

**MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
September 15, 2010**

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 September 15, 2010. Following the Pledge of Allegiance, the Salute to the New Mexico flag, and the Invocation, roll call indicated the presence of a quorum, as follows:

Members Present

Mayor David Coss
Councilor Patti J. Bushee
Councilor Christopher Calvert
Councilor Miguel Chavez
Councilor Carmichael A. Dominguez
Councilor Matthew E. Ortiz
Councilor Rosemary Romero

Members Absent

Councilor Rebecca Wurzbarger, Mayor Pro-Tem
Councilor Ronald S. Trujillo

Others Attending

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

Mayor Coss introduced Boy Scout Robert Spears who is attending this evening, working on a merit badge.

6. APPROVAL OF AGENDA

Robert Romero asked to postpone Item 9(b) to the next Council meeting.

Yolanda Vigil noted that there is a substitute bill on item 10(d)(3) which has been handed-out to the Council, and the caption needs to be changed accordingly.

Mayor Coss asked to postpone Item H(3) on the Evening Agenda, to the next Council meeting, because one of the sponsors is absent.

Councilor Chavez asked to postpone publication of Item 10(d)(4), and include that discussion in the public comment portion for the review of the Ethics and Campaign ordinance.

MOTION: Councilor Chavez moved, seconded by Councilor Romero, to approve the agenda as amended.

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

Councilor Chavez asked, with regard to Item H(3), Yolanda Vigil, City Clerk, to provide a draft ordinance for the public to pick up, and to put it on the City's website.

Ms. Vigil said it already is on the website.

Councilor Chavez asked if that includes all of the amendments.

Ms. Vigil said the bill isn't being postponed because of amendments, but because one of the sponsors isn't in attendance.

Councilor Chavez said there may be amendments to the bill, and asked Ms. Vigil to double-check to be sure that those are included, and everyone is "on the same page," and Ms. Vigil said she would.

7. APPROVAL OF CONSENT CALENDAR

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

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

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

Against: None.

Absent for the vote: Councilor Bushee.

a) *[Removed for discussion by Councilor Ortiz]*

b) **REQUEST FOR APPROVAL OF LEASE AGREEMENT – SATELLITE TICKET OFFICE IN SANTA FE COMMUNITY CONVENTION CENTER; LENSIC PERFORMING ARTS CENTER D/B/A TICKETS SANTA FE BOX OFFICE. (EDWARD VIGIL)**

- c) **CONSIDERATION OF RESOLUTION NO. 2010- 72 (COUNCILOR BUSHEE, COUNCILOR ROMERO AND COUNCILOR WURZBURGER). A JOINT RESOLUTION URGING NEW MEXICO'S CONGRESSIONAL DELEGATION TO SUPPORT IMMEDIATE CONGRESSIONAL ACTION TO AUTHORIZE LEGISLATION ALLOWING PROPERTY ASSESSED CLEAN ENERGY PROGRAMS (PACE). (NICK SCHIAVO)**
- d) **REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON OCTOBER 13, 2010:**
 - 1) **BILL NO. 2010-27: AN ORDINANCE REPEALING ARTICLE 18-3 SFCC 1987; AND CREATING A NEW ARTICLE 18-3 SFCC 1987, REGARDING SOLICITATION ON PRIVATE PROPERTY WITHIN THE CITY OF SANTA FE (COUNCILOR TRUJILLO). (JEANNE PRICE)**
 - a) **A RESOLUTION ESTABLISHING FEES ASSOCIATED WITH THE CITY'S SOLICITATION ORDINANCE (ARTICLE 18-3 SFCC 1987)**
 - 2) **BILL NO. 2010-28: AN ORDINANCE CREATING A NEW SECTION 14-5.2(N) SFCC 1987, REGARDING THE APPLICABILITY OF SPECIAL PROVISIONS AND STANDARDS OF HISTORIC DISTRICT AND LANDMARK REQUIREMENTS TO COUNTY AND SANTA FE PUBLIC SCHOOLS CAPITAL OUTLAY PROJECTS (COUNCILOR ROMERO, MAYOR COSS, COUNCILOR CALVERT, COUNCILOR DOMINGUEZ, COUNCILOR BUSHEE AND COUNCILOR WURZBURGER). (JEANNE PRICE)**
 - 3) **BILL NO. 2010-29: 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 CITY ATTORNEY AS THE PARLIAMENTARIAN~~ (COUNCILOR BUSHEE). (GENO ZAMORA)**

A copy of the Substitute Bill is incorporated herewith to these minutes as Exhibit "1."

- 4. **BILL NO. 2010-30: AN ORDINANCE AMENDING SECTION 6-16.1 SFCC 1987, REGARDING THE ETHICS AND CAMPAIGN REVIEW BOARD QUORUM (COUNCILOR BUSHEE AND COUNCILOR ROMERO). (JEANNE PRICE)**
Publication of this bill is postponed and included in the public comment portion for the review of the Ethics and Campaign ordinances.
- e) **REQUEST FOR APPROVAL TO FILL VACANT POSITIONS. (ROBERT ROMERO)**

- f) **REQUEST FOR APPROVAL OF 2012-2016 INFRASTRUCTURE CAPITAL IMPROVEMENTS PLAN (ICIP). (ISAAC PINO)**
 - 1) **CONSIDERATION OF RESOLUTION NO. 2010- 73 (COUNCILOR DOMINGUEZ). A RESOLUTION ADOPTING AN INFRASTRUCTURE CAPITAL IMPROVEMENTS PLAN (ICIP). (ISAAC PINO)**
- g) **CONSIDERATION OF RESOLUTION NO. 2010- 74 (COUNCILOR CALVERT). A RESOLUTION SUPPORTING THE BISHOPS LODGE ROAD PEDESTRIAN AND CONCRETE BOX CULVERT IMPROVEMENTS PROJECT FUNDED THROUGH A MUNICIPAL ARTERIAL PROGRAM COOPERATIVE AGREEMENT WITH THE NEW MEXICO DEPARTMENT OF TRANSPORTATION. (ERIC MARTINEZ)**
 - 1) **REQUEST FOR APPROVAL OF MUNICIPAL ARTERIAL PROGRAM COOPERATIVE AGREEMENT – IMPROVEMENTS TO BISHOPS LODGE ROAD; NEW MEXICO DEPARTMENT OF TRANSPORTATION. (LEANN VALDEZ)**
 - 2) **REQUEST FOR APPROVAL OF BUDGET INCREASE – PROJECT FUND.**

8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – AUGUST 25, 2010.

MOTION: Councilor Romero moved, seconded by Councilor Dominguez, to approve the minutes of the Regular City Council meeting of August 25, 2010, as presented.

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

9. PRESENTATIONS

- a) **EMPLOYEE OF THE MONTH FOR SEPTEMBER 2010 – SERGEANT ANTHONY RIVERA, POLICE DEPARTMENT)**

Mayor Coss read the letter of nomination into the record, commending Sgt. Rivera for his quick action in providing assistance to a heart attack victim.

Deputy Chief Abrams said he has known Sgt. Rivera for many years, who is a man of extreme integrity with a good work ethic, and a shining example for all of us. He congratulated Sgt. Rivera and thanked him for his service.

Mayor Coss presented Sgt. Rivera with a plaque, a certificate and a check for \$100 from the Employee Benefit Committee.

Sgt. Rivera said he just did what he is trained to do.

b) ENVIRONMENTAL HALL OF FAME. (KATHERINE MORTIMER)

This item was postponed to the meeting of September 29, 2010.

CONSENT CALENDAR DISCUSSION

10(a) REQUEST FOR APPROVAL OF AMENDMENT NO. 3 TO PROFESSIONAL SERVICES AGREEMENT – HYDROLOGY AND WATER PLANNING CONSULTANT SERVICES IN SUPPORT OF CITY'S WATERSHED MANAGEMENT PROJECT; AMY C. LEWIS. (DALE LYONS)

Councilor Ortiz said he wasn't in attendance at the Finance Committee meeting where this was heard, or he would have recommended against approval of this request. He said this person had an original contract of \$18,000, and is now asking approval of an amendment which triples that contract. He said this contract did not go out to bid, and did not go through the procurement process. He said this is the kind of add-on to a contract that he does not like to see. He said he recognizes this isn't City money, it is grant funds, but it is the kind of process which should come under higher scrutiny. He will be voting against this proposal because it is a "string along" contract on an original contract that never went out to bid, besides the fact that she is a former City employee.

Claudia Borchert said this actually went out to RFP, because there is a section of the contract which is \$20,000, which is more of the work that she's done in the past. She said two large pieces, the redesign of the McClure gauge and the bathymetry study, which comprise \$90,000 of the contract, did go out to RFP and she did qualify as a bidder under that contract. She said the mechanism by which they did this is a contract amendment versus a new contract, even though the majority of the work did go out to RFP, noting this seemed to be an appropriate mechanism.

MOTION: Councilor Romero moved, seconded by Councilor Calvert, to approve this request.

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

For: Councilor Calvert, Councilor Chavez, Councilor Dominguez, Councilor Romero and Mayor Coss [Mayor Coss voted to provide the necessary five votes for approval of this request].

Against: Councilor Ortiz.

Absent: Councilor Bushee.

END OF CONSENT CALENDAR DISCUSSION

11. REQUEST FOR APPROVAL OF COLLECTIVE BARGAINING AGREEMENT BETWEEN CITY OF SANTA FE AND AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME) FOR 2010/2011. (MIKE KELLY)

Mike Kelly presented information regarding this matter. He said negotiations are complete after seven months, and the contract was ratified on July 28, 2010, by AFSCME members. He noted AFSCME had agreed on the article for holidays, and during the budgeting process, the Council recommended furloughs for the last two holidays of the fiscal years. He said the management team and negotiators were asked to reopen the tentative agreement. However, there were two reasons they couldn't. One, is that it isn't common practice once there is tentative agreement during the negotiation process, and, secondly, if there is mutual agreement to do that, it opens the door to open all tentative agreements and there is perpetual negotiation. He said they were unsuccessful in reopening that article.

Mr. Kelly said this resulted in AFSCME bringing this agreement to the Council for consideration for approval with options as follows:

- a) the Governing Body could choose not to approve the contract, as is, and AFSCME would then be without a contract, and would continue operating from the old contract;
- b) the Governing Body could approve the contract and hope there would be funding prior to the holidays suggested for furlough; or
- c) the Governing Body would approve the contract, look at the funding in November, and if funds are insufficient to continue, give notice to City and AFSCME employees that those days will be furloughed and move forward from there.

Lynn Montoya, AFSCME, said this was one of the better negotiations, although there were complications in achieving the goal.

Councilor Ortiz asked Mr. Montoya if it is correct, from the union's perspective, that they would rather see this contract be adopted, and then if it is necessary to reduce the hours, the union would like to see those hours as regular time and not holidays.

Mr. Montoya said reopening the contract could mean another 6-9 months of renegotiation. He said AFSCME is suggesting moving forward now, and in November look at how to work around that. He said, "We have already incurred a cost to the City at this point, and to go back and incur more cost seems illogical."

Councilor Ortiz said then the union is committed, as we all are, to look at the mid-year numbers, and if those are lower, and trigger the furloughs, then the union is committed to management to come up with the right way of addressing that budget shortfall without taking away the last two holidays, noting no one wants that budget shortfall to happen.

Mr. Montoya said, "Absolutely."

MOTION: Councilor Ortiz moved, seconded by Councilors Romero and Chavez, to approve this request.

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

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

Against: None.

Absent for the vote: Councilor Bushee.

Mayor Coss congratulated the collective bargaining teams for their hard work.

Councilor Bushee arrived at the meeting

12. REQUEST FOR HEARING EXAMINER'S FINDINGS OF FACT AND CONCLUSIONS OF LAW: CASE #2010-72 – 501 RIO GRANDE PLACE, UNIT J-I. APPEAL OF THE PLANNING COMMISSION'S DECISION ON JUNE 3, 2010, CONCERNING A VARIANCE FROM SECTION 14-5.6(F)(5) FOR A STRUCTURE HIGHER THAN 20 FEET WITHIN THE FOOTHILLS SUB-DISTRICT OF THE ESCARPMENT OVERLAY DISTRICT IN ORDER TO PERMIT A ROOFTOP AC UNIT. (MATTHEW O'REILLY)

Matthew O'Reilly presented information regarding this matter from his Memorandum of September 8, 2010, with attachments, to Mayor Coss and City Councilors. A copy of the Memo and attachments are in the Council packet.

Mr. O'Reilly noted, on appeal, the Hearing Examiner reversed the decision of the Planning Commission to deny this variance, and approved the requested variance.

Councilor Calvert asked if the applicant paid two times the building permit fee when he was issued a permit.

Mr. O'Reilly said the applicant has not been issued a permit.

Councilor Calvert has no problem in the general conclusion to grant the variance, but he has a problem with Conclusion of Law #8, which provides, in part, "The granting of a variance from the height restriction will do substantial justice, considering all circumstances which led to the need for variance, including without limitation the City's issuance of a building permit for construction of the Residence..."

Councilor Calvert asked if we will be setting precedence. He said, "The City issued a building permit for the structure, then at some point later on, he decides he wants to put an air condition on there, and is saying by virtue of the fact we issued a building permit, we should have anticipated that this would

happen and it was going to conflict with other codes and ordinances.”

Councilor Calvert continued, “I’m just asking our legal people if this is the road you want to go down, because my preference would be to eliminate some of this language in #8, if not the whole thing. What is the standard. Should the City always anticipate future events and therefore leave itself open to this kind of second guessing.”

Geno Zamora said he has two answers. Mr. Zamora said, “The first answer as it relates to the Findings of Fact and Conclusion of Law, they relate to this case and this case particularly, so they’re not precedence for future cases. And that’s also demonstrated by the language in #8, considering all circumstances which led to the need for the variance. And that relates to these circumstances as pled within these facts. So, a finding within #8 would be limited to this case. That’s the first answer.”

Mr. Zamora said, “I think you also, asked impliedly, asked a second question as to what your authority as a Governing Body is tonight with regard to these Findings of Fact, which is, these are Findings of Fact and Conclusions of Law by a hearing officer who actually held a hearing and reached these conclusions. It’s before you tonight to either accept these Findings and Conclusions, or refer back with advice, or choose to actually hear the matter personally. Accordingly, because you have not held a hearing, and considered facts and law in that hearing, you unfortunately do not have the option to change any of the Findings. You can either accept them as a whole, or refer them back or choose to hear them.”

Councilor Calvert said it further states in #8, “...and Appellants’ reasonable diligence in ascertaining the legality of a rooftop AC unit prior to their purchase of the Residence.” He said in the Findings of Fact that due diligence was the Appellant relying on the seller’s broker for that information, and also the Appellant relying on the contractor to get the permit. He doesn’t agree that is reasonable diligence in ascertaining. The one is certainly not the legal authority on it. He is having problems with the #8 Conclusion of Law as justification. He said if Mr. Zamora says it doesn’t set precedent he’ll have to go with that, but it certainly seems like it is opening the door for future actions.

Councilor Calvert said in #10 Conclusion of Law, the Hearing Examiner says, “...On appeal, the City Council has discretion to place such conditions upon its granting of the variance.” He asked Mr. Zamora to comment on this statement.

Mr. Zamora said he reviewed that sentence prior to the hearing and, unfortunately, that is an incorrect sentence – that the Council has the discretion at tonight’s hearing to place such conditions on granting of the variance. He said the Governing Body can accept the recommendations and the Findings and Conclusions of Law, but it would be a misstatement to the effect that it would be read that you have discretion to make changes to the Findings.

Councilor Calvert said previously, Mr. Zamora said we had the option of adopting these Findings and Conclusions as is, or referring them back. He said, “If what he’s stating there is incorrect, I don’t see how we can accept that. And if we’re accepting it either all or none, that’s an inappropriate statement.”

Mr. Zamora said the statement about having discretion to impose conditions, if you don't act on it, you're not creating new conditions, but if you do act upon that, that would be something that would not be permitted.

Councilor Calvert said, previously Mr. Zamora said we either accept in total or not, and it's not a valid statement according to you. In other words, his conclusions of law are incorrect. "And I'm questioning if it's all or none, how can we accept the Conclusions of Law if they're not correct."

Mr. Zamora said, "Councilor, all I can give you is by not acting on that sentence you are impliedly not accepting it. That's the best I can do under the circumstances. That reading of it, that you have discretion this evening in changing and altering the Findings of Law as it relates to the appeal and to the variance itself, that particular sentence does not affect the variance."

Councilor Calvert asked what conditions, if any, have been placed on this variance.

Matthew O'Reilly said, "Just what you see in front of you."

Councilor Calvert said, "I don't see any," and Mr. O'Reilly said, "That is correct. But I will direct you to page 1..." Councilor Calvert said, "I saw that."

Mr. O'Reilly said on page one, paragraph 1, line 6, it states, "The Hearing Examiner also recommends that the Council direct City staff to work with Appellants to develop and implement reasonable conditions for the variance, including screening with wire mesh and painting to blend in with the roof."

Councilor Calvert said that language is part of what he disagrees with. He said he isn't trying to question the Hearing Officer's legal acumen, but he does question his Planning and Land Use credentials in recommending conditions or suggestions on a variance which may imply that this is a condition or how the variance will be provided. He doesn't know that wire mesh will do little other than make it more visible. With regard to painting and the view from the right of way, he would think it should be painted to blend with the wall, not the roof, because people won't be seeing the roof. They will be seeing the wall and how much it sticks above the wall, and to the extent it does, you would want it to blend-in more.

Councilor Calvert said he has no problem with the variance in general, but with what the Conclusions of Law and the implied conditions on the variance might entail.

Mr. O'Reilly believes what is limiting here is the way the Appeals Ordinance itself is written. He said the Council has two options. The Governing Body can accept the Findings of Fact as currently written or choose to hear the variance. If the Governing Body hears the variance, it can approve or deny it, and impose any conditions at that time if it chose to approve the variance. He said, "Your choice tonight is to decide whether to accept these Findings of Fact, in which case the case is decided and it's over, or decide not to accept them and we would set a date for you to hear the variance."

Councilor Calvert said then it is not an option to send these back to the Hearing Examiner to correct his Conclusions of Law.

Mr. O'Reilly said he doesn't believe the language in the Appeals Ordinance allows that, but would defer to the City Attorney.

Mr. Zamora said he defers to Mr. O'Reilly on this in that he understands this ordinance better, noting he doesn't have Ms. Brennan here this evening who would have provided that information. He apologized for having misspoken earlier on the option of referring back. He said the Governing Body has the option of adopting the Findings and Conclusions or to hear the case under the new ordinance.

MOTION: Councilor Calvert moved, seconded by Councilor Romero, to accept the Findings of Fact and Conclusions of Law in Case No. 2010-72, with direction to staff not to feel bound by the Hearing Examiner's recommendations on page 1, as to how the variance will be complied with.

DISCUSSION: Mr. Zamora said, as written, there is the introductory section with recommendations, but those are not binding, so you have the option to choose to follow the recommendations and do the Conclusions of Law and Conclusions of Fact, or do the Conclusions of Law and Conclusions of Fact and not follow the recommendations, because they are not conclusory in this document.

Councilor Calvert said we are adopting Findings of Fact and Conclusions of Law, but we're not adopting his recommendations, therefore those aren't binding.

Mr. Zamora said he can make that motion

Councilor Chavez asked if the specific language to which Councilor Calvert is referring on page 1 is the language directing "City staff to work with Appellants to develop and implement reasonable conditions for the variance, including screening with wire mesh and painting to blend in with the roof."

Councilor Calvert said this is correct.

Councilor Chavez asked Councilor Calvert what he doesn't like about that language.

Councilor Calvert said he doesn't like the direction about "screening with wire mesh and painting to blend in with the roof," and believes staff should see how it appears from the public right-of-way and determine what would be the least "visually impactful."

Councilor Chavez asked if staff is comfortable with that.

Mr. O'Reilly said he would like to point out that the Appellant has indicated their desire to work with staff to provide additional screening and/or painting, and staff would be happy to work on that at the time that they apply for the permit, at which time they will be charged a double permit fee.

Councilor Bushee asked how this was brought to staff's attention.

Mr. O'Reilly said it started out as a complaint from a citizen about this unit. Staff went out and determined that it was, indeed, in violation, and it moved forward.

Councilor Bushee said it has been "determined in Finding #3 that it has to be on the roof."

Mr. O'Reilly said the Hearing Examiner determined that it was a hardship to place the unit elsewhere than on the roof, not that it couldn't be placed somewhere else,

Councilor Bushee asked where it says that, and Councilor Calvert said that is in Finding #9.

Councilor Bushee asked if the Hearing Examiner is qualified to determine this.

Mr. O'Reilly said the Hearing Examiner, Ken Cassutt, Esq., is a local attorney with many years of experience in real estate law.

Councilor Bushee asked if they hire air-conditioning experts to determine these hardships.

Mr. O'Reilly said the Hearing Examiner has to make their decision based on the evidence presented at the hearing. The Ordinance allows all kinds of submittals by Appellants and others, and the Hearing Examiner then makes a decision based on the information before him.

Councilor Bushee asked if staff missed the Foothills issue, or if heights wasn't mentioned, or what.

Mr. O'Reilly said if you read the Findings, staff correctly determined that this was in the foothills and the height of this structure exceeded the limits of the foothills subdistrict.

Councilor Bushee said they got a building permit and the plans submitted had the air conditioner on the roof.

Mr. O'Reilly said no. The original building plans didn't show this on the roof.

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

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

Against: Councilor Bushee.

13. CONSIDERATION OF RESOLUTION NO. 2010- 75 (MAYOR COSS AND COUNCILOR ROMERO). A RESOLUTION APPROVING A JOINT POWERS AGREEMENT ESTABLISHING THE REGIONAL COALITION OF LANL COMMUNITIES; AUTHORIZING THE MAYOR TO EXECUTE THE JOINT POWERS AGREEMENT WITH CERTAIN REVISIONS RECOMMENDED OR REQUESTED BY THE DEPARTMENT OF FINANCE AND ADMINISTRATION OR BY

OTHER PARTIES TO THE JOINT POWERS AGREEMENT; AND SUPPORTING A ONE-TIME COMMITMENT OF \$40,000 FOR THE COALITION. (JEANNE PRICE)

Councilor Romero said there has been some discussion about overlap with other commissions, including the Citizens Advisory Board and the CAB that was established by LANL, so there is some misunderstanding about things like the CAB and other entities. She said this is different and has the blessings of the U.S. Congressional Delegation, noting their representatives attended every meeting. This is a one-time allocation which contains an appropriate break-down for all of the entities participating in this JPA, including Taos County, Rio Arriba, Los Alamos and Santa Fe. She said this includes the economic development that will be coming from the Labs through appropriations and this entity is looking at an appropriation somewhere in the near future, and she sees this as building a greater foundation potential for economic development. .

MOTION: Councilor Romero moved, seconded by Councilor Chavez, to approve this request.

DISCUSSION: Councilor Bushee said her questions are the same as she had at the Finance Committee, noting she has no minutes from the BQL that some of these concerns were going to be addressed at that Committee, so she doesn't know what changes. However, she is concerned about duplication of effort, noting there are other economic developments in Northern New Mexico. She is concerned about the contribution, noting the City was to contribute \$40,000 and the County \$10,000.

Councilor Romero said 3 budget proposals were submitted, and this is a middle breakdown containing an apportionment specific to the numbers of employees in each of these areas. She said the Santa Fe apportionment was \$50,000 – \$10,000 from County and \$40,000 from the City. She said the same apportionment was made for Taos and Rio Arriba, noting there is a breakdown of employees in each of these readings.

Councilor Bushee said she is more concerned that the County's contribution is only \$10,000. She asked if there is an Executive Director for the organization, and if the budget is real. She believes the entity is in it for the long haul.

Councilor Romero said Senator Bingaman, Senator Udall and Congressman Lujan support this effort and are looking for an appropriation in the future, noting this is based on models around the country.

Councilor Bushee asked again if the organization has an Executive Director, if this is the budget and if the organization already has the \$200,000. She is concerned that this is a duplication of effort.

Councilor Romero said there is no duplication because there are different kinds of activities for each of the entities.

Councilor Bushee asked if this organization is just waiting for the \$200,000.

Mr. Romero said it is his understanding is that the funds will come from the various entities involved.

Councilor Bushee said then the \$40,000 will contribute to part of the budget for this year, and asked if they already have an executive director at \$80,000.

Mr. Romero said they do not have an Executive Director.

Councilor Bushee said she doesn't see anything in the packet from the Northern New Mexico Economic Development group, which has the same communities as this one, and asked how this is not a duplication of effort.

Mr. Romero said he doesn't know.

Councilor Bushee noted there is travel – DOE related trips in the budget, and asked if the DOE can assume this budget. She is hearing there is now a \$200,000 budget in the future which will need to be supported. She reiterated her concerns about duplication, and asked why the funds wouldn't go to the existing organization.

Mayor Coss said the existing group, the Regional Economic Development Group, is focused on general economic development in Northern New Mexico, and not specifically on LANL. He said Santa Fe was invited to participate in this organization which is specifically focused on LANL, and its economic influence, as a way to focus more highly on its economic development and the initiatives coming out of LANL – how our community influences that and can benefit. He said the County is focused and ready to move forward. He said the Congressional Delegation is willing to help us fund the operating budget going forward, as well as any projects we don't have now going forward. He said even though Santa Fe County's contribution is relatively small, Los Alamos County's contribution is \$150,000.

Councilor Bushee said if the Congressional Delegation is interested in this, they would have funded it. Councilor Bushee again reiterated her concerns, and said she is yet to be convinced, and doesn't want to hear the same thing about the Congressional Delegation supporting it and wants to how they support it. She asked the source of the \$40,000.

Mayor Coss said the \$40,000 comes from the Economic Development Fund.

Councilor Ortiz noted he wasn't at the last Finance Committee meeting, but he spoke with Councilor Wurzbarger about this, and she told him it was to go to the BQL for discussion, and asked if it went to BQL, and if so, what did that Committee say about it.

Jeanne Price said the next meeting of Business & Quality of Life is on November 9, 2010, and there was some need to process this Resolution, so it was placed on this agenda for your consideration.

Councilor Ortiz said then even though there was direction by the Finance Committee to send this to the BQL, the decision was made by staff to disregard that referral and to put it on this agenda, and asked how that happened.

Ms. Price said it was done in consultation with Mayor Coss, and Mayor Coss said it was also done in consultation with the sponsors.

Councilor Ortiz asked the breakout of the contributions by the various entities, and asked if everyone but Santa Fe and Los Alamos contribute \$10,000 and Taos pays the difference. He said this information isn't in the packet, and again asked the proposed contribution by entity. He said this is an equal partnership and equal coalition in which each of the seven entities has an equal say in voting, but there seems to be a disproportionate contribution by Santa Fe and Los Alamos.

Councilor Romero said there are a lot of challenges with this, noting several members of the Governing Body and the Mayor were approached, and it was very difficult to get financing for this. She said we have been "pinch hitting" with Robert Romero and Geno Zamora attending some of the meetings, she has attended some and the Mayor will attend tomorrow. She said the coalition was formed, with LANL carrying the ball to organize this with the consultant, and they developed the percentages based on other models. She said the model for voting hasn't been decided at this time. She reiterated that the percentage of contribution to the budget was based on the number of employees in each of the entities. The group meets regularly to decide some of these issues, and she hopes Mr. Romero and Mr. Zamora will continue to attend as other decisions are made. She said you don't get the money until the organization is formed, so this is some of the foundation work, so the money will be coming. She reiterated that the Congressional Delegation has indicated its support with a good faith showing by the group. She said this has been adopted by Taos and Santa Fe County.

Councilor Ortiz quoted from paragraph 4, page 8 of the packet, Governance of the Regional Coalition,

"The Regional Coalition shall be governed by a board of directors who shall be appointed as follows:

A. The governing body of each Party shall appoint a director, who shall be an elected public official of that party, with current experience in strategic planning, economic development, environmental protection or the legislative process."

Councilor Ortiz said it seems on its face, we have seven governing bodies who are signatories of this agreement we're being asked to approve, and each of those signatories will have one person on the Board of Directors.

Mayor Coss said each will have an appointment to the Board.

Councilor Ortiz said this Board will decide the direction this coalition will take, as well as to decide the proposed budget, noting the current budget is a draft budget. He asked if the budget on page 17 is being approved when we approve this agreement and this allocation of resources.

Mayor Coss said this is just a model budget, and the Board of Directors, once created, would approve the budget.

Councilor Ortiz said then we would be giving the Mayor the authority to sign this Agreement and contributing \$40,000 to this effort, and the Board will then decide on how to allocate any funds which come to the organization.

Mayor Coss said this is correct.

Councilor Ortiz asked, for clarity, for a break-out of the initial contributions by each of the signatories to the agreement.

Mr. Romero said DOE isn't involved in this, it is Los Alamos County.

Councilor Bushee said on the budget it says "Local Government Expenses – miscellaneous expenses not covered by DOE funds."

Councilor Ortiz said that is Los Alamos's contribution which won't be reimbursed under its contract.

Mr. Romero said he recalls that Espanola was around \$4,000, Taos \$1,000-\$2,000, reiterating that the contribution depends on number of LANL employees living in the County or City. He said Los Alamos had the highest number of LANL employees, the City of Santa Fe had the second highest, followed by Santa Fe County. He apologizes that this information is not in the packet.

Councilor Ortiz said if that is the concept of this coalition, it would be his hope that the governance of the coalition would reflect the financial contribution as well as the potential impact of each of the entities. He said if Los Alamos, Santa Fe and Rio Arriba have the majority of the employees, then presumably, they would have the most interest/investment in this coalition, which presumably would mean that they should be able to contribute the most. He understands this conceptually. However, what he is seeing is we are giving a *de minimis* "ride" to some entities to be a part of a coalition which then will spend City funds and Los Alamos County funds for their own purposes. He said that also needs to be addressed. He said if this is still in flux, or subject to negotiation, he would propose to amend Article #4, to follow the model we have with the Regional Transit District, to have proportionate representation on this Board depending on either the financial contribution or the number of employees in each community, or some other kind of proportional representation, instead of the equal representation being proposed.

Councilor Ortiz asked the number of entities who have agreed to participate who are signatories.

Councilor Romero said Santa Fe County has passed a Resolution and the JPA, and she believes Taos County has as well, but she is unsure about Rio Arriba, but the Tribes have as well.

Councilor Ortiz asked if the Tribes are part of the coalition.

Councilor Romero said yes, and Councilor Calvert said they could be.

Councilor Romero said the meeting tomorrow is at Tesuque Pueblo

Councilor Ortiz asked if the Tribes have indicated a willingness to be a part of the governance of the coalition.

Councilor Romero said she believes they have agreed, by virtue of coming to all of the meetings and participating.

Councilor Ortiz asked if they have made a contribution to the Coalition.

Councilor Romero said, "Based on the number of people that are employed, as Robert has indicated, which is a percentage."

Councilor Ortiz asked if there is information on the Fact Sheet on page 15 which gives us that information. He asked if "all others" includes the Tribes.

Mayor Coss said the Tribes are counted in the County numbers.

Mr. Romero said the Tribes actually aren't members of the Coalition, but there is a way for them to become members at the appropriate time, noting there is language on page 10 of the packet detailing how they can become members.

Councilor Calvert understands the contribution by the City and the other entities is for the first year, and thereafter there is a commitment from the Congressional Delegation to completely fund the budget.

Councilor Romero said she is unsure, and questions are being raised which she can't answer, saying she also would like those answers. She would like to table this item, noting there is a meeting of the Coalition tomorrow where we could have someone from economic development to get the information around voting, what the appropriation covers, etc.

Councilor Calvert understands that the intent is that everybody would be covered after the first year through funding through the Congressional Delegation and the reason for the equal vote for each entity.

Councilor Calvert reiterated the Pueblos initially aren't covered, noting the caption from the Agreement doesn't include the Pueblos. He said the first WHEREAS doesn't include the Pueblos. The Pueblos aren't discussed until Item 10(a) with regard to the possibility of membership. He said Item 12 further discusses the Pueblos involvement. He said if the intent is to include the Pueblos, then that should be said in the beginning and not buried later in the JPA.

Councilor Chavez noted on page 2 of the packet there is a specific paragraph on Tribal outreach, and there is a reason they aren't in the JPA now, and they won't be in the JPA until they're ready.

Councilor Calvert said he feels the provision to enable Tribal membership should be moved to the first part of the agreement, noting the provision in the JPA is vague.

Councilor Calvert quoted from the Resolution, line 13, page 3: "Repealer. All prior actions of the City taken

in connection with the Agreements, the Preliminary Official Statement, and the Official Statement inconsistent with the provisions of this Resolution are hereby repealed but only to the extent of such inconsistency.” He said he doesn’t understand this language. He is concerned, for example, about the BDD agreement with LANL, and he doesn’t want that cancelled.

Councilor Calvert said the Resolution provides on line 24, page 1, “WHEREAS, Santa Fe shares a common interest with other local governments in the region in assuring that LANL missions remain sustainable and diversified, while assuring protection of the environment...” He thinks this agreement goes beyond economic development, commenting he hopes that it does, and this Resolution is carried forward in the JPA and what they discuss. He noted currently there is a lot of discussion about the chemical and metallurgy building happening at LANL and how it’s grown by “leaps and bounds,” and such, and hopes the group discusses these kinds of issues.

Councilor Dominguez said most of the questions asked have been questions he had. He said previously at Finance, the Committee remanded this to the BQL so that some of the issues could be fleshed out and to answer some of the questions asked today.

MOTION: Councilor Dominguez moved, seconded by Councilor Romero, to postpone this request, and to remand this item to the Business and Quality of Life Committee for consideration at its next meeting.

DISCUSSION: Councilor Dominguez said he believes everyone on the Governing Body wants to take advantage of all economic development opportunities, which is good. However, there is a difference between creating a foundation or committing conceptually and agreeing to something versus funding it if we are unsure whether or not the funding is proportionate. This is his big question. He understands how they arrived at those numbers. However, he sees nothing from the Congressional Delegation which answers the questions asked by Councilors Ortiz and Calvert. He believes BQL would like to have a discussion and determine how they can get that commitment from the Congressional Delegation.

Councilor Dominguez said another big question is the model being proposed in the voting strength, noting Councilor Ortiz also had questions. He has more questions about how the voting will take place. He said language on page 4 of the agreement proves, “B. The term of this Agreement shall be perpetual unless terminated by mutual consent of the Parties.”

Councilor Dominguez said the fact sheet is titled “Regional Coalition of LANL Communities, Los Alamos County, Rio Arriba County, Santa Fe County, Taos County, City of Espanola, City of Santa Fe and Town of Taos.” He said there is a lot of information on the Fact Sheet, which is signed by Anthony Mortillaro, Los Alamos County Administrator. He asked if this person is speaking on behalf of the Regional Coalition of LANL Communities via this Fact Sheet, and how does he know these facts actually are factual.

Councilor Dominguez said all of the questions would properly be answered in a full discussion held by the Business and Quality of Life Committee.

Councilor Bushee asked if a request to BQL to meet sooner than November, as a part of the motion, would facilitate this better. She said, “I’m getting a little resentful that we’re regurgitating the questions we had at

Finance. Well, no, we were very clear. I was very concerned and I forgot about it for a moment here, about the agreements that you just want to wipe out by putting this new JPA. If you'll look in the packet, Councilor Calvert just reminded us of the fact that this is going to eliminate a series of other agreements. And so, BQL which is also charged with recommending expenditures from the Economic Development Fund, is to deal with that piece. But, I didn't get any list of agreements that would go away that are already in existence, and this greatly concerns me."

Councilor Bushee said she is concerned, noting the previous motion to postpone wasn't to a date certain.

FRIENDLY AMENDMENT: Councilor Bushee asked to amend the motion to request BQL to meet in October as a way to facilitate this. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS FROM THE OTHER MEMBERS OF THE COMMITTEE.**

Mayor Coss said we will miss the opportunity to get federal funds in this budget cycle, saying this is the reason he moved it forward to the Council instead of to BQL, commenting that if BQL could meet in October that would be great. He pointed out that there is only one Council meeting in November, so timing is of the essence in this regard.

Councilor Bushee said Councilor Wurzbarger chaired the Finance Committee where this was sent to BQL, and she is concerned about the process to bump this to the Council with the same questions still unanswered, and without the minutes from Finance being attached where specific concerns and questions were expressed.

Councilor Ortiz said the federal fiscal year begins on October 1st, so presumably, this is the start-up, and if we have the commitment from the Congressional Delegation, conceivably we could have this in place by January 1, 2011, and would have the opportunity to submit the request for federal authorization in FY 2011/2012. He understands the timing, but there is still time for this to go through the process and figure out some of the loose threads in the coalition and still have a package in place by January 1, 2011, for 10 months of start-up funds, with the hope there will be an ongoing budget in place by October 2011.

Councilor Chavez said if BQL is unable to meet, then this should come back to the Council. He said we are going asked for a one-time commitment of \$40,000, and asked the cycle of funding. He said the how and the why would fall in place after BQL meets, so he thinks the \$40,000 commitment and the source of those funds is the underlying issue.

FRIENDLY AMENDMENT: Councilor Romero asked to amend the motion to provide that the representative to the coalition will come from the Finance Committee, excluding herself, and including the Mayor. **THE AMENDMENT WAS NOT FRIENDLY TO THE MAKER.**

Mayor Coss said he isn't hearing the Councilors saying they don't support this request at this time, but that they do have a lot of questions, and we will continue to work on that. He said the best idea would be if the BQL could meet sooner than two months from now, which he believes would help.

Councilor Bushee said she wants it to be clear that when this goes to the BQL that this is for a one-time financial commitment, and that we don't contribute any funds in the future.

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

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

Against: Councilor Romero and Councilor Chavez.

MAYOR COSS AGAIN REMINDED EVERYONE THAT ITEM H(3) ON THE EVENING AGENDA HAS BEEN POSTPONED TO THE NEXT COUNCIL MEETING.

14. MATTERS FROM THE CITY MANAGER.

None.

15. MATTERS FROM THE CITY ATTORNEY

Geno Zamora reminded the Council that at the next Council meeting we will be meeting in executive session regarding all pending or threatened litigation.

16. MATTERS FROM THE CITY CLERK.

None.

17. 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 September 15, 2010, is incorporated herewith to these minutes as Exhibit "2."

Councilor Chavez

Councilor Chavez said the American Cancer Society Walk to defeat breast cancer will be held on Saturday, October 9, 2010, at the Villa Linda Park, noting it is a 5-mile walk along the arroyo. He said trash cans need to be placed in the park, and he would like the recycling stands with the plastic bags. He would like to have this noticed on public access television. He said Gloria Martinez is the contact person.

Councilor Chavez said he will be severing and withdrawing his ethics complaint against Councilor Ortiz. He said the citizen complaint will move forward. He is doing this to work with Mayor Coss and

Councilor Ortiz to organize a large public forum to discuss the Ethics Ordinance and all implied in that and the Campaign Ordinance. He hoping there will be discussion also on the merit and benefit of the two Committees, the Ethics and Rules Committee and the Ethics and Campaign Review Board. He said he will have a letter drafted tomorrow to present to the Ethics and Campaign Review Board notifying him severing and withdrawing his complaint.

Councilor Romero

Council Romero introduced a Resolution establishing the Code of Ethics Task Force to review and make recommendations to the Governing Body to ensure transparency on the part of City officials and employees as it relates to ethics. She said this Task Force will take the work that's been done and make recommendations. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "3."

Councilor Bushee

Responding to Councilor Bushee, Mayor Coss said the Parliamentary Ordinance was approved on the Consent Calendar. He said the Ordinance regarding the quorum for the Ethics and Campaign Review Board was postponed.

Councilor Bushee asked a date certain for completion of this work. She said people have contacted her indicating this issue needs an outside perspective at this point. She would also like the Task Force to consider campaign financing. She suggested the New Mexico Municipal League and the League of Women voters can review the legislation and make timely recommendations.

Councilor Bushee introduced a Resolution requesting that the League of Women Voters® perform an independent review of the City's Code of Ethics and related ordinances and report back to the Governing Body regarding recommendations to ensure transparency on the part of City officials and employees as it relates to ethics. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "4."

Councilor Bushee introduced a Resolution directing the City Manager to research the feasibility of establishing a sunshine portal on the City of Santa Fe website that is free, user-friendly, searchable and accessible to the public for the purpose of governmental transparency and openness to the public. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "5."

Councilor Bushee said she has received some individual concerns from the public which she will give to the City Manager for follow up.

Councilor Chavez said in his announcement earlier, and he has asked the Mayor, to include a discussion about the Campaign ordinance in the public forum, and has asked Ms. Price to look at possible amendments for the Ordinance. He agrees that we need to have discussions both on the Ethics Ordinance and the Campaign Ordinance.

Councilor Chavez said as we work on the portal, anything to do with the Ethics Ordinance, the Campaign Ordinance and final Campaign Finance Reports should be on the portal because these are part of open and transparent government, and asked her to include that in her Resolution.

Councilor Bushee asked to cosponsor Mayor Coss and Councilor Ortiz's Resolution on the Audit Committee.

Councilor Ortiz

Councilor Ortiz introduced the following:

1. A Resolution, cosponsored by Councilor Wurzbarger, Mayor Coss and Councilor Bushee, creating the City Audit Committee and directing staff to take certain steps to further ensure that proper procedures are followed for all City purchases and professional services contracts. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "6."
2. A Resolution adopting Administrative Procures related to appeals of Land Use decisions, commenting he doesn't know why this isn't going to the Planning Commission, and said perhaps it should go to the Planning Committee. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "7."
3. A Resolution directing the City Manager to locate funding in the amount of an additional \$40,000, for funding the Spanish royalty visit and the Mexican Presidential visit, events planned by Santa Fe 400th Anniversary, Inc. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "8."

Councilor Ortiz thanked Mayor Coss and Councilor Chavez for arranging the meeting, and appreciates the candor at that meeting, and appreciates in particular, Chavez's public statement about the Complaint he had filed against him. Councilor Ortiz read a portion of the filing he had in that matter as follows, noting it will move forward with Mr. Flatt's complaint.

"I want to acknowledge the media attention that has surrounded me, has generated increased public attention, interest and scrutiny. This media focus and public attention has precipitated the filing of this complaint against me, and the introduction of amendments, now you're hearing a second round of amendments, to both the Code of Ethics as well as the Ethics and Campaign Review Ordinance. With hindsight, I recognize and acknowledge that my actions have created the appearance of an apparent conflict of interest and that I could have, maybe should have, taken additional measures to prevent that appearance and that apparent conflict of interest. My opinion is that the proper forum to handle any apparent conflict of interest is with the Governing Body, either through an official action of this body, and/or through the public ordinance amendment process of both the Code of Ethics as well as the Ordinance that creates the Ethics and Campaign Review Board. That ordinance amendment process is underway. I am hopeful, along with

Councilor Chavez, that a frank, open and public hearing of all of the issues surrounding my actions, other Governing Body Member's actions and the Code of Ethics and the Ethics and Campaign Review Board Ordinances, will result in a prevention of violations, either perceived or real in the future."

Councilor Ortiz said the previous statement is part of a filing he made in response to a complaint he understands is still ongoing, by Mr. Flatt. He thanked the Mayor and Councilor Chavez for having the decency to sit with him and air out some of the issues which have needed to be aired out for a long time.

Councilor Dominguez

Councilor Dominguez introduced an Ordinance creating a new Article 20-7 SFCC 1987, establishing the City of Santa Fe Social Host Liability Ordinance. A copy of the proposed Ordinance is incorporated herewith to these minutes as Exhibit "9."

Councilor Calvert

Councilor Calvert introduced the following:

1. A Resolution urging the New Mexico State Legislature to adopt an amendment to the New Mexico Condominium Act to require confirmation that a condominium declaration complies with local zoning and subdivision Ordinances and Regulations. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "10."
2. A Resolution requesting that the Santa Fe County Clerk record Condominium Declarations only upon verification by the City that the Condominium Declaration complies with local zoning and subdivision ordinances and regulations. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "11."

Councilor Calvert said he received a copy of the Santa Fe Economic Development Newsletter and asked if this is published by the City, and asked the distribution of the newsletter. He wants to know the dissemination of the newsletter and if it is targeting the rest of the community.

Mayor Coss said staff can find out and let him know.

Councilor Calvert said this is a request to Robert Romero. He has had numerous calls from people, especially in Casa Solana and Barrio la Canada, about the household and car burglaries. He asked if there is any kind of strategy we can employ. He said some of the suggestions are assigning traffic patrol officers to patrol in the neighborhoods for a while. He would like some other suggestions about how to stem this recent trend that seems to be fairly rampant.

Councilor Bushee said she has been getting the same kinds of calls for 6-12 months. She said

Albuquerque is using members of its SWAT unit to focus specifically on property crimes. She asked about the status of the Citizens On Patrol, which never got established. She said we do neighborhood watches, but it's not the same. She said the trend in burglaries is going up. She asked that the Public Safety Committee look at this and that the Police Chief bring a list of initiatives to resolve this problem.

Councilor Chavez said Resolutions have been introduced regarding the recording of condominium regulations. He asked Mr. O'Reilly the status of this issue with the County.

Mr. O'Reilly said he has been working with the County for quite some time on this issue, including asking the County Clerk to refuse to record Condominium Declarations which didn't include a letter from the City saying it had reviewed them for compliance with underlying zoning and density. He said it was felt it would carry some weight with the County Clerk if our Governing Body asked her directly by Resolution. He said it would be a step in the process. He said the process is outlined in the second Resolution requesting legislative changes to the Condominium Act. He said we requested this be put on the Governor's Call for the 30-day session, but that didn't happen. He said he and other staff appeared before Senator Wirth's Committee recently to discuss this issue and to educate other Legislators about the problem.

Councilor Chavez said without this legislative change, we can't adopt the ordinance previously proposed. He spoke about the issues surrounding condominiums and the consequences to our neighborhoods. He hopes there is a mechanism to address this and protect the City in the interim while the Legislature is considering legislative remedies, commenting those could take years.

Councilor Calvert agreed, saying this is the reason for both Resolutions, so we have something in place in the interim to address the situation while we pursue the long term solution at the Legislature.

Councilor Chavez said the direction to staff when the Ordinance did not pass is to continue to do what they are doing, so this isn't anything new, it's just going to be in a different Resolution.

Councilor Romero and Councilor Bushee asked to cosponsor the Resolutions. Councilor Bushee noted she started this work when Diane Quarles was the Planning Director, so there may be some files.

Mayor Coss

Mayor Coss said the State of the City address is scheduled for October 7, 2010, and he hopes people will be able to attend.

Mayor Coss thanked all the City employees and the Fiesta Council for their work on the Fiestas which were great this year. He said Don Diego and La Reina did an outstanding job of representing this community.

Mayor Coss congratulated the Mexican government and all those who are celebrating 200 years of Mexican independence on September 16th, and noted we are commemorating this in a joint event with the Mexican Consul General's Office at the MRC this evening.

He thanked Councilor Ortiz and Councilor Chavez for the meeting and some of the things which resulted.

He thanked Councilors Bushee and Romero, and all of the Councilors for their work, and said all of the Councilors should cosponsor the Sunshine Portal Resolution and Councilor Wurzbarger's Resolution on the Audit Committee.

Mayor Coss said sometime in October he will be scheduling a special Council meeting as a study session, to review the current Ordinances and charges of the Committees – the Ethics and Rules Committee and the Ethics and Campaign Review Committee – and related resolutions and ordinances. . He would like to open it for comment to the public. He will be looking for a Wednesday between the 1st and last meetings of the Council, probably in mid-October.

Mayor Coss looks forward to appointing the Citizen Panel proposed by various members of the Governing Body, related to both committees, and consider any ideas presented at the Council Study Session, and finally to make recommendations.

Mayor Coss introduced the following:

1. A Resolution supporting wilderness designation for the inventoried roadless areas adjacent to the Pecos Wilderness. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "12."
2. A Resolution repealing Resolution No. 2003-33 regarding records retention and disposition schedules; adopting the most current records retention and disposition schedules developed by the New Mexico State Records Center and Archives for local government use; and amending those specifically related to the Municipal Court. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "13."
3. An Ordinance repealing Section 1-3.5 SFCC 1987, regarding the destruction of arrest records. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "14."

END OF AFTERNOON SESSION AT 7:00 P.M.

EVENING SESSION

A. CALL TO ORDER AND ROLL CALL

The Evening Session was called to order by Mayor David Coss, at approximately 7:00 p.m. Following the Pledge of Allegiance, salute to the New Mexico Flag, and Invocation, Roll Call indicated the presence of a quorum as follows:

Members Present

Mayor David Coss
Councilor Patti J. Bushee
Councilor Christopher Calvert
Councilor Miguel Chavez
Councilor Carmichael A. Dominguez
Councilor Matthew E. Ortiz
Councilor Rosemary Romero

Members Excused

Councilor Rebecca Wurzbarger, Mayor Pro-Tem
Councilor Ronald S. Trujillo

Others Attending

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

F. PETITIONS FROM THE FLOOR

Mayor Coss gave each person 3 minutes to present their petition to the Governing Body.

Gloria Mendoza thanked the Governing Body for postponing the public hearing on the indecency ordinance, because it gives them more time to mobilize. She said there will be a lot of people here for the public hearing. She said with the amendments the ordinance isn't strong enough and there are too many loopholes, and you are leaving it open for people to expose their bodies. She said Councilor Romero knows there are 400 years of a value and morals system in Santa Fe. In 400 years, there has never been such disregard for our town. The ordinance is weak, and she would like staff to look in other states to find another ordinance. She said an opaque covering is still not enough. She said this is a moral issue and there's nothing wrong with morals. She said Santa Fe is the gateway to Northern New Mexico, and other cities in the north would never have allowed people to show themselves publicly. She doesn't know why you allow this to happen, and if you continue, you don't represent her. She said since the last meeting, Barbara Yardman has collected 1,000 signatures, and there will be more by the time of the hearing.

Nicole De Jurenev, 201 Alamo Drive, President, Casa Solana Neighborhood Association.

She said she is here because of the crime situation, and she appreciates Councilor Bushee and Calvert speaking to Mr. Romero about this. She said the neighborhood used to have about 2 crime situations every month and now it is almost every day. She said we in the neighborhood are really "wiggling out." She said she is now afraid someone is in her house when she comes home in the afternoon, or at night fearful someone is stealing the barbecue from her yard, which is no way to live. She has lived all over the world and she has ever been in a City that permits this kind of property damage and lawlessness. She said a police presence would be a deterrent. They did what Chief Wheeler suggested, and they are alert and have a blog, but it continues to escalate. She suggested we use the Public Safety aides to make rounds and take the cars from the substation and park them in the neighborhood. She said Councilor Calvert has been robbed, so no one is safe from this. She said the people behind her were robbed while she was in her home 15 feet away. She said they have yet to see the cars that are stealing the flat screen televisions. She said the burglaries are happening in the day 10:00 a.m. to 3:00 p.m. She said there is progress with the arrests, but when they get out on bail, they'll have to steal to pay their lawyers.

Ms. De Jurenev suggested the Police Safety Aides could patrol the neighborhoods. She said she doesn't want to hear them say they are doing their best. She spoke about her experience in going to the Police Station to take a cell phone one of the burglars left, and there was no record and the police didn't know where Casa Solana is. She said that didn't inspire confidence that people are looking out for the neighborhood. She said they want to feel protected and safe. She spoke about the level of crime which is second behind New Orleans. She said everyone in her neighborhood are terrified, and this is no way to live.

Unidentified man said he has a statement for the record as follows: I am opposed to the indecency ordinance as presently written. I will present reasons, comments and recommendations. First, there is little justification for the revised ordinance. The incidents of nude bike riders and similar events has been so small in the history of Santa Fe as to be irrelevant. The definition of indecency is in contention both legally and morally, and I won't speak to the civil liberties issue, others will at some other time. I'm speaking as a citizen of the Santa Fe area, an individual. It is not appropriate for a small section of our community to determine through law this definition. Third, Santa Fe is a city that provides an environment for artistic freedom and the rights of free speech and public protest. The ordinance can have a chilling effect on these accepted environmental values.

Unidentified man continued, "Fourth. For a city that prides itself on being a major cultural and artistic center, this ordinance will bring disrepute to our reputation and credibility. Fifth, the ordinance will attract individuals and groups who would test the ordinance. Such cases will cost the City money, gain bad publicity, both publically and nationally and tarnish the reputation of Santa Fe. Sixth, the interpretation of the proposed ordinance and enforcement will be problematic at best and a legal disaster in the worst case scenarios. Many of the provisions of the ordinance are subject to interpretation and could serve to harass our citizens and tourist visitors. This lack of clear definitions and the broad latitude for interpretation needs to be discussed with more clarification before the fact, and not after."

Unidentified man continued, "My recommendations are as follows. The ordinance as written should be voted down, and let me say if there are changes in the ordinance before the next meeting, they should be made public, so the public knows exactly whether it's the same ordinance, a modified ordinance or whatever, so the public knows and understands and can express their opinions."

Unidentified man continued, "If there is an agreement that the ordinance needs further consideration, that should be proposed, voting postponed and revisited after the November election. Two minutes is not enough for a statement on the critical issues raised. A community-wide discussion should be organized by the culture department of the city to provide an expanded opportunity for citizens of the Santa Fe area to fully present their views, comments and proposals. And I say all citizens, and not only those who agree with me. This is a public issue and it should be discussed public. That the Council review these proposals and then either draft the ordinance, or leave the ordinance presently in effect, or offer changes for a new ordinance based on suggestions offered. Without this welcoming of suggested proposals, a yes vote would be a capitulation to a small, representative minority position interpretation, and would do a disservice to our community, democratic process and our Santa Fe citizens. And this is the book, "Visual Shock," by Michael Kammen with a full chapter on the issue of nudity, decency and morality. And I just want to say one other thing. I made a study and a collection of the great works of art. And, in those great works art, including religious art, most of them including.... and even the Fall of Man by Hugo Van der Goes, has frontal nudity on the part of Eve. Many of the other paintings have frontal nudity on the part of people related."

Rick Martinez said with regard to the crime in Barrio la Canada and La Joya neighborhoods, the Governing Body has the power to send a true message to these Judges to stop this revolving door, especially with juveniles who are getting out and hitting our houses again that day. He said if we don't send a strong message to the judges it won't happen. He applauds the arrests that were made, but they're still getting out of jail and going right back to robbing people. He wants the Council to come up with that strong message.

Stefanie Beninato, 604 ½ Galisteo, said one of her acquaintances had their phone lines cut and things taken from their yard, and when they called the police they said, "Oh, we have it on the computer. Here's your file number." She said this is an adequate response from the police. She said unless the police show up and show some concern, she doesn't know how people can feel the police are really here to serve and protect us. She understands there are staffing problems with the police, but believes we need a physical response by the Police. Ms. Beninato said she is here to find out from Councilor Bushee about the audit Hector Balderas was going to do. She is concerned that the City contracted with Sunstone Press to publish Creative Santa Fe, the book from the conference. As part of that contract, the City was to receive 100 copies, noting a value of \$75 each retail. She said there is no public record of those books being delivered to the City, nor who received or distributed them. She asked if these were campaign gifts

to be given away. She wants to know what happened to those books. When she asked the City Attorney about this, she was told they provided her with the public records request and that's all they're concerned about. She asked about compliance with the contract, and if the books weren't delivered, that wasn't done. If it was complied with, and the books were given away, there had to be a record of who those went to. She asked Councilor Bushee to request Mr. Balderas to look into what happened to the 75 books.

Jose Vasquez said he is from Santa Fe and his mother went to school here, and celebrated mass down the street. He asked, "Who do you represent. Behind you is a sign that says City of Holy Faith. Now, if you want to bare your breasts, I would suggest that there's a place on Cerrillos where you are certainly welcome to do so. But if you would like to represent the people of Santa Fe, the people of holy faith, I would beg you to take into consideration decency, decency on our Plaza."

Linda Murphy said she is a new resident of Casa Solana, and she has never been so scared to live in her own home, and every day they have a major incident. She also is a realtor and people ask her every day about the safety of the neighborhood. She said it is with great question she represents that Santa Fe is safe. She is begging the Council to put photo enforcement cars in the neighborhood so everything is photographed. She said the police cars could be put in the neighborhood which would help. She said the residents in Casa Solana need you to look into this the best you can.

G. APPOINTMENTS

Planning Commission

Mayor Coss made the following appointment to the Planning Commission:

Renee Villarreal – to fill unexpired term ending 6/2011.

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

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

Airport Advisory Board

Mayor Coss made the following appointment to the Airport Advisory Board:

William Schmitt – to fill unexpired term ending 2/2013

MOTION: Councilor Calvert moved, seconded by Councilor Romero, to approve this appointment.

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

Sustainable Santa Fe Commission

Mayor Coss made the following appointment to the Sustainable Santa Fe Commission:

Joe Sehee – to fill unexpired term ending 5/2012.

MOTION: Councilor Bushee moved, seconded by Councilor Romero, to approve this appointment.

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

Business Capitol District/Design Review Board

Mayor Coss made the following appointments to the Business Capitol District/Design Review Board.

Edmundo R. Lucero (At-Large) – to fill unexpired term ending 12/2011; and
Lorn C. Tryk, AIA (Architect) – to fill unexpired term ending 12/2011.

MOTION: Councilor Romero moved, seconded by Councilor Calvert, to approve these appointments.

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

H. PUBLIC HEARINGS

1) CONSIDERATION AND APPROVAL OF COMMUNITY DEVELOPMENT BLOCK GRANT 2009-2010 CONSOLIDATED ANNUAL PERFORMANCE EVALUATION REVIEW (CAPER). (KYM DICOME)

Kym Dicome presented information regarding this matter from the materials in the Council packet.

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

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

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

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

Against: None.

Absent: Councilor Chavez

2) REQUEST FOR APPROVAL OF LEASE AGREEMENT FOR PROPERTY ADJACENT TO THE GENOVEVA CHAVEZ COMMUNITY CENTER; YOUTHWORKS, INC. (ECONOMIC DEVELOPMENT PROJECT – PUBLIC HEARING PURSUANT TO ORDINANCE NO. 2008-42). (KATE NOBLE)

Kate Noble presented information regarding this matter to the Council from the materials in the Committee packet.

Councilor Bushee asked if this request went to any of the City Committees.

Ms. Noble said it went to the Committees as outlined in the Economic Development Ordinance which is the Economic Development Review Subcommittee, the Business and Quality of Life Committee, and it is required to have a public hearing here at the City Council.

Councilor Ortiz said it didn't go to Public Works.

Councilor Bushee said she's never heard of a lease that didn't go to the Public Works and Finance Committees, and she sees no mention of what happened there.

Ms. Noble said she thought that was on the agenda. She said it was approved unanimously at both the EDRC and BQL, and the reason this went through that process is that it is an Economic Development project so they took it through the Economic Development process.

Mayor Coss said, then it didn't go to Public Works or the Finance Committees and Ms. Noble said this is correct.

Councilor Bushee said she had questions and thought she could ask those as it went through the committees. She still has questions, and asked if there is any reason this cannot still go through the Committees.

MOTION: Councilor Ortiz moved, seconded by Councilor Bushee, to postpone this request to the next meeting of the Council, and defer action until it has a chance to go to the Finance Committee and the Public Works Committee.

DISCUSSION: Councilor Ortiz said he can put it on the Finance Committee agenda on Monday.

Mayor Coss said then it can come back to the Council at the next meeting.

Councilor Dominguez asked about the timing at the current facility. He said the Public Schools are moving forward, although they are somewhat delayed.

Ms. Noble said she doesn't know the timeline, but the schools are ready to go and started operations at the Alameda property and want this done as soon as possible.

Councilor Dominguez asked if the schools have anything in the works for that space right now.

Ms. Noble said no, and there will be only the 3 elementary schools operating on the property.

Mayor Coss said the motion to postpone to the next Council meeting negates the need for a public hearing.

Councilor Calvert asked if there was a specific deadline to vacate the premises, or was it just as soon as possible.

Ms. Noble said it was to be done as soon as possible, and doesn't believe there was a specific deadline.

Councilor Romero said Superintendent Gutierrez has made it public that the new school is consolidated and they are moving forward, and believes there is a tight deadline for that, and YouthWorks has been asked to move quickly. She said it would be good to have an email from Superintendent Gutierrez that she really supports her to put in the informational packet.

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

3. **CONSIDERATION OF BILL NO. 2010-24; ADOPTION OF ORDINANCE NO. 2010-____ (MAYOR COSS, COUNCILOR ORTIZ, COUNCILOR TRUJILLO AND COUNCILOR DOMINGUEZ). AN ORDINANCE REPEALING SECTION 16-7.4 SFCC 1987, INDECENT EXPOSURE, AND CREATING A NEW SECTION 16-7.4 SFCC 1987, REGARDING PUBLIC INDECENCY. (MARCOS MARTINEZ)**

This item is postponed to the Council meeting of September 29, 2010.

- 4) **CONSIDERATION OF BILL NO. 2010-25; ADOPTION OF ORDINANCE NO. 2010-____ (COUNCILOR WURZBURGER). AN ORDINANCE AMENDING SECTION 25-5.6 SFCC 1987, REGARDING TEMPORARY WATER RATE INCREASES IN TIMES OF WATER EMERGENCIES; REPEALING AND READOPTING RATE SCHEDULES 1(C) 1(D) AND 1(E) OF EXHIBIT B, CHAPTER 25 SFCC 1987 TO INCREASE WATER RATES TO SUPPLEMENT LOST REVENUE FROM LOW INCOME CREDIT CUSTOMERS; CREATING A WATER RATE CHARGE THAT COULD BE IMPLEMENTED IN TIMES OF WATER EMERGENCIES; AND AMENDING RATE SCHEDULE 11 OF EXHIBIT B, CHAPTER 25 SFCC 1987 REGARDING RATES AND CONDITIONS FOR THE CITY'S POTABLE WATER FILL STATION. (BRIAN SNYDER) (Postponed to October 13, 2010 City Council Meeting)**

This item is postponed to the City Council meeting of October 13, 2010.

I. ADJOURN

There was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 7:40 p.m.

Approved by:

Mayor David Coss

ATTESTED TO:

Yolanda Y. Vigil, City Clerk

Respectfully submitted:

Melessia Helberg, Stenographer