



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
OCTOBER 13, 2010
CITY COUNCIL CHAMBERS

AMENDED – ITEM 9-b) AND ITEM 9-c)

AFTERNOON SESSION – 5:00 P.M.

CITY CLERK'S OFFICE

DATE 10-12-10 TIME 9:00 am

SERVED BY _____

RECEIVED BY Hydominguez

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. SALUTE TO THE NEW MEXICO FLAG
4. INVOCATION
5. ROLL CALL
6. APPROVAL OF AGENDA
7. APPROVAL OF CONSENT CALENDAR
8. APPROVAL OF MINUTES: Reg. City Council Meeting – September 29, 2010.
9. PRESENTATIONS
 - a) Employee of the Month for October 2010 – Ignacio “Tito” Moya, Custodian. (5 minutes)
 - b) Muchas Gracias – Bill Hon, Parking Division Director. (5 minutes)
 - c) Proclamation – “Girls Inc. Day in Santa Fe”. (Renee Julien) (5 minutes)
10. CONSENT CALENDAR
 - a) Bid No. 11/11/B – 2400 Block Agua Fria Water and Sewer Main Extension Project Phase II and Agreement Between Owner and Contractor for Wastewater Management Division; Sub Surface Contracting, Inc. (Stan Holland)
 - b) Request for Approval of Procurement Under State Price Agreement – Vehicle and Heavy Equipment Repairs; Various Vendors. (Robert Rodarte)



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- c) Request for Approval of Procurement Under Federal Price Agreement – Aerial Fire Truck for Fire Department; First In, Inc. (Mark Aragon, Assistant Fire Chief)
 - 1) Request for Approval of Budget Transfer – State Fire Fund.
- d) Request for Approval of Award and Change Order No. 4 – Acequia Trail Project – Baca Well Site Connection On-Call Construction Services; A.S. Horner, Inc. (Leroy Pacheco)
- e) Request for Approval of Grant Award – City of Santa Fe Domestic Violence Offender Compliance Probation Officer Program for District and Magistrate Courts; Department of Justice, Office on Violence Against Women. (Carol Horwitz)
 - 1) Request for Approval of Budget Increase – Grant Fund.
- f) Request for Approval of Grant Agreement – 2010 Emergency Management Performance Grant; New Mexico Department of Homeland Security and Emergency Management. (Sevastian Gurule)
 - 1) Request for Approval of Budget Increase – Grant Fund.
- g) Request for Approval of Professional Services Agreement – Renovation of Space at Santa Fe One Stop Homeless Coalition; Interfaith Community Shelter Group. (Isaac Pino)
 - 1) Request for Approval of Budget Increase – ½% CIP GRT Income Fund.
- h) Request for Approval of Two (2) Additional Positions that Were Approved by Buckman Direct Diversion Board. (Inadvertently Omitted in Previous City Council Approval of Positions) (Rick Carpenter)
 - 1) Request for Approval of Budget Increase – BDD Fund.
- i) Request for Approval of First Amendment to the American Recovery and Reinvestment Act of 2009 Cooperative Project Agreement – Airport Road Resurfacing Project; New Mexico Department of Transportation. (Louie Pacheco)
 - 1) Request for Approval of Budget Increase – Project Fund.



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- j) Request for Approval of the Reallocation of Existing CIP Funds and Related Budget Transfers. (Isaac Pino)
- k) Request for Approval of Title 1 Scenic Byways Program Grant Agreement – Development of El Camino Real National Scenic Byway Trail; New Mexico Department of Transportation, New Mexico Tourism Department. (Brian Drypolcher)
- l) Request for Concept Approval of Sale of Real Estate – Located Along the Westerly Boundary of 605 Garcia Street; Levon D. Tashjian and Stefanie M. Tashjian, Trustees Under the Levon D. Tashjian and Stefanie M. Tashjian Trust. (Edward Vigil)
- m) Request for Approval of Revised Lease Agreement – Southerly and Westerly Walls of the Halpin Building Located at 404 Montezuma Street For Multi-Modal Transit Center Appurtenant to the Santa Fe Railyard; State of New Mexico Department of Cultural Affairs. (Edward Vigil)
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- q) CONSIDERATION OF RESOLUTION NO. 2010-_____. (Councilor Ortiz, Councilor Wurzbarger, Mayor Coss and Councilor Bushee)
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- r) CONSIDERATION OF RESOLUTION NO. 2010-_____. (Councilor Bushee)
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- s) Request for Approval to Publish Notice of Public Hearing on November 10, 2010:
 - 1) Bill No. 2010-31: An Ordinance Repealing Section 1-3.5 SFCC 1987 Regarding the Destruction of Arrest Records. (Mayor Coss) (Judge Ann Yalman)
 - 2) Bill No. 2010-32: An Ordinance Amending Various Sections of Chapter 14 SFCC 1987 Land Development Code Related to Appeals. (Councilors Ortiz and Councilor Trujillo) (Matthew O'Reilly)
 - a) Request for Approval of a Resolution Adopting Administrative Procedures Related to Appeals of Land Use Decisions. (Councilor Ortiz and Councilor Trujillo) (Matthew O'Reilly)
 - 3) Bill No. 2010-33: An Ordinance Authorizing the Issuance and Sale of the City of Santa Fe, New Mexico Gross Receipts Tax Revenue Refunding Bonds, Series 2010B in an Aggregate Principal Amount Not to Exceed \$27,500,000 for the Purpose of Providing Funds for (I) Prepaying and Discharging Three New Mexico Finance Authority Loans for the Santa Fe Railyard Project and a Parking Structure and (II) Paying the Costs of Issuance of the Bonds; Providing that the Bonds Will be Payable and Collectible From Certain Gross Receipts Tax Revenues Distributed to the City; Establishing the Terms, Form and Details of the Bonds; Authorizing the Execution and Delivery of a Bond Purchase Agreement, an Official Statement and a Continuing Disclosure Undertaking in Connection with the Bonds; Ratifying Action Previously Taken in Connection with the Bonds; Repealing all Ordinances in Conflict Herewith; and Related Matters. (Kathryn Raveling)
 - 4) Bill No. 2010-34: An Ordinance Authorizing the Issuance and Sale of the City of Santa Fe, New Mexico Gross Receipts Tax Revenue Refunding Bonds, Series 2010A in an Aggregate Principal Amount Not to Exceed \$16,500,000 for the Purpose of Providing Funds for (I) Refunding the City of Santa Fe Gross Receipts Tax Revenue Bonds, Series 2002 that Mature on and After June 1, 2013 and (II) Paying the Costs of Issuance of the Bonds; Providing that the Bonds will be Payable and Collectible From Certain Gross Receipts Tax Revenues Distributed to the City; Establishing the Terms, Form and Details of the



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Bonds; Authorizing the Execution and Delivery of a Bond Purchase Agreement, an Official Statement and a Continuing Disclosure Undertaking in Connection with the Bonds; Ratifying Action Previously Taken in Connection with the Bonds; Repealing all Ordinances in Conflict Herewith; and Related Matters. (Kathryn Raveling)

- t) Request for Approval of 2011 Employee Holiday Calendar. (Vicki Gage)
- u) CONSIDERATION OF RESOLUTION NO. 2010-_____. (Councilor Calvert, Councilor Romero and Councilor Bushee)
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. (Matthew O'Reilly)
- v) CONSIDERATION OF RESOLUTION NO. 2010-_____. (Councilor Calvert, Councilor Romero and Councilor Bushee)
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- w) Request for Approval of Adoption of the Annual Water Report. (Claudia Borchert)
- x) Request for Approval of Consideration to Fill Vacant Positions. (Robert Romero)
- y) Progress Report Per Resolution 2010-57 – 635 Alto Street Property. (Melisa Dailey)
- z) CONSIDERATION OF RESOLUTION NO. 2010-_____. (Mayor Coss)
A Resolution Repealing Resolution No. 2003-33 Regarding Records Retention and Disposition Schedules; Adopting the Most Current Approved Records Retention and Disposition Schedules on File With the New Mexico State Records Center and Archives for Local Government Use; and Amending Those Specifically Related to the Municipal Court. (Yolanda Vigil)
- aa) Request for Approval of Cooperative Agreement – Partnership Between the School District and the City for Shared Resources and Services; Santa Fe Public Schools. (Isaac Pino) **(Postponed at September 29, 2010 City Council Meeting)**



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11. Request for Approval of Hearing Examiner's Findings of Fact and Conclusions of Law: Case # 2010-100. Philip Murray and Frederick M. Rowe Appeal the Planning Commission Decision of May 6, 2010 that Denied the Appeal of Building Permit #09-1775 Allowing the Construction by Joanne (Jan) Paulk of a 755 Square Foot Addition with an Attached 175 Square Foot Portal to her Residence Located at 781 Stagecoach Circle, in the Ridgetop Sub-District of the Escarpment Overlay District. (Matthew O'Reilly)
12. CONSIDERATION OF RESOLUTION NO. 2010-_____. (Mayor Coss, 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) **(Postponed at September 15, 2010 City Council Meeting)**
13. Consideration of the Following Resolutions: (Councilor Calvert) (Brian Snyder) **(Postponed at September 29, 2010 City Council Meeting)**
 - a) CONSIDERATION OF RESOLUTION NO. 2010-_____.
A Resolution Amending the City's Administrative Procedures for Water Demand Offset Requirements to Include a Water Loan Transfer Program.
 - b) CONSIDERATION OF RESOLUTION NO. 2010-_____.
A Resolution Allocating Three Acre Feet of Available Water from the City's Existing Water Supply to Luna Laundry to be Located at 3138 Rufina Street.
 - c) CONSIDERATION OF RESOLUTION NO. 2010-_____.
A Resolution Authorizing the Transfer for Luna Laundry's Current Usage at 7620 Baca Lane of Three Acre Feet of Water to Luna Laundry's New Location at 3138 Rufina Street.
14. MATTERS FROM THE CITY MANAGER
15. MATTERS FROM THE CITY ATTORNEY
 - a) EXECUTIVE SESSION:

Pursuant to City of Santa Fe Resolution No. 2010-24, Discussion of Threatened or Pending Litigation in which the City of Santa Fe is or May Become a Participant, in Accordance with §10-15-1(H)(7), NMSA 1978. (Geno Zamora).



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- b) In Accordance with Section 27-2.15 SFCC 1987, Review of Chapter 27 SFCC 1987 Regarding Telecommunications Services. (Geno Zamora).
- 16. MATTERS FROM THE CITY CLERK
- 17. COMMUNICATIONS FROM THE GOVERNING BODY

EVENING SESSION – 7:00 P.M.

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE
- C. SALUTE TO THE NEW MEXICO FLAG
- D. INVOCATION
- E. ROLL CALL
- F. PETITIONS FROM THE FLOOR
- G. APPOINTMENTS
- H. PUBLIC HEARINGS:
 - 1) Pursuant to §60-6B-10 NMSA 1978, a Request for a Waiver of the 300 Foot Location Restriction and Approval to Allow the Consumption of Champagne at Goler Fine Imported Shoes, 125 West Palace Avenue, which is Within 300 Feet of the Cathedral Basilica of Saint Francis of Assisi, 131 Cathedral Place. The Request is for a Reception to be held on October 16, 2010 from 12:00 p.m. to 6:00 p.m. (Yolanda Y. Vigil)
 - 2) CONSIDERATION OF BILL NO. 2010-27: ADOPTION OF ORDINANCE NO. 2010-_____. (Councilor Trujillo)
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. (Jeanne Price)
 - a) CONSIDERATION OF RESOLUTION NO. 2010-_____. (Councilor Trujillo)
A Resolution Establishing Fees Associated with the City's Solicitation Ordinance (Article 18-3 SFCC 1987).



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- 3) CONSIDERATION OF BILL NO. 2010-28: ADOPTION OF ORDINANCE NO. 2010-_____. (Councilor Romero, Mayor Coss, Councilor Calvert, Councilor Dominguez, Councilor Bushee and Councilor Wurzburger)
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. (Jeanne Price)
- 4) CONSIDERATION OF BILL NO. 2010-29: ADOPTION OF ORDINANCE NO. 2010-_____. (Councilor Bushee)
An Ordinance Amending Section 2-1.11 SFCC 1987 to Remove the Designation of a City Councilor as Parliamentarian. (Jeanne Price)
- 5) 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 1C, 1D and 1E 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 Would 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 at September 15, 2010 City Council Meeting) (**Postponed to January 26, 2011 City Council Meeting**)

I. ADJOURN

Pursuant to the Governing Body Procedural Rules, in the event any agenda items have not been addressed, the meeting should be reconvened at 7:00 p.m., the following day and shall be adjourned not later than 12:00 a.m. Agenda items, not considered prior to 11:30 p.m., shall be considered when the meeting is reconvened or tabled for a subsequent meeting.

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

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



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D. INVOCATION

E. ROLL CALL

F. PETITIONS FROM THE FLOOR

G. APPOINTMENTS

H. PUBLIC HEARINGS:

1) Pursuant to §60-6B-10 NMSA 1978, a Request for a Waiver of the 300 Foot Location Restriction and Approval to Allow the Consumption of Champagne at Goler Fine Imported Shoes, 125 West Palace Avenue, which is Within 300 Feet of the Cathedral Basilica of Saint Francis of Assisi, 131 Cathedral Place. The Request is for a Reception to be held on October 16, 2010 from 12:00 p.m. to 6:00 p.m. (Yolanda Y. Vigil)

2) CONSIDERATION OF BILL NO. 2010-27: ADOPTION OF ORDINANCE NO. 2010-_____. (Councilor Trujillo)
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. (Jeanne Price)

a) CONSIDERATION OF RESOLUTION NO. 2010-_____.
(Councilor Trujillo)
A Resolution Establishing Fees Associated with the City's Solicitation Ordinance (Article 18-3 SFCC 1987).

3) CONSIDERATION OF BILL NO. 2010-28: ADOPTION OF ORDINANCE NO. 2010-_____. (Councilor Romero, Mayor Coss, Councilor Calvert, Councilor Dominguez, Councilor Bushee and Councilor Wurzbarger)
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. (Jeanne Price)

4) CONSIDERATION OF BILL NO. 2010-29: ADOPTION OF ORDINANCE NO. 2010-_____. (Councilor Bushee)
An Ordinance Amending Section 2-1.11 SFCC 1987 to Remove the Designation of a City Councilor as Parliamentarian. (Jeanne Price)

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October 13, 2010

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Approved [amended]

18-19

CONSIDERATION OF RESOLUTION NO. 2010- 86. 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

Approved [amended]

20-22

CONSIDERATION OF THE FOLLOWING RESOLUTIONS:

CONSIDERATION OF RESOLUTION NO. 2010-87. A RESOLUTION AMENDING THE CITY'S ADMINISTRATIVE PROCEDURES FOR WATER DEMAND OFFSET REQUIREMENTS TO INCLUDE A WATER LOAN TRANSFER PROGRAM

Approved [amended]

22-24

CONSIDERATION OF RESOLUTION NO. 2010- _____. A RESOLUTION ALLOCATING THREE ACRE FEET OF AVAILABLE WATER FROM THE CITY'S EXISTING WATER SUPPLY TO LUNA LAUNDRY TO BE LOCATED AT 3138 RUFINA STREET.

Not Approved

22-24

CONSIDERATION OF RESOLUTION NO. 2010- _____. A RESOLUTION AUTHORIZING THE TRANSFER FOR LAUNDRY'S CURRENT USAGE AT 7620 BACA LANE OF THREE ACRE FEET OF WATER TO LUNA LAUNDRY'S NEW LOCATION AT 3138 RUFINA STREET

Not Approved

22-24

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CONSIDERATION OF BILL NO. 2010-28; ADOPTION OF ORDINANCE NO. 2010-24. 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	Approved	32-33
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**MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
October 13, 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 October 13, 2010, at approximately 5:00 p.m., in the City Hall Council Chambers. Following the Pledge of Allegiance, Salute to the New Mexico flag, and the Invocation, roll call indicated the presence of a quorum, as follows:

Members Present

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

Others Attending

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

6. APPROVAL OF AGENDA

Robert Romero said there is an amended agenda, noting Items 9(b) and 9(c) were added. He asked to postpone Item 10(aa) to next meeting.

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

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

7. APPROVAL OF CONSENT CALENDAR

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

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

For Councilor Bushee, Councilor Calvert, Councilor Chavez, Councilor Dominguez, Councilor Romero, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

Absent for the vote: Councilor Ortiz

- a) **BID NO. 11/11/B – 2400 BLOCK, AGUA FRIA WATER AND SEWER MAIN EXTENSION PROJECT, PHASE II, AND AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR WASTEWATER MANAGEMENT DIVISION; SUB SURFACE CONTRACTING, INC. (STAN HOLLAND)**
- b) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – VEHICLE AND HEAVY EQUIPMENT REPAIRS; VARIOUS VENDORS. (ROBERT RODARTE)**
- c) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER FEDERAL PRICE AGREEMENT – AERIAL FIRE TRUCK FOR FIRE DEPARTMENT; FIRST IN, INC. (MARK ARAGON, ASSISTANT FIRE CHIEF)**
 - 1) **REQUEST FOR APPROVAL OF BUDGET TRANSFER – STATE FIRE FUND.**
- d) **REQUEST FOR APPROVAL OF AWARD AND CHANGE ORDER NO. 4 – ACEQUIA TRAIL PROJECT – BACA WELL SITE CONNECTION ON-CALL CONSTRUCTION SERVICES; A.S. HORNER, INC. (LEROY PACHECO)**
- e) **REQUEST FOR APPROVAL OF GRANT AWARD – CITY OF SANTA FE DOMESTIC VIOLENCE OFFENDER COMPLIANCE PROBATION OFFICER PROGRAM FOR DISTRICT AND MAGISTRATE COURTS; DEPARTMENT OF JUSTICE, OFFICE ON VIOLENCE AGAINST WOMEN. (CAROL HORWITZ)**
 - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND.**
- f) **REQUEST FOR APPROVAL OF GRANT AGREEMENT – 2010 EMERGENCY MANAGEMENT PERFORMANCE GRANT; NEW MEXICO DEPARTMENT OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT. (SEVASTIAN GURULE)**
 - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND.**

- g) REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT–
RENOVATION OF SPACE AT SANTA FE ONE STOP HOMELESS COALITION;
INTERFAITH COMMUNITY SHELTER GROUP. (ISAAC PINO)
 - 1) REQUEST FOR APPROVAL OF BUDGET INCREASE – ½% CIP GRT INCOME
FUND.
- h) REQUEST FOR APPROVAL OF TWO (2) ADDITIONAL POSITIONS THAT WERE
APPROVED BY BUCKMAN DIRECT DIVERSION BOARD. (INADVERTENTLY
OMITTED IN PREVIOUS CITY COUNCIL APPROVAL OF POSITIONS). (RICK
CARPENTER).
 - 1) REQUEST FOR APPROVAL OF BUDGET INCREASE – BDD FUND.
- i) *[Removed inadvertently by Councilor Bushee for discussion]*
- j) *[Removed for discussion by Councilor Bushee]*
- k) REQUEST FOR APPROVAL OF TITLE 1 SCENIC BYWAYS PROGRAM GRANT
AGREEMENT – DEVELOPMENT OF EL CAMINO REAL NATIONAL SCENIC BYWAY
TRAIL; NEW MEXICO DEPARTMENT OF TRANSPORTATION, NEW MEXICO
TOURISM DEPARTMENT. (BRIAN DRYPOLCHER)
- l) REQUEST FOR CONCEPT APPROVAL OF SALE OF REAL ESTATE – LOCATED
ALONG THE WESTERLY BOUNDARY OF 605 GARCIA STREET; LEVON D.
TASHJIAN AND STEFANIE M. TASHJIAN, TRUSTEES UNDER THE LEVON D.
TASHJIAN AND STEFANIE M. TASHJIAN TRUST. (EDWARD VIGIL)
[Councilor Bushee said she intended to remove this item, instead of 10(i)]
- m) REQUEST FOR APPROVAL OF REVISED LEASE AGREEMENT – SOUTHERLY AND
WESTERLY WALLS OF THE HALPIN BUILDING LOCATED AT 404 MONTEZUMA
STREET FOR MULTI-MODAL TRANSIT CENTER APPURTENANT TO THE SANTA FE
RAILYARD; STATE OF NEW MEXICO DEPARTMENT OF CULTURAL AFFAIRS.
(EDWARD VIGIL)
- n) REQUEST FOR APPROVAL OF SANTA FE MUNICIPAL AIRPORT AIRLINE
TERMINAL LEASE AGREEMENT – OPERATION OF RESTAURANT FACILITY AT
SANTA FE MUNICIPAL AIRPORT; DUKE CITY GOURMET, LLC. (JIM MONTMAN)
- o) REQUEST FOR APPROVAL OF PRELIMINARY DESIGN FOR SANTA FE TRAILS
PASSENGER AMENITY ENHANCEMENT PROJECT AND DIRECTION TO ADVANCE
THE PROJECT TO FINAL DESIGN AND CONSTRUCTION BIDDING. (JON BULTHUIS)
- p) *[Removed for discussion by Councilor Bushee]*
- q) *[Removed for discussion by Councilor Calvert]*

- r) **CONSIDERATION OF RESOLUTION NO. 2010-80 (COUNCILOR BUSHEE). A RESOLUTION DIRECTING THE CITY MANAGER TO RESEARCH THE FEASIBILITY OF ESTABLISHING A SUNSHINE PORTAL ON THE CITY OF SANTA FE WEB SITE THAT IS FREE, USER-FRIENDLY, SEARCHABLE AND ACCESSIBLE TO THE PUBLIC FOR THE PURPOSE OF GOVERNMENTAL TRANSPARENCY AND OPENNESS TO THE PUBLIC. (JEANNE PRICE)**
- s) **REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON NOVEMBER 10, 2010:**
 - 1) **BILL NO. 2010-31: AN ORDINANCE REPEALING SECTION 1-3-5 SFCC 1987, REGARDING THE DESTRUCTION OF ARREST RECORDS (MAYOR COSS). (JUDGE ANN YALMAN)**
 - 2) **BILL NO. 2010-32: AN ORDINANCE AMENDING VARIOUS SECTIONS OF CHAPTER 14 SFCC 1987, LAND DEVELOPMENT CODE RELATED TO APPEALS (COUNCILOR ORTIZ AND COUNCILOR TRUJILLO). (MATTHEW O'REILLY)**
 - a) **REQUEST FOR APPROVAL OF A RESOLUTION ADOPTING ADMINISTRATIVE PROCEDURES RELATED TO APPEALS OF LAND USE DECISIONS. (COUNCILOR ORTIZ AND COUNCILOR TRUJILLO). (MATTHEW O'REILLY)**
 - 3) **BILL NO. 2010-33: AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF SANTA FE, NEW MEXICO GROSS RECEIPTS TAX REVENUE REFUNDING BONDS, SERIES 2010B IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$27,600,000, FOR THE PURPOSE OF PROVIDING FUNDS FOR (I) PREPAYING AND DISCHARGING THREE NEW MEXICO FINANCE AUTHORITY LOANS FOR THE SANTA FE RAILYARD PROJECT AND A PARKING STRUCTURE, AND (II) PAYING THE COSTS OF ISSUANCE OF THE BONDS; PROVIDING THAT THE BONDS WILL BE PAYABLE AND COLLECTIBLE FROM CERTAIN GROSS RECEIPTS TAX REVENUES DISTRIBUTED TO THE CITY; ESTABLISHING THE TERMS, FORM AND DETAILS OF THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, AN OFFICIAL STATEMENT AND A CONTINUING DISCLOSURE UNDERTAKING IN CONNECTION WITH THE BONDS; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION WITH THE BONDS; REPEALING ALL ORDINANCE IN CONFLICT HEREWITH; AND RELATED MATTERS. (KATHRYN RAVELING)**
 - 4) **BILL NO. 2010-34: AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF SANTA FE, NEW MEXICO GROSS RECEIPTS TAX REVENUE REFUNDING BONDS, SERIES 2010A IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$16,500,000 FOR THE PURPOSE OF PROVIDING FUNDS FOR (I) REFUNDING THE CITY OF SANTA FE GROSS RECEIPTS TAX REVENUE BONDS, SERIES 2002 THAT MATURE ON AND AFTER JUNE 1, 2013 AND (II) PAYING THE COSTS OF ISSUANCE OF THE**

BONDS; PROVIDING THAT THE BONDS WILL BE PAYABLE AND COLLECTIBLE FROM CERTAIN GROSS RECEIPTS TAX REVENUES DISTRIBUTED TO THE CITY; ESTABLISHING THE TERMS, FORM AND DETAILS OF THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, AN OFFICIAL STATEMENT AND A CONTINUING DISCLOSURE UNDERTAKING IN CONNECTION WITH THE BONDS; REPEALING ALL ORDINANCE IN CONFLICT HEREWITH; AND RELATED MATTERS. (KATHRYN RAVELING)

- t) REQUEST FOR APPROVAL OF 2011 EMPLOYEE HOLIDAY CALENDAR. (VICKI GAGE)
- u) *[Removed for discussion by Councilor Chavez]*
- v) *[Removed for discussion by Councilor Chavez]*
- w) *[Removed for discussion by Councilor Calvert]*
- x) REQUEST FOR APPROVAL OF CONSIDERATION TO FILL VACANT POSITIONS. (ROBERT ROMERO)
- y) PROGRESS REPORT PER RESOLUTION 2010-57 – 635 ALTO STREET PROPERTY. (MELISSA DAILEY)
- z) CONSIDERATION OF RESOLUTION NO. 2010-81 (MAYOR COSS). A RESOLUTION REPEALING RESOLUTION NO. 2003-33 REGARDING RECORDS RETENTION AND DISPOSITION SCHEDULES; ADOPTING THE MOST CURRENT APPROVED RECORDS RETENTION AND DISPOSITION SCHEDULES ON FILE WITH THE NEW MEXICO STATE RECORDS CENTER AND ARCHIVES FOR LOCAL GOVERNMENT USE; AND AMENDING THOSE SPECIFICALLY RELATED TO THE MUNICIPAL COURT. (YOLANDA VIGIL)
- aa) REQUEST FOR APPROVAL OF COOPERATIVE AGREEMENT – PARTNERSHIP BETWEEN THE SCHOOL DISTRICT AND THE CITY FOR SHARED RESOURCES AND SERVICES; SANTA FE PUBLIC SCHOOLS. (ISAAC PINO). (Postponed at September 29, 2010 City Council Meeting)
This item was removed from the agenda at the request of staff and postponed to the meeting of October 27, 2010.

8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – SEPTEMBER 29, 2010

MOTION: Councilor Dominguez moved, seconded by Councilor Trujillo, to approve the minutes of the Regular City Council meeting of September 29, 2010, as presented.

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

9. PRESENTATIONS

a) EMPLOYEE OF THE MONTH FOR OCTOBER 2010 – IGNACIO “TITO” MOYA, CUSTODIAN.

Mayor Coss read the letter of nomination into the record and presented Mr. Moya with a plaque and a check for \$100 from the employee benefit committee.

Councilor Ortiz arrived at the meeting

Tito's father, Mr. Moya, said he is very proud of his son, that he is a hard worker, and thanked the City for recognizing him.

b) MUCHAS GRACIAS – BILL HON, PARKING DIVISION DIRECTOR

Mayor Coss presented Mr. Hon with a Muchas Gracias certificate for his years of service with the City. Mayor Coss then read a proclamation into the record declaring October 16, 2010, as “Bill Hon Day” in Santa Fe. He and thanked Mr. Hon for his exemplary service to the City the people of Santa Fe.

Councilors Bushee, Wurzbarger, Chavez and Calvert congratulated Mr. Hon on his retirement and thanked him for his years of dedicated service, for getting the parking pickup service started, his willingness to sit with people and work out problems, and for being someone that could be counted on to provide quality service.

Mr. Hon thanked the Mayor and Council for working with him during his years with the City, and for giving him the opportunity to head up the Division.

c) PROCLAMATION – “GIRLS, INC. DAY IN SANTA FE.” (RENEE JULIEN)

Mayor Coss, assisted by Councilor Wurzbarger, read a proclamation into the record declaring October 7, 2010, as Girls, Inc., Day in Santa Fe.

Ms. Julien thanked the Mayor, Councilor Wurzbarger and the other members of the Governing Body for their active support for of Girls, Inc.

APPROVAL OF ITEM INADVERTENTLY REMOVED FOR DISCUSSION FROM THE CONSENT CALENDAR

- 10(i) REQUEST FOR APPROVAL OF FIRST AMENDMENT TO THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 COOPERATIVE PROJECT AGREEMENT – AIRPORT ROAD RESURFACING PROJECT; NEW MEXICO DEPARTMENT OF TRANSPORTATION. (LOUIE PACHECO)
1) REQUEST FOR APPROVAL OF BUDGET INCREASE – PROJECT FUND.

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

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

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

Against: None.

CONSENT CALENDAR DISCUSSION

10 (j) REQUEST FOR APPROVAL OF THE REALLOCATION OF EXISTING CIP FUNDS AND RELATED BUDGET TRANSFERS. (ISAAC PINO)

Councilor Bushee asked the reason we are spending all of the balance now, noting she has concerns on some of the items. More importantly, she wants to be sure we have funding for the Homeless Shelter and asked what will be the source of those funds.

Mr. Romero said these are fund balances and staff has identified the critical areas, and feels it appropriate to spend the fund balances on these projects. He said these funds don't relate to Pete's Pet or the Interfaith group, because those are different funds. He said funding for the homeless shelter is coming from a future CIP Bond, which was approved by the City Council, which is allowable under the law.

Councilor Bushee suggested perhaps not doing some projects. She said the GCC is getting \$500,000 for ongoing roof and vapor repair, and she thought we would recover those funds from the contractor.

Mr. Romero said staff is trying to recover funds from those who are responsible under the warranty. However, a lot of these things have to do with the design, and we can't do much about that right now, and we are moving forward to fix the facility.

Councilor Bushee said she will be voting against this.

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

DISCUSSION: Councilor Wurzbarger said, with regard to the issue on Camino Lejo, she would hate to take all of the money and not be able to deal with that, noting it is a big safety issue. She asked when we will be issuing the CIP bond.

Mr. Pino said, with regard to the list, Items 1A through 5A are absolutely "must haves." He said Items 1B through 11B are being left in place so we can finish those project. He said we are then left with Items 1C through 16C, where we are reducing those funds. He said the ones with zeros have been completed and no funds are needed. He said we have no idea what the cost for Camino Lejo might be. He said to suggest we are using all the money is accurate, but a lot of the funds will remain where they currently reside.

Councilor Bushee asked if this means we will have to wait for the next CIP bond when we don't know when that will be.

Mr. Pino said that would seem to be the most reasonable approach.

Councilor Bushee asked if that could be as late as next Spring, and Mr. Pino said he doesn't know the timeline. Councilor Wurzbarger said this is of concern to her.

Councilor Dominguez asked what is the \$15,000 for the Camino Alire bridge.

Mr. Pino said this leaves \$15,000 for the monument at the entry to Barrio la Canada.

Councilor Dominguez said then it's not for the bridge, and Mr. Pino said no.

Councilor Dominguez noted 1C is for pending traffic calming project and maintenance, and asked if the \$140,000 is for one project, or if it is for a number of projects which still need to be completed.

Mr. Pino said it is not for a single project, and is staff's projection for funds which might be requested.

Councilor Chavez said the unknown is that we can't issue a bond because we don't know the numbers on the GRTs. He said we are waiting to fund the Homeless Shelter which is deferred to the next CIP bond.

Councilor Chavez asked, with regard to the Barrio la Canada entrance project, if this is about 90% complete.

Mr. Pino said he is unsure of the percentage, but this is a small amount which is left in the fund to complete the project.

Mr. Romero said we received \$85,000 from the State and the \$15,000 is needed to complete the project.

Councilor Bushee asked if we are not going to build the Tino Griego Teen Center, which she hates to see, but understands it is because of the economy. She asked if the \$500,000 from GCCC can come from somewhere else. She is concerned staff will be back in 6 months for another \$500,000.

Mr. Pino said staff hopes this is the last time we will deal with these issues. He noted the Memorandum in the packet, indicating the need for an additional \$500,000 for other things in the future. He said, with respect to Tino Griego, the construction portion is about \$4 million.

Councilor Bushee said that was supposed to bring a savings in transportation costs. She said then we will start to expend funds for Items 1A through 5A and 1B through 11B.

Mr. Pino said all of the funds in 1A through 5A are must-haves. He said the funds will stay as is for Items 1B through 11B. He said funds to do the A's are coming from the C's, and that is the way this is balanced.

Councilor Bushee asked if the facility maintenance will be used to re-stucco the City Hall Building, saying it does not look good next to the new Convention Center.

Mr. Pino said, "Not at that price. We'll probably need another zero."

Councilor Bushee reiterated that she will be voting against this request, and doesn't believe we should spend all of the funds right now.

Councilor Wurzbarger said she will vote for the request, because she is inferring, unless staff says differently, that we don't have the plans put together for Traffic Calming, which possibly could be one source of funding.

Mr. Pino said this is a possibility.

Mr. Romero said some of that money is going to be used for traffic calming maintenance, noting we have to replace some of the striping, signage, and to maintain the bulb-outs.

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

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

Against: Councilor Bushee.

10 (I) REQUEST FOR CONCEPT APPROVAL OF SALE OF REAL ESTATE – LOCATED ALONG THE WESTERLY BOUNDARY OF 605 GARCIA STREET; LEVON D. TASHJIAN AND STEFANIE M. TASHJIAN, TRUSTEES UNDER THE LEVON D. TASHJIAN AND STEFANIE M. TASHJIAN TRUST. (EDWARD VIGIL)

Councilor Bushee said she intended to remove this item for discussion instead of item 10(i).

Mayor Coss said this item was approved in the approval of the Consent Calendar.

Councilor Bushee said she has questions, and Mayor Coss told her she could ask those now.

Councilor Bushee asked if they will continue to use the property for parking.

Mr. O'Reilly said this is his understanding, noting it has been their parking area for a long time, and they were "actually never really sure this was not their property." He said the existing walls will remain in place.

Councilor Bushee said she wants to be sure that this condition is in the understanding, noting the City had the right-of-way at one time.

Mr. O'Reilly said this land is owned by the City, and the concept approval for this sale is that the City will retain the ROW for utility purposes.

Councilor Bushee said her point is that they won't be able to build on the land, but can continue to park.

Mr. O'Reilly said this is correct.

Councilor Bushee asked if this is clear.

Mr. O'Reilly said it is implied because there is a utility ROW, but staff can make it more clear by adding that language.

Councilor Bushee believes that would be appropriate.

Mr. Zamora said, in terms of Parliamentary procedure, noting this item on the Consent Calendar already has been approved, it would be necessary to undo that motion and make another motion.

Mr. Romero pointed out that this request is for concept approval only, so the final documents will come back to the Council for approval, and that change can be done at that time.

Mayor Coss said then we will take this under advisement to be acted upon when it comes back to the Council.

10 (p) CONSIDERATION OF RESOLUTION NO. 2010-82 (COUNCILOR ROMERO). 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. (BOB SIQUEIROS)

Councilor Bushee asked the source of funds for this.

Mr. Romero said a percentage of the GRT goes to pay off the Railyard, and those funds can absorb the additional costs.

Councilor Bushee asked why we have to do this for three years.

Mr. Siqueiros said the original resolution was for 3 years, and we have fulfilled one year, noting he does have carry-over funds for this fiscal year to get a little more than the \$25,000 which was in the original resolution.

Responding to Councilor Bushee, Mr. Siqueiros said we aren't doubling it, we are widening the range, so the minimum would be \$25,000 and maximum \$50,000 per year.

Councilor Bushee said it is likely they will be asking for the maximum, and asked if there are more programs.

Mr. Siqueiros said he doesn't have funds for the \$50,000, unless we can get that through the GRT. He said the programs have increased, and the information is in the packet.

Councilor Bushee asked if this is their only source of funding, and Mr. Siqueiros said no. Councilor Bushee asked the other source of funding.

Eliza Kretzman, Director of Park Stewards, said they have many funding sources, and they have raised \$213,000 in the past two years above the City funding, from a grant from the National Endowment for the Arts and funds from foundations.

Councilor Bushee asked if they can take over what Sandra Brice does, so we're not paying two people.

Mr. Romero said these are two totally different operations – one is maintaining the park and the other is permitting events.

Councilor Bushee said they get money from the Arts and various foundations.

Mr. Romero said it is his opinion that they are two different functions.

Mr. Siqueiros said Sandy Brice manages the community events, and this one is involved more in the maintenance.

MOTION: Councilor Romero moved, seconded by Councilor Wurzbarger, to adopt Resolution No. 2010-82.

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

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

Against: Councilor Bushee.

10(q) CONSIDERATION OF RESOLUTION NO. 2010-83 (COUNCILOR ORTIZ, COUNCILOR WURZBURGER, MAYOR COSS AND COUNCILOR BUSHEE). A RESOLUTION 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. (KATHRYN RAVELING)

Councilor Calvert said he is okay with what is here, but he would like to add language, noting the State Auditor in his briefing said employee tips and hotlines are the main sources for detecting fraud.

Councilor Calvert proposed to add language to the Resolution as follows:

1. Page 2, between lines 22 and 23: "WHEREAS, the New Mexico State Auditor noted that employee tips were responsible for the discovery for many fraud incidents."
2. Page 5, between lines 8 and 9: "Staff is directed to study the feasibility of instituting a Fraud Hotline."

MOTION: Councilor Calvert moved, seconded by Councilor Ortiz to adopt Resolution No. 2010-83, with the proposed amendments.

FRIENDLY AMENDMENT: Councilor Chavez would like to include "the Public" on page 2 after "employee tips." **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER COUNCILORS.**

Councilor Bushee said she is unsure we take it out of politics by "having us appointing." She said in other parts of the world, there are solicitor generals and others who are more independent. She asked if any thought has been given as to how to constitute this committee. She said this is the same dilemma we had with the Ethics Committee appointments.

Mr. Zamora said Councilor Bushee has identified the classic dilemma, noting the State is having these same kinds of situations regarding independent ethics committees and such, who appoints them and how to keep them independent. He has not seen to date, from a legal perspective, a clear answer in this regard. He said she can make a clear argument for someone else to appoint the members, as well as a clear argument for each Councilor to appoint a representative so it isn't weighted toward one party. He said there is no clear solution.

Councilor Bushee asked if there have been conversations with the "State Auditor who suggested this happened." She tried to get details from the presenter, but hasn't heard back. She said Albuquerque's model is to have a solicitor general, but she doesn't know how they are hired.

Mayor Coss asked if she is suggesting that the Council not approve the make-up of the Committee.

Councilor Bushee said she is suggesting some kind of change in appointing members.

Mayor Coss said if this Resolution is adopted, he would make the appointments with the advice and consent of the City Councilors and he certainly would welcome suggestions.

Councilor Bushee would like to build-in the process as we create the Committee to distance the Committee from politics.

Mayor Coss said this is difficult at times.

Councilor Chavez asked the timeline for the appointments.

Mayor Coss would like to make the appointments the last meeting in October and no later than the November Council meeting.

Councilor Chavez suggested perhaps the appointments could be made by the Finance Director.

Mr. Zamora said his problem is that the Audit Committee would oversee the Finance Director. He said, however, he has seen some independent options where appointments were made by the Municipal Judge. He said he hasn't thought it through, but it would be done with the advice and consent of the Governing Body.

FRIENDLY AMENDMENT: Councilor Bushee would like to amend the motion to provide that these appointments would be made by the Municipal Judge.

DISCUSSION ON THE FRIENDLY AMENDMENT: Councilor Calvert said there is some accountability in doing it this way, although the Mayor is accountable as well.

DISCUSSION ON THE FRIENDLY AMENDMENT: Councilor Romero said on page 1, it is her understanding that the Internal Auditor reports to the City Manager regularly. She would like to amend the Resolution to provide that the Internal Auditor will regularly review the operations.

Councilor Dominguez asked what happens if the Board appoints bad members to the Committee.

Councilor Ortiz said the appointments still will be subject to the advice and consent of the City Council.

THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER COUNCILORS.

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

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

Against: None.

Explaining her vote: Councilor Bushee said she votes yes as long as we change the word "Mayor" to "Municipal Judge" on page 4, line 4 of the Resolution and "wherever else."

10(u) CONSIDERATION OF RESOLUTION NO. 2010-84 (COUNCILOR CALVERT, COUNCILOR ROMERO AND COUNCILOR BUSHEE). 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. (MATTHEW O'REILLY)

Councilor Chavez asked Matthew O'Reilly to walk the Council through the process thus far with regard to this matter, noting in lieu of amending the ordinance on accessory dwelling units, we have moved toward trying to change State law.

Mr. O'Reilly said staff and the previous City Attorney presented information to the Interim Committee on Courts and Justice chaired by Senator Wirth. The Committee wanted to hear the different sides of this issue and the problems related to this matter, and he believes he and the former City Attorney fairly represented the City's interest in this matter. He said subsequently there were discussions with the City & County Attorneys and the County Clerk, and it was decided the best way to move forward was this Resolution urging the Legislature to change the Condominium Act. He said attached to the Resolution is the proposed change to the law.

Councilor Chavez asked Mr. O'Reilly to read the proposed change for the record.

Mr. O'Reilly said Section 47-7B-9, would add a new paragraph 12 as follows: "12. If required by local ordinance, written confirmation from the local zoning official that the condominium complies with local zoning and subdivision ordinances or regulations required in Section 47-7A-6 NMSA 1978." He said

although the Act clearly says condominiums have to require with all local zoning ordinances and subdivision regulations, there is an ordinance which lists the kinds of information which have to be included with the declaration, and confirmation by the local zoning official isn't on that list. He said because of that, condominiums often are recorded at the offices of County Clerks without that information, the knowledge of the City or that they comply with zoning and subdivision ordinances and regulations.

Responding to Councilor Chavez, Mr. O'Reilly said the Condominium Declaration officially legally creates a condominium.

Councilor Chavez asked if it is before or after the sale.

Mr. O'Reilly said he can't speak to when it is done, but this would prevent the creation of a condominium without meeting these conditions.

Councilor Chavez said the accessory dwelling units are advertised for sale as a condominium and you can buy one or both. It is also being used to carve out two units of a single-family home in neighborhoods like Casa Alegre and Casa Solana and other parts of town, and that was not the intended purpose for the single-family unit. He asked what this does to enforce the City's current ordinances, and what process do we have to flag individuals that are doing this and then advertising them.

Mr. O'Reilly said the Resolution asks the Legislature to change the Condominium Act which will give us the tools to enforce the ordinance.

Councilor Chavez asked when he anticipates that change and what we can do in the interim to discourage these kinds of real estate transactions. He said this has been happening for the past 10 years.

Mr. O'Reilly said he can't say when that change will be adopted, but hopes it will be addressed in the upcoming 2011 Legislature. He said the second resolution before the Council this evening addresses what will be done in the interim, where the Governing Body asks the County Clerk to stop recording condominium declarations unless they receive verification from the City that they comply with the City's local zoning ordinances.

Councilor Chavez asked what happens if it has already been purchased by someone.

Mr. O'Reilly said the two resolutions are to prevent new and/or illegal condominiums from being created.

Councilor Chavez asked what we do with those which already have been created.

Mr. O'Reilly said that is a larger question and whether the Council wants to grandfather those. He said if approved, we would need to revise the ordinance previously proposed by Councilor Chavez and we can address the issue of pre-existing condominiums.

MOTION: Councilor Calvert moved, seconded by Councilor Romero, to adopt Resolution No. 2010-84.

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

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

Against: None.

10(v) CONSIDERATION OF RESOLUTION NO. 2010-85 (COUNCILOR CALVERT, COUNCILOR ROMERO AND COUNCILOR BUSHEE). 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. (MATTHEW O'REILLY)

Councilor Chavez said the same discussion applies with this, and if people don't comply, we will be in the same situation, and just continue to "sweep everything under the rug."

Mr. O'Reilly said he wants to be clear that the Resolution just adopted by the Governing Body doesn't sweep anything under the rug. It ends the problem. In the interim, before the Legislature might want to change the Condominium Act, this Resolution requests the County Clerk to stop recording these illegal condominium regulations. If she does that, it stops. It doesn't stop condominiums which may have been created in the past, but any newly created condominiums are stopped. He said a condominium cannot be created legally until the declarations are recorded by the County Clerk.

Councilor Chavez understands, but asked what happens with those which already have been created.

Mr. O'Reilly said you can't sell an accessory dwelling unit to someone else and then create a condominium. A condominium has to be created and then it can be sold, so this Resolution would stop that from happening.

Councilor Chavez said they often are creating a condominium without the appropriate lot size.

Mr. O'Reilly reiterated that a condominium must comply with zoning and subdivision regulations. He said there is the difference between the construction of an accessory dwelling unit and its subsequent conversion to a condominium.

Mr. O'Reilly said, with regard to the conversion of a single-family home into a condo, if they were to apply for a building permit to put in a second kitchen, for example, to create two units, the building permit would be denied. However, if they build it illegally on the weekends and we didn't know it, and then tried to create a condominium, this will allow us to stop a condominium from being created. He said they

will end up in a house with illegal construction which can't be sold, and we can require them to remove the illegally installed improvements.

Mr. O'Reilly said if the Legislature doesn't approve the amendment, we will be back where we started, and people will continue to create condos which don't meet City requirements and we don't know about. He hopes the Legislature and County Clerk will heed our request, noting Dona Ana County Legislatures are seeing this happen there.

MOTION: Councilor Calvert moved, seconded by Councilor Romero, to adopt Resolution No. 2010-85, with the amendments.

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

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

Against: None.

10(w) **REQUEST FOR APPROVAL OF ADOPTION OF THE ANNUAL WATER REPORT.
(CLAUDIA BORCHERT)**

Councilor Calvert thanked Ms. Borchert for the report which is well done. He said he pulled this item to respond to Ms. Borchert's request for suggestions for improvement of the report. His suggestions are as follows:

- a. Change the timing of the preparation and release of the report so it is more in sync with the budget process, so we can deal with items that need funding.
- b. The report should look into annexation and its effect on our conservation programs.
- c. The report should look at the price of effluent, and if it is based on the effort of the City to produce effluent, and is this a true reflection of what it costs to treat the effluent.

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

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

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

Against: None.

END OF CONSENT CALENDAR DISCUSSION

11. **REQUEST FOR APPROVAL OF HEARING EXAMINER'S FINDINGS OF FACT AND CONCLUSIONS OF LAW: CASE #2010-100. PHILIP MURRAY AND FREDERICK M. ROWE APPEAL THE PLANNING COMMISSION DECISION OF MAY 6, 2010, THAT DENIED THE APPEAL OF BUILDING PERMIT #09-1775, ALLOWING THE CONSTRUCTION BY JOANNE (JAN) PAULK OF A 755 SQUARE FOOT ADDITION WITH AN ATTACHED 175 SQUARE FOOT PORTAL TO HER RESIDENCE LOCATED AT 781 STAGECOACH CIRCLE, IN THE RIDGETOP SUB-DISTRICT OF THE ESCARPMENT OVERLAY DISTRICT. (MATTHEW O'REILLY)**

Councilor Bushee said this case has been appealed by two people, and asked if they are in attendance, and it was indicated they are not. She said we received letters from both persons asking that we postpone "ultimately what they're asking for." She said generally when an Appellant wants something postponed, it is postponed. She said, "They are saying we need to get some minutes from September thirtieth," and asked if they didn't make this request, and she is surprised neither person is here.

Mr. O'Reilly said there is no appeal before the Council tonight. This is a request for approval of the Hearing Examiner's Findings of Fact and Conclusions of Law. He said the Governing Body, under City Ordinance, can accept these as written, or it can choose not to approve them and to hear this case at a future date.

Councilor Bushee asked if the Hearing Examiner's minutes are available.

Mr. O'Reilly is unsure if those are ready, but it is a moot point. The Hearing Examiner has created Findings of Fact and Conclusions of Law, based on his duties under the ordinance, which are before the Governing Body.

Councilor Bushee said this is precedent setting, and different from what we usually do..

Councilor Ortiz said the precedent-setting started at a meeting where Councilor Bushee was absent, noting we had almost the exact discussion on another case. He said the Chapter 14 amendments which we adopted need to be amended. He said the decision which came down is that we have limited ourselves as a Governing Body to either accepting the Findings & Conclusions, or rejecting them and setting up a hearing *de novo* of the case. He said we have spent a lot of money on a Hearing Officer to go through a process that becomes extraneous, a process which were proposed as amendments to the Chapter 14 Administrative Appeals process by one of the people who is now an appellant and saying we shouldn't be doing this. He said both Councilor Romero and Councilor Bushee were absent for that discussion. He said this is the same consternation he had the last time.

Councilor Bushee would like to read the Hearing Examiner's minutes when they become available.

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

DISCUSSION: Mayor Coss said if the motion is approved, then we would hold a full *de novo* hearing.

Mr. Zamora said that is correct, the next step is for the Governing Body to hold a full *de novo* hearing.

Responding to Councilor Bushee, Councilor Ortiz said those amendments to ordinance are in process, and we should be getting those soon. He said this process we have experienced twice exposes the flaws in what we've done, and that we hand-tied ourselves to something – hiring a hearing officer to get finality and some sense of due process. However, we're seeing this as another step into the appellant process just to prolong it, which he finds disappointing.

Mayor Coss said, for the record, Councilor Wurzbarger has recused herself from the vote in this matter.

VOTE: The motion failed to pass on the following roll call vote:

For: Councilor Bushee and Councilor Chavez.

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

Absent: None.

Recused: Councilor Wurzbarger.

MOTION: Councilor Calvert moved, seconded by Councilor Ortiz, to approve the Hearing Examiner's Findings of Fact and Conclusions of Law in Case #2010-100.

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

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

Against: Councilor Bushee and Councilor Chavez.

Recused: Councilor Wurzbarger.

12. **CONSIDERATION OF RESOLUTION NO. 2010- 86 (MAYOR COSS, 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) (Postponed at September 15, 2010 City Council Meeting)**

A copy of a proposed amendment to the Resolution proposed by Councilor Romero is incorporated herewith to these minutes as Exhibit "1."

Mayor Coss welcomed Councilor Robert Gibson, Councilor Sharon Stover, and County Manager Anthony Mortillaro of Los Alamos County, and thanked them for attending.

Councilor Wurzbarger thanked the members of the BQL Committee and Economic Development Review Committee which met on this issue.

MOTION: Councilor Wurzbarger moved, seconded by Councilor Romero, based on the analysis done by the BQL and Economic Development Review Committee, to approve this request with the amendments proposed by Councilor Romero.

DISCUSSION: Councilor Bushee asked Councilor Romero to include the repealer amendment.

Councilor Romero said it isn't in the motion, and asked if it is specific to this issue.

Councilor Bushee said there is an amendment in the packet submitted by staff dealing with the stricken language on lines 13-15.

Councilor Wurzbarger said her understanding is that we are not approving the JPA. We are approving the Resolution as amended, noting the Resolution does not say we are signing the JPA, and says we want to be part of the process, give them less money, and she wants to move forward with Councilor Romero's amendments.

Councilor Bushee asked Ms. Price to clarify the amendment, saying she understands we are removing that portion which repeals other agreements

Councilor Calvert said we are substituting language.

Jeanne Price said, regarding the repealer language in the Resolution, it is correcting the language to say that we are repealing only certain things which is a cautionary repealing, and that is in the Resolution and not in the JPA. She said the amendment sheet from Councilor Romero changes it to provide for only \$10,000 from Economic Development Funds and that the Governing Body's representative on the

Coalition will reflect the City's desire to proceed with the advocacy part. She said she needs to further refine the amendment sheet to need to clarify that we are not approving the JPA.

FRIENDLY AMENDMENT: Councilor Wurzbarger would like to amend Councilor Romero's proposed amendment [Exhibit "1"] to say that we are not approving that particular JPA. **FRIENDLY AMENDMENT.**

Councilor Bushee didn't understand what the Resolution was trying to repeal, and no one has given us that information.

Ms. Price said she spoke with the bond counsel from Modrall who was involved with the creation of the JPA and model resolution. He told her the language she had proposed was completely in error and he wanted repealer language as a safeguard to clarify that nothing is committed.

Mayor Coss said he thought we were signing the JPA and directing staff to reduce the amount to \$10,000.

Ms. Price said the language in the handout [Exhibit "1"] does approve the JPA, so Councilor Wurzbarger and Councilor Romero are moving that we are not approving the JPA which will take more amending language.

Mayor Coss said the JPA would be the authorization to expend the \$10,000, and Ms. Price said yes.

Mayor Coss recalls that the discussion was that the Committees who looked at the JPA weren't entirely happy with it, but we are one of many local governments signing on, so we control the amount of money and direct staff on how to work in this coalition.

CLARIFICATION OF THE FRIENDLY AMENDMENT: Councilor Wurzbarger said that is not the total intention of the two committees, but the broad intention, as long as it is very clear as we set at the table, is to do #6 which is to voice the desire of this Governing Body to restructure the Coalition to focus on advocacy and its purpose. She said a JPA modification will need to be made because it is very broad. She said that was the main concern of the BQL and the EDRC even above the money. She said we were fortunate that the Los Alamos representatives attended those meetings and made it very clear that the primary purpose is indeed advocacy. She said we shouldn't hold up rewriting the JPA for our participation. However we are participating with the expectation that the JPA will be revised collectively at the table, and the revision can be as simple as the emphasis on the focus by adding this to Item #6..

Mayor Coss invited Los Alamos County Councilors Carol Stover and Robert Gibson to speak on this issue if they would like.

Councilor Stover thanked the City for its support, and believes this is one of the most important issues for the region. She believes this is the best way to move forward.

Councilor Gibson said one of the changes over the past 10 years is a much more regional approach to issues. He is glad to see the region coming together again by establishing a mechanism to give use more strength in Washington, rather than a fractional approach to LANL issues.

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

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

Against: None.

**13. CONSIDERATION OF THE FOLLOWING RESOLUTIONS: (COUNCILOR CALVERT).
(BRIAN SNYDER) (Postponed at September 29, 2010 City Council Meeting)**

- A. CONSIDERATION OF RESOLUTION NO. 2010-87. A RESOLUTION AMENDING THE CITY'S ADMINISTRATIVE PROCEDURES FOR WATER1 DEMAND OFFSET REQUIREMENTS TO INCLUDE A WATER LOAN TRANSFER PROGRAM.**
- B. CONSIDERATION OF RESOLUTION NO. 2010- _____. A RESOLUTION ALLOCATING THREE ACRE FEET OF AVAILABLE WATER FROM THE CITY'S EXISTING WATER SUPPLY TO LUNA LAUNDRY TO BE LOCATED AT 3138 RUFINA STREET.**
- C. CONSIDERATION OF RESOLUTION NO. 2010- _____. A RESOLUTION AUTHORIZING THE TRANSFER FOR LAUNDRY'S CURRENT USAGE AT 7620 BACA LANE OF THREE ACRE FEET OF WATER TO LUNA LAUNDRY'S NEW LOCATION AT 3138 RUFINA STREET.**

MOTION: Councilor Ortiz moved, seconded by Councilor Calvert, to approve Item 13(A) Resolution No. 2010-87, with a proposed language change on page 2, line 4, so instead of "no-interest," to say "low interest (3% or lower)," and specifically not to approve Items 13(B) and 13(C).

DISCUSSION: Councilor Ortiz said he believes the Resolution in Item 3(A) most closely approximates the position of the majority of the Governing Body, which allow the applicants to accomplish what is needed while protecting the City's interest, financially and in terms of the water rights. It gives clarity to staff as to what action can be taken now for this particular applicant and in the future. He said staff has been diligent in bringing this issue forward and not letting it die.

Councilor Chavez said this isn't bad if it takes everyone to a level playing field. His concern is that this is a public asset and a limited resource. He spoke about doing what is best for the citizens, now and into the future, and said he doesn't want to see any unintended consequences.

Councilor Ortiz said Councilor Chavez raises a point we've discussed in Committee.

FRIENDLY AMENDMENT: Councilor Ortiz would like to give direction to staff to place language in the actual agreement that any money received from the repayment of the loan shall be directed specifically to rebuying the water rights which are taken by this agreement. **THE AMENDMENT WAS FRIENDLY TO THE SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER COUNCILORS..**

FRIENDLY AMENDMENT: Councilor Bushee would like to add a one-year review provision to the Resolution, commenting she wants to see who comes forward to use this provision. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER COUNCILORS..**

Councilor Bushee wants to know who will administratively manage the loan and how, and who is tracking that.

Mr. Snyder said he has no details of how the City would handle a low interest loan. He said he envisions it to be similar to the accounting and tracking of the Water Bank. He said he is in the process of hiring a Water Bank Administrator to run that program, and sees this as a function of this position as well as working closely with the Finance Department. Responding to Councilor Bushee, Mr. Snyder said this can be built into the job description.

FRIENDLY AMENDMENT: Councilor Calvert would like to amend the proposed Resolution on page 2, line 3, line 5 and line 8, to say "existing water customer," rather than "developer," and elsewhere that "developer" might appear in the Resolution to narrow the focus. **THE AMENDMENT WAS FRIENDLY TO THE MAKER.**

DISCUSSION ON THE FRIENDLY AMENDMENT: Councilor Bushee asked the reason we care whether or not it is an existing customer, commenting she doesn't think we will have a lot of people "knocking down the door" to do this.

Councilor Calvert said he is trying to address the concerns expressed and to keep the focus as narrow as possible.

Councilor Bushee doesn't care whether or not it is an existing customer, reiterating she doesn't think many people will be doing this. **THE AMENDMENT WAS FRIENDLY TO THE SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER COUNCILORS.**

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

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

Against: None.

Explaining his vote: Councilor Calvert voted yes, and thanked the Water Division and Ms. Price for their diligence and patience.

Explaining his vote: Councilor Chavez voted yes, saying it is better than before. However, a Resolution changing policy isn't the best way to do things, but after a one year review we'll know what we've done during the year.

14. MATTERS FROM THE CITY MANAGER.

There were no matters from the City Manager.

15. MATTERS FROM THE CITY ATTORNEY

a) EXECUTIVE SESSION:

DISCUSSION OF THREATENED OR PENDING LITIGATION IN WHICH THE CITY OF SANTA FE IS OR MAY BECOME A PARTICIPANT, IN ACCORDANCE WITH §10-15-1(H)(7) NMSA 1978. (GENO ZAMORA)

Responding to the Mayor, Mr. Zamora said he will report on Item 15(b) publicly, outside of Executive Session, noting his office will be providing a review of Chapter 27 at that time.

MOTION: Councilor Wurzbarger moved, seconded by Councilor Romero, that the Council go into Executive Session for the purpose of discussion of threatened or pending litigation in which the City of Santa Fe is or may become a participant, in accordance with §10-15-1(H)(7).

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

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

Against: None.

Absent for the vote: Councilor Chavez.

The Council went into Executive Session at 6:55 p.m.

MOTION TO COME OUT OF EXECUTIVE SESSION

MOTION: At 7:35 p.m. Councilor Calvert moved, seconded by Councilor Romero, that the City Council come out of Executive Session and stated that the only items which were discussed in executive session were those items which were on the agenda, and no action was taken.

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

b) IN ACCORDANCE WITH SECTION 27-2.15 SFCC 1987, REVIEW OF CHAPTER 27 SFCC 1987, REGARDING TELECOMMUNICATIONS SERVICES. (GENO ZAMORA)

Mr. Zamora said the Ordinance is intact and the City processes and procedures are intact to consider franchise applications. At this point in time, there are no pending franchise applications. As the public is aware, there is a pending lawsuit regarding the ordinance in federal court involving Quest.

Mr. Zamora said in the review of the Ordinance and the Court process, it is clear that there may need to be some minor amendments to the ordinance. He said as that process moves forward, staff will bring those to the Governing Body. He said he will advise the Governing Body of any direction from the Courts as soon as that comes.

16. MATTERS FROM THE CITY CLERK

There were no matters from the City Clerk.

*Mayor Coss moved Item #17 Communications from the Governing Body
to the end of the Evening Agenda*

END OF AFTERNOON SESSION AT 7:35 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 Rebecca Wurzbarger, Mayor Pro-Tem
Councilor Patti J. Bushee
Councilor Christopher Calvert
Councilor Carmichael A. Dominguez
Councilor Matthew E. Ortiz
Councilor Rosemary Romero
Councilor Ronald S. Trujillo

Members Excused

Councilor Miguel Chavez

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

Marilyn Bayne, President Neighborhood Network, said she sent an email to the Mayor and Council inviting them to attend a meeting on Monday, 7:00 to 9:30 p.m., at the Administrative Offices of the Santa Fe Public Schools on Alta Vista. She said this is a town meeting on crime, with a wonderful panel, noting Sheriff Solano, Chief Wheeler, Superintendent Bobbie Gutierrez and Judge Michael Vigil will be attending, noting it is now likely that District Attorney Spence Pacheco will be attending the meeting as well.

G. APPOINTMENTS

There were no Appointments

H. PUBLIC HEARINGS

- 1) REQUEST FROM PURSUANT TO §60-6B-10 NMSA 1978, A REQUEST FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE CONSUMPTION OF CHAMPAGNE AT GOLER FINE IMPORTED SHOES, 125 WEST PALACE AVENUE, WHICH IS WITHIN 300 FEET OF THE CATHEDRAL BASILICA OF SAINT FRANCIS OF ASSISI, 131 CATHEDRAL PLACE. THE REQUEST IS FOR A RECEPTION TO BE HELD ON OCTOBER 16, 2010 FROM 12:00 P.M. TO 6:00 P.M. (YOLANDA Y. VIGIL)

The staff report was given by Yolanda Vigil, City Clerk, noting there is a letter in the Council packet from Monsignor Jerome Alire stating that they have no opposition to this request.

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

MOTION: Councilor Bushee moved, seconded by Councilor Wurzbarger, to approve the request for a waiver of the 300 foot location restriction, and to allow the consumption of champagne at Goler Fine Imported Shoes, 125 West Palace Avenue, which is within 300 feet of the Cathedral Basilica of Saint Francis of Assisi, 131 Cathedral Place, for a reception to be held on October 16, 2010, from 12:00 p.m. to 6:00 p.m.

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

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

Against: None.

- 2) CONSIDERATION OF BILL NO. 2010-27; ADOPTION OF ORDINANCE NO. 2010-23 (COUNCILOR TRUJILLO). 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. (JEANNE PRICE)
 - A) CONSIDERATION OF RESOLUTION NO. 2010-88 (COUNCILOR TRUJILLO). A RESOLUTION ESTABLISHING FEES ASSOCIATED WITH THE CITY'S SOLICITATION ORDINANCE (ARTICLE 18-3 SFCC 1987).

A copy of a Solicitation Amendment Summary for items H(2) and H(2)(A), with attachments, is incorporated herewith to these minutes as Exhibit "2."

A copy of an Action Sheet from the Public Works/CIP and Land Use Committee meeting of Tuesday, October 12, 2012, is incorporated herewith to these minutes as Exhibit "3."

Public Hearing

Speaking to the request

There was no one speaking for or against the request.

The Public Hearing was closed

MOTION: Councilor Trujillo moved, seconded by Councilor Wurzbarger, to adopt Ordinance No. 2010-23 with the amendments.

DISCUSSION: Councilor Calvert said there was discussion last night at Public Works on the issue of appeals and the time frame, and he would like this to be consistent with other appeals procedures in other parts of our ordinances.

Deputy Chief Anaya Officer said he can see the concern, noting Ms. Price did a great job today looking that up. He said the majority seem to be 30 days, so we are going in the right direction.

Councilor Calvert asked if this is going in the right direction in terms of Chapter 13.

Mr. Price said the appeals are being reduced to 15 days. However, she believes the appeals in Chapter 14 are different from these appeals, noting the other 30-days were for public safety appeals.

Councilor Calvert said, with regard to the Resolution, there were questions regarding the fee with the fingerprinting taken out, and there were questions regarding the amendments.

Deputy Chief Anaya said the \$70 fee is being removed because we no longer have to do that, noting that cost would be for sending them to the DPS and the FBI. He said the Resolution will be amended to remove that language, and language will be added that 50% of the fees will go to the Police Department to cover the cost of the background check.

Responding to Councilor Calvert, Deputy Chief Anaya said the \$150 fee covers that.

Councilor Trujillo noted that is in Amendment #5.

Councilor Romero said she will be voting against this, noting that she works out of a home office and sees people coming into the neighborhood on a regular basis, and this Ordinance will eliminate the people who deliver cords of wood, and the people who sell cutlery and knives at a reasonable hour to put themselves through college, and those who sell encyclopedias door-to-door. She understands there is an issue of safety and there are people who have bad intentions. There is personal responsibility that comes with this. This will keep all kinds of people from being able to make a living. This is an equity issue to her of those who can make a living no other way and who are hard-working, decent people who do provide a service.

Councilor Bushee asked if the Ordinance will affect the people who sell jewelry in the Capitol.

Deputy Chief Anaya said this will eliminate door-to-door sales on private property, and not in restaurants and such.

Councilor Bushee said these people can just register and we know we've resolved the public safety issues.

Councilor Ortiz said currently, there is an outright ban on all solicitations, and those listed by Councilor Romero couldn't do those things, and all of them were operating illegally. He said this ordinance provides people the opportunity to do what they've been doing. He understands it can be considered burdensome initially, but this Ordinance creates opportunities, as he understands it.

Councilor Bushee said the City was unconstitutional previously in its outright ban.

Mr. Zamora said this is correct, because people have the freedom of speech and commerce, and by banning it, we were in violation.

Mayor Coss said we're now regulating that trade.

Councilor Trujillo understands Councilor Romero's concerns, but said this doesn't prohibit people from delivering wood which you have purchased. He said, however, if someone goes door-to-door soliciting, for example, firewood sales, they do need to be registered.

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

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

Against: None.

MOTION: Councilor Ortiz moved, seconded by Councilor Trujillo, to adopt Resolution No. 2010-88, with amendments #5 and #6.

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

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

Against: Councilor Romero.

MOTION TO RECONSIDER HIS VOTE ON THE PREVIOUS ACTION: Councilor Ortiz moved, seconded by Councilor Romero, to reconsider his vote on the previous motion to approve Resolution No. 2010-88, for the purpose of discussing the fee.

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

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

Against: Councilor Bushee and Councilor Trujillo.

Explaining his vote: Councilor Calvert said he will vote yes just to hear the discussion, but that doesn't mean he will change his vote.

Councilor Ortiz said the question is what is the right fee, and \$150 does seem a little high.

MOTION: Councilor Ortiz moved, seconded by Councilor Romero, with regard to Resolution No. 2010-88, as amended, to amend the Application for Solicitation License to \$75, and to provide that all of the funds will go to the Police Department.

DISCUSSION: Councilor Ortiz said 50% of the fee is going toward implementation.

Councilor Bushee asked the reason \$150 was decided as the fee.

Ms. Price said staff estimated the time to do this for the Finance Department and Police Department to process these applications – the salaries and time – and came up with a figure of \$150. She can't speak for Mr. Raveling or the Deputy Chief. She said staff tried to make the best guestimate possible, and thought \$150 was a reasonable fee.

Councilor Bushee said the fee feels random, noting the Deputy Chief has gone, and we can't ask him questions regarding the setting of the fee.

Councilor Romero said the fee did seem high, and she understands the rationale for the fee. She appreciates that it gets everybody legal. However, she thinks \$150 is rather high. She said we need to review this, and reduce the fee to \$75. We can review it in a year to see how many people register. She reiterated this limits people who already are having a tough time making a living, and \$150 seems really, really high.

Mayor Coss asked if there is a review provision and Councilor Ortiz said no, it is a Resolution.

FRIENDLY AMENDMENT: Mayor Coss would like to add a one-year review to the Resolution. **THE AMENDMENT WAS FRIENDLY TO THE SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER COUNCILORS**

Councilor Trujillo stressed that this doesn't target school children who are selling candy for their school, Cub Scouts, football and baseball teams, all of whom are exempt under the ordinance, and there will be no fee to them.

Councilor Trujillo said staff knows how much it will cost for the one person to do the work to process the applications, and believes Ms. Price did a good job in this regard.

Councilor Ortiz said the materials in the packet indicate the fee was amended to \$150 in the Public Safety Committee. There is a discussion in the minutes where this was amended, noting Dr. Mier said all fees probably should to Public Safety. The minutes indicated there was a recommended 50-50 split after the cost of fingerprinting. However, that cost is gone, and there is enough evidence to reduce the fee to \$75, and review the Resolution in a year. He noted the license fees are projected to produce \$3,700, assuming 200 people will be paying the fee.

Ms. Price said that also included the people paying \$70 for the fingerprinting check.

Councilor Bushee is concerned about the ordinance in general, in that more people will become solicitors. She said we are having to "green light" this ordinance because the previous one was too restrictive. She said a lot of people in her District are concerned about solicitors because some are staking-out the neighborhood for future robberies. She said this will mean more police officers will have to field calls from the public about a suspicious person in the neighborhood. She said \$150 is prohibitive for those who will solicit for one year with no overhead. She hopes this will keep down property crime, noting there are people in her District that would like to eliminate all soliciting in neighborhoods.

Councilor Calvert would like to keep the fee at \$150 and review it in one year.

VOTE: The motion, as amended, failed to pass on the following Roll Call vote:

For: Councilor Ortiz and Councilor Romero

Against: Councilor Bushee, Councilor Calvert, Councilor Dominguez, Councilor Trujillo, Councilor Wurzbarger

- 3) **CONSIDERATION OF BILL NO. 2010-28; ADOPTION OF ORDINANCE NO. 2010-24 (COUNCILOR ROMERO, MAYOR COSS, COUNCILOR CALVERT, COUNCILOR DOMINGUEZ, COUNCILOR BUSHEE AND COUNCILOR WURZBURGER). 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. (JEANNE PRICE)**

Ms. Price said the amendments in the packet were recommended by the Historic Design Review Board, but staff does not recommend those. She said changes were made to the ordinance, but the language exists in several other places, and staff wants to make it consistent throughout the ordinance. She said if we make the H-Board amendments just to this portion, the other parts would be inconsistent. She said staff would rather the H-Board propose those when they consider the rewrite which is coming through shortly.

Public Hearing

Speaking to the request

Marilyn Bayne, on behalf of the Old Santa Fe Association, thanked the Governing Body for moving forward with this. It is important to do and is in the same collaborative spirit as HB360, although it does differ. She thanked Geno Zamora, Frank Katz, and everybody who worked on this who tried to find a way to resolve problems before they arise.

The Public Hearing was closed

MOTION: Councilor Bushee moved, seconded by Councilor Dominguez, to adopt Ordinance No. 2010-24, without the H-Board amendments.

DISCUSSION: Councilor Bushee thanked Ms. Bayne and the others who worked on this.

Councilor Romero said she attended the meetings with the County and Schools to let them know what we are doing, and offered them opportunities to offer additional language and/or amendments, so she is comfortable in going in this direction.

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

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

Against: None.

- 4) **CONSIDERATION OF BILL NO. 2010-29; ADOPTION OF ORDINANCE NO. 2010-25 (COUNCILOR BUSHEE). AN ORDINANCE AMENDING SECTION 2-1.11 SFCC 1987, TO REMOVE THE DESIGNATION OF A CITY COUNCILOR AS PARLIAMENTARIAN. (JEANNE PRICE)**

Public Hearing

Speaking to the request

There was no one speaking for or against this request.

The Public Hearing was closed

MOTION: Councilor Bushee moved, seconded by Councilor Romero, to adopt Ordinance No. 2010-25 as amended.

DISCUSSION: Councilor Wurzburger asked why the Mayor and not a City Attorney or another attorney.

Councilor Ortiz said it was on the advice of the City Attorney, and asked Councilor Wurzburger if she read that discussion in the packet.

Councilor Wurzburger said she did not read that tiny portion of the packet.

Councilor Ortiz said when this was discussed at the Ethics & Rules Committee, the discussion centered around the original designation which was to be the City Attorney. He said then, and will say it again now, that there were at least two incidents where he was asked to rule on a point of order which became the subject of litigation, one of which was the Walmart case. He does not think it is in our purview to designate staff, particularly our lawyer, who potentially could be a witness against the Governing Body.

Councilor Ortiz said, secondly, at the time he raised an issue with regard to Robert's Rules of Order, which doesn't designate a Parliamentarian. In fact, it is the chair of the committee or board or group who rules on points of order, and typically that is what we all do in Committee meetings. He said the suggestion was made that they continue to get training, which is a good idea. He spoke about his experiences over the years in serving as Parliamentarian which he said has been "a big pain in my side." He said many times

people used points of order to make points of view. He is gladly willing to hand the duty to the Mayor. He said we should not put our attorney in the position of ruling on decisions that we have to make.

Councilor Bushee spoke about previous members of the Governing Body who used Robert's Rules to their advantage. She said her proposed change was not aimed at anyone.

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

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

Against: None.

Explaining her vote: Councilor Wurzburger voted yes and thanked Councilor Ortiz for his years of dedicated service.

Explaining her vote: Councilor Bushee voted yes, and asked if we are going to get the attorneys trained in this. Mr. Zamora said he doesn't recall whether that is still in the Ordinance. Councilor Ortiz said it is now the Mayor who will need to be trained. Councilor Bushee hopes there is somebody in the City Attorney's office who "knows it."

5. **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 at September 14, 2010 City Council Meeting) (Postponed to January 26, 2011, City Council Meeting)**

This item is postponed to the Council meeting of January 26, 2011.

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 , is incorporated herewith to these minutes as Exhibit "4."

Councilor Calvert

Councilor Calvert said he is not introducing the Resolution as indicated, because he hasn't had an opportunity to speak with Councilor Bushee about it.

Councilor Calvert noted that October is National Fire Prevention Month, and it is a good time for people to change the batteries in their smoke detectors and other items which work on batteries.

Councilor Dominguez

Councilor Dominguez had no communications.

Councilor Wurzbarger

Councilor Ortiz introduced a Resolution on behalf of Councilor Wurzbarger who was out of the Council Chambers, opposing the proposal of the United States Air Force to establish a low altitude tactical navigation training area in Northern New Mexico, noting the Resolution will be heard on October 27, 2010.. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "5."

Councilor Bushee reminded the Council and public that on Monday and Tuesday, October 18 and 19, 2010, they will be celebrating the Cultural Connections, History and Migrations Program in conjunction with the New Mexico History Museum, the Santa Fe 400th, El Hilo de la Memoria and the Union Latina, and she encouraged the Governing Body to attend whatever portions they can. She said it is free and is located at the New Mexico Art History Museum beginning at 8:30 a.m., on both Monday and Tuesday. She said she will email the final schedule.

Councilor Wurzbarger thanked Robert Rodarte and the Economic Development staff for the great presentation on procurement this morning which both she and Mayor Coss attended. She said it was all about contracts, noting the concerns about hiring people locally were addressed.

Councilor Trujillo

Councilor Trujillo said this morning, once again, he witnessed a child riding in one of the City trucks. He said we need to advise our employees that we can't be doing things like this for liability reasons.

Councilor Trujillo said a few days ago he was at Ragle Park and the giant slide looks fabulous – it is really nice. He congratulated Fabian, Ben and other staff for their good work on this.

Councilor Ortiz

Councilor Ortiz asked Mr. Romero to catch up on all the emails that he sent to him and Sebastian Gurule. He said all of the emails he copied to Fabian Chavez have been responded to.

Councilor Ortiz said he received a letter on the False Alarm Ordinance, and there are glitches in every area, and people are still being billed after they have done what the City told them to do. He said there is an 18 month review on the Ordinance, but believes we need to start this right away.

Councilor Bushee

Councilor Bushee distributed a letter she received from the Sierra del Norte HOA. She said staff has been "up there to look at the work that needed to be done, and they were promised they were next on the list, and it's been over a year without any work being done." They also are concerned with the Chamiso growth along City ROWs that is dangerous to drivers and pedestrians. [STENOGRAPHER'S NOTE: A copy of the letter was not provided for the record.]

Councilor Bushee said she is working on two ordinances, the Animal Services changes as well as the forfeiture ordinance, and she wants to know the status of those ordinances.

Councilor Bushee said she never heard back from the Committee formed for the exploration of changes in the Vehicle Take-Home policy, and would like to know the status of that effort.

Councilor Ortiz said there will be an update on the budget at the Monday Finance Committee meeting, noting the Police Department personnel will be there and we can raise this question and ask the Police Department to respond.

Councilor Romero

Councilor Romero had no communications.

Mayor Coss

Mayor Coss thanked everyone that attended Viva Musica on Sunday at the Lensic. He encouraged people to go to the Hilo de Memoria and the Union Latina events this weekend and next week, saying they are going to be great.

Mayor Coss thanked the Procurement and Economic Development staff for the workshop today, and those who attended, noting more than 100 vendors attended.

Mayor Coss said, for the record, Councilor Chavez's son Manuel auditioned for, and has been admitted to, the American Musical and Dramatic Academy in Hollywood beginning October 18th, and they will be driving him there tomorrow. He said Councilor Chavez was excused for a family dinner this evening related to this.

Mayor Coss said Councilor Chavez asked him to announce that he has called a neighborhood meeting with the Casa Alegre Neighborhood Association on October 28, 2010, 6:00 p.m. to 9:00 p.m. at Frenchy's Barn, and he has requested that we get this information in the newspaper and on public access TV.

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 8:20 p.m.

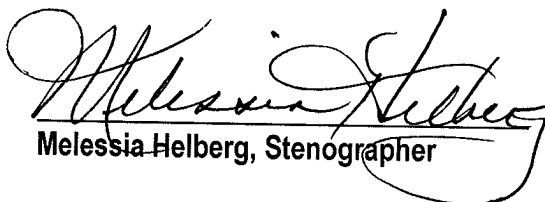
Approved by:

Mayor David Coss

ATTESTED TO:

Yolanda Y. Vigil, City Clerk

Respectfully submitted:


Melessia Helberg, Stenographer