



Agenda

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PUBLIC SAFETY COMMITTEE
Tuesday, September 21, 2010 4:00 PM
City Council Chambers
200 Lincoln Avenue, Santa Fe, NM 87501

1. Roll Call
2. Approval of agenda
3. Approval of Tuesday, August 17, 2010 minutes
4. Old business:
5. A. Proposed ordinance amending section 23-4.2 SFCC 1987 regarding solicitation on public property; creating a new article 20-2 SFCC 1987 regulating panhandling on public property; creating a new article 20-3 SFCC 1987 regulating panhandling on private property. (Councilor Ronald Trujillo, Jeanne Price)
5. New business:
- A. Police Department Post Fiesta Report-Police Lieutenant Dale Lettenberger
- B. Proposed ordinance creating a new article 20-7 SFCC 1987 establishing the City of Santa Fe social host liability ordinance (Councilor Carmichael Dominguez, Police Chief Aric Wheeler)
- C. Approval of the FY 10 Emergency Management Performance Grant (Sevastian Gurule)
6. Matters from Municipal Court-Informational: August 2010 Monthly Report
7. Matters from Police Chief Aric Wheeler
8. Matters from Fire Chief Barbara Salas
9. Matters from Committee Members
10. Communications from the Floor
11. Adjournment

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**Index Summary of Minutes
Public Safety Committee
September 21, 2010**

<u>INDEX</u>	<u>ACTION TAKEN</u>	<u>PAGE(S)</u>
Cover Page		1
Call to Order	Call to Order by Chair, Councilor Ronald Trujillo at 4:00 pm in the City Council Chambers	1
Roll Call Member Benjamin Montano, resigned	A quorum was declared by verbal roll call, 2 absences	1
Review and Approval of Minutes August 17, 2010	<i>Mr. Harris moved to approve the minutes of August 17, 2010 as presented, second by Dr. Lewis, motion carried by unanimous voice vote.</i>	1
Approval of the Agenda Staff requested to remove Item 5-B under New Business.	<i>Dr. Mier moved to approve the agenda as amended, second by Mr. Mizrahi, motion carried by unanimous voice vote.</i>	1
Old Business A. Proposed ordinance amending section 23-4.2 SFCC 1987 regarding solicitation on public property; creating a new article 20-2 SFCC 1987 panhandling on public property; creating a new article 20-3 SFCC 1987 regulating panhandling on private property. (Councilor Trujillo and Jeanne Price)	<i>Dr. Mier moved to table this item until Chief Anaya and Assistant City Attorney Frank Walker were present, second by Mr. Harris, motion carried by unanimous voice vote.</i> <i>Mr. Harris moved to approve the proposed ordinance amending section 23-4.2 SFCC 1987 regarding solicitation on public property; creating a new article 20-2 SFCC 1987 panhandling on public property; creating a new article 20-3 SFCC 1987 regulating panhandling on private property, second Ms. Nancy Owen-Lewis, motion carried by unanimous voice vote.</i>	2-4

**Index Summary of Minutes
Public Safety Committee
September 21, 2010**

	<i>3 in favor 1 against</i>	
New Business		
A. Police Department Post Fiesta Report-Police Lt. Dale Lettenberger	<i>No Action, Informational.</i>	4-8
B. Proposed ordinance creating a new article 20-7 SFCC 1987 establishing the City of Santa Fe social host liability ordinance	<i>Tabled</i>	
C. Approval of the FY 10 Emergency Management Performance Grant (Sevastian Gurule)	<i>Mr. Harris moved for approval, second by Mr. Mizrahi, motion carried by unanimous voice vote.</i>	
Matters from Municipal Court – August 2010 Monthly Report	<i>Informational</i>	8
Matters from Police Chief Aric Wheeler	<i>Informational</i>	8
Matters from Fire Chief Barbara Salas	<i>Informational</i>	9
Communications from Committee Members	<i>Informational</i>	9
Communications from the Floor	<i>None</i>	9
Adjournment	Dr. Mier moved to adjourn at 5:45 pm, second by Mr. Harris, motion carried by unanimous voice vote.	9
Signature Page		10

**Public Safety Committee
MINUTES
Tuesday, September 21, 2010**

- I. Roll Call - The meeting was called to order by Chair Trujillo at 4:00 pm at the City Council Chambers, Santa Fe, New Mexico.

Roll Call constituted a quorum.

Present:

Councilor Ronald Trujillo, Chair
Nancy Owen Lewis, Ph.D.
Peter D. Mizrahi
Dr. Mike Mier
Herbert L. Harris, Jr.

Excused:

Frank Stuto
Mike Bowen

Benjamin Montano has resigned.

Staff Present:

Police Chief Aric Wheeler
Fire Chief Barbara Salas
Lieutenant Dale Lettenberger
Fire Marshal Angelo Ortega
Deputy Chief Anaya
Anna Serrano for Fran Lucero, Stenographer

- II. Agenda

Staff requested to remove Item 5-B under New Business.

Dr. Mier moved to approve the agenda as amended, second by Mr. Mizrahi, motion carried by unanimous voice vote.

- III. Approval of Minutes

Mr. Harris moved to approve the minutes of August 17, 2010 as presented, second by Dr. Lewis, motion carried by unanimous voice vote.

- IV. Old Business

- A. Proposed ordinance amending section 23-4.2 SFCC 1987 regarding solicitation on public property; creating a new article 20-2 SFCC 1987

panhandling on public property; creating a new article 20-3 SFCC 1987 regulating panhandling on private property. (Councilor Trujillo and Jeanne Price)

Ms. Price: On August 17th, the Public Safety Committee recommended approval of the bill to create regulations for panhandling. However, on August 30th, the Finance Committee remanded the proposed ordinance back to the Public Safety Committee to consider concerns raised by the New Mexico Coalition to End Homelessness.

Staff did meet with the End Homelessness Coalition and prepared a substitute bill which is in the packet. Major changes are that we remove the requirement for license for panhandling, therefore there is no fee for it but they kept the basic rules for where and when people can panhandle. City Attorney Alfred Walker has been working on this.

Councilor Trujillo reaffirmed that with this new ordinance there would be no license and no fees. Ms. Price confirmed that this was correct but there are rules. Councilor Trujillo asked the question from the last discussion; his recollection was that the license would be visible for the police officers could see. He asked the Chief how he felt about this change.

Chief Wheeler said that he has a similar concern regarding the identity by license. He wasn't sure what the compromise was between Ms. Price and Chief Walker.

Dr. Mier moved to table this item until Chief Anaya and Assistant City Attorney Frank Walker were present, second by Mr. Harris, motion carried by unanimous voice vote.

Meeting returned to 5-A:

The chair addressed Deputy Chief Anaya and stated that earlier in the meeting Ms. Price had explained that a compromise was made regarding the licensing and no fee and asked for an explanation.

Deputy Chief Anaya said that they were instructed to go back in to discussion with New Mexico Coalition and Homelessness which is a group that he works with closely as he is a member of the Mayor's Task Force to end homeless. Their concerns were that not all of the homeless issues were being addressed. One of those items was the permit and the \$10 fee and in the permit the whole point of the ordinance was to regulate this activity and the permit really didn't serve the purpose for regulation. It was stated that \$10/day is a big amount of money for many to pay; these are people who are scraping by. By necessitating the permit would only be giving it to those who might not necessarily have a need but doing it more as a capitalist venture. To do the permitting to the people who really need it would have been a great burden to

the city; we would have to have people working on the weekends, at night, holidays; that would be able to give these permits. For a \$10 fee it just was not cost effective, it would have cost more than the revenue earned. If you come through town and you are down on your luck, what is in the ordinance with the detail of what is or is not allowed is how it will be regulated. We don't necessarily need a license for that. Example, if you are here on a Saturday and you are out of gas and you are asking for a \$1 for gas, you aren't going to get that person to get a permit, therefore breaking the law. We all felt it was in the best interest to remove the license because it wasn't what we wanted out of this ordinance and there was no need to charge a fee. The other thing that was agreed on was on the 1st offense. The Police would create a fact sheet detailing what the ordinance says you can do or not do. This would be given on the first offense, second offense would be the warning and third offense they could be subject to arrest. Most people do carry some form of identification. We can do our best, for the people that the people that we deal with day in and day out; we can identify them. As far as their right to solicit, it was upheld in the United States Supreme Court, their First Amendment Right, they do have freedom of speech, so they have the right to say, "sir can I have a \$1". The City Attorney may want to elaborate.

The Chair asked how the Police would keep track of this. Chief said that once their name is run through dispatch, their name is added to the cat call and it tracks how many times they have been contacted.

Chief Wheeler said that his concern is the matter has been addressed for those transients but those are not the ones that we have problems with. Do we need to go back and distinguish those that are repeat offenders? A couple months back the discussion took place on identifying the repeat offenders and having some type of record.

Dr. Mier: I agree with you. My question is if you approach someone who is panhandling, what is the percentage of people who have a need and how do you track these people if they are rovers? We need to take into consideration the rights of the citizens and protection of the common citizen. The right of the panhandler and the rights of those who are being pan handled. I don't know how to deal with that. I do think that certainly individuals have the right to ask for help if needed, and I don't know if that can be accomplished by holding up a sign vs. approaching people. This is a very complex issue, I know that the elimination of pan handling in the city limits is not an option, or at least this is what I have heard. I think we need to take a step back and maybe it isn't the right time to take action.

Asst. City Attorney Alfred Walker: Ms Price drafted this at my request and under my supervision. The reality is that panhandling is a form of speech. I consider it more of an economic speech therefore, there are regulations that may be posed that may be stricter than say, a political speech. I think it is

pretty clear that you cannot completely prohibit it. It has to be permitted in some form. The City can impose reasonable time, place and manner on speech and panhandling. The ordinance is an attempt to do that and a person has a right to go up to another person and say, "can you spare a dime, and the other person has a right to say no." Both persons are exercising their rights to speech. What we have tried to do is prevent the speech in areas where it will be extremely uncomfortable for the people who are approached, or dangerous, the example of soliciting people from a car; that is in the public safety portion. This is an attempt to allow speech which is allowed in the 1st amendment but regulated in a way to balance all the concerns that everyone has. Concerns about safety as well as concerns as when you are waiting at a bus stop, you don't want people approaching you with that kind of speech.

Councilor Trujillo said that there are repeat individuals who are hitting you up for money at the gas stations, etc.

Chief Wheeler said that from a law enforcement perspective he is looking at the amount of time that his officers would be spending on those individuals who are panhandling for gas, most of the time they are not the problematic individuals. But on the other side are we pulling too much out of the ordinance for protection?

Dr. Lewis referred to the letter from Hank Hughes where another option was offered; possibly eliminating the license and the \$10 fee but possibly having the panhandler to register. What would this option entail?

Chief Wheeler said that from a law enforcement perspective, should we tie up an officer to do this administrative function. I have a hard time with this function.

Mr. Harris said he understands the wording much better with this explanation, but this doesn't provide guidelines. I don't think we will be able to prevent panhandling without guidelines. If the Police feel that this provides them with the guidelines they need and they can enforce it, then I recommend we go with this.

Mr. Harris moved to approve the proposed ordinance amending section 23-4.2 SFCC 1987 regarding solicitation on public property; creating a new article 20-2 SFCC 1987 panhandling on public property; creating a new article 20-3 SFCC 1987 regulating panhandling on private property, second Ms. Nancy Owen-Lewis, motion carried by unanimous voice vote.

***3 in favor
1 against***

Dr. Mier made the motion to re-instate item 5-B, second by Mr. Harris, motion carried by unanimous voice vote.

- B. Proposed ordinance creating a new article 20-7 SFCC 1987 establishing the City of Santa Fe social host liability ordinance (Councilor Carmichael Dominguez, Police Chief Aric Wheeler)

V. New Business

A. Police Department Post Fiesta Report – Police Lieutenant Dale Lettenberger

Fiesta started on September 9, 2010 with the burning of Zozobra, this was a huge success. According to Kiwanis who sponsors Zozobra stated that there were about 28,000 in attendance. Incidents were minimal; a couple of disorderly conducts; individuals being intoxicated, 2 arrests for the whole night, which was really good considering the thousands of people that, were in the city. Traffic was backed up for a little bit, it seemed like it was heavier than past years. By 10:00 pm traffic was opened in and around the area for normal traffic. Fiesta days that followed; all in all it was a great success. There were traffic concerns related to the parade but it did run smoother than last year. The Police Officers helped those who needed to get in to the areas by car, so barricades were actively managed. There was one motor vehicle collision with a motorcycle, there were serious injuries and they are now recovering.

Dr. Lewis said in the past during Fiesta there were reported DWI's and wanted to know if they experienced any DWI's? Lt. Lettenberger said that they are investigating the motorcycle collision and results have not been returned as to the alcohol consumption.

Dr. Mier made the comment that in the last few years he has been working with Santa Fe Beautiful for Zozobra. He agreed with the Lt. that the traffic was worse this year. He said that when he left the park that it took him close to an hour to get out of the backed up traffic. The traffic congestion made it very hard to keep people calm. He suggested that next year better planning has to be done in identifying the inlets and outlets for traffic to flow better.

Lt. Lettenberger said that they had two problems that night, Alameda and St. Francis they had a 3-car collision which prompted them to close Southbound St. Francis. Wreckers were dispatched immediately to move the vehicles but this still took some time and it did back up the traffic. There was also an incident at Alameda and Paseo; there was a report of an incident involving guns. That resulted in closing one of the lanes on

Alameda.

Dr. Mier said that these examples strengthen his point, that incidents do happen and an alternate plan needs to be looked at for the future. Alternative routes need to be discussed and looked at.

Chief Wheeler said the routes have been looked at and they will continue to see how they can better the situation for next year. He also informed the committee that because there were additional fees imposed on those that went to Zozobra many of the lookers decided to park and see Zozobra from outside of Ft. Marcy Park which added to the traffic numbers. We actually do split routes; one route goes around Paseo de Peralta to Alameda and also Paseo de Peralta to St. Francis. People don't appreciate that we route them away downtown, but a longer route allows us to send in two different directions.

Lt. Lettenberger said that they do assign officers to all of the outlets and corridors to assist in getting the traffic flow moving. Some of those areas are St. Francis Dr., Otero Street, Guadalupe, St. Francis, Marcy St. and Paseo de Peralta. The roving officers are all active during the exiting of Zozobra.

Dr. Mier said that it is getting worse instead of better and something needs to be done before next year. He asked about those people who are up in the foothills and coming down, are all those people dumping on to Paseo as well?

Lt. Lettenberger said they would come down to Rosario and on to Paseo de Peralta.

Agencies that helped work this event were the State Police, Santa Fe Sheriff's Department, Bernalillo County Sheriff's Department and the Santa Fe Posse helping out for Zozobra.

Dr. Mier said that there was police presence but the traffic was the worst he had ever seen.

Chief Wheeler said that this will be discussed in more detail during debriefing. The Chief used Albuquerque as a good example of what they have done but Santa Fe is not set up to bring busses in and have dedicated parking.

The Chair commended the Police presence on the plaza and during Fiesta's. He was able to go to the command center and he encouraged the other members of the committee to see this in the future.

Chief Wheeler expressed his thanks to the Fire Department because they were able to set up behind the Fire Station and they could see almost the full parameter of the park. In infra-red worked out well when the lights went out.

The Chair sent a memo to both Chiefs and asked how many people got in to the park. There is a concern if 28,000 people were in that vicinity; are we putting profit before public safety. The amount of people that can be allowed in this area needs to be reviewed.

Chief Wheeler said that they will speak with Kiwanis and with the Fire Department to know what the capacity should be. There are so many people that get in that are not included in their ticket sales. The Chief said he will continue to do research on safe crowd numbers and inform Kiwanis to assure that safety is the priority.

Dr. Mier said that he agrees with this. He said if one incident happens in that park would be difficult to handle. One unruly person or any type of riot action would end up in many people getting hurt.

Fire Marshal Angelo Ortega: It was stated that an occupant load study has been done for Magers Field and Fort Marcy Park. The results were that 21,000 people could be in this area. You have to take in to account the amount of exits. When you are looking at that type of occupancy load you have to calculate, and out of the International Fire Code 2006 edition which the Santa Fe Fire Department is under and they abide by, they are required to have 262 ft. of exit opening from that ballpark. It was measured on this date and they have 212 feet, short about 40 ft. He only took into consideration what is marked for public and the narrowest point. Around Magers Field there are a lot of people behind there; Old Taos Highway, La Cuma, Artist Road and Bishops Lodge. When they say 28,000 ticket sales, they are taking into consideration people from those access points. He did not think a study has ever been done as to how many people are outside of the field. His best guest would be that there are close to 20,000 in the park.

Dr. Mier asked if there was an emergency how long would it take to clear the field.

Mr. Ortega said that it would depend where it took place. Behind the field they take out a big part of the fence which is about a 150 ft. opening. That narrowest point there was 20'. Two or three years ago it was a 16' opening. Again, depending on the event, it could take twice the time that it took to get out this year.

Councilor Trujillo said that he will take the lead to talk to the City

Manager, Ike Pino and Fabian Chavez to see what other options are available.

Chair Wheeler said that some of the things that they officers have discussed for many years are reinforcing bridges, making them wider and in most cases this discussion is not one that anyone wants to hear because it costs money. Dr. Mier makes a very important point; if there was an emergency what would be the exit route in a timely manner. We have also spoken to the Army Corp of Engineers about mobile bridges in the case of an emergency situation.

C. Approval of the FY 10 Emergency Management Performance Grant
(Sevastian Gurule)

Mr. Gurule presented from Homeland Security & Emergency Management Sub-grant Agreement for FY10-11 Emergency Management Performance Grant in the amount of \$30,900. This grant is a 50/50 split and pays for the salary of the Emergency Management Coordinator, Joyce Purley.

Mr. Harris moved for approval, second by Mr. Mizrahi, motion carried by unanimous voice vote.

VI. Matters from Municipal Court – Informational: August 2010 Monthly Report

VII. Matters from Police Chief Aric Wheeler

The Chief wanted to acknowledge the hard work of the Police Force for the work done during the Santa Fe Fiesta and during the Mexico Border Governor's Conference.

The Chief described a new program they are undertaking, similar to that of the Fire Department in regards to the pink shirt. Ours is going to be called Tops for a Cure; they are going to do a walk that takes place in the City of Santa Fe on October 29th starting at Villa Linda Mall. It is a 5 mile walk; we are asking for participants and donors for breast cancer awareness.

Chief Wheeler brought forth a concern regarding their budget for the police department related to special requests that affect the budget heavily. Unexpected events such as the Governors Conference being moved to Santa Fe was an unexpected cost to the Police Department, next week former President Clinton will be in the vicinity and Espanola has asked for our assistance. I will have some rough numbers for you to review once these functions have taken place. We also need to prepare for President Obama's visit. When we see the Council wanting to cut \$300,000 of the overtime budget of the Police Department, it makes it very difficult to maintain a sound budget.

VIII. Matters from Fire Chief Barbara Salas

The Chair gave special thanks for the hot dogs/hamburgers that were provided during Fiesta. The Chief did share the credit with the City Police Department,

Chief Salas said that also had a successful Fiesta, they had 4 calls that night which were alcohol related, one execution, which was very odd. They had a private company put up the fencing. When they went to remove it, they grabbed another post and he got shocked, he wasn't seriously injured.

We are also going to have our pink October Breast Cancer Awareness. The total amount of October the firefighters will be wearing their pink t-shirts. If you are tough enough to wear pink, and make a donation for cancer.

Chief Salas is working with the City Electrical Department to assure that the wiring is secure to prevent any future accidents.

IX. Matters from Committee Members

Dr. Mier expressed his thank you to both Chief's for the hard work during Fiesta. Again, something is going to have to happen in the future because of the amount of people that attend and no easy exit for emergency vehicles.

Mr. Mizrahi expressed his thanks to the Fire Department for their quick access when the Plaza Restaurant closed a couple weeks ago. There was an emergency situation and they got in there very quick.

The Chair also wanted to express his thanks to the Public Works Department for all of their hard work in getting the city cleaned up so quickly. The chief echoed that this was probably one of the worse times for the city for debris.

Dr. Mier said that they talked about this at the Keep Santa Fe Beautiful meeting. They will meet with the Fiesta Council and other interested entities to see what they can do to work on clean up for any special functions and for next year. Chief Wheeler said to please let him know because St. Michael's High School could contribute community hours.

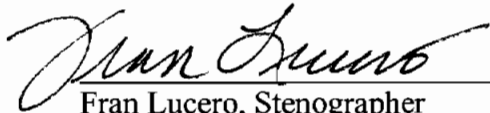
X. Communications from the Floor
None

XI. Adjournment

Dr. Mier moved to adjourn at 5:45 pm, second by Mr. Harris, motion carried by unanimous voice vote.

Signature page:

Councilor Ronald Trujillo, Chair



Fran Lucero, Stenographer