



# Agenda

REGULAR MEETING OF  
THE GOVERNING BODY  
APRIL 29, 2009  
CITY COUNCIL CHAMBERS

## AFTERNOON SESSION – 5:00 P.M.

CITY CLERK'S OFFICE

DATE 4-24-09 TIME 2:45

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

RECEIVED BY [Signature]

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 25, 2009
9. PRESENTATIONS
  - a) Employees of the Month for April 2009 – Felipe Lopez and Bernardino Alvarado, Water Systems Operator Laborers; Sangre de Cristo Water Division. (5 minutes)
  - b) Santa Fe Fiesta Council Schedule of Events and Presentation. (Albert "Gabby" Montoya, President) (5 minutes)
  - c) Muchas Gracias – The Blue Jackets - 2008/09 State Hockey Champions. (5 minutes)
  - d) Proclamation – "Vicente Ojinaga Day". (5 minutes)
  - e) Proclamation – "St. Michael's High School 150th Anniversary Day". (Councilor Ortiz) (5 minutes)
10. CONSENT CALENDAR
  - a) Request for Approval of Procurement Under State Price Agreement – One (1) Vehicle for Water Division; Bob Turners Ford Country. (Robert Rodarte) (**Postponed at March 25, 2009 City Council Meeting**)



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- b) Request for Approval of Memorandum of Agreement – School Crossing Guard Program; Santa Fe Public Schools. (Mike Landavazo)
- c) Bid No. 09/23/B – Franklin E. Miles Park Renovation (Negotiated) and Agreement Between Owner and Contractor; Lee Landscapes, Inc. (Ben Gurule)
- d) Request for Approval of Amendment No. 2 to Grant Agreement – 2006 New Mexico Legislative General Fund Project; State of New Mexico Department of Finance and Administration, Local Government Division. (David Chapman)
  - 1) Request for Approval of Budget Decrease – Trails Project Fund.
- e) Bid No. 09/24/B – Siler Road Extension Project and Construction Agreement; A.S. Horner, Inc. (Desirae Lujan)
  - 1) Request for Approval of Amendment No. 2 to Memorandum of Agreement – Additional Funds for Construction from County Gross Receipts Tax Capital Outlay for Joint Regional Projects (Joint City/County ¼% GRT); County of Santa Fe.
  - 2) Request for Approval of Budget Increase – Project Fund.
- f) Request for Approval of Amendment No. 7 to Railyard Lease and Management Agreement; Santa Fe Railyard Community Corporation. (Robert Siqueiros)
  - 1) Revise Completion Date for Railyard Underground Parking Garage,
  - 2) Remove Rail Line Corridor from Leasehold,
  - 3) Define SFRCC Responsibilities for The Park, Plaza and Alameda on the Conservation Easement; and
  - 4) Adjust Boundary of Leasehold Premises of Parcel E.
- g) Request for Approval of Memorandum of Understanding – Services and Access to Government PEG Channel to the County as Consideration for Easement; Santa Fe County. (Joe Abeyta)



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- h) Request for Approval of Memorandum of Understanding – Non-Recurring Grant Award for Implementation of New Santa Fe Trails Transit Service; North Central Regional Transit District. (Jon Bulhuis)
- i) Request for Approval of Revision to City of Santa Fe Investment Policy Section 6.11 Collateralization and Required Annual Review. (Helene Hausman)
- j) Request for Approval of Amendment No. 1 to Agreement – FY 2008/2009 Nutrition Services Incentive Program for Senior Services Division; North Central New Mexico Economic Development District Non-Metro Area Agency on Aging. (Ron Vialpando)
  - 1) Request for Approval of Budget Increase From Grant Revenues – Grant Fund.
- k) CONSIDERATION OF RESOLUTION NO. 2009-\_\_\_\_\_. (Councilor Dominguez and Councilor Trujillo)  
A Resolution Accepting the Donation of a Small Statue of Don Diego De Vargas from Caballeros de Vargas to be Placed in Front of the De Vargas Room in The Santa Fe Community Convention Center. (Debra Garcia Y Griego)
- l) Request for Approval of Professional Services Agreement – Alcohol Provider Services at Santa Fe Community Convention Center; Santa Fe Brewing Company. (Darlene Griego)
- m) Request for Approval of Amendment No. 1 to Legal Services Agreement – Buckman Well II Issues for Water Division; Sheehan, Sheehan & Stelzner, P.A. (William Cassel)
- n) Request for Approval of Amendment No. 3 to Professional Services Agreement – City Water Right Transfer Program and Portfolio; Lee Wilson and Associates, Inc. (Dale Lyons)
- o) Request for Approval of Amendment No. 5 to Professional Services Agreement – Cerrillos Road Reconstruction Project: Phase IIB – Cielo Ct. to Camino Carlos Rey Design Services; PB Americas, Inc. (Desirae Lujan)



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- p) Request for Approval to Publish Notice of Public Hearing on May 27, 2009:
- 1) Consideration of Adoption of 2009/2010 Community Development Block Grant (CDBG) Entitlement Program. The CDBG Program is Part of the City's Annual Action Plan Submitted to the U. S. Department of Housing and Urban Development. (Melisa Dailey)
  - 2) Bill No. 2009-19 – 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 Planning and Platting Jurisdiction of the City. (Councilor Bushee) (Jeanne Price)
  - 3) Bill No. 2009-20 – An Ordinance Amending Section 14-8.14(A) SFCC 1987 Regarding the Applicability of Impact Fees to the Planning and Platting Jurisdiction of the City of Santa Fe. (Councilor Chavez, Councilor Ortiz and Councilor Dominguez) (Jeanne Price)
- q) CONSIDERATION OF RESOLUTION NO. 2009-\_\_\_\_\_. (Mayor Coss, Councilor Bushee, Councilor Romero, Councilor Trujillo and Councilor Calvert)  
A Resolution Authorizing the City of Santa Fe to Support a Living Santa Fe River by Allowing Water to Pass through McClure and Nichols Reservoirs in 2009. (Rachel Friedman)
- r) Request for Approval of Amendment No. 1 to Professional Services Agreement – St. Francis Trail Design Services; PB Americas, Inc. (Leroy Pacheco)
- s) Request for Approval of Intergovernmental Agreement – River Ecosystem Restoration Initiative (RERI); Department of Finance and Administration and New Mexico Environment Department. (Rachel Friedman)
- t) Request for Approval of Professional Services Agreement – Job Skills Training for Santa Fe's Youth through Santa Fe River and Watershed Improvements (RFP #09/15/P); Youthworks and Earth Works Institute. (Rachel Friedman)



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- u) Request for Approval of Professional Services Agreement – Project Manager for Dance Facilities; National Dance Institute, New Mexico, Inc. (David Chapman)
- v) Request for Approval of Procurement Under State Price Agreement – Airport Road Pavement Resurfacing – Contingent on Federal Stimulus Funding. (David Catanach)
  - 1) Cutler Repaving, Inc.
  - 2) Associated Asphalt & Materials
- w) Request for Approval of Budget Increase for Electric Costs for Citywide Streetlights. (Chris Ortega)
- x) Request for Approval of Budget Increase for Repair and Maintenance Costs for Citywide Streetlights. (Chris Ortega)
- y) Request for Approval of Sole Source Procurement and Joint Powers Agreement – Juvenile Drop Off Center for Santa Fe Police Department and Santa Fe County Sheriff's Department; County of Santa Fe. (Richard DeMella)
- z) Request for Approval of Amendment No. 6 to Professional Services Agreement – Investment Services for City of Santa Fe; First Southwest Company. (Helene Hausman)
- aa) CONSIDERATION OF RESOLUTION NO. 2009-\_\_\_\_\_. (Councilor Bushee, Mayor Coss and Councilor Calvert)  
A Resolution Directing Staff to Work with the Mid Region Council of Governments 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 Former Archives Building Located at the Corner of Montezuma and Guadalupe Streets. (Robert Romero)
- bb) Request for Approval of Contract – Continuation of Enterprise One Services; Leverage Consulting, LLC. (David Millican)



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- cc) CONSIDERATION OF RESOLUTION NO. 2009-\_\_\_\_\_. (Councilor Wurzbarger)  
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 and Project. (Bill Huey and Gary Martinez)
- dd) Request for Approval of Re-Assignment of Professional Services Agreements and Legal Services Agreements to the Buckman Direct Diversion Board – Execute Contract Assignments for Buckman Direct Diversion Project; Various Contractors. (Rick Carpenter, Kyle Harwood and Maya Martinez)
- 1) Cooney, Watson & Associates
  - 2) Hawkins, Delafield & Wood, LLP
  - 3) Kerry Howe Consulting
  - 4) Kirkpatrick, Lockhart, Preston, Gates & Ellis
  - 5) Norman Gaume, P.E.
  - 6) WRISC, Inc.
11. Request for Approval of Sole Source Procurement of Professional Services Agreement – Sell and Represent the City of Santa Fe, Santa Fe Community Convention Center and All City Attractions and Services to the Assigned Market; Christine Madden. (Keith Toler)
12. Request for Approval to Publish Notice of Public Hearing on May 27, 2009:  
  
Bill No. 2009-18 – An Ordinance Amending Section 14-8.10 SFCC 1987 Permitting Off Site Temporary Signs For Holiday Tree Vendors. (Councilor Ortiz) (Jeanne Price)
13. Six-Month Review of Railyard Parking Programs:  
  
Request for Approval of Parking Rate Changes on Saturday and Sunday at The Railyard. (Bill Hon) **(Postponed to May 13, 2009 City Council Meeting)**
14. Request for Approval of Santa Fe Railyard Policies and Procedures on The Railyard Park, Plaza and Alameda. (Robert Siqueiros) **(Postponed to May 13, 2009 City Council Meeting)**



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15. MATTERS FROM THE CITY MANAGER

16. MATTERS FROM THE CITY ATTORNEY

EXECUTIVE SESSION:

- a) Discussion of Negotiations Concerning Purchase of College of Santa Fe, Pursuant to §10-15-1 (H) (8) NMSA 1978
  - b) Discussion of Lease of Property within Santa Fe Railyard, Pursuant to §10-15-1 (H) (8) NMSA 1978.
  - c) Discussion of the Terms of Payment for School District Parcel in the Northwest Quadrant, Pursuant to §10-15-1 (H) (8) NMSA 1978.
17. Action on Real Estate Contract for School District Parcel in the Northwest Quadrant. (Frank Katz)
18. Action on Lease of Property within Santa Fe Railyard. (Frank Katz)
19. CONSIDERATION OF RESOLUTION NO. 2009-\_\_\_\_\_. (Mayor Coss, Councilor Wurzbarger, Councilor Chavez and Councilor Romero)  
A Resolution Authorizing and Directing the City Manager to Enter Negotiations with the College of Santa Fe, the Creditors of the College and the State of New Mexico to Develop a Plan that Would Provide for Continued Operation of a High Quality Arts and Liberal Arts Program at the College of Santa Fe. (David Millican)
20. MATTERS FROM THE CITY CLERK
21. 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 The Original Pantry, LLC, for a Restaurant (Beer & Wine) Liquor License to be Located at The Original Pantry, 1820 Cerrillos Road. (Yolanda Y. Vigil) **(Postponed from April 8, 2009 City Council Meeting)**
- 2) Request from Jung & Myong Investment, LLC for a Transfer of Ownership of Dispenser License #0024 from Lee Properties, Inc. to Jung & Myong Investment, LLC. The License Will Remain at Tequila Liqueurs, 4300 Cerrillos Road. (Yolanda Y. Vigil) **(Postponed from April 8, 2009 City Council Meeting)**
- 3) Request from The American Legion, Inc. dba Montoya y Montoya Post 1, for a Transfer of Location of Club License #8189 from 1632 Cerrillos Road to 1601 Berry Street. (Yolanda Y. Vigil) **(Postponed from April 8, 2009 City Council Meeting)**
- 4) Request from Youssef Enterprises, LLC for a Restaurant (Beer & Wine) Liquor License to be located at Cleopatra Café, 418 Cerrillos Road, #4. (Yolanda Y. Vigil) **(Postponed from April 8, 2009 City Council Meeting)**
- 5) Pursuant to §60-6B-10 NMSA 1978, a Request for a Waiver of the 300 Foot Location Restriction and Approval to Allow the Sale/Consumption of Alcoholic Beverages at El Museo Cultural de Santa Fe, 1615 B. Paseo de Peralta, Which is Within 300 Feet of Alvord Elementary School, 551 Alarid and Located on City Property. The Request is for a Wedding Reception - David Chavez and Jessica Rodriguez to be held on Saturday June 27, 2009 from 6:30 – 12:00 a.m. (Invitation Only Event). (Yolanda Y. Vigil)



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- 6) CONSIDERATION OF BILL NO. 2009-14: ADOPTION OF ORDINANCE NO. 2009-\_\_\_\_\_. (Councilor Wurzbarger)  
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. (Brian Snyder)
- 7) CONSIDERATION OF BILL NO. 2009-11: ADOPTION OF ORDINANCE NO. 2009-\_\_\_\_\_. (Councilor Calvert, Councilor Bushee and Councilor Romero)  
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. (Jeanne Price) **(Postponed from April 8, 2009 City Council Meeting)**
- 8) CONSIDERATION OF BILL NO. 2009-13: ADOPTION OF ORDINANCE NO. 2009-\_\_\_\_\_. (Councilor Wurzbarger)  
An Ordinance Amending Section 8 of Exhibit A, Chapter 22 SFCC 1987 In Order To Clarify Sewer Rates. (Costy Kasssieh)
- 9) CONSIDERATION OF RESOLUTION NO. 2009-\_\_\_\_\_.  
**Case #M 2008-47. 1111 Agua Fria Street General Plan Amendment.**  
Linda Tigges, Agent for Santa Fe Housing Trust, Requests Approval of a General Plan Future Land Use Map Amendment to Change the Designation of 0.52± Acre From Low Density Residential (3-7 Dwelling Units Per Acre) to Office. The Property is Located One Lot West of the Northwest Corner of the Intersection of Agua Fria and La Madera Street. (Donna Wynant) **(Postponed from April 8, 2009 City Council Meeting)**



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- 10) CONSIDERATION OF BILL NO. 2009-17: ADOPTION OF ORDINANCE NO. 2009-\_\_\_\_\_.  
**Case #ZA 2008-18. 1111 Agua Fria Street Rezoning.** Linda Tigges, Agent for Santa Fe Housing Trust, Requests Rezoning of 0.52± Acre From R-5 (Residential, 5 Dwelling Units Per Acre) to C-1 (Office and Related Commercial). The Property is Located One Lot West of the Northwest Corner of the Intersection of Agua Fria and La Madera Street. (Donna Wynant) **(Postponed from April 8, 2009 City Council Meeting)**
- 11) CONSIDERATION OF BILL NO. 2009-16: ADOPTION OF ORDINANCE NO. 2009-\_\_\_\_\_. (Councilor Romero)  
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. (Ed Vigil)
- 12) CONSIDERATION OF BILL NO. 2009-21: ADOPTION OF ORDINANCE NO. 2009-\_\_\_\_\_.  
**Case #ZA 2008-19. St. John's College PUD Rezoning.** Linda Tigges, Agent for St. John's College, Requests Rezoning Pursuant to 14-5.7(I) and 14-3.5 to Amend the Planned Unit Development (PUD) for an Increase of Intensity to the Master Development Plan. The College is Zoned R-1 PUD (Residential, 1 Dwelling Unit Per Acre, Planned Unit Development) and is Located at 1160 Camino Cruz Blanca, Within the Historic Review District, Suburban Archeological Review District, with Various Portions of the Property in the Escarpment Overlay District. (Dan Esquibel)
  - a) **Case #M 2008-48. St. John's College Master Development Plan Amendment.** Linda Tigges, Agent for St. John's College, Requests Preliminary Development Plan Approval to Amend the Planned Unit Development (PUD) to Allow 83,000 Square Feet of Phased New Construction for the St. John's College Campus. The College is Zoned R-1 PUD (Residential, 1 Dwelling Unit Per Acre, Planned Unit Development) and is Located 1160 Camino Cruz Blanca, Within the Historic Review District, Suburban Archeological Review District, with Various Portions of the Property in the Escarpment Overlay District. (Dan Esquibel)



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- 13) CONSIDERATION OF BILL NO. 2009-12: ADOPTION OF ORDINANCE NO. 2009-\_\_\_\_\_. (Councilor Wurzbarger and Councilor Bushee)  
An Ordinance Establishing a Rural Residential Zoning District; and Making Such Other Related Changes. (Jeanne Price) (Postponed from April 8, 2009 City Council Meeting) **(Request to Postpone to May 13, 2009 City Council Meeting)**

## 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.

Persons with disabilities in need of accommodations, contact the City Clerk's office at 955-6520, five (5) days prior to meeting date.

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April 29, 2009**

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CONSENT CALENDAR LISTING		3-7
APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – MARCH 25, 2009	Approved	7
<b>PRESENTATIONS</b>		
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SANTA FE FIESTA COUNCIL SCHEDULE OF EVENTS AND PRESENTATION. (ALBERT "GABBY" MONTOYA, PRESIDENT)		8
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<b><u>CONSENT CALENDAR DISCUSSION</u></b>		
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REQUEST FOR APPROVAL OF BUDGET INCREASE FOR REPAIR AND MAINTENANCE COSTS FOR CITYWIDE STREETLIGHTS	Approved	11
*****		
<b>END OF CONSENT CALENDAR DISCUSSION</b>		
*****		
REQUEST FOR APPROVAL OF SOLE SOURCE PROCUREMENT OF PROFESSIONAL SERVICES AGREEMENT – SELL AND REPRESENT THE CITY OF SANTA FE, SANTA FE COMMUNITY CONVENTION CENTER AND ALL CITY ATTRACTIONS AND SERVICES TO THE ASSIGNED MARKET; CHRISTINE MADDEN	Approved [Amended]	11-13
REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON MAY 27, 2009: BILL NO. 2009-18 – AN ORDINANCE AMENDING SECTION 14-8.10 SFCC 1987, PERMITTING OFF SITE TEMPORARY SIGNS FOR HOLIDAY TREE VENDORS	Approved [publish title only]	13
SIX MONTH REVIEW OF RAILYARD PARKING PROGRAMS: REQUEST FOR APPROVAL OF PARKING RATE CHANGES ON SATURDAY AND SUNDAY AT THE RAILYARD	Postponed to 05/13/09	13
REQUEST FOR APPROVAL OF SANTA FE RAILYARD POLICIES AND PROCEDURES ON THE RAILYARD PARK, PLAZA AND ALAMEDA	Postponed to 05/13/09	14
CONSIDERATION OF RESOLUTION NO. 2009- 50. A RESOLUTION AUTHORIZING AND DIRECTION THE CITY MANAGER TO ENTER NEGOTIATIONS WITH THE COLLEGE OF SANTA FE, THE CREDITORS OF THE COLLEGE AND THE STATE OF NEW MEXICO, TO DEVELOP A PLAN THAT WOULD PROVIDE FOR CONTINUED OPERATION OF A HIGH QUALITY ARTS AND LIBERAL ARTS PROGRAM AT THE COLLEGE OF SANTA FE	Approved [amended]	14-20

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
DISCUSSION OF THE TERMS OF PAYMENT FOR SCHOOL DISTRICT PARCEL IN THE NORTHWEST QUADRANT, PURSUANT TO §10-15-1(H)(8) NMSA 1978	Approved [Amended]	20-37
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<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
REQUEST FROM THE AMERICAN LEGION, INC. D/B/A MONTOYA Y MONTOYA POST 1, FOR A TRANSFER OF LOCATION OF CLUB LICENSE #8189 FROM 1632 CERRILLOS ROAD TO 1601 BERRY STREET	Approved	45-46
REQUEST FROM YOUSSEF ENTERPRISES, LLC, FOR A RESTAURANT (BEER & WINE) LIQUOR LICENSE TO BE LOCATED AT CLEOPATRA CAFÉ, 418 CERRILLOS ROAD, #4	Approved	46
PURSUANT TO §60-6B-10, NMSA 1978, A REQUEST FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE SALE/CONSUMPTION OF ALCOHOLIC BEVERAGES AT EL MUSEO CULTURAL DE SANTA FE, 1615B PASEO DE PERALTA, WHICH IS WITHIN 300 FEET OF ALVORD ELEMENTARY SCHOOL, 551 ALARID AND LOCATED ON CITY PROPERTY. THE REQUEST IS FOR A WEDDING RECEPTION – DAVID CHAVEZ AND JESSICA RODRIGUEZ, TO BE HELD ON SATURDAY, JUNE 27, 2009, FROM 6:30 P.M. TO 12:00 A.M. (INVITATION ONLY EVENT)	Approved	47
CONSIDERATION OF BILL NO. 2009-14; ADOPTION OF ORDINANCE NO. 2009-12.. 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), ETC.	Approved	47-48
CONSIDERATION OF BILL NO. 2009-11; ADOPTION OF ORDINANCE NO. 2009-13. 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	Approved	48-49

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
CONSIDERATION OF BILL NO. 2009-13; ADOPTION OF ORDINANCE NO. 2009-14. AN ORDINANCE AMENDING SECTION 8 OF EXHIBIT A, CHAPTER 22, SFCC 1987, IN ORDER TO CLARIFY SEWER RATES	Approved	49-50
CONSIDERATION OF BILL NO. 2009-16 ADOPTION OF ORDINANCE NO. 2009-15. 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	Approved	50
CONSIDERATION OF RESOLUTION NO. 2009-51. <u>CASE #M 2008-47</u> . 111 AGUA FRIA STREET, GENERAL PLAN AMENDMENT). LINDA TIGGES, AGENT FOR SANTA FE HOUSING TRUST, REQUESTS APPROVAL OF A GENERAL PLAN FUTURE LAND USE MAP AMENDMENT TO CHANGE THE DESIGNATION OF 0.52± ACRE FROM LOW DENSITY RESIDENTIAL (3-7 DWELLING UNITS PER ACRE) TO OFFICE. THE PROPERTY IS LOCATED ONE LOT WEST OF THE NORTHWEST CORNER OF THE INTERSECTION OF AGUA FRIA AND LA MADERA STREET	Approved	51-56
CONSIDERATION OF BILL NO. 2009-17; ADOPTION OF ORDINANCE NO. 2009-16. <u>CASE #ZA 2008-18</u> . 1111 AGUA FRIA STREET REZONING. LINDA TIGGES, AGENT FOR SANTA FE HOUSING TRUST, REQUESTS REZONING OF 0.52± ACRE FROM R-5 (RESIDENTIAL, 5 DWELLING UNITS PER ACRE) TO C-1 (OFFICE AND RELATED COMMERCIAL). THE PROPERTY IS LOCATED ONE LOT WEST OF THE NORTHWEST CORNER OF THE INTERSECTION OF AGUA FRIA AND LA MADERA STREET	Approved	56-57

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
CONSIDERATION OF BILL NO. 2009- 21. ADOPTION OF ORDINANCE NO. 2009-17. <u>CASE #ZA 2008-19.</u> ST. JOHN'S COLLEGE PUD REZONING. LINDA TIGGES, AGENT FOR ST. JOHN'S COLLEGE, REQUESTS REZONING PURSUANT TO 14-5.7(L) AND 14-3.5 TO AMEND THE PLANNED UNIT DEVELOPMENT (PUD) FOR AN INCREASE OF INTENSITY TO THE MASTER DEVELOPMENT PLAN. THE COLLEGE IS ZONED R-1 PUD (RESIDENTIAL, 1 DWELLING UNIT PER ACRE, PLANNED UNIT DEVELOPMENT) AND IS LOCATED AT 1160 CAMINO CRUZ BLANCA, WITHIN THE HISTORIC REVIEW DISTRICT, SUBURBAN ARCHAEOLOGICAL REVIEW DISTRICT, WITH VARIOUS PORTIONS OF THE PROPERTY IN THE ESCARPMENT OVERLAY DISTRICT	Approved	57-60
<u>CASE #M 2008-48.</u> ST. JOHN'S COLLEGE MASTER DEVELOPMENT PLAN AMENDMENT. LINDA TIGGES, AGENT FOR ST. JOHN'S COLLEGE, REQUESTS PRELIMINARY DEVELOPMENT PLAN APPROVAL TO AMEND THE PLANNED UNIT DEVELOPMENT (PUD) TO ALLOW <del>83,000</del> 86,200 SQUARE FEET OF PHASED NEW CONSTRUCTION FOR THE ST. JOHN'S COLLEGE CAMPUS. THE COLLEGE IS ZONED R-1 PUD (RESIDENTIAL, 1 DWELLING UNIT PER ACRE, PLANNED UNIT DEVELOPMENT) AND IS LOCATED AT 1160 CAMINO CRUZ BLANCA, WITHIN THE HISTORIC REVIEW DISTRICT, SUBURBAN ARCHAEOLOGICAL REVIEW DISTRICT, WITH VARIOUS PORTIONS OF THE PROPERTY IN THE ESCARPMENT OVERLAY DISTRICT	Approved [amended]	60-64
CONSIDERATION OF BILL NO. 2009-12: ADOPTION OF ORDINANCE NO. 2009- _____. AN ORDINANCE ESTABLISHING A RURAL RESIDENTIAL ZONING DISTRICT, AND MAKING SUCH OTHER RELATED CHANGES	Postponed to 05/13/09	64
MATTERS FROM THE CITY CLERK	None	64
COMMUNICATIONS FROM THE GOVERNING BODY	Information/discussion	64-67
ADJOURN		67

**MINUTES OF THE  
REGULAR MEETING OF THE  
GOVERNING BODY  
Santa Fe, New Mexico  
April 29, 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 April 29, 2009, at approximately 5:00 p.m., in the City Hall Council Chambers. Following the Pledge of Allegiance, 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 Carmichael A. Dominguez  
Councilor Matthew E. Ortiz  
Councilor Rosemary Romero  
Councilor Ronald S. Trujillo

**Members Excused**

Councilor Miguel Chavez,

**Others Attending**

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

**6. APPROVAL OF AGENDA**

Councilor Wurzbarger said, with regard to Item 16(a), Discussion of Negotiations Concerning Purchase of College Santa Fe, she believes it is inappropriate to discuss this, in terms of directing staff, until we have first considered Item 19. She would like to move Item 19 to be heard right after Item 12. She said, with regard to the Executive Session, Item 16(c), she believes it is inappropriate to hear that in executive session since we are negotiating a contract, and it is a matter of having an updated report from staff regarding a negotiation which the Finance Committee asked staff to make. She would like to move Item 16(c) from the Executive Session, to appear on the Agenda immediately after discussion of Item 19.

**Councilor Ortiz moved, seconded by Councilor Wurzbarger, to approve the agenda as amended.**

**Friendly amendment:** Councilor Bushee would like to separate the motion. **The amendment was not friendly to the maker and second.**

**The motion was approved on a voice vote with Councilors Calvert, Dominguez, Ortiz, Romero, Trujillo and Wurzbarger voting for the motion and Councilor Bushee voting against.**

**Explaining her vote:** Councilor Bushee said she opposes voting on the Resolution in Item 19, until more information is available. She said we can have that discussion publicly, but she doesn't see the need to have this discussion without having any information, and doesn't understand why that Item is being moved on the agenda.

Councilor Wurzbarger said the rationale for the Resolution is to authorize the City staff to find out the information we need in order to do our due diligence on this project. She said didn't make sense to direct staff to go forward with a negotiation strategy before a vote was taken on Item 19.

Councilor Bushee asked if you want to vote on a Resolution authorizing staff to negotiate, before we have a discussion on the negotiation.

Mayor Coss said the way it would occur is that we can discuss the whole rationale and background of this in public. If the City wants to authorize negotiations, then there is another decision to go into executive session to discuss purchase of real property and the negotiations that would go with that.

Councilor Bushee said she could understand a motion to move Item 16(a) from the Executive Session and have a discussion publically on that item.

Councilor Wurzbarger said if Item 19 is approved, then we will move into the detailed discussion of our direction regarding negotiations in executive discussion .

Councilor Bushee said, "I found staff reticent to give much information in public, because it involves negotiations. I could not get any information. I was directed that the attorney told the Finance Director, because I had asked for basic information, that we couldn't have that, it was a delicate negotiation, and that we could not have that information, so I'm guessing that it won't be very forthcoming... the discussion, without information."

## **7. APPROVAL OF CONSENT CALENDAR**

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

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

**Against: None.**

- a) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – ONE (1) VEHICLE FOR WATER DIVISION; BOB TURNER'S FORD COUNTRY. (ROBERT RODARTE) (Postponed at March 25, 2009 City Council Meeting)**
- b) **REQUEST FOR APPROVAL OF MEMORANDUM OF AGREEMENT – SCHOOL CROSSING GUARD PROGRAM; SANTA FE PUBLIC SCHOOLS. (MIKE LANDAVAZO)**
- c) **BID NO. 09/23/B – FRANKLIN E. MILES PARK RENOVATION (NEGOTIATED) AND AGREEMENT BETWEEN OWNER AND CONTRACTOR; LEE LANDSCAPES, INC. (BEN GURULE)**
- d) **REQUEST FOR APPROVAL OF AMENDMENT NO. 2 TO GRANT AGREEMENT – 2006 NEW MEXICO LEGISLATIVE GENERAL FUND PROJECT; STATE OF NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION, LOCAL GOVERNMENT DIVISION. (DAVID CHAPMAN)**
  - 1) **REQUEST FOR APPROVAL OF BUDGET DECREASE – TRAILS PROJECT FUND.**
- e) **BID NO. 09/24/B – SILER ROAD EXTENSION PROJECT AND CONSTRUCTION AGREEMENT; A.S. HORNER, INC. (DESIRAE LUJAN)**
  - 1) **REQUEST FOR APPROVAL OF AMENDMENT NO. 2 TO MEMORANDUM OF AGREEMENT – ADDITIONAL FUNDS FOR CONSTRUCTION FROM COUNTY GROSS RECEIPTS TAX CAPITAL OUTLAY FOR JOINT REGIONAL PROJECTS (JOINT CITY/COUNTY 1/4% GRT; COUNTY OF SANTA FE.**
  - 2) **REQUEST FOR APPROVAL OF BUDGET INCREASE – PROJECT FUND.**
- f) **REQUEST FOR APPROVAL OF AMENDMENT NO. 7 TO RAILYARD LEASE AND MANAGEMENT AGREEMENT; SANTA FE RAILYARD COMMUNITY CORPORATION. (ROBERT SIQUEIROS)**
  - 1) **REVISE COMPLETION DATE FOR RAILYARD UNDERGROUND PARKING GARAGE.**
  - 2) **REMOVE RAIL LINE CORRIDOR FROM LEASEHOLD.**
  - 3) **DEFINE SFRCC RESPONSIBILITIES FOR THE PARK, PLAZA AND ALAMEDA ON THE CONSERVATION EASEMENT: AND**
  - 4) **ADJUST BOUNDARY OF LEASEHOLD PREMISES OF PARCEL E.**

- g) **REQUEST FOR APPROVAL OF MEMORANDUM OF UNDERSTANDING – SERVICES AND ACCESS TO GOVERNMENT PEG CHANNEL TO THE COUNTY AS CONSIDERATION FOR EASEMENT; SANTA FE COUNTY. (JOE ABEYTA)**
- h) **REQUEST FOR APPROVAL OF MEMORANDUM OF UNDERSTANDING – NON-RECURRING GRANT AWARD FOR IMPLEMENTATION OF NEW SANTA FE TRAILS TRANSIT SERVICE; NO9RTH CENTRAL REGIONAL TRANSIT DISTRICT. (JON BULTHUIS)**
- i) **REQUEST FOR APPROVAL OF REVISION TO CITY OF SANTA FE INVESTMENT POLICY SECTION 6.11 COLLATERALIZATION AND REQUIRED ANNUAL REVIEW. (HELENE HAUSMAN)**
- j) **REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO AGREEMENT – FY 2008/2009 NUTRITION SERVICES INCENTIVE PROGRAM FOR SENIOR SERVICES DIVISION, NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT NON-METRO AREA AGENCY ON AGING. (RON VIALPANDO)**
  - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE FROM GRANT REVENUES – GRANT FUND.**
- k) **CONSIDERATION OF RESOLUTION No. 2009- 46 (COUNCILOR DOMINGUEZ AND COUNCILOR TRUJILLO). A RESOLUTION ACCEPTING THE DONATION OF A SMALL STATUE OF DON DIEGO DE VARGAS FROM CABALLERO DE VARGAS TO BE PLACED IN FRONT OF THE DE VARGAS ROOM IN THE SANTA FE COMMUNITY CONVENTION CENTER. (DEBRA GARCIA Y GRIEGO)**
- l) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – ALCOHOL PROVIDER SERVICES AT SANTA FE COMMUNITY CONVENTION CENTER; SANTA FE BREWING COMPANY. (DARLENE GRIEGO)**
- m) **REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO LEGAL SERVICES AGREEMENT – BUCKMAN WELL II ISSUES FOR WATER DIVISION; SHEEHAN, SHEEHAN & STELZNER, P.A. (WILLIAM CASSEL)**
- n) **REQUEST FOR APPROVAL OF AMENDMENT NO. 3 TO PROFESSIONAL SERVICES AGREEMENT – CITY WATER RIGHT TRANSFER PROGRAM AND PORTFOLIO; LEE WILSON AND ASSOCIATES, INC. (DALE LYONS)**
- o) **REQUEST FOR APPROVAL OF AMENDMENT NO. 5 TO PROFESSIONAL SERVICES AGREEMENT – CERRILLOS ROAD RECONSTRUCTION PROJECT: PHASE IIB – CIELO CT. TO CAMINO CARLOS REY, DESIGN SERVICES; PB AMERICAS, INC. (DESIRE LUJAN)**

- p) **REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON MAY 27, 2009:**
- 1) **CONSIDERATION OF ADOPTION OF 2009/2010 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ENTITLEMENT PROGRAM. THE CDBG PROGRAM IS PART OF THE CITY'S ANNUAL ACTION PLAN SUBMITTED TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT. (MELISSA DAILEY)**
  - 2) **BILL NO. 2009-19 – 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 PLANNING AND PLATTING JURISDICTION OF THE CITY (COUNCILOR BUSHEE). (JEANNE PRICE)**
  - 3) **BILL NO. 2009-20 – AN ORDINANCE AMENDING SECTION 14-8.14(A) SFCC 1987, REGARDING THE APPLICABILITY OF IMPACT FEES TO THE PLANNING AND PLATTING JURISDICTION OF THE CITY OF SANTA FE (COUNCILOR CHAVEZ, COUNCILOR ORTIZ AND COUNCILOR DOMINGUEZ). (JEANNE PRICE)**
- q) **CONSIDERATION OF RESOLUTION NO. 2009-47 (MAYOR COSS, COUNCILOR BUSHEE, COUNCILOR ROMERO, COUNCILOR TRUJILLO AND COUNCILOR CALVERT). (A RESOLUTION AUTHORIZING THE CITY OF SANTA FE TO SUPPORT A LIVING SANTA FE RIVER BY ALLOWING WATER TO PASS THROUGH McCCLURE AND NICHOLS RESERVOIRS IN 2009. (RACHEL FRIEDMAN)**
- r) **REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT – ST. FRANCIS TRAIL DESIGN SERVICES; PB AMERICAS, INC. (LEROY PACHECO)**
- s) **REQUEST FOR APPROVAL OF INTERGOVERNMENTAL AGREEMENT – RIVER ECOSYSTEM RESTORATION INITIATIVE (RERI); DEPARTMENT OF FINANCE AND ADMINISTRATION AND NEW MEXICO ENVIRONMENT DEPARTMENT. (RACHEL FRIEDMAN)**
- t) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – JOB SKILLS TRAINING FOR SANTA FE'S YOUTH THROUGH SANTA FE RIVER AND WATERSHED IMPROVEMENTS (RFP #09/15/P); YOUTHWORKS AND EARTH WORKS INSTITUTE. (RACHEL FRIEDMAN)**
- u) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – PROJECT MANAGER FOR DANCE FACILITIES; NATIONAL DANCE INSTITUTE, NEW MEXICO, INC. (DAVID CHAPMAN)**

- v) REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – AIRPORT ROAD PAVEMENT RESURFACING – CONTINGENT ON FEDERAL STIMULUS FUNDING. (DAVID CATANACH)
  - 1) CUTLER REPAVING, INC.
  - 2) ASSOCIATED ASPHALT & MATERIALS
- w) *[Removed for discussion by Councilor Bushee]*
- x) *[Removed for discussion by Councilor Bushee]*
- y) REQUEST FOR APPROVAL OF SOLE SOURCE PROCUREMENT AND JOINT POWERS AGREEMENT – JUVENILE DROP OFF CENTER FOR SANTA FE POLICE DEPARTMENT AND SANTA FE COUNTY SHERIFF'S DEPARTMENT; COUNTY OF SANTA FE. (RICHARD DE MELLA)
- z) REQUEST FOR APPROVAL OF AMENDMENT NO. 6 TO PROFESSIONAL SERVICES AGREEMENT – INVESTMENT SERVICES FOR CITY OF SANTA FE; FIRST SOUTHWEST COMPANY. (HELENE HAUSMAN)
- aa) CONSIDERATION OF RESOLUTION NO. 2009-48 (COUNCILOR BUSHEE, MAYOR COSS AND COUNCILOR CALVERT). A RESOLUTION DIRECTING STAFF TO WORK WITH THE MID REGION COUNCIL OF GOVERNMENTS 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 FORMER ARCHIVES BUILDING LOCATED AT THE CORNER OF MONTEZUMA AND GUADALUPE STREETS. (ROBERT ROMERO)
- bb) REQUEST FOR APPROVAL OF CONTRACT – CONTINUATION OF ENTERPRISE ONE SERVICES; LEVERAGE CONSULTING, LLC. (DAVID MILLICAN)
- cc) CONSIDERATION OF RESOLUTION NO. 2009- 49 (COUNCILOR WURZBURGER). 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 AND PROJECT. (BILL HUEY AND GARY MARTINEZ)
- dd) REQUEST FOR APPROVAL OF REASSIGNMENT OF PROFESSIONAL SERVICES AGREEMENT AND LEGAL SERVICES AGREEMENTS TO THE BUCKMAN DIRECT DIVERSION BOARD – EXECUTE CONTRACT ASSIGNMENTS FOR BUCKMAN DIRECT DIVERSION PROJECT; VARIOUS CONTRACTORS. (RICK CARPENTER, KYLE HARWOOD AND MAYA MARTINEZ)
  - 1) COONEY, WATSON & ASSOCIATES

- 2) HAWKINS, DELAFIELD & WOOD, LLP
- 3) KERRY HOWE CONSULTING
- 4) KIRKPATRICK, LOCKHART, PRESTON, GATES & ELLIS
- 5) NORMAN GAUME, P.E.
- 6) WRISC, INC.

**8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – MARCH 25, 2009**

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

**9. PRESENTATIONS**

Mayor Coss added the following presentations:

**Presentation of Police Chief Designee and Fire Chief Designee**

Mayor Coss announced the City Manager's appointment of Barbara Salas Fire as Chief Designee, and Aric Wheeler as Police Chief Designee, and presented them to the Council.

Ms. Salas thanked the Mayor for this opportunity and looks forward to working as the next Fire Chief of the City.

Mr. Wheeler said he is honored, happy and looks forward to the opportunity to serve as Chief, and thanked Chief Johnson for the opportunities he gave him.

Mayor Coss said both the Fire Department and Police Department are in excellent shape, and pleased with this continuity moving forward. He noted Chief Rivera is in attendance, and thanked him for his service.

**Presentation by County Commissioner Virginia Vigil**

Commissioner Virginia Vigil said she applaud's the City's leadership role in affordable housing, commenting that the County has also taken a leadership role in this regard. She said she is here to challenge the City to step back and think before moving forward on some of the affordable housing projects. She proposed that the City and County combine forces for an affordable housing project, whether that is in the Northwest Quadrant, or in Galisteo or the College of Santa Fe, she doesn't have a specific suggestion. She said both the City and County have finite resources and limited budgets available to work on affordable housing. She said at the last RPA meeting Councilor Wurzburger brought forth the

initiative of combining forces administratively, and she believes we can do this project-wise as well. She would like the Councilors, Mayor and administrative staff to consider that, commenting that she doesn't have all the answers. She believes we will have a better chance of success to achieve our goals and objectives if we join forces and collaborate.

Mayor Coss thanked Commissioner Vigil for this offer and for the idea.

**a) EMPLOYEES OF THE MONTH FOR APRIL 2009 – FELIPE LOPEZ AND BERNARDINO ALVARADO, WATER SYSTEMS OPERATOR LABORERS; SANGRE DE CRISTO WATER DIVISION.**

Mayor Coss introduced Felipe Lopez and Bernardino Alvarado and read their letter of nomination into the record, thanking them for their exemplary service. He presented each with a plaque and a check for \$100 from the Employee Benefit Committee.

Mr. Lopez and Mr. Alvarado thanked the Mayor, and Michael Gonzales, Victor Archuleta and Gary Martinez for giving them the opportunity to work with the City.

**b) SANTA FE FIESTA COUNCIL SCHEDULE OF EVENTS AND PRESENTATION.  
(ALBERT "GABBY" MONTOYA, PRESIDENT)**

Gabby Montoya. Fiesta Council reviewed the proposed schedule of events. He invited the Mayor and Council to attend all Fiesta Events, noting the original proclamation for the Fiesta was signed on September 16, 1712. He noted that the competitions for Don Diego de Vargas and La Reina are being held this evening and the winners will be announced at the Baille de Mayo on Saturday, May 2, 2009, noting two Native American women are participating on the Court. He invited the Governing Body to attend the activities this evening. He thanked the Governing Body for its commitment to the citizens of Santa Fe to preserve this historic event.

Mayor Coss wished the Fiesta Council the best of luck.

**c) MUCHAS GRACIAS – THE BLUE JACKETS – 2008/09 STATE HOCKEY CHAMPIONS.**

Mayor Coss presented the Blue Jackets, the 2008/2009 State Hockey Champions, with trophies, and Muchas Gracias Certificates, assisted by Councilors, and Councilor Trujillo, who read a stirring account of their victory.

The Coach thanked the City for this honor, saying this is their 4<sup>th</sup> state title.

**d) PROCLAMATION – “VINCENTE OJINAGA DAY.”**

Mayor Coss read the proclamation into the record declaring April 29, 2009, as Vincente Ojinaga Day in New Mexico, and presented Mr. Ojinaga and family with a copy of the Proclamation.

Councilor Calvert spoke about the courage and inner strength Mr. Ojinaga had to survive the Bataan Death March and the prisoner of war camp during World War II.

Councilor Bushee thanked Mr. Ojinaga for his contributions to this community and the State.

Mr. Ojinaga said he has lived in Santa Fe for 60 years and all of their children were born here. He thanked the Mayor and Council for this honor, saying he and his family are very proud to be members of this community.

**e) PROCLAMATION – ST. MICHAEL'S HIGH SCHOOL 150<sup>TH</sup> ANNIVERSARY DAY."**

Mayor Coss read the proclamation into the record proclaiming April 30, 2009 as St. Michael's High School 150<sup>th</sup> Anniversary Day, in Santa Fe, noting Community Day is September 27, 2009, celebrating this anniversary.

Councilor Ortiz invited the members of the St. Michael's Board to come forward, thanking them for their efforts to educate generations of students, noting Brother Paul has given his life in educating the young people of this community and thanked him for his commitment.

Brother Paul accepted the Proclamation on behalf of St. Michael's High School. Brother Paul noted that during the past 150 years, the City government: funded a free school for day students during the first years; funded the first public school on Agua Fria where two brothers were teaching; in 1916 waived, for three years, the obligation of the Brothers to clean the dirt street in front of the Lamy Building and San Miguel Chapel; and when the top floor of the Lamy building burned, allowed Frances Gormley, Superintendent of Schools, to allow St. Michaels to use the new Wood Gormley School for two months. He thanked the City for the proclamation and its support.

**CONSENT CALENDAR DISCUSSION**

**10(w) REQUEST FOR APPROVAL OF BUDGET INCREASE FOR ELECTRIC COSTS FOR CITYWIDE STREETLIGHTS. (CHRIS ORTEGA)**

Councilor Bushee asked the status of the LED streetlight conversion.

Mr. Ortega said he spoke with Nick Schiavo in this regard. Mr. Schiavo told him that he and the Traffic Engineer visited with PNM 6 months ago, and PNM was willing to craft a new rate schedule for LED lights, but PNM is not willing to maintain LED lights. PNM is still evaluating which product it would use. He

said we are waiting for PNM, because it wouldn't be in our interest to agree to maintain them.

Responding to Councilor Bushee, Mr. Ortega said the estimate is that this will take 2-3 years before PNM will be comfortable with a product it can supply and can maintain.

Councilor Bushee said other communities are already using these.

Mr. Ortega said Albuquerque has started to do this, but Albuquerque did this by agreeing to do its own maintenance.

Councilor Bushee asked, "And that's not something the City wants to consider."

Mr. Ortega said probably not, because it would very expensive and the City would have to stock all the replacements which PNM should do.

Councilor Bushee would like to look at Albuquerque's system.

Mr. Ortega said he can do this. He said currently, if we were to change the lights, it would cost about \$7.5 million, because we have more than 5,000 lights.

Councilor Bushee suggested since the County wants to start doing things together, perhaps we could start with this..

**Councilor Bushee moved, seconded by Councilor Calvert, to approve this request.**

**Discussion:** Councilor Romero wants staff to investigate this to see if we can speed it up, noting she gets emails from people who are concerned about the night sky as well as shielding lights.

Councilor Wurzbarger wants to explore the possibility of having fewer lights. She said the notion that we can't explore having fewer lights, because legally we might get called to task, isn't proven in other cities, saying Berkeley has turned off half its street lights. She wants this to be researched, other than the standard legal opinion that we can't do it because someone might have an accident. She would like to put this on the agenda again.

**The motion was approved on the following roll call vote:**

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

**Against: None.**

**10(X) REQUEST FOR APPROVAL OF BUDGET INCREASE FOR REPAIR AND MAINTENANCE COSTS FOR CITYWIDE STREETLIGHTS. (CHRIS ORTEGA)**

**Councilor Bushee moved, seconded by Councilor Calvert, to approve this request.**

**Discussion:** Councilor Bushee agreed with Councilor Wurzbarger in pursuing the LED replacement and turning off some of the street lights.

**The motion was approved on the following roll call vote:**

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

**Against: None.**

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**END OF CONSENT CALENDAR DISCUSSION**  
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**11. REQUEST FOR APPROVAL OF SOLE SOURCE PROCUREMENT OF PROFESSIONAL SERVICES AGREEMENT – SELL AND REPRESENT THE CITY OF SANTA FE, SANTA FE COMMUNITY CONVENTION CENTER AND ALL CITY ATTRACTIONS AND SERVICES TO THE ASSIGNED MARKET; CHRISTINE MADDEN. (KEITH TOLER)**

A Memorandum dated April 29, 2009, with attached proposed PSA, to the Mayor and City Council, from Keith Toler, SFCVB Executive Director, is incorporated herewith to these minutes as Exhibit "1."

Mr. Toler said the purpose of the PSA is to bolster the effort of the CVB for a one-year time frame in terms of booking more events into the CVB. The Director of sales has been on board for less than 6 months, and the Sales Manager has been on board for a year. He said there is information in the packets showing what has been booked through his office since January 1, 2008, at the request of Councilor Chavez, noting Ms. Madden has booked a lot of business. He said this PSA made the most sense in the short term because Ms. Madden has the skills, expertise and knowledge to "hit the ground running," and start selling immediately without a learning curve.

Mr. Toler said Councilor Dominguez has concerns as to our ability to be able to judge Ms. Madden's performance. He spoke with City Legal, noting this is a standard City contract which gives the City the right to cancel the contract without cause on 30 days notice. Additionally, in the scope of services under Item 1, the booking goals expected to be met by the contractor are broken out in quarterly goals. The contractor will bill quarterly, and to be paid, the contractor must have met the goals laid out on the Memorandum [Exhibit "1"].

Councilor Dominguez said his biggest concern was that there were no performance measures in

the contract, and he is glad to see Mr. Toler's clarification/addition to the PSA. However, there is no specific language that says that quarterly payments will be made if the goals are met, which is the intent.

**Councilor Dominguez moved, seconded by Councilor Wurzbarger, to approve this request, as amended, with the amendment to include language after the first bullet as follows: "Goals will be monitored quarterly with the expectation that room nights be booked as follows: Quarter 1 – 500 rooms, Quarter 2 – 1,000 rooms, Quarter 3 – 1,500 and Quarter 4 – 2,000; and that compensation will be based on quarterly goals, noting that the contractor is required to meet these goals before being paid."**

**Discussion:** Councilor Bushee asked why there was negative recommendation from the Finance Committee.

Councilor Ortiz said, speaking as the Chair of Finance and voting to break the tie on this issue, concerns were raised by Councilor Chavez and Councilor Dominguez along this very point that Mr. Toler has addressed. He said he voted against it because of issues regarding the sole source procurement justification.

Councilor Bushee asked if there was an issue of under-performance or such.

Councilor Ortiz said issues of performance and accountability were raised by Councilor Chavez and Councilor Dominguez. He said the amended contract, along with the amendments which Councilor Dominguez put into the contract, addresses these concerns.

Councilor Bushee asked why it is sole source.

Mr. Toler said it is sole source because Ms. Madden worked with the City for 7 years before moving to Florida. He said Ms. Madden will be representing the City on the East Coast, and he wanted someone who could come in immediately with the client base in hand, and begin selling, as opposed to going through the RFQ process and trying to find somebody who could hit the ground running with knowledge of the City's systems and all 243,000 sq. ft. of space for which we are responsible.

Councilor Bushee asked if this was reviewed by OTAB.

Mr. Toler said OTAB will review this tomorrow.

**FRIENDLY AMENDMENT:** Councilor Calvert said he is in favor of this, and understands the immediacy. However, he would be more comfortable if we limit the contract to one year to bring on someone locally and train them to do this. He would like to amend the contract to provide that it is a non-renewable contract. Councilor Dominguez said there is already language in the contract that the City can terminate on March 15, 2010, unless sooner, and believes that satisfies the intent. **The amendment was friendly to the maker and the second, and there were no objections by the other Councilors.**

Mayor Coss said the renewal of the contract will be up to the Council.

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

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

**Against: None.**

- 12. REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON MAY 27, 2009: BILL NO. 2009-18 – AN ORDINANCE AMENDING SECTION 14-8.10 SFCC 1987, PERMITTING OFF SITE TEMPORARY SIGNS FOR HOLIDAY TREE VENDORS (COUNCILOR ORTIZ). (JEANNE PRICE)**

Councilor Ortiz said this received negative recommendations at the H-Board, Planning Commission and Public Works Committee. He said at Finance Committee, the concern was the piecemeal regulation of these signs and that we should do a more full scale revision of the sign ordinance. He said these concerns were raised by Councilor Chavez and Councilor Calvert. He said Councilor Chavez has been working with Jeanne Price about doing revisions to the sign ordinance, and will send him the proposed changes.

Councilor Ortiz said he advised Councilor Chavez that he is willing to have this proposed bill to be a part of a larger, more comprehensive plan. He said this is about a seasonal, episodic occurrence with two vendors and a non-profit who need to advertise that they sell holiday trees. This ordinance would allow that to happen on private property that they don't own, with permission, which would be a change to the sign ordinance. He said we have a lot of time to address Councilor Chavez's concern that this be a part of a larger review, and to use this as a springboard for that review. He pointed out that this is a request to publish notice.

**Councilor Ortiz moved, seconded by Councilor Wurzburger, to approve just publishing title, realizing that more has to happen as a part of the whole restructuring of the sign ordinance.**

**The motion was approved on the following roll call vote:**

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

**Against: None.**

- 13. SIX MONTH REVIEW OF RAILYARD PARKING PROGRAMS: REQUEST FOR APPROVAL OF PARKING RATE CHANGES ON SATURDAY AND SUNDAY AT THE RAILYARD. (BILL HON) (Postponed to May 13, 2009 City Council Meeting)**

This item was postponed to May 13, 2009.

**14. REQUEST FOR APPROVAL OF SANTA FE RAILYARD POLICIES AND PROCEDURES ON THE RAILYARD PARK, PLAZA AND ALAMEDA. (ROBERT SIQUEIROS). (Postponed to May 13, 2009 City Council Meeting)**

This item was postponed to the May 13, 2009 City Council meeting.

**19. CONSIDERATION OF RESOLUTION NO. 2009- 50 (MAYOR COSS, COUNCILOR WURZBURGER, COUNCILOR CHAVEZ AND COUNCILOR ROMERO). A RESOLUTION AUTHORIZING AND DIRECTION THE CITY MANAGER TO ENTER NEGOTIATIONS WITH THE COLLEGE OF SANTA FE, THE CREDITORS OF THE COLLEGE AND THE STATE OF NEW MEXICO, TO DEVELOP A PLAN THAT WOULD PROVIDE FOR CONTINUED OPERATION OF A HIGH QUALITY ARTS AND LIBERAL ARTS PROGRAM AT THE COLLEGE OF SANTA FE. (DAVID MILLICAN)**

A copy of a proposed amendment to the Resolution from the Public Works Committee is incorporated herewith to these minutes as Exhibit "2."

A copy of Fiscal Impact Report #1841, dated April 29, 2009, is incorporated herewith to these minutes as Exhibit "3."

David Millican presented a brief history of this matter to the Governing Body, noting that it is possible for a feasible plan to be developed if the City could negotiate a significant debt reduction on the part of the creditors and the insurance companies associated with the debt, and if the difference between what would be paid for the academic buildings of the campus could be closed by either sales of land or land leases to State agencies. He said the Mayor and staff are bringing this to the Council for its decision with regard to proceeding with negotiations to see if we can move from a "cool idea" to a real transaction which could help the community and the College.

Councilor Wurzbarger said the operational words in the Resolution are "to develop a plan," and our purpose is to gather the information requested in an article in the newspaper today. She said we have to do that kind of due diligence, but doesn't feel we can go forward until the Council says to do that, and we know we can't go forward unless we can determine the bottom line number with respect to the debt. She said she has never had so many positive emails urging the Council to do something, noting she has received over 200 emails in support and only 2 against. She said the sponsors of the Resolution want to move forward to explore the feasibility – so it doesn't go to bankruptcy or carve the parcel for a number of purposes. She said there is no lack of transparency, and they have been working with the Governor's Task Force which has come up with a number of ideas. She stressed the City would not commit to anything other than working a little longer to see if we can develop a plan to save a resource which is important to the entire community.

**Councilor Wurzbarger moved, seconded by Councilor Romero, to adopt Resolution No. 2009-50.**

**Discussion:** Councilor Bushee said she understands this is a preliminary effort to negotiate, as well as to bring back a bond proposal, saying she likes the idea.

Mr. Millican said the negotiation begins with the discussion described by Councilor Wurzbarger, which is to develop a proposal to the creditors and insurers which would allow the approximately \$40 million to be reduced to a much lower level in order for this to work.

Councilor Bushee asked if this is all that will be negotiated and you will come back with those numbers.

Mr. Millican said if that isn't successful, then it wouldn't be beneficial to spend more time on this.

Councilor Bushee said then we will hear those numbers before anything else is brought forward.

Mr. Millican said he probably shouldn't discuss the nature of the negotiating strategies and the approach, but the number has to be significantly lower to be within reach of the solution, but if not, it would be difficult.

Councilor Bushee said she is trying to find out what is the staff is being authorized to negotiate. She said, "It's swirling around out there in the press, and people think we're approving the purchase of the college here tonight... I think some people are. And, what I would really like to understand is exactly what you are going to negotiate. Is it just the purchase price."

Mr. Millican said the bonds were issued as variable rate bonds, backed by an interest rate swap contract, which meant there was an underlying variable rate structure, which has its own problems of allowing people to put the bonds back on a weekly basis. He said the swap caused the rate to be fixed and act like a regular fixed rate debt. The debt became a problem for the College when its ability to pay the debt started to look as if it was in question, and people gave the bonds back to the liquidity letter of credit. He said the bank, which was supposed to set prices to clear the bonds every day, now owns those bonds. The College is in technical default which will end this summer and it will go into real default. He said once that happens there will be lawsuits between the bond holders, the bond guarantors and various insurance companies insuring various people for liability. He said rather than negotiating the sales price of the property, it is dealing with the bondholders and insurance companies about who is going to contribute to a solution to be sure they don't end up with the property and work through years of lawsuits, followed by years of entitlement process with City before they can realize any proceeds.

Councilor Bushee asked after graduation this May if the College will cease to exist.

Mr. Millican said he can't answer that question, noting the plan is to cease operations on May 23, 2009. He said they aren't enrolling any new students for the future.

Councilor Bushee said we are now looking at the future of the College campus, and asked at what point do we entertain the programmatic side, to be sure the City has no commitment of resources.

Mr. Millican said that would be the second part of the negotiation.

Councilor Bushee asked, "Are we authorizing tonight... just go forth and negotiate the debt and figure out what that would be."

Mr. Millican noted the Resolution provides that the City will negotiate with the State, the College and creditors to develop a plan. He said if the Council believes that this is a good faith effort to try to make this work, then the City would announce that the State, the City and the College are working together to open in September so they could attempt to retain some students and faculty to work in a semester that opens next Fall, which would be Laureate's desire.

Councilor Bushee said, "It brings me back to the question of why at this point... I understand there is a timeliness of sorts even though we've already missed our opportunity for the College of Santa Fe as it is today... why would the City go alone. You've got the County that's developing perhaps, but the economy is stalling it out, the studios... you've got the Santa Fe Community College here, even though this is a four-year institution, they obviously have a vested interest. You've got the State, you've got, you know, all the other higher learning institutions in the State. And I guess I wonder if the urgency isn't so much there around the specific College of Santa Fe programming that currently exists, why would the City go it alone."

Mr. Millican said time will be of the essence. If the transaction can't be put together quickly, with revenues starting to flow, bonds can't be issued until there is a plan to receive the money. If there is a priority to open a new semester, as opposed to waiting longer, then we'll have to put together a transaction or your consideration fairly quickly. If we don't do that, then the creditors will act to foreclose on the property and file lawsuits. He said once that starts, untangling that is a much more difficult problem.

Councilor Bushee said, "That might be the answer to the question that's hanging out there as to why you wouldn't allow the property to go into foreclosure or bankruptcy so you could acquire it, if the idea is... I mean, I'm reading in the paper again, I'm not getting..."

Mr. Millican said his guess is that the lawsuits would last for years.

Councilor Bushee said, "Well, and I'm reading in the paper that if you were to even come in the most expedited process possible, bond money couldn't even be available until probably before people would start to matriculate and go to whatever you're setting up for programming."

Mr. Millican said that is possible, and one of the other negotiations would be to cover the period between the time you reached agreement, and the time that bonds produced cash or land sales, with interim agreements for the creditors to not exercise their rights and for Laureate, for example, to begin operations on the campus, even though it doesn't have a long term commitment in place. These are the reasons we're talking about delicate negotiations.

Councilor Bushee asked, "At what point will the Council be able to find out, for instance, after you've negotiated round one, what the annual debt service on the bond package potentially would be and what your revenue stream for your leases and how well they match up."

Mr. Millican said it wouldn't happen immediately, but we would start to form the elements of the transaction relatively early. He said the Resolution, the Committee direction, and the direction from Council is that there would be weekly briefings of the Council on the progress. He said this is a fast set of turnarounds. He said the Finance Committee recognized that speed would be important and while the negotiations were happening the full briefings would be important. He said it is also important because there are so many entities needing to reach agreement, and there will need to be some executive session conversations with the Council about strategy, pricing levels, what things we can and cannot live with. He said, in the end, no transaction is without risk, and we want to build a transaction which is as solid as possible, which won't require City commitment of funds. However, he said there always are risks and the Council is the final arbiter of the level of risk the community is willing to take.

Councilor Bushee asked, "At what juncture in the process do we... if.. let's say you get all the negotiating down to where you want it to be. You've got your bond package sort of where you... and you think you've got your leases together and that they're going to match up... let's just say all those things could happen... when do you begin to discuss the programmatic side of, well, is that what we want there."

Mr. Millican said that can begin any time, realizing the possibility if there wasn't a transaction, that the time spent dealing with that could be wasted, or not. He said there will be important issues about confidence in the Laureate Corporation, the recommendations from the Task Force and the public policy interests of the State, State agencies and the City which would anticipate seeing some sort of governance structure. He said there will be multiple property owners and users, many of which would be associated with educational uses needing to talk about the coordination of programs, how it works together and integrates with the community and economic development objectives of the City.

Councilor Bushee asked, "And so, is it here tonight that you would expect we would have the discussion, because it's in the title and throughout the Resolution that we are planning to provide for continued operation of a high quality arts and liberal arts program at the college. Is that... if that is not agreed upon tonight, will that.... and you know, and I'm not sure if that's what's everyone's decided, we haven't voted yet on the Resolution, but I'm presuming that's where we are headed. I mean Laureate can provide that, and that's the one name I keep hearing out there."

Mr. Millican said they can provide it and they're interested in providing it, because they think that Santa Fe and that educational program are a great match and that it would work well for them from a business standpoint.

Councilor Bushee asked, "And do you know anything about their product in terms of cost and accessibility."

Mr. Millican said they've heard only general information and staff would need to do more thorough investigation about that.

Councilor Bushee asked, "At what point, if the City were to negotiate and get everything sort of to a place, could we consider taking on other partners if they were willing. We heard Commissioner Vigil here tonight. It was around affordable house, I don't know if that's where it stops, but let's just say that there may be others that are interested in participating... would we be able to have them join in on the taking in on the risk as well as the...."

Mr. Millican said his experience is that if they were able to accept the sharing of risk and able to act quickly, they would be good partners. If not, you may have to think about that.

Councilor Bushee said, "Final question. I heard you say, I think at Public Works, that you're interested in carrying over the accreditation that the College of Santa Fe has. Is that something that can continue with a sale of a property, or does that go with the College of Santa Fe, and have we pursued already, or investigated, you know, what entities we have to.. Department of Higher Ed, I mean, I know we've lost the director and there must be an interim..."

Mayor Coss said the College President is in Chicago today pursuing accreditation for a transfer to Laureate, noting it has to be accredited through the organization in Chicago as well as approved by the State Department of Higher Education as well.

Mr. Millican said the City couldn't hold the accreditation, and it would have to be the operator of College programs which would be granted accreditation.

Councilor Bushee asked if this would be the North Central Association of Higher Education Commission, and Mr. Millican indicated it would.

Councilor Bushee said, "And that can transfer though and... I guess, you know, I don't want to put it out, I mean is Laureate the kind of company we want to have running... if they're the only... it's the only name I hear mentioned."

Mr. Millican said we need someone who can act quickly, and Laureate has campuses worldwide, and accredited campuses in the U.S. He said a degree of the quality control issue, is whether or not the accrediting agencies will accredit their program and to grant four-year degrees. He said the accreditation standards aren't trivial and require a significant level of review. The City can look at the viability of the business plan, because success is important for the rents to be paid.

Councilor Bushee said, "Okay, those are my general questions. I have other specific questions later related to bonding capacity for the City and I don't know when... if this is the time for the discussion, or when you have more information. I have a general understanding of our long term and short term debt obligations, but I am very interested in finding out what this potential purchase would add to that."

Mr. Millican said the City isn't so much limited by its ability to have adequate revenue pledges to back the bonds, our limit is whether we are confident that the revenue stream is adequate to protect the City.

Councilor Bushee said then we'll weigh that in relationship to all the other obligations of the City and potential needs and priorities.

Mr. Millican said we also need to look at the numbers.

Councilor Trujillo said he has no problem with starting negotiations. He said, "When I'm reading the Resolution, one of the things that stands out to me is where Santa Fe is need of a strong academic institution that will offer arts and cultural education opportunities which would attract local youth, as well as youth from around the world, to study. My concern has been that the College of Santa Fe... the curriculum needs to change. When we go into negotiation... we say we want to bring local youths in here, the curriculum needs to change. I surely would like to know how many local youths actually go to the College of Santa Fe. These are questions I want to know, because if we're talking about keeping our local youth here, you know, not everybody is studying film, liberal arts. They want engineering, nursing and other curriculum, and this is something the Task Force... that this is discussed with Laureate or whoever is this curriculum does need to change, because if we want to keep the local youth in Santa Fe coming to the school, it's just going to have to happen."

Mayor Coss thanked the Councilors who took this on, and said he wants to make it very clear that voting in favor of this doesn't issue bonds, or cut any deals. It just says let's go forward and work on it.

Councilor Romero said she had received a number of emails with pros and cons on this issue. She stressed that this is an effort to evaluate to see if it can be done, and if it is possible, then to if we should do it. She said Councilor Bushee has asked questions which will be addressed in the evaluation. She said none of us know what it will be in the future, but it won't be the College of Santa Fe as we've known it. It will be something new. She looks forward to hearing about the opportunities around this vision, and looks forward to more answers, noting the partnership opportunities are numerous and wants to stay open to the options and possibilities.

Councilor Bushee said, "I wish we had made that effort collectively when the College of Santa Fe was still a possibility. And I understand that we'll have some interesting discussion ahead."

**Clarification of the Motion:** Yolanda Vigil, City Clerk, clarified that the motion includes all of the amendments from the Finance Committee, Public Works Committee and the one from staff.

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

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

**Against: None.**

**Explaining her vote:** Councilor Bushee said, "Mayor, I vote yes, with some trepidation. I will say that this concert refrain of no commitment of City resources, sounds a little too good to be true, and

sometimes things that sound a little good to be true often are, in my experience. But, I am hopeful that some new, good information will be coming forward."

*Break from 6:40 to 7:00 p.m.*

**16(c) DISCUSSION OF THE TERMS OF PAYMENT FOR SCHOOL DISTRICT PARCEL IN THE NORTHWEST QUADRANT, PURSUANT TO §10-15-1(H)(8) NMSA 1978.**

A copy of a proposed "Real Estate Contract," in this matter, is incorporated herewith to these minutes as Exhibit "4."

Kathy McCormick reviewed the information in her Memorandum of April 3, 2009, with attachments, which is in the Committee packet.

Councilor Ortiz said when the City agreed to purchase the property from the School Board, this issue came up at the Finance Committee. In public, the Finance Committee directed staff and the City Manager to go back and negotiate better terms. The City agreed to purchase the property for \$840,000 some time ago, and the Finance Committee wanted to get better terms. He said staff has negotiated better terms for the purchase of this property. He said this purchase is consistent with a long series of public meetings and a public process that results in a decision that has to come from the Planning Commission, and then from the City Council at some time. He said Ms. McCormick sent an email to the Governing Body with prospective dates moving forward. He said the proposal before us is a better deal now than when we approved the purchase for \$840,000.

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

**VERBATIM TRANSCRIPT OF THIS PORTION OF THE DISCUSSION  
AS REQUESTED BY COUNCILOR ORTIZ**

COUNCILOR BUSHEE: Okay Mayor, I have a series of questions. I'm going to start out, I think with Frank Katz. And, just so I'm clear, I'm hearing tonight... let's see how it's advertised tonight.

COUNCILOR ORTIZ: Mayor, if I could ask the Court Reporter to have this part of this Action Item be verbatim minutes if that would be possible.

COUNCILOR BUSHEE: How was this advertised tonight Frank?

FRANK KATZ: Mayor, members of the Council, the action item on Real Estate Contract for School District parcel in the Northwest Quadrant, the terms have been put into the Real Estate Contract, and we're asking that you approve the

contract with those terms to purchase it over three years with three payments.

COUNCILOR BUSHEE: It's not an update. It's an actual Real Estate Contract which we did not have before, and the last time this was advertised, when we canceled the meeting due to Passover, it was advertised as just agreeing to the terms. What made you decide between now and then to go with the form of a Real Estate Contract.

FRANK KATZ: Mayor, Councilors, I'm not sure when that decision was made actually, but agreeing to the terms is not inconsistent to having those terms written in a real estate contract. The contract is what clarifies the terms.

COUNCILOR BUSHEE: Would it be anything to do with the Memo that was in our packet... the only piece of information that was in our packet, dated April 3, 2009, where the School District is asking that a real estate agreement and transaction be completed as soon as possible?

FRANK KATZ: The School District is agreeable to having the three payments over three years, but they would like us to not delay a great deal on it and to get on it. The current agreement has us required to pay the \$840,000... well, we were required to pay it by March thirty-first.

COUNCILOR BUSHEE: But my question, though Frank, it's got to do with when you decided to go with just... go from... we agree to these three payments, to putting it into the form of a Real Estate Contract. And, I have a memo in the packet, the only memo in the packet, dated April third, says, 'Purchase of School District Property in Northwest Quadrant,' and it says the first item that the district is looking for a 'new agreement. The board asks that the real estate agreement and transaction be completed as soon as possible.' And so this is when a real estate contract appeared, and so, is that why we have a Real Estate Contract or agreement before us tonight, rather than just a... what we had on the agenda for the last meeting before it got canceled.

KATHY MCCORMICK: Mayor, if I may, I...

COUNCILOR BUSHEE: I'm asking the City Attorney, please.

FRANK KATZ: Mayor, Councilor Bushee, I think maybe Kathy has better information than I do.

COUNCILOR BUSHEE: Frank, I'm truly wondering, because it was advertised, and I keep hearing it's just an update and we're moving on to a Real Estate Contract, and it

was going to be in executive session, I presume that was you who put that on the agenda.

FRANK KATZ: Yes.

COUNCILOR BUSHEE: So, why did you choose to go into executive session initially and have a Real Estate Contract?

FRANK KATZ: Mayor, Councilor Bushee, when we are in the process of purchasing real estate, the Council has the option of hearing it in executive session, if they wish, they don't have to. Often, the reason for that generally, is that if you are negotiating the terms of the purchase of real property, you don't really want to reveal what kind of offer you're going to make, or what your limits are, you can start low, go high, whatever. And, so you frequently will want to do that in an executive session. In this situation, the contract, the price was already arrived at and there were already discussions and agreements on the payment terms. And so, although we scheduled it for executive session, it doesn't have to be in executive session if Council didn't want it to be in executive session, because there wasn't any sensitive information that would be discussed, really.

COUNCILOR BUSHEE: And the part where you wanted to do it as a real estate contract?

FRANK KATZ: I think that the School District wanted the... when there were going to be payments... if there was just a check handed to them on March thirty-first, which had been the original plan in return for the title, you really wouldn't have needed the real estate contract. But, when you're having the terms of payment over three years, you wanted to have the contract to embody that, and the School District is aware of that, and we totally understand that and agree with that.

COUNCILOR BUSHEE: When I asked questions that I asked the City Manager to ask Legal to answer, but I got an answer by Kathy McCormick, so I'm going to still sorta just go over them:

I asked if there was a written signed purchase agreement between the City and the Santa Fe Public Schools for the purchase of the fifteen acre parcel and if the agreement was approved by Council, and if there is a signed agreement, can you provide me with copies? The response was, we do not have a form [purchase?] purchase agreement.

Then I asked, if there is no signed purchase agreement, are there documents which you believe to contain a binding agreement by the City to proceed with the purchase? If so, what are they and were they

approved by Council? Could you also provide me with the copies? The answer was yes, there were exchanges of offers, counter-offers, counter counter-offers and acceptance with the Santa Fe Public Schools. This makes a contract.

I got legal advice from our Housing Department, but I presume that's what you're taking as the existing contract.. is these counter-offers, offers and acceptances.

FRANK KATZ: Mr. Mayor, members of the Governing Body, those answers were answers that I gave to Kathy to pass on to you. She knew some of the details, I knew some of the details. That was the answer.

COUNCILOR BUSHEE: Is that the answer then, as to the contract that we currently have which is the ...

FRANK KATZ: Yes.

COUNCILOR BUSHEE: ... offers, counter-offers, counter-offers, and acceptances?

FRANK KATZ: Yes. The School District proudly accepted. We had an executive session, and there was an action item from the executive session, in which the Governing Body confirmed the agreement with the School District.

COUNCILOR BUSHEE: Okay, the second part of the Memo that was in our packet, said the board, that would be the School Board, asked the staff from the respective organizations to work together to finalize a proposed contract. So, I guess that's one other reason we got this Real Estate Contract.

FRANK KATZ: Yes.

COUNCILOR BUSHEE: The third question was to have a legal review of the schools and they wanted the City to pay for that, once we did get a real estate contract in place. Is that something we've agreed to?

FRANK KATZ: Mayor, Councilors, the School District on the original deal was expecting a check of \$840,000 on March thirty-first. And this process of having a contract and having it go over three years, they said we don't want to bear the cost of that. You wanted to pay over three years, we want you to pay the cost of the real estate contract. Yes.

COUNCILOR BUSHEE: Okay, I take that as an indication that the School Board didn't think they had a real estate contract or any kind of contract in place, and wanted to

make sure they had one, so that's why I view this very differently than an update. Then, it also noted that they were looking for an extension of time, because, as you know on our original offering, we were to have paid a lump sum on March thirty-first, which... I thought it was earlier than that actually... I'll have to look through all the letters, but we did not. And that they asked that their legal counsel have time to review the agreement. And, then they also asked that Ms. McCormick be able to negotiate with the staff. What were they asking to negotiate, Kathy?

KATHY MCCORMICK:

Mayor, Councilor Bushee, they were just asking that if it.. that I would be authorized to present whatever direction I received from City Council in a forum such as this back to the School Board and the staff, and represent the point of view of the Council and their direction. They wanted clarification for that.

COUNCILOR BUSHEE:

Okay. And then, Frank, on some of these questions I asked, it was interesting to note that we didn't ever get an appraisal for the fifteen acres or for the ten acres, a separate appraisal for either of those parcels... I just wanted to... is that something we standardly don't do? I see the answer is that we took a generic, you know, price per acre of the entire property in evaluating it at \$5 million dollars. But, I would presume when you're having a land transaction, at least now that I see a Real Estate Contract with title insurance and closing costs, one would presume... although we are borrowing from ourselves, from our CIP fund, it's still public dollars... I would presume we would normally get an appraisal for property that we're going to either purchase or sell. That's been the standard practice. Is that not true?

FRANK KATZ:

Mayor, Councilors, that's up to the Governing Body. This was presented to the Governing Body with all of the same information and they chose to say that this is a good deal.

COUNCILOR BUSHEE:

Nope, I asked Counselor Katz, I asked if we normally when we're selling or purchasing property... my memory of almost every transaction has undertaken is that we secure some kind of appraisal for the property.

FRANK KATZ:

Councilor, you've been here a lot longer than I have. You probably know better than I on that.

COUNCILOR BUSHEE:

Okay, then I guess that just ends up being a rhetorical question. Then, as well, we did not secure a separate appraisal...

COUNCILOR ORTIZ:

Mayor, a point of order. We're not the seller in this transaction, we're the buyer in this transaction.

COUNCILOR BUSHEE: I'm very aware of that Mayor.

MAYOR: Thank you.

COUNCILOR BUSHEE: Counselor Katz, we did not also secure a separate survey. Correct?

FRANK KATZ: Mayor, Councilors, that's not correct. There was a survey done on the entire property. It included this property, it had a survey of this..

COUNCILOR BUSHEE: [Inaudible because she was talking over Mr. Katz] ..a different survey of parcel... of fifteen acres and ten acres.

FRANK KATZ: It was part of the survey of the entire property.

COUNCILOR BUSHEE: A separate survey, correct?

FRANK KATZ: It was part of the survey of the entire property. What is particularly interesting, of course, is that the fifteen acre parcel that we are buying from the School District is entirely surrounded by land that belongs to the City, so it's everything that's there.

COUNCILOR BUSHEE: Right, but we did not get a separate survey.

FRANK KATZ: It was part of the original survey.

COUNCILOR BUSHEE: The other thing that I really find difficult that we're opening up, which is potentially a very big... two separate things that I see as very large can of worms when it comes to how we enforce our affordable housing programs and policies into the future is, on the last couple of questions I asked... Is it lawful for the City to exempt this parcel, meaning the fifteen acres, from our affordability requirements. And I got back the answer that the affordable housing requirements are being imposed on the entire parcel through the master plan. Technically, the affordable housing is being met on the balance of the project, so we believe it meets the affordable housing requirement. And it says this has consistently been presented to the public, Council and School Board.... I wouldn't agree with that statement, but I would also ask if this was a statement that you had written, Frank, or that Kathy McCormick had written?

FRANK KATZ: Mayor, Councilors that was a statement that Kathy McCormick wrote. I think that we need to clarify that we're talking about the twenty-five acres that is part of the master plan, but that the School District is retaining, and that because of the topography, they were never planning on... in any point in the master plan, if we had bought that from the School District,

which was also a possibility at one point, we were never planning on putting affordable housing in that location, because it wasn't suitable for it.

COUNCILOR BUSHEE: I understand the City used to own that property, but the schools though do now, and we are waiving the affordability requirement, our Code requirement for our Homes Program, and I want to have you take a look at that... I'll read it again if you need me to..but it says, 'technically the affordable housing is being met on the balance of the projects, so we believe it needs the affordable housing requirements.' Essentially, we're shifting the affordability requirement from one separately owned parcel by one separate entity to a larger parcel owned by another entity, the City, and do you find that to be a legal practice?

FRANK KATZ: Mayor, Councilors, it's all one master plan, and I understand the concern. You would not want to allow somebody to say, well, I'm going to develop my property over here, but Joe, over there, is going to do the affordable housing for me. And, that is something I think we would not want to go for. But, in this situation, the twenty-five acres is part of the entire master plan. And, you could probably isolate any small piece of it and say, gee there's not thirty percent affordable housing in that particular area. It's the entire master plan that we're looking at here, and I believe that does meet the requirements of the Affordable Housing Ordinance.

COUNCILOR BUSHEE: So, if the Northwest Quadrant doesn't go forward...

COUNCILOR ORTIZ: Mayor, point of order..

MAYOR COSS: Excuse me, we have a point of order. Councilor.

COUNCILOR ORTIZ: For the benefit of Councilor Bushee and the Governing Body, I do want to call your attention back to the master plan development that we did on the south side of town, Las Soleras. Las Soleras was a conglomeration of five different property owners. Those five different property owners came together under one joint master plan. That same joint master plan did not specify for particular affordable housing for each particular parcel. In fact, the affordable housing for that particular master plan, was spread out throughout the five parcels that were owned separately by five different families.

COUNCILOR BUSHEE: But, it is currently owned by one company, and it is master planned and will be developed by one company. And so, if the Northwest Quadrant doesn't go forward...

COUNCILOR ORTIZ: One more Mayor. I just want to correct the record. The property itself is owned by five different families and there is a contract with a master developer to develop those five parcels in a joint, concerted effort. But, that property is owned by five separate families.

COUNCILOR BUSHEE: And they're not waiving any of the affordable requirements over the property.

COUNCILOR ORTIZ: Because the affordable housing is being transferred throughout the entire five parcels, not individually parcel by parcel.

COUNCILOR BUSHEE: And Mayor, we have separate owners, but I'm going to continue with my questions. Frank, if the Northwest Quadrant project, the City's Northwest Quadrant project does not go forward, and we leave an island of these twenty-five acres of the School's to go forward with no requirement of affordability, and in fact, I'm going to lead into my next set of questions, I'm not even sure we are going to require them anything specifically, I'd like to follow up on that later. But, if we don't go forward with our project which, you know, is a possibility the Schools would then be free to have their twenty-five acre development and have no affordable requirement.

FRANK KATZ: Mayor, Councilors, I don't believe that's correct. I think as long as they're a part of a master plan, it works to have the affordable housing in other parts of the master plan. But, if the master plan doesn't go forward, then there is no master plan, and they would have that responsibility.

COUNCILOR BUSHEE: They would not have that responsibility?

FRANK KATZ: They would.

COUNCILOR BUSHEE: They would? Do you have that somewhere that we can put in this agreement that we have back and forth, that the schools would be responsible, because they're no longer to be subjected to a master plan, which I find this sort of specious arguing anyhow, but how are you going to require them if you've got this agreement here that says that you're waiving their affordability requirements?

FRANK KATZ: Mayor, Councilors, they would have to come in for a development plan. If the master plan doesn't move forward and they did want to develop it, they would have to come in for the master plan and they would be subject to all of the rules of the City.

COUNCILOR BUSHEE. No, no, no. That's the next question. This one is, you're saying to me, somewhere in writing, that if the Northwest Quadrant project does not go

forward, that the School's twenty-five acres will have an affordable requirement put to it?

MAYOR COSS: If it goes forward.

FRANK KATZ: If they want to develop it, yes. Right now, they won't have that imposed on them because of the master plan. If the master plan doesn't happen and they want to develop, then they'd have to bring in a development plan that does provide the affordable housing.

COUNCILOR BUSHEE: Okay, then let me just segue into my next question then. The property owned by the School District... you answered, I asked, will the Public Schools be subjected to the City permitting and approval requirements for the development of their parcel, the twenty-five acres, including rezoning, development plan approval, subdivision approval, variances, etc.? If not, what controls have been put in place? And you say back, I guess you or Kathy say back, 'The property owned by the school district that will develop, that it will develop, will be subject to the master plan if approved, and therefore subject to all permitting and developing approvals.' What exactly has the... let's talk to Kathy... what exactly has the School Board committed to, in terms of following our approval process? What are they obligated to do with this?

KATHY MCCORMICK: Councilor Bushee, they're obligated to follow the terms and the requirements of the master plan on their twenty-five acres.

COUNCILOR BUSHEE: What does that mean?

KATHY MCCORMICK: That means that they have to meet all the green building that is required for this, do all the water cachement... it means they have to do the solar orientation, they have to do all of those things, and they have to meet our permitting and subdividing and variance requests and any other things that we would normally require through a development plan application.

COUNCILOR BUSHEE: So, if they're not subject to the master plan, because the master plan goes away, what are they subjected to?

KATHY MCCORMICK: Then they would have to bring forward a development plan of their own design, of their own making and seek approval for that development plan. They would have none of the requirements of the master plan, or none of the design guidelines or anything that's currently put together. They would free, as would any other property owner in the City, to come forward with their very own development plan, and the City would have the opportunity to review that and make...

COUNCILOR BUSHEE: Including the required affordability?

KATHY MCCORMICK: That would then include the required affordability.

COUNCILOR BUSHEE: And, Kathy, why did we waive the affordable requirement for the School property anyway?

KATHY MCCORMICK: I think part of it was in our conversations with the Councilors and also the School Board, and the meetings we had leading up to this offer... was to look at... that the School District would agree that there would only be fifteen units that could be developed on this site, so it would be a limited number of units... that one of the things the School Board was interested in was trying to maximize the income that they could get off of a property because of the problems that they were having financing other parts of the school. And, my interpretation was that the Council was supportive of that and wanted to support the School District in *maximizing* some of the return that they would have. And so, as part of the negotiations between the School District and the City, it was agreed that there would not be an affordable housing imposed on that twenty-five acres or those fifteen units. That in fact, all of that would be absorbed, and made more sense to be absorbed in the body of the master plan because of variance and unit type and the mixed income and the other broader community goals established for that plan.

COUNCILOR BUSHEE: Okay. I've got another question for you Kathy. We put a condition... and I think I remember putting this condition on in executive session, 'The CIP/GRT will receive an annual payment of \$140,000 one year after the first home is sold in the Northwest Quadrant. The loan extended for this purpose will be repaid at the rate of \$140,000 per year thereafter, and will be repaid within six years of the first sales in this project. This is to allow sufficient funds to be accumulated to retire this debt and cover the related costs... development costs. In the event that this project does not begin construction by 2013, the CIP/GRT will be repaid from the Affordable Housing Trust Fund, at the rate of \$140,000 per year for six years.'

My question is, and it didn't dawn on me at the time, but I do want to see the CIP fund repaid, because I think absolutely... as you know, I don't agree on buying this land. I don't see the purpose of it at this point, but I absolutely don't want to see it take away from our other public projects that are necessary. And I now question, though, the Affordable Housing Trust Fund as a substitution. Because if, and only if, the Northwest Quadrant project were to not go forward, let's say by your time of 2013, and so no money is being generated back to the CIP/GRT fund, several things are going to happen here. The affordable, conceivably, this is a

possibility... the Affordable Housing Trust Fund will be lending money, or holding onto \$840,000 for year after year, because no money is being generated, because we need to have this money come out of the Affordable Housing Trust Fund, and it could conceivably be held and not used for affordable housing and we may not generate affordable housing out there. Because, right now what you have is there'd be no fifteen acres being developed... you won't have an affordable purpose potentially, if you don't develop the Northwest Quadrant. And so that seems slightly off kilter, in terms of... or even, I'm not sure an allowable purpose of the Affordable Housing Trust Fund.

KATHY MCCORMICK: Councilor Bushee, actually, you were the one that suggested that we use the Affordable Housing Trust Fund.....

COUNCILOR BUSHEE: Yeah.

KATHY MCCORMICK ... as a source of repayment. So that is one of the reasons that we brought that particular thing forward. You may use the Affordable Housing Trust Fund. The idea, of course, is that some point in the future it would be developed as affordable housing. As your Director of Housing, I would say to you, that if it became clear that there was not going to be any development on that project, and in fact it was going to go to Open Space & Parks, I would be requesting that the Affordable Housing Trust Fund be replenished from another Parks or Open Space funds source at a time that it was appropriate to do that.

COUNCILOR BUSHEE: I don't know any affordable... I mean I don't know any open space funds that haven't already been committed by voters to projects, but I just wanted to raise that. And then, the only final question is just to throw out... I'm looking at some minutes from a Consent Calendar which I guess several of us were not here on time for, and so it really brings me full circle as to why we're here again tonight. The Consent Calendar discussion from the minutes of the City Council meeting of March eleventh has, well let's see... Councilor Dominguez, Ortiz, Romero and Trujillo voting for the repayment plan for the Northwest Quadrant land deal with the schools, and then the Mayor adding an additional vote to approve it, and Councilor Chavez voting against. And, so it seems to me, we already did this. So, why again are we back, and why are we back with a Real Estate Contract?

KATHY MCCORMICK: Mayor, Councilor Bushee, the March eleventh meeting was to approve the source of repayment back to the CIP/GRT, so that's what we just discussed – that it would be repaid from the sale of homes at the Northwest Quadrant, and if that didn't occur, it would be paid out of the

Affordable Housing Trust Fund. That's what those minutes were about. What we're in front of you with tonight, is because you also asked....

COUNCILOR BUSHEE: Wait, wait wait. Back up for a sec. Then why did you go to the Schools and ask for a different repayment plan when we agreed to the payment plan?

KATHY MCCORMICK: Because, also, at the Finance Committee meeting, Councilor Calvert . requested that we go to the School District and ask them if then would be willing to consider some type of [inaudible because Councilor Bushee was talking over Ms. McCormick].

COUNCILOR BUSHEE: [Inaudible because she was talking over Ms. McCormick]

KATHY MCCORMICK: Actually, it was part of what came forward out of the Finance Committee packet. So, when we went to the Finance...

COUNCILOR BUSHEE: It's not part of any motion to go back to the schools or anything? I don't know. I wasn't there, so I'm asking.

KATHY MCCORMICK: Councilor Bushee, I would assume that because it came as a recommendation from Finance Committee, that when City Council approved the motion, or approved that direction, it included direction to the staff to go back and enter into a conversation with the School District about carrying back a note. So, it was two things: it was a source of repayment for the transaction with the School District. And, it was also going back to the School District so we didn't have to take \$840,000 from GRT/CIP in one full lump sum, but we spread it over a three-year period of time.

COUNCILOR BUSHEE: Okay. I'm sure I know where this is going, but I just really have to convey to my colleagues that this is a very premature and precipitous purchase of land. It was precipitous back when we did this in executive session. It was all guns forward with the Northwest Quadrant, without even having looked at the financial feasibility of the projects. And now, we're about to borrow money to, not to just... we don't have the spare money laying around... we're taking away from other projects to buy this land that we don't need, that nobody else is clamoring to buy... we didn't even get an appraisal. You know, it's given the same value. It's very difficult land to develop. And it was back in 2007, that we got the first appraisal done, and I just... I don't feel like we've done our due diligence, our homework, or that we need to do this now. And, I honestly don't understand... I didn't understand then, and I don't understand now, the urgency to this

purchase, and I think it's foolhardy and fiscally irresponsible, and I will be voting against it.

MAYOR COSS:

Councilor Calvert.

COUNCILOR CALVERT:

Thank you Mayor. One thing I would like to bring up, is when I was questioning the allotment of all the water to the Northwest Quadrant, the response I was given was, well, we as the City are the developer and so we have to what we require of any other developer. And to that... along that train of thought, I'm wondering.... we're sort of, by contract, guaranteeing a certain number of units on this piece of property, which is to my knowledge nothing we do when we have any other developer come before us. They have to go through the process. They have to apply for the number of units, and we have to approve them. We can't contractually do that ahead of the due process. So, I'm thinking that we're not consistent here in our reasoning, and I'm not even sure it's legal for us to contractually guarantee a number of units, if we're saying they're going to have to go through the process. Now, I'm not sure that they're going to have to go through our normal process, because they could say, we are an entity of the State, just like the County has said and the State itself has said, and we're not bound by your rules and procedures, and therefore we're not going to worry about the process, we're just going to do... once we sign this contract... supposedly we'll do what we want.

There is nothing in this agreement that I saw about severability. In other words, it was a package deal – all or none. Whereas, in most contracts, if there's something that's deemed illegal, then you have a severability clause saying if there's something deemed illegal, then that get's excluded and then the rest of the agreement stays intact. That hasn't happened yet. And, so I'm thinking that if that particular provision of our contractually guaranteeing a number of units, without going through due process which I think may be illegal, then I think the whole agreement might be illegal.

COUNCILOR ORTIZ:

Mayor.

MAYOR COSS:

Councilor Ortiz.

COUNCILOR ORTIZ:

Mayor, as the maker, I'll amend my motion to direct staff to include a standard legal severability clause that addresses Councilor Calvert's concern.

COUNCILOR CALVERT:

Well, I think it's a little late for that.

COUNCILOR ORTIZ: No, it's not. It's a contract. We're approving a Real Estate Contract. So, I make that as an amendment to my motion and hope that it's friendly to the second.

COUNCILOR WURZBURGER: Yes.

MAYOR COSS: Any further questions, discussion. I was remiss, I wanted to welcome School Board President, Angelica Ruiz. Thank you for being with us tonight Madam President. Okay. Oh, Councilor Dominguez.

COUNCILOR DOMINGUEZ: You know, I certainly can appreciate and respect why some people, for whatever reason, are not in support of this project, for their own reasons. But, I think in many ways, and it's very offensive to me as a former Board of Education member, how the Santa Fe Public Schools have been drug into the middle of this. And we have a letter here from some counsel who have various statements in here about the Santa Fe Public Schools, many of which are not true and factual and are actually misconstrued. And so, that to me is what is offensive is that if it's not going to be water and we certainly can't expect the Santa Fe Public Schools, or it may not be fair [gap here in change of tape]. It happens to be the Santa Fe Public Schools now. As far as I'm concerned, that money goes to pay for things, or can go to pay for things, like school nurses, coaches, stipends for athletes who don't have the money to be able to pay for a meal after an outing. And I think that's unfortunate. Now, some people may say it's not the City of Santa Fe's responsibility, for the lack of a better term, to subsidize the Santa Fe Public Schools, but I think it's everyone's responsibility. If I'm going to give money to any organization, anybody, it's going to be that organization, because they serve over 1,300, 13,000 students. Almost 14,000 students is what they serve, yet they have unfunded mandates. I doubt that I'll see this many people at a Public School Board meeting to talk about athletics.

And I see Mr. Martinez back there. I hope to see you at more School Board meetings as well, because education is everyone's responsibility. It's not just the Santa Fe Public School's. It's not just this Governing Body's. It's everyone's. It that means that we have to take a hit, so be it. As far as I'm concerned, the deal was, we voted on it. We had... there's a record on what we have done. And so I think that to prolong this in the way it has been prolonged and to use the Santa Fe Board of Education and Santa Fe Public Schools as a wedge I think is unfortunate. That doesn't speak to the spirit of what I think this community is all about. And so, I'm going to stand in support of this Mayor. Thank you.

MAYOR COSS: Okay. Anyone else? Okay. I just want to say I under Councilor Bushee's point and she was against this, and so were three other Councilors way back last October. But, I think where we are tonight, and what the Council's about to vote on is we had a contract with the Schools, and this formalizes this. I think the schools were generous in allowing payment over three years instead of one lump sum payment. And sometimes when you have a contract, the next thing you have is buyer's remorse. But, here we are, and I wouldn't propose that we renege on a contract with the Santa Fe Public Schools, and I'm happy, thankful that we are being allowed to pay for this over three years, instead of right up front.

I want to point out to the public that Kathy, under the direction of the City Manager has put out a Memo that lays out a time frame for making some decision about where the Northwest Quadrant goes next. And, so a lot of this will happen in June with a look at traffic, a look at the Master Plan, and a look at the, probably most important question right now, the financial feasibility and the *pro forma*. But, that is coming, and those will come in public meetings at various committee meetings and the Council. So, I see this as just a step of keeping to a deal made. Councilor Calvert.

COUNCILOR CALVERT: I just have one other question. On the Memo, at the beginning of our... well it's the only page in that, on this... one of the conditions the School Board wants, number three, the Board asks that the cost incurred to have a legal review of the Real Estate Contract and the meeting costs be paid by the City. I'm not understanding why that's our total expense, and why we shouldn't share that. I see no reason that it should not be a shared cost.

KATHY MCCORMICK: Mayor, if I might.

MAYOR COSS: Kathy.

KATHY MCCORMICK: That's the reason we brought this to you is to provide any feedback that you want and we would be happy to take it back to the School Board.

COUNCILOR CALVERT: Right. Well, that's my feedback on this particular point.

COUNCILOR DOMINGUEZ: I think it was Councilor Calvert's request to send this back to the Board of Education, so they, rightfully so, asked for legal counsel, and it's not their fault that we asked to take it back to them.

COUNCILOR CALVERT: Well, but this doesn't just pertain to that one particular item that I asked on, which was an installment plan. This has to do with the whole contract on the whole deal. So, I think that's just a minor part of the whole contract

and the whole deal. And, everybody, it's a contract which means everybody seems to think there's a benefit on both sides, so I think both sides should be responsible for the cost of the contract and its preparation.

MAYOR COSS: Okay. Did you want to make an amendment or a motion on that.

COUNCILOR CALVERT: I will make that amendment to the motion that those costs be split equally and hope for a second.

COUNCILOR BUSHEE: I'll second that.

MAYOR COSS: Okay, there's a motion and a second to amend the agreement. Councilor Romero did you want to speak on that, or did you have a different point.

COUNCILOR ROMERO: Different point, Mayor.

MAYOR COSS: Okay, so we have a motion and a second on that motion and we'll take a roll call on that amendment.

YOLANDA VIGIL: Councilor Wurzburger.

COUNCILOR WURZBURGER: No.

YOLANDA VIGIL: Councilor Bushee.

COUNCILOR BUSHEE: I'm not even certain there's a need for a review, you've pretty much just given everything you needed to, to the schools, but sure.

YOLANDA VIGIL: Councilor Calvert.

COUNCILOR CALVERT: Yes.

YOLANDA VIGIL: Councilor Dominguez.

COUNCILOR DOMINGUEZ: I think it's unfortunate that the School District doesn't have in-house counsel like the City of Santa Fe does, and they have to contract that out. But, for them to have to hire someone to try to appease us is unfortunate, so I vote no.

YOLANDA VIGIL: Councilor Ortiz.

COUNCILOR ORTIZ: I agree with Councilor Dominguez. No.

YOLANDA VIGIL: Councilor Romero.

COUNCILOR ROMERO: Yes.

YOLANDA VIGIL: Councilor Trujillo.

COUNCILOR TRUJILLO: No.

YOLANDA VIGIL: The amendment has failed.

MAYOR COSS: Thank you. Okay, we're back on the original motion. Councilor Romero.

COUNCILOR ROMERO: Thank you Mayor. I would like to know for folks who called or emailed, that this is another one of those issues, similar to the College of Santa Fe, that it's not a yes or no. It's about moving forward with an obligation that we had made as a whole body many many months ago, that what we're really looking at is the terms, whether we agree or disagree with the Northwest Quadrant moving forward. We're not there. I think we've put in place a process that's going to come forward, as the Mayor noted, in June, and that this is the wrong place to debate the yes or the no. That what we're really looking at, whether we agree or disagree what that future's going to look like is what the terms of this contract look like. And so we had given staff direction and staff has carried forward our direction which is around getting us better terms. So, it's a reminder again to all of us whether, again whether we are disagree what that future's going to look like, where are we at right now. And it's at the terms of the agreement. So, I appreciate that staff has gone to the extent that they have. I would also like to also note that this isn't about who our partner is in this in moving forward, and who deserves more or less. So, I would hope that we don't go down the path of who has more and who has less. This is a process that we're in with the public schools and we are all trying for the best deal we can. And, whether it's the public schools trying for the best deal they can, or us going for the best deal that we can, I think that we've come to a place where we've gotten the best that we can. And, that's the discussion this evening, again, just to remind us all, that's the piece that we've got to make a decision on, not any of the other part that's in the future, and there'll be plenty of time to debate those, the merits of that project, as we move forward. Thank you Mayor.

MAYOR COSS: Okay. Roll call on the motion, Yolanda.

YOLANDA VIGIL: Councilor Bushee.

COUNCILOR BUSHEE: The debate for me was never about whether or not we want to help the

Public Schools. We will always continue to help the Public Schools. The debate was about whether we needed to purchase a piece of land that the City once owned, gave to the Schools and now we're purchasing again, in advance of actually knowing if we are going to move forward with our project in the Northwest Quadrant. So, I vote no.

YOLANDA VIGIL: Councilor Calvert.

COUNCILOR CALVERT: No.

YOLANDA VIGIL: Councilor Dominguez.

COUNCILOR DOMINGUEZ: Yes.

YOLANDA VIGIL: Councilor Ortiz.

COUNCILOR ORTIZ: Yes.

YOLANDA VIGIL: Councilor Romero.

COUNCILOR ROMERO: Yes.

YOLANDA VIGIL: Councilor Trujillo.

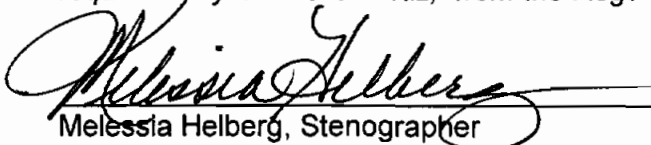
COUNCILOR TRUJILLO: Yes.

YOLANDA VIGIL: Councilor Wurzburger

COUNCILOR WURZBURGER: Yes.

YOLANDA VIGIL: The motion has been approved.

*I certify that this is a true and accurate transcript of the portion of Agenda Item 16(c), as requested by Councilor Ortiz, from the Regular City Council Meeting of April 29, 2009.*

  
Melessia Helberg, Stenographer

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**END OF VERBATIM TRANSCRIPT FOR AGENDA ITEM 16(c)**  
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**15. MATTERS FROM THE CITY MANAGER**

There were no matters from the City Manager

**16. MATTERS FROM THE CITY ATTORNEY**

**EXECUTIVE SESSION:**

- a) **DISCUSSION OF NEGOTIATIONS CONCERNING PURCHASE OF COLLEGE OF SANTA FE, PURSUANT TO §10-15-1(H)(8) NMSA 1978.**
- b) **DISCUSSION OF LEASE OF PROPERTY WITHIN SANTA FE RAILYARD, PURSUANT TO §10-15-1(H)(8) NMSA 1978.**
- c) ***[Removed to the Discussion Agenda by the City Council at the request of Councilor Wurzburger]***

**Councilor Calvert moved, seconded by Councilor Wurzburger, that the Council go into Executive Session for the purpose of the discussion of the lease of property within the Santa Fe Railyard, pursuant to §10-15-1(H)(8). The motion was approved on a roll call vote as follows:**

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

**Against: None.**

The Council went into Executive Session at 7:45 p.m.

**At 8:23 p.m., Councilor Calvert moved, seconded by Councilor Dominguez, that the Council return to Executive Session for the discussion of negotiations concerning the purchase of the College of Santa Fe, pursuant to §10-15-1(H)(8) NMSA 1978. The motion was approved on a roll call vote as follows:**

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

**Against: None**

**MOTION TO COME OUT OF EXECUTIVE SESSION**

**At 8:50 p.m. Councilor Trujillo moved, seconded by Councilor Romero, that the City Council**

come out of Executive Session and stated that the only items which were discussed in executive session were those items which were on the agenda, Items 16(a) and (b), and no action was taken.

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

**17. ACTION ON REAL ESTATE CONTRACT FOR SCHOOL DISTRICT PARCEL IN THE NORTHWEST QUADRANT. (FRANK KATZ)**

*See discussion and action on Item 16(c) which was removed to the Discussion Agenda by the City Council at the request of Councilor Wurzbürger*

**18. ACTION ON LEASE PROPERTY WITHIN SANTA FE RAILYARD. (FRANK KATZ)**

No action.

**END OF AFTERNOON SESSION AT 8:50 P.M.**

## **EVENING SESSION**

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

The Evening Session was called to order by Mayor David Coss, at approximately 8:51 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 Carmichael A. Dominguez  
Councilor Matthew E. Ortiz  
Councilor Rosemary Romero  
Councilor Ronald S. Trujillo

#### **Members Excused**

Councilor Miguel Chavez,

#### **Others Attending**

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

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

A copy of a photograph submitted for the record by Dan Kaufman, Santa Fe Pedicab, demonstrating the use of pedicabs in a procession, is incorporated herewith to these minutes as Exhibit "5."

Mayor Coss gave each petitioner two minutes to speak to the Governing Body.

**Mary Granzo, 1653 Canyon Road**, said she is here to let the Council know what is happening at Patrick Smith Park. She said a trench was being dug for the purpose of erecting a chain link fence right along the Santa Fe River, which runs half the width of the park. She said most of the neighbors thought the trenching was for irrigation, but later learned it was to erect a chain link fence. She lives near, and uses the park every day. She got the plans from Public Works with Robert Romero's signature, dated November 24, 2008. She said her husband spoke with David Rasch today who told him the project didn't go through the H-Board, and he had never heard of it. She said on top of the unsightly fence, three structures will be built which weren't approved by the H-Board. There is also a split rail fence which wasn't

approved by the H-Board, and they have poured light gray concrete, noting it should be earthtone in the Historic District. She said the dog park is really a dog run, and the neighbors are disappointed, "it seems sort of worthless. There's a dog park that is 10-15 minutes away that is very useful. But this is a dog run and somebody informed us that the dog park is supposed to have bark as the ground cover which also wouldn't work very well for dogs." She said she relied on the H-Board to approve any structures or fences and people would be informed or be able to talk about this so we could get the best thing for this park. She said this is a beautiful open space, and one of last big, beautiful open spaces on the east side, a green area. She said what is being proposed is very unsightly. The chain link fence runs right along the Santa Fe River and half of the park. She said when you drive in now, you will see a chain link fence and the dog park. She doesn't understand why this happened. She is here to ask the City Governing Body to red tag this project until the community can have some input into what is appropriate for this beautiful space and not have it ruined.

Councilor Wurzbarger said she has already spoken with Robert Romero and she asked him to stop what he's doing, and she will be talking with him tomorrow morning.

**Marilyn Bane, 611 ½ B Canyon Road**, said, to follow up on what Ms. Granzo said, we continue to have this problem over and over. She knows Councilor Wurzbarger will talk with Robert tomorrow and Parks and Recreation. She asked how long we have to keep doing this – it happens over and over and over again. She said the structures in the Park definitely go before the H-Board. She said with regard to the pecan bark on the dog run, those of you with dogs, have an appreciation that it won't be one of the more fragrant areas of the park, and we need to rethink this and other things like it. She asked the Council to send this issue to the H-Board.

**David McQuarie, 2970 Calle Serrado**, said he is here for two reasons He commended Bill Hon for enforcing parking for handicapped accessible spaces. He requests that the City Council back him fully because he's trying to follow the law. Secondly, what is the problem with Public Works to permit, saying "they seem to be against pedestrians, with or without disabilities." He said this weekend, there was a letter to the editor of the newspaper about the sidewalks in front of the Cross or Martyrs being inaccessible. He said that should fall under Chapter 23. He said there are no pedestrian detour at Montezuma, Sandoval and DeVargas streets which are required, and asked where they are. He said there are problems with Camino Carlos Rey at Governor Miles. He said there are hazards all over the City. He understands the City's Risk management is inundated with people who have fallen, are complaining and filing lawsuits in a couple of cases. He said it would behoove the City to get on Public Works to be sure it addresses these issues. He said there is a Consent Agenda item about resurfacing which is improper. It is in violation of the requirement to do curb ramps when the City does overlay. He said the City Attorney is aware of this.

Councilor Trujillo said a lot of the handicapped accessible crosswalks are being replaced in District 4, and he will speak to Mr. Romero about the one in his District.

**Ms. Kobayashi, 3649 Mimbres Lane**, thanked the Mayor for attending the Japanese Cultural Festival. She said more than 4,000 people attended. She said it is a very small nonprofit organization, and they really love the facility, which is the only facility which holds 4,000 people, and they want to keep using it. However, they are concerned about ever increasing costs. She petitioned the Council to consider a different set price for a small non-profit organization. She said their events are free to the public, noting a lot of people came from outside New Mexico and from foreign countries. .

**Ann Heber, 1969 Cerros Colorados**, said she also is a member of the Japanese non profit, and their event has been very successful over the past five years. She said they have been able to get some really famous Japanese artists into our community. She said this was very evident with Art Lee who was here for the event. She said because of the location, having it downtown, they did draw a lot of people from the hotels which was also a plus for the event. She thanked the Council for considering their request to make sure that nonprofits can continue to offer this type of service to our community.

**Rick Maestas 2902 Rufina**, said he is the general manager for The Water Man, a water company. He said about two years ago we went through the drill with the rate structure increase. He said in February 2008 the Council graciously opened the door on the set parameters. He said, regrettably they didn't fall within those parameters because he has a 1½ inch meter, and the parameter was established at one inch. He is petitioning the Council to allow him to drop back to a one inch meter taking the flat rate structure, which will allow him to be competitive. Currently, he is paying as much as three times as much as another company doing the same thing for the same amount of water, which puts him at a competitive disadvantage. He said he has been struggling, but in view of the current economy, he needs to look at all cost savings. He said the City recommended a 1½ inch line when he built the building, notwithstanding that he had been doing fine with a 5/8 inch line. He said he needs a break, and reiterated his petition is to allow him to drop back to 1 inch and take the flat rate structure that you have given to El Ice Company and others.

Mayor Coss said the City Manager will see someone contacts him in this regard.

**Dan Kaufman, owner and operator of Santa Fe Pedicabs**, noting the photograph he handed out shows them in a procession [Exhibit "5"]. He said it is proposed that the Railyard Park prohibit pedicabs in the park, but allow them in the surrounding streets. During events on the Plaza when bicyclists are required to dismount he has been asked to stay out. He is here to try to show why he should be allowed in these areas. He said he is here for people such as John Stevenson and the mobility impaired. He said the Park and Plaza have to serve the greater population, and the mobility impaired are served by his pedicab business. He said the problem on the Plaza is that bicyclists are prohibited during certain events. He noted a pedicab differs from a bicycle, in that it has three wheels instead of two. He said when

a bicycle goes too slow it falls, therefore bicyclists must maintain a certain speed and weave through traffic, being a menace, which is even worse with clip-on pedals.

Mr. Kaufman said his pedicab was built in Denver by a top company, and was built to coexist with pedestrian traffic and assist the mobility impaired. He can crawl at 0 mph and he can go in processions, commenting that pedicabs coexist with pedestrians around the country. He proposed that the City not prohibit pedicabs from the Railyard Park, rather to rule that they can go at a walking pace, no faster or slower. This would alleviate congestion and any safety concerns. He has a safe record and he doesn't want to endanger or scare the public. He is here to serve those who are tired of walking whether or not in a wheelchair, and they can get them from one end of the park to the other.

Mr. Kaufman petitioned the Council to change page 47 of the proposed Railyard Park prohibited uses, and to clarify City Code Section 23-5.4, which prohibits bicycles on the Plaza during major commercial events. He said he isn't a bicycle, he's a pedicab and he was built to coexist with pedestrian traffic. He said he is the only business being discriminated against for use in the park. He is meeting with Deputy Chief Montano to demonstrate how he coexists with pedestrian traffic in Plaza events..

## **G. APPOINTMENTS**

### **Board of Adjustment**

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

Monica Montoya – to fill unexpired term ending 09/2010.

**Councilor Wurzbarger moved, seconded by Councilor Calvert, to approve the appointment.**

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

### **Community Development Commission**

Mayor Coss appointed the following individuals to the Community Development Commission:

Rusty Tambascio – Reappointment – term ending 03/2012;  
Annette Thompson-Martinez – reappointment – term ending 03/2012;  
Christopher L. Graeser – term ending 03/2012; and  
Peter Brill – to fill unexpired term ending 03/2011.

**Councilor Romero moved, seconded by Councilor Ortiz, to approve these appointments.**

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

#### **H. PUBLIC HEARINGS**

- 1) REQUEST FROM THE ORIGINAL PANTRY, LLC, FOR A RESTAURANT (BEER & WINE) LIQUOR LICENSE TO BE LOCATED AT THE ORIGINAL PANTRY, 1820 CERRILLOS ROAD. (YOLANDA Y. VIGIL) (Postponed from April 8, 2009 City Council meeting)**

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 Wurzburger, to grant the request for a Restaurant (Beer & Wine) Liquor License to be located at the Original Pantry, 1820 Cerrillos Road.**

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

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

**Against: None.**

- 2) REQUEST FROM JUNG & MYONG INVESTMENT, LLC, FOR A TRANSFER OF OWNERSHIP OF DISPENSER LICENSE #0024 FROM LEE PROPERTIES, INC., TO JUNG & MYONG INVESTMENT, LLC. THE LICENSE WILL REMAIN AT TEQUILA LIQUORS, 4300 CERRILLOS ROAD. (YOLANDA Y. VIGIL) (Postponed from April 8, 2009 City Council meeting)**

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. The liquor license will remain at Tequila Liquors, 4300 Cerrillos Road.

### **Public Hearing**

There was no one speaking for or against this request.

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

**Councilor Romero moved, seconded by Councilor Ortiz, to grant the request for a transfer of ownership of Dispenser Licence #0024 from Lee Properties, Inc., to Jung & Myong Investment, LLC, the license to remain at Tequila Liquors, 4300 Cerrillos Road.**

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

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

**Against: None.**

- 3) REQUEST FROM THE AMERICAN LEGION, INC. D/B/A MONTOYA Y MONTOYA POST 1, FOR A TRANSFER OF LOCATION OF CLUB LICENSE #8189 FROM 1632 CERRILLOS ROAD TO 1601 BERRY STREET. (YOLANDA Y. VIGIL) (Postponed from April 8, 2009 City Council meeting)**

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**

**Peter Manus, 4129 South Meadows Road, Apt. #1728, was sworn.** He is here to address a clarification of the corporation name, noting they are known as Montoya y Montoya Post 1, the American Legion, Inc., d/b/a American Legion Post 1.

**Richard Varela, Trustee of the American Legion was sworn.** Mr. Varela introduced the officers in attendance, Sev Valencia, current Commander, Incoming Commander Harold Durr and Adjutant Pete Manus. He said the American Legion is a veterans association formed in 1919, and Post 1 in Santa Fe was founded in 1920. He said they have contributed productively to this community, and spoke about the things they do in Santa Fe, noting they do not ask for any City funding. He said the new location is one block from the current location. They do have one concern. They fear that the City's Building Inspection Division may impose uncalled-for and expensive inspection and improvement costs which they can't afford. He said if this happens, they can't continue their productive community organizations. He requested that the Council approve this application, and in the future, to use them a permit of occupancy with no interruption of our operations.

Mayor Coss thanked Mr. Varela, saying "we'll cross that bridge when we get there," thanking the members for their service to our community and nation.

**The Public Hearing was closed**

**Councilor Bushee moved, seconded by Councilor Calvert, to grant the request for a transfer of location of Club License #8189, from 1632 Cerrillos Road to 1601 Berry Street.**

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

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

**Against: None.**

- 4) REQUEST FROM YOUSSEF ENTERPRISES, LLC, FOR A RESTAURANT (BEER & WINE) LIQUOR LICENSE TO BE LOCATED AT CLEOPATRA CAFÉ, 418 CERRILLOS ROAD, #4. (YOLANDA Y. VIGIL) (Postponed from April 8, 2009 City Council meeting)**

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 Romero moved, seconded by Councilor Ortiz, to grant the request for a Restaurant (Beer & Wine) Licence, to be located at Cleopatra Café, 418 Cerrillos Road, #4.**

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

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

**Against: None.**

- 5) **PURSUANT TO §60-6B-10, NMSA 1978, A REQUEST FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE SALE/CONSUMPTION OF ALCOHOLIC BEVERAGES AT EL MUSEO CULTURAL DE SANTA FE, 1615B PASEO DE PERALTA, WHICH IS WITHIN 300 FEET OF ALVORD ELEMENTARY SCHOOL, 551 ALARID AND LOCATED ON CITY PROPERTY. THE REQUEST IS FOR A WEDDING RECEPTION – DAVID CHAVEZ AND JESSICA RODRIGUEZ, TO BE HELD ON SATURDAY, JUNE 27, 2009, FROM 6:30 P.M. TO 12:00 A.M. (INVITATION ONLY EVENT) (YOLANDA Y. VIGIL)**

The staff report was given by Yolanda Vigil, noting the location is within 300 feet of Alvord Elementary. The event from 6:30 p.m. to 12:00 a.m. on City property on Saturday when the school is closed.

**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 the waiver of the 300 foot location restriction and to approve the sale/consumption of alcoholic beverages on City property at El Museo Cultural de Santa Fe for a wedding reception to be held on Saturday, June 27, 2009, 6:30 p.m., to 12:00 a.m.

The motion was approved on the following Roll Call Vote:

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

Against: None.

- 6) **CONSIDERATION OF BILL NO. 2009-14; ADOPTION OF ORDINANCE NO. 2009-12 (COUNCILOR WURZBURGER). 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. (BRIAN SNYDER).

#### **Public Hearing**

There was no one speaking for or against this request.

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

**Councilor Wurzbarger moved, seconded by Councilor Romero, to adopt Ordinance No. 2009-12.**

**Discussion:** Councilor Ortiz said this was approved at PUC about four years ago, noting this is the last phase of the improvements to our Canyon Road Water Treatment Plan. He thanked staff for always being on time and under budget.

Councilor Bushee noted that Brian Snyder is the new Acting Water Director.

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

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

**Against: None.**

- 7. CONSIDERATION OF BILL NO. 2009-11; ADOPTION OF ORDINANCE NO. 2009-13 (COUNCILOR CALVERT, COUNCILOR BUSHEE AND COUNCILOR ROMERO). 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. (JEANNE PRICE). (Postponed from April 8, 2009 City Council Meeting)**

Jeanne Price presented information regarding this matter to the Governing Body from the materials in the packet and from her Memorandum of February 16, 2009, to the Public Works Committee, which is in the Council packet.

#### **Public Hearing**

There was no one speaking for or against this request.

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

Councilor Ortiz moved, seconded by Councilor Wurzburger, to adopt Ordinance No. 2009-13.

The motion was approved on the following Roll Call Vote:

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

Against: None.

Absent: Councilor Dominguez.

- 8) **CONSIDERATION OF BILL NO. 2009-13; ADOPTION OF ORDINANCE NO. 2009-14 (COUNCILOR WURZBURGER). AN ORDINANCE AMENDING SECTION 8 OF EXHIBIT A, CHAPTER 22, SFCC 1987, IN ORDER TO CLARIFY SEWER RATES. (COSTY KASSISIEH).**

Costy Kasssieh presented information regarding this matter to the Governing Body.

Responding to Councilor Bushee, Mr. Kasssieh said this is just for those outside the City limits, or if they're within the City limits and are on water wells.

#### **Public Hearing**

There was no one speaking for or against this request.

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

Councilor Wurzburger moved, seconded by Councilor Romero, to adopt Ordinance No. 2009-14.

The motion was approved on the following Roll Call Vote:

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

Against: None.

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Councilor Dominguez moved, seconded by Councilor Trujillo to amend the agenda to hear Item Item H(11) next on the agenda, and to approve the agenda as amended.

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

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- 11) CONSIDERATION OF BILL NO. 2009-16 ADOPTION OF ORDINANCE NO. 2009-15 (COUNCILOR ROMERO). 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. (ED VIGIL)

Ed Vigil presented information regarding this matter to the Governing Body.

#### Public Hearing

There was no one speaking for or against this request.

#### The Public Hearing was closed

Councilor Bushee moved, seconded by Councilor Romero, to adopt Ordinance No. 2009-15.

The motion was approved on the following Roll Call Vote:

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

Against: None.

- 9) **CONSIDERATION OF RESOLUTION NO. 2009-51. CASE #M 2008-47. 111 AGUA FRIA STREET, GENERAL PLAN AMENDMENT). LINDA TIGGES, AGENT FOR SANTA FE HOUSING TRUST, REQUESTS APPROVAL OF A GENERAL PLAN FUTURE LAND USE MAP AMENDMENT TO CHANGE THE DESIGNATION OF 0.52± ACRE FROM LOW DENSITY RESIDENTIAL (3-7 DWELLING UNITS PER ACRE) TO OFFICE. THE PROPERTY IS LOCATED ONE LOT WEST OF THE NORTHWEST CORNER OF THE INTERSECTION OF AGUA FRIA AND LA MADERA STREET. (DONNA WYNANT) (Postponed from April 8, 2009 City Council meeting)**

*Items H(9) and (10) were combined for purposes of presentation, public hearing and discussion, but were voted upon separately.*

Memorandum dated March 30, 2009 for the City Council Meeting of April 8, 2009, with attachments, regarding Case #M-2008-47 and Case #ZA-2008-18, to the City Council, from Donna Wynant, Case Manager, is incorporated herewith to these minutes as Exhibit "6."

A series of color photographs and drawings "Future Home of The Housing Trust," entered for the record by the Applicant, is incorporated herewith to these minutes as Exhibit "7."

Four pages of a petition entitled, "Supporters for Rezone/GPA at 1111 Agua Fria for The Housing Trust Office," containing 38 signatures, entered for the record by the Applicant, is incorporated herewith to these minutes as Exhibit "8."

A letter dated April 29, 2009, to the Santa Fe City Council, from Earl Kessler, West Guadalupe Historic District Association, in support of the Housing Trust's request, entered for the record by the Applicant, is incorporated herewith to these minutes as Exhibit "9."

The staff report was presented by Tamara Baer, which is contained in Exhibit "6."

**Recommendation:**

The Planning Commission on 2/5/09 recommended approval of the request for General Plan Amendment and Rezoning from R-5 to C-1, based on Approval Criteria in Sections 14-3.2 and 3-5 SFCC 2001, respectively, and in compliance with requirements as provided in the following City Department review memos at the time of application for permits:

- Fire Dept. Review Memo
- Solid Waste Division Review Memo
- Wastewater Division Review Memo
- Trails and Open Space Review Memo
- Technical Review Division – Engineer Review Memo
- Technical Review Division – Landscape Review Memo

– Public Works Dept. – Traffic Review (Email)

### **Questions and Comments from the Governing Body**

Councilor Bushee noted on page 17 of the Staff Report, it indicated that staff recommends denying the proposed rezoning and general plan amendment because it doesn't meet the approval criteria, and asked what it is meant by "it does not meet the approval criteria set forth in Sections 14-3.2 and 3.5." She asked if the criteria are in the packet.

Ms. Baer said she is unsure whether those are included. She said there are a number of criteria for both general plan amendments and rezoning. She said staff felt the use being proposed for the property would be allowed under the existing zoning, and therefore felt that giving this property a rezoning and change to the general plan land use amendment was singling it out in a way that would give special privilege to one particular property that wouldn't necessarily be conferred on other properties in the area. This was the primary basis for the objection.

Councilor Bushee said R-5 is residential, and asked if that zoning category would allow for office use.

Ms. Baer said 14-6.1 has a table of permitted uses, and it was determined that the proposed use would fall under "Neighborhood, community and municipal or other public buildings and uses in keeping with the character and requirements of the district," which is a permitted use in R-1 through R-6. She said because it is under the more general category of general services, and because this applicant has government contracts, including with the City, staff felt it could qualify under this category of neighborhood, community and municipal or other public buildings and uses in keeping with the character and requirements of the district. She said it's been there for a long time, so it's hard to argue that it's not in keeping with the character of the neighborhood and could be considered a public building in that it gets government contracts.

Responding to Councilor Bushee, Ms. Baer said it is also permitted in R-7 through R-9, RC, RM, RAC, noting that particular description of uses is permitted in a number of residential uses and others as well.

Councilor Bushee asked if they already had a permitted use, why did they go through all of the hassle in seeking this.

Ms. Baer said she would like for the Applicant to answer this.

## **Public Hearing**

### **Presentation by the Applicant**

Mayor Coss said the applicant has 5 minutes to make her presentation and all others speaking to this request will have 2 minutes.

**Linda Tigges, Agent for the Applicant and Sharon Welsh, Director of the Santa Fe Community Housing Trust, were sworn.**

Ms. Tigges said 38 people were here, and several left, and submitted the signature sheets to show that they were in attendance [Exhibit "8"].

Ms. Tigges said the Housing Trust is a well respected organization in the community, and over the last 20 years it has provided education on home purchasing, maintenance, ownership to 4,000 to 5,000, and has loaned money and built 500 affordable units. Ms. Tigges said the Applicant agrees with the conditions of approval. She said a neighborhood meeting was held with three people attending.

Ms. Tigges used enlarged drawings to demonstrate the subject site which is located to the east of La Madeira, south of the Alameda Middle School, and east of the Guaranteed Laundry. She said it has been vacant for some time, and previously was the offices of La Nueva Vida and an educational center for special education students. She said a packet of photographs have been distributed which show the way the property looks now and the proposed appearance [Exhibit "7"]. Ms. Tigges said the photos indicate there are problems with graffiti, and maintenance, noting there is a lot of "fixing up" to do.

Ms. Tigges said to demonstrate rationale for allowing office use of this property was to look at the previous use of the property. Ms. Tigges said before World War II it was mostly vacant land with agriculture uses. After World War II, Stamm built houses in the area and there started to be little community commercial uses which came in to serve the community. She said 1111 Agua Fria is the subject property. She said the Guaranteed Laundry, to the west, has been there for a long time. To the east of the property, were small business including a drive-in, a barber shop, and the Martinez Supermarket, and to the west on the corner was Alia's Club and Biergarten, the La Fiesta Nightclub and the Tequila Inn. She said it was a lively place and there were a lot of pedestrian uses for the neighborhood. In 1962, the City adopted zoning. She said some properties asked to be rezoned C-2 or C-1, while others didn't. She said none of the properties on the north side of the street were rezoned, even though they have been non-residential for some time.

Ms. Tigges said Hansen Lumber originally extended down to the river. She said the City had an eye on it for a school, and so Hansen Lumber was moved and given land by the City on West Alameda. She said the Hanson office and home remained on the property, and this is what we're talking about. She said the original use was as an office for Hansen Lumber and was never a residential use. This is one of the rationales for the property.

Ms. Tigges said to answer Councilor Bushee's question about why they aren't going with the existing zoning. She said they received a letter from Jack Hiatt which said the proposed use by the Santa Fe Community Housing Trust could be considered to be allowed in the zoning district. She said there is only a letter saying this, and the applicant wanted more certainty about the future of the project and didn't want it to be so narrowly defined.

Ms. Tigges said another point is that C-1 is a buffer district and they feel this is a good buffer between the intensive use of the school and the football field and residential property in the area.

### **Those speaking to the request**

**Sharon Welsh, the Housing Trust [previously sworn]**, said the Housing Trust is a community based organization, and much of its lifeblood comes from its interaction in its own neighborhood. She noted a letter from the Guadalupe Historic District Association was submitted for the record, which affirms they have been good neighbors and wish them the ability to become neighbors in the Agua Fria area [Exhibit "9"]. She said they are like any other office business, and have meetings, do paperwork and have on-site training. She said the next door neighbor, John Pound, testified at the Planning Commission that he very much wants someone to locate permanently on the property because it has been a nuisance to the neighborhood, noting Mr. Pound could not be here this evening. She said it is necessary to relocate because it is being redeveloped for affordable housing, and they are grateful for the 17 years they have been located there with favorable rates from the Housing Authority. She said the Trust wants to comply with the need to relocate from the site by the end of June, noting it will be necessary to remodel this property first. She said they are requesting the zoning change to commercial. She said properties which don't have a permanent occupant, a permanent use designation fall into disrepair because the uncertain future inhibits investment in the maintenance and upkeep of the property. She said currently, the property is being used for storage by PMS which doesn't benefit the neighborhood. She said approval will benefit the neighborhood at large, please the many neighbors who have joined in this request, and acknowledge that this already is a mixed use area already, primarily institutional in nature.

**Mike Chapman, 1842 Forrest Circle, President of the Board of The Housing Trust [previously sworn]**. Mr. Chapman said when they found they were forced to leave their office, the Board decided to look for something within the community, and didn't want to be in the peripheries nor in major commercial areas, and wanted to be in the neighborhoods they serve. They found this property which has always been used as commercial, and has never had any other use. This is a major investment, commenting that he didn't think it was a good investment decision for the Trust to make that kind of investment based on a letter from Mr. Hiatt. He said the Trust should have a permanent home where it doesn't matter whether or not they have a government contract or if there is a technicality in the allow used, and should be zoned for its use, and the reason for the rezoning request. He said the Trust fits in the neighborhood and the neighborhood is here to support them, and he urged approval of this request.

**Jamie Blosser, 1803 Ottowi [previously sworn]**, said she is an architect who works on sustainable development, transit oriented development and affordable housing, noting her firm completed the Rail Corridor Study for the City last fall. She is here to support the Trust and it is important to stay in the neighborhood, pointing out this historically is a commercial property. She said it is important for us to consider historic uses and to start looking at other neighborhood centers for commercial use, so we can promote mixed use and pedestrian access and appropriate small scale commercial. She thanked the Council for considering this request.

**John Quintana, 116 Bobb, [previously sworn]**, said he lives in neighborhood. He spoke with some of his neighbors and they all agree that the subject property has been a magnet for vandalism, vagrancy, graffiti and crime, and needs good residents and the Housing Trust would be an excellent occupant. They would like to see the Trust move into the neighborhood. He said there is a fondness on Bobb Street for the Housing Trust, noting that four homes on Bobb Street are subsidized by the Housing Trust, so there is a synergy between the Housing Trust and the neighborhood. He said there are other people in the whole area who are clients of the Housing Trust, and all of them want the Housing Trust to become part of the community and implored the Council to please let it become part of their neighborhood. He said he works for the Santa Fe Civic Housing Authority, noting some of the employees were here earlier, but had to leave, to speak to you and tell you they were good tenants to the Authority and would like them to be able to move into this property.

**Hank Hughes, 4 Vittorio Peak, employee of the New Mexico Coalition to End Homelessness [previously sworn]**, said they have done a number of projects with the Trust, and supports them. He said this is a very good location for them. He said, selfishly, it keeps them within walking distance of his office, and he likes to bicycle and use public transportation as much as possible, so it would benefit him. He also believes all of their arguments make a lot of sense, and he asked for Council approval for their request.

**Ron Chavez, 1302 Villa Robles [previously sworn]**, said he has three points. The first is that one of the main reasons to rezone this as C-1, is that the property needs to be zoned properly in order to obtain a mortgage loan. Secondly, there are a number of employees who work at the Trust who live in the vicinity, and it would enable everyone to walk to work as well as take his kids to school. He is a parishioner at St. Anne's, and this location would make it easy for him to get there during the noon hour. He said thirdly, the Housing Trust engages the neighborhoods by virtue of its mission, and as a result it is a valuable asset to the neighborhood in terms of providing home ownership, home buyer training and being there for the neighborhood when needed, and believe they will be a valuable asset to the neighborhood into which they will be moving.

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

Councilor Romero said she was on the Board of La Nueva Vida in the early 1990s, and Corine Lucero, a therapist, donated the building to La Nueva Vida because of her deep commitment to substance abuse prevention for at risk kids. So, the building was actually used for counseling for substance abuse. She said she believes it was her intention to keep the building for public and for neighborhood use. The Board later decided to give the building to PMS as part of the commitment to the community. She said it seems to her that the Housing Trust is continuing its commitment to give back to the community by keeping the building at its original intention. She said the improvements being proposed are incredible.

**Councilor Romero moved, seconded by Councilor Calvert, to adopt Resolution No. 2009-51, the General Plan Amendment.**

**Discussion:** Councilor Bushee asked what are the other permitted commercial uses for C-1 Zoning. Ms. Baer read the list of permitted uses from Table 14-6.1. She said C-1 is primarily an office district, but it does allow residential to occur.

Councilor Bushee wants to be sure there aren't any other uses that we want to condition in the approval.

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

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

**Against: None.**

- 10) **CONSIDERATION OF BILL NO. 2009-17; ADOPTION OF ORDINANCE NO. 2009-16. CASE #ZA 2008-18. 1111 AGUA FRIA STREET REZONING. LINDA TIGGES, AGENT FOR SANTA FE HOUSING TRUST, REQUESTS REZONING OF 0.52± ACRE FROM R-5 (RESIDENTIAL, 5 DWELLING UNITS PER ACRE) TO C-1 (OFFICE AND RELATED COMMERCIAL). THE PROPERTY IS LOCATED ONE LOT WEST OF THE NORTHWEST CORNER OF THE INTERSECTION OF AGUA FRIA AND LA MADERA STREET. (DONNA WYNANT). (Postponed from April 8, 2009 City Council meeting)**

**Councilor Calvert moved, seconded by Councilor Wurzbarger, to adopt Ordinance No. 2009-16, approving the requested rezoning for 1111 Agua Fria with conditions as recommended by staff.**

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

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

**Against: None.**

- 12) **CONSIDERATION OF BILL NO. 2009- 21. ADOPTION OF ORDINANCE NO. 2009- \_\_\_\_.**  
**CASE #ZA 2008-19. ST. JOHN'S COLLEGE PUD REZONING. LINDA TIGGES,**  
**AGENT FOR ST. JOHN'S COLLEGE, REQUESTS REZONING PURSUANT TO 14-**  
**5.7(L) AND 14-3.5 TO AMEND THE PLANNED UNIT DEVELOPMENT (PUD) FOR AN**  
**INCREASE OF INTENSITY TO THE MASTER DEVELOPMENT PLAN. THE COLLEGE**  
**IS ZONED R-1 PUD (RESIDENTIAL, 1 DWELLING UNIT PER ACRE, PLANNED UNIT**  
**DEVELOPMENT) AND IS LOCATED AT 1160 CAMINO CRUZ BLANCA, WITHIN THE**  
**HISTORIC REVIEW DISTRICT, SUBURBAN ARCHAEOLOGICAL REVIEW DISTRICT,**  
**WITH VARIOUS PORTIONS OF THE PROPERTY IN THE ESCARPMENT OVERLAY**  
**DISTRICT. (DAN ESQUIBEL)**

*Items 12 and 12(a) were combined for purposes of presentation, public hearing and discussion, but were voted upon separately.*

Memorandum dated April 21, 2009 for the City Council Meeting of April 29, 2009, with attachments, including the Findings of Fact and Conclusions of Law in Case #ZA-2008-19, to the City Council, from Daniel A. Esquibel, is incorporated herewith to these minutes as Exhibit "10."

Memorandum dated April 29, 2009, to Mayor Coss and City Councilors, from Wendy Blackwell, Technical Review Division Director, is incorporated herewith to these minutes as Exhibit "11."

The staff report was presented by Daniel Esquibel, which is contained in Exhibit "10." Mr. Esquibel noted that the proposed area is 86,200 sq. ft., instead of 83,000 sq. ft. in Case #M-2008-48. Mr. Esquibel noted there is an additional condition of approval [Exhibit "11"] which is included as an amendment to the bill as Exhibit D, as follows: "All federal, state and local floodplain regulations will be followed in the design and construction of the required emergency access arroyo crossing. Approval is conditioned on the applicant proving that all federal, state and local laws can be met in the design and construction of the required emergency access arroyo crossing."

**Recommendation:**

This proposal has satisfied 14-5.7(C) Standards and Guidelines for Planned Unit Developments Reference (Exhibits B and C – Planning Commission meeting minutes and Staff Memo). Staff recommends approval to amend the PUD subject to the above reference conditions. [Exhibit "10"]

Approve Case #ZA-2008-19 (St. John's College PUD Rezoning) and Case #M-2008-48 (St. John's College Master Development Plan Amendment) with an additional Condition of Approval, as stated below. The Amended version of Exhibit D, sheet 3 (page 22 in your packet), is attached.

"All federal, state and local floodplain regulations will be followed in the design and construction of the required emergency access arroyo crossing. Approval is conditioned on the applicant proving that all federal, state and local laws can be met in the design and construction of the required emergency access arroyo crossing."

## **Public Hearing**

### **Presentation by the Applicant**

*All those speaking were sworn en masse*

**Linda Tigges, Agent for the Applicant**, introduced St. John's College President Mike Peters, Peter Brill, Owner's Representative, and David Perrigo who will be making the presentation. Ms. Tigges said the Applicant agrees with the conditions of approval. An ENN was held with 6 people from the public attending.

Ms. Tigges said she has one clarification to present, which she has discussed with staff. She said, "This is a Planned Unit Development, and the rescission language, the sunset language, in the City Code for PUDs refers back to just standard rezonings. This is a PUD amendment in regard to the PUD zoning. In discussions with staff... and that provides, I think, for an 18 month sunset period. This project is a phased project. However, the way St. John's works is that they do not come in with a subsequent development plan, the one that they would actually build, until they get funding. We wanted to make it clear that our understanding that the PUD for St. John's was approved in 1981. They have made substantive and continuing construction since that time, and therefore, this is an amendment to... the case referring includes an amendment to that zoning, and that the rescission requirements do not apply... it would not apply in this case. In other words, they would not... if they didn't get funding for a long time, they would not have to come in every 18 months and ask... go through the ENN and the Planning Commission and everything and ask for an extension."

### **Those speaking to the request**

**David Perrigo, 1908 Kiva**, presented information regarding this matter. He said there are 12 priorities of which 6 are being [inaudible]. He said on the map, the darker boxes are the future projects – 4 in Tract B, 2 in Tract C. In 1981, with PUD development Tracts A-H were created and the bulk of the planned development is in Tracts C & D. He said the drawing to the right shows portions some of the other tracts. He talked with the Fire Department to increase fire safety. He said the Water Study and Traffic survey, they updated all legal documents and talked to Water Department about past issues.

**Mike Peters, 1040 Camino San Acacio**, said this plan will allow them, over time to fulfill a vision to enhance the education for our students, and increase the value to St. John's and the community.

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

**Councilor Wurzbarger moved, seconded by Councilor Calvert, to adopt Ordinance No. 2009-17, the approval of the PUD Rezoning with all amendments and the recommendations of the Board of Adjustment, Planning Commission and staff.**

**Discussion:** Council Dominguez noted a fire access road, and the construction of a bridge, noting that in previous cases, that would be a variance. He asked the difference between other cases and this one and not requiring a variance in this instance.

Councilor Dominguez said at the Planning Commission, a condition was placed by the Fire Marshal to provide a secondary access into the development, and it was placed and agreed on by both St. John's College and the Fire Department. Unfortunately, it does have to go through the flood plain. The flood plain requires a variance to cross the flood zone, as well as other issues relevant to the flood zone, such as a 404 engineering and other aspects of that.

Councilor Dominguez said in the La Triada case, a variance was required to allow them to cross the arroyo. He said this is the same instance, but there is no requirement for variance.

Mr. Esquibel said in the La Triada case, they were seeking final approval of a development plan which required a variance as part of the final development plan. Currently, the Code requires that a Planned Unit Development, PUD, be accompanied by a preliminary development plan. He said, "That preliminary development plan is before this body for approval, where part of the conditions of approval through the Planning Commission, it was conditioned that the secondary access be placed. Now, as a direct result of that these issues were not... the requirements associated with that condition were not looked at, because information wasn't able to be provided because of the preliminary aspect of this development. And, whether or not that deems the application incomplete, or at a preliminary level, is based on the scope of the project and it also depends on which body is reviewing it and which staff member is reviewing it, and which division is reviewing it. As you know, a development plan goes through a DRT process, and every DRT member looks at specific components of a development plan. If that component does not have enough information for that DRT member to review it, then, for that particular section, it could be deemed incomplete. But, in the general scope of the project, it might be somewhat minor and can be handled as part of a condition of approval for that development to proceed forward. And, that particular issue is what's before this body now, as to whether or not it meets that preliminary level to be able to move forward so it can be addressed at a final stage per phase of that development."

Councilor Dominguez said then there is no requirement to have "that" for preliminary.

Mr. Esquibel said he would have to ask the division that reviews for those areas to answer those questions, which is Ms. Blackwell.

Wendy Blackwell said, "This Memo that we just put on your desks today that added the 18<sup>th</sup>

specific condition, I'm just reading the last sentence of the first paragraph which says, "Depending on the design of the crossing, a floodplain construction variance, a letter of map revision, a no rise certificate and an Army 404 permit may be required." She said until they see a greater level of detail design, we're not sure which rules would apply. This is the reason she felt compelled to include this condition.

Councilor Dominguez asked when we will see the detail.

Ms. Blackwell said it would be at development plan which doesn't come to the City Council, so the variance would go to the Planning Commission.

Councilor Dominguez said overall, he is in support of this project. However, he believes it is incumbent on staff to be equally fair to all applicants, and wants clarity in his mind.

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

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

**Against: None.**

**Explaining his vote:** Councilor Dominguez said he appreciates staff's creativity and voted yes.

- a) **CASE #M 2008-48. ST. JOHN'S COLLEGE MASTER DEVELOPMENT PLAN AMENDMENT. LINDA TIGGES, AGENT FOR ST. JOHN'S COLLEGE, REQUESTS PRELIMINARY DEVELOPMENT PLAN APPROVAL TO AMEND THE PLANNED UNIT DEVELOPMENT (PUD) TO ALLOW ~~83,000~~ 86,200** SQUARE FEET OF PHASED NEW CONSTRUCTION FOR THE ST. JOHN'S COLLEGE CAMPUS. THE COLLEGE IS ZONED R-1 PUD (RESIDENTIAL, 1 DWELLING UNIT PER ACRE, PLANNED UNIT DEVELOPMENT) AND IS LOCATED AT 1160 CAMINO CRUZ BLANCA, WITHIN THE HISTORIC REVIEW DISTRICT, SUBURBAN ARCHAEOLOGICAL REVIEW DISTRICT, WITH VARIOUS PORTIONS OF THE PROPERTY IN THE ESCARPMENT OVERLAY DISTRICT. (DAN ESQUIBEL)

**Councilor Bushee moved, seconded by Councilor Calvert, to approve the St. John's Master Development Plan Amendment.**

**FRIENDLY AMENDMENT:** Councilor Ortiz would like to add an additional condition of approval that staff actually require the Army Corps of Engineer review, that the Applicant shall either get a 404 permit before final development plan approval, or come forward and seek and be granted a variance from

that requirement in the floodplain. **The amendment was friendly to the maker and second, and there were no objections from the other Councilors.**

Councilor Bushee asked if this is part of the new master plan development.

Councilor Ortiz said yes, he believes we do it at this stage and not at rezoning because of the uncertainty on exactly what they are required to bring forward on preliminary development. He believes you bring forward your plan on preliminary development, and the fact that they didn't and we're just going to take it as a condition seems unsatisfactory to him. He knows of other cases where this wasn't allowed.

Ms. Blackwell said, "I would like to interject my understanding of the 404, is if they... if whatever the design looks like in the end, they may be able to qualify for the nationwide permit which really is more just a letter from the Army Corps and then a follow-up form they fill out. An individual permit... the Army Corps may not actually require it. So, I just wanted to interject that, because I don't know... with the language of the motion, finding of facts, I just thought I would add that."

**AMENDMENT TO THE FRIENDLY AMENDMENT:** Councilor Ortiz would like to amend his condition of approval to say that, "The applicant shall either seek and be granted a variance or they shall obtain a 404 permit or a like approval from the Army Corps of Engineers prior to the approval of Final Development Plan." This incorporate's staff's understanding they may be able to get a lesser version of approval from the Army Corps of Engineers, besides a 404 permit. **The amendment was friendly to the maker and second, and there were no objections by Councilors Dominguez, Ortiz, Trujillo and Wurzbarger, and with objection by Councilor Romero.**

Councilor Romero said, "We're talking about two different kinds of permits. We're talking about the 404 permit which is a 404 permit which is a federal permit, and then we're talking about the City variance permitting, so I'm a little confused about this amendment."

Councilor Ortiz said they need either to obtain a variance, a Corps of Engineer permit, or get some similar approval.

Mr. Brill said he needs to clarify that the road hasn't been designed and won't be required until the first project comes forward that is being sought here. So, we don't know if it's a bridge or a road, and we don't know where it goes, so he doesn't know that applying the condition is relevant. He said, "We know, and it can be stated on the record, that we will have to comply with every federal, state, City regulation, whatever that may be, and we will have to do that, and there's no way of getting around that. I don't know that it makes sense, for this issue, to be handled in the way you're doing it. If we need to, we will, but we don't even know where this road goes."

Councilor Romero said her concern is to apply this criteria now when we don't know what's it going to look like, so that when you do apply, you would be asking for one of the checkoffs. It doesn't make sense to her now to have this as an overlay this early in the process.

Councilor Dominguez said these aren't conditions that we're imposing, these are conditions which staff have identified in their report, and this is a reaction to that and making sure we are not leaving it to the Applicant to decide what it is they're doing to do, but that they actually follow the recommendations given to them by staff, and whatever requirements there are. He heard Ms. Blackwell say there is some detail which needs to be provided, and if that detail isn't satisfactory to us, we can't give blanket approval if it doesn't meet those. He sees this as the intent of the motion and amendment is getting to that point.

Councilor Romero said she doesn't see this as a blanket approval. She said getting a 404 permit is pretty stringent, and anything which would require going into an arroyo is going to be really stringent. She said her sense is that whatever permits are needed, or any other permit or variance which is required would be when they submit the plan to the Council.

Councilor Bushee said the Council won't see it at that time. She explained the reason she accepted the amendment as friendly. She said we have a red flag from staff that this may occur. if it doesn't take the form of a 404 permit, the intent of the Council is, since we don't see the development plan, is that we want to condition the appropriate way. She said the applicant has said they will follow all state, federal and local regulations to the highest and best of their ability. She said we're just saying if you have to cross an arroyo, do it the safest way possible.

Mr. Brill said they concur with all the conditions that have been placed, and they have no intent to get around anything.

Councilor Bushee reiterated that they have agreed to follow the strictest way.

Councilor Ortiz said they actually didn't, and they're agreeing to the less stringent provision, Condition #18, which reads: "All federal, state and local floodplain regulations will be followed in the design and construction of the required emergency access arroyo crossing. Approval is conditioned on the applicant proving that all federal, state and local laws can be met in the design and construction of the required emergency access arroyo crossing." He said it doesn't say that it will be met or shall be met, or that they will receive approval. It just says that they can show that they can meet it. That is different than receiving a 404 permit, high stringency, and it's going to take them a lot of time to get that. It's not the national approval, the letter approval from the Army Corps of Engineers, it's not that. It is that they can show that it can be met in the design and construction. He said he knows of cases where we have seen design documents showing what's going to be crossing an arroyo. We're not going to get this chance here, because the Applicant didn't provide it as part of their preliminary development plan. Neither staff, nor the applicant, or both working together, decided that the Applicant didn't need to bring those details forward. The Applicant is saying we don't know what we're going to build, but we want to have this PUD to allow for this expansion, and when this expansion happens, we know that we have to have a secondary access. He said all he's saying is that secondary access has got to have some kind of approval as it goes forward. He said he's not saying that it can be met, but that you have to show that and this is the purpose of his condition which strengthens the condition staff brought forward, which frankly is "vanilla flavor."

Councilor Bushee said she doesn't want them to be subjected to an excise for something they wouldn't need.

Councilor Ortiz said they were given three options: A 404 permit, or other approval from the Corps of Engineers such as a letter, or if they can't get both and they can prove the design, they can seek a variance like the developer tried to do in La Triada.

Frank Katz suggested changing "can" to "shall," so that they shall meet all the federal standards, then you "get there." He said the issue on the La Triada variance wasn't because there was a crossing of an arroyo, it was because the span wasn't wide enough, and the abutment was too close to the edge of the arroyo. La Triada could have redesigned and crossed the arroyo without a variance if they had a wider span, but they decided not to do that.

Councilor Ortiz asked if Planning Staff agrees by changing "can" to "shall, that it will meet the requirement.

Ms. Blackwell said yes, it makes sense and the intent is clear.

**WITHDRAWAL OF FRIENDLY AMENDMENT.** Councilor Ortiz withdrew his amended friendly amendment.

**FRIENDLY AMENDMENT:** Councilor Ortiz said he would like to submit an amended condition of approval as follows: "All federal, state and local floodplain regulations will be followed in the design and construction of the required emergency access arroyo crossing. Approval is conditioned on the applicant proving that all federal, state and local laws ~~can~~ shall be met in the design and construction of the required emergency access arroyo crossing." **The amendment was friendly to the maker and second and there were no objections from the other members of the Council.**

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

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

**Against: None.**

Mr. Esquibel said the applicant asked to extend the two year sunset clause, and asked if that was included as part of the bill.

*Mayor Coss said it included all staff conditions.*

Mr. Esquibel said the condition placed on the bill was directly out of the Code, and the Applicant was asking to extend what the Code requirement allowed, based on their funding conditions, and that two years was not necessarily enough.

Mayor Coss said the Council has already voted on what they requested.

- 13) CONSIDERATION OF BILL NO. 2009-12: ADOPTION OF ORDINANCE NO. 2009- \_\_\_\_ (COUNCILOR WURZBURGER AND COUNCILOR BUSHEE). AN ORDINANCE ESTABLISHING A RURAL RESIDENTIAL ZONING DISTRICT, AND MAKING SUCH OTHER RELATED CHANGES. (JEANNE PRICE). (Postponed from April 8, 2009 City Council Meeting). (Request to Postpone to May 13, 2009 City Council meeting)**

This item was postponed to the City Council meeting of May 13, 2009.

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

There were no matters from the City Clerk.

## **21. 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 April 29, 2009, is incorporated herewith to these minutes as Exhibit "12."

### **Councilor Calvert**

Councilor Calvert said he is introducing three measures tonight as follows:

1. An ordinance reducing false alarms, cosponsored by Councilor Dominguez, to go to the Committees listed. A copy of the ordinance is incorporated herewith to these minutes as Exhibit "13."
2. A Resolution, cosponsored by Councilors Wurzbarger, Bushee and Ortiz, directing staff to work with Santa Fe County to initiate efforts to create a Renewable Energy Financing District in accordance with the Solar Energy Improvement Special Assessment Act and the Renewable Energy Financing District Act. A copy of the ordinance is incorporated herewith to these minutes as Exhibit "14."

3. A Resolution adopting the Irrigation Efficiency Program Guidelines and authorizing rebates for the installation/retrofit of efficient irrigation hardware. A copy of the ordinance is incorporated herewith to these minutes as Exhibit "15."

### **Councilor Dominguez**

Councilor Dominguez thanked Councilor Trujillo for participating in the Underage Drinking Prevention Alliance Commercials which were shot recently, noting those will be appearing on the public access channel. He said there will be more activities and information forthcoming in May, "Underage Drinking Prevention Month."

Councilor Dominguez wished all mothers a Happy Mother's Day.

Councilor Dominguez introduced a Resolution establishing a Community Garden. Councilor Calvert and Mayor Coss asked to cosponsor the Resolution. A copy of the ordinance is incorporated herewith to these minutes as Exhibit "16."

### **Councilor Wurzbarger**

Councilor Wurzbarger introduced a Resolution, cosponsored by Councilor Ortiz, directing staff to develop creative strategies to encourage local companies to bid on City projects. She said they are requesting it go only to the Finance Committee and back to the Council, so we can act quickly. A copy of the ordinance is incorporated herewith to these minutes as Exhibit "17."

Councilor Wurzbarger introduced a Resolution establishing the Historic Green Building Code Task Force, to go to the Committees listed. A copy of the ordinance is incorporated herewith to these minutes as Exhibit "18."

### **Councilor Trujillo**

Councilor Trujillo introduced the following:

1. An ordinance ratifying a lease of approximately 1.57 acres of land owned by the City of Santa Fe, located at the Santa Fe Municipal Airport. A copy of the ordinance is incorporated herewith to these minutes as Exhibit "19."
2. An ordinance amending Article 24-4 SFCC, the Santa Fe Traffic Operations Program, or "STOP," regarding violations of the traffic code detected by a camera or speed device, to come into compliance with the new law just passed by the State. A copy of the ordinance is incorporated herewith to these minutes as Exhibit "20."

3. A Resolution authorizing the annual Fourth of July Santa Fe Vintage Car Club Show on Lincoln Avenue from Palace Avenue to Federal Place and on Marcy Street from Lincoln Avenue to Sheridan Street. A copy of the ordinance is incorporated herewith to these minutes as Exhibit "21."

Councilor Trujillo said he and Councilor Ortiz received a letter dealing with the Santa Fe National Little League Girls Softball. He asked the status, and where they are playing.

Mr. Buller said he will ask Fabian Chavez to provide him with the latest update.

Councilor Trujillo said we received a letter from the New Mexico District One Association of Little Leagues, saying tournaments aren't being held at Franklin Miles because of the prairie dog problem. He is hopeful that with the renovations we can have a few tournaments there next year. He said we need to get a handle on the prairie dog problem.

#### **Councilor Ortiz**

Councilor Ortiz said he agrees with Councilor Trujillo regarding the prairie dogs, commenting they now have taken over the field at Herb Martinez where the girls are playing. He hopes this will be resolved with the renovations.

Councilor Ortiz said he is introducing a different bill creating a Renewable Energy Renewal District. He hopes the Council will look at both bills, do a workup and form a conference committee.

He said he received a letter from an HOA in Nava Ade on behalf of its Board to let you know what Jack Hiatt is doing in helping to resolve. He asked that the letter be passed on to Mr. Hiatt and Planning staff.

#### **Councilor Bushee**

Councilor Bushee wished all of the mothers a Happy Mother's Day.

Councilor Bushee said they are bringing the Gonzales Trails back to BTAC, because the cost has grown to almost \$1 million, but it doesn't have funds appropriated to it. She said BTAC will be holding a rehearing on the materials and how it will be developed at its next meeting in May.

#### **Councilor Romero**

Councilor Romero said she is sponsoring a Solid Waste rate increase and the three issues are

reflected in the three ordinances listed. Copies of the ordinances are incorporated herewith to these minutes as Exhibits "22," "23," and "24," respectively.

Councilor Romero said she has two issues for the City Manager. One is a meeting which was to be organized with DOT to address graffiti issues along the Rail Runner and other issues around homelessness. She would like a summary of that meeting, and believes the Council should be kept apprised of the outcomes.

Councilor Romero said, secondly, she is distraught about the Public Works projects which are being moved forward in appropriate ways and haven't gone through proper channels, which we're having to undo at additional expense. She said we need to reign in this problem, and she would like the City Manager to report back to the Council what is being done to alleviate these rampant projects which haven't gone through proper channels.

### **Mayor Coss**

Mayor Coss said he has no items.

Mayor Coss, on behalf of Councilor Chavez, introduced a resolution authorizing and approving submission of an executed Capital Cooperative Agreement with NMDOT for the 2008 Legislative appropriation for the planning, design, engineering and construction of a water line and a sewer line for the 2400 block of Agua Fria. A copy of the ordinance is incorporated herewith to these minutes as Exhibit "25."

Mayor Coss said Councilor Chavez asked him to announce that on May 7, 2009, there will be a Neighborhood Association meeting in the Las Acequias neighborhood in the Park.

## **H. ADJOURN**

There was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 10:45 p.m.

**Approved by:**

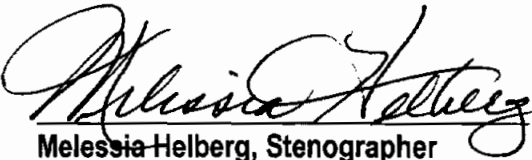
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**Mayor David Coss**

**ATTESTED TO:**

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

**Respectfully submitted:**

  
**Melessia Helberg, Stenographer**