



# Agenda

REGULAR MEETING OF  
THE GOVERNING BODY  
MARCH 25, 2009  
CITY COUNCIL CHAMBERS

## AFTERNOON SESSION – 5:00 P.M.

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: Reg. City Council Meeting – March 11, 2009
9. PRESENTATIONS
  - a) Santa Fe International Folk Art Market. (Charlene Serny, Executive Director IFAM) (5 minutes)
  - b) Brain Injury Awareness Month. (Dena Taylor) (5 minutes)
  - c) 2009 Legislative Report. (Mark Duran) (5 minutes)
10. CONSENT CALENDAR
  - a) Bid No. 09/26/B – Franklin Miles Park Restroom Plumbing and Agreement Between Owner and Contractor; Sub Surface Contracting, Inc. (Mary McDonald)
  - b) Request for Approval of Emergency Procurement and Professional Services Agreement – Salvador Perez Recreation Complex Roof Replacement and Deck Repair; Koch Construction Co., Inc. (Peter Greene)
  - c) Request for Approval of Professional Services Agreement – Project Manager for El Museo Cultural; El Museo Cultural de Santa Fe, Inc. (David Chapman)

CITY CLERK'S OFFICE

DATE 3/20/09 TIME 2:20 pm

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

RECEIVED BY H. Dominguez



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CITY COUNCIL CHAMBERS

- d) Request for Approval of Professional Services Agreement – Summer Music Festival on The Plaza; Outside-In. (Sabrina Pratt)
- e) Request for Approval of Professional Services Agreement – Meeting Facilitation and Process Management for Long Range Planning Division; JenkinsGavin Design and Development, Inc. (Reed Liming)
- f) Request for Approval to Publish Notice of Public Hearing on April 29, 2009:
  - 1) Bill No. 2009-13 – An Ordinance Amending Section 8 Of Exhibit A, Chapter 22 SFCC 1987 In Order To Clarify Sewer Rates. (Councilor Wurzburger) (Costy Kasssieh)
  - 2) Bill No. 2009-14 – An Ordinance Authorizing The Execution And Delivery of a Water Project Fund Loan/Grant Agreement by and Among the New Mexico Water Trust Board and the New Mexico Finance Authority (the "Lenders/Grantors"), and the City of Santa Fe, New Mexico (the "Borrower/Grantee"), in the Amount of Two Million Dollars (2,000,000), Evidencing an Obligation of the Borrower/Grantee to Utilize the Loan/Grant Amount Solely for the Purpose of Financing Phase III Improvements to the Canyon Road Water Treatment Plan to Continue Upgrading and Improvement of the Plant and Management of Residual Streams, and Solely in the Manner Described in the Loan/Grant Agreement; Providing for Payment of the Loan Amount Solely from Pledged Revenues; Certifying that the Loan/Grant Amount, Together with Other Funds Available to the Borrower/Grantee, is Sufficient to Complete the Project; Approving the Form of the Other Details Concerning the Loan/Grant Agreement; Ratifying Actions Theretofore Taken; Repealing all Action Inconsistent With this Ordinance; and Authorizing the Taking of Other Actions in Connection With the Execution and Delivery of the Loan/Grant Agreement. (Councilor Wurzburger) (Brian Snyder)
  - 3) Bill No. 2009-16 – An Ordinance Authorizing the Sale of Real Property Located Adjacent to 312 Catron Street and Described as Tract 1 as Shown and Delineated on a Plat Entitled "Plat of Boundary Survey for the City of Santa Fe" Prepared by David E. Cooper NMPS No. 9052, Dated July 31, 2008 and Bearing Project No. D-642-0708. (Councilor Romero) (Ed Vigil)



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CITY COUNCIL CHAMBERS

- g) Request for Approval of Memorandum of Understanding – Senior Services to County Residents – Senior Services Division; County of Santa Fe (Terrie Rodriguez)
- h) Request for Approval of Amendment No. 3 to Professional Services Agreement – Advertising for City of Santa Fe's 400 Anniversary; Santa Fe 400<sup>th</sup> Anniversary. (Keith Toler)
- i) Request for Approval of Budget Increase for Electric Costs for Citywide Traffic Signals. (Chris Ortega)
- j) Request for Approval of Procurement Under State Price Agreement – Two (2) Vehicles for Water Division; Bob Turners Ford Country. (Robert Rodarte)
- k) Request for Approval of Procurement Under State Price Agreement – Twenty-Six (26) Vehicles for Police Department; Reliable Chevrolet. (Robert Rodarte)
- l) Request for Approval of Modification No. 1 to USFS Collection Agreement – Buckman Direct Diversion Project; USDA Forest Service, Santa Fe National Forest. (Rick Carpenter)
- m) Request for Approval of Sixth Revised and Restated Santa Fe Metropolitan Planning Organization Joint Powers Agreement – Include Additional Voting Members to the Transportation Policy Board; County of Santa Fe, Tesuque Pueblo and New Mexico Department Of Transportation. (Mark Tibbetts)
- n) Request for Approval of Grant Application and Award – FY 2009/2010 Law Enforcement Protection Fund for Police Department. (Police Chief Eric Johnson)
- 11. Request for Approval of Memorandum of Agreement – Transportation Services for Temporary Assistance to Needy Families (TANF); Mid-Region Council of Governments. (Jon Bulthuis)
- 12. Request for Approval of Grant Application Toward Purchase of Replacement Compressed Natural Gas Buses; United States Department of Energy. (Jon Bulthuis)



# Agenda

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THE GOVERNING BODY  
MARCH 25, 2009  
CITY COUNCIL CHAMBERS

13. MATTERS FROM THE CITY MANAGER
14. MATTERS FROM THE CITY ATTORNEY
15. MATTERS FROM THE CITY CLERK

Canvass of Election Results – March 10, 2009 Special Municipal Election.

16. COMMUNICATIONS FROM THE GOVERNING BODY

## **EVENING SESSION – 7:00 P.M.**

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE
- 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 Flying Star Cafés Inc., for a Restaurant (Beer & Wine) Liquor License to be Located at the Flying Star Café, Market Station at the Railyards, 500 1-I, Market Street. (Yolanda Y. Vigil)
  - 2) Request from Abiquiu Saint-Flour, Inc., for a Transfer of Location of Dispenser License #2765 from Highway 285/84 Cottonwood Plaza, Espanola, New Mexico to 3466 Zafarano Drive, Santa Fe. (Yolanda Y. Vigil)
  - 3) Request from Marble Brewery, Inc. for a Small Brewer (Off-Site) Liquor License to be Located at the Marble Brewery Taproom, 60 East San Francisco Street, Suite 313. (Yolanda Y. Vigil)



*Agenda* REGULAR MEETING OF  
THE GOVERNING BODY  
MARCH 25, 2009  
CITY COUNCIL CHAMBERS

- 4) Request from Lan's Vietnamese Cuisine, LLC for the following: (Yolanda Y. Vigil)
  - a) Pursuant to §60-6B-10 NMSA 1978, a Request for a Waiver of the 300 Foot Location Restriction to Allow the Sale of Alcoholic Beverages at Lan's Vietnamese Cuisine, LLC, 2430 Cerrillos Road, Which is Within 300 Feet of the College of Santa Fe, 1600 St. Michael's Drive.
  - b) If the Waiver of the 300 Foot Restriction is Granted, a Request for a Restaurant (Beer & Wine) License to be Located at Lan's Vietnamese Cuisine, LLC, 2430 Cerrillos Road, Santa Fe.
- 5) Request from The Way of Sake, Corporation for a Wholesaler (Wine) Liquor License (Wholesale of Wine and Sake Only) to be Located at The Way of Sake, 207 North Guadalupe Street. (Yolanda Y. Vigil)
- 6) CONSIDERATION OF BILL NO. 2009-10: ADOPTION OF ORDINANCE NO. 2009-\_\_\_\_\_. (Councilor Trujillo)  
An Ordinance Amending Section 12-6-5.8 Regarding Turning and Stopping Movements and Required Signals; Section 12-6-12.18 Regarding Prohibited Activities While Driving; Section 12-6-13.15 Regarding Injurious Materials on City Streets; Section 12-9-9 Regarding Designated Disabled Parking Spaces; Section 12-12-20 Regarding the Vehicle Immobilization (Boot) Program; the Traffic Violation Penalty Assessment Schedule; and the Parking Violation Penalty Assessment Schedule All of the City of Santa Fe Uniform Traffic Code. (Chief Eric Johnson)

I. ADJOURN

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

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

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

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SANTA FE CITY COUNCIL MEETING  
March 25, 2009

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
<u>AFTERNOON SESSION</u>		
CALL TO ORDER AND ROLL CALL	Quorum	1
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APPROVAL OF CONSENT CALENDAR	Approved [amended]	2
CONSENT CALENDAR LISTING		2-4
APPROVAL OF MINUTES: Reg. City Council Meeting – March 11, 2009	Approved	4
<u>PRESENTATIONS</u>		
SANTA FE INTERNATIONAL FOLK ART MARKET		4-5
BRAIN INJURY AWARENESS MONTH		5-7
2009 LEGISLATIVE REPORT	Removed/Judicial Notice Taken	7
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REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON APRIL 29, 2009: BILL NO. 2009-13 – AN ORDINANCE AMENDING SECTION 8 OF EXHIBIT A, CHAPTER 22, SFCC 1987, IN ORDER TO CLARIFY SEWER RATES	Approved w/direction to staff	7-8
REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – TWO (2) VEHICLES FOR WATER DIVISION; BOB TURNER'S FORD COUNTRY	Approved [amended]	8-9
*****		
<u>END OF CONSENT CALENDAR DISCUSSION</u>		
*****		

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
REQUEST FOR APPROVAL OF MEMORANDUM OF AGREEMENT – TRANSPORTATION SERVICES FOR TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF); MID-REGION COUNCIL OF GOVERNMENTS	Approved	9-10
REQUEST FOR APPROVAL OF GRANT APPLICATION TOWARD PURCHASE OF REPLACEMENT COMPRESSED NATURAL GAS BUSES; UNITED STATES DEPARTMENT OF ENERGY	Approved	10
MATTERS FROM THE CITY MANAGER	None	10
MATTERS FROM THE CITY ATTORNEY	None	11
MATTERS FROM THE CITY CLERK CANVASS OF ELECTION RESULTS – MARCH 10, 2009 SPECIAL MUNICIPAL ELECTION	Approved	11
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PETITIONS FROM THE FLOOR	None	13
<u>APPOINTMENTS</u>		
Mayor's Committee on Disability	Approved	13-14
City Business and Quality of Life Committee	Approved	14
<u>PUBLIC HEARINGS</u>		
REQUEST FROM FLYING STAR CAFES, INC., FOR A RESTAURANT (BEER & WINE) LIQUOR LICENSE TO BE LOCATED AT THE FLYING STAR CAFÉ, MARKET STATION AT THE RAILYARDS, 500 I-1, MARKET STREET	Approved	14

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
REQUEST FROM ABIQUIU SAINT-FLOUR, INC., FOR A TRANSFER OF LOCATION OF DISPENSER LICENSE #2765 FROM HIGHWAY 285/84 COTTONWOOD PLAZA, ESPANOLA, NEW MEXICO TO 3466 ZAFARANO DRIVE, SANTA FE	Approved	15
REQUEST FROM MARBLE BREWER, INC., FOR A SMALL BREWER (OFF-SITE) LIQUOR LICENSE TO BE LOCATED AT THE MARBLE BREWERY TAPROOM, 60 EAST SAN FRANCISCO STREET, SUITE 313	Approved	15-16
REQUEST FROM LAN'S VIETNAMESE CUISINE, LLC, FOR THE FOLLOWING: PURSUANT TO §60-6(B)-10 NMSA 1978, A REQUEST FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES AT LAN'S VIETNAMESE CUISINE, LLC, 2430 CERRILLOS ROAD, WHICH IS WITHIN 300 FEET OF THE COLLEGE OF SANTA FE, 1600 ST. MICHAEL'S DRIVE	Approved	16-17
IF THE WAIVER OF THE 300 FOOT RESTRICTION IS GRANTED, A REQUEST FOR A RESTAURANT (BEER & WINE) LICENSE TO BE LOCATED AT LAN'S VIETNAMESE CUISINE, LLC, 2430 CERRILLOS ROAD, SANTA FE	Approved	16-17
REQUEST FROM THE WAY OF SAKE CORPORATION, FOR A WHOLESALER (WIN) LIQUOR LICENSE (WHOLESALE OF WINE AND SAKE ONLY) TO BE LOCATED AT THE WAY OF SAKE, 207 NORTH GUADALUPE STREET	Approved	17



**ITEM****ACTION****PAGE #**

CONSIDERATION OF BILL NO. 2009-10; ADOPTION OF ORDINANCE NO. 2009-11 (COUNCILOR TRUJILLO). AN ORDINANCE AMENDING SECTION 12-6-5.8 REGARDING TURNING AND STOPPING MOVEMENTS AND REQUIRED SIGNALS; SECTION 12-6-12.18 REGARDING PROHIBITED ACTIVITIES WHILE DRIVING; SECTION 12-6-13.15 REGARDING INJURIOUS MATERIALS ON CITY STREETS; SECTION 12-9-9 REGARDING DESIGNATED DISABLED PARKING SPACES; SECTION 12-12-20 REGARDING THE VEHICLE IMMOBILIZATION (BOOT) PROGRAM; THE TRAFFIC VIOLATION PENALTY ASSESSMENT SCHEDULE; AND THE PARKING VIOLATION PENALTY ASSESSMENT SCHEDULE, ALL OF THE CITY OF SANTA FE UNIFORM TRAFFIC CODE

Approved a/a with direction to staff 18-21

ADJOURN

21

**MINUTES OF THE  
REGULAR MEETING OF THE  
GOVERNING BODY  
Santa Fe, New Mexico  
March 25, 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 25, 2009, at approximately 5:00 p.m., in the City Hall Council Chambers. Following the Pledge of Allegiance, the Salute to the New Mexico flag, and the Invocation, roll call indicated the presence of a quorum, as follows:

**Members Present**

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

**Others Attending**

Galen Buller, City Manager  
Kelly Brennan, Assistant City Attorney  
Yolanda Y. Vigil, City Clerk  
Melessia Helberg, Council Stenographer

**6. APPROVAL OF AGENDA**

Councilor Ortiz said with regard to Item 9(c), Mark Duran, our Lobbyist provided a packet of information, and asked to take judicial notice of that report and to remove this item from the Agenda.

**Councilor Ortiz moved, seconded by Councilor, to approve the agenda, taking judicial notice of Item 9(c), remove it from the agenda, and to approve the agenda as amended.**

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

**7. APPROVAL OF CONSENT CALENDAR**

**Councilor Ortiz moved, seconded by Councilor Wurzbarger, to approve the following Consent Calendar, as amended.**

**Discussion:** Councilor Chavez noted that Item 10(f)(1) is just a notice to publish.

Councilor Calvert said it is, but he wants to clarify something.

**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.**

- a) **BID NO. 09/26/B – FRANKLIN MILES PARK RESTROOM PLUMBING AND AGREEMENT BETWEEN OWNER AND CONTRACTOR; SUB SURFACE CONTRACTING, INC. (MARY MacDONALD)**
- b) **REQUEST FOR APPROVAL OF EMERGENCY PROCUREMENT AND PROFESSIONAL SERVICES AGREEMENT – SALVADOR PEREZ RECREATION COMPLEX ROOF REPLACEMENT AND DECK REPAIR; KOCH CONSTRUCTION CO., INC. (PETER GREENE)**
- c) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – PROJECT MANAGER FOR EL MUSEO CULTURAL; EL MUSEO CULTURAL DE SANTA FE, INC. (DAVID CHAPMAN)**
- d) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – SUMMER MUSIC FESTIVAL ON THE PLAZA; OUTSIDE-IN. (SABRINA PRATT)**
- e) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – MEETING FACILITATION AND PROCESS MANAGEMENT FOR LONG RANGE PLANNING DIVISION; JENKINS GAVIN DESIGN AND DEVELOPMENT, INC. (REED LIMING)**
- f) **REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON APRIL 29, 2009:**
  - 1) *[Removed for discussion by Councilor Calvert]*

- 2) **BILL NO. 2009-14 – AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A WATER PROJECT FUND LOAN/GRANT AGREEMENT BY AND AMONG THE NEW MEXICO WATER TRUST BOARD AND THE NEW MEXICO FINANCE AUTHORITY (THE “LENDERS/GRANTORS”), AND THE CITY OF SANTA FE, NEW MEXICO (THE “BORROWER/GRANTEE”), IN THE AMOUNT OF TWO MILLION DOLLARS (2,000,000), EVIDENCING AN OBLIGATION OF THE BORROWER/GRANTEE TO UTILIZE THE LOAN/GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING PHASE III IMPROVEMENTS TO THE CANYON ROAD WATER TREATMENT PLANT TO CONTINUE UPGRADING AND IMPROVEMENT OF THE PLANT AND MANAGEMENT OF RESIDUAL STREAMS, AND SOLELY IN THE MANNER DESCRIBED IN THE LOAN/GRANT AGREEMENT; PROVIDING FOR PAYMENT OF THE LOAN AMOUNT SOLELY FROM PLEDGED REVENUES; CERTIFYING THAT THE LOAN/GRANT AMOUNT, TOGETHER WITH OTHER FUNDS AVAILABLE TO THE BORROWER/GRANTEE, IS SUFFICIENT TO COMPLETE THE PROJECT; APPROVING THE FORM OF THE OTHER DETAILS CONCERNING THE LOAN/GRANT AGREEMENT; RATIFYING ACTIONS THERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN/GRANT AGREEMENT (COUNCILOR WURZBURGER). (BRIAN SNYDER)**
- 3) **BILL NO. 2009-16 – AN ORDINANCE AUTHORIZING THE SALE OF REAL PROPERTY LOCATED ADJACENT TO 312 CATRON STREET AND DESCRIBED AS TRACT 1, AS SHOWN AND DELINEATED ON A PLAT ENTITLED “PLAT OF BOUNDARY SURVEY FOR THE CITY OF SANTA FE,” PREPARED BY DAVID E. COOPER NMPS NO. 9052, DATED JULY 31, 2008, AND BEARING PROJECT NO. D-642-0708 (COUNCILOR ROMERO). (ED VIGIL)**
- g) **REQUEST FOR APPROVAL OF MEMORANDUM OF UNDERSTANDING – SENIOR SERVICES TO COUNTY RESIDENTS – SENIOR SERVICES DIVISION; COUNTY OF SANTA FE. (TERRIE RODRIGUEZ)**
- h) **REQUEST FOR APPROVAL OF AMENDMENT NO. 3 TO PROFESSIONAL SERVICES AGREEMENT – ADVERTISING FOR CITY OF SANTA FE'S 400<sup>TH</sup> ANNIVERSARY; SANTA FE 400<sup>TH</sup> ANNIVERSARY. (KEITH TOLER)**
- i) **REQUEST FOR APPROVAL OF BUDGET INCREASE FOR ELECTRIC COSTS FOR CITYWIDE TRAFFIC SIGNALS. (CHRIS ORTEGA)**
- j) ***[Removed for discussion by Councilor Calvert]***

- k) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – TWENTY-SIX (26) VEHICLES FOR POLICE DEPARTMENT; RELIABLE CHEVROLET. (ROBERT RODARTE)**
- l) **REQUEST FOR APPROVAL OF MODIFICATION NO. 1 TO USFS COLLECTION AGREEMENT – BUCKMAN DIRECT DIVERSION PROJECT; USDA FOREST SERVICE, SANTA FE NATIONAL FOREST. (RICK CARPENTER)**
- m) **REQUEST FOR APPROVAL OF SIXTH REVISED AND RESTATED SANTA FE METROPOLITAN PLANNING ORGANIZATION JOINT POWERS AGREEMENT – INCLUDE ADDITIONAL VOTING MEMBERS TO THE TRANSPORTATION POLICY BOARD; COUNTY OF SANTA FE, TESUQUE PUEBLO AND NEW MEXICO DEPARTMENT OF TRANSPORTATION. (MARK TIBBETTS)**
- n) **REQUEST FOR APPROVAL OF GRANT APPLICATION AND AWARD – FY 2009/2010 LAW ENFORCEMENT PROTECTION FUND FOR POLICE DEPARTMENT. (POLICE CHIEF ERIC JOHNSON)**

**8. APPROVAL OF MINUTES: Reg. City Council Meeting – March 11, 2009**

Councilor Dominguez moved, seconded by Councilor Bushee, to approve the minutes of the Regular City Council Meeting of March 11, 2009, as presented. The motion was approved on a voice vote, with Councilors Bushee, Calvert, Chavez, Dominguez, Ortiz, Romero, Trujillo and Councilor Wurzbarger voting for the motion and none against.

**9. PRESENTATIONS**

- a) **SANTA FE INTERNATIONAL FOLK ART MARKET (CHARLENE SERNY, EXECUTIVE DIRECTOR, IFAM)**

A copy of the power point presentation, "Santa Fe International Folk Art Market," is incorporated herewith to these minutes as Exhibit "1."

Charlene Serny , Executive Director and a founder of the Market, introduced Ernesto Torres, Artist Coordinator and Judy Espinar, one of the founders and Creative Director of the Market.

Ms. Serny, Mr. Torres and Ms. Espinar presented information via power point on the history and activities of the market. Please see Exhibit "1" for specifics of this presentation.

Ms. Serny thanked Mayor Coss and the Council for their assistance and participation in the Folk Art Market throughout the years.

Councilor Wurzbarger thanked them, saying this is one of the special things we do in Santa Fe. She said this group has actually reported exactly what the market produces in GRTs. She said if this group can do it, others can as well. She said we really need to expand this as a model to all of the programs on the Plaza. She said art sales are a huge part of our community, but there is leakage in terms of GRT.

Councilor Bushee thanked them for their innovation and entrepreneurial spirit in delivering results to our community, saying she believes people enjoy this event in a special way. She asked if they are feeling the impacts of the national economy.

Ms. Serny said they will be partnering with the Rail Runner on Saturday to do promotion along with it to bring Albuquerque to Santa Fe. She said, regarding Sunday, as an organization they can't pay the \$25,000 to have the Rail Runner come up to Santa Fe on Sunday. She expects there will be thousands coming from Albuquerque.

Councilor Bushee said perhaps the City can work on the Sunday service of the Rail Runner, noting it probably is a staffing issue.

Ms. Serny said they had budgeted a 10% reduction in sales in September, noting they have only had to cut the budget by 2% and will be reviewing again at the end of April. She said there were double digit increases on every front in 2008.

Ms. Espinar said each year the market usually adds a another booth or does something different from the regular artists booths in the market. This year they are adding more food booths and food concessions throughout the market, but they aren't adding another booth because they don't want to take away any sales from the artists.

#### **b) BRAIN INJURY AWARENESS MONTH (DENA TAYLOR)**

A packet of information regarding Brain Injury Awareness, is incorporated herewith to these minutes by reference, and is on file in the City Clerk's Office.

Edwina "Dena" Taylor, presented information regarding this matter to the Commission from information in the packet. She spoke about situations which can cause brain injury which can be a simple fall or a simple bump, and a person can have a loss of memory without losing consciousness. Ms. Taylor said she had a brain injury which caused her to lose all of her memory and she will never practice law again. She said acceptance is an important first step in the recovery of someone who has suffered a brain injury. Ms. Taylor noted that March was declared Brain Injury Awareness Month by the Brain Injury Awareness Association of America. She said they would like to have the City declare a Brain Injury Awareness Day and Month for their organization next year

Ms. Taylor spoke about the issues related to brain injuries, saying it happens to people from all walks of life and arise from a wide variety of etiologies. She said 1.5 million people every year experience

a brain injury, 80,000 of those result in a disability and 50,000 people die. She said 1,500 people in Santa Fe experience a brain injury every year. She said her organization feels it has a responsibility to educate the public about brain injury, noting there is a very active Brain Injury Santa Fe Support Group. The Group meets the 2<sup>nd</sup> and 4<sup>th</sup> Tuesday of every month, 3:30 to 5:30 p.m., at the Unitarian Church, and invited the public to attend. She said the lives of the members have changed and they are different, but they are positive and forward thinking and full of hope.

Ms. Taylor said the members of their group can't work because they can't function with an 8 hour day and a 40 hour week. They do have energy they can use to educate the community about brain injury and they believe it is their responsibility, obligation and commitment to do this.

Ed Keller, member of the Mayor's Committee on Disability suggested holding a special meeting of the Committee, so we can collaborate with the Council on some ideas. He said there will be an increase in persons with brain injury over the coming year because of the soldiers who will be returning home. He asked the Governing Body if they know of grants or some way for them to help please let them know. He said they appreciate that October is Disability Awareness Month, but would like to keep that separate from Brain Injury Awareness month.

Rachel Kaufman asked the Governing Body to let people know about their meetings, especially if you or a loved one have a brain injury disability or have suffered a brain injury. She said the information about their meetings is in the Council packet.

Councilor Dominguez thanked Dena and the others for their presentations and for not being silent. He said he had a family member who passed from a brain injury. He asked if they offer support to the families of victims and if they are invited to the meetings.

Ms. Kaufman said yes, families do attend, as well as educators who attend to see how they can assist the student. She introduced Mr. Tercero and his wife to speak about their experience.

Mr. Tercero introduced his wife, and spoke about her brain injury and disability which changed their lives instantly. He said she had earned her Master's and was working on a Doctorate at the time of her injury. He said his wife, as well as himself, have been healing for 11 years, noting she has been unemployed for 11 years. He suggested the City could help by letting people know about their organization through the City radio and tv stations.

Councilor Dominguez said he would strongly recommend that the City use whatever public relations tools we have to get the word out regarding brain injury and that this organization exists. Councilor Dominguez asked if there are young people in the group and are they doing work to reach out to that demographic.

Ms. Taylor said they just starting an outreach for the Santa Fe Public Schools, noting they have done outreach with the SF Indian School, but there has really been no major outreach by the support group. She said State agencies have an outreach program through TVI, and this is where they get some of their referrals. She said the next goal of the group is to do more in terms of outreach.

Councilor Bushee thanked the group for moving forward. She noted Rachel Kaufman is the founder and was the director of Creativity for Peace. She spoke about her personal experience, noting her partner who is a brilliant attorney, suffered a brain aneurism while on a treadmill, and has managed after a year, to work a 40 hour week. She said her partner's new passion is to serve those in the behavioral health community, including brain injured, to find housing and employment.

**c) 2009 LEGISLATIVE REPORT. (MARK DURAN)**

A copy of a letter dated March 21, 2009, to Mayor Davis Coss from Mark Duran, reporting various successes, accomplishments and general review of the 2009 New Mexico Legislative Session, is incorporated herewith to these minutes as Exhibit "2."

This item was removed from the agenda and judicial notice taken of the report.

**CONSENT CALENDAR DISCUSSION**

**10(f) REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON APRIL 29, 2009:**

**1) BILL NO. 2009-13 – AN ORDINANCE AMENDING SECTION 8 OF EXHIBIT A, CHAPTER 22, SFCC 1987, IN ORDER TO CLARIFY SEWER RATES (COUNCILOR WURZBURGER). (COSTY KASSISIEH)**

Councilor Calvert said the Committee Action Sheet indicates this was approved as amended, but he didn't see an amendment in the packet. He said it wasn't an amendment, but direction to staff to come back to the Committee within a reasonable amount of time with alternatives with regard to how the winter month usage is estimated. He wants to ensure that direction to staff is included as we pass this, and that they are clear on what we are asking them to do..

Costy said Peter Ortega was asked to provide the number of people who have zero use of water during December through February. He said Mr. Ortega said there are about 2400 to 2500 people.

Councilor Calvert said he hasn't seen that information. He said, "What I'm requesting, or to reiterate direction to staff is that we need... I think we would like to see some suggestions on how this might change or might be restructured. I understand it might be a revenue impact, but I don't think that somebody has been out of town, just because they travel a lot in a month in the winter, automatically get 6,700 gallons of consumption put in their estimation for the annual wastewater bill. So, I think we would just like to see some suggestions come back on how that might be changed and to be a little more fair to some people. And, if you have any figures when you do that, that's fine. I have not seen any of those figures."



**Councilor Calvert moved, seconded by Councilor Wurzburger, to approve this request, reiterating this direction to the staff.**

**Discussion:** Councilor Chavez noted this is a Request to Publish for April 29, 2009, so Councilor Calvert is hoping this additional information will be in the packet at that time

Councilor Calvert said he isn't putting a condition on this amendment, it's a direction to staff, and he is trying to make sure it isn't forgotten.

Councilor Chavez said so it won't be forgotten, it has to be part of the packet as it moves forward.

Councilor Wurzburger said, "No, because the actual... what we had asked at PUC was to have it to come back to PUC in the future as information. I'm feeling comfortable with it moving forward as is. We're just reminding them to get that information."

Councilor Calvert said, "The reason why we didn't put a condition on it, and asked.. put direction to staff, is because staff said this is a time sensitive issue and I didn't want to hold up the whole amendment, but we did want that information to come back and to be presented at PUC."

Councilor Chavez said this is good for those on PUC, but for those who aren't on PUC, that information should be in the packet as it moves forward.

Mayor Coss said Costy can put the information in the packet as we go forward.

**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.**

**10(j) REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – TWO (2) VEHICLES FOR WATER DIVISION; BOB TURNER'S FORD COUNTRY. (ROBERT RODARTE)**

Councilor Calvert said this was pulled initially to request the Water Division to provide certain information on the vehicles, mostly on the second one. He noted this information is included, saying he was unable to attend the last Finance Committee meeting. He said one of the things which "we" were specifically looking for was mileage and age of the vehicles.

Councilor Calvert said, "On the one page that Water Division Adm. Engineering/Water Conservation, there are no mileages, you know, no age of vehicles, so, that's where one of these vehicles, I believe is going to be used, and so that's the reason why I pulled this, because, you know, that was really

one of the specific things that "we" requested to be furnished with this request."

Mr. Rodarte said he has that information and it can be provided. He recommended to move forward on the "big" one and he can bring the other back with the information he left out.

**Councilor Calvert moved, seconded by Councilor Wurzbarger, "for approval of the one vehicle and the second one will be brought back with the information at the next Council meeting."**

**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.**

**Clarification after voting:** Councilor Trujillo asked Councilor Calvert if he is just asking for mileage.

Councilor Calvert said "we" are asking for age of the vehicles and mileage, because we wanted to see how the vehicles are being used.

Councilor Trujillo noted this is a 1998 Dodge D-350.

Councilor Calvert said this is correct, but "we" asked for the information on the other vehicles that they have in their inventory or in their pool.

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**END OF CONSENT CALENDAR DISCUSSION**

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**11. REQUEST FOR APPROVAL OF MEMORANDUM OF AGREEMENT – TRANSPORTATION SERVICES FOR TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF); MID-REGION COUNCIL OF GOVERNMENTS. (JON BULTHUIS)**

Jon Bulthuis said this is a grant which the Department has received for the past two years which provides bus passes for people who need the TANF assistance. He said normally he brings this forward at the beginning of the fiscal year, but there was a staff transition and the ball was dropped. He is bringing it forward at this point and requesting approval.

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

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

**Against: None.**

**12. REQUEST FOR APPROVAL OF GRANT APPLICATION TOWARD PURCHASE OF REPLACEMENT COMPRESSED NATURAL GAS BUSES; UNITED STATES DEPARTMENT OF ENERGY. (JON BULTHUIS)**

A copy of "2.4 Transportation and Alternative Fuels," is incorporated herewith to these minutes as Exhibit "3."

Councilor Ortiz understands this is just approval to for this particular grant, and Mr. Bulthuis said this is correct. Councilor Ortiz asked, because we will be talking about budget, especially in transit, if this is a situation where, if we get the grant, the City is bound to provide either additional service in transit, or we're stuck with providing routes in transit because we're taking these federal monies.

Mr. Bulthuis said, no we would not. He said the funds are for replacement vehicles, so whatever resources we have to put into play, we would be able to do that. The vehicles we would be replacing would be used in those routes. So, whatever funding is available for the service we provide in the coming year would utilize these vehicles, but there wouldn't be the kinds of requirements which Councilor Ortiz just described.

**Councilor Ortiz moved, seconded by Councilor Chavez, to approve this request.**

**Discussion:** Mr. Bulthuis said the packet describes a 50-50 match ratio. He met with Clean Cities today, and now that the stimulus funding is coming into better focus and the Department of Energy is detailing its requirements, there is an opportunity to get a 100% cost offset, so we will be applying for that component.

**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.**

**13. MATTERS FROM THE CITY MANAGER**

There were no matters from the City Manager.

**14. MATTERS FROM THE CITY ATTORNEY**

There were no matters from the City Attorney.

**15. MATTERS FROM THE CITY CLERK**

**CANVASS OF ELECTION RESULTS – MARCH 10, 2009 SPECIAL MUNICIPAL ELECTION**

Yolanda Vigil, City Clerk, read the official Canvass of Election Results for the March 10, 2009 Special Municipal Election, into the official record, noting there is a copy in the Council packets.

**Councilor Calvert moved, seconded by Councilor Trujillo, to approve the official Canvass of Election Results for the March 10, 2009 Special Municipal Election as presented.**

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

**16. 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 25, 2009, is incorporated herewith to these minutes as Exhibit "4."

**Councilor Calvert**

Councilor Calvert Introduced an ordinance amendment amending Exhibit I, "Mountainous or Difficult Terrain Boundary." A copy of the ordinance is incorporated herewith to these minutes as Exhibit "5".

**Councilor Dominguez**

Councilor Dominguez said his regular office hours at Miklo's have changed for this month, and will be on April 11, 2009, 10:00 a.m. to 12:00 noon, and asked the City Manager to ask Laura to send that out. He said after this, he will go back to the regular schedule.

Councilor Dominguez gave congratulations to his son Devin, noting this weekend he will be participating in the Language of Birds, performing as one of the singers, on Friday, March 27, 2008 at 7:00 p.m., and on Saturday March 28, 2008, at 2:00 p.m. and 7:00 p.m., at the Lensic Performing Arts Center. He invited the Governing Body to attend.

Mayor Coss added his congratulations to Devin.

### **Councilor Wurzbarger**

Councilor Wurzbarger introduced a Resolution authorizing and approving the submission of a completed application for federal financial assistance to the Environmental Protection Agency for the City of Santa Fe Water Division, Water Main Replacement Project. A copy of this Resolution is incorporated herewith to these minutes as Exhibit "6."

### **Councilor Trujillo**

Councilor Trujillo had no communications.

### **Councilor Ortiz**

Councilor Ortiz had no communications.

### **Councilor Bushee**

Councilor Bushee introduced an Ordinance amending Section 7-1.1 SFCC 1987 and Section 7-1.5 SFCC 1987, to clarify that the City has building permit and inspection jurisdiction within the platting and planning jurisdiction of the City. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "7."

Councilor Bushee introduced a Resolution directing staff to work with MR COG to develop a conceptual plan for the development of a multi-modal facility and to obtain a long term lease with the State of New Mexico for the property to the south and to the east of the Archives Building located at the corner of Montezuma and Guadalupe Streets. She has contacted Commissioner Maes who serves this District, and we need to be sure that we amend and get on all lists from ICIP, the MPO TIP and such, and bring forward a summary of the project, the funding we are seeking. Councilor Calvert and Mayor Coss would like to cosponsor the Resolution. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "8."

### **Councilor Romero**

Councilor Romero introduced an Ordinance amendment specifying what campaign contributions shall not be used for and amending Section 9-2.14 establishing campaign contribution limits. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "9."

### **Mayor Coss**

Mayor Coss had no communications.

**END OF AFTERNOON SESSION AT 6:20 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, Salute to the New Mexico Flag, and Invocation, Roll Call indicated the presence of a quorum as follows:

#### **Members Present**

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

#### **Others Attending**

Galen Buller, City Manager  
Kelly Brennan, Assistant City Attorney  
Yolanda Y. Vigil, City Clerk  
Melessia Helberg, Council Stenographer

### **F. PETITIONS FROM THE FLOOR**

There were no petitions from the floor.

### **G. APPOINTMENTS**

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

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

Margaret Kuhlen – to fill unexpired term ending 01/2013.

Councilor Bushee moved, seconded by Councilor Chavez, to approve the 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.

### **City Business and Quality of Life Committee**

Mayor Coss appointed the following individuals to the City Business and Quality of Life Committee:

Alan O. Austin – Reappointment – term ending 03/2011;  
Stephen Guerin – Reappointment – term ending 03/2011;  
Ray Gulick – Reappointment – term ending 03/2011;  
Dorothy D. Massey – Reappointment – term ending 03/2011;  
Lillian Montoya-Rael – Reappointment – term ending 03/2011; and  
Cervantes "Buddy" Roybal – term ending 03/2011.

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

### **H. PUBLIC HEARINGS**

- 1) **REQUEST FROM FLYING STAR CAFES, INC., FOR A RESTAURANT (BEER & WINE) LIQUOR LICENSE TO BE LOCATED AT THE FLYING STAR CAFÉ, MARKET STATION AT THE RAILYARDS, 500 1-I MARKET STREET. (YOLANDA Y. VIGIL)**

The staff report was given by Yolanda Vigil, noting the business is not within 300 feet of a church or school, and requesting that the 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 Calvert moved, seconded by Councilor Romero, to grant the request for a Restaurant (Beer & Wine) Liquor License to be located at the Flying Star Café, Market Station at the Railyards, 500 1-I Market Street.

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) **REQUEST FROM ABIQUIU SAINT-FLOUR, INC., FOR A TRANSFER OF LOCATION OF DISPENSER LICENSE #2765 FROM HIGHWAY 285/84 COTTONWOOD PLAZA, ESPANOLA, NEW MEXICO TO 3466 ZAFARANO DRIVE, SANTA FE. (YOLANDA Y. VIGIL)**

The staff report was given by Yolanda Vigil, noting the business is not within 300 feet of a church or school, and requesting that the 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 Trujillo, to grant the request for a transfer of location of Dispenser License #2765 from Highway 285/84 Cottonwood Plaza, Espanola, New Mexico, to 3466 Zafarano Drive, Santa Fe.

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.

- 3) **REQUEST FROM MARBLE BREWER, INC., FOR A SMALL BREWER (OFF-SITE) LIQUOR LICENSE TO BE LOCATED AT THE MARBLE BREWERY TAPROOM, 60 EAST SAN FRANCISCO STREET, SUITE 313. (YOLANDA Y. VIGIL)**

The staff report was given by Yolanda Vigil, noting the business is not within 300 feet of a church or school, and requesting that the 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 Wurzbarger moved, seconded by Councilor Calvert, to grant the request for a Small Brewer (Off-Site) Liquor License to be located at the Marble Brewery Taproom, 60 East San Francisco Street, Suite 313.



**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.**

**4) REQUEST FROM LAN'S VIETNAMESE CUISINE, LLC, FOR THE FOLLOWING:**

- a) PURSUANT TO §60-6(B)-10 NMSA 1978, A REQUEST FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES AT LAN'S VIETNAMESE CUISINE, LLC, 2430 CERRILLOS ROAD, WHICH IS WITHIN 300 FEET OF THE COLLEGE OF SANTA FE, 1600 ST. MICHAEL'S DRIVE.**
- b) IF THE WAIVER OF THE 300 FOOT RESTRICTION IS GRANTED, A REQUEST FOR A RESTAURANT (BEER & WINE) LICENSE TO BE LOCATED AT LAN'S VIETNAMESE CUISINE, LLC, 2430 CERRILLOS ROAD, SANTA FE.**

**(YOLANDA Y. VIGIL)**

The staff report was given by Yolanda Vigil, noting the business is within 300 feet of the College of Santa Fe. She said there is a letter from the College in the Council packet stating that it has no objection to the license. There also is a letter in the Council packet from a concerned citizen stating objection to this license.

**Public Hearing**

There was no one speaking for or against this request.

**The Public Hearing was closed**

**Councilor Calvert moved, seconded by Councilor Wurzbarger, to grant the request for a waiver of the 300 foot location to allow the sale of alcoholic beverages at Lan's Vietnamese Cuisine, LLC, 2430 Cerrillos Road.**

**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.**

**Councilor Calvert moved, seconded by Councilor Romero, to grant the request for a Restaurant (Beer & Wine) License to be located at Lan's Vietnamese Cuisine, LLC, 2430 Cerrillos Road.**

**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) REQUEST FROM THE WAY OF SAKE CORPORATION, FOR A WHOLESALER (WIN) LIQUOR LICENSE (WHOLESALE OF WINE AND SAKE ONLY) TO BE LOCATED AT THE WAY OF SAKE, 207 NORTH GUADALUPE STREET. (YOLANDA Y. VIGIL)**

The staff report was given by Yolanda Vigil, noting the business is not within 300 feet of a church or school, and requesting that the 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 Wholesaler (Wine) Liquor License for the wholesale of wine and sake only, to be located at The Way of Sake, 207 North Guadalupe Street.**

**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.**

- 6) **CONSIDERATION OF BILL NO. 2009-10; ADOPTION OF ORDINANCE NO. 2009-11 (COUNCILOR TRUJILLO). AN ORDINANCE AMENDING SECTION 12-6-5.8 REGARDING TURNING AND STOPPING MOVEMENTS AND REQUIRED SIGNALS; SECTION 12-6-12.18 REGARDING PROHIBITED ACTIVITIES WHILE DRIVING; SECTION 12-6-13.15 REGARDING INJURIOUS MATERIALS ON CITY STREETS; SECTION 12-9-9 REGARDING DESIGNATED DISABLED PARKING SPACES; SECTION 12-12-20 REGARDING THE VEHICLE IMMOBILIZATION (BOOT) PROGRAM; THE TRAFFIC VIOLATION PENALTY ASSESSMENT SCHEDULE; AND THE PARKING VIOLATION PENALTY ASSESSMENT SCHEDULE, ALL OF THE CITY OF SANTA FE UNIFORM TRAFFIC CODE. (CHIEF ERIC JOHNSON)**

Chief Johnson presented information regarding this matter, saying these amendments are basically cleanup language updating the fine schedules and the Traffic Code and there are some minor changes to the Parking Code.

#### **Public Hearing**

There was no one speaking for or against the request

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

**Councilor Trujillo moved, seconded by Councilor Wurzbarger, to adopt Ordinance No. 2009-11, with the amendments in the Council packet, and includes giving staff discretion to determine whether to use roadway or highway.**

**Discussion:** Councilor Calvert asked, on page 3, line 7, why the term "highway" is used and if this has a specific meaning or is this a general term for any road.

*Chief Johnson said this is a general term for on any roadway.*

Councilor Calvert said in other places it mentions streets or roadways, and wonders if this confuses or complicates the situation by introducing other terminology.

Chief Johnson said he doesn't believe so, and it is like any of the other ordinances and we can't enforce anything which happens on private property, so it is on any public roadway.

Councilor Calvert asked if we should just say roadway instead of highway.

Chief Johnson believes it can be changed to "any public roadway."

**Request regarding the use of "roadway" instead of "highway":** Jeanne Price asked that the the staff have the ability to be sure that is the exact right word by the definitions in the Code.

Councilor Calvert said that is fine. He said on the bottom of the same page it talks about "non travel lane," and use of the hands-free mobile when being used in a non-travel lane. He asked if this means if you get a call on your cell phone you can pull to the side and take your call.

Chief Johnson said yes, it is intended to let you pull off the roadway.

Councilor Calvert asked, for example, if it is a two lane road and they pull to the side and they're still in the roadway, does there have to be a designated shoulder or area where they have to go to get out of the line of travel.

Chief Johnson said it has to be in a designated area just off the main roadway off the lane of travel, so on the shoulder or in a parking lot.

Councilor Calvert said in the schedule under "littering," there is a \$300 fine, and we struck the one regarding a lighted cigarette and asked if this is just to simply things, or if this is mentioned elsewhere.

Chief Johnson said it is to simplify.

Councilor Calvert said, "So we're going to go with the lower one even though this one that used to be... or is currently in there for throwing out lighted cigarettes and matches had a stiffer fine. So, we're just going to go put everything under the lower category."

Chief Johnson said this is correct.

Councilor Ortiz asked if this covers Blackberry use or texting.

Chief Johnson said it covers any device.

Councilor Ortiz said then according this, it is a violation if you are operating your device anyplace except on a shoulder or a berm.

Chief Johnson said that is correct.

Councilor Ortiz quoted from page 8, line 4, Paragraph C, "An operator of a motor vehicle who holds a mobile telephone to or in the immediate proximity of his or her ear is presumed to be engaging in a call within the meaning of this section." He asked what is the "immediate proximity." He asked if he is at a red light and he's responding, for example, to emails, is that a violation.

Chief Johnson said, like any traffic violation, it has to be something the officer observes and the officer will have to be able to articulate the violation when he goes before the judge. He said he believes proximity is when you see people holding a hand held device near the ear or on the steering wheel.

Councilor Ortiz asked what if the officer can't see it.

Chief Johnson reiterated that the officer has to clearly observe the violation and be able to articulate that on the citation when he goes before the Judge.

Councilor Ortiz said Paragraph C says there is a presumption that if it's close to the ear, it is a violation. It's not that the officer has to see the violation. The officer can see that it's "somewhere close to you it's a violation and it's up to you to rebut that."

Chief Johnson said the officer will have a hard time trying to presume anything if he can't see the device at all, reiterating it has to be articulated before the Judge and the Judge will have to make the call on that.

Councilor Dominguez had the same question. However, he understands you can make a call as long as you have an earpiece. He asked how the officer determines whether or not a number has been dialed or the person has been text messaging.

Chief Johnson reiterated this depends on the officer's observation.

Councilor Dominguez asked [holding a device up] if all the officer sees is "this... so, right now am I text messaging somebody or am I calling somebody."

Chief Johnson reiterated that it has to be what the officer observes. He said this will be covered under prohibited activities while driving, because you're not paying full attention to your driving if you're not watching the roadway.

Councilor Dominguez asked, "Why do we need this then. If we have inattentive driving laws, if we already have laws."

Chief Johnson said this falls under the same ordinance under prohibited activities while driving, but this is designed for clear and blatant violations.

Councilor Dominguez understands the intent, and believes it is well intended. He wants to make sure that the law will be applied fairly and just because an officer sees the person holding phone that they will not presume they are text messaging or answering an email. He doesn't see that language in the ordinance and believes that language could be clarified.

**Clarification by the City Clerk:** Yolanda Vigil clarified that Councilor Trujillo's motion includes the amendments in the packet, and Councilor Trujillo said it does.

**Clarification by Councilor Calvert:** Councilor Calvert said it also includes giving staff discretion to determine whether to use roadway or highway.

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.

**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 7:30 p.m.

**Approved by:**

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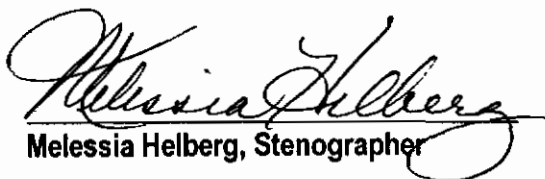
**Mayor David Coss**

**ATTESTED TO:**

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**Yolanda Y. Vigil, City Clerk**

**Respectfully submitted:**



**Melessia Helberg, Stenographer**