



# Agenda

REGULAR MEETING OF  
THE GOVERNING BODY  
TUESDAY – NOVEMBER 10, 2009  
CITY COUNCIL CHAMBERS

## AFTERNOON SESSION – 5:00 P.M.

CITY CLERK'S OFFICE

DATE 11-6-09 TIME 3:43 pm

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

RECEIVED BY shydornunoz

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. SALUTE TO THE NEW MEXICO FLAG
4. INVOCATION
5. ROLL CALL
6. APPROVAL OF AGENDA
7. APPROVAL OF CONSENT CALENDAR
8. APPROVAL OF MINUTES: Special City Council Meeting – October 21, 2009.  
Regular City Council Meeting – October 28, 2009.
9. PRESENTATIONS
  - a) Employee for the Month of November 2009 – Dale Lettenberger, Police Lieutenant; Santa Fe Police Department/Patrol Division/Support. (5 minutes)
  - b) City Manager Recognition – Consuelo Peña, Financial Analyst Finance Department, Accounting Section. (Galen Buller) (5 minutes)
10. CONSENT CALENDAR
  - a) Bid No. 10/06/B – One (1) Roll-Off Refuse Collection Unit for Solid Waste Management Division; Trucks West, Inc. (William DeGrande)
  - b) Request for Approval of Professional Services Agreement – Engineering Design Services for S-1 Southwest Tank Supply Pipeline (RFP #10/09/P); Bohannon Huston, Inc. (Robert Jorgensen)
    - 1) Request for Approval of Budget Adjustment – Water Enterprise Fund.



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- c) Request for Approval of Amendment No. 6 to Professional Services Agreement – 2009 Legislative Appropriation for 400<sup>th</sup> Anniversary; Santa Fe 400<sup>th</sup> Anniversary. (Darlene Griego)
- d) Request for Approval of Amendment No. 2 to Legal Services Agreement – Legal Presentation for Purchase and Sale of College of Santa Fe; Holland & Hart LLP. (Lee Depietro)
- e) Request for Approval of Grant Award – FY 2009/2010 Bureau of Justice Assistance FY 09 Recovery Act; Edward Byrne Memorial Justice Assistance Grant Program Local Solicitation; Department of Justice, Bureau of Justice Assistance (BJA). (Chief Aric Wheeler and Deputy Chief Robin Contreras)
  - 1) Request for Approval of Budget Increase – Grant Fund.
- f) Request for Approval of Amendment No. 1 to Professional Services Agreement – Fiscal and Payroll Agent and Custodian for City of Santa Fe Investment Portfolio; Wells Fargo Bank, N.A. (Helene Hausman)
- g) CONSIDERATION OF RESOLUTION NO. 2009-\_\_\_\_\_.  
A Resolution Relating to a Request for Approval of First Quarter Budget Adjustment Ending September 30, 2009. (Cal Probasco)
- h) CONSIDERATION OF RESOLUTION NO. 2009-\_\_\_\_\_. (Councilor Dominguez)  
A Resolution Directing Staff to Apply for an Access Break Along NM 599 for the Future Jaguar Drive Interchange from the New Mexico Department of Transportation's (NMDOT) Access Control Committee and to Pursue an Airspace Agreement with the NMDOT to Allow for a City Road (i.e. Jaguar Drive) to Cross NMDOT Owned Right-of-Way. (John Romero)
- i) CONSIDERATION OF RESOLUTION NO. 2009-\_\_\_\_\_. (Councilor Chavez)  
A Resolution Directing Staff to Dedicate the Programming at the Community Gallery to Hispanic Heritage During *National Hispanic Heritage Month* Beginning in 2010 and Every Year Thereafter. (Sabrina Pratt)



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- j) Request for Approval of Negotiated Articles and Contract Amendment to Tentative Agreement; AFSCME Collective Bargaining. (Kristine Kuebli and Chris Ortega)
- k) CONSIDERATION OF RESOLUTION NO. 2009-\_\_\_\_\_. (Councilor Calvert and Councilor Wurzburger)  
A Resolution Endorsing a Transitional Transportation Voucher Program for Santa Fe Ride Program Participants. (Jon Bulthuis)
- l) Request for Approval to Publish Notice of Public Hearing on December 9, 2009:
  - 1) Bill No. 2009-57: An Ordinance Amending Article 23-6 SFCC 1987 Regarding the Sale or Consumption of Alcoholic Beverages on City Property. (Mayor Coss and Councilor Trujillo) (Jeanne Price)
  - 2) Bill No. 2009-58: An Ordinance Amending Sections 14-8.3(C)(2) and 14-8.3(C)(3) SFCC 1987 Regarding Development Within a Special Flood Hazard Area and Permitted Uses Within a Floodway and Making Such Changes as are Necessary. (Councilors Calvert, Councilor Chavez and Councilor Romero) (Wendy Blackwell)
- m) CONSIDERATION OF RESOLUTION NO. 2009-\_\_\_\_\_. (Councilor Calvert and Councilor Romero)  
A Resolution Requiring That Significant Decisions Regarding the Northwest Quadrant Project Receive Approval by a Vote of No Less Than Six Members of the Governing Body; and Directing the Office of Affordable Housing to Conduct a Public Educational Campaign Regarding the City's Ongoing Efforts to Provide Affordable Housing Within the Community. (Kathy McCormick)
- n) CONSIDERATION OF RESOLUTION NO. 2009-\_\_\_\_\_. (Councilor Wurzburger and Councilor Romero)  
A Resolution Directing Staff to Enter Into a Capital Cooperative Agreement with the New Mexico Department of Transportation to Share in the Funding for Improvements on Pacheco Street. (David Catanach)



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- o) CONSIDERATION OF RESOLUTION NO. 2009-\_\_\_\_\_. (Councilor Romero)

A Resolution Directing Staff to Conduct a Feasibility Study for the Development of a Sustainability Demonstration Center in the Area of the Genoveva Chavez Community Center and the Rodeo Grounds. (Katherine Mortimer)

- p) Request for Approval of 2010 Legislative Priorities. (Robert Romero)

- q) CONSIDERATION OF RESOLUTION NO. 2009-\_\_\_\_\_. (Councilor Calvert)

A Resolution Amending Resolution No. 2009-83 that Adopted Standard Formulas by Water Use Category for Calculating Development Water Budgets. (Amanda King)

- r) Request for Approval of Recommended Changes to the Annual Christmas Tree Collection by the Solid Waste and Parks Divisions. (Bill DeGrande)

- s) CONSIDERATION OF RESOLUTION NO. 2009-\_\_\_\_\_. (Councilor Wurzbarger)

A Resolution Endorsing the "Jamaica Declaration" and Joining the Movement of the Inter-City Intangible Cultural Cooperation Network. (Sabrina Pratt)

- t) CONSIDERATION OF RESOLUTION NO. 2009-\_\_\_\_\_. (Mayor Coss)

A Resolution Calling for a Regular Municipal Election to be held March 2, 2010 for the Purpose of Electing One Mayor At-Large and One City Councilor from Each Council District. (Yolanda Y. Vigil)

Resolucion Convocando Una Eleccion Municipal Ordinaria que Tendra Lugar el 2 de Marzo 2010 con el Proposito de Elegir un Alcalde Para Toda La Ciudad y un Concejal de la Municipalidad de Cada Distrito de Concejales.

- 1) Request for Approval of Consolidation of Precincts.

## 11. MATTERS FROM THE CITY MANAGER



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12. MATTERS FROM THE CITY ATTORNEY

EXECUTIVE SESSION:

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- a) Discussion of Bargaining Strategy Preliminary to Collective Bargaining Negotiations, Pursuant to §10-15-1(H)(5) NMSA 1978.
- b) Discussion of Modification of Terms of the Termination of Jicarilla Apache Nation (JAN) Lease, Pursuant to §10-15-1(H)(8) NMSA 1978.

13. MATTERS FROM THE CITY CLERK

14. COMMUNICATIONS FROM THE GOVERNING BODY

**EVENING SESSION – 7:00 P.M.**

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE
- C. SALUTE TO THE NEW MEXICO FLAG
- D. INVOCATION
- E. ROLL CALL
- F. PETITIONS FROM THE FLOOR
- G. APPOINTMENTS



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## H. PUBLIC HEARINGS:

1) CONSIDERATION OF BILL NO. 2009-51: ADOPTION OF ORDINANCE NO. 2009-\_\_\_\_\_.

An Ordinance Authorizing the Issuance and Sale of the City of Santa Fe, New Mexico Water Utility System/Gross Receipts Tax Revenue Bonds, Series 2009 in an Aggregate Principal Amount Not to Exceed \$61,000,000 for the Purpose of Providing Funds for (I) the Acquisition, Construction and Improvement of the Buckman Direct Diversion Project and the Water Utility System, (II) Funding a Debt Service Reserve Fund for the Bonds, and (III) Paying the Costs of Issuance of the Bonds; Providing that the Bonds Will be Payable and Collectible From the Net Revenues of The Water Utility System and Certain Gross Receipts Tax Revenues Distributed to the City; Establishing the Terms, Form and Details of the Bonds; Authorizing the Execution and Delivery of a Bond Purchase Agreement, an Official Statement and a Continuing Disclosure Undertaking in Connection With the Bonds; Ratifying Action Previously Taken In Connection With the Bonds; Repealing All Ordinances in Conflict Herewith; and Related Matters. (David Millican and Helene Hausman)

2) CONSIDERATION OF BILL NO. 2009-52: ADOPTION OF ORDINANCE NO. 2009-\_\_\_\_\_.

An Ordinance Repealing Ordinance No. 2009-36 Which Authorized the Issuance and Sale of the City of Santa Fe, New Mexico College of Santa Fe Lease/Subordinate Lien Gross Receipts Tax Revenue Bonds, Series 2009 in an Aggregate Principal Amount Not to Exceed \$30,000,000. (David Millican)

3) CONSIDERATION OF BILL NO. 2009-50: ADOPTION OF ORDINANCE NO. 2009-\_\_\_\_\_. (Councilor Chavez)

An Ordinance Repealing Sections 18-8.1 Through 18-8.8 SFCC 1987 Regarding Pushcart Vendors; and Creating a New Section 23-5.5 Regarding Plaza Pushcart Vendors. (Sevastian Gurule)

a) CONSIDERATION OF RESOLUTION NO. 2009-\_\_\_\_\_. (Councilor Chavez)

A Resolution Establishing an Application Fee for Persons Who Apply for a License Under the Plaza Pushcart Ordinance, §23-5.5 SFCC 1987. (Sevastian Gurule)



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- 4) CONSIDERATION OF BILL NO. 2009-53: ADOPTION OF ORDINANCE NO. 2009-\_\_\_\_\_. (Councilor Bushee)  
An Ordinance Creating a New Article 23-8 SFCC 1987 Regulating Street Performers on Public Property; and Amending Section 18-8.10 SFCC 1987 Regarding Business License Fees. (Sevastian Gurule)
- 5) CONSIDERATION OF BILL NO. 2009-54: ADOPTION OF ORDINANCE NO. 2009-\_\_\_\_\_. (Councilor Chavez)  
An Ordinance Annexing Approximately 1,956 Acres (Phase 1) in Accordance with the "Annexation Phasing Agreement Between the City of Santa Fe and Santa Fe County" Executed in February 2009. The Phase 1 Annexation Includes Areas 3, 6, 8, 9, 10, 11, 13, 15, 16, 17 and the Interstate 25 Right-of-Way Between Old Pecos Trail and NM Highway 599, as Shown on the Attached Maps (Exhibits A-L). (Reed Liming)
  - a) Request for Approval of Amended Memorandum of Agreement with Santa Fe County for Roadway Improvements Incident to Annexation Phase I. (Chris Ortega)
- 6) CONSIDERATION OF BILL NO. 2009-55: ADOPTION OF ORDINANCE NO. 2009-\_\_\_\_\_. (Mayor Coss)  
An Ordinance Amending Section 9-1.3 SFCC 1987 Revising the Municipal Election District Map to Reflect Annexations. (Yolanda Y. Vigil)
- 7) CONSIDERATION OF BILL NO. 2009-49: ADOPTION OF ORDINANCE NO. 2009-\_\_\_\_\_. (Mayor Coss)  
An Ordinance Authorizing Leases for Three Tracts of Land Totaling 9.5692 Acres Consisting of: Tract 1/Phase 1 (3.9587 Acres Located North of West Alameda, East of Las Crucitas and Southwest of West San Francisco Street; Tract 1/Phase 2 (3.7370 Acres) Located North of West Alameda, East of Las Crucitas and Southwest of West San Francisco Street and East of Tract 1/Phase I; Tract 2 (1.5235 Acres) Located North of West Alameda, West of Camino Del Campo and South of West San Francisco Street; and Tract 3 (0.3500 Acres) Located North of West Alameda, East of Camino Del Campo and South of West San Francisco Street. (Santa Fe Civic Housing Authority/Villa Alegre Project) (Mayor Coss) (Lee Depietro) **(Postponed to the December 9, 2009 City Council Meeting)**



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- a) Request for Approval of Ground Lease – Villa Alegre Housing Project; Santa Fe Civic Housing Authority. **(Postponed to the December 9, 2009 City Council Meeting)**

- 1) Multifamily
- 2) Senior
- 3) Workforce

## 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.



**MINUTES OF THE  
REGULAR MEETING OF THE  
GOVERNING BODY  
Santa Fe, New Mexico  
November 10, 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 November 10, 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 Patti J. Bushee  
Councilor Christopher Calvert  
Councilor Miguel Chavez  
Councilor Matthew E. Ortiz  
Councilor Rosemary Romero  
Councilor Ronald S. Trujillo

**Members Excused**

Councilor Rebecca Wurzbarger, Mayor Pro-Tem  
Councilor Carmichael A. Dominguez

**Others Attending**

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

**6. APPROVAL OF AGENDA**

Mayor Coss noted that Item #7 has been postponed to the meeting of December 10, 2009.

**MOTION:** Councilor Chavez moved, seconded by Councilor Calvert, to approve the agenda as presented

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

- h) **CONSIDERATION OF RESOLUTION NO. 2009- 111 (COUNCILOR DOMINGUEZ). A RESOLUTION DIRECTING STAFF TO APPLY FOR AN ACCESS BREAK ALONG NM 599 FOR THE FUTURE JAGUAR DRIVE INTERCHANGE FROM THE NEW MEXICO DEPARTMENT OF TRANSPORTATION'S (NMDOT) ACCESS CONTROL COMMITTEE AND TO PURSUE AN AIRSPACE AGREEMENT WITH THE NMDOT TO ALLOW FOR A CITY ROAD (I.E. JAGUAR DRIVE) TO CROSS NMDOT OWNED RIGHT-OF-WAY. (JOHN ROMERO)**
- i) **CONSIDERATION OF RESOLUTION NO. 2009- 112 (COUNCILOR CHAVEZ). A RESOLUTION DIRECTING STAFF TO DEDICATE THE PROGRAMMING AT THE COMMUNITY GALLERY TO HISPANIC HERITAGE DURING *NATIONAL HISPANIC HERITAGE MONTH* BEGINNING IN 2010 AND EVERY YEAR THEREAFTER. (SABRINA PRATT)**
- j) **REQUEST FOR APPROVAL OF NEGOTIATED ARTICLES AND CONTRACT AMENDMENT TO TENTATIVE AGREEMENT; AFSCME COLLECTIVE BARGAINING. (KRISTINE KUEBLI AND CHRIS ORTEGA)**
- k) **CONSIDERATION OF RESOLUTION NO. 2009- 113 (COUNCILOR CALVERT AND COUNCILOR WURZBURGER). A RESOLUTION ENDORSING A TRANSITIONAL TRANSPORTATION VOUCHER PROGRAM FOR SANTA FE RIDE PROGRAM PARTICIPANTS. (JON BULTHUIS)**  
*[Councilors Bushee & Chavez asked to be added as cosponsors of this Resolution]*
- l) **REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON DECEMBER 9, 2009:**
  - 1) **BILL NO. 2009-57: AN ORDINANCE AMENDING ARTICLE 23-6 SFCC 1987, REGARDING THE SALE OR CONSUMPTION OF ALCOHOLIC BEVERAGES ON CITY PROPERTY (MAYOR COSS AND COUNCILOR TRUJILLO). (JEANNE PRICE)**
  - 2) **BILL NO. 2009-58: AN ORDINANCE AMENDING SECTIONS 14-8.3(C)(2) AND 14-8.3(C)(3) SFCC 1987, REGARDING DEVELOPMENT WITHIN A SPECIAL FLOOD HAZARD AREA AND PERMITTED USES WITHIN A FLOODWAY AND MAKING SUCH CHANGES AS ARE NECESSARY (COUNCILOR CALVERT, COUNCILOR CHAVEZ AND COUNCILOR ROMERO). (WENDY BLACKWELL)**
- m) *[Removed for discussion by Councilor Calvert]*
- n) **CONSIDERATION OF RESOLUTION NO. 2009-114(COUNCILOR CALVERT AND COUNCILOR ROMERO). A RESOLUTION DIRECTING STAFF TO ENTER INTO A CAPITAL COOPERATIVE AGREEMENT WITH THE NEW MEXICO DEPARTMENT OF TRANSPORTATION TO SHARE IN THE FUNDING FOR IMPROVEMENTS ON PACHECO STREET. (DAVID CATANACH)**

- o) **CONSIDERATION OF RESOLUTION NO. 2009- 115 (COUNCILOR ROMERO). A RESOLUTION DIRECTING STAFF TO CONDUCT A FEASIBILITY STUDY FOR THE DEVELOPMENT OF A SUSTAINABILITY DEMONSTRATION CENTER IN THE AREA OF THE GENOVEVA CHAVEZ COMMUNITY CENTER AND THE RODEO GROUNDS. (KATHERINE MORTIMER)**
  - p) **REQUEST FOR APPROVAL OF 2010 LEGISLATIVE PRIORITIES. (ROBERT ROMERO)**
  - q) **CONSIDERATION OF RESOLUTION NO. 2009-116 (COUNCILOR CALVERT). A RESOLUTION AMENDING RESOLUTION NO. 2009-83 THAT ADOPTED STANDARD FORMULAS BY WATER USE CATEGORY FOR CALCULATING DEVELOPMENT WATER BUDGET. (AMANDA KING)**
  - r) **REQUEST FOR APPROVAL OF RECOMMENDED CHANGES TO THE ANNUAL CHRISTMAS TREE COLLECTION BY THE SOLID WASTE AND PARKS DIVISIONS. (BILL DeGRANDE)**
  - s) **CONSIDERATION OF RESOLUTION NO. 2009- 117 (COUNCILOR WURZBURGER). A RESOLUTION ENDORSING THE "JAMAICA DECLARATION" AND JOINING THE MOVEMENT OF THE INTER-CITY INTANGIBLE CULTURAL COOPERATION NETWORK. (SABRINA PRATT)**
  - t) **CONSIDERATION OF RESOLUTION NO. 2009- 118 (MAYOR COSS). A RESOLUTION CALLING FOR A REGULAR MUNICIPAL ELECTION TO BE HELD MARCH 2, 2010, FOR THE PURPOSE OF ELECTING ONE MAYOR AT-LARGE AND ONE CITY COUNCILOR FROM EACH COUNCIL DISTRICT. (YOLANDA Y. VIGIL)**
- RESOLUCION CONVOCANDO UNA ELECCION MUNICIPAL ORDINARIA QUE TENDRA LUGAR EL 2 DE MARZO 2020, CON EL PROPOSITO DE ELEGIR UN ALCALDE PARA TODA LA CIUDAD Y UN CONCEJAL DE LA MUNICIPALIDAD DE CADA DISTRITO DE CONCEJALES.**
- 1) **REQUEST FOR APPROVAL OF CONSOLIDATION OF PRECINCTS.**

**8. APPROVAL OF MINUTES: SPECIAL CITY COUNCIL MEETING – OCTOBER 21, 2009  
REGULAR CITY COUNCIL MEETING – OCTOBER 28, 2009**

**MOTION:** Councilor Chavez moved, seconded by Councilor Calvert, to approve the minutes of the Special City Council meeting of October 21, 2009, as presented.

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

**MOTION:** Councilor Romero moved, seconded by Councilor Calvert, to approve the minutes of the Regular City Council meeting of October 28, 2009, 2009, as presented.

**VOTE:** The motion was approved on a voice vote with Councilors Calvert, Chavez, Ortiz, Romero and Trujillo voting for the motion, none against and Councilor Bushee abstaining

## **9. PRESENTATIONS**

- a) **EMPLOYEE OF THE MONTH OF NOVEMBER 2009 – DALE LETTENBERGER, POLICE LIEUTENANT; SANTA FE POLICE DEPARTMENT/PATROL DIVISION/SUPPORT.**

Mayor Coss read the letter of nomination into the record, and presented Lt. Dale Lettenberger with a plaque and a check for \$200.00 from Employee Benefit Committee.

Lt. Lettenberger thanked his staff, the department and the Mayor and Councilors for their support of the Police Officers.

- b) **CITY MANAGER RECOGNITION – CONSUELO PENA, FINANCIAL ANALYST, FINANCE DEPARTMENT, ACCOUNTING SECTION. (GALEN BULLER)**

Galen Buller presented the City Manager Recognition award to Consuelo Pena for her assistance to a member of the public who was experiencing difficulty in finding her automobile.

Councilor Chavez expressed thanks and appreciation to Ms. Pena for her exemplary service on behalf of the City and all of the other employees who deal directly with the public on a daily basis.

## **CONSENT CALENDAR DISCUSSION**

- 10 (b) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – ENGINEERING DESIGN SERVICES FOR S-1 SOUTHWEST TANK SUPPLY PIPELINE (RFP #10/09/P); BOHANNAN HUSTON, INC. (ROBERT JORGENSEN)**  
1) **REQUEST FOR APPROVAL OF BUDGET ADJUSTMENT – WATER ENTERPRISE FUND.**

Councilor Romero said this was postponed at the PUC meeting for one month, and needs to be postponed to the Council meeting of December 9, 2009.

**MOTION:** Councilor Romero moved, seconded by Councilor Ortiz, postpone this item to the Council meeting of December 9, 2009, and to send this item back to the Public Utilities Committee.

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

**10 (m) CONSIDERATION OF RESOLUTION NO. 2009- 119 (COUNCILOR CALVERT AND COUNCILOR ROMERO). A RESOLUTION REQUIRING THAT SIGNIFICANT DECISIONS REGARDING THE NORTHWEST QUADRANT PROJECT RECEIVE APPROVAL BY A VOTE OF NO LESS THAN SIX MEMBERS OF THE GOVERNING BODY; AND DIRECTING THE OFFICE OF AFFORDABLE HOUSING TO CONDUCT A PUBLIC EDUCATIONAL CAMPAIGN REGARDING THE CITY'S ONGOING EFFORTS TO PROVIDE AFFORDABLE HOUSING WITHIN THE COMMUNITY. (KATHY McCORMICK)**

Councilor Calvert said he pulled this item to clarify some amendments and offer an additional amendment. He said the Finance Committee amendments are on page 4 of the packet, and explained the amendments. He said he accepted those amendments at the Finance Committee, noting the amendment struck Item #1, lines 16 and 17 on page 2, and Item #4, line 21 on page 2 of the Resolution. However, he wants to propose additional an amendment as follows:

**MOTION:** Councilor Calvert moved, seconded by Councilor Bushee, to adopt Resolution No. 2009-119, with an amendment to add a new Item #1 as follows, "Land use decisions that involve changes to the approved Master Plan."

**DISCUSSION:** Councilor Bushee asked if these are the only amendments and Councilor Calvert said yes. Responding to Councilor Bushee, Councilor Calvert said Items #2 and #3 stay in the Resolution, and he is proposing to insert a new Item #1.

Councilor Bushee asked if there will be future decisions of the Planning Commission regarding this matter, and Councilor Calvert said yes.

Councilor Bushee said, "So, they would have a regular appeal process that they could follow."

Councilor Calvert said this is correct.

Councilors Bushee and Ortiz asked to be added as cosponsors of the bill.

Councilor Chavez asked if this refers to the approved Master Plan as it exists today.

Councilor Calvert said it is the "one we approved at the public hearing." He said the reason he wants that particular piece to be included is because it does have financial implications and could impact the financing of this project, for example you can change the mix of homes, for example, to make the project work. Also, because that's where all the conditions were attached, and he wants to ensure that all of the conditions are adhered to.

Councilor Chavez said it stands to reason that the Master Plan which was approved a month ago is going to need to be updated if the project isn't going to break ground for another five years. He said the economic conditions are not the only thing that will change. He said it appears we are speaking to a Master Plan which will change, but we don't know what those changes will be.

Councilor Bushee asked, for example, if there was a change to no longer go with green building options or other important aspects, those could be considered as well with six votes.

Councilor Calvert said he would assume that the green building issues are encumbered in the master plans. He said it was certainly touted as that.

Councilor Bushee said she is trying to be clear for the record that this includes any land use issues, such as escarpment.

Councilor Ortiz said it is only the approved Master Plan.

Councilor Bushee said, "No, but if there are changes to that."

Councilor Calvert said, "To the Master Plan, right."

Councilor Bushee said she would presume if there were any changes to escarpment, or even placement of roads, that would have to change the Master Plan.

Councilor Calvert said, "Yes, but those are variances, we have yet to hear those."

Councilor Bushee said she wants to be clear on this before she votes, noting she hasn't been privy to the discussions. She said if it is just limited to the Master Plan, and there are other things that come up that are land use related, what happens there.

Councilor Ortiz said, "It is just Planning Commission decisions that require five votes – five votes from the Planning Commission, five votes from the City Council on appeal. That's how I read it. That's how I read this amendment."

Councilor Bushee asked for the new language, saying she liked the original language better.

Councilor Ortiz said the first language was taken out at Finance.

Councilor Bushee said that was at Finance, and we can have this discussion tonight at Council.

Councilor Calvert said his amendment would add a new #1 which provides, "Land use decisions that change the approved Master Plan."

Councilor Bushee said she likes the more generic language for land use decisions. She asked the rationale for removing this at Finance Committee. She said it is broader as originally proposed.

Councilor Calvert said he thought the other things might have implications. The main thrust was that this was a big financial decision, similar to the Community Convention Center.

Councilor Bushee said she understands the motive, and wanting to limit the scope, so as not to get into small details. However, it may be a significant land use issue and might not be in the Master Plan, and she would want to be able to consider that. She said the spirit of the Resolution is that we want to hear anything significant in relation to the Northwest Quadrant, particularly with regard to land use. She asked Councilor Calvert his reason for limiting this to the Master Plan.

Councilor Calvert said he was looking at significant changes. He said the Master Plan is where most of the financial implications will arise was the zoning ordinance that included the Master Plan, as well as that is where all of the conditions were imposed by the Council that night.

**MOTION TO AMEND:** Councilor Bushee moved, seconded by Councilor Chavez, to amend the motion to keep the original language on page 2, lines 16 and 17, as follows, "1. Land use decisions such as changes in the approved master plan; appeals, and decisions to reverse, affirm or modify a decision of the Planning Commission."

**DISCUSSION ON THE MOTION TO AMEND:** Councilor Chavez believes this amendment makes it more clear. He is also concerned about accepting the Master Plan as drafted, because it would also accept the proposed variances which are not usually granted to other projects.

Mayor Coss said, for the record, no variances were granted that night and those will be withdrawn at this point.

Councilor Chavez said the Master Plan is a work in progress and will change, and those changes and revisions should follow the normal course – Planning Commission, ENN and then Council approval. He said, regarding the proposed amendment, "if that's what we're after, I think it gets us there."

Councilor Ortiz said he will speak to the proposed amendment in two ways. First, the reason it was stricken in Finance Committee, is that he believes the original language in Paragraph #1 is an overstatement of the Council's authority for this particular approval process. He said if we approve Paragraph #1, we are saying that this decision and only this decision requires six votes on everything related to land use matters, which is a different interpretation of our Governing Body Rules, but also the State law regarding approvals of land use matters by a municipality. We are doing this by Resolution, and not by Ordinance. He reiterated that he believes this is a gross overstatement.

Councilor Ortiz continued, "I understood that the concern of the Councilors who were sincere about this Resolution, was to get at a majority, a 2/3 majority of the people, on the significant decisions. And I understand that there is probably an effort by some of the other Councilors who would support this Resolution to just try and stall the process by making the vote a super majority. I can tell you that I agree... Paragraphs #2 and #3 are significant decisions that require, I think, a super majority, because they're financial in nature. As I understood Councilor Calvert's amendment, Councilor Calvert's amendment is dealing with significant decisions, because if there are changes to the conditions of approval in the

approved Master Plan, we would need to have a bigger majority than what we have now. By keeping this paragraph in, what we are saying is, any decision, any decision that comes in on any of the smaller items require six votes. That, to me, seems like a gross overstatement of our authority. And so, on this amendment, I think... I'm going to be voting against the amendment, and I don't think it should pass."

Councilor Bushee said, "If you read the paragraph that starts this off, it's just again a Resolution, and we're putting intentions... and this is Councilor Calvert's and Romero's, and I'm glad they followed up and brought this forward, even though I think, probably, an ordinance in the end would be helpful. But it says that '...significant decisions regarding the Northwest Quadrant Project shall require approval by...' The Governing Body can decide to make itself require a super majority with regard to anything it wants to."

Councilor Bushee continued, "And, I don't think it's in any way trying to hold up anything, it's just simply saying, this is a significant piece of land, this is a significant project with a significant investment, and in fact, the majority of the public hearings followed closely, mostly land use decisions. And I think it's really significant that you have... I would hope we would even have an absolute full complement of Councilors on the Governing Body if we're going to support something that's going to involve something significant. And, now, I'll grant you in the discussions, when it's in the future, if it's some small, little land use change, I doubt anyone's going to bother bringing it forward. So, I like the original language. I just think it's broad enough and I don't want to leave out something by some high jinks of well, we've got to make it just be having... having been stated in the Master Plan, because I think that Master Plan is going to change considerably."

Mayor Coss said, "The Master Plan is already included in the first part of the language, and then up on line 15, it says, 'decisions include, but are not limited to...' and Councilor Calvert said it should include "Significant," on line 14 as well, so it reads, "Significant decisions include, but are not limited to.,,"

Councilor Bushee said this is a Resolution.

Councilor Ortiz said it has no legal effect.

Councilor Bushee said now we are just wordsmithing.

Councilor Ortiz said, "We are wordsmithing because we want to let the record be clear for future Councils exactly what was said here, and exactly what the motives were of the majority of the Governing Body who is going to be voting on this Resolution. And so, we're not going to be getting into a place where people are going to say that any little decision that comes forward on this project is going to require six votes of the Governing Body. That's what we're trying to avoid. We're trying to spend our time on what our significant decisions are, and I think those are decisions involving taxpayer money and the approved Master Plan, and so I support Councilor Calvert's original amendment and I oppose the amendment that was inserted now by Councilor Bushee."

Councilor Bushee said, "And again, Mayor, it just... it says right there, these will be significant decisions and it's just suggesting, such as the approved Master Plan. But, I'd hate to leave out something as significant as say, escarpment and/or a road change, if it didn't end up being something that was originally



discussed in the originally approved Master Plan, if there were a change. And, that may be that, you know, the developers decide that something was not done right in the first place and it's a significant change. I think that this is.... I don't understand why there's such a concern as just saying land use decision in general."

Councilor Ortiz said, "Because it's a Trojan Horse, Mayor. What Councilor Bushee is trying to say is, any decision involving this Plan is going to be considered a significant decision. As we all are well aware, in a development plan, that fact that a road is 60 feet off of center in an approved Master Plan is not a significant decision requiring six votes of the Governing Body. That's what we're doing here. We're trying to put.. tucking in every conceivable decision, especially where I don't think we have the ability to have six votes to reverse, affirm or modify a decision of the Planning Commission, a Planning Commission that still has just a bare majority requirement, as a part of the decision making process and authority that we have here on this particular project. Again, I didn't think that that was the intent of the original sponsors of the Resolution, and why I think that Councilor Calvert's more measured, more responsible approach is the better approach."

Mayor Coss said, "I just want to follow this through a little bit, because my understanding is that now that there is a master plan and zoning general plan amendment, and the variances are being withdrawn, the next step, for now, would be a development plan review, which would not come to the City Council, it would go to the Planning Commission. But, it might come back to us if somebody appeals the Planning Commission's decision."

Councilor Ortiz said, "Decisions to reverse, affirm or modify a decision of the Planning Commission, is what's being stated."

Mayor Coss said, "So, what my question is, does the Council want to put itself in a position of needing six votes to reverse or affirm an appeal. Because, what if you like the way the Planning Commission ruled, or you dislike the way the Planning Commission ruled, and you want to reverse it, but now you need six votes. And, I saw this on the Thornburg case and one person took a walk, or didn't take a walk, was excused, but wasn't there for the vote, and the majority didn't prevail. But, you know, I like the six vote concept. I think, when you're talking about financial, it's there anyway, but I think the six votes helped us get through the Convention Center and come up with a project that the community, by and large, supports and enjoys."

Councilor Chavez said, "Mayor, I think it's good that we're discuss..."

Mayor Coss recognized Councilor Romero first because she hasn't spoken yet.

Councilor Romero said, "As one of the original sponsors of this Resolution, it's gone through the committee process, and the language that was in there that we had worked on, included all of it, just for Councilor Bushee, that's what we had originally proposed in that language. In the Finance Committee there was some negotiations about what would work the best, given the language of significant decisions. I could go either way on it. I supported originally what we had put in, which included much more clarity on appeals, decisions, affirming... everything that's in here I agreed with it. But, I thought in the spirit of cooperation,

that it was clear with significant decisions included. But, I understand a 6-2 majority, when we... if we ever reach that point, would be an important decision to make. So, I'm supportive of leaving the language in, if that's the direction that you're going in, because that's where we started at the... before it went to Finance Committee where it was changed."

Councilor Chavez said, "We were talking about, I think, maybe being more transparent in how these, especially this project, moves forward. We're talking about having a 2/3 majority from this point forward, but there were critical junctures in the debate when we could have applied this and we were talking about public assets, like buying land from the school or allocating water for the project. Those are both public assets and we made those decisions. I didn't agree with them, but the Council made those decisions without this 2/3 majority. So, I think it's a little late in the game, but maybe, in this case, better late than never. But, I think, aside from the fiscal impact or the financial implications, we also know that as far as planning is concerned, and planning for new development, this was not the best way to accommodate that new growth. Not only was the Council divided and that put the Mayor in an awkward position, but it really pitted two neighborhoods against each other... really did not provide the real solutions to the problems that they were looking for. And so, I don't think anyone really gained that much out of this. It's not to say that we may not gain in the future and that this project may not actually break ground and provide the benefits that we're looking for, but I just think that the way we approached it has not given us the best results right now. So, I just wanted to make those observations."

Councilor Calvert said, "I just wanted to ask a question of Councilor Bushee. On that last part, '... and decisions to reverse, affirm or modify a decision of the Planning Commission,' do you want to keep that part in there. Do you want to have to have six votes to call those up for appeal."

Councilor Bushee said, "No. Again, I don't have the crystal ball. I was just trying to keep it a little broader, than just saying it had to pertain to the Master Plan. So, if you want to strike that language... I just don't want to lose something, if it happens to come from the development plan or some other place... I think it would have been great if we had this in place, in general, for large, significant decisions and significant projects. And again, if there's an appeal, it's likely going to have to be brought to the Council, and how are... I mean they're so rare, that we get appeals after the fact on a development plan, that's a small little.. for a [inaudible]... that is a matter. If you want to take that language, but I.... this is just simply stating, again, a Resolution that says significant decisions. It's future Councils most likely that are going to be dealing with this. And, so, it's just making examples as... such as... So, I'm fine with broad language right now and folks can narrow that down when they get down to that fact."

Mayor Coss asked Councilor Bushee if that is an amendment to her motion.

Councilor Bushee said, "No. I just think we should vote."

Councilor Calvert asked Councilor Bushee if she wants to keep the Planning Commission stuff in the Resolution.

Councilor Bushee said, "If you want to not put those in as a specific example... but I don't think... if you want to just say, 'land use decisions such as,' but I don't think you are going to limit it from coming up if it's an appeal or something from the development plan. If it's generally broad."

**FRIENDLY AMENDMENT.** Councilor Calvert proposed to amend the proposed Motion to Amend as follows: "1. Land use decisions such as changes in the approved master plan and appeals ~~and decisions to reverse, affirm or modify a decision of the planning commission.~~" **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND THE SECOND, AND THERE WERE NO OBJECTIONS FROM THE OTHER COUNCILORS.**

**VOTE ON THE MOTION TO AMEND, AS AMENDED:**

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

**Against:** Councilor Ortiz and Councilor Trujillo.

**Explaining his vote:** Councilor Ortiz said, "To require six votes on an appeal, I think is a violation of our Governing Body Rules of Procedure, is a violation, I think, of State law, and so I vote no."

**VOTE ON MAIN MOTION, AS AMENDED:** The motion was approved on the following Roll Call vote:

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

**Against:** None.

**Explaining his vote:** Councilor Ortiz said, "This Resolution does not have the provision that requires six votes to repeal it or change it, and so, because I think that the intent of this is good, even though I think it's going to be changed in the near future, I'm going to vote yes."

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**END OF CONSENT CALENDAR DISCUSSION**  
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**11. MATTERS FROM THE CITY MANAGER.**

There were no matters from the City Manager.

**12. MATTERS FROM THE CITY ATTORNEY**

**EXECUTIVE SESSION:**

- a) **DISCUSSION OF BARGAINING STRATEGY PRELIMINARY TO COLLECTIVE BARGAINING NEGOTIATIONS, PURSUANT TO §10-15-1(H)(5) NMSA 1978.**

- b) **DISCUSSION OF MODIFICATION OF TERMS OF THE TERMINATION OF THE JICARILLA APACHE NATION (JAN) LEASE, PURSUANT TO §10-15-1(H)(8) NMSA 1978.**
- c) **DISCUSSION OF APPLICATION OF HISTORIC DISTRICT ORDINANCE TO GOVERNMENTAL ENTITIES, PURSUANT TO §10-15-1(H)(7) NMSA 1978.**

**MOTION:** Councilor Romero moved, seconded by Councilor Trujillo, that the Council go into Executive Session for the purpose of discussion of bargaining strategy preliminary to collective bargaining negotiations, pursuant to §10-15-1(H)(5), discussion of modification of terms of the termination of the Jicarilla Apache Nation (JAN) Lease, pursuant to §10-15-1(H)(8), and discussion of the application of the Historic District Ordinance to governmental entities, pursuant to §10-15-1(H)(7).

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

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

**Against:** None.

**Explaining her vote:** Councilor Bushee voted yes, saying she thinks Item #14 should be discussed in public.

**Prior to voting, Councilor Chavez asked the following:** "In item 14, Frank, as it applies to the Historic District Ordinance, it would involve the State as an entity and the School Board as an entity, right. Those are the two that..." Mr. Katz said, "The County and the School Board." Mayor Coss said, "Not the State because we have a new piece of State Legislation that addresses it – It's the School Board and the County. Councilor Chavez said, "So I needed some clarification on that. Thank you Mayor, so I'll vote yes."

**Following the unanimous vote approving the Motion to go into Executive Session, and prior to going into Executive Session, the Governing Body had the following discussion:**

Councilor Bushee said, "Well, and Mayor, I just want to ask the City Attorney. I understand there's been a decision made to take both... well, take other entities to Court to stress a point, but I should think that ends up being a policy decision or a legislative decision. And so, without having the history or the background of how that decision came to be, I feel like it's best discussed in public. Is there a reason this has to go behind closed doors."

Mr. Katz said, "Mayor, Councilors, generally, when the Governing Body is discussing whether to file suit, they tend to have that discussion in executive session, and I think that's going to be the nature of the discussion. Any decision would then come out for a public vote."

Councilor Bushee said, "But that's my concern. There's been an indication that there was already a discussion of such a topic and that there were decisions made, and minutes that.... I would like to know are there... is there a public record of the original decision that said we would go to court."

Mr. Katz said, "Mayor, Councilors, no, there is not."

Councilor Bushee said, "So, this is what I don't want to see happen again, is that we once again have... I think that's something that's a policy decision. I think the Governing Body needs to make that decision. I think we should do it in public."

Mr. Katz said, "Mayor, Councilors, I think the decision will be made in public. I think the discussion is probably appropriate in private."

Councilor Bushee said, "Yeah, well you and I have disagreed quite a bit on what we see and talk about behind closed doors, so I'm... want to... I would like some minutes, actually is what I would like."

Mayor Coss said, "The only discussions previously have been in executive session and there wasn't a vote taken, so there are not minutes on that."

Councilor Bushee said, "I mean, I guess my point is.."

Mayor Coss said, "Oh, you'd like to have minutes from this meeting."

Councilor Bushee said, "Well no. Minutes because we are essentially making a decision to go to court without the Governing Body ever having made that decision. And, now we're going to go discuss that decision that was never made in private. Right. That was never made."

Mayor Ortiz said, "Mayor, we've never made a decision to go into litigation against anyone regarding this. It was my understanding from talking to the City Attorney last week when this issue came up, that this item, Item 12(c) on Executive Session and then 14 on the public session, would be our chance to discuss litigation in the former, and then have the decision on whether or not we are going to sue in the latter. So, we have not made a decision, even to sue anyone."

Councilor Bushee said, "I understand. I just think it's a policy decision. I think we should be deciding if it's something we want to even test in Committees and what have you, and not in executive session."

Councilor Ortiz said, "I've never had the experience of actually making a decision to sue someone..."

Councilor Bushee said, "Not to sue, but to test our ordinance and what way we would test our ordinance."

Councilor Chavez said, "Well, Mayor and members of the Council and public, there is a letter that

we all received dated November 9, 2009. It's regarding "Threat of Suit by City against the Santa Fe Public Schools.' And it says that, and I'll just take a little bit out from it, it says that "The City intends to seek a declaratory judgment from the District Court, on this issue. [gap here on change of tape] We've received an opinion. It's signed by the School Board President and the Superintendent, so it seems to me that they've already taken a position on our seeking this declaratory judgment, so I don't know I think that the issue is out there. The issue is whether these entities follow our Historic Rules or not, and there's two or three ways that we can get to that. I think this is only one of those routes to come to some solution on this."

Mayor Coss said, "I hear Councilor Bushee's point, but the motion is to go into executive session for a, b and c, but if the Council would like to separate out (c) and just do that in open session, I think that's the prerogative of the Council. But, right now, the motion is for a, b and c. Okay. Roll Call. Yolanda."

Yolanda Vigil said, "I had taken the roll call, do you want.."

Mayor Coss said, "You did take the roll."

Councilor Bushee said, "I think I didn't vote yet."

Yolanda Vigil said, "You had voted yes."

Mayor Coss said, "So, we're just going into executive session."

Councilor Bushee said, "All right, I may just sit out on 14."

The Council went into Executive Session at 5:50 p.m.

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

**MOTION:** At 7:15 p.m. Councilor Chavez moved, seconded by Councilor Trujillo, that the City Council come out of Executive Session and stated that the only items which were discussed in executive session were those items which were on the agenda, and no action was taken.

**VOTE:** The motion was approved unanimously on a voice vote with Councilors Bushee, Calvert, Chavez, Ortiz, Romero and Trujillo voting for the motion and no one voting against.

### **13. ACTION ON MODIFICATION OF TERMS OF TERMINATION OF LEASE WITH JICARILLA APACHE NATION. (FRANK KATZ)**

**MOTION:** Councilor Ortiz moved, seconded by Councilor Romero, to approve the modification to the settlement agreement, as directed by City Staff.

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

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

**Against:** None.

**14. ACTION ON APPLICATION OF HISTORIC DISTRICT ORDINANCE TO GOVERNMENTAL ENTITIES. (FRANK KATZ)**

Councilor Chavez said no action was taken, but direction was given to the staff to negotiate with the interested parties.

*Mayor Coss moved Item #13 Matters from the City Clerk, and #14 Communications from the Governing Body, to the end of the agenda.*

**END OF AFTERNOON SESSION AT 7:19 P.M.**

## **EVENING SESSION**

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

The Evening Session was called to order by Mayor David Coss, at approximately 7:20 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 Patti J. Bushee  
Councilor Christopher Calvert  
Councilor Miguel Chavez  
Councilor Matthew E. Ortiz  
Councilor Rosemary Romero  
Councilor Ronald S. Trujillo

#### **Members Excused**

Councilor Rebecca Wurzbarger, Mayor Pro-Tem  
Councilor Carmichael A. Dominguez

#### **Others Attending**

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

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

**Sagemaya Dandi, 1492 Upper Canyon Road**, said he is here to petition the Council on two issues. One regarding service dogs and the lack of the City's enforcement. He said on Picacho on the City trails, his dog, which is a service dog, was attacked by two pit bulls and a Chow a week ago Monday. He asked if the City is complicit in allowing people to run their dogs off leash. He referred Mr. Katz to New Mexico Statutes regarding service dogs, which are §§28-11-1 through 28-11-5. He said if a dog comes up to this dog and is unrestrained, the person is guilty of a misdemeanor, not a petty misdemeanor. He said each day he walks on Canyon Road, but when he gets to Patrick Smith Park there is no enforcement. There are 50 people there with their dogs running off leash in the park. He petitioned the Governing Body to instruct Mr. Katz to ask the Attorney General if we can have dog parks, or any place where people can run their dogs off leash, condoned by the City.

Mr. Dandi said the second issue is regarding the water park at Upper Canyon Road and Camino Cabra. He petitioned staff to put a sidewalk on the roadway and then a pathway, to eliminate the sidewalk up on the roadway and leave the pathway open. He said the construction people tell him they're on



schedule, but they aren't completing the pathway. He said he has asked them when it would be done, and he's getting no response which is unsatisfactory. He petitioned the Governing Body to walk with him up Canyon Road so they can understand where the problems are, noting this is the 4<sup>th</sup> time he's mentioned that from the intersection of Acequia Madre to Camino De Lora there are No Parking signs on both sides of the road. He said Councilor Trujillo is the only Councilor who has accepted his invitation, and is beginning to understand some of the problems, but there are a lot more which need to be addressed. He asked when the City will take appropriate action to remove the cars and stop people running their dogs off leash.

Mr. Dandi said there is an incumbent Councilor running for Mayor, and an incumbent Mayor running for reelection. He asked the Governing Body to open the chambers and have a discussion about all of the problems which need to be addressed. He said it is important to open the books to Santa Fe. He said when he went to Kathryn Raveling, her books were open, but now they aren't open. He encouraged the viewing audience to read *The Looting of America* by Les Leopold which talks about what happens when you bond for everything and then take credit default swaps on these bonds, saying we have over \$700 trillion waged on the earth, while the worth of the earth is only \$40 trillion.

## **G. APPOINTMENTS**

### **Capital Improvements Advisory Committee Business Capitol District/Design Review Committee**

Mayor Coss said he spoke with Councilor Bushee during the break, who has been out of state for several weeks, and he is going to postpone these appointments to the next meeting.

## **H. PUBLIC HEARINGS**

- 1) **CONSIDERATION OF BILL NO. 2009-51; ADOPTION OF ORDINANCE NO. 2009- 47. AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF SANTA FE, NEW MEXICO WATER UTILITY SYSTEM/GROSS RECEIPTS TAX REVENUE BONDS, SERIES 2009 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$61,000,000 FOR THE PURPOSE OF PROVIDING FUNDS FOR (I) THE ACQUISITION, CONSTRUCTION AND IMPROVEMENT OF THE BUCKMAN DIRECT DIVERSION PROJECT AND THE WATER UTILITY SYSTEM, (II) FUNDING A DEBT SERVICE RESERVE FUND FOR THE BONDS, AND (III) PAYING THE COSTS OF ISSUANCE OF THE BONDS; PROVIDING THAT THE BONDS WILL BE PAYABLE AND COLLECTIBLE FROM THE NET REVENUES OF THE WATER UTILITY SYSTEM AND CERTAIN GROSS RECEIPTS TAX REVENUES DISTRIBUTED TO THE CITY; ESTABLISHING THE TERMS, FORM AND DETAILS OF THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, AN**

**OFFICIAL STATEMENT AND A CONTINUING DISCLOSURE UNDERTAKING IN CONNECTION WITH THE BONDS; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION WITH THE BONDS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND RELATED MATTERS. (DAVID MILLICAN AND HELENE HAUSMAN)**

A copy of "An Abstract of Proceedings – Final: November 10, 2009," is incorporated herewith to these minutes as Exhibit "1."

A copy of the bond books for the Water Utility System, presented for the record by George Williford, is incorporated herewith to these minutes as Exhibit "2."

The staff report was given by David Millican. Mr. Millican asked George Williford, Financial Advisor to describe the transactions, and introduced Dwayne Brown, Bond Counsel, and Kevin Powers, RBC Capital Markets, whose firm was the lead underwriter on the transaction.

George Williford reviewed the information in Exhibit "2," noting the AA+ from Standard and Poor's, and the AAA from Fitch [replacing Moody's], which are excellent ratings, noting these ratings bode well for the interest rates.

Councilor Bushee said then we will be saving \$8 million in debt service.

Mr. Williford said it will save \$8.7 million.

Councilor Bushee asked if these funds will go back to the rate payer.

Mr. Millican said the advantage is that in future ratemaking decisions by the Council there will be less cost to deal with, which will allow the Council to set rates which will be lower than they would otherwise have been. He said the whole stream of \$8.7 million is worth \$4 million today because of the structure which was suggested by the financial advisor and the underwriting team. Mr. Millican said there is also a savings with the increase in bond rating, we probably received another 30 basis points in savings. He noted there is a chart on page 11 which shows the history of bond interest rates over 20 years. He said the City hit some of the historic low interest which have been available in the municipal market for 20 years and that will save us money as well.

Responding to Councilor Bushee, Mr. Millican said the bonds sold right away, noting there is a really strong demand for these bonds.

**Public Hearing**

There was no one speaking for or against this request.

**The Public Hearing was closed**

**MOTION:** Councilor Chavez moved, seconded by Councilor Romero, to adopt Ordinance No. 2009-47.

**DISCUSSION:** Councilor Chavez said he thought there were two initiatives, one was to raise rates and the other was our effectiveness in conservation.

Mr. Millican said this is correct, noting the Council has shown real discipline in creating the financial structure for the Water System. He said the fact that we accumulated cash for a very large portion of our share of the BDD project, and not financing the entire portion was a factor. He said also the City's conservation efforts have effectively reduced the need of the system to build new facilities in the future.

Councilor Chavez gave a history of the water company and its relationship to the funding for this project.

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

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

**Against:** None.

- 2) **CONSIDERATION OF BILL NO. 2009-52; ADOPTION OF ORDINANCE NO. 2009-48. AN ORDINANCE REPEALING ORDINANCE NO. 2009-36 WHICH AUTHORIZED THE ISSUANCE AND SALE OF THE CITY OF SANTA FE, NEW MEXICO COLLEGE OF SANTA FE LEASE/SUBORDINATE LIEN GROSS RECEIPTS TAX REVENUE BONDS, SERIES 2009 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$30,000,000. (DAVID MILLICAN)**

Mr. Millican said two options were approved for financing the College of Santa Fe. The City went with NMFA for funding, and this is to withdraw all of the authorizing legislation that allowed that to happen.

**Public Hearing**

There was no one speaking for or against this request.

**The Public Hearing was closed**

**MOTION:** Councilor Bushee moved, seconded by Councilor Romero, to adopt Ordinance No. 2009-48.

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

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

**Against:** None.

**3) CONSIDERATION OF BILL NO. 2009-50: ADOPTION OF ORDINANCE NO. 2009-49 (COUNCILOR CHAVEZ). AN ORDINANCE REPEALING SECTIONS 18-8.1 THROUGH 18-8.8 SFCC 1987, REGARDING PUSH CART VENDORS; AND CREATING A NEW SECTION 23-5.5 REGARDING PLAZA PUSH CART VENDORS. (SEVASTIAN GURULE)**

*Item H(3) and H(3)(a) were combined for purposes of presentation, public hearing and discussion, but were voted upon separately.*

Sevastian Gurule presented information regarding this matter from his Memorandum of September 23, 2009, which is in the Council packet.

Councilor Chavez asked if the application and request for the CRS returns would apply to both pushcart vendors and the artists and craftsmen in the Artist Vendor program..

Mr. Gurule said it is specific to the pushcart vendors. Staff is in the process of preparing the language for the artist/artisan program, and this language will be included in that Code amendment.

Councilor Chavez asked if the requirements also apply to other larger arts and crafts show.

Mr. Gurule said no, this is specifically for pushcarts, but that will be considered as we move forward to address the larger concern. He said in 2007, members of the Governing Body tried to adopt an Ordinance which would require that. However, after public hearings and dialogue with the sponsoring organizations, the bill was watered down. The Ordinance simply requires that the Special Events sponsors will provide copies of the education information which they provided to the artists which states they are required to pay GRTs, and the application would be changed to provide a signature line that the artist/artisan will sign acknowledging this responsibility to pay GRTs.

Councilor Romero asked how the GRTs are reported, the process.

Mr. Gurule said the City is looking for proof that the pushcart vendor has submitted their CRS reports. This will be kept in a sealed envelope, and kept apart from their actual file.

Councilor Romero said then they're only providing their GRT number, and the City isn't looking to see whether they actually filed, and Mr. Gurule said they will file a copy of what they file with Taxation & Revenue.

Councilor Romero asked if this ordinance change has caused controversy.

Mr. Gurule said the concern is how the information will be used, if it is subject to the Public Records Act, and if City employees can access the information – who is privileged to see this information, and how it would be used, and will their names and their CRS numbers be given to the public.

Councilor Trujillo asked if this ordinance captures the pushcart vendors that sell ice cream throughout the City.

Mr. Gurule said this particular Code amendment doesn't address those. He said this basically severs the ties between the Plaza pushcarts and those to which he is referring. He will be working with Melissa Byers and Jeanne Price to address those issues in Chapter 18. He said they currently are reviewing this issue.

Councilor Trujillo asked if the pushcart vendors selling ice cream on the Plaza are now illegal.

Mr. Gurule said yes. The Code currently prohibits the use of sidewalks, streets and parks by pushcart vendors and provides that pushcarts can exist in a shopping mall, a courtyard and on private property. He said these are referred to as an itinerant food vendor where the property owner would have to give written permission to the vendor, and go through the Certificate of Occupancy process. This makes the vendor stationary on private property and the clientele comes to the vendor.

### **Public Hearing**

There was no one speaking for or against this request.

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

**MOTION:** Councilor Chavez moved, seconded by Councilor Romero, to adopt Ordinance No. 2009-49.

**CLARIFICATION OF THE MOTION:** Yolanda Vigil asked if the motion includes the staff amendments. Councilor Chavez said it includes the staff amendments on page 1 of the packet.

Jeanne Price clarified that these are housekeeping amendments because we accidentally repealed what we didn't need to repeal..

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

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

**Against:** None.

- a) **CONSIDERATION OF RESOLUTION NO. 2009- 120 (COUNCILOR CHAVEZ).  
A RESOLUTION ESTABLISHING AN APPLICATION FEE FOR PERSONS  
WHO APPLY FOR A LICENSE UNDER THE PLAZA PUSHCART ORDINANCE,  
§23-5.5 SFCC 1987. (SEVASTIAN GURULE)**

**MOTION:** Councilor Chavez moved, seconded by Councilor Romero, to adopt Resolution No. 2009-120.

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

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

**Against:** None.

- 4) **CONSIDERATION OF BILL NO. 2009-53: ADOPTION OF ORDINANCE NO. 2009-50  
(COUNCILOR BUSHEE). AN ORDINANCE CREATING A NEW ARTICLE 23-89 SFCC  
1987, REGULATING STREET PERFORMERS ON PUBLIC PROPERTY; AND  
AMENDING SECTION 18-8.10 SFCC 1987, REGARDING BUSINESS LICENSE FEES.  
(SEVASTIAN GURULE)**

Sevastian Gurule presented information regarding this matter from his Memorandum dated September 22, 2009, which is in the Council packet.

Councilor Bushee noted that the \$10 short term license fee initially was for youth buskers, noting this has been a very cooperative process. She looks forward to the Buskers Festival.

### **Public Hearing**

**George Robinson** said the Ordinance looks okay to him. However, buskers are charged \$35 annually for a license, while some of the other fees are very low in terms of the revenue they can generate. He asked the Council to consider that and consider lowering the fees.

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

Councilor Bushee said the fees are based on the top rate charged to any business in the City which is \$35. She said the \$25 charged to food vendors is for the application, noting a pushcart license costs \$1,500. She said the buskers pursued this actively to be able to set certain standards, elevating the quality of what is delivered to the community. She said this keeps conflicts from happening, without getting too punitive and dictating, noting there is a lot of self-policing involved. She has enjoyed getting to know the buskers, particularly the youth buskers. She said this is in the same spirit as the way it works in the Farmer's Market which is quite well, noting the Farmer's Market establishes its own rules and regulations.

**MOTION:** Councilor Bushee moved, seconded by Councilor Romero, to adopt Ordinance No. 2009-50.

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

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

**Against:** None.

**Explaining her vote:** Councilor Romero voted yes, saying when this came to the Public Works Committee it was fun to google the subject and learn what's happening around the country with buskers.

**Explaining her vote:** Councilor Bushee voted yes, thanking the staff involved who did a really good job with this.

- 5) **CONSIDERATION OF BILL NO. 2009-54; ADOPTION OF ORDINANCE NO. 2009- 51 (COUNCILOR CHAVEZ). AN ORDINANCE ANNEXING APPROXIMATELY 1,956 ACRES (PHASE 1) IN ACCORDANCE WITH THE "ANNEXATION PHASING AGREEMENT BETWEEN THE CITY OF SANTA FE AND SANTA FE COUNTY," EXECUTED IN FEBRUARY 2009. THE PHASE 1 ANNEXATION INCLUDES AREAS 3, 6, 8, 9, 10, 11, 13, 15, 16, 17 AND THE INTERSTATE RIGHT-OF-WAY BETWEEN OLD PECOS TRAIL AND NM HIGHWAY 599, AS SHOWN ON THE ATTACHED MAPS (EXHIBITS A-L). (REED LIMING)**

*Item H(5) and H(5)(a) were combined for purposes of presentation, public hearing and discussion, but were voted upon separately.*

Reed Liming, presented information regarding this matter from his Memorandum prepared for the public hearing of Tuesday, November 20, 2009, which is in the Council packet, using enlarged copies of the maps which are in the Council packet.

Jennifer Jenkins reviewed the ENN process from the Summary which is in the Council packet as Exhibit F.

### **Public Hearing**

There was no one speaking for or against this request.

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

Councilor Chavez said there has been discussion about the conditions and/or lack of maintenance on some of the roads in Annexation Phase 1 area.

Responding to Councilor Chavez, Mr. Liming said one of the figures is lane miles and you then divide that by two to get road miles, noting these are all two-lane roads, so it is basically 2.5 miles of roadway, and about 5 lane miles.

Councilor Calvert said two conditions of approval of this item at Finance Committee was a requirement to have a MOU with the County and State regarding first responder status on I-25 and #599, and to show compliance with the public safety tax imposed in 2006.

Councilor Calvert asked Mr. Liming to point out those areas in Phase 1 which are along I-25, and how much of the corridor along I-25 is subject to the new areas being annexed – the parcels we are annexing that touch I-25 and how much those parcels comprise of the existing area along I-25. Mr. Liming indicated the areas on the enlarged map, Areas 9, 15 and 16, which actually abut I-25.

Councilor Calvert said we already have area along I-25 currently within City boundaries. He said we are getting first responder status for the whole corridor from Old Pecos Trail to #599, in return for what we're getting in the annexation.

Mr. Katz said, "Chief Wheeler and other folks in the Police Department have been in touch with the State Police and the Deputy there confirmed that they will continue being first responder, and that we will not be expected to be first responder. And I asked Chief Wheeler whether he thought it would be a good idea that we had some sort of an agreement with them, and he did not think that was the case. He thought that the situation was just fine and he didn't want to do anything except just have the State Police to continue to do the main patrolling that they do. And he did draw a distinction, because in Albuquerque, of course, I-25 runs right through the middle and I-40, and it is sort of unusual that Albuquerque would take over that first responder, and it was only because it was just smack-dab in the middle of the City."

Councilor Calvert said he spoke with Deputy Chief Anaya who said, in fact, the State wouldn't enter into those agreements anyway.

Deputy Chief Anaya said, "I did speak with the State Police. I've spoke with them on a number of occasions as well as the Sheriff and the Under Sheriff. In annexing into the City limits, similar as other agencies such as Albuquerque Police Department, as it goes through Socorro as it goes through Las Vegas, as it goes through Las Cruces. If it is within the City limits it does become our primary jurisdiction. Currently, the State Police have no written mutual aid agreements with any law enforcement agency with shared response to the Interstate. However, it is important to realize that the State Police have the ultimate authority on the Interstate. If it is within our jurisdiction, we will be the first responder. However, in time of need, the State Police have told me they would be more than happy to help us out, as they always have with the mutual agreements that we have set in place. On top of that, in 2004, a Mutual Aid Agreement was signed into effect between the Santa Fe Police Department and Santa Fe County Sheriff's



Department, stating basically, if we're in need, they will come to our aid, and likewise we with them. Being as though the City is within the jurisdiction of the County, the County is obviously within the jurisdiction of the State, these other entities will come into play to help us, if necessary and if needed. Those mutual aid agreements are already in place. However, we will be the primary law enforcement agency if that is annexed within our City boundary."

Councilor Calvert asked, "What is your current responsibility in I-25."

Deputy Chief Anaya said, "None."

Councilor Calvert said, "So, this is my concern, and I guess the question I would ask our City Attorney. When we annexed Las Soleras, we didn't annex I-25 then."

Mr. Katz said this is correct, we did not.

Councilor Calvert said he doesn't understand the need for these parcels to do that. He said this was the whole issue with Las Soleras. He said "And, I understand why you're sort of generically throwing in I-25, is because of the issue that we encountered on the annexation of the County roads. So, when we finally got around to doing Las Soleras, we, in fact, only did the County roads. We didn't do I-25. So, I don't follow the logic that says, with these few parcels that we have along here, why do we have to annex I-25 in its entirety. I don't see why we don't go up to the edge of it... and it's a State road. I mean, when we annex the County roads, I understand, we're going to maintain full responsibility. We're going to maintain them. We're not going to maintain I-25, and so I don't see why we should be the first responder either. So, I mean, I have a real problem with annexing all of I-25 in this corridor, simply because I don't think it's necessary and it wasn't consistent with what we did in Las Soleras."

Mr. Katz said, "Mayor and Councilors, the concern I had with the road was because of the decision of the District Court Judge in the Las Soleras annexation, that if the City didn't include in the annexation the boundary road it would be a problem. And, I think that Councilor Calvert is correct that there is a distinction that can be made between a County road and I-25, and it may well be that a Court would agree with that distinction. I was suggesting that we just be on the safe side and make it cleaner and include I-25. There is a risk, but I wouldn't say it's a large risk. And, I think that then just simply gets balance between what the cost would be for our responsibilities on I-25, which were I think estimated to be about \$17,000 per year. And one could say that perhaps there are opportunities on I-25 for law enforcement that the City could take advantage of if it chose to, which could well more than pay for that. I think it is within this body's discretion whether they want to take what I agree is a fairly small risk and leave it out or include it."

Councilor Calvert said not long after the Court decision, the City annexed Las Soleras and we did not include I-25 when we did it. He said, "I think there is some recognition on your part that that was not necessarily needed, and probably not logically seen as what they were after when we talked about the

roads, we're not usually talking about Interstate or that kind of federal-state property."

Mr. Katz said, "I would just point out that we were not the petitioners in the Las Soleras annexation, they were, so we didn't particularly drive that particular train."

Councilor Chavez said he would like to make a motion to approve the annexation.

Mayor Coss said Councilor Chavez can speak to the particular point of discussion, but Councilor Calvert still has the floor.

Councilor Chavez said, "Well, on that particular point then. Councilor Calvert, you're right. I-25 and #599 will stay as State highways. #599, for all of the planning behind it, is not complete. We're doing a safety study on the #599 corridor as we speak. These roadways were identified as boundaries of the City limits for the annexation. Okay. I don't know how many miles of road we're going to be responsible for on I-25, but it's already in, on page 3, that dollar amount and the responsibility has already been highlighted and it's \$17,000 just for the first phase to respond in that section of I-25. So.... no, I'll wait."

Deputy Chief Anaya said, "Mr. Mayor, City Council, it is a 7.5 mile stretch between #599 and Old Pecos Trail. In doing a cost analysis, we had 28 accidents during the time frame 2008 and that's where that cost came from."

Councilor Chavez said that's fine and the cost is reasonable. However, the point he wanted to make is that we are talking about 4.5 miles of road in Phase 1, noting there are total road miles in the City of 1,200 miles, so 5 miles is a small percentage of the total road mileage. He said, "One of the reasons for doing annexation was, in fact, to remove the duplication of services between us, and the County and the State. If we're closer, it makes more sense for us to be the first responder because we're closer, and we're not duplicating services. That allows the State and County Sheriffs to cover the 9,000 sq. miles in the rest of the County. So, I see this as fairly minor. It is a consideration, but it's not enough of a consideration to go back and unravel the Settlement Agreement or go to a Court or to a Judge and ask them what they might think. It's 9 years in the making for the Regional Planning Authority and about 20 years in general debate about when and where we should annex. Twenty years."

Councilor Calvert said, "I don't see this mentioned in the Settlement Agreement anywhere. This was our City Attorney's interpretation of what he thought was the best approach here. This is not going against any agreement we made with the County. They didn't envision us necessarily annexing I-25, and the fact that it's only 5 or 7 miles, it's a totally different type of roadway than the others within the City. And, I guarantee you if there is an incident, there's going to... take a bunch of patrol cars out of the neighborhoods and it's going to be on the south side under a two system set of arrangement that the Police Department's arranging. And they're going to be out there on I-25 and not necessarily patrolling the neighborhoods where we would like them. So, I'm just saying I just don't understand why we want to take on this burden. What the cost could be depends on the extent of the crashes that happen out there, okay. But, we all know that a crash or something on I-25 is much more serious than it would be on Cerrillos Road

or something like that. So, I just don't understand why we would want to take that on. I don't see what the risk is. I don't see who's going to necessarily protest, it sure isn't going to be the County, so I don't see why we want to take that on."

Councilor Ortiz said, "I guess I can give you three reasons off the top of my head why we would want to annex I-25. First, there is the issue that I think staff and the City Attorney has raised, of avoiding the sort of roadway issue that sort of tripped up the City when it went to annex before, so we make it very clear. The second reason is, with regard to your hypothetical, if there's a big crash, we've got our emergency responders who are going to respond anyway. The City ambulances are going to be out there and they're going to be responding to whatever accident occurs on I-25, and my guess is, is that if City Police units are the closest to respond to that, that they would be on the Interstate as well. And, correct me if I'm wrong, but I believe that they have responded from time to time on, for example, #599, a road that's currently not within our annexation boundaries, but it would be on the other side of it, because they were just the closest responders, emergency responders."

Councilor Ortiz continued, "And I guess the more personal reason that I'd want to see it extended is that if we would have had some jurisdiction over I-25, then we would have had some jurisdiction over what the State shoved through with the Rail Runner project and all of the problems that were inherent with the Rail Runner's operations and the construction thereof, and the noise that was generated from the Rail Runner. And there's still ongoing noise and visual impacts that the Rail Runner has to those neighborhoods that are on our side of town. And if the I-25 corridor was in the City limits, then the City would at least have an argument with the State or with MR COG, or with whoever that claims jurisdiction for the Rail Runner, that they have to provide for some sort of mitigation efforts. So, those are the three ideas which come to my mind of why we would want to have that within City property as opposed to not."

Councilor Calvert said that "train has already left the station."

Mayor Coss said it still comes in and out of the City 12 times a day.

Councilor Ortiz said it is still operating and having a daily and nightly impact on neighborhoods within the City. He said the standard line from the State is that "we're not within the City limits, so we don't have to comply, and they made those statements to the federal authorities that gave them permission and that presumably are going to be looking at their application when it comes up again. So, having them within the City limits gives a different perspective to the standard line that the Rail Runner has been giving for two years to, I think, the Federal Highway Administration."

Councilor Chavez said in the name of safety, the City has to be responsible for all of the corridors running through the City – Cerrillos Road, St. Francis, St. Michael's, I-25. He said #599 has already benefitted from the City's speed vans which have been parked on #599 as they should be.

Councilor Calvert asked why they have been parked on #599, and Councilor Chavez said to slow

the traffic, because we don't want people speeding through our town.

Councilor Calvert said he thought #599 wasn't within the City limits.

Deputy Chief Anaya said there are pockets of #599 which are within the City limits – up north, at the intersection of #599 and Airport Road, and one other small sliver.

**MOTION:** Councilor Chavez moved, seconded by Councilor Romero, to adopt Ordinance No. 2009-51.

**DISCUSSION:** Councilor Trujillo said I-25 is now under the County's jurisdiction, noting he has seen the State step in and condemn something and assume ownership, but he has never heard of the City stepping in and saying something is going to be part of our property.

Mayor Coss said it is now in the unincorporated part of the County.

Mr. Liming said the City wouldn't own I-25, and the State DOT has the title to Interstate ROWs within the State. The DOT would still have ownership and maintenance responsibility, and he would defer to the Police Department in terms of what relationship it would have with the State Police on policing an interstate. He said the Interstate would be within the City limits, but it still would be under the ownership, maintenance and jurisdiction of the State.

Councilor Trujillo said if I-25 is now within the City, do you think the City can make the State comply with what it says. He believes it is the State's and they will tell us what to do with it. He said as Councilor Calvert said, the City has the ROW, noting that the ROW goes to the fence line. This is the way he understands the ROW on I-25 all the way from Raton to Las Cruces.

Councilor Ortiz said, the people who were impacted by the Rail Runner, were told by the State that the Rail Runner is outside the City limits and the State doesn't have to comply with the City's noise ordinance. He said the State, in its application to the FHA when the State asked to build in the median, the State made a representation that it was in compliance with all local laws and ordinance regarding noise and mitigation of noise, and checked "yes," because it was in the County and wasn't subject to the noise ordinances in place by the City. He thinks if I-25 is part of the City limits, then, "yes, they're going to do whatever they want because that is typically what the State does. However, if they check off certain items within the responsibilities they have for federal government and allow for public comment, then it will be a changed circumstance that may make a difference or may not."

Responding to the Mayor, Councilor Ortiz said he believes the federal government requires the Rail Runner to follow local ordinances.

Councilor Romero said there are several neighborhoods that were and continue to be affected by the Rail Runner, and the neighborhoods are looking to eliminate some of the concerns in the future. She said this ordinance will give the City more standing. She said, with regard to the safety issue, she has been

assured by Mr. Anaya that the State Police will assist the City in specific instances. However, the City has the primary responsibility.

Deputy Chief Anaya said, "Absolutely. We have a great working relationship with the State Police and they will come to our aid if we need assistance. We will be the primary law enforcement agency within the jurisdiction. However, ultimate authority over the Interstate will be the State Police because it is a state and federal highway." He said there has never been an instance where the State Police refused to assist the City when we requested assistance, so he doesn't see that as a concern.

Councilor Romero said that is a safety issue. In terms of land use, the State will have to abide by our land use ordinances in terms of nuisance or other issues – that will be in the purview of the City once I-25 is annexed, so she is comfortable with the direction.

Deputy Chief Anaya said he is assuming they will follow the same rules and guidelines as they do with #599 where it cuts through the City as well as on St. Francis which runs through the City.

Councilor Bushee asked if the City will assume additional liability, where the City can now be sued because it has annexed this area.

Mr. Katz said he doesn't believe so. He said I-25 is a State owned road and the State has responsibility for road maintenance, and for taking care of it. It is not a City road, and so the City would have no liability.

Mr. Katz said, "If is in the City... I mean it is a little unusual, because usually, when you have an Interstate like that, there is nothing but the road, but in this situation, as Councilor Ortiz points out, there is the Rail Runner. And, not only is there the Rail Runner, but there is the stop at #599 that now may just be a parking lot. It's not impossible that it could also have some businesses, so when people get off the train and walk to their car, they could stop by a store or something." He said this is a future possibility.

Mayor Coss said this may be a small step, but it's also an historic step. He thanked Reed Liming and Councilor Chavez for their long time dedication to this process, and Frank Katz for working so hard with the County and moving this forward.

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

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

**Against:** None.

**Explaining his vote:** Councilor Calvert said he will vote yes and hope that his concerns do not materialize.

**a) REQUEST FOR APPROVAL OF AMENDED MEMORANDUM OF AGREEMENT  
WITH SANTA FE COUNTY FOR ROADWAY IMPROVEMENTS INCIDENT TO  
ANNEXATION PHASE I. (CHRIS ORTEGA)**

**MOTION:** Councilor Chavez moved, seconded by Councilor Romero, to approve the Amended Memorandum of Agreement with Santa Fe County for Roadway Improvements incident to Annexation Phase 1, including the schedule which is with the Memorandum of Agreement which is Exhibit B.

**DISCUSSION:** Mayor Coss asked if the County approved the MOA today.

Mr. Katz said he doesn't know. He said the County was supposed to consider this matter today, and he has been text messaging Steve Ross without getting an answer. He said this is a different MOA than the one previously approved by the Council. He said the "roads folks" have listed the County Roads that they thought needed maintenance and that's attached in Exhibit B. He said the County looked at it and decided that, yes, that's maintenance and we'll do that. He asked the County Manager for a Schedule and he had one of their Roads people to email the Schedule which you see on Exhibit B. He said this MOA provides that the County will maintain these roads to standard and will fix them in accordance with what is listed in Exhibit B and the roads will not come under City ownership or maintenance until that repair is done, and they will then notify us when it's done. The City then, by written document, "will take those roads in." It doesn't put the City in the position of having to deal with those roads.

Councilor Ortiz said, "So, Chris on the Governor Miles improvements that need to happen on the County portion of the road, it says, 'from east of Miles land to Richards Avenue.' Shouldn't that be from where the curb and gutter end to the intersection to Richards Avenue."

Chris Ortega said, "That half mile distance begins at the intersection of..."

Councilor Ortiz said, "Miles Lane happens about... I don't know, maybe a tenth of a mile, maybe a hundred yards from the curb cut where the subdivision ends. And there's a steep drop-off on the south side of Governor Miles Road that... the City is saying that that's going to be our responsibility, we're going to have to fix that. Because Miles Lane starts right where that house is... the property with the two houses it took a long time to sell." He asked if they are saying that that's our responsibility."

Mr. Ortega said, "If I understand correctly, the County is agreeing to do the maintenance that we had asked them to do, and it would be from Richards Avenue eastward to Pueblos del Sol."

Councilor Ortiz said, "But that's not what it says on this. It doesn't say to Pueblos.. it says east of Miles Lane to Richards Avenue. Richards avenue is west of Pueblos del Sol."

Mr. Ortega said, "Yeah. Actually it should say the City boundary, but the City boundary is east of Miles Lane. It's just not real clear on the distance. This is Miles Lane right here where my finger is, and this is

the edge of the current City limits. So, east of Miles Lane is more accurately right there. It's not Miles Lane, it is east of Miles Lane."

Councilor Ortiz said, "So you're not doing... you're not asking the County to do any improvements to any segment of Richards Avenue east of Richards Avenue. You're only asking them to do it..."

Mr. Ortega said, "No. It's from east of Miles Lane, which is here, to Richards Avenue, which is here. So, if I started east of Miles Lane and go westward until it ends at Richards Avenue, it's this whole length from here to here across this yellow..."

Councilor Ortiz asked, "What is that segment then?"

Mr. Ortega said, "This is the existing City limits."

Councilor Calvert said, "Then that would make the City limits east of Miles Lane."

Mr. Ortega said, "It probably should say the City limits that are east of Miles Lane, westward to Richards Avenue."

Councilor Ortiz said, "And the drainage that you're talking about. It says, 'Clear overgrowth. Drainage at driveways, no culverts.' So there's drainage issues on the north side of Governor Miles that are not on existing driveways or on the private driveways."

Mr. Ortega said, "The drainage issue that we were familiar with was... I can't remember which road it was..."

Councilor Ortiz said, "That private driveway."

Mr. Ortega said, "It's one of these roads here."

Councilor Ortiz said, "And then it doesn't just spill into the road, it actually spills onto... you know, it travels..."

Mr. Ortega said, "There's silt on Governor Miles Road."

Councilor Ortiz asked, "Is that part of the requirement that staff is going to have them fix?"

Mr. Ortega said, "My understanding is that the answer is yes, because it says drainage at driveways....that excludes the installation of culverts, but it is to address draining issues that are causing that silt to come onto Governor Miles Road. So, my understanding is that the County is agreeing to address that."

Councilor Ortiz said, "And the City staff has a chance of approving the work, once it gets done, right?"

Mr. Ortega said, "That's correct. Inspect, and then if the inspection is favorable, then acknowledge that, and accept the road formally."

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

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

**Against:** None.

- 6) **CONSIDERATION OF BILL NO. 2009-55: ADOPTION OF ORDINANCE NO. 2009- \_\_\_\_ (MAYOR COSS). AN ORDINANCE AMENDING SECTION 9-1.3 SFCC 1987, REVISING THE MUNICIPAL ELECTION DISTRICT MAP TO REFLECT ANNEXATIONS. (YOLANDA Y. VIGIL)**

**MOTION:** Councilor Ortiz moved, seconded by Councilor Trujillo, to postpone this item to the meeting of December 9, 2010, so that we can have additional information provided from the City Attorney and the City Clerk on the Precincts.

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

- 7) **CONSIDERATION OF BILL NO. 2009-49; ADOPTION OF ORDINANCE NO. 2009- \_\_\_\_ (MAYOR COSS). AN ORDINANCE AUTHORIZING LEASES FOR THREE TRACTS OF LAND TOTALING 9.5692 ACRES CONSISTING OF TRACT 1/PHASE 1 (3.9587 ACRES LOCATED NORTH OF WEST ALAMEDA, EAST OF LAS CRUCITAS AND SOUTHWEST OF WEST SAN FRANCISCO STREET; TRACT 1/PHASE 2 (3.7370 ACRES) LOCATED NORTH OF WEST ALAMEDA, WEST OF CAMINO DEL CAMPO AND SOUTH OF WEST SAN FRANCISCO STREET; AND TRACT 3 (0.3500 ACRES) LOCATED NORTH OF WEST ALAMEDA, EAST OF CAMINO DEL CAMPO AND SOUTH OF WEST SAN FRANCISCO STREET. (SANTA FE CIVIC HOUSING AUTHORITY/VILLA ALEGRE PROJECT) (MAYOR COSS). (LEE DePIETRO). (Postponed to the December 9, 2009 City Council Meeting)**
- a) **REQUEST FOR APPROVAL OF GROUND LEASE – VILLA ALEGRE HOUSING PROJECT; SANTA FE CIVIC HOUSING AUTHORITY.**
- 1) **MULTIFAMILY**
  - 2) **SENIOR**
  - 3) **WORKFORCE**
- (Postponed to the December 9, 2009 City Council Meeting)**

Item H(7) and H(7)(a) were postponed to the Council meeting of December 9, 2009.



**13. MATTERS FROM THE CITY CLERK**

There were no matters from the City Clerk.

**18. 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 November 10, 2009, is incorporated herewith to these minutes as Exhibit "3."

**Councilor Trujillo**

Councilor Trujillo had no communications.

**Councilor Calvert**

Councilor Calvert said he is introducing a Resolution amending Resolution No. 2007-22, which established the Parks Open Space Advisory Commission to include a Subcommittee to serve as the Municipal Tree Board. He said this is needed for Santa Fe to qualify as a Tree City USA. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "4."

Councilor Calvert said he will not be introducing the Ordinance amendment to include a condition that non-emergency traffic through Casa Solana is not an option. He said he will rely on a letter received today, and inclusion in the Findings of Fact and Conclusions of Law which supported the Council decision on the Northwest Quadrant as the basis, which will show whether or not there is a need for a certain condition on the traffic going through Casa Solana.

**Councilor Bushee**

Councilor Bushee said she has nothing at this time.

**Councilor Ortiz**

Councilor Ortiz had no communications.

### **Councilor Chavez**

Councilor Chavez announced a Neighborhood Watch Meeting on November 17, 2009, at 7:00 p.m., at the B.F. Young complex on Sierra Vista Street. He thanked staff for helping him organize the meeting, and thanked and commended the neighbors for taking on the responsibility to organize.

Councilor Chavez introduced a Resolution prohibiting the purchase of alcohol with City funds and directing staff to amend the Purchasing Manual accordingly. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "5."

Councilor Chavez said, "I'd also like, Mayor, to have some kind of accounting, and not the accounting that we've seen play out in the newspaper, but a clear accounting of what was spent, the total amount spent on the Creative Cities Conference, the source of all the funds, the total number of those attending, and, if possible, where they were from, and total number that paid to attend that conference. And, do we know if the City paid for anyone attending or not. Was there staff time spent on planning or attending the conference. Was there an initial expected number of attendees and was the attendance lower than what was expected. I have these handwritten. I can maybe put them in an email form, Galen."

Councilor Chavez continued, "And then, the final question has to do with a reception that was held at a private residence, using City funds. I think it would be good for us and the public to know who attended that reception and how much was spent on that event."

### **Councilor Romero**

Councilor Romero introduced a Resolution, cosponsored by Councilor Wurzbarger, directing staff to apply for a six month extension of funding for an existing Municipal Arterial Program. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "6."

Councilor Romero requested that Councilor Bushee put an update on the Parks Bond Initiative at the next meeting of the Public Works Committee. Responding to Councilor Bushee, Councilor Romero said she also would like for the Advisory Commission to report to the Committee as well. She said, because it is an Advisory Commission, she would like that report.

### **Mayor Coss**

Mayor Coss wished Councilor Calvert and all veterans a happy veterans day tomorrow. He thanked Lanae, Carla and those who worked on the Veterans Day Parade for tomorrow, noting Mary Ann Seiderer will be the Grand Marshal for the parade. The parade will honor women veterans and all veterans. The parade begins at 10:00 a.m., from the Fire Station on Morales Road and it goes to the

Veterans' Memorial by the Bataan Building. He invited the public to attend tomorrow and join him in honoring our veterans tomorrow, and cheer-on Mary Ann as Grand Marshal of the parade.

Mayor Coss introduced the following on behalf of Councilor Dominguez:

1. An Ordinance granting a non-exclusive franchise to CityLink Fiber Holdings of Santa Fe to rent, use and occupy the City's public rights-of-way. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "7."
2. An Ordinance granting a non-exclusive franchise to Extenet Systems, Inc., to rent, use and occupy the City's public rights-of-way. A Copy of the Ordinance is incorporated herewith to these minutes as Exhibit "8."
3. A Resolution regarding the enforcement of the City's Codes for building without a permit. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "9."

#### I. ADJOURN

The was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 8:50 p.m.

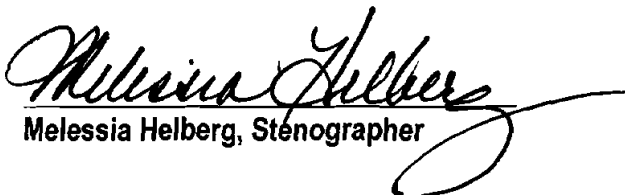
**Approved by:**

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

**ATTESTED TO:**

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

**Respectfully submitted:**

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