



## Agenda

PUBLIC WORKS/CIP & LAND USE  
COMMITTEE MEETING  
CITY COUNCIL CHAMBERS  
MONDAY, SEPTEMBER 27, 2010  
5:15 P.M.

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. APPROVAL OF CONSENT AGENDA
5. APPROVAL OF MINUTES FROM SEPTEMBER 13, 2010 PUBLIC WORKS COMMITTEE MEETING

**CONSENT AGENDA**

6. REQUEST FOR APPROVAL OF THE FIRST AMENDMENT TO THE ARRA 2009 COOPERATIVE PROJECT AGREEMENT WITH THE NEW MEXICO DEPARTMENT OF TRANSPORTATION FOR THE AIRPORT ROAD RESURFACING PROJECT FOR ADDITIONAL FUNDS IN THE AMOUNT OF \$222,022.23 (**LOUIE PACHECO**)

**Committee Review:**

Finance Committee (Scheduled)  
Council (Scheduled)

10/04/10  
10/13/10

7. CIP PROJECT #438A – ACEQUIA TRAIL PROJECT – BACA WELL SITE CONNECTION UNDER BID NUMBER 07/57/B
  - REQUEST FOR APPROVAL OF RECOMMENDATION OF AWARD AND APPROVAL OF CHANGE ORDER NO. 4 FOR ON-CALL CONSTRUCTION SERVICES WITH AS HORNER, INC. IN THE AMOUNT OF \$271,390.51 INCLUSIVE OF NMGR (LEROY PACHECO)

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8. REQUEST FOR APPROVAL OF TITLE 1 SCENIC BYWAYS PROGRAM GRANT AGREEMENT BETWEEN NEW MEXICO DEPARTMENT OF TRANSPORTATION, NEW MEXICO TOURISM DEPARTMENT AND THE CITY OF SANTA FE FOR THE DEVELOPMENT OF EL CAMINO REAL NATIONAL SCENIC BYWAY TRAIL (**BRIAN DRYPOLCHER**)

**Committee Review:**

Finance Committee (Scheduled)  
Council (Scheduled)

10/04/10  
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9. REQUEST FOR CONCEPT APPROVAL OF SALE OF REAL ESTATE CONTAINING APPROXIMATELY 466 SQUARE FEET LOCATED ALONG THE WESTERLY BOUNDARY OF 605 GARCIA STREET BY LEVON D. TASHJIAN AND STEFANIE M. TASHJIAN, TRUSTEES UNDER THE LEVON D. TASHJIAN AND STEFANIE M. TASHJIAN LIVING TRUST DATED JUNE 24, 1996, AS RESTATED ON MARCH 14, 2001 **(EDWARD VIGIL)**

**Committee Review:**

Finance Committee (Scheduled)	10/04/10
Council (Scheduled)	10/13/10

10. REQUEST FOR APPROVAL OF REVISED LEASE AGREEMENT BETWEEN THE NM DEPARTMENT OF CULTURAL AFFAIRS AND THE CITY OF SANTA FE REGARDING A 8671 SQUARE FOOT PARCEL OF REAL ESTATE LOCATED AT 404 MONTEZUMA AVE. TO BE UTILIZED FOR DEVELOPMENT OF A MULTI-MODAL TRANSIT CENTER APPURTENANT TO THE SANTA FE RAILYARD BY THE CITY **(EDWARD VIGIL)**

**Committee Review:**

Finance Committee (Scheduled)	10/04/10
Council (Scheduled)	10/13/10

11. REQUEST FOR APPROVAL OF A CITY OF SANTA FE MUNICIPAL AIRPORT TERMINAL LEASE AGREEMENT WITH DUKE CITY GOURMET LLC WHICH PROVIDES OPERATION OF A RESTAURANT FACILITY **(JIM MONTMAN)**

**Committee Review:**

Finance Committee (Scheduled)	10/04/10
Council (Scheduled)	10/13/10

12. REQUEST FOR APPROVAL OF PRELIMINARY DESIGN FOR SANTA FE TRAILS PASSENGER AMENITY ENHANCEMENT PROJECT AND DIRECTION TO ADVANCE THE PROJECT TO FINAL DESIGN/CONSTRUCTION BIDDING **(JON BULTHUIS)**

**Committee Review:**

Finance Committee (Scheduled)	10/04/10
Council (Scheduled)	10/13/10

13. REQUEST FOR APPROVAL OF A COOPERATIVE AGREEMENT WITH SANTA FE PUBLIC SCHOOLS FOR JULY 1, 2010 THROUGH JUNE 30, 2013 **(ISAAC PINO)**

**Committee Review:**

Finance Committee (Approved)	9/20/10
Council (Scheduled)	9/29/10

14. REQUEST FOR APPROVAL OF LEASE AGREEMENT – FISCAL AGENT FOR SANTA FE ONE STOP HOMELESS COALITION; INTERFAITH COMMUNITY SHELTER GROUP **(ISAAC PINO)**

**Committee Review:**

Finance Committee (Approved)	9/20/10
Council (Scheduled)	9/29/10

15. REQUEST FOR APPROVAL OF 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**) (**ABRAM ANAYA**)
- REQUEST FOR APPROVAL OF A RESOLUTION ESTABLISHING FEES ASSOCIATED WITH THE CITY'S SOLICITATION ORDINANCE (ARTICLE 18-3 SFCC 1987) (**COUNCILOR TRUJILLO**) (**ABRAM ANAYA**)

**Committee Review:**

Public Safety (Approved)	8/17/10
Finance Committee (Approved)	8/30/10
Business & Quality of Life (No Action)	8/31/10
Public Works Committee (Postponed)	9/13/10
Council (Request to Publish)	9/15/10
Council (Public Hearing)	10/13/10

16. REQUEST FOR APPROVAL OF A RESOLUTION AMENDING RESOLUTION NO. 2010-11 WHEREIN THE CITY MANAGER WAS DIRECTED TO ENTER INTO A THREE YEAR CONTRACT WITH THE RAILYARD STEWARDS IN ORDER TO INCREASE THE MAXIMUM AMOUNT TO BE PAID FOR SERVICES TO BE PERFORMED AT THE RAILYARD PARK (**COUNCILOR ROMERO**) (**ROBERT SIQUEIROS**)

**Committee Review:**

Finance Committee (Scheduled)	10/04/10
Council (Scheduled)	10/13/10

17. REQUEST FOR APPROVAL OF A RESOLUTION SUPPORTING WILDERNESS DESIGNATION FOR THE INVENTORIED ROADLESS AREAS ADJACENT TO THE PECOS WILDERNESS (**MAYOR COSS**) (**JEANNE PRICE**)

**Committee Review:**

Council (Scheduled)	9/29/10
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18. REQUEST FOR APPROVAL OF AN ORDINANCE AMENDING VARIOUS SECTIONS OF CHAPTER 14 LAND DEVELOPMENT LAWS RELATED TO APPEALS (**COUNCILORS ORTIZ AND TRUJILLO**) (**MATTHEW O'REILLY**)

- REQUEST FOR APPROVAL OF A RESOLUTION ADOPTING ADMINISTRATIVE PROCEDURES RELATED TO APPEALS OF LAND USE DECISIONS (**COUNCILOR TRUJILLO**) (**MATTHEW O'REILLY**)

**Committee Review:**

Planning Commission (Approved)	9/16/10
Finance Committee (Scheduled)	10/04/10
Council (Request to Publish)	10/13/10
Council (Public Hearing)	11/10/10

19. REQUEST FOR APPROVAL OF A RESOLUTION REQUESTING THAT THE SANTA FE COUNTY CLERK RECORD CONDOMINIUM DECLARATIONS ONLY UPON RECEIPT OF WRITTEN VERIFICATION FROM THE CITY THAT A CONDOMINIUM DECLARATION COMPLIES WITH LOCAL ZONING ORDINANCES AND REGULATIONS (**COUNCILORS CALVERT, ROMERO AND BUSHEE**) (**MATTHEW O'REILLY**)

**Committee Review:**

Finance Committee (Scheduled)	10/04/10
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20. REQUEST FOR APPROVAL OF A RESOLUTION URGING THE NEW MEXICO STATE LEGISLATURE TO ADOPT AN AMENDMENT TO THE NEW MEXICO CONDOMINIUM ACT TO REQUIRE THAT, IF REQUIRED BY LOCAL ORDINANCE, CONDOMINIUM DECLARATIONS BE ACCOMPANIED BY WRITTEN CONFIRMATION FROM LOCAL ZONING JURISDICTIONS THAT THE DECLARATIONS COMPLY WITH LOCAL ZONING ORDINANCES AND REGULATIONS (**COUNCILORS CALVERT, ROMERO AND BUSHEE**) (**MATTHEW O'REILLY**)

**Committee Review:**

Finance Committee (Scheduled)	10/04/10
Council (Scheduled)	10/13/10

**DISCUSSION**

21. REQUEST FOR APPROVAL OF LEASE AGREEMENT – PROPERTY ADJACENT TO GENOVEVA CHAVEZ COMMUNITY CENTER; YOUTHWORKS, INC (**KATE NOBLE**)

**Committee Review:**

Finance Committee (Approved)	9/20/10
Council (Scheduled)	9/29/10

22. MATTERS FROM STAFF
23. MATTERS FROM THE COMMITTEE
24. NEXT MEETING: **TUESDAY, OCTOBER 12, 2010**
25. ADJOURN

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

## **SUMMARY INDEX**

### **PUBLIC WORK, CIP & LAND USE COMMITTEE**

September 27, 2010

<b>ITEM</b>	<b>ACTION TAKEN</b>	<b>PAGE(S)</b>
2. ROLL CALL	Quorum Present	1
3. APPROVAL OF AGENDA	Approved as amended	1
4. APPROVAL OF CONSENT AGENDA	Approved as amended	2
5. APPROVAL OF MINUTES September 13, 2010	Approved as presented	2
CONSENT AGENDA LISTING	Listed	2-4
15. Solicitation Ordinance	Postponed	4
DISCUSSION AGENDA		
9. Garcia Street Land Sale	Approved	4-5
10. Montezuma Land Lease	Approved	5
12. Transit Amenities Project	Approved	5-6
13. Agreement with Public Schools	Approved as amended	6-7
18. Chapter 14 Amendments	Approved as amended	7-12
21. Property Lease next to GCCC	Approved as amended	12-13
22. Matters from Staff	None	13
23. Matters from the Committee	Discussion	13
24. Next Meeting	Set for October 12, 2010	14
25. Adjournment	Adjourned at 6:05 p.m.	14

Exhibits: A - F

**MINUTES OF THE**  
**CITY OF SANTA FE**  
**PUBLIC WORKS/CIP & LAND USE COMMITTEE**

**MONDAY, SEPTEMBER 27, 2010**

**1. CALL TO ORDER**

A regular meeting of the Public Works/CIP & Land Use Committee was called to order on the above date by Chair Carmichael Dominguez at approximately 5:15 p.m. in City Council Chambers, City Hall, 200 Lincoln, Santa Fe, New Mexico.

**2. ROLL CALL**

Roll Call indicated the presence of a quorum as follows:

**MEMBER PRESENT:**

Councilor Carmichael Dominguez, Chair  
Councilor Christopher Calvert  
Councilor Ronald S. Trujillo

**MEMBERS ABSENT:**

Councilor Miguel Chávez [excused]  
Councilor Rosemary Romero [excused]

**STAFF PRESENT:**

Mr. Ike Pino, Public Works Director  
Ms. Bobbi Mossman, Public Works Staff

**NOTE: All items in the Committee packet for all agenda items were incorporated herewith by reference. The original Committee packet was on file in the Public Works Department.**

At the beginning of the meeting, Ms. Price handed out four documents. Exhibit A was the FIR for the Railyard Stewards. Exhibit B was a proposed amendment to the Condominium Recordation Resolution. Exhibit C and D were proposed amendments to the Solicitation Fees Resolution which was subsequently postponed.

**3. APPROVAL OF AGENDA**

Councilor Trujillo requested postponement of #15.

Chair Dominguez agreed and said he would put it on the next agenda.

**Councilor Calvert moved to approve the agenda as amended with #15 postponed. Councilor Trujillo seconded the motion and it passed by unanimous voice vote.**

#### **4. APPROVAL OF CONSENT AGENDA**

Councilor Calvert requested that #9, #10, #12, #13 and #18 be taken off the Consent Agenda for discussion.

**Councilor Calvert moved to approve the Consent Agenda as amended. Councilor Trujillo seconded the motion and it passed by unanimous voice vote.**

#### **5. APPROVAL OF MINUTES FROM SEPTEMBER 13, 2010 PUBLIC WORKS COMMITTEE MEETING**

**Councilor Calvert moved to approve the minutes of September 13, 2010 as presented. Councilor Trujillo seconded the motion and it passed by unanimous voice vote.**

#### **CONSENT AGENDA LISTING**

- 6. REQUEST FOR APPROVAL OF THE FIRST AMENDMENT TO THE ARRA 2009 COOPERATIVE PROJECT AGREEMENT WITH THE NEW MEXICO DEPARTMENT OF TRANSPORTATION FOR THE AIRPORT ROAD RESURFACING PROJECT FOR ADDITIONAL FUNDS IN THE AMOUNT OF \$222,022.23 (LOUIE PACHECO)**

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**Committee Review:**

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Council (Scheduled) 9/29/10

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**Committee Review:**

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Finance Committee (Approved) 8/30/10

Business & Quality of Life (No Action) 8/31/10

Public Works Committee(Postponed) 9/13/10

Council (Request to Publish) 9/15/10

Council (Public Hearing) 10/13/10

This item was postponed under Approval of Agenda.

- 16. REQUEST FOR APPROVAL OF A RESOLUTION AMENDING RESOLUTION NO. 2010-11 WHEREIN THE CITY MANAGER WAS DIRECTED TO ENTER INTO A THREE YEAR CONTRACT WITH THE RAILYARD STEWARDS IN ORDER TO INCREASE THE MAXIMUM**



**AMOUNT TO BE PAID FOR SERVICES TO BE PERFORMED AT THE RAILYARD PARK  
(COUNCILOR ROMERO) (ROBERT SIQUEIROS)**

**Committee Review:**

Finance Committee (Scheduled)  
Council (Scheduled)

10/04/10  
10/13/10

**17. REQUEST FOR APPROVAL OF A RESOLUTION SUPPORTING WILDERNESS DESIGNATION  
FOR THE INVENTORIED ROADLESS AREAS ADJACENT TO THE PECOS WILDERNESS  
(MAYOR COSS) (JEANNE PRICE)**

**Committee Review:**

Council (Scheduled)

9/29/10

**19. REQUEST FOR APPROVAL OF A RESOLUTION REQUESTING THAT THE SANTA FE  
COUNTY CLERK RECORD CONDOMINIUM DECLARATIONS ONLY UPON RECEIPT OF  
WRITTEN VERIFICATION FROM THE CITY THAT A CONDOMINIUM DECLARATION  
COMPLIES WITH LOCAL ZONING ORDINANCES AND REGULATIONS (COUNCILORS  
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**Committee Review:**

Finance Committee (Scheduled)  
Council (Scheduled)

10/04/10  
10/13/10

**20. REQUEST FOR APPROVAL OF A RESOLUTION URGING THE NEW MEXICO STATE  
LEGISLATURE TO ADOPT AN AMENDMENT TO THE NEW MEXICO CONDOMINIUM ACT TO  
REQUIRE THAT, IF REQUIRED BY LOCAL ORDINANCE, CONDOMINIUM DECLARATIONS  
BE ACCOMPANIED BY WRITTEN CONFIRMATION FROM LOCAL ZONING JURISDICTIONS  
THAT THE DECLARATIONS COMPLY WITH LOCAL ZONING ORDINANCES AND  
REGULATIONS (COUNCILORS CALVERT, ROMERO AND BUSHEE) (MATTHEW O'REILLY)**

**Committee Review:**

Finance Committee (Scheduled)  
Council (Scheduled)

10/04/10  
10/13/10

**DISCUSSION**

**9. REQUEST FOR CONCEPT APPROVAL OF SALE OF REAL ESTATE CONTAINING  
APPROXIMATELY 466 SQUARE FEET LOCATED ALONG THE WESTERLY BOUNDARY OF  
605 GARCIA STREET BY LEVON D. TASHJIAN AND STEFANIE M. TASHJIAN, TRUSTEES  
UNDER THE LEVON D. TASHJIAN AND STEFANIE M. TASHJIAN LIVING TRUST DATED  
JUNE 24, 1996, AS RESTATED ON MARCH 14, 2001 (EDWARD VIGIL)**

**Committee Review:**

Finance Committee (Scheduled)  
Council (Scheduled)

10/04/10  
10/13/10

Mr. Vigil explained that the staff was requesting concept approval for the sale of this property on behalf of the trust. The details would be presented later.

Councilor Calvert clarified that it was just conceptual now. Mr. Vigil agreed.

Councilor Calvert noted that he didn't see any sale amount listed and asked if there was a ballpark figure.

Mr. Vigil said the appraisal was \$7,000 which was \$15 per square foot.

**Councilor Calvert moved to approve the request. Councilor Trujillo seconded the motion and it passed by unanimous voice vote.**

**10. REQUEST FOR APPROVAL OF REVISED LEASE AGREEMENT BETWEEN THE NM DEPARTMENT OF CULTURAL AFFAIRS AND THE CITY OF SANTA FE REGARDING A 8671 SQUARE FOOT PARCEL OF REAL ESTATE LOCATED AT 404 MONTEZUMA AVE. TO BE UTILIZED FOR DEVELOPMENT OF A MULTI-MODAL TRANSIT CENTER APPURTENANT TO THE SANTA FE RAILYARD BY THE CITY (EDWARD VIGIL)**

**Committee Review:**

Finance Committee (Scheduled)  
Council (Scheduled)

10/04/10  
10/13/10

Councilor Calvert said he was trying to compare the new with the old. On page 3 of new lease it said the lease might be renewed for an additional term of 99 years. This lease reduced the term to 25 years so he wondered if it was supposed to say an additional term of 25 years.

Mr. Vigil said the estate based the new lease on the previous lease. It was accurate in saying it would extended, with legislative approval, for 99 years.

Councilor Calvert asked if he thought the 99 years was intended here, subject to legislative approval.

Mr. Vigil agreed and added that he had confirmed that with the state.

**Councilor Calvert moved to approve the request. Councilor Trujillo seconded the motion and it passed by unanimous voice vote.**

**12. REQUEST FOR APPROVAL OF PRELIMINARY DESIGN FOR SANTA FE TRAILS PASSENGER AMENITY ENHANCEMENT PROJECT AND DIRECTION TO ADVANCE THE PROJECT TO FINAL DESIGN/CONSTRUCTION BIDDING (JON BULTHUIS)**

**Committee Review:**

Finance Committee (Scheduled)  
Council (Scheduled)

10/04/10  
10/13/10

Councilor Calvert said the only thing he wondered about this request was that he didn't see in here the separate historic design.

Mr. Bulthuis clarified that they had not completed the design for the historic districts yet. They were working with the HDRB on that part. Their initial reaction to the presentation that was made was to use the original Sheridan design. Now that this design had morphed more into an art piece with the art panels on it, the Historic staff had suggested the design come back and be presented as an art component. He said they might do that but the initial direction of the H Board was to use the design that was brought forward under the Sheridan plan.

Councilor Calvert understood this request was exclusive of any design for the historic district.

Mr. Bulthuis agreed and noted that there was not anything specific in the packet related to the historic districts.

**Councilor Calvert moved to approve the request. Councilor Trujillo seconded the motion and it passed by unanimous voice vote.**

**13. REQUEST FOR APPROVAL OF A COOPERATIVE AGREEMENT WITH SANTA FE PUBLIC SCHOOLS FOR JULY 1, 2010 THROUGH JUNE 30, 2013 (ISAAC PINO)**

**Committee Review:**

Finance Committee (Approved)  
Council (Scheduled)

9/20/10  
9/29/10

Councilor Calvert said in looking at the action sheet, page 1, it said this matter would be before the Council on Sept 29<sup>th</sup> and he didn't see any of the amendments. He asked if they had such amendments.

Mr. Pino said he had not included the amendments because he was still trying to get clear on what the School Board, since they had already passed on it. But he said he would like to recount what those amendments were for the record, at the Finance Committee.

One of them was to perhaps include language on capital projects. That was something that the School District quickly questioned simply because this was not about services and not capital projects. He said they were going to work through that with the School Board.

Another amendment was on custodial services. That was called out similar to what Councilor Calvert did at the Public Works meeting last time and that was to require them to pay for any custodial services, the same as the City was doing.

Another one was for Santa Fe Trails (in paragraph 12) to add language so that teachers, staff and chaperones would accompany field trips at no charge. Apparently there was some misunderstanding where that was concerned.

There was a question whether charter schools were included in this.

Finally, there was an accounting on the park exchange.

Those were the five items that they needed to get back with the School District on and then he was going to roll up anything that came out of this committee so he could have it ready.

Councilor Calvert understood. He said he gave his to Mr. Pino last time about custodial. So he surmised that they might see some or all of this at the Council meeting.

Mr. Pino replied to Councilor Calvert that he would see everything the Council asked for.

Councilor Calvert said it would then have to go back to the school district. They had already approved this.

Mr. Pino agreed. They already approved this. What the City needed to be careful about is that what they agreed to had no substantive changes and could be done administratively.

Chair Dominguez said some of the changes were made in the language like things that would comply with the County in the whole document. Some of that had been changed.

Councilor Calvert said the City took that out all together.

Chair Dominguez agreed but wanted to make sure it was consistent throughout the document.

Mr. Pino said that part was consistent.

Chair Dominguez asked to be reminded what the parks exchange was about.

Mr. Pino said there was a question by Councilor Wurzbarger about how much work the City park crews actually did on any school facilities and whether the schools in turn did anything on City facilities. Fabian Chávez was getting that information. He clarified that it was one of the City's own initiatives.

Chair Dominguez wanted to make sure the appendix would get included as well.

Mr. Pino agreed. He clarified that Chair Dominguez had talked with him earlier about it and the appendix had about a half dozen agreements in it so he would make sure a copy would be attached for consideration

**Councilor Calvert moved to approve the request as amended. Councilor Trujillo seconded the motion and it passed by unanimous voice vote.**

**18. REQUEST FOR APPROVAL OF AN ORDINANCE AMENDING VARIOUS SECTIONS OF CHAPTER 14 LAND DEVELOPMENT LAWS RELATED TO APPEALS (COUNCILORS ORTIZ AND TRUJILLO) (MATTHEW O'REILLY)**

- **REQUEST FOR APPROVAL OF A RESOLUTION ADOPTING ADMINISTRATIVE PROCEDURES RELATED TO APPEALS OF LAND USE DECISIONS (COUNCILOR TRUJILLO) (MATTHEW O'REILLY)**

**Committee Review:**

Planning Commission (Approved)	9/16/10
Finance Committee (Scheduled)	10/04/10
Council (Request to Publish)	10/13/10
Council (Public Hearing)	11/10/10

Councilor Calvert said what he was hoping for was on the first memo from staff to have listed the major revisions and he was going to ask them to go through point-by-point to explain some of the subtleties for why those were changed so he could understand them. He preferred for staff to present first rather than having to ask everything.

Ms. Price agreed to go through them.

In the first one the Governing Body would be authorized to accept a land use board's findings and conclusions and not hear an appeal. In it, the Governing Body would be allowed to decide if they would uphold the appeal without a public hearing or they could decide to have a public hearing which could either be on the record of the other committee or they could have a new public hearing taking all new evidence.

Councilor Calvert recalled they discussed one example at the last Council meeting. This didn't allow modifications of the Findings and Conclusions. It still was either all or none.

Mr. O'Reilly agreed.

Councilor Calvert said if the Council wanted to modify it then it would have to be done in the Council's own review. Mr. O'Reilly agreed.

Councilor Calvert referred to the first page where they took out "the Governing Body may hear appeals and final actions of the Land Use Director" was mentioned somewhere later. He asked if it still was only in some cases. So they were saying that the Council would not hear appeals of the final actions of Land Use Director ever.

Mr. O'Reilly asked which page he was on.

Councilor Calvert said he was on the first page. It deleted that section - final action of Land Use Director and other city departments.

Mr. O'Reilly said that was correct. Those appeals would be heard by the various land use bodies – the Planning Commission, the Board of Adjustment or H Board.

Ms. Price said she believed that was actually how it worked now. It was just incorrect language.

Councilor Calvert surmised that there was then no appeal beyond those bodies that had the original jurisdiction.

Mr. O'Reilly said that was not correct. If someone was appealing a decision of the Land Use Director, they would appeal to the Planning Commission. As it currently existed, that decision of the Planning Commission could then be appealed to a Hearing Examiner and then that Hearing Examiner could be asked to appear before Council if the Council chose not to accept the Hearing Examiner's findings of fact.

Councilor Calvert thought they were doing away with Hearing Examiners.

Mr. O'Reilly explained that was the way it worked now. The way it would work in the future was if someone was aggrieved by a decision of the Planning Commission, the person could appeal that to the City Council.

Chair Dominguez said that was the first change. He asked how many there were.

Councilor Calvert said there were about ten or fifteen.

Chair Dominguez asked if he wanted to hear all sixteen of them.

Councilor Calvert said he did want to hear explanations on all of them.

Chair Dominguez asked that as Ms. Price was covering the bullets, she would provide the rationale for those changes.

Ms. Price said the second bullet was making final actions of the Summary Committee be appealable to the Governing Body. That was because the members of the Summary Committee were all members of the Planning Commission and should not hear their own appeals.

The third bullet was to make the appellant responsible for sending the notice. That was the way it had been done before last fall and saved the city money.

The fourth bullet cleaned up the language on who was to be given notice of an appeal. That was on page 22.

Councilor Calvert said on page six, just to clarify that one, where it said notice recipients – number 1 said "all parties." He asked if that meant appellants and appellee that were being referred to there. It was not clear to him by just saying all parties.

Mr. O'Reilly said that could easily be added to clarify it.

Councilor Calvert said the next one was page 7.

Ms. Price agreed. That bullet was to clarify what was appealable and to straighten that all out.

Councilor Calvert asked if some of that would go into administrative procedures. Ms. Price agreed.

Ms. Price added that there had always been confusion about what was a preliminary subdivision plat and that was an appealable decision. An example of a preliminary decision might be an H Board concept or something like that.

Councilor Calvert went back to the bullet on notices where it said, "all persons or neighborhood associations (on line 25, page 6) who were required to be mailed notice for the application giving rise to the final action being appealed.: He asked if that was basically the same as the old #4 on page 6 such as number of feet and all that.

Mr. O'Reilly said it was. Some of the language was redundant. If they left in the specific 200 foot radius and later on the code was changed, then the change meant they would not have to go back and change this ordinance again.

Councilor Calvert referred to page 8, line 5 vii under the next bullet on what was appealable. It said "any action regarding procedural matters or requirements." He asked if this was basically the grounds for an appeal.

Mr. O'Reilly explained that was the existing language in the ordinance now.

Councilor Calvert understood and said he was trying to fit it in with what was in here with what would be in administrative procedures.

Mr. O'Reilly said this section was an attempt to be clear on what things could not be appealed.

Councilor Calvert asked where it started.

Mr. O'Reilly said it started at the bottom of page 7, small c.

Councilor Calvert asked if no procedural things were appealable because they were not final actions or if they were not appealable to the Governing Body but to a district court.

Mr. O'Reilly said it was for the very reason that they were not final actions. They could be raised as a point that could be brought up by an appellant when appealing that final action; they could bring up something in procedures but the procedure, itself, a preliminary was not a final action wasn't something that could be appealed because it was not a final action. He gave an example.

Councilor Calvert asked then if the proper step was not taken along the way until it got to final, it was still not appealable.

Mr. O'Reilly explained this was to prevent an appeal every day of every staff decision as it was moving toward final action. But once the final action of the Planning Commission or of issuance of a building permit or the issuance a letter of the Land Use Director, an appeal could be filed but not for the internal decisions up to that point.

Councilor Calvert said he understood but the procedure might be the basis for appeal.

Mr. O'Reilly agreed and said the Hearing Examiner did consider those things. If it was an error in procedure by staff that was being alleged it could be used in appealing a final action but not on its own.

Ms. Price said the next bullet, at the bottom of page 8, was the reason for appeal. They took out A and B and added C because it consolidated the language and made it more consistent with standard language of law. The other three were quite repetitive.

Councilor Calvert referred to page 9, line 21, the word "actual" had been added.

Ms. Price said page 9 had the provisions for determining who had standing to appeal. They tried to again consolidate some of this into what was now #2, c, d and e and #3 – persons or organizations at the time the decision was made alleging actual injury to environmental, economic or aesthetic interests.

Councilor Calvert said that word was debated last time. He thought it might require a legal definition on what "actual" meant. He was not a lawyer so he wasn't sure what it actually would mean or how it should be interpreted.

Ms. Price said the word was added by legal staff.

Councilor Calvert requested, as it moved forward, that the explanation of what that word meant in this context. It did add a very important meaning.

Ms. Price said the next bullet was changing the time of appeal from 30 to 15 days. Councilor Calvert was okay with that one.

Ms. Price said the content of the appeal was now in administrative procedures.

The fee for an appeal was \$100.

The staff referred any appeal to the city attorney if the form did not conform to requirements.

They eliminated the mediation provision.

Councilor Calvert asked why.

Ms. Price said it was because mediation was an expensive process and it was cheaper for the City to do on its own.

Chair Dominguez asked if that was part of the sponsor's request.

Mr. O'Reilly said that was proposed by staff. It was not clear who would pay for mediation but thought it was the City's expense and it was expensive. It didn't prevent parties from seeking mediation on their own or for staff to try to mediate. Sometimes the Land Use Director was asked to mediate between parties.

Chair Dominguez clarified that the sponsors should know this was part of the recommendation.



Councilor Calvert had no other questions on them other than the matter of eliminating the Hearing Examiner. He asked what the rationale for that was.

Mr. O'Reilly said using a Hearing Examiner was costly. If they continued at the current pace, they would be \$3,000 over budget for this year alone. It was running about \$2,500 to \$2600 each and for the appeal coming up, it could be \$5-6 thousand. Eliminating the Hearing Examiner went back to the way the City did it before and that money would be saved. That was why mediation was removed.

Councilor Calvert concluded it was for budget reasons. But doing that would put the burden back on staff.

Mr. O'Reilly agreed but there was a lot that staff was required to provide to the Hearing Examiner in these hearings. And the reason was not just financial. There was some discomfort with the idea that a land use body like the Planning Commission, composed of 9 people who were heavily trained in the ordinance could debate and consider an issue and have it overturned by one person. He asked why they would want the Planning Commission and staff to take so much time and then have a Hearing Examiner overturn it.

He thought they were seeing more appeals because they had a Hearing Examiner. Almost all of them were attorneys and there was a feeling that the process had become overly legalistic. The hearings were heard by an attorney. So people took advantage of that.

Councilor Calvert asked when that would take effect since there were some that were already in the pipeline.

Mr. O'Reilly said the amendments would be heard on November 11 and if approved would become effective on November 16. So any appeal filed after November 16 would not have a Hearing Examiner. There was sufficient money in the budget to get them to that point.

**Councilor Calvert moved to approve the request with clarification to parties and an explanation for what "actual" meant in a memo. Councilor Trujillo seconded the motion.**

Chair Dominguez asked for clarification on appealable actions - #2 – reason for appeal if the decision was arbitrary and capricious. He understood how you could determine "substantial evidence" but wondered about "arbitrary and capricious."

Ms. Price thought staff could do that. Legal staff used that term in many situations. It was standard language and used frequently. It would be done by the City Attorney.

**The motion passed by unanimous voice vote.**

## **21. REQUEST FOR APPROVAL OF LEASE AGREEMENT – PROPERTY ADJACENT TO GENOVEVA CHÁVEZ COMMUNITY CENTER; YOUTHWORKS, INC (KATE NOBLE)**

### **Committee Review:**

Finance Committee (Approved)

9/20/10

Ms. Noble presented a document for the questions that came up at the Finance Committee meeting for improving the agreement. [Attached as Exhibit E] It was approved by both the Economic Development Review Subcommittee and the Business and Quality of Life Committee. The document clarified what the tenant improvements involved.

She explained that this was a land lease for YouthWorks adjacent to the GCCC.

Since the Finance Committee, YouthWorks agreed to convene a community meeting to discuss any issues or concerns they might have regarding the operations there.

Councilor Calvert noted on the action from Finance it said with amendments. He asked if they had amendments on it.

Ms. Noble explained that the amendment was for the community meeting to discuss concerns in the neighborhood.

Councilor Calvert wanted to make sure who was responsible for utilities. He didn't see any reference to utilities in the agreement.

Ms. Noble said utilities would be paid by the organization.

Councilor Calvert asked that it be spelled out in an amendment or in the agreement. He felt that should be documented.

Ms. Noble agreed.

**Councilor Trujillo moved to approve the request as amended. Councilor Calvert seconded the motion and it passed by unanimous voice vote.**

## **22. MATTERS FROM STAFF**

There were no matters from staff.

## **23. MATTERS FROM THE COMMITTEE**

Chair Dominguez passed out a memo from Councilor Romero on the task force for escarpment revisions and said it was just to make sure they had the timing squared away and whether or not they needed to appoint anybody. [Attached as Exhibit F]

Councilor Trujillo thanked Mr. Pino for fixing the pothole he had requested. Secondly, he commented about the amount of trash left behind after the parade. He drove back to the Plaza and was disgusted with the amount of garbage he found there. Next year they needed more trash cans.

Councilor Trujillo said at the Mark Grant Park there was a lot of sediment that had been deposited there after the rains. In the culvert under Camino Consuelo there was a lot of sediment and water stayed there for over a week and started to smell. About two years ago, they cleaned out all the sediment there.

**24. NEXT MEETING: TUESDAY, OCTOBER 12, 2010**

Chair Dominguez announced he would not be present for that meeting.

**25. ADJOURN**

Having completed the agenda and with no further business to come before the Committee, the meeting was adjourned at 6:05 p.m.

Approved by:

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Carmichael Dominguez, Chair

Submitted by:

  
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Carl Boaz, Stenographer