



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
JULY 28, 2010
CITY COUNCIL CHAMBERS

AFTERNOON SESSION – 5:00 P.M.

CITY CLERK'S OFFICE

DATE 7/23/10 TIME 2:10 pm

SERVED BY _____

RECEIVED BY tridominguez

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. SALUTE TO THE NEW MEXICO FLAG
4. INVOCATION
5. ROLL CALL
6. APPROVAL OF AGENDA
7. APPROVAL OF CONSENT CALENDAR
8. APPROVAL OF MINUTES: Reg. City Council Meeting – July 14, 2010.
9. PRESENTATIONS
 - a) Muchas Gracias – Chris Ortega, Engineering Division Director. (5 minutes)
 - b) Muchas Gracias – Heavy Rescue Team for Swift Water Rescue Performed on July 3, 2010. (5 minutes)
 - c) Introduction of New City Historian Jose Garcia. (5 minutes)
 - d) Parade of Homes – August 13-15, 2010 and August 20-22, 2010. (Sherry Johansen, Santa Fe Area Home Builders Association. (5 minutes)
10. CONSENT CALENDAR
 - a) Request for Approval of Procurement Under City of Santa Fe Purchasing Manual, Section 18 (Exceptions) – 18.7.L – Sports Lighting for Ragle Park Renovation; Musco Lighting. (Ben Gurule)
 - b) Request for Concept Approval of Lease Agreement – Use of City Public Right-of-Way Within Burro Alley Appurtenant to Restaurant Located at 207 West San Francisco Street; Majed Hamdouni d/b/a Casablanca. (Edward Vigil)



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- c) Request for Approval of Amendment No. 1 to Professional Services Agreement – Benefits Consulting Services for Human Resources; AON Risk Insurance Services West, Inc. (Vicki Gage)
- d) Request for Approval of Amendment No. 1 to Capital Cooperative Agreement (CCA) – Reduction of 2010 Legislative Appropriations; New Mexico Department of Transportation. (David Chapman)
- e) Request for Approval of Amendment No. 1 to Lease Agreement – Santa Fe Municipal Airport; American Eagle Airlines, Inc. (Jim Montman)
- f) Santa Fe Municipal Airport (Jim Montman)
 - 1) Request for Approval of Revised Task Orders 23 and 30 – Design Work on Reconstruction of Taxiway A and Taxiway C; Molzen-Corbin and Associates.
 - 2) Request for Approval of Grant Application – Federal Airport Improvement Program for Designing Reconstruction of Taxiway A and Taxiway C.
 - 3) Request for Approval of State Grant Application – Providing Federal Grant Matching Funds for Designing Reconstruction of Taxiway A and Taxiway C.
 - 4) Request for Approval for Airport Manager to Accept State and Federal Grants in Order to Meet Federal Airport Improvement Program Deadlines.
- g) Santa Fe Municipal Airport (Jim Montman)
 - 1) Request for Approval of Revised Task Orders 39 – Conducting an FAA Mandated Wildlife Hazard Assessment (WLHA); Molzen-Corbin and Associates.
 - 2) Request for Approval of Grant Application – Federal Airport Improvement Program for Conducting an FAA Mandated Wildlife Hazard Assessment.
 - 3) Request for Approval of State Grant Application – Providing Federal Grant Matching Funds for Conducting an FAA Mandated Wildlife Hazard Assessment.
 - 4) Request for Approval for Airport Manager to Accept State and Federal Grants in Order to Meet Federal Airport Improvement Program Deadlines.



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- h) CONSIDERATION OF RESOLUTION NO. 2010-_____. (Councilor Dominguez and Councilor Ortiz)
A Resolution Directing Staff to Proceed With a Community Planning Process for the Airport Road Area that will Result in a Master Plan that Focuses on Establishing a Healthy Community, Streetscape Enhancements and Adjoining Land Development. (Katherine Mortimer)
- i) CONSIDERATION OF RESOLUTION NO. 2010-_____. (Councilor Ortiz, Councilor Calvert, Councilor Trujillo, Councilor Wurzbarger, Councilor Dominguez, Councilor Romero and Councilor Bushee)
A Resolution Directing Staff to Find and Allocate, Out of Current CIP Reserves, One Million Dollars for a One-Stop and Permanent Homeless Shelter. (Isaac Pino and Terrie Rodriguez)
- 1) CONSIDERATION OF RESOLUTION NO. 2010-_____.
A Resolution Declaring Official Intent to Reimburse the City With the Proceeds of a Future Tax-Exempt Borrowing for Capital Expenditures Paid to Acquire, Construct and Improve Various Public Projects; Identifying the Capital Expenditures and the Funds to Be Used for Such Payment; and Providing Certain Other Matters in Connection Therewith. (Kathryn Raveling)
- j) Request for Approval to Publish Notice of Public Hearing on August 25, 2010:

Bill No. 2010-23: An Ordinance Approving a Lease Between the City of Santa Fe and NVT Licenses, LLC, for Approximately 11.463 Acres of City-Owned Land Located at the Santa Fe Municipal Airport to Be Used for the Construction of a Photovoltaic Electrical System Benefiting the Wastewater Management Division. (Councilor Calvert) (Jim Montman)
- 1) Request for Approval of Lease Agreement – 11.463 Acres of Airport Land for the Purpose of Constructing and Maintaining a Photovoltaic System for Supplying Electrical Energy Output Benefiting the Wastewater Management Division. (Jim Montman)



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- k) CONSIDERATION OF RESOLUTION NO. 2010-_____.
A Resolution Relating to a Request for Approval of Fourth Quarter Year-End Budget Adjustments for Fiscal Year 2009/2010. (Cal Probasco)
- l) Request for Approval of Change Order No. 21 – Santa Fe Community Convention Center Landscaping Construction Contract (CIP Project #684); Cameron/Swinerton. (Chip Lilienthal)
- 11. Request for Approval of Hearing Examiner's Findings of Fact & Conclusions of Law: Case # H-09-043B - Appeal of the Historic Design Review Board's Decision on March 9, 2010, Concerning Remodeling of a Non-Contributing Residence Located at 108 Candelario Street in the Westside-Guadalupe Historic District. (Matthew O'Reilly)
- 12. MATTERS FROM THE CITY MANAGER
- 13. MATTERS FROM THE CITY ATTORNEY
- EXECUTIVE SESSION:

Discussion of Threatened or Pending Litigation in which the City of Santa Fe Is or May Become a Participant, Pursuant to City of Santa Fe Resolution No. 2010-24 and Pursuant to §10-15-1(H)(7), NMSA 1978.
- 14. MATTERS FROM THE CITY CLERK
- 15. COMMUNICATIONS FROM THE GOVERNING BODY

EVENING SESSION – 7:00 P.M.

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE
- C. SALUTE TO THE NEW MEXICO FLAG
- D. INVOCATION
- E. ROLL CALL



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F. PETITIONS FROM THE FLOOR

G. APPOINTMENTS

H. PUBLIC HEARINGS:

- 1) CONSIDERATION OF BILL NO. 2010-21: ADOPTION OF ORDINANCE NO. 2010-_____. (Councilor Calvert)
An Ordinance Amending the Santa Fe Residential Green Building Code, Being Exhibit A of Chapter VII SFCC 1987, to Create a Graduated Home Energy Rating System (HERS) Requirement Based on Heated Square Footage. (Katherine Mortimer)
 - a) CONSIDERATION OF RESOLUTION NO. 2010-_____. (Councilor Calvert)
A Resolution Amending the Administrative Procedures for the Santa Fe Residential Green Building Code to Create a Graduated Home Energy Rating System (HERS) Requirement Based on Heated Square Footage. (Katherine Mortimer)
- 2) CONSIDERATION OF BILL NO. 2010-22: ADOPTION OF ORDINANCE NO. 2010-_____. (Councilor Calvert)
An Ordinance Amending Section 23-5.3 F (3) SFCC 1987 Regarding Conditions of Operation for Plaza Artists/Artisans Relating to the Display of Artwork. (Sevastian Gurule)
- 3) Case #A-2009-05: 604 1/2 Galisteo Street Appeal. Stefanie Beninato Appeals the May 19, 2009 Board of Adjustment Decision to Deny Case Number V-2009-9 Variance Request From Section 14-7.1 (B)(g)(5)(ii)C Minimum Setback Standards for Second Stories to Allow a Second Story Side Yard Setback Less Than 10 Feet. (Rehearing) (Kelley Brennan)

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.



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

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

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July 28, 2010

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**MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
July 28, 2010**

AFTERNOON SESSION

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor Pro-Tem Rebecca Wurzburger, on July 28, 2010, 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

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

Members Excused

** Mayor David Coss

Others Attending

Robert Romero, City Manager
Geno Zamora, City Attorney
Yolanda Y. Vigil, City Clerk
Melessia Helberg, Council Stenographer

** Mayor Coss arrived at the meeting during the Executive Session.

6. APPROVAL OF AGENDA

Robert Romero asked to add two items to Presentations: Eloisa Valverde who is retiring from the City after 30 years after 9(a) and Santa Fe County Fair and introduction of Fair Queen Sarah Czmyrid , after 9(d).

Councilor Dominguez would like to postpone Item 10(h) on the Consent Agenda to the next Council meeting.

Councilor Bushee asked if this item will go through Committee again.

Councilor Dominguez said no, it will just be brought back to Council

Councilor Bushee asked Councilor Dominguez if he expects to make a lot of changes.

Councilor Dominguez said is unsure, noting they are trying to sort out the funding.

Councilor Chavez said this is his request as well and would suggest this at lease go back to the Finance and Public Works Committees because there is a fiscal impact and an interest by the Public Works Committee. He would like this to go back through the Committee process.

MOTION: Councilor Chavez moved, seconded by Councilor Romero, to postpone Item 10(h) on the Consent Agenda, to the next Council meeting, with the understanding that this item will go back through the Committee process.

VOTE: The motion failed to pass on the following Roll Call vote, because it failed to get a majority vote in the absence of Mayor Coss to break the tie:

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

Against: Councilor Dominguez, Councilor Ortiz, Councilor Trujillo and Mayor Pro-Tem Wurzbarger.

Absent for the vote: Mayor Coss.

MOTION: Councilor Dominguez moved, seconded by Councilor Trujillo, to postpone Item 10(h) on the Consent Agenda to the next Council meeting.

FRIENDLY AMENDMENT: Councilor Romero suggested Item 10(h) be postponed to the Council meeting of August 25, 2010, so we can get the reports which are part of this discussion and other information needed to make a decision. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND AND THERE WERE NO OBJECTIONS BY THE OTHER COUNCILORS.**

DISCUSSION ON THE MOTION, AS AMENDED: Councilor Chavez said we are talking about spending \$200,000, which he believes could be done in-house with the assistance of a student intern.

Mayor Pro-Tem Wurzbarger said this comment is out of order, because we are discussing whether or not to hear this item this evening.

Councilor Dominguez said the idea is to give staff time to sort out the issues, and this time period will give them the time to get the information and to answer some of the questions that came up in Committee.

Councilor Chavez said then we have ample time to take it back through the Committee process.

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

For: Councilor Calvert, Councilor Dominguez, Councilor Ortiz, Councilor Romero, Councilor Trujillo, Councilor Bushee and Mayor Pro-Tem Wurzbarger.

Against: Councilor Chavez.

Absent for the vote: Mayor Coss.

Explaining her vote: Councilor Bushee said she believes it is a waste of time, but she will vote yes.

MOTION: Councilor Calvert moved, seconded by Councilor Bushee, to approve the Agenda, as amended.

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

7. APPROVAL OF CONSENT CALENDAR

MOTION: Councilor Ortiz moved, seconded by Councilor Romero, to approve the following Consent Calendar, as amended.

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

For: Councilor Bushee, Councilor Calvert, Councilor Chavez, Councilor Dominguez, Councilor Ortiz, Councilor Romero, Councilor Trujillo and Mayor Pro-Tem Wurzbarger.

Against: None.

Absent for the vote: Mayor Coss.

- a) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER CITY OF SANTA FE PURCHASING MANUAL, SECTION 18 (EXCEPTIONS) – 18.7(L) – SPORTS LIGHTING FOR RAGLE PARK RENOVATION; MUSCO LIGHTING. (BEN GURULE)**
- b) ***[Removed for discussion by Councilors Bushee and Chavez]***

- c) REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT – BENEFITS CONSULTING SERVICES FOR HUMAN RESOURCES; AON RISK INSURANCE SERVICES WEST, INC. (VICKI GAGE)
- d) REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO CAPITAL COOPERATIVE AGREEMENT (CCA) – REDUCTION OF 2010 LEGISLATIVE APPROPRIATIONS; NEW MEXICO DEPARTMENT OF TRANSPORTATION. (DAVID CHAPMAN)
- e) REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO LEASE AGREEMENT – SANTA FE MUNICIPAL AIRPORT; AMERICAN EAGLE AIRLINES, INC. (JIM MONTMAN)
- f) SANTA FE MUNICIPAL AIRPORT (JIM MONTMAN):
 - 1) REQUEST FOR APPROVAL OF REVISED TASK ORDERS 23 AND 30 – DESIGN WORK ON RECONSTRUCTION OF TAXIWAY AND TAXIWAY C; MOLZEN-CORBIN AND ASSOCIATED;
 - 2) REQUEST FOR APPROVAL OF GRANT APPLICATION – FEDERAL AIRPORT IMPROVEMENT PROGRAM FOR DESIGNING RECONSTRUCTION OF TAXIWAY A AND TAXIWAY C;
 - 3) REQUEST FOR APPROVAL OF STATE GRANT APPLICATION – PROVIDING FEDERAL GRANT MATCHING FUNDS FOR DESIGNING RECONSTRUCTION OF TAXIWAY A AND TAXIWAY C; AND
 - 4) REQUEST FOR APPROVAL FOR AIRPORT MANAGER TO ACCEPT STATE AND FEDERAL GRANTS IN ORDER TO MEET FEDERAL AIRPORT IMPROVEMENT PROGRAM DEADLINES.
- g) SANTA FE MUNICIPAL AIRPORT (JIM MONTMAN):
 - 1) REQUEST FOR APPROVAL OF REVISED TASK ORDERS 39 – CONDUCTING AN FAA MANDATED WILDLIFE HAZARD ASSESSMENT (WAHL); MOLZEN-CORBIN AND ASSOCIATES;
 - 2) REQUEST FOR APPROVAL OF GRANT APPLICATION – FEDERAL AIRPORT IMPROVEMENT PROGRAM FOR CONDUCTING AN FAA MANDATED WILDLIFE HAZARD ASSESSMENT;
 - 3) REQUEST FOR APPROVAL OF STATE GRANT APPLICATION – PROVIDING FEDERAL GRANT MATCHING FUNDS FOR CONDUCTING AN FAA MANDATED WILDLIFE HAZARD ASSESSMENT; AND
 - 4) REQUEST FOR APPROVAL FOR AIRPORT MANAGER TO ACCEPT STATE AND FEDERAL GRANTS IN ORDER TO MEET FEDERAL AIRPORT IMPROVEMENT PROGRAM DEADLINES.

- h) **CONSIDERATION OF RESOLUTION NO. 2010-____ (COUNCILOR DOMINGUEZ AND COUNCILOR ORTIZ). A RESOLUTION DIRECTING STAFF TO PROCEED WITH A COMMUNITY PLANNING PROCESS FOR THE AIRPORT ROAD AREA THAT WILL RESULT IN A MASTER PLAN THAT FOCUSES ON ESTABLISHING A HEALTHY COMMUNITY, STREETScape ENHANCEMENTS AND ADJOINING LAND DEVELOPMENT. (KATHERINE MORTIMER)**
This item is postponed to the Council Meeting of August 25, 2010.
- i) *[Removed for discussion by Councilor Bushee and Councilor Chavez]*
- j) **REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON AUGUST 25, 2010: BILL NO. 2010-23: AN ORDINANCE APPROVING A LEASE BETWEEN THE CITY OF SANTA FE AND NVT LICENSES, LLC, FOR APPROXIMATELY 11,463 ACRES OF CITY-OWNED LAND LOCATED AT THE SANTA FE MUNICIPAL AIRPORT TO BE USED FOR THE CONSTRUCTION OF A PHOTOVOLTAIC ELECTRICAL SYSTEM BENEFITTING THE WASTEWATER MANAGEMENT DIVISION (COUNCILOR CALVERT). (JIM MONTMAN)**
 - 1) **REQUEST FOR APPROVAL OF LEASE AGREEMENT – 11.463 ACRES OF AIRPORT LAND FOR THE PURPOSE OF CONSTRUCTING AND MAINTAINING A PHOTOVOLTAIC SYSTEM FOR SUPPLYING ELECTRICAL ENERGY OUTPUT BENEFITTING THE WASTEWATER MANAGEMENT DIVISION. (JIM MONTMAN)**
- k) **CONSIDERATION OF RESOLUTION NO. 2010-60. A RESOLUTION RELATING TO A REQUEST FOR APPROVAL OF FOURTH QUARTER YEAR-END BUDGET ADJUSTMENTS FOR FISCAL YEAR 2009/2010. (CAL PROBASCO)**
- l) *[Removed for discussion by Councilor Ortiz and Councilor Bushee]*

8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – JULY 14, 2010.

MOTION: Councilor Calvert moved, seconded by Councilor Romero, to approve the minutes of the Regular City Council meeting of July 14, 2010, as presented.

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

9. PRESENTATIONS

- a) **MUCHAS GRACIAS – CHRIS ORTEGA, ENGINEERING DIVISION DIRECTOR.**

Mayor Pro-Tem Wurzbürger presented a muchas gracias certificate and a plaque, and thanked

him for his years of dedicated and professional service to the City.

Mr. Ortega thanked the City for the opportunities, especially those given to him by Robert Romero, saying he enjoyed participating on the negotiating team for AFSCME. He thanked the Division and the staff with whom he has worked for 6 years. He said everyone is welcome to email him.

Councilor Calvert thanked Mr. Ortega for his exemplary service and professionalism, and wished him well in retirement.

Councilor Bushee thanked Mr. Ortega for his service, saying he has been a quiet, steady force in getting things done without a lot of fanfare.

Councilors Dominguez, Chavez, Romero and Trujillo thanked Mr. Ortega for his outstanding service to the City, said he will be missed, and wished him well in his retirement..

Councilor Ortiz thanked Mr. Ortega for his years of service to the City, commenting he has approached issues with a steadiness, confidence and professionalism which is a model for public service, and wished him well in his retirement.

a(1) PRESENTATION TO RETIRING CITY EMPLOYEE ELOISA VALVERDE

Mayor Pro-Tem Wurzbarger presented Ms. Valverde with a plaque on behalf of the Mayor, thanking her for her 34 years of dedicated service to more than 12,000 youth of our community.

Ms. Valverde said it has been a pleasure and honor to work with the City, and she will miss the people with whom she worked very much, commenting that she enjoyed working for the City very much which is the reason she stayed so long.

b) MUCHAS GRACIAS – HEAVY RESCUE TEAM FOR SWIFT WATER RESCUE PERFORMED ON JULY 3, 2010.

A copy of an "Invitation to a community thank you to the Santa Fe Fire Department Heavy Rescue Team for saving the life of Johny & Nicole Woodell," which includes a picture of the automobile from which they escaped, is incorporated herewith to these minutes as Exhibit "1."

Fire Chief Barbara Salas introduced the Heavy Rescue Team which rescued Johny & Nicole Woodell from their automobile from high water at San Isidro Crossing, noting it as a high risk operation, and without the team's rescue operation, they would have died. Chief Salas commended Captain Eric Gonzales, Engineer Jennifer Dickey, Firefighter Nathan Garcia, Rescue Tech Graham Miller, Rescue Tech Brian Moya, Rescue Tech Aaron Miller and Jan Snyder.

John Woodell said he was one of those rescued, and is here this evening to express thanks and

appreciation to the Team for saving their lives. Mr. Woodell described the rescue from the car, which almost took their lives. He invited the Mayor and Council to join him in a public thank-you on Saturday, July 31, 2010, 1:30 to 4:30 p.m., at the Cowgirl Hall of Fame. Mr. Woodell said he and his wife, who was born and raised in Santa Fe, moved here two years ago to start his law office, commenting that he is also a musician.

Chief Salas reminded the public that it is important to stay out of flood waters moving across a street, and if in a similar circumstance to call 911.

Councilor Trujillo said at the recent graduation ceremony for cadets, Chief Salas told the cadets they have now joined the rank of heroes, and this Team definitely are heroes for their actions, and thanked them.

c) INTRODUCTION OF NEW CITY HISTORIAN, JOSE GARCIA.

Councilor Rosemary Romero introduced Jose Garcia, the new City Historian. She said she is honored that Mr. Garcia accepted the appointment, commenting that Mr. Garcia has some good ideas about history activities for the 400th Anniversary, noting Mr. Garcia will serve in this position at no cost to the City.

Mr. Garcia thanked the Mayor and Council for this honor. He said Santa Fe needs this position to preserve its traditions and culture. He is working with Ms. Pratt and they will have something on the City website soon. He said, "After 400 years, Santa Fe finally has a City historian."

Councilor Bushee thanked Mr. Garcia for accepting this position, and said it is appropriate that he's making history as the first City historian.

Councilor Chavez congratulated Mr. Garcia on this appointment. He said the concept of volunteering isn't new for Mr. Garcia, as he has served the City on many committees. He commended him for his legacy with the 400th Anniversary Celebration.

Councilor Romero said the City will be welcoming one of its Sister Cities, and Mr. Garcia has some great ideas for lectures, which will be posted on the City website.

d) PARADE OF HOMES – AUGUST 13-15, 2010 AND AUGUST 20-22, 2010. (SHERRY JOHANSEN, SANTA FE AREA HOME BUILDERS ASSOCIATION.

Sherry Johansen introduced Frank Yardman, the Parade Chair, to talk about the parade. .

Frank Yardman said, in honor of the 400th Anniversary, the cover of this year's magazine features Santa Fe architecture and features articles written by Sharon Woods, for example, who serves on the Historic Design Review Board. He said the builders have been the hardest hit in this economic crisis

across the nation, and many have canceled the Parade of Homes this year. He said this event does bring in tourists and a lot of attention out-of state.

Ms. Johansen invited the Governing Body to attend this year's Parade of Homes.

D(1) SANTA FE COUNTY FAIR AND FAIR QUEEN

Sarah Czmyrid, County Fair Queen, invited the Mayor and Council to attend this year's County Fair, August 4-8, 2010, saying there will be fun, competition and entertainment for everyone. She invited everyone to bring their pet to the Pet Show on Sunday, August 8, at 10:00 a.m., to show their best tricks as well as to compete in the costume competition. She said the Fair has the best livestock and livestock shows. Ms. Czmyrid reviewed this year's events.

CONSENT CALENDAR DISCUSSION

10 (b) REQUEST FOR CONCEPT APPROVAL OF LEASE AGREEMENT – USE OF CITY PUBLIC RIGHT-OF-WAY WITHIN BURRO ALLEY APPURTENANT TO RESTAURANT LOCATED AT 207 WEST SAN FRANCISCO STREET; MAJED HAMDOUNI D/B/A CASABLANCA. (EDWARD VIGIL)

Councilor Bushee said she pulled this item because she doesn't believe there was an Exhibit F in the packet when it was heard by Finance, as well as having concerns about the project. She said doesn't want to have issues about this request. She noted that Exhibit F on page 18 of the packet indicates no permit was pulled for this project and it was red tagged. She understands construction was happening in the wrong hours.

Councilor Bushee said she amended this item at Finance with regard to moving furniture, and wants to make sure this is clear.

Councilor Bushee said she doesn't want to see any bad trends here, and noting the project started in March 2009, without a building permit, and the construction continued. She asked Mr. O'Reilly to comment.

Mr. O'Reilly said the memorandum explains what happened and the dates the incidents happened.

Councilor Bushee noted that the last complaint was on June 30, 2010, about people working late at night with a jackhammer past 10:00 p.m., and concrete as early as 6:00 a.m. She is concerned at this point.

Chair Wurzbarger asked if Mr. O'Reilly would like to respond as to where the issues have been addressed.

Mr. O'Reilly said Exhibit F was in the packet at Finance. He said since that time, there have been two violations and red-tags issued to the same owner. He said they currently are coming in for permits to apply. One resulted from construction which was happening without a permit, and the applicant claimed there was a misunderstanding because he had Historic Design Review Board Approval and claimed not to be aware that an additional permit was required to construct the improvements. Staff has red-tagged the project and asked them to come in for a permit, but that isn't on the list before the Council.

Councilor Bushee said she doesn't understand how the people wouldn't know they need a permit since they sit with staff first.

Mr. O'Reilly said he can't really say why the applicant didn't know he needed a permit. The procedure is to obtain approval from the H-Board and then request a building permit to build what the H-Board has approved. It is standard procedure for Historic Districts.

Councilor Calvert said he finds it hard to believe, after some of the other violations, that the applicant would not realize they needed a building permit to continue forward.

Councilor Calvert understands that the Applicant is applying for a Beer & Wine license, and asked how that would be controlled outdoors. He is concerned, in view of the Applicant's "track record," is that we might have problems with that as well.

Councilor Chavez said the request before the Council is for Casablanca, but when you go to the physical address, it is the Burro Alley Café.

Mr. O'Reilly said this is a recent name change of the establishment by the Applicant, and it would be a simple matter to change that in the lease.

MOTION: Councilor Ortiz moved, seconded by Councilor Chavez, to deny this request.

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

For: Councilor Bushee, Councilor Calvert, Councilor Chavez, Councilor Dominguez, Councilor Ortiz, Councilor Romero, Councilor Trujillo and Mayor Pro-Tem Wurzbarger.

Against: None.

Absent for the vote: Mayor Coss.

10 (i) CONSIDERATION OF RESOLUTION NO. 2010-61 (COUNCILOR ORTIZ, COUNCILOR CALVERT, COUNCILOR TRUJILLO, COUNCILOR WURZBURGER, COUNCILOR DOMINGUEZ, COUNCILOR ROMERO AND COUNCILOR BUSHEE). A RESOLUTION DIRECTING STAFF TO FIND AND ALLOCATE, OUT OF CURRENT CIP RESERVES, ONE MILLION DOLLARS FOR A ONE-STOP AND PERMANENT HOMELESS SHELTER. (ISAAC PINO AND TERRIE RODRIGUEZ)

1) **CONSIDERATION OF RESOLUTION NO. 2010-62. A RESOLUTION DECLARING OFFICIAL INTENT TO REIMBURSE THE CITY WITH THE PROCEEDS OF A FUTURE TAX-EXEMPT BORROWING FOR CAPITAL EXPENDITURES PAID TO ACQUIRE, CONSTRUCT AND IMPROVE VARIOUS PUBLIC PROJECTS; IDENTIFYING THE CAPITAL EXPENDITURES AND THE FUNDS TO BE USED FOR SUCH PAYMENT AND PROVIDING CERTAIN OTHER MATTERS IN CONNECTION THEREWITH. (KATHRYN RAVELING)**

A copy of a letter dated July 27, 2010, to Mayor Coss and the City Council, from the La Cieneguita/Camino Real Neighborhood Association, entered for the record by Councilor Chavez, is incorporated herewith to these minutes as Exhibit "2."

A copy of a letter to Mayor Coss and Santa Fe City Councilors from Julia Castro, owner, Café Castro, entered for the record by Councilor Chavez, is incorporated herewith to these minutes as Exhibit "3."

A copy of the "Preliminary Memorandum of Understanding," entered for the record by Councilor Ortiz, is incorporated herewith to these minutes as Exhibit "4."

Councilor Bushee said she pulled this for discussion because of the amount of money and because it is public money and we have yet to have a public hearing, noting there is one letter of concern from Julia Castro, a neighboring business, and she wants to be sure Ms. Castro's concerns are addressed by the non-profit.

MOTION: Councilor Bushee moved, seconded by Councilor Ortiz, for adoption of Resolution No. 2010-61, with the amendment which is in the Council packet.

DISCUSSION: Councilor Chavez said in addition to the letter from Ms. Castro, there is also a letter from the La Cieneguita/Camino Real Neighborhood Association. He said even though this did go through the Committee process and we discussed it, he thinks the Resolution is asking for a lot. It is allocating \$1 million from CIP reserve with the intent of repaying it, and at the same time the City Manager has asked to delay the issuance of the next CIP bond which would be for the next two years, because of the City's economic situation. He said in light of that, and the fact that we haven't discussed this in the full context of our CIP allocation, and there has been little or no public notice, except what was in the newspaper, he will be voting against this right now. He said it isn't that he isn't sympathetic or sensitive to the plight of the homeless, but he wants to balance the business interests and the interests of the homeowners in the area. He noted the packet indicated there isn't an existing, adjoining neighborhood. He said, in hindsight, he overlooked that and there are existing neighborhoods which could be impacted in a positive or negative way and they haven't been part of the discussion to date, and he will change his position and not support this Resolution at this time.

FRIENDLY AMENDMENT: Councilor Dominguez said, in addition to answering some of the questions that

have been asked by Ms. Castro, he would like to amend the motion to ask staff to reach out to these neighboring communities as well and give them a chance to articulate their concerns to the staff and the organizations, and to come up with some solutions. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE OBJECTIONS BY THE OTHER COUNCILORS..**

CONTINUATION OF DISCUSSION ON MAIN MOTION AS AMENDED: Councilor Bushee said currently there is a shelter in her neighborhood, but it is primarily residential. She said she feels the lack of outreach is due to the feeling that this is primarily a commercial area, and the fact that this shelter existed last season. She emphasized that the funds are going toward the purchase of the building. She asked the entities which will be operating this shelter to "take to heart" the concerns of the neighboring properties, and do some outreach and come up with a plan to resolve those concerns.

Councilor Chavez asked to enter the letters into the record which we have received from Julia Castro and the La Cieneguita/Camino Real Neighborhood Association [Exhibits "2," and "3 " respectively.

Councilor Ortiz asked to enter for the record the Preliminary Memorandum of Understanding [Exhibit "4"] which has been entered into among 11 signators, which represents a group of people in the community that have been working hard to address and service this segment of the population which is under-represented. He said this Preliminary Memorandum of Understanding confirms that this is the first step of what will be a long term, permanent process to have One-Stop care for the homeless in this area. He said once the property is acquired and the improvements are made to the property, he hopes that the hoped for dialogue called for can take place. He said the intent is that this will be a permanent place for lots of groups in the community to use, facilitate and help people.

Councilor Ortiz thanked all of the groups that have reached out and helped their fellow human beings in this critical time. He said they have shown what it means to give, and they should be saluted for that. He thanked them for all of their hard work in this effort.

Councilor Bushee believes the City will maintain ownership of the building.

Mayor Pro-Tem Wurzbarger said this is correct, for \$1 per year.

Councilor Bushee said it is incumbent on the City to be a good neighbor, since the City is the landlord/ renter. She said she wants to make it clear that the neighborhood planner and anyone else who needs to be involved from the City's Community Services Department responds to these concerns as well.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dominguez, Councilor Ortiz, Councilor Romero, Councilor Trujillo and Mayor Pro-Tem Wurzbarger.

Against: Councilor Chavez said "We should have done neighborhood involvement and community outreach before we decided that was the permanent place, so I vote no."

Absent for the vote: Mayor Coss.

MOTION: Councilor Ortiz moved, seconded by Trujillo, to adopt Resolution No. 2010-62.

DISCUSSION: Councilor Ortiz said this Resolution 2010-62, follows Resolution No. 2010-61, on the recommendation of the Finance Committee, that while we have found resources in this year's budget in CIP, that when we do approve our next CIP bond, it will be repaid – this is the Resolution that commits the City to doing that.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dominguez, Councilor Ortiz, Councilor Romero, Councilor Trujillo and Mayor Pro-Tem Wurzbarger.

Against: Councilor Chavez.

Absent for the vote: Mayor Coss.

10 (I) REQUEST FOR APPROVAL OF CHANGE ORDER NO. 21 – SANTA FE COMMUNITY CONVENTION CENTER LANDSCAPING CONSTRUCTION CONTRACT (CIP PROJECT #684); CAMERON/SWINERTON. (CHIP LILIENTHAL)

Councilor Ortiz said this has failed twice at the Finance Committee, noting it also was heard by Public Works.

MOTION: Councilor Ortiz moved, seconded by Councilor Bushee, to deny this request.

DISCUSSION: Councilor Calvert asked Mr. Lilienthal to describe the work that would be done under this Change Order.

Mr. Lilienthal said add alternate #1 is on the north side, between the Civic Center along Federal Place, which will have turf, trees, shrubs, stone, seating, ADA pathway going around the back close to City Hall and irrigation. Add alternate #2 on the south side, is the area between the City Hall and the Convention Center where the fish currently reside. There will be a red brick plaza with electrical needs and trees and shrubs at the fish area as designed originally in the scope of work in 2006.

Councilor Calvert said the second add alternate is the one giving people heartburn and suggested moving forward with the first add alternate and postpone the second add alternate. He said there will be plantings, and the 6 month delay requested by Finance will expire at a time when plantings won't be done, and we can't get the plantings established, which was one of the things considered by Public Works. It would also help the local economy by moving forward with the first add alternate.

Councilor Romero agreed that the landscape can't start in six months, but if it is severed from add

alternate two, she believes it would help. She said this would almost complete the work. She said local firms are doing the work and she saw this as an opportunity for economic development and paying local folks as well, and to do the work in the appropriate time frame. She agrees with Councilor Calvert's suggestion to sever the proposal to do the landscaping first. She noted that she sits on the Public Works and Finance Committees.

Councilor Bushee asked the breakdown of costs, noting her understanding was the largest cost was the bricking. She said currently the gravel area is used mostly to park motorcycles and a few other things. She said he should have the figures somewhere for the small area landscaping.

Mr. Lilienthal said he doesn't have this information before him this evening.

Mayor Pro-Tem Wurzbarger said her major concern with the project, as she expressed at the Finance Committee meeting, is that at this point in time it is not a good idea to put this much money into landscaping when there are so many more priorities. She said it was made quite clear to the Committee that these funds could be used in other ways to support Convention Center activities that may relate to the economy. She said the Finance Committee decided that the landscaping wouldn't help to bring more people to Santa Fe.

Councilor Chavez asked Mr. Lilienthal how long he has been working on this project which is part of the Convention Center project, noting the City spent approximately \$100,000 on the fish. He said in talking about spending, "money is money," and there is a process we go through to get these projects through the committee process.

Mr. Lilienthal said he has been working on this since July-August 2009, noting there were a number of meetings with Councilor Chavez and others regarding the patio layout. He said Design Workshop developed the design package which went through the process, noting it was before the Public Works Committee 2-3 months ago.

Councilor Chavez said there is a season and system within we have to work, and we can't blame the season and that we have run out of planting time for this season. He said this is work that needs to be done to complete the area between the Convention Center and City Hall.

Councilor Ortiz said, as discussed the second time this was heard at Finance, if we don't spend this money, it can be used for operation, repairs and maintenance at the Convention Center, and Mr. Romero said he understands this is correct.

Councilor Ortiz said, given the possibility that we may need to do some work at the Civic Center, it would be better to have these monies set aside as a maintenance fund, than to spend the money on the proposed plan, which is a very good plan. However, in the current economy, it is better to sit on the funds so they are available to us.

Councilor Calvert said he thought this was a CIP fund and not an O & M fund, and when it was approved originally, we voted that the funds would be spent for the project and not for O & M. He understands the

circumstances, but he doesn't see a list of the things currently wrong at the Convention Center as a discussion item, so he doesn't know those costs. However, it would be a good compromise to sever change order #1 for action, do the landscaping, and save the rest for operation and maintenance.

Councilor Trujillo asked if there would be ADA compliance issues if this request is not approved.

Mr. Lilienthal said currently, the Civic Center and the area around it, meets ADA compliance, noting the new landscaping plan meets ADA requirements as well.

Councilor Trujillo said he saw this at Public Works, and it is something which would be good to do. However, he believes we need to hold these funds in the event we do need to do repairs at the Civic Center, and he will not be voting in favor of the motion.

Councilor Romero she is hoping there can be a compromise, because we are close to finishing this area, and a little landscaping and trees will make a huge difference next year. She asked Mr. Romero if we know what the potential repairs might be. She hopes we can split the funds so we can at least do part of the landscaping, and reserve the balance for any repairs.

Mr. Romero said he is unaware that there is a list, and believes the intent is to keep the funds there if we need them. He said he doesn't believe we have a list of repairs, but things can happen in a \$60 million facility.

Councilor Romero said this clarifies that we know of no repairs/expenses, and it would be worthwhile to do this during the 400th Anniversary. She hopes the Council will consider holding funds for "just in case," but using some of the funds to move forward with part of the landscaping, which gets us closer to completion. She said this is for a facility in which we take great pride.

Councilor Bushee said Councilor Romero was absent for the long discussion they had at the Finance Committee on this issue. She said it is interesting as to how this got on the Council Agenda because it failed twice in finance and now is on Consent. She said we are now having that same discussion we had at Finance. She said if we want to improve this area, we should replace the dead trees in the existing landscaping and stucco City Hall which is looking horrific. She is opposed to the motion, and believes we should spend our money wisely, and doesn't believe we need to spend money to brick any of this area.

Councilor Calvert said he wants to clarify that his suggestion is to do the landscaping in the area adjacent to Federal Place, and not doing the one "over here" which is mostly hardscaping with some landscaping.

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

For: Councilor Bushee, Councilor Dominguez, Councilor Ortiz, Councilor Trujillo and Mayor Pro-Tem Wurzbarger.

Against: Councilor Chavez, Councilor Calvert and Councilor Romero.

Absent for the vote: Mayor Coss.

Clarification of the Motion prior to voting: Councilor Chavez asked if this is to deny in perpetuity, noting the motion in Finance was to postpone for 6 months. Councilor Ortiz said that is correct, but this is a denial until there is something else to approve. Mayor Pro-Tem Wurzbarger said it is a denial forever. Councilor Chavez said then he will vote no.

11. FINDINGS OF FACT AND CONCLUSIONS OF LAW.

A copy of a Memorandum dated July 21, 2010, with attached Findings of Fact and Conclusions of Law in Case #H-09-0438, Appeal of H-Board's Decision on March 9, 2010, is incorporated herewith to these minutes as Exhibit "5."

Mr. O'Reilly presented information from his Memorandum dated July 21, 2010. Please see Exhibit "5" for specifics of this presentation.

MOTION: Councilor Ortiz moved, seconded by Councilor Dominguez, to approve the Findings of Fact and Conclusions of Law as presented.

DISCUSSION: Councilor Calvert said in the Conclusions of Law there was a lot of discussion about the application of the height standards and gray or ambiguous areas in the Code. He would like for these to be addressed in the Chapter 14 rewrite, to clarify these items.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dominguez, Councilor Ortiz, Councilor Romero, Councilor Trujillo and Mayor Pro-Tem Wurzbarger.

Against: None.

Absent for the vote: Councilor Chavez and Mayor Coss.

END OF CONSENT CALENDAR DISCUSSION

12. MATTERS FROM THE CITY MANAGER.

There were no matters from the City Manager.

13. MATTERS FROM THE CITY ATTORNEY

EXECUTIVE SESSION:

DISCUSSION OF THREATENED OR PENDING LITIGATION IN WHICH THE CITY OF SANTA FE IS OR MAY BECOME A PARTICIPANT, PURSUANT TO CITY OF SANTA FE RESOLUTION NO. 2010-24 AND PURSUANT TO §10-15-1(H)(7) NMSA 1978.

MOTION: Councilor Bushee moved, seconded by Councilor Romero, that the Council go into Executive Session for the purpose of discussion threatened or pending litigation in which the City of Santa Fe is or may become a participant, pursuant to City of Santa Fe Resolution No. 2010-24 and pursuant to §10-15-1(H)(8).

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

For: Councilor Bushee, Councilor Calvert, Councilor Dominguez, Councilor Ortiz, Councilor Romero, Councilor Trujillo and Mayor Pro-Tem Wurzbarger.

Against: None.

Absent for the vote: Councilor Chavez and Mayor Coss.

The Council went into Executive Session at approximately 6:25 p.m.

MOTION TO COME OUT OF EXECUTIVE SESSION

MOTION: At approximately 7:14 p.m. Councilor Bushee moved, seconded by Councilor Calvert, that the City Council come out of Executive Session and stated that the only item which was discussed in executive session was the item which was on the agenda, and no action was taken.

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

14. MATTERS FROM THE CITY CLERK

There were no matters from the City Clerk.

Mayor Coss moved Item #15 to the end of the Evening Agenda

END OF AFTERNOON SESSION AT 7:15 P.M.

EVENING SESSION

A. CALL TO ORDER AND ROLL CALL

The Evening Session was called to order by Mayor David Coss, at approximately 7:15 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 Carmichael A. Dominguez
Councilor Matthew E. Ortiz
Councilor Rosemary Romero
Councilor Ronald S. Trujillo

Members Excused

Councilor Rebecca Wurzbarger, Mayor Pro-Tem
Councilor Miguel Chavez

Others Attending

Robert P. Romero, City Manager
Geno Zamora, City Attorney
Yolanda Y. Vigil, City Clerk
Melessia Helberg, Council Stenographer

Geno Zamora, City Attorney, reported for the record, that Councilor Wurzbarger is not present at the Evening Session because she perceives a conflict with regard to Item H(3), and so has chosen not to participate in this evening's hearing on that matter.

F. PETITIONS FROM THE FLOOR

There were no petitions from the floor.

G. APPOINTMENTS

Santa Fe City and County Advisory Council on Food Policy

Mayor Coss made the following appointment to the Santa Fe City and County Advisory Council on Food Policy:

Bianca Sopoci-Belknap – to fill unexpired term ending 01/2012.

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

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

H. PUBLIC HEARINGS

- 1) **CONSIDERATION OF BILL NO. 2010-21; ADOPTION OF ORDINANCE NO. 2010-19 (COUNCILOR CALVERT). AN ORDINANCE AMENDING THE SANTA FE RESIDENTIAL GREEN BUILDING CODE, BEING EXHIBIT A OF CHAPTER VII SFCC 1987, TO CREATE A GRADUATED HOME ENERGY RATING SYSTEM (HERS) REQUIREMENT BASED ON HEATED SQUARE FOOTAGE. (KATHERINE MORTIMER)**
 - a) **CONSIDERATION OF RESOLUTION NO. 2010-63 (COUNCILOR CALVERT). A RESOLUTION AMENDING THE ADMINISTRATIVE PROCEDURES FOR THE SANTA FE RESIDENTIAL GREEN BUILDING CODE TO CREATE A GRADUATED HOME ENERGY RATING SYSTEM (HERS) REQUIREMENT BASED ON HEATED SQUARE FOOTAGE. (KATHERINE MORTIMER)**

The staff report was given by Katherine Mortimer from the materials in the Committee packet. She said they met with a number of people who had been working on implementation to get feedback and guidance. She said it was suggested that smaller steps be created for the HERS rating system, noting the steps were rather large. On advice of that group the steps have been reduced to much smaller steps by 5 HERS points rather than 25 or 30 HERS points as you get larger. She said now you don't get to a HERS of zero until 10,000 sq. ft. She said no one had applied for a permit larger than 10,000 sq. ft., so no one is retroactively penalized for coming in earlier with a building permit. She said this was recommended unanimously by the people attending the meeting who were giving feedback, and is supported by the Homebuilders [the group that drafted this], as well as other people they met with.

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

MOTION: Councilor Calvert moved, seconded by Councilor Romero, to adopt Ordinance No. 2010-19.

DISCUSSION: Councilor Ortiz asked when the Council will hear the status update on the entire Green Building Code. He has heard from some people that some of the requirements of the Code have been difficult to achieve, noting we are supposed to do a 12-18 month review of the Code.

Ms. Mortimer said they can come back with that review. She said a review was done with the public and

staff needs to come back to the Council with the findings. She said people find the hardest thing to achieve is the HERS rating, and these changes make that easier, noting that people didn't realize they could ask for points in other areas and staff had the authority to grant those. She said this was a communication issue and staff is addressing that.

Councilor Ortiz said then this is posited as making it easier.

Ms. Mortimer said, "It is in the sense that before if you had 3,001 sq. ft. you had to have a HERS of 50, and now you have to have a HERS of 65 which is easier to attain, so in that sense it is."

Councilor Ortiz asked about the new language in Paragraph 2, line 13 of the Resolution, which says, "The home must achieve the score required based on the heated square feet or lower."

Ms. Mortimer said that refers to a table, noting that with so many steps it was long, so it was easier to create a table.

Councilor Ortiz asked if there was a requirement previously that they had to achieve that score, and Ms. Mortimer said yes.

Councilor Ortiz asked how this relates to additions or accessory structures on permits – does the Green Code or these requirements require people to comply who are going to do accessory structures or additions to a house.

Ms. Mortimer said these requirements are only for new residential structures – primary structures and guest homes, or an accessory structure.

Responding to Councilor Ortiz, Ms. Mortimer said staff is close to having a draft to submit for public comment.

Councilor Ortiz noted this amendment went to City committees, and asked if it went to the Planning Commission.

Ms. Mortimer said no, because it is a change in Chapter 7 and not in Chapter 14.

Councilor Bushee said she met with Mr. O'Reilly. She asked the time frame for the built-in review of the ordinance.

Ms. Mortimer said it is annually, and they did gather a group of people to review it.

Councilor Bushee asked if a review before the Council with a public hearing is built in.

Ms. Mortimer said that wasn't done, it was just a review.

Councilor Bushee asked how long the ordinance has been in place.

Ms. Mortimer said it went into effect on July 1, 2009.

Councilor Bushee asked Mr. O'Reilly when can we have this back here. She has heard things similar to Councilor Ortiz, and a lot of people would like to suspend the ordinance during the lack of construction. She wants to have that review, noting she was told that was coming to Council.

Mr. O'Reilly said we can bring it back for review. He concurred that Land Use Department staff are hearing complaints about the requirements in the Green Code, and that they do increase the cost, and people are finding it difficult to comply at times. He said he have been slowly transitioning from Ms. Mortimer doing a lot of this to the building plan reviewers reviewing for Green Code compliance as part of the normal review. The goal is that the process will be seamless, and everything is reviewed at one time, and no additional time is required for Green Code review.

Councilor Bushee said, "I would just ask that whenever possible, we schedule a public hearing, and also have it go through committees and have your assembled group bring their findings, and also this probably should go to the BQL... it should go to Public Works, Land Use and probably Finance. And have the overall... hey we've had this a year. I mean we've had so few permits, I don't know if it is a pattern or not, but it does feel as if we should look at it. It took a long time to put together, and I just want to make it... and you know it's kinda hard timing... but we just want to be sure that we've got everything in place to make it as easy as possible and to see where else we might want to tweak it. I'm grateful for these changes, but I do believe we need to give it a review overall."

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

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

Against: None.

MOTION: Councilor Calvert moved, seconded by Councilor Romero, to adopt Resolution No. 2010-63.

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

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

Against: None.

2) CONSIDERATION OF BILL NO. 2010-22: ADOPTION OF ORDINANCE NO. 2010-20 (COUNCILOR CALVERT). AN ORDINANCE AMENDING SECTION 23-5.3(F)(3) SFCC 1987 REGARDING CONDITIONS OF OPERATION FOR PLAZA ARTISTS/ARTISANS RELATING TO THE DISPLAY OF ARTWORK. (SEVASTIAN GURULE)

The staff report was presented by Sevastian Gurule from his Memorandum of July 12, 2010, to the Governing Body, which is in the Council packet.

Mr. Gurule said he has heard concerns that this amendment would allow the splitting of licenses, or allow more than one license to be issued to an immediate family, and/or there are concerns about amendments which favor a small group. He said no other Code amendments or requirements will be changed. This simply asks for approval for the vendors to display their work individually, not necessarily simultaneously. He said only one license is allowed per immediate family, and "that is not under consideration." He said splitting licenses and being able to lease licenses or spaces or sub lease is not up for consideration, and staff would not support that.

Mr. Gurule said over the years, amendments have been made to the Ordinance which benefit individual vendors in recognition of longevity and in appreciation for their contribution to the program, which isn't the case here, and the proposed amendment would apply to 4 vendors.

Councilor Dominguez asked if Mr. and Mrs. Kenarov are part of the Northern New Mexico Fine Arts & Crafts Guild {hereinafter "Guild"}, and Mr. Gurule said this is correct.

Councilor Dominguez asked the history of the collective and the original intent in creating it.

Mr. Gurule said the Guild has been awarded a license for two consecutive seasons under his supervision, but may have been more previously. He said the Collective license allows a nonprofit organization the ability to utilize one space and to share that space among their members, for a minimum of 3 and a maximum of 7 vendors, to utilize the same space. The Code requires that the Guild submit a monthly schedule to the City which we monitor.

Councilor Dominguez asked the history – have they had 7 at any time, and a minimum of 3.

Mr. Gurule said his recollection is that they have not had a peak of 7 artists/artisans who have participated, and there has been a maximum of 5. He said in the recent Code amendment approved in 2007, they had a minimum of 3, noting prior to that amendment, the Code required a minimum of 2 and they have always fulfilled that. He said currently there 3 licenses under the Guild.

Councilor Dominguez asked if this is 3 individual licenses.

Mr. Gurule said this isn't the total membership of the Guild, these are the licensed approved vendors for the program. He understands the guild itself does have a larger membership.

Public Hearing

Babs Levine said she and her husband, Billy Newton, have a business called Once in a Blue Moon. Ms. Levine said, "Together we have been selling our artwork as a family collaboration on the Plaza since 1992, in the original nonprofit license, and worked our way through the program to an individual license in 2002. That's a total of 18 years Plaza experience as a family collaboration. I speak both for Billy and myself as one license, one family, two artists, two mediums, of collective jewelry and custom leather, one table, one vote and one voice."

Ms. Levine continued, "We are the only family collaboration of two mediums in the program, other than the Kenarovs, but with a lot more time, compatibility and compliance, thus we feel our opinion is very relative to this subject. To be part of this unique program and opportunity, Billy and I recreated ourselves to fit the profile and requirements and made it work. We were, and are, thrilled. We have worked very hard in collaboration with City staff and the artisans of this program through the years to strengthen the ordinance, to give the program credibility, quality, respect and integrity. We believe the ordinance should stay unchanged on this issue. Changes are supposed to enhance the program, not just for one family or an organization, as this proposal does."

Ms. Levine continued, "Billy and I think they are trying to benefit the program to only benefit themselves, that this self serving proposal will add only to their personal ambitions, changes and those of their non-profit organization, which is, in our opinion, a renegade license and organization anyway. It would be a destructive precedent for the program. The core of the program is family, artisan families. This is the charm and the magic of the program with its historical roots embedded in the Portal Program. It is important in our medium to maintain this in the Plaza Program as a family of artisans on one license, on one table, with shared display of our handmade, original artwork signed and authenticated."

Ms. Levine continued, "This substance and meaning of our program is diluted by the self-serving proposal, because it only benefits the Kenarovs. Previously, self-serving changes in our ordinance continue to be controversial. There is no reason to add to this. And in regard to the non-profit organization, I feel it is the Plaza program that determines how a family of artists is defined and not the other way around. We have been told by the organization that they are recognized as two individual artists. They are not recognized as a family, but two individual artists. Our program recognizes us as family. In the bigger picture, these non-profit licenses, which we have called renegade, do not function as originally intended to represent their larger body of members interested in the Plaza venue, but merely a select few, and that's why we only have 3 members of the organization represented instead of a bigger group of members of the organization. The original non-profit had between 25 and 30 people using the license, so that the artists in the group could have the potential to experience the Plaza experience."

Ms. Levine continued, "Truly, if Mr. and Mrs. Kenarov feel they are restricted and confined by our ordinance, should they not address their issue to move to another venue more compatible with their needs. We all know if the Plaza pioneers, Martha Wright, Juanita Rendola and Mary Ann Padilla, could have done

this 30 years ago, there would be only 3 families on the Plaza. This is just another way of getting there. We are saddened and disappointed that this is being considered at all, and we hope this helps you make a more educated decision on this issue."

Gail Carr, Chair of Northern New Mexico Arts & Crafts Guild, gave a brief history of collectives. She said everyone is not a member of the large, extended family. She originally had a Plaza license since 1984, and, as an individual, it was very hard to make her own stuff and be on the Plaza. She said collectives came about in 1987, when she, and former Councilor Bernie Beenhower, rewrote the ordinance, noting it took a year to write this ordinance on which everything is based. It came about because this is one way more people could make their stuff and still be on the Plaza, reiterating it is hard to be on the Plaza all those hours and still make your own stuff. She said this became sort of new age families, or families of choice, and gave more people the opportunity to be part of the group. She said somewhere along the way, the law was changed where, at first, everybody got 1-2 weeks, and she did the scheduling for that group, and most people who are now on the group came through that group. She said the law was changed and everyone came into compliance. She said to make enough money to be a part of that program, you have to be there a certain amount of time to make it work while having a decent display. She said there have been a lot of definitions of family in this, and they look at it as a new age kind of family of choice. She said so many rules have been made for other peoples' consideration. She said you can't predict will sell during the day, and sometimes at the end of the day, one thing has sold better than another. She said, "We are trying to make it so you aren't penalized for selling more of one thing than another by the end of the day, and trying to loosen this up." She has copies of all of the laws back to 1980 with her.

Neil Kenarov said he doesn't see any contradictions. In their case, they have individual license for both as a family, which are different. His wife, Marie is a ceramic artist and he's a painter and their work is completely different. He said, "The problem is we are forced to show our work simultaneously on a small display, and it's a real contradiction. We're been part of this program for more than 5 years, so this didn't come overnight. It's confusing for the customers, difficult for display, difficult to set up, difficult to go home. And with this new amendment it will help us and anybody else to get out of the restriction of showing the work simultaneously. The reason I don't see a contradiction with how the program works until now, is because everything will stay the way it is. It will just allow me to show my work and speak to the customers and present my own work. The same with my wife, instead of doing it simultaneously. In this way we will be able to display equitably with everybody else on Plaza, because right now we are forced, we are squeezed to use with our media only part of the display. That's all about it. And I don't see a contradiction with everything laid down for the program and how things work."

Councilor Bushee asked if this will allow them to alternate when they show their work.

Mr. Kenarov said he gets a week on the Plaza and his wife gets a week as well, so when he gets

his week it will be only paintings not ceramics. Right now, he displays his work inside the display and she displays outside the display which is difficult for the customers and them. It takes twice the time to set up and break down to go home, especially on a rainy day like today.

Councilor Bushee asked if they will be applying for two separate licenses.

Mr. Kenarov said no. They have one license, it's a family, a part of the group. He said, "We never show in the same booth at the same time. It is applied for two artists who happen to be married,"

Councilor Bushee asked if they knew this was the arrangement when they applied for this.

Mr. Kenarov said, "Yes, and five years later we came to the point where we make an issue because it doesn't work well. We found this as a loophole in the ordinance which should be fixed."

Marie Kenarov said, "The work looks better when placed separately. So, just for the esthetics of the program, I feel it is important to show the best you can show. It's important for the tourists and important for the other presentation of the City artists and it's important for sales, of course. And at the same time, we've been married 25 years, and we would like to stay married, if this is the issue. Because this is kind of ridiculous for me to be able to stay in the same program, to show my work separately and to stay married to my husband. That's just one thing I want to add, and it's up to you to decide what is fair and to allow us to show my work separately. I have little samples of my work if you want to see what I'm talking about."

Patricia Wyatt said she has a rotating license to sell her artwork on the Plaza, noting she is a painter. She started in the collective program, and then was juried into the rotating program. She said, "I actually have a different take on this. I was a member of a 5-person panel who worked on the reconstruction or the repair or a new understanding of the Plaza Vender Ordinance that's now in effect. At the time it came before the Governing Body it was determined and mandated at that time that it would again be reviewed by the Governing Body by the end of this year. My suggestions that changes in the ordinance should not be made in the ordinance at this time, piecemeal, little pieces here, little pieces there, when we really haven't had an opportunity as a group to look at how this really affects the Plaza ordinance going forward. Again, we are mandated to come before you, I think, before the end of the year to look at and tweak maybe, or make some changes in the ordinance. And maybe, at that time, this should be looked at in depth, rather than this piecemeal, push through kind of concept at the moment. So, it will come before you again, I'm sure, at the appropriate time, when the entire ordinance was mandated to be reviewed. So, that's my suggestion. I represent all the two-dimensional people on that committee that worked on the ordinance for a year and a half, with Sev, of course."

The Public Hearing was closed

Councilor Bushee asked when the ordinance is supposed to come back to the Council for review.

Mr. Gurule said the review was to happen earlier this year. He said research is being done, along with some members of the art community, to help us define and how to have language in the Code allowing the use of technology. There has been great concern that the use of technology allows for mass production, and it takes away from the crafting of arts/medium. He said he doesn't have the expertise to do this, so they have reached out to other members of the community to try to find out what is acceptable in the art world. Sabrina Pratt has been very helpful in trying to help us understand how technology is used and accepted throughout the world, particularly as it relates to two-dimensional art. He said it is anticipated that there will be a thorough review and possibly some amendments. He said the Code Amendment approved in 2007 has been one of the best review process they've had in this program. He said he doesn't think there will be a lot of amendments, and believes the Code is working extremely well, and allows staff to enforce conditions of operation. The only issue right now are the struggles, in staff's view, to accept art media or the use of technology. He hopes he can have something by the end of this year or early in 2011.

Councilor Calvert asked Mr. Gurule if he sees this amendment interfering with the process which they will be going through later on, and Mr. Gurule said, "I do not."

Councilor Calvert said the ordinance previously provided, "...art mediums, then the artist/artisan shall display each medium equally..." He said technically they could have been doing what the amendment says under this ordinance, and said this is just a clarification that it doesn't have to be done simultaneously, and asked if this is correct.

Mr. Gurule said, "This is correct."

MOTION: Councilor Calvert moved, seconded by Councilor Romero, to adopt Ordinance No. 2010-20.

DISCUSSION: Councilor Bushee said she agrees with the last speaker. She said the last time we considered the ordinance, there was a split and Mr. Gurule worked with everyone and we came up with good solutions which made it easier for staff and people came along and came together. She feels the divide is now being re-created for one family. She doesn't like this approach, and won't be supporting the motion.

Councilor Dominguez said he has some of the same concerns as Councilor Bushee. He isn't quite sure why this particular family can't operate like the other families have been operating for many, many, many years. He said, "When you start to make these kinds of amendments at the whim of two individuals, then I think that you really start to potentially compromise some of the integrity that was intended in the first place. Now that doesn't mean this can't be put in when the ordinance is being looked at, but I think it needs to be looked at in its entirety, and not just at one little section. I think that if there is going to be an

opportunity to be able to determine whether or not, or why other families haven't tried to take advantage of this, that discussion would be helpful at that time, so I won't be support of this motion as well."

Councilor Calvert asked if this applies only to these two people.

Mr. Gurule said no, and it applies to four people.

Councilor Calvert asked if there have been amendments in the past which benefitted a small segment of the Plaza vendors.

Mr. Gurule said yes.

Councilor Calvert asked for a specific example.

Mr. Gurule said Section 4 of the current Code provides, "Applicants who have not been issued a license prior to 2003, shall be residents of Santa Fe County." He said there is are a husband and wife who live in Bosque Farms who have been members of the program for 15-20 years. He said in 2000 when this Code was going through review at the time, it was recognized by staff and supported by the Governing Body, to allow them to continue in the program, because they had been a member of the program. The intent at the time was to restrict participants to Santa Fe County, but this amendment was made for this couple. He said all members of this program have the opportunity to operate the same way.

Mr. Gurule said, "The difference between most of these artists/artisans, is that there are four applicants, or four artists/artisans who have been awarded licenses who have been approved for two mediums. Each of those four have the opportunity to currently operate the same way. They currently operate the same way and they have to display the artwork equally. This amendment, as Councilor Calvert mentioned earlier, clarifies that it is not necessarily just equal on a daily basis, and it doesn't necessarily have to be simultaneously. And with the collective, what I understand in reading the Code, the collective has to submit a schedule to City staff to identify who will be on what weeks of the month, in their particular space. And with that, if the Kenarov family had been approved for two weeks for that month, we would monitor if there's one week for Mr. Kenarov to display his week, the second week would be for Ms. Kenarov."

Councilor Trujillo asked how many years people need to live in Santa Fe County to get the exception for the Santa Fe artist.

Mr. Gurule said the current ordinance requires all applicants to be residents of Santa Fe, and an artist who was issued a license prior to 2003, is eligible to apply, if they live outside of Santa Fe County.

Councilor Trujillo said if technology and mass production are proposed to be allowed, how would that affect these artists.

Mr. Gurule said this amendment refers only to the artists/artisans who display their work. He said mass production is not being suggested for approval, and the amendment refers only to artists/artisans who choose to display their work.

Responding to Councilor Romero, Mr. Gurule said the last time this ordinance was amended and changed was in December 2007.

Councilor Romero said then this is not piecemeal, and there has been a lot of input, discussions and surveys done in the past 3 years. She said the next issue "brewing" is the new use of technology that may add ordinance changes in 2011, depending on what we learn.

Mr. Gurule said that is correct.

Councilor Romero said then approving this ordinance amendment will keep people in alignment with our tourist season.

Mr. Gurule said yes.

Councilor Romero said then there are four families that could benefit from this change.

Mr. Gurule said yes.

Councilor Dominguez asked if this particular amendment was discussed in 2007, and Mr. Gurule said it was not discussed in 2007.

Councilor Dominguez said he isn't suggesting this will apply to one group, but it is at the suggestion of one group. He would rather the discussion take place when other concerns with the ordinance may surface. He said these four families already are participating in the program, so it isn't a matter of whether or not we can get them in, in time for the tourist season, they already are there, and they just want to operate a little differently.

Mr. Gurule corrected his previous statement and said three licenses will be supported by this amendment.

Councilor Dominguez said then if we don't approve the amendment, we aren't limiting their access, we are just not allowing them to operate the way they would like.

Mr. Gurule said it isn't hindering their operation capability, but it limits the display.

Councilor Dominguez said then it isn't hindering their operations, so they aren't missing the tourist season.

Mr. Gurule said it does limit their ability to display their artwork simultaneously. He said they will continue to have access for the weeks for which they have been approved through the collective. He said by not approving this, the display has to be equally shared.

Councilor Calvert said we can talk about proper procedure and proper technicalities, and this and that. However, on a human level, he sees an opportunity, in these tough economic times, to allow people the flexibility to operate and make ends meet on a more satisfactory basis. He said this simply is a clarification of the existing law and not going far afield in doing this. He gives them the flexibility to make a living in these tough economic times.

VOTE: The motion failed to pass on the following Roll Call vote, because there were not five affirmative votes necessary to adopt an ordinance:

For: Councilor Ortiz, Councilor Romero and Councilor Calvert.

Against: Councilor Trujillo, Councilor Bushee and Councilor Dominguez.

The resulting vote was a tie and Mayor Coss said he would vote yes, but it wouldn't make any difference because it still wouldn't result in the five affirmative votes needed to adopt an Ordinance.

Explaining his vote: Councilor Ortiz said, "I'm going to vote yes. I was struck by the equity argument. I heard Pam's argument to me at Finance, and it's always struck me that the Plaza vendors have been an insular group that has tried to put a number of protections to preserve and protect the status quo. And, as I see this particular provision, I see it as a clarity of something, a reasonable interpretation that means they could be doing this already. I am moved by the equities of the argument presented by Councilor Calvert."

Councilor Bushee left the meeting

- 3) **CASE #A-2009-05. 604 ½ GALISTEO STREET APPEAL. STEFANIE BENINATO APPEALS THE MAY 19, 2009 BOARD OF ADJUSTMENT DECISION TO DENY CASE NUMBER V-2009-9 VARIANCE REQUEST FROM SECTION 14-7.1(B)(g)(5)(ii)(C). MINIMUM SETBACK STANDARDS FOR SECOND STORIES TO ALLOW A SECOND STORY SIDE YARD SETBACK LESS THAN 10 FEET. (REHEARING) (KELLY BRENNAN)**

A Memorandum dated July 20, 2010, to Members of the Governing Body, from Kelley A. Brennan, Assistant City Attorney, regarding "Appeal to the Governing Body of the Decision of the Board of Adjustment Denying the Appellant's Request for a Variance in Case #AB-2009-05," with attachments, is incorporated herewith to these minutes as Exhibit "6."

Kelley Brennan presented information regarding this matter which is contained in her Memorandum of July 20, 2010. Please see Exhibit "6" for specifics of this presentation.

Ms. Brennan said, "Staff recommends that the Governing Body approve the Appeal and grant the variance, subject to the condition that the Appellant execute all the documents necessary to effectuate the Appeal as agreed."

Public Hearing

Presentation by the Appellant

Stefanie Beninato said, "I understand that this is on the record, so I'm not going to go on for very long. I just wanted to first thank Geno Zamora for encouraging his staff to negotiate a settlement on these matters with me. I think that the variance should have been granted anyway. As Ms. Brennan pointed out, it is just slightly over a foot off, and part of that was a mistake on a survey that was done in 1989 that was not correct, and that was nine inches, and that was a large part of that. I think that as the larger settlement, that it benefits the City greatly to do this. It takes time, energy and money, and definitely there is a possibility of losing those lawsuits, as there always is when you go to Court. It avoided internal and external administrative actions. It avoids possible negative personnel action, necessary action. And so, again, I think we should go forward with this, and believe in the course of this process that I have learned some things, maybe some negative things, but I have heard some things. And I see that the City has taken some of the suggestions and I'm sure I'm not the only person who made them, and it's not only these cases, but particularly having, for example, hearing officers and having simpler notice. So I think that too is served by going forward."

Ms. Beninato continued, "My neighbors technically, according to a settlement we came to in a lawsuit that we had, now not only do not oppose this, but support it, according to the signed agreement that is part of the Court Order. I do want to say, for the record, however, that the complaints that were filed, I had to verify myself, was in accordance with the 27 people who filed the petition. It did not cost the City tens or even thousands of dollars as my neighbors' lawyer had stated. I would be surprised if it cost \$500, given the journal that my neighbor provided me and the only 5 entries came from City staff showing up, including meaning staffs dropping by. And so, based on those entries, I very generously calculated it to be \$500 for these extra. But, I just wanted to say this, because I'm not somebody who wants to waste City resources or time. I was concerned and I went forward."

Ms. Beninato continued, "I believe Jefferson said something about governments who fear their citizens have liberty and when citizens fear their government you have tyranny. And so, I don't know that you fear me, but again, you may be tired of me, but it indicates that we have a free and active government and citizens who care. Thank you."

Speaking to the case

The Public Hearing was closed

Responding to the Mayor, Ms. Brennan said the appropriate motion is to approve the appeal and the variance subject to the conditions

MOTION: Councilor Dominguez moved to approve the appeal and the variance subject to the conditions.
THE MOTION DIED FOR LACK OF A SECOND.

MOTION: Councilor Ortiz moved, seconded by Councilor Trujillo, that upon advice of Counsel, with the condition that Ms. Beninato execute documents necessary to effectuate the settlement, including, without limitation, dismissing the three (3) cases that are cited in the memorandum, that the appeal be granted, and that the variances with all conditions be put into place.

DISCUSSION: Councilor Ortiz said, "So, discussion on the motion, because we are on the record. I can tell you that I remember this hearing and I remember the record as it was proposed. And, there is a process, there is a need for having democracy at such a local level. And, when the process itself becomes a vehicle for use in an aggressive or offensive manner, then it becomes subverted. And then, the mechanism itself that people use for individual liberties becomes a weapon that gets turned upon some of the very hard working staff and against other citizens, and that is what causes me pause. We're doing this because of the advice of counsel. And if there needs to be matters put on the record, then I think it would blow-up the settlement which has been reached between the parties. And, I'm not going to be the one to do that, even though it is my inclination to go back and review the record. But, because there are three (3) cases that have been filed, because this action settles all three of those cases with prejudice, I'm going to stand by the advice, as I did before, of the City Attorney when we heard this case. And I trusted her opinion then. I trusted the work that she put into the case at that time. I trust the work that this Assistant City Attorney and the new City Attorney has brought to bear in dismissing these matters, so that we don't have to have this continued cycle of litigation. And, I guess, that's the reason why I am in support of this particular motion."

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

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

Against: None.

Absent for the vote: Councilor Bushee

15. COMMUNICATIONS FROM THE GOVERNING BODY

A copy of "Bills and Resolutions scheduled for introduction by members of the Governing Body," for the Council meeting of July 28, 2010, is incorporated herewith to these minutes as Exhibit "7."

Councilor Dominguez

Councilor Dominguez had no communications.

Councilor Calvert

Councilor Calvert asked the status of the labor negotiations.

Mr. Romero said today AFSCME ratified the contract. He said we have come to an agreement with the Police, but doesn't know if the agreement has been ratified. He said we are still working on the Agreement with Fire.

Councilor Calvert asked what was ratified.

Mayor Coss said that will come to the Council.

Councilor Calvert would like an update on the status of the Annexation process, especially as it relates to finances, and how we are going to proceed.

Councilor Dominguez said, although it isn't scheduled, it is on the list for the next Public Works meeting.

Councilor Trujillo

Councilor Trujillo said renovations on Ragle Park will begin on August 2, 2010, and the park will be closed during renovations, which should be complete by November 2010.

Councilor Trujillo reminded parents to not leave their children unattended in an automobile.

Councilor Trujillo reminded the public that Tuesday, August 3, 2010, is the National Night Out, and there will be activities for families on the Plaza, and invited everyone to attend. .

Councilor Ortiz

Councilor Ortiz said a number of changes to the appeals provision were adopted which came forward from the Old Santa Fe Association and Fred Rowe without much discussion. Those changes have had unintended consequences in delaying the ability of people to pull building permits on approval by the H-Board. He said an example is a case off Old Pecos Trail. He said given that it is not our intention to delay this process, he has asked the Land Use Department and the City Attorney to come up with language changes, and to relook at the appellant provisions, so we can modify those so it doesn't unnecessarily extend the time for appeals.

Councilor Ortiz said he has been contacted about the opening of the Rail Runner Station at Zia Road. He said some people are opposed to opening the station until the developer comes forward with a plan, and people have contacted him as well as the City attorney in this regard. He said when he was on the MPO, staff told them it wasn't the staff's decision, and it rests with the City. He said the developer isn't going to open the station or take action to develop it. He said the City has the ability to open the Station according to the State. However, we have no process or mechanism to determine what can be opened and allowing public comment on that. He said this issue has been addressed by the Land Use Director, and he asked that City Staff come up with preliminary ideas, and have those kinds of proposals floated in some sort of public hearing forum – perhaps at the Planning Commission and/or the Public Works Committee. He would like staff to develop a timeline, noting we cannot compel the developer to do something with their property if they aren't ready to come forward on a temporary or permanent basis.

Councilor Ortiz noted that the Rail Runner Station at Zia is ready to be opened. He would like, in the next 4-5 months, to come up with a proposal, so we will have a better feel as to whether the Rail Runner will be viable after the fiscal year, so we can come up with options to present to the public.

Councilor Romero

Councilor Romero said there was a Resolution directing staff to proceed with the planning process of St. Michael's Drive. However, based on discussions she had today with the City Manager, Councilor Dominguez, Councilor Ortiz and Councilor Wurzbarger, they are going to review the plan put in place and make recommendations, and then present a Resolution at the end of August at the Council meeting. She said, "The resolution that was to be introduced, we'll be combining that with a discussion and a resolution to be presented at the end of the month."

Councilor Romero said at the last Council meeting she introduced several changes to Resolutions that had been introduced, but haven't moved forward – one from Councilor Bushee and herself around conflict of interest and ethics. She said there is a small working group which will develop a proposal after they finish their work and will be bringing something forward for consideration by the Governing Body on August 11, 2010.

Mayor Coss

Mayor Coss introduced the following on behalf of Councilor Bushee:

1. An Ordinance amending Section 5-11.1 regarding the non-profit organization animal shelter contract. A copy of the proposed ordinance is incorporated herewith to these minutes as Exhibit "8."
2. A Resolution amending Resolution No. 2004-43, regarding licensing and permit fees, fines and penalties for violations and other charges relating to animal services. A copy of the proposed Resolution is incorporated herewith to these minutes as Exhibit "9."
3. An Ordinance amending Section 2-1.11 SFCC 1987, to remove the designation of a City Councilor as Parliamentarian; and amending 2-5.1 SFCC 1987, regarding the designation of the City Attorney as the Parliamentarian. A copy of the proposed Resolution is incorporated herewith to these minutes as Exhibit "10."

Mayor Coss introduced the following:

1. A Resolution, cosponsored by Councilor Calvert, in full support of the Food Depot's Capital Campaign Grant proposal to the U.S. Economic Development Administration (EDA), for \$1.5 million, noting he would like additional cosponsors. A copy of the proposed Resolution is incorporated herewith to these minutes as Exhibit "11."
2. A Resolution supporting the efforts of Graduate New Mexico, and acknowledging the importance of collaborative partnerships to make High School graduation "everybody's business," and enabling every student to succeed. A copy of the proposed Resolution is incorporated herewith to these minutes as Exhibit "12."

Mayor Coss noted that the young people in attendance are with YouthWorks, which has been asked to vacate its current location on Agua Fria. He said we have talked about using the site of the old charter school next to the GCCC, and the public schools would donate the portable buildings, and utilities, noting the pedestals are still place. He said he wanted to inform the Council, especially the Councilors in District 4, about this proposal before asking the City Manager to proceed. He reiterated that the schools will provide the portables and the City would provide the land at the former site of the former charter school.

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 8:25 p.m.

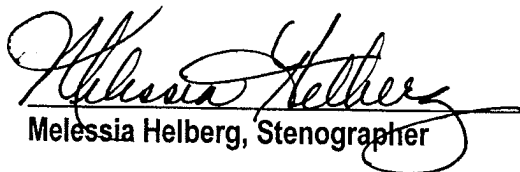
Approved by:

Mayor David Coss

ATTESTED TO:

Yolanda Y. Vigil, City Clerk

Respectfully submitted:


Melessia Helberg, Stenographer