasn't gone through committee, and she is confused with this direction.

Councilor Chavez said Ms. Price's Memorandum says, "...staff is currently in the process of developing a substitute bill..." He said we've had a year to discuss possible amendments to the ordinance which has been noticed.

Councilor Bushee said it's been a while since she's seen this Ordinance, and she doesn't find a definition of "neighborhood," or "NCOD" for example. There has been no discussion about pieces of this ordinances which are worth discussion.

Mayor Coss said Councilor Bushee certainly can ask staff these questions. Since we don't have both ordinances before us we really can't discuss them side-by-side.

Councilor Bushee understands staff has some heartburn and there may be issues with enforcement and she don't want to send the wrong message that we've passed something we can't implement. She said on page 2 it starts off "big,". Councilor Bushee quoted from page 2, line 19, "...distinctive characteristics including, but not limited to: streetscape, architectural features, density, lot coverage, setbacks, height and some property uses." She said this is the whole "shebang." She believes staff could improve here, but this language "leaves open just about anything, and it got into property uses and it doesn't really stop later in the ordinance, other than to say if you go on a variance from maximum allowable density or permitted land use, they're prohibited and shall be considered amendments to the NCOD."

Councilor Bushee asked if they worked with the main sponsor to narrow staff's concern. She said it implies that there would be a battery of staff work on this if it is this general. She asked how much work has been done other than the pilot project. She believes something like this could work, but this covers anything and sees staff's concerns.

Councilor Romero said we all agreed that we were going to incorporate what we learned from the neighborhood planning and incorporate it into the ordinance, and let it go through the process and make all the changes. She said when Casa Linda didn't approve its plan it put things back somewhat. She said they were incorporating the neighborhood planning effort. She said it is frustrating that something moved forward and thwarted the process we have in place.

Councilor Bushee reiterated that her problem is on page 2, lines 19-21. She said staff had concerns, starting with Mr. Hiatt, that this is too much, too big and too hard to enforce. She asked what staff proposed in response to that concern.

Mr. Nicholson said staff looked thoroughly at tonight's proposal, drawing on the lessons of the past year, other conversations and did approach the bill sponsor to incorporate many of the changes which grew out of that experience. It was determined to proceed with the original version of the year. He said to answer Councilor Bushee's questions, the definitions will be clarified in the version which comes forward. He said he wasn't instructed to refine or modify the current version before the Council.

Councilor Bushee noted an amendment to the language where we have added "or uses" where it says "non conforming structures," and asked if there is an issue with uses. She asked Mr. Nicholson if there were things he would narrow.

Mr. Nicholson said there is an evolving draft of revisions to the proposed ordinance, and where their efforts have gone to improve the bill. He said there isn't a new bill, but when that happens, staff will do a full blown staff report so the Council could discuss and dissect all of the request.

Councilor Bushee observed that she would be somewhat upset about this action if she were the main sponsor.

Councilor Chavez said he agreed to do the pilot project if they would do a plan for his neighborhood, which didn't happen. He said it isn't fair to put staff in this position and he apologizes now, noting we took a misstep.

Councilor Bushee believes the concept is workable, but she would like to have had a full blown discussion on the details, and would like to see what staff has been working on to compare, and to see what can be incorporated. She asked if there is any interest to postpone discussion of this bill to the time we receive the other bill.

Mayor Coss said there was interest, and it was offered by Councilor Romero. However, Councilor Chavez wanted to have this discussion because this is the night agreed for postponement of this matter. He said Councilor Chavez wanted to do a plan for his neighborhood, but the Council gave direction to staff to move forward with only the one plan. He said one staff person can only do one plan, and part of the concern with this bill is how many staff would be needed and realistically available, especially during the

economic downturn. He said Councilor Romero offered to do a compromise bill or work together, and the Councilor wanted to hear this tonight which is his right as an elected City Councilor.

Councilor Bushee moved, seconded by Councilor Wurzbarger for purposes of discussion, to postpone this bill and asked that the new proposal, along with this bill go back together through the committee process for public input and come back together at the same time to the Council.

Discussion: Councilor Wurzbarger said she feels we are off, process wise, regardless of how we got here. What she expected is that once we completed this experience in District, we were not going to come back with a new bill or the old bill, but that we were first going to come forward with a report of what we learned and then discuss that, and how it might impact changes. She wants to hear what we've learned. She attended the initial meeting where the neighborhood reviewed this plan and decided they needed to do further work on it. She said to her it is a two-track process. It's not just the plan, but what did we learn from the process of doing this plan that applies. This is the information she wants, rather than to start with two bills which start going through committees in controversy to one another. She said we learned that we can't do a process that takes 1½ years, and it won't respond to the community needs. She said she has told both Councilor Romero and Patrick that we need to look at the process and make it more efficient based on what we learned during this process. She does not want to see "ordinance number one versus ordinance number two." She wants to make it very clear that we are not giving up on the neighborhoods and are looking for something with statutory power. However, we are out of sync in terms of process and haven't taken the time to find out what we learned and those implications. She wants to take time to do this and then discuss it at the Council or at the committees.

Councilor Bushee believes this bill needs to be postponed rather than killed this evening. She isn't interested in wasting the time and resources. She said there is room for people to sit and work this out, because there is a problem and we're looking for solutions. She would prefer that we have a starting point and the sponsor would like a way to make this happen.

Councilor Romero said, for the record, they have followed process and the learnings from Casa Linda were incorporated into the new bill, and as we heard earlier those weren't accepted. She developed a schedule to bring that to the Council, but everything was delayed because the Casa Linda Neighborhood didn't approve its plan, and she described the process.

Councilor Bushee wants this to go through the full Committee process and not just through the Public Works Committee.

Clarification of the date certain to which this is postponed: Councilor Bushee would like the time frame, and the time certain to which this is postponed.. After discussion, Councilor Bushee amended her motion to postpone this to the last Council meeting in June, so these could go through the entire process.

Mayor Coss said, as Councilor Heldmeyer said, a neighborhood plan is good, but it isn't very meaningful if it doesn't wind up in an overlay district with zoning behind it, and this has to be the goal of this ordinance.

Clarification: Ms. Vigil clarified that this vote would be to postpone to the Council meeting of June 24, 2009.

The motion was approved on the following Roll Call Vote:

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

Against: Councilor Romero.

Explaining his vote: Councilor Chavez said this will be the fourth time that we have postponed. He said let's see if postponing it again will keep it alive. He has faith in the neighborhoods to keep up their tenacity to stay committed. He apologized that things take as long as they do, commenting that he tempted to vote against the postponement, but he will vote yes and see what the new version of the Ordinance looks like, because he knows nothing about it.

- 3) CONSIDERATION OF BILL NO. 2009-7 ADOPTION OF ORDINANCE NO. 2008- 09 (COUNCILOR CALVERT, MAYOR COSS, COUNCILOR WURZBURGER, COUNCILOR BUSHEE, COUNCILOR ROMERO AND COUNCILOR DOMINGUEZ). AN ORDINANCE CREATING A NEW ARTICLE 7-4 SFCC 1987, GREEN BUILDING CODES; CREATING A NEW SECTION 7-4.1 SFCC 1987, RESIDENTIAL GREEN BUILDING CODE (SINGLE FAMILY ATTACHED AND DETACHED); AND REPLACING SECTION 7-15 SFCC 1987 ENERGY AUDITS. (KATHERINE MORTIMER)**

Items 3, 3(a), (b), (c), and (d) were combined for purposes of staff presentation, public hearing and discussion, but were voted upon separately.

Ms. Mortimer presented a brief overview and history of this matter, and presented highlights from the proposed Ordinance, saying this arose from the City's adoption of the 20-30 challenge in 2006 calling for progressively reducing greenhouse gas emissions from building operations until they produce zero emissions by 2030. She noted there are staff initiated proposed amendments in the packet, noting Councilor Calvert will speak to some of the issues with these amendments.

Public Hearing

Those speaking to the request

Kim Shanahan, 6345 Milagro Luna, said he is the Executive Officer of the Santa Fe Area Homebuilders Association. He participated from the beginning on this process, and is proud of the effort of the Association in the formation of these Codes. He said the concept of them as performance based codes is somewhat untested, and sets a bar for achievement. He said we are on a March to 2030 for zero energy homes which is uncharted territory. He said in 4-5 years, the HERS requirement probably will go from 70 to 55. He said this action is inevitable. The Association came up with guidelines about ten years ago to put off an intent in the City to have a Green Building Code, to keep it voluntary and to be ready for these Codes in ten years. We have an opportunity to lead. He said the Santa Fe homebuilders are some of the most progressive in the United States. He said the tradeoff between affordability and green will be constantly at the forefront. He said we have mandated that 30% of the market be affordable and they will continue that. He said if we can't do it in a green way we have fooled ourselves. He said this can be done on the south side of town, while knowing that in five years we will have to have solar as part of our solar plans. Green and affordable have to be linked. He said yesterday there was a vote on something which supposedly stopped the financing of affordable housing, but that really isn't true. We have to solve the issue of affordability. The money is going to have to come from somewhere to take care of the issues beyond what the ability of the development and building community to do. He said the building industry will be competitive about green building as we move forward, because we have to do so. He said the relief has to come from somewhere. He said we stands ready to support the City in whatever it chooses to do, including property tax bonds, and believes this can be done with total cooperation between the City, the realtors, developers, nonprofits and homebuilders. He said once this is done, we truly can afford to go "way greener." He said there is no opposition to this and the time is right.

Mayor Coss thanked him for his work on the committee.

Gail Ryba, West Zia Road, Director of the Coalition for Clean, Affordable Energy. She is here to pitch that this is really about saving consumers money and not an environmental story. She said the only sales which will go down are the New Mexico Gas Company. She said it is important to do this, and there are two forums where we can save consumers money through these efficiency measures measured by HERS. One is at the Public Regulation, and the other is here with the City Council on building codes. She said the impact is equal on savings consumers energy. She said energy efficiency saves consumers money. This is the right action because we want to be a leader in greenhouse gas reduction. She said it is starting to save money by building green. She said the money coming from the Stimulus package is more than the State has ever had for this purpose, noting the City has shovel ready projects in the energy efficiency business. She said she had to drop off the team working on this, and she thanked Kim Shanahan, Harold Trujillo and the other members for their work. She said they and you are going to make Santa Fe a real leader in this effort.

David Van Winkle, 21 Delilah Lane, Chair of Northern NM group of the Sierra Club, noting they are strong supporter of the Ordinance and the Resolutions. He said energy consumption of new residences under the Code will be about 50% of what it was before. These address air pollution and mold,

but do not call for fancy materials such as hay bales or cork floors. It is about things like passive solar, and building a tight envelope so the heat doesn't leak out. It's about the right amount of insulation, and you will save money in doing this. It is about doing things right. H thanked the City, especially Katherine Mortimer and staff, and Kim Shanahan for their vision in creating this Green Building Code. However, the other "Elephant" in the room are the existing buildings and what to do with those, which isn't addressed in this Code. He said the team is already in place to go to work on that, noting they plan to go to work on that and he encourages this. He spoke about doing an energy audit on a used home before he purchased it. He said at that time there was only one certified energy audit in New Mexico, and there are now 25. He encouraged the City and the Association to accelerate looking at existing buildings.

Hope Reed, said she served on the team which designed these standards, representing the Governor's Commission on Disabilities. They are in favor of the Ordinance/Resolutions because it means more energy efficient and affordable homes. She said people with disabilities are low income and having a home with lower energy bills will benefit over time. She the Code provides more universal design features, such as a home with non-toxic materials so people don't develop chemical sensitivities. She said there are points for making a bathroom big enough to bring a wheelchair in and shut the door, noting these homes will have wider doors and grab bars and no stairs. This saves resources, because thousands of dollars are spent adapting a home for the elderly and/or those with disabilities.

Harold Trujillo, 2702 Rincon Court, said he helped to coordinate this effort from the beginning. He said originally there were 58 people – architect/engineers – who participated, and 18 who participated directly in the Green Building Code. He recognized Kim Shanahan, Dalinda Mangard and Fran Dancer who gave more than 1,500 hours in doing this. There were four from the building industry, four from public interest, five City representatives, two State representatives and five technical experts. As a result of this input, this City will have one of the best in the Nation. He said the City should be proud of this effort if it adopts the Ordinance.

Paloma Collier, 117 East Coronado, said she is here representing herself and Brian McPartland Roofing, where she is the Green Roof Specialist. She also works for the Earthworks Institute, where she is a mentor for a youth corps focusing on all aspects of sustainable living. She said trying to make a roofing company is difficult. If this Ordinance/Resolutions is adopted and the standards are higher, the companies such as Brian McPartland Roofing will have to do better with its recycling of old roofing materials. She said Brian asked her to say he is concerned about the economy at this point, but she believes this is the only way they can move forward and do better for the economy and the people. She said this is the perfect time in the world to ride this "Green Wave." She said at Earthworks they are working with the kids on designing sustainable housing, and they can see that they can move forward in this way and we can all live a healthier life.

The Public Hearing was Closed

Councilor Calvert thanked the Committee, staff and volunteers that worked on this, who volunteered many house to pull this together to give us a template for the future of building in Santa Fe.

Councilor Calvert moved, seconded by Councilor Wurzbarger, to adopt Ordinance No. 2009-09, with all of the amendments, with the deletion of #7 on page 7, and in #10 in Section 4.4.8 insert 0.21 in lieu of 0.15, with an additional amendment [Exhibit "7"].

Discussion: Councilor Calvert said, regarding his proposed amendment, he would like to keep the posting of information for the first homebuyer, which would give people better consumer information as well as giving the Homebuilders to improve on the ratings to which they are building their homes.

Councilor Bushee said the majority of homes in need of new sustainable efforts are retrofits.

Councilor Calvert said this is the first step, and he doesn't know what will be next – existing residential or commercial.

Ms. Mortimer said there is a lot of pressure to move on both fronts at the same time, so that's what they will do. Responding to Councilor Bushee, she said they should move much faster because this template will be used to build from, and she would expect to have drafts in several months to be introduced, although it will take time to go through the City process.

Councilor Calvert asked people with suggestions for incentives or requirements regarding HERS rating to let him know.

Responding to Councilor Bushee, Ms. Mortimer said the Green Code group is a working group, but it will be reformed somewhat, and they will be recruiting from the Remodelers Council at the Homebuilders Association for the remodeling of residential, and tapping into people who design and build commercial buildings for the commercial code. In both cases, they will be using this as the model. She said there are some incentives, but they aren't that great..

Ms. Mortimer said her reading of the Stimulus Package is that most of the funds are geared toward energy efficiency of existing buildings. They are hoping to use some of the Energy Efficiency Block Grant funds to add funds to the existing solar and energy efficiency loan program the City just embarked on with Homewise. She said the Remodeling Code would provide guidance on how to do that and give points.

Ms. Mortimer said with regard to the changes in the motion, there are corresponding changes which need to be made in the amendment sheets to the guidelines.

Friendly amendment: Councilor Calvert said Amendment #9 on page 47 would be deleted and on page 48 in Item #13, substitute 0.21 for 0.15. **The amendment was friendly to the second, and there were no objections by the other Councilors.**

The motion, as amended, 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.

- a) **CONSIDERATION OF RESOLUTION NO. 2009- 42 (COUNCILOR CALVERT, MAYOR COSS, COUNCILOR WURZBURGER, COUNCILOR BUSHEE, COUNCILOR ROMERO AND COUNCILOR DOMINGUEZ). A RESOLUTION ADOPTING THE ADMINISTRATIVE PROCEDURES FOR THE SANTA FE RESIDENTIAL GREEN BUILDING CODE. (KATHERINE MORTIMER)**

A copy of a proposed amendment to Resolution No. 2009- 42, Administrative Procedures for the Residential Green Building Code, with attachment, submitted by Councilor Calvert, is incorporated herewith to these minutes as Exhibit "7."

Councilor Calvert moved, seconded by Councilor Wurzburger, to adopt Resolution No. 2009-42.

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.

- b) **CONSIDERATION OF RESOLUTION NO. 2009-43 (COUNCILOR DOMINGUEZ, MAYOR COSS, COUNCILOR CALVERT, COUNCILOR WURZBURGER, COUNCILOR BUSHEE AND COUNCILOR ROMERO). A RESOLUTION ADOPTING AN EDUCATION AND OUTREACH PROGRAM FOR THE IMPLEMENTATION OF THE CITY OF SANTA FE'S RESIDENTIAL GREEN BUILDING CODE. (KATHERINE MORTIMER)**

Councilor Wurzburger moved, seconded by Councilor Calvert, to adopt Resolution No. 2009-43.

Discussion: Councilor Calvert said he would ask staff to include in this the outreach and education toward lenders, noting there is a segment where we still need help in recognizing the benefits of this in evaluating mortgage.

Councilor Ortiz asked if the educational effort will be done in-house, or via contract, and asked the fiscal impact. He understands the Land Use Department revenues are down 40%.

Ms. Mortimer said it will be done with a combination of in-house and the Santa Fe Area Homebuilders Association who is committed to this effort.

Councilor Ortiz said the City will not be spending funds in support of the education and outreach.

Ms. Mortimer said this is correct, and there are no funds allocated for this effort.

Councilor Bushee asked if we need to rework #5, given that we are going to change the toilet retrofit requirement, or call it something else.

Ms. Mortimer said the reason it says "may" is because of the uncertainty, and the attention is, at the point we are proposing revisions to that program, to revisit both the Water Conservation section and any incentives associated with that program.

Friendly Amendment: Councilor Bushee suggested a more general provision to the effect that water conservation requirements may be reduced. **The amendment was friendly to the maker and second and there were no objections from the other Councilors.**

Councilor Chavez said the last bullet point in Section 2 on page 2 of the Resolution, provides, "The City shall have a Green Building Codes Administrator who's [whose?] first job will be to act as ombudsman to answer specific questions and assist in making presentations prior to the Codes effective date." He asked if we have this person in place.

Ms. Mortimer said given the economic downturn, and the reduction in building permit applications, at this point it was felt there wasn't justification for an additional FTE until that number comes back up, so she will be performing that role.

Councilor Chavez asked if we would like to include language that there is somebody in place, but we are asking staff to do more with less.

Friendly Amendment: Councilor Calvert said this is budgetary information, but he has no problem changing the language to provide that, "The City shall does have a Green Building Codes Administrator..." **The amendment was friendly to the maker and there were no objections from the other Councilors.**

Friendly Amendment: Councilor Chavez would like to amend Line 21 to add the Santa Fe Community College." **The amendment was friendly to the maker and there were no objections from the other Councilors.**

The motion, as amended, 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.

- c) CONSIDERATION OF RESOLUTION NO. 2009-44 (COUNCILOR CALVERT, MAYOR COSS, COUNCILOR WURZBURGER, COUNCILOR BUSHEE, COUNCILOR ROMERO AND COUNCILOR DOMINGUEZ). A RESOLUTION ESTABLISHING INCENTIVES FOR GREEN BUILDING THAT EXCEEDS THE REQUIREMENTS OF THE SANTA FE RESIDENTIAL CODE. (KATHERINE MORTIMER)**

Councilor Bushee moved, seconded by Councilor Calvert, to adopt Resolution No. 2009-43, with an amendment to #5 not to make it specific to toilet retrofits.

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.

- d) CONSIDERATION OF RESOLUTION NO. 2009-45 (COUNCILOR CALVERT, MAYOR COSS, COUNCILOR WURZBURGER, COUNCILOR BUSHEE, COUNCILOR ROMERO AND COUNCILOR DOMINGUEZ). A RESOLUTION ESTABLISHING TARGET GOALS FOR THE CITY OF SANTA FE'S RESIDENTIAL GREEN BUILDING CODE TO MEET THE GOALS SET FORTH IN THE U.S. MAYORS CLIMATE AGREEMENT. (KATHERINE MORTIMER)**

Councilor Wurzburger moved, seconded by Councilor Calvert, to adopt Resolution No. 2009-45, with the amendments.

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.

4) CONSIDERATION OF BILL NO. 2008-64; ADOPTION OF ORDINANCE NO. 2009-10 (MAYOR COSS). AN ORDINANCE AMENDING SECTION 6-16.4 SFCC 1987 REGARDING HEARINGS BEFORE THE ETHICS AND CAMPAIGN REVIEW BOARD; AND AMENDING VARIOUS SECTIONS OF ARTICLE 9-2 SFCC 1987 CAMPAIGN CODE. (YOLANDA VIGIL).

Yolanda Vigil, City Clerk, said there is a letter in the packet from the Ethics and Campaign Review Board, outlining all of the changes to this bill. The bill originated with the Ethics and Campaign Review Board, and also was heard by the Ethics and Rules Committee. She noted Fred Rowe, Chair, Ethics and Campaign Review Board, is in attendance to answer any questions.

Public Hearing

Those speaking to the request

Fred Rowe said he is the Chair of the Ethics and Review Board, noting their Board has no jurisdiction or responsibility for the outcome of elections, but only as to the electoral and campaign process. The Board's letter to the Council expresses appreciation to the City Attorney and the City Clerk in carrying out its responsibility. He believes the recommendations are self evident.

Jim Harrington, 1588 Cerro Gordo, said he is here representing Common Cause of New Mexico which wholeheartedly supports the amendments. He thanked Mr. Rowe and the Board for allowing them to participate in its consideration and proposal. He urged the Council to adopt these three amendments tonight, saying for the most part these are technical and noncontroversial in nature. He said Common Cause is proposing three additional changes which currently are before the Ethics and Rules Committee. He urged adopting the proposed Ordinance amendment as submitted.

The Public Hearing was Closed

Councilor Dominguez moved, seconded by Councilor Romero, to adopt Ordinance No. 2009-10, as presented.

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.

- 5) **CONSIDERATION OF BILL NO. 2009-8 ADOPTION OF ORDINANCE NO. 2008- _____ (COUNCILOR WURZBURGER AND COUNCILOR BUSHEE). AN ORDINANCE ESTABLISHING A RURAL RESIDENTIAL ZONING DISTRICT FOR THAT AREA REFERRED TO AS AREA 1 IN THE SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF CLAIMS ENTERED INTO BY THE CITY OF SANTA FE, SANTA FE COUNTY AND OTHER PARTIES DATED MAY 19, 2008, AND GENERALLY LOCATED WEST OF THE CURRENT CITY LIMITS AND NORTH OF AGUA FRIA STREET; AND MAKING SUCH OTHER RELATED CHANGES. (JEANNE PRICE). (WITHDRAWN)**

This item was withdrawn from the agenda.

10. **REQUEST FOR APPROVAL OF EXCLUSIVE AGREEMENT – PHOTO RED LIGHT AND SPEED ENFORCEMENT PROGRAM; REDFLEX TRAFFIC SYSTEMS. (POLICE CHIEF ERIC JOHNSON AND CAPTAIN ROBBIN)**

A copy of a Memorandum dated March 11, 2009, to Mayor David Coss, et al, is incorporated herewith to these minutes as Exhibit "8."

Captain Robbin presented information regarding this matter from the Staff Report dated March 11, 2009, which is in the Council packets. Please see this Memorandum for specifics of this presentation. which also provides answers to the questions which were asked by the Finance Committee at its meeting on March 2, 2009. He said staff recommends that Redflex Traffic Systems be chosen as the vendor for the Red Light Camera and Speed Enforcement Program which this Ordinance is based upon. He said the selection of Redflex is based on the technical aspects of its program, positive customer references, familiarity with New Mexico's legal and judicatory processes, Redflex's status as currently supporting the programs of Albuquerque and Las Cruces, price, proximity and overall proven success.

Councilor Trujillo said this contract has gone to the proper committees, and to some 2-3 times.

Councilor Trujillo moved, seconded by Councilor Wurzbarger, to approve the request for approval of the Exclusive Agreement with Redflex Traffic Systems for a Photo Red Light and Speed Enforcement Program.

Discussion: Councilor Chavez said Captain Robbin answered some of his questions regarding rear end collisions. It is encouraging to note that the program will fund many of the components in the section. However, his concern is still that these are pre-implementation awareness campaigns. It also seems there is another component which goes beyond that which is part of the ongoing public awareness campaign in the local advertising, town hall meetings and such. He understands this will be an ongoing effort and not just the pre-implementation period.

Captain Robbin said public safety ads, town hall meetings or any kind of internet awareness can be ongoing. The main emphasis is on pre-implementation so the public knows the system will be there, how it works and where it is going to be.

Captain Robbin said before any system issues a citation, there is a 30 day warning period by that system.

Councilor Chavez noted this is included in the Captain's memorandum. He would like to focus on public awareness prior to implementation, noting he likes the warning period which we did with the cell phone ordinance as well.

Councilor Chavez asked if the signs and rumble strips will be permanent in the locations we have selected.

Captain Robbin said yes, and State law requires the signs and rumble strips wherever the system is in operation.

Councilor Chavez asked if the company will replace these at periodic intervals.

Darren Kolack, Regional Sales Manager, Redflex Traffic Systems, said yes, absolutely. He said 100% of all the equipment necessary to operate the program becomes Reflex's responsibility. If the City needs to repave a location, once done, they will come back in and place rumble strips.

Councilor Chavez said the street signs will have to be consistent with our other street signs, and asked if the City designs those and Reflex covers the cost.

Mr. Kolack said there is a State requirement, and he is unsure of the size and placement, but he believes it is 300 feet in advance of the intersection. He said, "Every City has done things differently, and that would be something I would definitely look into, come up with something that you're all comfortable with as a governing board, and then we can go ahead and create those signs and place them in advance."

Responding to Councilor Chavez, Councilor Trujillo said the only place he can see us placing different kinds of signs would be the sharrows if we were to implement the cameras on this side of town. It would be compliant on Cerrillos Road with DOT standards.

Councilor Chavez believes we should review the final design before it is placed, and asked if it is part of the Motion.

Friendly Amendment: Councilor Trujillo would like to amend the motion to require that the City Council will review the final design before the signs are placed. **The amendment was friendly to the second, and there were no objections by the other Councilors.**

Councilor Chavez said the comprehensive website will be somewhat expensive and asked if this will be covered by the program as well.

Captain Robbin said they discussed this earlier today, and it is designed to be funded by the program. He said anything the program is designed to be funded by the program. He said Redflex has said it will help us establish the design, or any part of that, reiterating that it is designed to come out of the money generated by the program. He spoke about Albuquerque's website which is an ongoing system.

Councilor Chavez asked if this would be a stand alone website.

Captain Robbin said in Albuquerque, you can tie in from the Police Department or on the City's Department it will indicate "Red Light Program." You can click on that and that will take you to the red light or the photo enforcement area. Once you get to this section, it is a stand alone for the that Red Light enforcement section, and answers questions about how the system, works, where it's implemented, what to do if you get a citation and such. He said the Council will decide whether to have access from the Police Department or from the City website.

Councilor Chavez said he thinks we need the web page and then the established links from the City's web page.

Councilor Trujillo believes the website should come directly from the City's web page with a link.

Councilor Bushee said she would like specifics on how this contract works with Albuquerque, noting she is looking on contract page 25, Exhibit D, which shows how Redflex is to be paid by Santa Fe.

Captain Robbin said he doesn't know, and suggested Mr. Kolack has this information.

Mr. Kolack said he doesn't have those specifics in hand, but said that was provided at the Finance Committee. He said they are negotiating new terms because of what is happening with the House Bill. However, he can retrieve this information from his computer in just a few minutes.

Councilor Bushee said this would be fine, commenting that she understands Albuquerque is trying to amend its contract.

Captain Robbin said initially, all of the fines and rates were State approved for the contract, as was Las Cruces and Espanola if it goes on line and Farmington. The bill the State passed impacting cities over 200,000 population, which impacts only Albuquerque, altered its fine sheet. He believes Redflex entered into a different amendment contract with Albuquerque.

Mr. Kolack said the original contract term for Albuquerque currently is coming due, and there is an entire new contract being evaluated by the City. Responding to Councilor Bushee, Mr. Kolack said he

believes the original contract with Albuquerque was for four years, and Las Cruces's contract is a five year contract.

Councilor Dominguez thanked Captain Robbin, Chief Johnson and Mr. Kolack for attending.

Councilor Dominguez asked, with regard to the Memorandum he just gave them, if he has been able to independently verify that the summary and statements are true.

Captain Robbin said he called Pino County, Minneapolis and Compton and asked Mr. Kolack for information on the cities which have terminated early with Redflex. He has no reason to believe the information presented is false, but he has not independently verified the information.

Councilor Dominguez asked if there are other cities or organizations who have potential renegotiations of contracts or terminations of contracts without cause.

Captain Robbin said he looked at Dallas. He said Dallas went with Reflex and was with a company called ACS. He said they looked this up on the internet. Dallas had a flat fixed fee for intersections instead of a per citation fee. So, no matter what was produced, they still had to pay a fee per intersection. After the first year, they had a 50% drop in violations at intersections, but since they didn't pay per citation they were responsible to pay a flat fixed fee per intersection which cost more than the revenue produced. He doesn't know if it was renegotiated, but Dallas was talking of contract termination because of this.

Councilor Dominguez asked about Denver's contract.

Captain Robbin said Colorado state law provides what the City can do, but he doesn't know what the fee structure is, saying he can ask Mr. Kolack.

Councilor Dominguez wants to be sure that the City Police Department supporting this has done its due diligence that the City is protected from every potential loophole. He understands Denver was looking at not renewing its contract because the administration and contractor didn't live up to its obligations in terms of being able to provide data. He said the contract is written to provide that data. He said it sounds as if he hasn't been able to determine whether other organizations are terminating or not renewing their contracts and he has no clear answer about Denver.

Captain Robbin said, "I have no real clear answer about Denver, you're correct."

Councilor Dominguez said Councilor Chavez brought up the issue of rumble strips. He said a motorcyclist asked him today if these are safe for motorcyclists. He understands a gap is left in the middle of the lane between strips to allow motorcyclists to pass through. The motorcyclist told him he is concerned because oil is leaked there and makes it dangerous for motorcyclists. He said the theory is that rumble strips are dangerous for motorcyclists.

Chief Johnson said these are all questions we can research, noting these questions weren't asked in the past. He understands the rumble strips have to be DOT approved, so he presumes there is a safety factor..

Councilor Dominguez said in his report, Captain Robbin says there have been studies showing if you increase the yellow light, citations decrease by a certain percentage, and asked Captain Robbin if he has looked at those studies.

Captain Robbin said that study was done in Houston which has a great number of cameras. He said the information is that initially when you lengthen the yellow light it may reduce the red light citations. However, after time when the motorist is aware it is lengthened, then they go back to their pattern of trying to beat the signal even though it is lengthened. In the long run, it has not shown that just lengthening the signal or the yellow timing light overall reduces the red light infractions.

Councilor Dominguez asked Captain Robbin if he has evaluated the studies which have been done which contradict that and there is a sustained safety measure when you increase the yellow light timing by one second.

Captain Robbin said he diligently looked for this information and the main study he found was Houston.

Councilor Dominguez asked if he read the study from Virginia. Captain Robbin said he did not. Councilor Dominguez said that study may shed some light on the safety factor of increasing yellow lights by one second. Councilor Dominguez said there are three other studies which indicate there is a sustained safety factor when you increase the yellow light by one second.

Councilor Dominguez asked if the City has done its own assessment on whether or not the safety factors are true.

Captain Robbin said he attempted to research the question about lengthening the signal and he has provided that answer. He doesn't know whether or not the Public Works has evaluated whether all the intersections or yellow lights are timed. He hasn't done that study as the Police Department.

Councilor Dominguez said then the City of Santa Fe has not done an assessment to determine whether or not there is a safety factor in increasing yellow lights by one second.

Captain Robbin said he is not aware that the City has done that study.

Councilor Dominguez said he appreciates the attempt to address the performance data measures into the contract, and would have hoped this would have been done at the beginning, because we are asking a vendor to provide a certain result. However, in reading this, it appears that we are measuring or comparing apples to oranges. He wants to know the rationale for doing a twelve-month compilation of

offenses, but only measuring it over a three week period, and asked why not measure it three weeks to three weeks.

Captain Robbin said he had to have something in there to establish a baseline. He spoke with Redflex about that prior to tonight's meeting, and it is their recommendation that this be done in a twelve-hour period, within three weeks of the contract signing. Redflex told him that they would work diligently with the City to establish the baseline, but that is the recommendation they had.

Councilor Dominguez asked Captain Robbin his recommendation.

Captain Robbin said, "My recommendation is that I don't see anything wrong with a twelve-hour study, and we asked them if we could do that on a Monday, that would be the busiest day. If we did it over three days and averaged it... I don't see a problem. I guess the company wants to add if he can."

Councilor Dominguez said the company is here to generate revenue to the company and to promote safety in that name.

Councilor Dominguez read the specific section, "Reduction of 25% in the overall frequency of red light violations issued after twelve months of the issuance of the first citation, when compared to the baseline frequency of violations identified from a no-cost, pre-installation intersection video survey that is to be conducted within three weeks of the contract signing." He said this tells him is that you're going to measure for three weeks and take the average number of violations over twelve months. This isn't an apples to apples comparison. He said if you do a 25% reduction over three weeks, and measure it that way, that seems to make more sense.

Captain Robbin said it says it will be performed with three weeks of signing to establish the baseline. The initial baseline will be a twelve-hour video survey of all the intersections, and from that survey the violations will be recorded which, once the system goes live, the information can be determined almost instantaneously with the data that is there.

Councilor Dominguez said this doesn't answer his question. He's trying to make sure that we have a comparison of the numbers of violations over a three-week period and get a percentage reduction based on that number over the same period.

Councilor Dominguez asked Frank Katz with regard to the HGAC contract and the procurement process, if this means we can't go out for additional bids. This just says there's a clearinghouse procurement process that this particular company can use, but it doesn't mean we can't solicit other bids as well.

Mr. Katz said this is absolutely correct. He said it allows us to choose this company under the procurement process, but it doesn't say we have to.

Councilor Dominguez said the recommendation from the Department is that the City is going to pay the company up to \$2 million over five years, and we're not going to ask for other bids.

Captain Robbin said they studied this, and talked to Purchasing and Purchasing recommended it and said this was the best rate out of all the companies. He said we did attempt to get information from other companies, such as Nestor which gave a very unenthusiastic response and almost unwilling to talk to us about the program. He said he went to GATSCO who contacted us. We asked them to prepare a presentation of their system and they didn't get back to us at all and didn't return our calls after that. He said he went to IEG and looked at its system.

Councilor Dominguez said he appreciates the information, but he wants to clarify that the City potentially will be awarding a contract to a contractor who potentially could make over \$2 million and we're not asking for bids.

Mayor Coss asked if there is an answer to Councilor Bushee's questions.

Mr. Kolack said Albuquerque's current contract is a four-year contract. Albuquerque is paying a flat fee of \$2,350 per system per month for its combination of fixed locations. On top of that, Albuquerque is paying an \$18 per paid citation fee for every citation which is issued through that system. For its mobile units, Albuquerque is paying a flat fee per month per unit of \$5,500 stem per month, with an \$18 per paid citation fee on top of this.

Councilor Bushee said she has no idea how to compare Albuquerque's contract what is being proposed to Santa Fe.

Mr. Kolack said they did a comparison some time ago, and Albuquerque was paying on \$35.50 per paid citation on a twelve-month rolling average for its fixed system.

Councilor Bushee said that's better than \$48.

Mr. Kolack said that is for the first year. He said the pricing is set up so that if the system issues 181 citations, Santa Fe would be paying \$28 or \$38 per citation if you fall in the middle tier, versus the \$35.50 Albuquerque is paying and has no tier.

Councilor Bushee asked what Albuquerque is proposing to change.

Mr. Kolack said Albuquerque would like to do a comprehensive plan on a continued public awareness campaign, which was Albuquerque's pitfall early on. Aside from that depending on what happens at the State, their contract currently is being evaluated. He said currently Albuquerque only keeps 8% of any of the fines they are generating.

Responding to Councilor Bushee, Mr. Kolack said Albuquerque is going to move directly to a 100% per paid citation fee in line with Las Cruces, Santa Fe and everybody else. Albuquerque currently is requesting another five-year extension, noting this is a correction of the previous information he gave that Albuquerque has a four-year term on its contract. Albuquerque has a five year contract and is requesting an extension of that contract.

Councilor Bushee said the City can terminate if State statutes are repealed or amended substantially, and if that is the case this session, will we be back here again.

Mr. Katz said the draft he's seen amends the law, but not sufficiently to change anything and it just changes the financing and doesn't block us from doing it or change our ability to do it. He said this could give the Council the basis to terminate if it wants to. However, you but don't have to wait for the State to act, the Council could act to repeal the ordinance at any time and that would give us a "get out of contract free card." Anytime the Council is dissatisfied with the way the program is doing, it only has to repeal the ordinance on red light cameras and the contract ends with no financial penalty to the City.

Councilor Ortiz said he proposed a lot of amendments in the Finance Committee, and asked if those are on a separate amendment sheet, or if those are included in this contract version. He noted on page 2 it says that it was approved with conditions out of the Committee, but there is no list of the amendments and there is no list in the agreement itself.

Mr. Katz said because this is a contract and not an ordinance, he doesn't believe this was done with an amendment sheet, and thinks the changes were made in the contract, but he doesn't remember what those were.

Councilor Ortiz said one of his amendments was to Page 26 of 32, Cost Recovery Reimbursement for Termination for Convenience, which provides, "In the event the Customer terminates this Agreement for Convenience under Section 6.2, Redflex shall be entitled to a cost recovery reimbursement for the Redflex System." He said when we say this is being done at no cost to us, but it is at no cost to us assuming that we continue with the system. If we terminate for convenience for whatever reason, this agreement says we have to reimburse Redflex for putting in the system. So, at the front end it is free and Police Department staff has said this free at no cost, but if we terminate it is at cost.

Mr. Kolack said that term refers back to Section 6.1 on page 11.

Councilor Ortiz said it doesn't, it says 6.2.

Errata correction in the contract: Mr. Kolack said this is an error and would have to be corrected in the contract, and it should refer to 6.1.

Councilor Ortiz said this was an amendment he made at Finance.

Councilor Ortiz said compelling testimony was given as to why this is needed at intersection and he absolutely agrees. He asked why we need the mobile speed vans and if we are going to be in the business of setting up speed traps and collecting revenue based on those speed traps.

Captain Robbin said the intention is not to set up a speed trap. Responding to Councilor Ortiz, he said we can have up to four mobile speed vans with the intent to reduce speed on streets which have been identified as problem speeding streets. He said it has been shown that increased speed increases the severity of any crash. He said the speed van is designed to work with the total system to lower the speed on streets which are designed as put forward in the ordinance.

Councilor Ortiz said when we put forward the Ordinance, we talked about improving traffic safety, particularly in intersections and a great deal of attention was given to the intersections where the most crashes occurred. He said we're not going to limit the speed vans just to those arterials. We have the discretion at the Police Department to put those anywhere. The speeding tickets are \$66 and Redflex gets 66%, 50% and 33% from those violations.

Captain Robbin said yes.

Councilor Ortiz said if the bill passes, essentially all the cost is being borne by the City, although this is being pushed as a private/public partnership provided at no cost to the City. He said if the bill passes, Reflex will get its full cut and the City will take the hit on the revenue collected. He asked if there is a possibility of sharing that cut if the law is passed.

Captain Robbin said the hit on the City, and the fees would remain the same because they are established by the State contract. He said Councilor Ortiz is correct on the fees per tier. He said the City's revenue would be reduced by 50% if this bill passes.

Councilor Ortiz said then if this bill passes the proposed revenue is cut in half.

Captain Robbin said after all of the fees are paid, then 50% of the remaining revenue would go to the State and 50% to the City.

Councilor Ortiz asked if there is room for negotiation with the vendor to reduce its fees if this bill passes.

Mr. Kolack said Redflex's fixed costs remain constant. There are substantial costs involved in providing maintenance, a call center, and a web access, expert witness testimony. He said under HB519 50% of any retained fines after the City pays for all of its own expenses goes to the State. This is something the City needs to examine to cover the costs of things such as the officers, the Hearing Officer, costs for the court – all of these costs are being allowed in the bill because of Albuquerque's experience over the past four years.

Councilor Ortiz said then, for example, the \$2,000 per month paid for the Hearing Officer comes from Redflex's portion or the City's portion if this bill passes.

Captain Robbin said as currently designed, these costs come out of our end since we are incurring the cost of the Hearing Officer, but HB 519 addresses this, and requires the Municipal Court to appoint a hearing officer.

Friendly Amendment: Councilor Ortiz asked to amend the motion to reduce the term of the contract from five years to four years. **The amendment was friendly to the maker and second, and there were no objections by the other Councilors.**

Councilor Ortiz said if the language in 6.1 remains the same, he believes the City has no other obligation to the vendor other than to pay what is outstanding for the removal of the system. He understands there is language of that intent in some of Redflex's contracts in Colorado.

Mr. Kolack said Colorado statutes require a lot and he would have to research that. He said 6.1 was included as a request in one of the committees for a strict termination for convenience, depending on no prerequisite period. If the Council decides post-implementation that this isn't right for Santa Fe and wants to cancel whether 1 day or 3 years into the contract, Redflex can pull out at any given time if the City decides to cancel.

Councilor Ortiz said the City still has to stay in the contract for one year. If we terminate the contract before that time, we are liable for payment of all services satisfactorily performed through and including the termination date in accordance with the fee specified in Exhibit D. In addition, the contract provides that "the customer shall pay Redflex cost recovery reimbursement as specified." He said Redflex made this very clear, as opposed to the first version, that Redflex will get its cost reimbursement if the City decides to cancel the program. This was not the amendment he suggested. He said we wanted to say "all we owe you is what we owe you, and we don't owe you the cost recovery reimbursement."

Friendly Amendment. Councilor Ortiz would like to strike the last sentence in 6.1. **The amendment was friendly to the maker and second and there were no objections by the other Councilors.**

Responding to Councilor Bushee, Mr. Katz said Councilor Bushee seems to think she was misinformed.

Councilor Bushee said yes, because she was told that we don't owe them anything.

Mr. Katz said there are several ways the contract can be terminated, one of which is the termination for convenience which was requested. If the City uses termination for convenience, the contract requires that the City pay a certain amount, an amortized cost of what was installed. He said

earlier he told Councilor Bushee that if this Council decides it doesn't like the program and doesn't want to do red light cameras, you can repeal the ordinance and there is no penalty at all.

Councilor Ortiz said then to get out of reimbursement, we have to go through a repeal of the ordinance, which would take at a minimum 2-3 months. He says the current language provides we can terminate for convenience, but we are required to pay reimbursable expenses based on the formula.

Mr. Kolack said, "That's not correct, not with cost. Again, there are no less than five ways the City can terminate underneath this contract."

Councilor Ortiz said his question is with regard to termination for convenience.

Mr. Kolack said, "For convenience, no reason given, no requirement after 12 months, absolutely. There are some nonrecoverable costs that we have. Things like construction costs."

Councilor Ortiz said and that's not negotiable from your perspective.

Mr. Kolack said, "The unfortunate component is that we do reuse. The costs that aren't associated in there would be the cost of, let's say the camera, the infrastructure or the computers. Those are all costs that are not burdened to the City that we can use in another installation somewhere else. What we are asking for, and the intent behind 6.1, is literally that the City should be behind their program. If you decide just that you want out because you don't like Reflex after twelve months or you don't like photo enforcement cameras, you're right, you can cancel via the ordinance. And if you do terminate the contract, it is basically as described in D the costs. We are estimating those between...."

Councilor Ortiz said he asked for specific language to not be included to give you that option for recoverable cost, and asked if that language was not included because staff agrees with the contractor that we should pay reimbursable costs. Or, why isn't this language in here, because it was made as a condition of approval by the Finance Committee.

Mr. Kolack said, "I believe that the recommendation, and it might have been misleading on the contract, was just for clarification on that term, not for a removal, and I would have to double check the minutes from that Finance Committee."

Councilor Ortiz asked Mr. Kolack if he wants this matter postponed so we can get the minutes and be clear as exactly what my intent was when I put that language in.

Mr. Kolack said, "I would not like to have it postponed, Mayor and Council. For the record. I would also not be able to authorize striking that component out, because there are some definite costs that we have associated that are not burden to the City unless you decided to opt out and cancel the contract with that specific term and not before otherwise."

Councilor Ortiz said if this is a non-negotiable point, as he reads the contract, the only way we can get out of the contract is if we repeal the ordinance, and if so, we have no further obligation under the contract except to pay the current fines up to date.

Mr. Kolack said this is correct, there is zero obligation if the Council chooses to repeal it.

Councilor Ortiz said this is only if we change the errata in Exhibit D which should be 6.1, not 6.2.

Mr. Kolack said, "That would have to be amended before the City would sign the contract, and that's a technical edit that can be made.

Friendly Amendment: Councilor Ortiz asked to amend the motion to correct this technical error and this paragraph on Exhibit D should refer to 6.1 and not 6.2. **The amendment was friendly to the maker and second and there were no objections by the other Councilors**

Councilor Ortiz asked the maker of the motion and the sponsor if it is their intention to have these fixed points in intersections, noting we can have up to 20, and if it is their intent to have those at intersections that we can designate separately and give to them as a means of providing safety in intersections. If this is the case, are you willing to revisit and/or strike the provisions for mobile speed vans. He said, based on his experience in driving in Phoenix, there are speed traps and about raising revenue. He asked if it is their intent to have the mobile speed wagons in this provision.

Councilor Trujillo said it is his intention to have one mobile speed van in this contract.

Councilor Ortiz said the question becomes, if we're going to have a mobile speed van which pays 66%, 50% and then 40% to this Arizona company, what's to prevent us from directing our Police Department to operate speed traps or to have themselves placed in these areas where they deem it necessary. He asked why we aren't doing this already. This is a different safety issue than how the ordinance was passed, than the public testimony we received. This is about issuing speeding tickets to people. He said it seems this is the "gravy part" for the vendor and where they make a large part of their revenue. He said this isn't supposed to be about revenue.

Councilor Trujillo said it isn't about revenue. He said right now we've cut a lot of police officers and we're not getting the additional 15 officers we anticipated. We are short on police officers, and they can't be everywhere all the time. He has been a proponent for technology for the Police Department, and this is a form of technology which is acceptable throughout the country. He said he wants to tell people in this City, "If you don't run red lights, you're not going to get a ticket. If you don't speed, you're not going to get a ticket." He said people aren't going to see the light until it happens to them, and this is the reason he believes the one speed van will help Santa Fe. He said the vans are noticed with advance signage, so it isn't a speed trap.

Councilor Ortiz asked if it is true that there will be signs warning people that "You are entering a speed detection zone."

Chief Johnson said this is correct. The vehicles also will be marked. He said the speed van is by mutual agreement, and we can discontinue that any time. He said there are certain areas where they get continual complaints about speeding. He said there are many of these sites where we could station an officer all day long. However, we can place the van with proper signage, instead of posting an officer all day.

Councilor Ortiz said on page 12 of the packet, all of the intersections are listed. He said he believes all of the intersections should be included except Zafarano which had only six crashes. He said on page 7, the estimates of revenue projected by the company and the staff, the vast majority of those citations are not coming from red light violations at intersections, and the majority of the revenue to Redflex each month is from speeding violations. The bulk of the City's money also comes from speed violations. This has been touted as a public safety measures, and accident prevention at intersections. This program was put forth as a program to make our intersections safe.

Councilor Trujillo said he wouldn't say the emphasis is on speeding, although it is a component. He said the State's action is for revenue. However, for him, it's about public safety. He said he told the public he would do this when he ran for office. He doesn't want people to think this is about revenue. He said this is about safety, protecting his children, his family, and your children and your families. He said he has been hit and it's not a fun thing. He said everybody knows the reason he brought this forward, and he hasn't strayed from his reasons for doing this. He said he understands it will create revenue. He said if you break the law, you have to pay, and we as the Council have adopted these laws.

Councilor Ortiz said he respects Councilor Trujillo's reasons, and believes he is doing this for public safety. However, he sees that the program has pivoted. If we pass this contract, we have the opportunity to direct what intersections will be covered, commenting that we need to identify more than the four intersections if it is just about safety.

Councilor Ortiz believes we need to have a discussion about how the fees are apportioned, with or without the State law. He believes that we need to spend some of this revenue on synchronizing the lights and improving traffic signals. We need to be clear that the revenue coming in will make the streets safer and is not just to increase the police staff. He believes we will have the opportunity through the budget process to direct what line items get the funding. He believes the mobile van is related, but differs from the original pitch.

Councilor Wurzbarger said she really reinforces that this is for safety, commenting this may be the difference in the way the contract may have evolved. She wants to try this, move forward and see what kinds of public safety results we get, noting that part of public safety is the perception of being safe.

Councilor Trujillo said when Albuquerque adopted its program, it put the money into its General Fund and people were upset that the money was going for pet projects. He said he does not want to do this in Santa Fe. He wants to help Public Safety, and he understands the component of putting the money into those intersection for the lights, and he agrees we can work this out in the process.

Councilor Ortiz agreed, noting this is the contract, but it is the budget process where we direct the money.

Councilor Chavez said Councilor Ortiz addressed most of his concerns regarding termination for convenience as referenced in Exhibit D. He said the reference to 6.1 should be referenced throughout the document. He asked if he accepted the formula for cost recovery reimbursement in Exhibit D.

Councilor Ortiz said he doesn't accept it and he wants to be able to terminate without cost. He asked Mr. Kolack if he has the authority to negotiate this language.

Mr. Kolack said this language generally is part of their standard contract, saying however, not all state legislation allows for different kinds of contracts.

Councilor Ortiz said there is no clause in New Mexico law which requires them to get reimbursement.

Mr. Kolack said, "No there's not, but that would be a decision by Council, should you choose again, should you choose that way out of the contract. I would say that that would be something that would be very difficult and I'd have to look into yes."

[Councilor Ortiz's question here is inaudible] Mr. Kolack said, "I'm not an officer of the company, so therefore no."

Councilor Ortiz said he would strike the whole thing, but what he's hearing is that the vendor won't want to remove that provision.

Councilor Bushee said this makes no sense. We can repeal the ordinance and the company has no problem in not being reimbursed of up to \$45,000 per intersection approach.

Councilor Bushee moved, seconded by Councilor Dominguez, to strike this section from the contract, seconded by Councilor Dominguez.

Clarification of the Motion: Mayor Coss said the motion is to take out the reimbursement on the fifth method of canceling the contract.

Discussion: Councilor Dominguez said he is the one who introduced the whole termination for convenience concept, which he thought would have been negotiated and/or implemented into the contract

a long time before it got to this point. The whole idea is to be able to terminate at our convenience, and not of the vendor or anyone else. He said if we leave the language as, it would be an inconvenience to the City and the reason he is seconding the motion.

The motion failed to pass on the following Roll Call Vote:

For: Councilor Bushee, Councilor Dominguez and Councilor Ortiz.

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

The main motion, as amended, was approved on the following Roll Call vote, as follows:

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

Against: Councilor Bushee, Councilor Dominguez and Councilor Ortiz.

Explaining his vote: Councilor Dominguez said he would like to thank Councilor Trujillo for bringing this forward, and said he believes that his motives are exact in terms of safety. He drives Cerrillos Road every day and knows and sees the dangers which exist. He said if you look at the contract, the "Devil's in the details." He said public safety is a value we all support, and no Councilor wants to see anything bad happen to anybody. The contract doesn't reflect nor promote the value of that safety. He said Mr. Kolack has done a great job and he should be paid more money by Redflex because the job of Redflex is to generate revenue and he is doing that. He said for the City, it is about revenue, but it is about revenue for the contractor, so he votes no.

Councilor Trujillo thanked Captain Robbin for his hard work, commenting that he did a great job. He thanked his colleagues for their input which made it a better contract, and thanks them for voting. He said this is all about safety and believes the driving habits in the community will change.

H. ADJOURN

The was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 10:30 p.m.

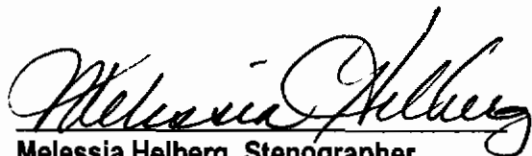
Approved by:

Mayor David Coss

ATTESTED TO:

Yolanda Y. Vigil, City Clerk

Respectfully submitted:


Melessia Helberg, Stenographer