



# Agenda

REGULAR MEETING OF  
THE GOVERNING BODY  
MARCH 30, 2011  
CITY COUNCIL CHAMBERS

## AFTERNOON SESSION – 5:00 P.M.

CITY CLERK'S OFFICE

DATE 3/25/11 TIME 4:10 pm

SERVED BY

RECEIVED BY Tina Dominguez

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 – March 9, 2011
9. PRESENTATIONS
  - a) Proclamation – “Jeanne Price Day” – April 8, 2011. (5 minutes)
  - b) Proclamation – “Santa Fe Indian School Lady Braves Day” – March 25, 2011. (5 minutes)
  - c) Reading by Teatro Paraguas, *Instrucciones a Don Pedro de Peralta* by Viceroy Luis de Velasco II, March 30<sup>th</sup> 1609. (Jose Garcia, City Historian) (15 minutes)
10. CONSENT CALENDAR
  - a) Bid No. 11/24/B – Santa Fe River Trail Construction Phase 3 and River Channel Improvements and Construction Agreement; RL Leeder Company. (Bryan Drypolcher)
  - b) Bid No. 11/33/B – Southwest Tank Supply Pipeline and Professional Services Agreement for Water Division; Sasquatch, Inc. (Robert Jorgensen)
    - 1) Request for Approval of Budget Increase – Water Fund.



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- c) Bid No. 11/34/B – Cerrillos Road Reconstruction Project Phase II B and Construction Agreement; AUI, Inc. (Desirae Lujan)
  - 1) Request for Approval of Budget Increase – Project Fund.
- d) Request for Approval of Grant Application – FY 2011/2012 Law Enforcement Protection Fund for Police Department; State of New Mexico Department of Finance, Local Government Division. (Deputy Chief Gillian Folmar-Alessio)
- e) CONSIDERATION OF RESOLUTION NO. 2011-\_\_\_\_\_. (Councilor Ortiz)  
A Resolution to Celebrate and Remember Don R. Lovato, Street Genius in Music, and Revered for Charity Work. (Sabrina Pratt)
- f) CONSIDERATION OF RESOLUTION NO. 2011-\_\_\_\_\_. (Councilor Bushee)  
A Resolution Repealing Resolution No. 2008-15 that Recognized and Awarded Public Service Tenure by Non-Bargaining Unit Employees with 23 or More Years of Public Safety Service With the Santa Fe Police or Fire Department or Non-Bargaining Unit Employees With 27 or More Years of Service With Other City of Santa Fe Departments; and That Provided for an Accelerated Retirement Benefit for Public Safety Non-Bargaining Unit Employees that is Comparable With Police and Fire Collective Bargaining Agreements. (Vicki Gage) **(Postponed at February 23, 2011 City Council Meeting)**
- g) Bid No. 11/31/B – Nava Ade Park Development – North Park and Agreement Between Owner and Contractor; Lockwood Construction Company. (Mary MacDonald)
- 11. CONSIDERATION OF RESOLUTION NO. 2011-\_\_\_\_\_. (Councilor Ortiz)  
A Resolution Amending the City of Santa Fe Personnel Rules and Regulations by Capping Sick Leave Balances for Accelerated Retirement. (Vicki Gage)
- 12. MATTERS FROM THE CITY MANAGER
- 13. MATTERS FROM THE CITY ATTORNEY

## EXECUTIVE SESSION:

- a) Discussion of the Status of Communications with Railyard Company, LLC Regarding the Development of City Property at the Railyard, in Accordance with §10-15-1(H)(8), NMSA 1978, Relating to the Purchase, Acquisition or Disposal of Real Property.



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- b) Discussion of Bargaining Strategy Preliminary to Collective Bargaining Negotiations Between the City of Santa Fe and All Bargaining Units Representing the Employees of the City of Santa Fe Pursuant to §10-15-1(H)(5), NMSA 1978
  - c) Discussion of Proposed Settlement with the New Mexico School for the Deaf, Case No. 08-2051, *The Board of Regents for the New Mexico School for the Deaf v. The City of Santa Fe*, in Accordance with §10-15-1(H) (3) NMSA 1978.
  - d) 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.
- 14. Action Regarding Bargaining Strategy Preliminary to Collective Bargaining Negotiations Between the City of Santa Fe and All Bargaining Units Representing the Employees of the City of Santa Fe. (Geno Zamora)
  - 15. Action on Proposed Settlement with the New Mexico School for the Deaf, Case No. 08-2051, *The Board of Regents for the New Mexico School for the Deaf v. The City of Santa Fe*. (Marcos Martinez)
  - 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



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G. APPOINTMENTS

H. PUBLIC HEARINGS:

- 1) CONSIDERATION OF BILL NO. 2011-8: ADOPTION OF ORDINANCE NO. 2011-\_\_\_\_\_. (Councilor Wurzbarger, Councilor Calvert and Councilor Romero and Mayor Coss)

An Ordinance Authorizing the Execution and Delivery of a Water Project Fund Loan/Grant Agreement by and Between the New Mexico Water Trust Board and the New Mexico Finance Authority (the "Lenders/Grantors") and the City of Santa Fe (The "Borrower/Grantee"), in the Aggregate Amount of Four Million Dollars (\$4,000,000), Being a Loan in the Amount of Eight Hundred Thousand Dollars (\$800,000) and a Grant in the Amount of Three Million Two Hundred Thousand Dollars (\$3,200,000); Evidencing an Obligation of the Borrower/Grantee to Utilize the Loan/Grant Amount Solely for the Purpose of Financing the Costs of Construction of the Buckman Surface Water Direct Diversion Project, and Solely in the Manner Described in the Loan/Grant Agreement; Providing for Payment of the Loan Amount Solely from Pledged Revenues; Certifying that the Loan/Grant Amount, Together with Other Funds Available to the Borrower/Grantee, is Sufficient to Complete the Project; Approving the Form of and Other Details Concerning the Loan/Grant Agreement; Ratifying Actions Heretofore Taken; Repealing all Action Inconsistent with this Ordinance; and Authorizing the Taking of Other Actions in Connection with the Execution and Delivery of the Loan/Grant Agreement (202-WTB) (Alan Hook)

- a) Request for Approval of Water Project Fund Loan/Grant Agreement (No. 202-WTB); New Mexico Finance Authority

- b) Request for Approval of Budget Increase – Grant Fund

- 2) Request from Western Refining Southwest, Inc., for a Transfer of Location of Dispenser License #0003 from Giant Store #6056, 1698 St. Michaels Drive, Santa Fe, to Giant Store #861, 5741 Airport Road. (Yolanda Y. Vigil)
- 3) Request from Wal-Mart Stores East, L.P., for a Transfer of Ownership and Location of Dispenser License #1317 from Balconies, Inc., dba Ore House on the Plaza, 50 Lincoln Avenue, Santa Fe, to Wal-Mart Stores East, L.P., dba Wal-Mart Supercenter #3423, 5701 Herrera Drive. (Yolanda Y. Vigil)



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- 4) CONSIDERATION OF BILL NO. 2011-7: ADOPTION OF ORDINANCE NO. 2011-\_\_\_\_\_.  
An Ordinance Amending Sections 1-7.3, 1-7.5, 1-7.6, 1-7.7, 6-16.1, 6-16.2, 6-16.4 and 6-16.7 SFCC 1987 Relating to the Code of Ethics and its Enforcement; and Repealing Section 1-7.8 SFCC 1987.
  - a) CONSIDERATION OF RESOLUTION NO. 2011-\_\_\_\_\_.  
A Resolution Amending the City's Personnel Rules and Regulations Regarding Nepotism and Outside Employment in Order to Reflect the City's Code of Ethics. (Jeanne Price)
- 5) CONSIDERATION OF BILL NO. 2011-3: ADOPTION OF ORDINANCE NO. 2011-\_\_\_\_\_. (Councilor Calvert and Councilor Bushee)  
An Ordinance Adopted as an Urgent Measure Establishing a Six Month Moratorium on the Approval of Permits for the Installation of Towers and Antennas Subject to Chapter 14 of the City Code Located on Private Property or City Property Excluding Public Rights-of-Way. (Marcos Martinez)  
(Postponed at March 9, 2011 City Council Meeting) **(Withdrawn)**
- 6) Request from Balconies, Inc., for a Restaurant Liquor License (Beer and Wine On-Premise Consumption Only) to be Located at the Ore House, 50 Lincoln Avenue. (Yolanda Y. Vigil, City Clerk) **(Postponed to April 13, 2011 City Council Meeting)**
- 7) CONSIDERATION OF BILL NO. 2010-32: ADOPTION OF ORDINANCE NO. 2011-\_\_\_\_\_. (Councilor Ortiz and Councilor Trujillo)  
An Ordinance Amending Various Sections of Chapter 14 SFCC 1987 Land Development Code Related to Appeals. (Matthew O'Reilly) (Postponed at February 23, 2011 City Council Meeting) **(Postponed to April 13, 2011 City Council Meeting)**
  - a) CONSIDERATION OF RESOLUTION NO. 2011-\_\_\_\_\_. (Councilor Ortiz and Councilor Trujillo)  
A Resolution Adopting Administrative Procedures Related to Appeals of Land Use Decisions. (Matthew O'Reilly) (Postponed at February 23, 2011 City Council Meeting) **(Postponed to April 13, 2011 City Council Meeting)**

I. ADJOURN



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**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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**MINUTES OF THE  
REGULAR MEETING OF THE  
GOVERNING BODY  
Santa Fe, New Mexico  
March 30, 2011**

**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 March 30, 2011, 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**

**MOTION:** Councilor Bushee moved, seconded by Councilor Trujillo, to approve the agenda as presented.

**FRIENDLY AMENDMENT:** Councilor Wurzbarger asked to move Item #H(4) to be heard as the first public hearing on the evening agenda. **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 a voice vote with Councilors Bushee, Calvert, Chavez, Dominguez, Ortiz, Romero, Trujillo and Wurzbarger voting for the motion and none against.

**7. APPROVAL OF CONSENT CALENDAR**

**MOTION:** Councilor Wurzburger moved, seconded by Councilor Romero, to approve the following Consent Calendar, as presented.

**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 Wurzburger.

**Against:** None.

A copy of an Action Sheet from the Public Works/CIP and Land Use Committee meeting of Monday, March 28, 2011, regarding Item 10(a) is incorporated herewith to these minutes as Exhibit "1."

A copy of an Action Sheet from the Public Works/CIP and Land Use Committee meeting of Monday, March 28, 2011, regarding Item 10(e) is incorporated herewith to these minutes as Exhibit "2."

- a) **BID NO. 11/24/B – SANTA FE RIVER TRAIL CONSTRUCTION PHASE 3 AND RIVER CHANNEL IMPROVEMENTS AND CONSTRUCTION AGREEMENT; RL LEEDER COMPANY. (BRIAN DRYPOLCHER)**
- b) **BID NO. 11/33/B – SOUTHWEST TANK SUPPLY PIPELINE AND PROFESSIONAL SERVICES AGREEMENT FOR WATER DIVISION; SASQUATCH, INC. (ROBERT JORGENSEN)**
  - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – WATER FUND.**
- c) **BID NO. 11/34/B – CERRILLOS ROAD CONSTRUCTION PROJECT PHASE II-B AND CONSTRUCTION AGREEMENT; AUI, INC. (DESIRAE LUJAN)**
- d) **REQUEST FOR APPROVAL OF GRANT APPLICATION – FY 2011/2012 LAW ENFORCEMENT PROTECTION FUND FOR POLICE DEPARTMENT; STATE OF NEW MEXICO, DEPARTMENT OF FINANCE, LOCAL GOVERNMENT DIVISION. (DEPUTY CHIEF GILLIAN FOLMAR-ALESSIO)**
- e) **CONSIDERATION OF RESOLUTION NO. 2011-20 (COUNCILOR ORTIZ). A RESOLUTION TO CELEBRATE AND REMEMBER DON R. LOVATO, STREET GENIUS IN MUSIC, AND REVERED FOR CHARITY WORK. (SABRINA PRATT)**

- f) **CONSIDERATION OF RESOLUTION NO. 2011-21 (COUNCILOR BUSHEE). A RESOLUTION REPEALING RESOLUTION NO. 2008-15 THAT RECOGNIZED AND AWARDED PUBLIC SERVICE TENURE BY NON-BARGAINING UNIT EMPLOYEES WITH 23 OR MORE YEARS OF PUBLIC SAFETY SERVICE WITH THE SANTA FE POLICE OR FIRE DEPARTMENT OR NON-BARGAINING UNIT EMPLOYEES WITH 27 OR MORE YEARS OF SERVICE WITH OTHER CITY OF SANTA FE DEPARTMENTS; AND THAT PROVIDED FOR AN ACCELERATED RETIREMENT BENEFIT FOR PUBLIC SAFETY NON-BARGAINING UNIT EMPLOYEES THAT IS COMPARABLE WITH POLICE AND FIRE COLLECTIVE BARGAINING AGREEMENTS. (VICKI GAGE) (Postponed at February 23, 2011 City Council Meeting)**
- g) **BID NO. 11/31/B – NAVA ADÉ PARK DEVELOPMENT – NORTH PARK AND AGREEMENT BETWEEN OWNER AND CONTRACTOR; LOCKWOOD CONSTRUCTION COMPANY. (MARY MacDONALD)**

**8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – MARCH 9, 2011**

**MOTION:** Councilor Wurzburger moved, seconded by Councilor Dominguez, to approve the minutes of the Regular City Council meeting of March 9, as presented.

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

**9. PRESENTATIONS**

**a) PROCLAMATION – JEANNE PRICE DAY – APRIL 8, 2011**

A copy of "A Resolution by Jeanne Price Retiring from the City of Santa Fe on August 8, 201," is incorporated herewith to these minutes as Exhibit "3."

Mayor Coss said today is Jeanne Price's last City Council meeting. He said she has been a treasure and so great to work with. Mayor Coss read a proclamation for the record declaring April 8, 2011, as Jeanne Price Day.

Ms. Price presented her own Resolution to the Governing Body which was well received by everyone [Exhibit "3"].

Councilor Bushee said it has always been said that everybody is replaceable, but Jeanne isn't replaceable. She spoke about the work Ms. Price has done over the years with diligence and efficiency, commenting that Ms. Price is able to develop requested quality legislation with only a few words and little discussion.

Councilor Wurzbarger said 19 years ago when she was thinking of moving to Santa Fe, the very first person she met was Jeanne Price, who provided quality service and direction to her in her efforts to learn about how the City works. She said she will never forget the service provided by Ms. Price and wished her a wonderful retirement..

Councilor Chavez said it has been a pleasure to work with Ms. Price, and said he hopes her retirement will be even better than her employment because she deserves. He said we will figure out how to get along, commenting that she has been an asset as an employee and will continue to be an asset to the community as a whole.

Councilor Romero said Ms. Price is her neighbor in Casa Linda, and she has invited Ms. Price to work in the corner garden, but Ms. Price refused saying she knows nothing about gardening. She asked Ms. Price to add gardening to the list of things she would like to do, and she will help her. She praised Ms. Price for her ability to take a few words and make the Councilors look very smart. She looks forward to seeing her on walks in the neighborhood.

Councilor Ortiz said over the years his respect for Ms. Price has grown because she exhibited a thorough and a concern for detail which "I haven't seen among the majority of the profession that I am in." he said he has seen her diligence, and while he hasn't relied on her to the extent other Councilors have done, he "is thoroughly impressed with her work intellect and for your love for the City and your love for City Hall, and you always want to make sure that whatever we do up here, and a lot of what we do up here is making sausage, comes out looking good, comes out the way it's supposed to, and you're going to be sorely missed." He congratulated her on her retirement.

Councilor Calvert thanked Ms. Price for all you do. He said, "Jeanne takes your ideas, puts them on paper and makes them sound good and sound correct." He said she also questions us about what we want, and contributes a lot to the process, and makes us think about what we're proposing and that it is right. He wished her the best in her retirement.

Councilor Dominguez congratulated Jeanne on her retirement, and thanked her for all the work she has done, and thanked her family for sharing Jeanne with us. He said many times Jeanne has to read "our minds and put what we're trying to articulate on paper." He expressed appreciation for all of her hard work. He said he met Jeanne when he was serving on the Planning Commission. He wished her well in her retirement, commenting that she is one of the kindest persons he's ever known, "and I wish that if we even had one-tenth of the world that is like you, the world would be a much better place."

Councilor Bushee said Jeanne likes flowers and chocolate, and suggested, because of the onslaught of gifts, people should give her gift certificates.

Councilor Trujillo thanked Jeanne for all she has done. He said when he first came on the Council he worried about how he would write a Resolution or an Ordinance, but when he spoke to her, he could give her an idea and "how eloquently the words come out on the paper." He said you make us look very good and intelligent. He congratulated her on a well deserved retirement.

Mayor Coss said, "Thank you Jeanne. Thank you for everything."

**b) PROCLAMATION – SANTA FE INDIAN SCHOOL LADY BRAVES DAY – MARCH 25, 2011.**

Mayor Coss introduced the Santa Fe Indian School Lady Braves, Head Coach Cindy Roybal and Assistant Coach , and read a Proclamation into the record, declaring March 25, 2011, as Santa Fe Indian School Lady Braves Day.

Ms. Roybal thanked the Mayor and Council for this honor. She said it has been quite a year and quite an accomplishment for these young women. She said they try to teach their students to become outstanding citizens, just like Jeanne Price, and hopefully someday they will do that. She said they are hard to beat on the basketball court, "so hopefully on the court of life they will continue to be wonderful young ladies." She thanked her Assistant Coach.

Ms. Roybal and the team presented the Mayor and Council with a photo of the State Championship team.

**c) READING BY TEATRO PARAGUAS, *INSTRUCCIONES A DON PEDRO DE PERALTA* BY VICEROY LUIS DE VELASCO II, MARCH 30, 1609. (JOSE GARCIA, CITY HISTORIAN)**

Jose Garcia, City Historian, said Teatro Paraguas is a local Santa Fe bilingual theater, founded in 2004 by an international group of artists and actors. And since that time Teatro Paraguas has presented 25 plays, including a performance for Prince Felipe and Princess Letizia of Spain, and performances in Santa Fe and in El Paso, Texas.

Teatro Paraguas presented *Instrucciones a Don Pedro de Peralta by Viceroy Luis de Velasco II, March 30, 1609.*

Mayor Coss and the Governing Body thanked Teatro Paraguas for the performance which was well done and which added a lot to the 400<sup>th</sup> Celebration..

**CONSENT CALENDAR DISCUSSION**

There were no items removed from the Consent Calendar for discussion.

11. **CONSIDERATION OF RESOLUTION NO. 2011-22 (COUNCILOR ORTIZ). A RESOLUTION AMENDING THE CITY OF SANTA FE PERSONNEL RULES AND REGULATIONS BY CAPPING SICK LEAVE BALANCES FOR ACCELERATED RETIREMENT. (VICKI GAGE)**

A copy of "Comparison of Sick Leave Usage at Retirement Proposed City of Santa Fe Rule v. Other Local Government Entities," is incorporated herewith to these minutes as Exhibit "4."

Councilor Ortiz said this was passed at Finance after some discussion. He said Ms. Gage has provided us with a comparison of some of the other jurisdictions to compare with our current laws and proposals, noting that document is in the Council packet. He said there was some discussion at Finance as to whether to modify any of these amounts.

Councilor Ortiz asked the reason for the July 8<sup>th</sup> effective date, noting it is one week into the fiscal year.

Ms. Gage said July 8<sup>th</sup> is the first pay period in the new fiscal year, and would have the full sick leave accrual through June 30<sup>th</sup>.

**MOTION:** Councilor Ortiz moved, seconded by Councilor Wurzbarger, to adopt Resolution No. 2011-22.

**FRIENDLY AMENDMENT:** Councilor Bushee would like to amend the Resolution to use the State of New Mexico's cap from Exhibit "4." **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND THE SECOND AND THERE WERE NO OBJECTIONS BY THE OTHER COUNCILORS.**

**DISCUSSION ON MOTION AS AMENDED:** Councilor Ortiz said one of the Committee's concerns was trying to align what we can do to recognize that sick leave is a benefit to people in crisis, and not what it has become, which is a pay-out or cash-out for people.

Mayor Coss asked if this changes the 400 hours to half the value.

Councilor Ortiz said the change would provide that in order to cash out sick leave, an employee would have to have accumulated at least 600 hours, but the maximum you could cash out is the 400 hours on top of the 600 hours.

Mayor Coss said you would have to have at least 800 hours to cash out.

Councilor Ortiz said if an employee had 800 hours, they could only cash out 200 hours.

Mr. Romero clarified that the employee would have to have 400 hours to cash out 200 hours.

Councilor Ortiz said employees can still cash out, but this establishes a threshold at 2 for 1, which is what the State requires.

Councilor Calvert asked, for clarification, if "cash out" implies money. He said he thought this was related to accelerated retirement, and not money for sick days.

Councilor Ortiz said this is correct, and when he talks about "cash out," he is talking about accelerated retirement. He said this Resolution is to address the problem we had 2-3 years ago where 3 fire chiefs retired and the City was double paying for some time for those positions. This Resolution would prevent that from happening.

Councilor Wurzbarger said then if someone had only 599 hours at retirement, they couldn't use sick leave for accelerated retirement, and Councilor Ortiz said this is correct.

Councilor Wurzbarger said she agrees with the principle and the need to establish balance in terms of expectations, and it seems a little harsh to suddenly go to "you lose it all."

Mayor Coss said if an employee had less than 600 hours at retirement they would lose it all, noting this has been the State of New Mexico practice "forever."

Councilor Wurzbarger pointed out that this has not been the practice of the City, and it has not been the expectation of our employees.

Mayor Coss thanked Councilor Ortiz for bringing this Resolution forward, and the Council for working on it. He said all of us have gotten lots of emails suggesting that we "cut the employees," and this is indeed a cut to the employees. He is supporting this Resolution because he believes it will help us to manage our budget and our leave policies going forward. However, he does want to recognize that this is a big change and it is a cut in benefits.

Councilor Bushee asked to sign on as a cosponsor, and to recognize that this action won't help in the short term on the revenue shortfall, but believes this will have a positive effect on how we manage our revenue streams in the long run which she believes will be a positive.

Councilor Chavez said it is unfortunate the City is in this situation, but he doesn't see that many options to deal with it. He said this is not a popular piece of managing the budget, but it is something we have to deal with, and fixes past practices which were not in the best interest of our system as a whole. He said things change, and he hopes we all can weather the storm and make the sacrifices that we need to make. He asked to be shown as a cosponsor.

**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 said, "Yes, and I would like to sign on as a cosponsor as well."

**Explaining his vote:** Councilor Dominguez said, "Yes, and sign me on as a cosponsor as well."

**Explaining his vote:** Councilor Ortiz said, "In explaining my vote, I do want to say that while this changes the personnel policy which affects all non-union employees, it affects AFSCME because of the way their contract is drafted. This contract, this change, still has to be negotiated with the representatives for the Firefighters and the Police unions. So it is my hope that what we can do, is we can get a value of what this particular benefit is, so both of those bargaining units know the value that they are being asked to contribute, say if they do want to renegotiate this. Because, as it turns out, we do have contracts that have differences with those particular unions, so it only affects one segment of the population, not everyone. But there is going to be some of that talk that needs to happen at the bargaining table. And so I vote yes."

**Explaining her vote:** Councilor Romero said, "Yes, and I'd like to be added as a cosponsor please."

**Explaining his vote:** Councilor Trujillo said, "Yes, and add me as a cosponsor as well."

**Explaining her vote:** Councilor Wurzbarger said, "Yes, and I'll ask to be a cosponsor so we'll have solidarity on this issue."

## **12. MATTERS FROM THE CITY MANAGER.**

There were no matters from the City Manager.

## **13. MATTERS FROM THE CITY ATTORNEY**

### **EXECUTIVE SESSION**

- a) **DISCUSSION OF THE STATUS OF COMMUNICATIONS WITH RAILYARD COMPANY, LLC, REGARDING THE DEVELOPMENT OF CITY PROPERTY AT THE RAILYARD, IN ACCORDANCE WITH §10-15-1(H)(8) NMSA 1978, RELATING TO THE PURCHASE, ACQUISITION OR DISPOSAL OF REAL PROPERTY.**
- b) **DISCUSSION OF BARGAINING STRATEGY PRELIMINARY TO COLLECTIVE BARGAINING NEGOTIATIONS BETWEEN THE CITY OF SANTA FE AND ALL BARGAINING UNITS REPRESENTING THE EMPLOYEES OF THE CITY OF SANTA FE, PURSUANT TO §10-15-1(H)(5), NMSA 1978.**

- c) **DISCUSSION OF PROPOSED SETTLEMENT WITH THE NEW MEXICO SCHOOL FOR THE DEAF, CASE NO. 08-2051, THE BOARD OF REGENTS FOR THE NEW MEXICO SCHOOL FOR THE DEAF V. THE CITY OF SANTA FE, IN ACCORDANCE WITH §10-15-1(H)(3) NMSA 1978.**
- d) **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.**

**MOTION:** Councilor Calvert moved, seconded by Councilor Trujillo, that the Council go into Executive Session for the purpose of discussions on:

- a) communications with Railyard Company, LLC, regarding the development of City property at the Railyard, in accordance with §10-15-1(H)(8), NMSA 1978, relating to the purchase, acquisition or disposal of real property;
- b) bargaining strategy preliminary to collective bargaining negotiations between the City of Santa Fe and all bargaining units representing the employees of the City of Santa Fe, pursuant to §10-15-1(H)(5), NMSA 1978;
- c) proposed settlement with the New Mexico School for the Deaf, Case No. 08-2051, The Board of Regents for the New Mexico School for the Deaf v. the City of Santa Fe, in accordance with §10-15-1(H)(3), NMSA 1978; and
- d) threatened or pending litigation in which the City of Santa Fe is or may become a participant, pursuant to City of Santa Fe Resolution No. 2010-24, and in accordance with §10-15-1(H)(7), NMSA 1978.

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

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

**Against:** None.

**Absent for the vote:** Councilor Wurzbarger

The Council went into Executive Session at 6:10 p.m.

#### **MOTION TO COME OUT OF EXECUTIVE SESSION**

**MOTION:** At 7:30 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, Chavez, Dominguez, Ortiz, Romero, Trujillo and Wurzbarger voting for the motion and no one voting against.

**14. ACTION REGARDING BARGAINING STRATEGY PRELIMINARY TO COLLECTIVE BARGAINING NEGOTIATIONS BETWEEN THE CITY OF SANTA FE AND ALL BARGAINING UNITS REPRESENTING THE EMPLOYEES OF THE CITY OF SANTA FE. (GENO ZAMORA)**

**MOTION:** Councilor Ortiz moved, seconded by Councilor Calvert, to direct the City Manager to go back to the table with all three of the collective bargaining units, and furthermore, based upon the discussion that all of us discussed in Executive Session, to ask the City Manager to negotiate the 10% cuts that are being proposed on page 1, Schedule of Leave Costs with all of the collective bargaining units, and that he negotiate 20% on the actual Incentive Pay for all unions as contained on page 2 of what was presented to us in Executive Session.

**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.

**15. ACTION ON THE PROPOSED SETTLEMENT WITH THE NEW MEXICO SCHOOL FOR THE DEAF, CASE NO. 08-2051, THE BOARD OF REGENTS FOR THE NEW MEXICO SCHOOL FOR THE DEAF V. THE CITY OF SANTA FE. (MARCOS MARTINEZ)**

**MOTION:** Councilor Calvert moved, seconded by Councilor Ortiz to accept staff's recommendation for the settlement.

**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.

***Mayor Coss moved Items #16 and #17 to the end of the Evening Session***

**END OF AFTERNOON SESSION AT 7:34 P.M.**

## **EVENING SESSION**

### **A. CALL TO ORDER AND ROLL CALL**

The Evening Session was called to order by Mayor David Coss, at approximately 7:35 p.m. 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 P. Romero, City Manager  
Geno Zamora, City Attorney  
Yolanda Y. Vigil, City Clerk  
Melessia Helberg, Council Stenographer

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Councilor Calvert said Item H(5), the adoption of the ordinance considering a six-month moratorium has been withdrawn, and said the City Attorney has remarks in this regard.

Mr. Zamora said, "With regard to the withdrawal of the moratorium, I just want to give a little background that this moratorium was first considered and subsequently introduced in at December of 2010, because we were facing two critical issues. First, was that we didn't have any direction from the Federal Court as to whether or not we could implement the new Chapter 27 Telecommunications Ordinance. The second reason was, we had issues where Chapter 14 and Chapter 7 didn't perfectly mesh together. Councilor Calvert consulted the City Attorney's office, and even though a moratorium has a lot of legal risks to it, as we've discussed in the past, it seemed like the best option to go forward."

Mr. Zamora continued, "What has changed since then, first of all, is a ruling in the Federal Court that was favorable to the City and allowed the Ordinance to go into effect, so we currently have a valid and active Chapter 27 Telecommunications Ordinance. In addition to that, staff has really taken on and dedicated a lot of time to complete revisions to Chapter 14, as they relate to the Telecommunications Ordinance and that's being introduced tonight. Therefore, that's the basis for the withdrawal of the moratorium."

Mayor Coss said Item H(5) in the Evening Session has been withdraw and won't be heard this evening and Items and H(6) and H(7) in the Evening Session will not be heard this evening, and have been postponed to the Council meeting of April 13, 2011.

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#### F. PETITIONS FROM THE FLOOR

A copy of a statement for the record by Dr. Felicia N. Trujillo, submitted for the record by Dr. Trujillo, is incorporated herewith to these minutes as Exhibit "5."

A copy of a letter sent by facsimile to The Santa Fe New Mexican from Patricia Nystrom, submitted for the record by Patricia Nystrom, is incorporated herewith to these minutes as Exhibit "6."

A copy of a statement for the record, submitted for the record by Mary Layne, Santa Fe Alliance for Public Health and Safety, is incorporated herewith to these minutes as Exhibit "7."

*Mayor Coss gave each person one minute to petition the Governing Body.*

**Gloria Mendoza** said people in third world countries don't speak up and don't vote, which is called being "submissive to your leaders." She said the people of Santa Fe won't be submissive to your proposal to raise property taxes. She is extremely upset to read in the paper that it will cost only \$2 a week and it's like paying a cable bill. She said, "Starting Monday, I personally am going to have an election for 1-2 weeks in the City of Santa Fe. I'm going to have a ballot box and I'm going to have a ballot, and I'm going to ask people if they want their property tax to raise or not. And I'm going to bring the results to you. If you don't care what the people think and you think that having a public hearing for them and giving them one minute to speak their mind, if you think that's enough, you're nuts and you're outta here."

**Dr. Felicia Trujillo** said she is speaking as an individual who was born in Santa Fe, and went to high school in this building, and read a statement into the record with regard to her family's exemplary record in public service, and in opposition to the withdrawal of the moratorium on new cell phone towers [Exhibit "5"]. Please see Exhibit "5" for specifics of Dr. Trujillo's presentation.

**Anita Tellez** said she would like to raise the issues of esthetics and property values with respect to cell phone towers, which are separate from the developments the City Attorney just mention. She said Santa Fe is a unique community, and the rights, traditions and the culture of its people make Santa Fe a unique tourist destination. She is concerned about the proliferation of cell phone towers, and applications for towers, which has happened recently. She said there is little a telecom company can do to create esthetically pleasing structures since so many are being contemplated. She believes it will be difficult for Santa Fe to retain its esthetic appeal with so many cell phone towers and antennas around town, which

she considers to be eyesores. She said the disguised towers, phony flag poles and trees, aren't in keeping with Santa Fe's history and appeal. She said there also is a perception that cell phone towers pose a significant health risks, noting there are many studies which suggest an adverse impact on human health. She is concerned of these impacts on potential homebuyers in Santa Fe, and the property values of homes in the area. She hopes the Council will consider these issues when it considers the cell tower and antenna applications, and impose a moratorium to adequately address these concerns.

**Joe Cieszinski** said he understands he can't talk about health risks, but he can talk about perceived health risk. He owns a business and a number of his customers are EL sensitive, and come wearing masks and other items of protection. He said they wouldn't come in his store if he was anywhere near a cell tower, and probably wouldn't rent space in his landlord's area because he would have those "and I would lose customers and he would lose tenants."

**Patricia Nystrom** said she is a citizen of Santa Fe and read her as yet unpublished letter to the Editor of The Santa Fe New Mexico Mexican into the record, expressing opposition to the proposed tax increase. Please see Exhibit "6" for the text of this document.

**Faith Bowie** said she is here in opposition to the withdrawal of the Moratorium on cell towers and antennas, and would like to see it adopted. She moved here from Manhattan, New York where there are lots of towers and she knows what it's done to people. She lives in DeVargas Heights where all utilities have to be underground. She said after a moratorium, Chattanooga, Tennessee is a model for putting its fiberoptics underground instead of in the air. She wants to protect herself, her grandchildren and her pets from the effects of cell towers.

**Mary Layne** said she is the first of nine people representing the Santa Fe Alliance for Public Health and Safety, who will be reading a portion of the statement from the Alliance in opposition to the withdrawal of the moratorium into the record, noting all of these individuals are in opposition to the withdrawal of the moratorium on new cell phone towers and antennas. Please see Exhibit "7" for the text of this statement.

**Brooke Pyeatt** read a portion of Exhibit "7" into the record.

**Lola Moon Frog** read a portion of Exhibit "7" into the record.

**Jill Edelman** read a portion of Exhibit "7" into the record.

**Leah Morton** read a portion of Exhibit "7" into the record.

**Arthur Firstenberg** read a portion of Exhibit "7" into the record

**Victoria Jewett** read a portion of Exhibit "7" into the record.

**Virginia Miller** read a portion of Exhibit "7" into the record.

**Jan Boyer** read a portion of Exhibit "7" into the record.

**Dr. Ann McCampbell** said, recognizing that the moratorium has been pulled from the agenda, she is here to request a reconsideration of the moratorium on new cell phone towers and antennas. The number of potential towers in the next 6 months is increasing exponentially. She believes a 6 month moratorium would be appropriate because the Health Department will be reporting on its study of the health effect of cell phones to a Legislative Committee in Fall 2011. She said this would be a better precautionary approach – wait and see what the study shows, rather than to let things kind of "gallop along." She is concerned that there is no plan other than if you want to put up a tower or antenna you can. She attended a public hearing two weeks ago and is disturbed that the Land Use Department often just rubber-stamps applications and in some case no longer requiring applications. It seems out of balance for the amount of time, energy and authority the Council exerts to prevent people from raising a fence by 6 inches in the Historic District, while on the other hand just letting the telecommunications industry have its way with us. It doesn't seem right. She said, "I hope you will be able to stand up and create a better ordinance."

**Robert Francis Johnson** said by withdrawing the moratorium, the Governing Body is abandoning the people of Holy City of Saint Francis. His social research is that cancer increases when people live close to a microwave tower, and he doesn't know why you won't rely on scientific studies. There are new studies which will be coming soon, and although not in place now, they soon will be. He said this is a Holocaust of cancer. He said going forward with the ordinance now is insanity. He believes the City ultimately will be held responsible. He said he hopes the Council will have the courage to stand up for what is right and not put this in the hands of the special interest of corporations.

**Stefanie Beninato** said the Council should reconsider the 6 month moratorium on cell phone towers. She said there is still no plan and AT&T and others requesting more towers and antennas. She said this is being done because of greed and profits. She said it would be more reasonable to have fiberoptics underground, instead of in buildings. She said the City Attorney keeps telling you that this preempted by the Telecommunication Act, which isn't true. She said Section 202 of the telecommunication acts says these companies can't discriminate, including on facilities or services, so they cannot subject any particular person, class of persons or localities to undue or unreasonable prejudice or disadvantage. She said Section 253(b) of the Telecommunication Act says, "Nothing in this section shall affect the ability of the State, and that would be you because you have home rule here, to encourage requirements necessary to protect and advance public safety and welfare and the rights of the consumer." She said you have plenty of options here because, according to Peter Dwyer, these cell towers are in an exempt category. She said all the while we have been told that they are complying with the FCC, but they're not complying with anything. She said this is a gap in the Telecommunication Act and the Council can fill that gap. She said this Council is not preempted from adopting standards under the federal Telecommunications Act.

**Dr. Raymond Singer**, neurotoxocologist and neuropsychologist, said he has personally looked at some of the health effects of microwave transmission, including the anecdotal reports in the *Journal of Canadian Research Council* from epidemiological studies from nervous system related symptoms, including headaches, sleep discussions, depression, decreased libido, increased rate of suicide, memory changes, tremors and other neuro-physiological effects in populations near base stations. It concluded that non-ionizing electromagnetic fields are among the fastest growing forms of environmental pollution. According to the *International Journal of Environmental Health*, 8 out of 10 of the studies of the effect of the mobile phone base stations found increased presence of neuro-behavioral systems in populations living within 500 meters of base stations. He concluded that none of the reported studies indicated an above the accepted international guidelines suggesting that [inaudible] in protecting the health of the populations.

**Katie Singer** talked about mothers around the country, noting one's son developed glioblastoma brain cancer two years ago and died within 7 months. 4 other people who used the same building also died of brain cancer in this time, 3 of whom died from glioblastoma. She said "This man's doctor said that cell phones cause this kind of brain cancer." She said in New York there is a cell tower 50 feet from a grade school which has 50 antennas, noting 5 kindergartners have developed leukemia and died, and at one point 7 out of 20 staff members had cancer. She said, "Because of the Telecom Act, we are all in jeopardy." She urged the Mayor and Council to pass the moratorium on new cell phone towers and antenna.

**Fred Flatt** said in 2008, Lee Ramis of UNM-Business Research was asked to give a presentation, and she cautioned the Governing Body against giving more than a 2% raise to employees in the budget because "things were going to fall apart." He said the Governing Body increased salaries by 5-6%. He asked, "What were you thinking. I mean, what's going on here." He asked where the buck stops, or are you passing it onto us. He said Harry Truman said the buck stopped on his desk. He wants to know who is responsible for terminating non-performing or under-performing employees, or do you wait until they retire. He said you run a City to take care of the citizens, and fix potholes and such, and if people don't work, you fire them, and not promote them. He said, "Someone who very recently left the City employment got \$75,000 a year for almost 3 years, \$225,000, almost a quarter of a million dollars, and performed, in a word, nothing." He said this isn't a bad gig.

**Bruce Wetherbee** said he is the President of the Northern New Mexico Labor Council, and lives on Rosario Hill. He is here to support the Governing Body in their efforts to balance the budget and provide sufficient revenue to run the City. Although he feels for a previous speaker, he disagrees with her assessment. He said this is a legislative body and it is your responsibility to do this, which he respects. He has served in local government in another state, and knows how hard it is. He said for the past 30 years, America has been slowly pulled apart by the mantra of no tax increase, no improvement and no care for the things that our parents and grandparents built. He said the previous speaker talked about a high salary, but he knows a lot of people who don't make anywhere near that amount. He said his organization

represents people who work in the private and public sector. He said this is a tough job, and urged them to protect the community.

**Andrew Valdez** said he was born and raised here in Santa Fe, and is a single parent and an employee of the City. He is here on behalf of all the employees. He does try to make a difference. He said as a parent he is asking the Governing Body to do what is right for all of us. His concern is we all do what is right for the City workers and people of the City. He works in the Railyard and feels that he and all the other employees make a difference and make Santa Fe a better place to live. He said if we all pull together we can make things work.

**Carol Oppenheimer** said the last time she was here was to support the living wage. She is very proud of what we have done in Santa Fe. She supports the small tax increase, which is in keeping with the spirit of the living wage and all it has come to represent about the quality of life in Santa Fe. She said the tax increase will help the working families and protect the quality of life for Santa Feans, and will pay for services such as parks, Meals on Wheels, help libraries stay open, adequately fund youth summer programs, bus service and much more. She believes this tax increase will help and won't hurt middle class families who otherwise couldn't pay for these services which all of us rely on. She thanked the Mayor and Councilors who are sponsoring this bill.

**Jeffrey Haas** said he is here to support the proposed small tax increase. He does not believe this is passing the buck. It's hard to propose a tax, and in this economy it would be done only if it is necessary. He said the Governing Body is taking responsibility for seeing that Santa Fe gets what it needs. He said he votes yes on the tax increase, commenting that the services the City provides are what makes it such a great City.

**John McPhee**, Public Health Expert and Sociologist, said he supports the tax increase and supports a moratorium on new cell towers and antennas, and the development of a telecommunications master plan. He understands it would be difficult to find money for outside help. He said it requires a tremendous amount of expertise of lawyers we don't have in-state, saying the City Attorney has done the best job he can do, but this is a new field of law as well as engineering. He said wireless is a violation of the Electrical Code. He said we need to go forward with the moratorium.

**Cheryl Bolander** said it has been said the property tax is small, just \$2 per week for a \$100,000 home, but the average price of a home is \$300,000, which is \$6 per week or \$300 per year. She said everything is increasing in cost, and perhaps the property tax should be increased. However, she wants to know why now when the recession has hit so many people. She said according to news articles it is to either raise taxes or put it on back of the employees, and asked why these are the only choices. She asked what has been cut and what the Council proposes to cut. She said we have doubled the number of government workers in Santa Fe per capita, which is twice the national average, although we aren't getting twice the services. She would appreciate the Council postponing a decision until they hear from "the other side."

**Cindy Katz** said she is a resident, homeowner and small business owner in real estate. She is very, very concerned about the proposed increase in property tax. She agrees with a lot of what has been said, and agrees with the programs supported by the property tax. She wants the Council to look at all options first. She said what Santa Fe has is a spending problem, not a revenue problem. She said you should give the people of Santa Fe to speak to you and hear from more than have spoken tonight. She said don't vote on this until the people can give more input.

**Bill Stange** asked the Council to consider placing the process for tax decisions to be made on the website.

**Mary Ellen Ossie** said she supports the tax increase, because it is only \$100 per year, \$2 per week for a \$300,000 home, not \$100,000. She said she believes these homeowners can afford this kind of increase, commenting that this is a burden we all share in the problem solving. She said as an east side resident, almost on the hill, she supports this tax increase.

**Morty Simon** said he is saddened that you are facing such a divided issue on the issue of the tax, and people feel strongly on both sides. He heard if the Fire Department had been three minutes later to the fire on the plaza, the whole block would have burned, which is a chilling statistic. He said City positions have been reduced and reduced over the past three years, and people are doing 3 jobs or more in some cases. He said the City services are too important to quibble over how we will solve this, and we can't wait for the next disaster to realize we shouldn't have cut so deeply into the fabric of the City he said \$2 per week is a very reasonable price to make sure that doesn't happen.

**Elaine Sullivan** said she hopes the Council will pass the property tax increase. She said "there are so many of us in Santa Fe for whom this will not be difficult. However, it will be difficult for all of us if services are cut. She said her parents lived at a time when people watched out for one another, and those of us who had more, gave more. She doesn't know when the change began to happen, but she grieves about that change.

**George Cortez** said he is a construction worker, and worked on many projects including the Indian School gymnasium and he is for the property tax increase. He said he represents [inaudible] as well. He has used the bus as his sole source of transportation with his bicycle. He said he works hard, day labor. He said if we start cutting the hours and salaries of City workers, it will add to the poverty in Santa Fe.

**Taylor Velasquez, Capital High**, said he is here this evening to speak on another matter, but has to leave to do his homework, and asked if he can speak now under Petitions from the Floor. Mayor Coss said yes. **Mr. Velasquez was sworn.** Mr. Velasquez said he is a student at Capital High and is here on behalf of SWAT. He said they talk about a lot of issues concerning teenagers and one of the most important is about the liquor on Airport Road, and for him, since he lives in the neighborhood, it is very traumatic. He is here to talk about Walmart and Conoco having liquor licenses. He and the Capital High SWAT members disagree about this. He said there are 19 places where liquor is being sold, surrounded

by advertisement, and we don't need 21 places. He said, "Me and the SWAT members are very strong about this, and what is most important are the younger students. Day by day they have to be driving by these places, watching these things. And they're trying to make a message that it's all right to drink. It's okay, don't worry about it. And that's not the message we're trying to give them. Liquor, alcohol and tobacco is very serious and we try to take it that way. And I hope that you guys will talk about the liquor that will be sold in Walmart and at Conoco."

**Linda Trujillo, a member of the Santa Fe School Board**, said she is here for two things. One is regarding the liquor licenses, and would like the Council to consider the impact those have on the community on the south side, noting there already are a large number of alcohol licenses already in operation. She is concerned about another one at a convenience store, which is the one that bothers her the most. She said, "I hate to say not in my neighborhood, but please, not in my neighborhood." She is also in attendance to support the tax increase, because she is concerned about the families working for the City being laid off and the "poverty that will spiral down into," and she supports increasing taxes. She said it isn't popular, but it is the responsible thing to do.

Councilor Ortiz said the first public hearing on the Council's proposed tax hike will be on Monday, April 4, 2011, at the Finance Committee in the Council Chambers at 5:00 p.m. He said there has been a presentation on the proposal, but there will be public comment, and hopefully there will be a lot of discussion about that proposal on Monday.

## **G. APPOINTMENTS**

### **Children and Youth Commission**

Mayor Coss made the following appointment to the Children and Youth Commission:

Joanne Lefrak – term ending 01/2014.

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

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

### **Board of Adjustment**

Mayor Coss made the following appointments to the Board of Adjustment:

Gary Friedman – Reappointment – term ending 09/2013;  
Monica A. Montoya – Reappointment – term ending 09/2013; and  
Daniel H. Werwath – to fill unexpired term ending 09/2013.

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

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

#### **City Business and Quality of Life Advisory Committee**

Mayor Coss made the following appointments to the City Business and Quality of Life Advisory Committee:

Alan O. Austin – Reappointment – term ending 03/2013;  
Stephen Guerin – Reappointment – term ending 03/2013;  
Diane R. Karp – Reappointment – term ending 03/2013;  
Cervantes “Buddy” Roybal – Reappointment – term ending 03/2013;  
Kathy L. Jahner – term ending 03/2013;  
Fred Cisneros – term ending 03/2013; and  
Kathy Keith – term ending 03/2012.

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

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

#### **Sister Cities Executive Committee**

Mayor Coss made the following appointments to the Sister Cities Executive Committee:

Gilbert Delgado – Reappointment – term ending 10/2013;  
Rudy R. Fernandez – Reappointment – term ending 10/2013;  
Arthur L. Olivas – to fill unexpired term ending 10/2013;  
Gilbert Romero – to fill unexpired term ending 10/2011;  
Sharon Maloof – Alternate – term ending 10/2013 (change in membership status and term; and  
Roque Garcia – Alternate – term ending 10/2012 (change in membership status and term).

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

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

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**MOTION:** Councilor Calvert moved, seconded by Councilor Wurzburger, to reconsider the previous approval of the agenda as amended; to amend the agenda to hear Item H(1) next on the agenda, then hear Items H(2) and H(3); and to approve the agenda as amended

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

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## **H. PUBLIC HEARINGS**

- 1) **CONSIDERATION OF BILL NO. 2011-08, ADOPTION OF ORDINANCE NO. 2011-07 (COUNCILOR WURZBURGER, COUNCILOR CALVERT AND COUNCILOR ROMERO, AND MAYOR COSS). AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A WATER PROJECT FUND LOAN/GRANT AGREEMENT BY AND BETWEEN THE NEW MEXICO WATER TRUST BOARD AND THE NEW MEXICO FINANCE AUTHORITY (THE "LENDERS/GRANTORS") AND THE CITY OF SANTA FE (THE "BORROWER/GRANTEE"), IN THE AGGREGATE AMOUNT OF FOUR MILLION DOLLARS (\$4,000,000), BEING A LOAN IN THE AMOUNT OF EIGHT HUNDRED THOUSAND DOLLARS (\$800,000) AND A GRANT IN THE AMOUNT OF THREE MILLION TWO HUNDRED THOUSAND DOLLARS (\$3,200,000); EVIDENCING AN OBLIGATION OF THE BORROWER/GRANTEE TO UTILIZE THE LOAN/GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS OF CONSTRUCTION OF THE BUCKMAN SURFACE WATER DIRECT DIVERSION PROJECT, AND SOLELY IN THE MANNER DESCRIBED IN THE LOAN/GRANT AGREEMENT; PROVIDING FOR PAYMENT OF THE LOAN AMOUNT SOLELY FROM PLEDGED REVENUES; CERTIFYING THAT THE LOAN/GRANT AMOUNT TOGETHER WITH OTHER FUNDS AVAILABLE TO THE BORROWER/GRANTEE, IS SUFFICIENT TO COMPLETE THE PROJECT; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN/GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN/GRANT AGREEMENT (NO. 202-WTB). (ALAN HOOK)**
  - a. **REQUEST FOR APPROVAL OF WATER PROJECT FUND LOAN/GRANT AGREEMENT NO. 202-WTB); NEW MEXICO FINANCE AUTHORITY.**
  - b. **REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND.**

The staff report was given by Alan Hook from the materials in the Council packet.

### **Public Hearing**

There was no one speaking for or against this request.

### **The Public Hearing was closed**

**MOTION:** Councilor Wurzburger moved, seconded by Councilor Romero, to adopt Ordinance No. 2011-7, as set out in Item #H(1).

**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 Wurzburger.

**Against:** None.

**MOTION:** Councilor Wurzburger moved, seconded by Councilor Romero, to approve Items #H(1)(a) and #H(1)(b).

**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 Wurzburger.

**Against:** None.

- 4) **CONSIDERATION OF BILL NO. 2011-7; ADOPTION OF ORDINANCE NO. 2011- 08. AN ORDINANCE AMENDING SECTIONS 1-7-3, 1-7-5, 1-7-6, 1-7.7, 6-16.1, 6-16.2, 6-16.4 AND 6-16.7, SFCC 1987, RELATING TO THE CODE OF ETHICS AND ITS ENFORCEMENT; AND REPEALING SECTION 1-7.8 SFCC 1987.**
  - a) **CONSIDERATION OF RESOLUTION NO. 2011-23. A RESOLUTION AMENDING THE CITY'S PERSONNEL RULES AND REGULATIONS REGARDING NEPOTISM AND OUTSIDE EMPLOYMENT IN ORDER TO REFLECT THE CITY'S CODE OF ETHICS. (JEANNE PRICE)**

A proposed amendment sheet, submitted by Councilor Miguel Chavez, is incorporated herewith to these minutes as Exhibit "8."

A proposed amendment sheet, submitted by Staff, is incorporated herewith to these minutes as Exhibit "9."

A copy of a letter dated March 29, 2011, to the Governing Body from Meredith R. Machen, President, League of Women Voters of Santa Fe County, entered for the record by Jody Larson, is incorporated herewith to these minutes as Exhibit "10."

*Items 4 and 4(a) were combined for purposes of presentation and discussion, but were voted upon separately.*

Jeanne Price noted there are amendments in the Council packet, and there are proposed amendment sheets from Councilor Chavez and staff are on the Council desks.

**WITHDRAWAL OF PROPOSED AMENDMENT:** Mayor Coss said he is withdrawing his proposed amendment which is in the Council packet which changes the Committee number from 7 to 5, and the delineation of the groups.

*The Councilors made suggestions, suggested changes or asked questions as follows:*

- Councilor Bushee asked the genesis of the page of staff amendments that bump up the gifts and such, noting it is the first page of the packet.

Ms. Price said she would like to break the proposed amendment into two subject areas. Regarding the staff amendment sheet that is in the packet, Item #3, Representation of Private Interests, she said this was to try to clarify the difference between conflicts of interest between an employee, between a governing body member and between, for example, a committee member.

Ms. Price said amendments #4, 5 and 6 on the amendment sheet in the packet, has to do with the ethics officer. The proposed language removes the ethics officer role and inserts a placeholder, so that at some point the Governing Body shall by separate ordinance establish the office of Inspector General.

Ms. Price said #1 and #2 on the amendment sheet in the packet, and the amendment sheet from staff on the Council desks [Exhibit "9"], were an attempt by staff to address some current things that happened in the functioning of government/City Hall.

- Councilor Bushee asked for an example of the reason we would want to increase the gift limit from \$50 to \$250, commenting she thought we were trying to make this a tighter ordinance.

Ms. Price said other cities have a higher limit, noting \$50 won't purchase, for example a Nambe plate, and it is in response to these kinds of things.

- Councilor Bushee asked if this is coming from the City Attorney, noting it didn't come from a Councilor.

Mr. Zamora said, "As staff has been reviewing the ordinance moving forward, we've been reading incredibly closely in preparation for tonight's hearing to make sure that the language of the ordinance not only tightens things up, but it also accounts for regular circumstances, especially as it relates to Governing Body members. As you see in Items #1 and #2 of the proposed amendments, the first thing was the language that said "a non-pecuniary gift not to exceed \$50." That first needed clarification, because often the Governing Body members are invited to appear at dinners and such, and the dinner value is \$20. However, the ticket price to the event can be somewhat higher depending on the event. This allows for the IRS valuation to say the valuation is the cost of the meal. And, again, those are frequently events that Governing Body members are required to appear at."

Mr. Zamora continued, "In addition, there are a series of non-pecuniary gifts that still have value. For example, members receive awards, gifts of state from other governing bodies, from foreign governing bodies and to be able to value those under \$50 would be incredibly difficult, shipping stuff back to foreign states. Instead, what this allows for is that if there is a gift over \$50, then that gift must be publicly recorded.. reported. And if it is over \$250 it does actually have to be returned at that point in time."

Mr. Zamora continued, "In addition there are public events that the Councilors are required to attend as part of their duties. For example, entertainment events where you are required to attend and address the crowd, welcome the crowd, and welcome crowds from out of town, without this language, if this event has a ticket price of, let's say, \$75, you were admitted free by the organizer of this event, you actually would not be able to attend that. Here, you're able to attend, represent the City, make statements to the group and then come back and report that publicly with the Clerk, so the public is aware you attended."

- Councilor Bushee asked how it is handled currently if the gift is more than \$50, are we not to accept it.

Mr. Zamora said currently, if it is over \$50 you are to report it and there is no limit on the amount of the gift.

- Councilor Bushee said then you are making a distinction, and said, "I just hope it doesn't encourage, you know, things to go in the opposite direction than, I think, we're trying to get to."
- Councilor Bushee asked for an explanation of Amendment #2, and why it is needed.

Ms. Price said we did not want to have a conflict with, for example, the current custom of using Employee Benefit funds, noting those checks are about \$100.

- Councilor Chavez asked if the limits of \$50 and \$250 are for the year.

Mr. Zamora said that is the limit per item.

- Councilor Calvert asked if there is any aggregate limit on either the "acceptor" or the "donor." He asked is people can receive any number of the \$250 gifts, and can anybody donate any number of these \$250 gifts.

Mr. Zamora said there is not a cap on the amounts in these proposed amendments or in the proposed ordinance. He said, "The catch on this, I guess, is the public reporting. So, if there is a pattern of high gifts that each get reported to the City Clerk that remain unfiled, then you are accountable to the public for the number and the amount of the gifts that are received, because they are required to be reported if they're over \$50. And, the one cap is that you can't accept any item over \$250. Currently, there is no cap on the value of the item."

Jeanne said the amendment sheet from staff which is on their desks, has to do with fundraising. She said there are a lot of events in the City such as Frito pie sales or candy bar sales, and they wanted to try and address the current custom in the ordinance.

- Councilor Calvert said then you changed the wording from "request" to "require."

Ms. Price said this is correct.

- Councilor Calvert asked the rationale for the change in wording, because he doesn't think "anybody is going to require anybody to do anything." He commented that perhaps "request" could be as intimidating as requiring. He would like the rationale for this change.

Ms. Price explained this is fundraising in the employee community which also includes supervisors.

Mr. Zamora said, "Looking at the language in the Ordinance as originally proposed, the language was 'shall not knowingly request.' The concern we have is that, at times, depending either on an employee's situation or general situations, there may be some hypersensitivity. We experienced some of that with a very important resolution that was passed regarding bullying when, for a short period of time, any time there was a disagreement with the supervisor it was bullying, it wasn't management any longer. The concern here is, for example, the Frito pie sales that have been going on during my past year here to raise money for someone who is suffering from cancer, such and such event. So, what I want to avoid is that hypersensitivity where you turn to either a coworker or a subordinate and say, 'hey, are you headed down there for Frito pie sales.' And then the hypersensitivity of people saying 'that person requested me to participate in this fundraiser.' We then have a violation of an ethics code. So, it's difficult, there's no perfect language, but we needed it above the threshold of simply request, or if you post a sign in your office area that that's automatically an ethics violation."

- Councilor Calvert said perhaps those kinds of comments should all go through the City Manager's Office if someone wants to make a request like that, and then the request could be done officially instead of *ad hoc* unofficially. There would then be no question as to authenticity and no pressure on anyone to do that.

Mayor Coss said you can debate the amendments after we have the public hearing, and asked Councilor Chavez to explain his amendments.

Councilor Chavez reviewed his proposed amendments 1 through 7 [Exhibit "8"]. He noted in #3, he wanted to establish a cap per calendar year per donor, and the language in #4 is entirely new. He said line 6 deals with the situation where there were 5 members of the Governing Body and one person had to recuse himself and there was no quorum. He said the Governing Body could say this is an emergency and we need to take action right now.

*The Councilors made suggestions, suggested changes or asked questions as follows:*

- Responding to Councilor Bushee, Ms. Price said members of the Governing Body have to state where they are employed if they work for a governmental entity, and you have to say what department you work in. She said this is just to clarify this for governmental workers.
- Councilor Bushee asked if there is a separate definition of employer.

Ms. Price said no that's it, noting the employer is the federal government, the State of New Mexico, the County, and you define that by what part you work for, such as a department.

- Councilor Trujillo asked if is just when filling out forms, noting he has always acknowledged that he works for DOT.
- Councilor Chavez said it is just when you are filling out forms, or if there was something from the DOT before the City.
- Councilor Dominguez asked are we trying to get to the actual division or section which might have conflict. He said to keep it broad in terms of a department may unnecessarily exclude people from being able to make a decision, noting for example the DOT is a large department, and there are some sections which have no public business outside their department. He asked if we need to clarify that it is at the division level.
- Councilor Chavez said he would like to be somewhat specific, but not take it too far, and department would be sufficient.
- Councilor Dominguez asked if he intends to exclude the ability to make a decision.

- Councilor Chavez said no, it was only to share that information with the public. He said in the event your employer were before the City, and you as an employee would be voting on that, he believes you would be covered.
- Councilor Bushee said there already are rules in terms of declaring an emergency, and Amendment #6 may not align with those.

### **Public Hearing**

Mayor Coss gave each person 2 minutes to speak to the request.

*All those speaking were sworn en masse*

**Jody Larson, representing the League of Women Voters of Santa Fe County.** Ms. Larson said the League commends the Governing Body for its transparency with which the ordinance has been considered with one exception. She said they are disappointed that the amendments were not available to the public in advance of the meeting. She said the League advocates on issues only after extensive study on member consensus and has not developed positions specifically addressing the City's Ethics Ordinance, but it has general positions which apply. Ms. Larson read a statement into the record on behalf of the League. Please see Exhibit "10" for the text of this statement.

**Marilyn Bane** said she is appearing on her own behalf, and not for any group or organization. She said you all know the amount of work that has gone into this ordinance. She said one of her great fears and that of the group with which she worked, was that at the 11<sup>th</sup> hour we would be looking at amendments which we hadn't seen before and wouldn't be able to evaluate those in time to comment. She said this has now happened, commenting she has every reason to believe these are wonderful amendments. However, she hadn't been able to look at the ramifications on other areas.

Ms. Bane said, "And this is true of staff, and Geno, God love you, but the long and short of it again is I haven't seen this in enough time. These came in I believe yesterday, or the day before, sometime in that area. And it's just that we have cared so much and because we have looked at the ramifications so carefully, and I know that each of you all want to do that. I guess I'm just voicing a bit of frustration here and a bit of concern. And ask that if we don't have time to look at them, or I don't have time to look at them, that you take the time you need to consider them."

**Jim Harrington, 1588 Cerro Gordo, State Chair of Common Cause in New Mexico.** Mr. Harrington said the bill before you has been the subject of at least two previous public hearings, and two different drafts have been on the website and examined by a lot of people at different meetings with different discussions. He said the ordinance has been amended over and over again, and it is finally ready to be passed with two exceptions – two parts which need further work. He said we never make anything perfect, but we could keep this process going forever. He said the ethics officer suggestion hasn't been

well received, and they approve of that deletion. The other is the method of appointing the ECRB which is still the subject of a lot of thought and controversy, and this could be postponed and acted upon later.

Mr. Harrington said a number of amendments haven't been the subject of public discussion, and he wrote to the Councilors indicating 3 of the amendments would seriously undermine the ethical restrictions that this bill is attempting to impose. He heard nothing in earlier remarks by Mr. Zamora or Ms. Price which would change his mind. He said there are two things to bear in mind in debating the \$50 limit. The gift ban only applies if it is being made by someone who is financially interested in your official action, and all of the references to foreign government and such are irrelevant, because that basic feature isn't satisfied. He said the other thing we are talking about is the market value of the gift. For example, the market value of a meal isn't going to have huge value, unless you're going to sell it. He said, "We think it would be very damaging to raise this thing to \$250, particularly in terms of an aggregate limit."

Mr. Harrington said their concern with the second amendment is that it would remove any limit on the value of an award given by a non-profit or civic organization, which would be very dangerous. He said he can easily see a trade association giving a \$5,000 award to the Planning employee who has been the most perceptive to their concerns. And changing the fundraising prohibition so it merely applies when the supervisor requires the employee to contribute, instead of request, "that never happens, and I think you'd be more honest by entirely deleting this thing." He said if someone wants to do fundraising for a legitimate purpose, they should get it approved by the City Council by Resolution, and that would exempt it under the language of the bill

Mr. Harrington said, "Finally, Councilor Chavez's amendments, they're exactly the way this Ethics Code has gotten fouled up with very complicated, last second amendments. I have no idea why they couldn't have been presented earlier." He said, like Ms. Bane he hasn't had an opportunity to look at the amendments, and believes Councilor Chavez should be invited to bring back these amendments in the form of a bill at a later time.

**Lynn Canning, 1202 Apache Avenue**, said she has great respect for elected and appointed officials, and respect for some of the people who are here this evening such as Bobbie Gutierrez who is here to talk about liquor licenses. She has also been an elected and an appointed official. She knows the hours you have to spend, and the toll on your personal lives, and the difficulty of making a living in that situation. She said this has never been about trying to catch people doing things wrong, nor setting up an ethics code to target anyone to keep you from living your life, and it certainly isn't about discouraging people away from public service. She said the public comment this evening has reminded her of what it was like as an elected official, and listening to what people accuse you of doing, as well as accusing City staff. She thanked them for taking this on, and said it has been like going to the dentist daily for everybody. She said the whole idea was to come up with simple, clear rules that you can and the public understand and follow, and which would not discourage people from public service, because public service is critical in a community.

**Linda Flatt, 950 Vuelta del Sur**, said she is curious about the Code of Ethics, and looked it up in the dictionary. The Dictionary said it is, "A system of moral principles, values related to human conduct with respect to the rightness and wrongness of certain actions, and the goodness and badness of the motives and the ends of such actions." She said it is "moral, upright, honest and honorable." She said it isn't easy to be an elected official and to make decisions, but she sees that the Code of Ethics really needs reform. She is asking that those who have responsibility to lead people in this City need to be on the high moral and ethical ground, setting an example, and striving to be the best. She said, It is sad that it seems our very ethical and moral fiber is deteriorating, not just here, but it appears, everywhere. She said, :Things are becoming mediocre. And as my mom used to say, fair to middling. We need a new Code of Ethics. One that is strong and is clear, and this Council needs to be very careful and examine those new Code of Ethics brought before you. It is imperative to make sure that these Codes take the high ground, cover all the bases, are clear and clean with no loopholes, or weak, mediocre provisions that can be easily manipulated, avoided or even ignored, as was often true of the previous Code of Ethics. Will you set the standards high, or will you just be mediocre. It's up to you."

**Stefanie Beninato** said she echoes the previous remarks in terms of introducing amendments at the last minute, which she thinks is becoming a common occurrence. She asked that the Council postpone this item. She also is concerned that certain ethical violations which have occurred aren't addressed in the ordinance. She said part of it is that the definition of business is limited to non profits, excuse me, for profits. She thinks that should be expanded to include governmental entities and non-profits. She said some of the Council do work for the State. However, the distinction for her is that she believes three of you got jobs through a regular hiring process. She believes there is a distinction between that kind of being hired by a governmental entity with getting a contract from the governmental entity and benefitting because there was no standard hiring process.

Ms. Beninato said, "In the definition of business, I would extent it to governmental entities when the hiring is done without the normal hiring process. Because again, you're getting it because of the position you already have, not perhaps for any kind of experience. And so again, the definition of private interest on page 9(c) needs to include some reference to governmental entities as well. Under City Employee rewards which is on page 10(i), you talk about monetary compensation, and I believe this is the one about the election... that you can't promise that if somebody votes for you that you'll give them a job or a monetary compensation, but I think it should say or other compensation. Because, perhaps you'll give them a Creative Santa Fe book, or perhaps you'll promise that their potholes will be fixed in front of their house, or their street will get cleared before anybody else's, and again, I think this is an ethical violation."

Ms. Beninato continued, "The other thing is I appreciate Councilor Chavez's idea about the quorum. However, it's already in there on page 12, line 3, it says if there isn't a quorum, then the person with a conflict can vote as long as it's disclosed. I'm really opposed to that. I understand that the City has to go forward, but if you only have 5 people sitting there, then there's something wrong with that meeting anyway..... And if you allow people with a conflict to be a tie-breaker, I think you already have a problem with the vote. So, again, I would urge the deletion of that."

Ms. Beninato continued, "My other concern with the ordinance you have in front of you on page 14, is the composition of the board itself, because we don't know what other organizations are going to be looking at that, so you have these blanks, at least the one on the webpage, blanks that are still going to be filled in. You actually don't have a complete ordinance here because we don't know what entities you are going to be drawing from. We know First Judicial District. Some lawyers might be on the board, but there's a couple of other options for having other entities, I guess propose members, but we don't know who those entities are and I certainly would like to know what those are before you vote, rather than being put in afterwards."

### **The Public Hearing was closed**

Councilor Wurzbarger said she appreciates that this has been a very important process for the City, although it might not have been the document that she would have designed, and appreciates that the central clarify which was lacking with respect to conflict of interest has been clarified. It has made that link between a perceived and a real conflict of interest.

**MOTION:** Councilor Wurzbarger moved, seconded by Councilor Bushee for purposes of discussion, to adopt Ordinance No. 2011 as follows:

- a. with the staff amendments in the Council packet; and
- b. Councilor Chavez's amendments [Exhibit "8"] with the exception of Amendment #3, ~~and she would like to amend that to \$100,~~ and Amendment #4; and
- c. the staff amendment [Exhibit "9"], dealing with the Frito pie issue; and
- d. where we discuss the number of people on the Board, that it should be seven people and that 4 individuals be appointed by the Judicial or the Bard, and three individuals from community groups/non-profits to be determined once we go through the process of developing the administrative procedures.

**EXPLAINING HER MOTION:** Councilor Wurzbarger is concerned about Amendment #3 with the rationale that she is concerned about all of the dinners we all attend when the dinner is worth more than \$50, even though there was an explanation by Mr. Harrington. She is concerned that down the road that the amount at least cover the amount of the dinner, and would suggest that be \$100.

**DISCUSSION:** Councilor Bushee asked if the Council would like to consider all of the amendments or separately. She said she doesn't understand the "administrative procedures" portion of the motion

Councilor Wurzbarger said, for example, the procedures relating to the Inspector General, because we have to do on that.

Councilor Bushee said those wouldn't be administrative procedures.

Councilor Wurzbarger said, "Well, okay, whatever you'd like to call it, there are details yet to be defined particularly with respect to the Inspector General."

Councilor Bushee asked Councilor Wurzbarger if she would like to attempt to do that tonight, and Councilor Wurzbarger said no.

Councilor Bushee said, "Not on that, but on the community organizations."

Councilor Wurzbarger said no..

Councilor Bushee said, "As a whole, I want to begin by thanking everybody involved. You know, this is yeoman's work, but there is still some work to be done, obviously, on the details. But I really do think that we have an improved product. However, I really do object to the first two amendments proposed by the City Attorney's office. Jim Harrington was spot-on when he said that the \$50 gift value that we already have covers what we need to cover, and I don't want to have a misleading amount of an increase or what seems like an increase, even though it is a cap, that didn't exist. And I also don't believe that Item #2 is necessary. And so, I would also like to ask, I don't know who, would that be Yolanda, how many times are gifts actually declared. I mean, have you got a number off the top of your head that you could even say is more than one hand."

Ms. Vigil said, "I would say, in the last year, that you could probably count them on one hand."

Councilor Bushee said, "Okay. I guess my point is that.... I mean, ideally you wouldn't even need an ethics ordinance, everybody would just toe the line, whatever that line is, and that's where we get into trouble. It's a subjective line, it's everyone's different definition. And so, what we don't have is a lot of enforcement. It is an honor system. You fill out the forms, you hope you're doing it right. You don't get a lot of guidance or training, there's not a lot of... even for the Committee members... I don't think they get necessarily a whole heck of a lot of training, and it's not as if we have a lot of staff to go out and do that. So, what I would ask is that we not get more complicated than we need to on anything."

**MOTION TO SEVER:** Councilor Bushee moved, seconded by Councilor Chavez, "to sever and take Amendments #1 and #2 from the staff's first page, I don't know what, you know what I mean, as a separate motion."

**EXPLANATION OF THE MOTION:** Mayor Coss said it's not to have those amendments then, and Councilor Bushee said yes.

**FURTHER EXPLANATION OF THE MOTION:** Councilor Ortiz said it is a vote on the motion to sever.

Councilor Bushee said, well, I would have moved to strike them as a separate motion, which is easier.

**FURTHER EXPLANATION OF THE MOTION:** Mayor Coss said this is a vote to sever.

**DISCUSSION ON THE MOTION TO SEVER:** Councilor Calvert said, "I would like to hear the City Attorney's comments, particularly on the first one, what Jim said about not having a need for the \$250, and on number two, if also that standard of it not being, you know, like employee recognition award that if given from the employee if it's not somebody trying to influence somebody. Is there really a rationale for exceeding that limit as well."

Mr. Zamora said, "Councilor Calvert, members of the Governing Body, I should have written some things down on that. I heard the questions; just let me think through and answer really quick, which is.. First of all to make it very clear, the City Attorney's Office did these reviews and has made some suggestions here to accommodate what takes place for public officials. We're not advocating one direction or the other on that. That being said, the concern with Paragraph #1, as it read originally with the fair market value not to exceed \$50, the example everyone had in mind was a simple example, which was a dinner. So, let's say a dinner at the Convention Center put on by either a civic group or a convention group which has asked the Mayor or a Governing Body member to attend and give a welcome. The ticket price for that dinner may be \$75, or the value of the food is \$25. Under that example, the original language was more than sufficient."

Mr. Zamora continued, "Now when the examples start changing as far as the events you're required to go to, there's a performing arts event at the Lensic, again a community event. They've asked a Governing Body member or the Mayor to welcome the community, maybe you've got visitors from out of town on a convention, so you step into that event, free of charge, you give your welcome and you attend the event for a moment in time. The fair market value of the \$75 ticket for an entertainment event is \$75, it's not \$2, it's not \$20. It's \$75. So again, trying to account for the kinds of events you participate in, the kinds of events you are asked to attend, and again, in your official duties, attend and represent the City, it's foreseeable that will exceed \$50. In any events like that, without that language, you would have to refuse the event and not represent the City. If you do exceed that amount, and you choose to attend the event, then you are required to report that and the public will know you were in attendance at that event."

Councilor Calvert said the question he intended to ask was "this matters only if these are donations or whatever from people who are trying to influence you, as opposed to just in general."

Mr. Zamora said, "I think people can make that statement. I think if you've got a conference, for example that is here in Santa Fe, asking a Governing Body member to do a welcome, they're not necessarily seeking your influence. I think, to be realistic, there will be some people who seek your influence. There will be some that just want representation from the City and a show of support of the elected members of the City. Again, that's where the reporting comes in, so you get to report. And if there is a report... if you establish a pattern of people seeking influence, and by the way you still can't accept anything that conflicts you, but if you have a pattern of things that are shady, it will be public, for a public view."

Councilor Calvert asked how the public will get access to those reports, and asked if they have to request it, or will it be on line, if we approve this. He asked if providing it was considered at all in Paragraph 1.

Mr. Zamora said, "Currently, because we are trying to get documents up and on the line, we're talking about two separate issues, or they're understandably related. The first is that you have to have to report it in, which means it becomes a public record which can be sought through a public records request..."

Councilor Calvert said, "... if you know who to ask, right."

Mr. Zamora said, "Yes. So, if someone knows to ask and walk in yes. Now, as I understand it, the Governing Body's transparency site, we're looking to push all public records on there, so you may simultaneously wish to give directive on this transparency site that you've been pushing forward, that all ethics reports be posted immediately upon receipt."

**CLARIFICATION THAT IT SHOULD BE A MOTION TO SEPARATE RATHER THAN TO SEVER:** Mayor Coss said he has been informed that this should be a Motion to Separate, rather than a Motion to Sever.

**CORRECTED MOTION: MOTION TO SEVER SEPARATE:** Councilor Bushee moved, seconded by Councilor Chavez, "to sever and take Amendments #1 and #2 from the staff's first page, I don't know what, you know what I mean, as a separate motion."

**CONTINUATION OF DISCUSSION ON MOTION TO SEPARATE:** Councilor Wurzbarger asked, for example specifically, the Lensic is about to have its 10<sup>th</sup> Anniversary, the Mayor has been invited, the tickets are \$250 – is he to go, or is he not to go, or does he go and simply say hello, I cannot eat, I cannot watch the concert, I cannot represent the City, if there is a \$50 limit. She asked Mr. Zamora to answer her specific question on the Lensic, "so we all know what we're doing."

Mr. Zamora said, "Under the current language in this amendment, the Mayor would be able to attend and be able to do the welcome, and then would be required to report it afterward. If the language is struck, and I hate to say this, but as a lawyer I always have to play for the worst case scenario. In an era of "gotcha politics," if the Mayor steps in the door without paying \$250, it becomes a violation..."

Councilor Wurzbarger said then it isn't a good idea to strike that amendment.

**VOTE:** The motion to separate failed to pass on the following Roll Call Vote:

**For:** Councilor Bushee and Councilor Chavez.

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

**Explaining his vote:** After asking if it is too late to make an amendment, Councilor Calvert said, "I'll vote no, but I'll want a modification of it."

#### **CONTINUATION OF THE DISCUSSION ON THE MAIN MOTION:**

**FRIENDLY AMENDMENT:** Councilor Ortiz proposed, on Ordinance page 4, line 2, to add the following to the definition of *Family*, as follows: "step-parents, domestic partner, and..." **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER COUNCILORS.**

**FRIENDLY AMENDMENT:** Councilor Ortiz said, with regard to Nepotism on Ordinance page 9, line 22, nepotism should include official acts as well as any unofficial acts, and proposed on Ordinance page 9, line 22, to amend as follows: "shall not perform any official act to..." **THE AMENDMENT WAS FRIENDLY TO THE MAKER.**

**DISCUSSION ON THE FRIENDLY AMENDMENT:** Responding to Councilor Bushee, Councilor Ortiz said, "A public official or a public employee shall not perform any act to obtain the employment or to influence the employment by the City or his or her family. It should be 'official and unofficial,' so we'll just strike 'official.' An official act is you send an email and ask can you hire my, the person who's in my family. An unofficial act is to go in and try to convince a subordinate on something that involves a family member. It seems to me that we should strike "official," and just say "any act." Is that friendly to the second."

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

Councilor Bushee asked if friends should be added to the definition of nepotism, if they're not defined as domestic partners.

Councilor Ortiz asked Councilor Bushee if she is speaking about a significant other or a person with whom they're involved in a relationship.

Councilor Bushee said, "People they influence to get hired."

Councilor Ortiz said, "You can amend that when it's your turn, is it friendly to the second on mine."

Councilor Bushee said, "I'm saying, because you're busy trying to expand it, is this a good idea too, and could come up with something."

Councilor Ortiz said, "Maybe. If it's not friendly to the second, I'd make it as a motion."

Councilor Bushee said she already had said it was friendly.

**FRIENDLY AMENDMENT:** Councilor Ortiz proposed to amend the Ordinance on Page 19, line 21, as follows: "... The fine shall be payable within ~~ten (10)~~ thirty (30) calendar days... **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER COUNCILORS.**

**FRIENDLY AMENDMENT:** Councilor Calvert, referring to amendment #1 of the staff amendments, would like to amend the Ordinance to add direction to staff to put the reports on line as soon as practicable. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER COUNCILORS.**

**FRIENDLY AMENDMENT:** Councilor Calvert proposed to amend #4 of the staff amendments in the Council packet, as follows: "...The governing body ~~shall~~ may by separate ordinance establish an office of inspector general." He said "may" allows the possible, but doesn't force us to do this when we get around to that possibility. It either doesn't work, or it costs us and we don't have the budget for it. **THE AMENDMENT WAS FRIENDLY TO THE MAKER.**

**DISCUSSION ON THE FRIENDLY AMENDMENT BY THE SECOND:** Councilor Bushee asked what happens if you don't establish an inspector general. Councilor Calvert said until we discuss this, he doesn't know the alternative. He said in our Audit Resolution we have asked for hot lines for people to report things, and we might want to see how that plays out. Councilor Bushee said this amendment "allows us to not do anything," and Councilor Calvert said this is true. **THE AMENDMENT WAS NOT FRIENDLY TO THE SECOND.**

**MOTION TO AMEND THE MAIN MOTION, AS AMENDED:** Councilor Calvert moved, seconded by Councilor Ortiz, to amend #4 of the staff amendments in the Council packet, as follows: "...The governing body ~~shall~~ may by separate ordinance establish an office of inspector general."

**VOTE:** The motion was approved on the following Roll Call Vote:

**For:** Councilor Calvert, Councilor Ortiz, Councilor Romero, Councilor Trujillo and Councilor Wurzbarger.

**Against:** Councilor Bushee and Councilor Dominguez.

**Pass:** Councilor Chavez.

**Explaining his vote:** Councilor Chavez said, "In the name of semantics, honestly I don't know. I think I'm going to pass because we should do it and it should be a separate ordinance, but when, is the question. I'm going to pass on it.

**CONTINUATION OF DISCUSSION ON THE MAIN MOTION AS AMENDED:**

**FRIENDLY AMENDMENT:** Councilor Calvert said, "Since you withdrew yours, and the language remains at 7, I would imagine, since you withdrew yours, so I don't think we have to change that. But, in terms of committing to which organizations, I know people were maybe comfortable with this, but I'm not comfortable with putting organization names in an Ordinance. Well, we left blanks, which means we allow for them to still be put in there at some point. And I guess what I'm saying is I'm comfortable with your proposal about 4 coming from the Bar, but I would say yes, the 3 to be appointed by the Mayor, approved by the Council as is our normal course of business. Because, again, I don't want to crown certain organizations or entities and say that they have more voice than others. I think that's not fair either." **THE AMENDMENT WAS FRIENDLY TO THE MAKER, BUT NOT TO THE SECOND.**

**CONTINUATION OF DISCUSSION ON THE MAIN MOTION AS AMENDED:** Mayor Coss said it is difficult to find a non-profit which doesn't receive money from the City, with the exception of the League of Women Voters.

Councilor Bushee said she wants to name the organizations in the ordinance.

**MOTION TO AMEND THE MAIN MOTION, AS AMENDED:** Councilor Calvert moved, seconded by Councilor Romero, that the total number of members of the committee will be 7, with 4 members appointed by the Mayor, with the advice and consent of the city council from a list of four attorneys licensed to practice in New Mexico, submitted by the First Judicial District Bar Association, and 3 members from the public at large appointed by the Mayor, with the advice and consent of the Council.

**VOTE:** The motion to amend was approved on the following Roll Call Vote:

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

**Against:** Councilor Bushee.

**CONTINUATION OF DISCUSSION ON THE MAIN MOTION, AS AMENDED:** Councilor Calvert, referring to the amendments proposed by Councilor Chavez, [Exhibit "8"], "We're defining employer, I guess, and we're being very specific I guess about governmental jobs, but my question is why are we more concerned with people who work for another entity, as opposed to the private sector. I mean, I'm not understanding the thrust of this definition or clarification, because I think it's just as likely that someone in the private sector is going to have a conflict as someone who works in a governmental agency."

Councilor Chavez said this applies to us, apparently, as I thought we said earlier. He said when we file our disclosure every year, and it applies to us, employer means the name of an employer other than the City.

Councilor Calvert said then you just want this clarification, and you are not singling out people who work for governmental agencies in their regular job. You just want the specificity of where they work. He said he believes this is true with the private sector as well.

Councilor Chavez said it was just for clarity and asked Councilor Calvert what he would like to do.

Councilor Calvert said it might be more on point if we say that if someone works for a public employer that they give as much specificity as possible, whether it's in the public or the private sector.

Ms. Price said there are several places where the word employer is used, and if she points those out, it might shed some light on what you want to do with this, and Councilor Calvert said, okay.

Ms. Price said, "First of all, within Councilor Chavez's amendment sheet, the word "employer" is used in number 4, the third line up from the bottom."

Councilor Calvert asked her to repeat her remarks.

Ms. Price said, "On Councilor Chavez's #4, the third line up from the bottom, over on the right."

Ms. Price continued, "We also use the word employer on Ordinance page 3, line 10, for describing a relationship that constitutes a conflict of interest. And then we use it as described before, on Ordinance page 6, line 5, when we report every July: Who are you employed by, you write your employer. Those are the instances of this word, so that will tell you something. But I would like to point out, Item #4 of Councilor Chavez's amendments conflicts with staff's amendment #3, we can't have both. And then I need another clarification as we go along from Councilor Wurzbarger if I could."

Councilor Bushee would like to expand the definition of family, because it doesn't actually have to be a household member.

**FRIENDLY AMENDMENT:** Councilor Bushee would like to amend the Ordinance on page 4, line 2, as follows: to add the following to the definition of *Family*, as follows: "step-parents, domestic partner, significant other and..."

**DISCUSSION ON THE FRIENDLY AMENDMENT:** Councilor Wurzbarger asked the definition of "significant other."

Councilor Bushee said she believes people know the definition of "significant other," but if needed it can be defined.

Responding to Councilor Wurzbarger, Councilor Bushee said family doesn't necessarily mean they are living in the same home.

Councilor Calvert said it includes household, and you have to look at the definition of household.

Councilor Bushee said then it needs to be clarified. She said, for example, if her brother lives here, but not with her, she still shouldn't get him a job.

Councilor Ortiz said "brother" is defined.

Councilor Bushee said, "Then let's define significant other."

Mr. Zamora said, "Domestic partner encompasses significant other in many circumstances...'

Councilor Bushee said you need to be living with a domestic partner.

Mr. Zamora said, "That's the clarification, sorry... which is shared expenses, shared responsibilities, shared household. Okay."

Councilor Bushee said that's how we define it in order to get domestic partner benefits here in the City.

Mr. Zamora said, "So, to assist us with what you're trying to accomplish... dating relationships."

Councilor Bushee said, "Significant other, in other words, yes, they don't necessarily have to live with you..."

*Mr. Zamora's remarks here are inaudible because several others were talking at the same time.*

Mr. Zamora said, "The non-spouse, domestic partner, not living in the same house, to me it would mean a dating relationship. I'm just clarifying if that's the case."

Councilor Wurzbarger asked if this means they've dated them once, twice, four times... She has trouble with that language. **THE AMENDMENT WAS NOT FRIENDLY TO THE MAKER.**

**CONTINUATION OF DISCUSSION ON THE MAIN MOTION AS AMENDED:** Councilor Bushee said she is unsure why Councilor Ortiz felt the need to declare "domestic partner," as a separate family member, because they're already in the household, and she has no problem with that. She believes that people who have special relationships should also be included in the definition of family.

Councilor Ortiz said then it would also have to be included in the section on Nepotism.

**MOTION TO AMEND THE MAIN MOTION AS AMENDED:** Councilor Bushee moved, seconded by Councilor Ortiz, to amend the Ordinance on Ordinance page 4, line 2, as follows: to add the following to the definition of *Family*, as follows: "step-parents, domestic partner, significant other and..."

**VOTE:** The motion failed to pass on the following Roll Call Vote:

**For:** Councilor Bushee.

**Against:** Councilor Calvert, Councilor Chavez, Councilor Romero, Councilor Trujillo, Councilor Dominguez, Councilor Chavez and Councilor Wurzbarger.

**MOTION TO MOVE THE QUESTION:** Councilor Bushee said she is unsure we are improving the ordinance with all of the machinations, and moved the question, which was seconded by Councilor Romero.

**DISCUSSION ON MOTION TO MOVE THE QUESTION:** Councilor Wurzbarger said Ms. Price has just informed us that there is a conflict between Councilor Chavez's proposed amendment #4 and the Ordinance. Councilor Wurzbarger asked to remove approval of Councilor Chavez's Amendment #4, because it is covered under #3 and in more specificity, and asked Ms. Price if #4 is more definitive.

Ms. Price said she is unsure, but it definitely clarifies between categories.

**CLARIFICATION OF THE MAIN MOTION, AS AMENDED, BY MAKER:.** Councilor Wurzbarger clarified that neither Item #3 or #4 of Councilor Chavez's proposed amendments are part of her motion.

**CONTINUATION OF DISCUSSION ON THE MAIN MOTION, AS AMENDED:** Responding to Councilor Chavez, Councilor Wurzbarger said #4 is subsumed and #3 we have already discussed.

Councilor Chavez said then we are removing Paragraph 3 of Staff's amendments, and Paragraph 4 of his amendments.

Councilor Wurzbarger said Staff amendment #3 is not being removed and is included, and she is not using Councilor Chavez's Amendment #4 because Staff amendment #3 breaks it into the 3 categories and covers Councilor Chavez's Amendment #4.

Councilor Chavez asked Ms. Price if she feels the language in #1, #2 and #3 encompass and include everything that is in his amendment sheet.

Ms. Price said she doesn't feel she can answer that, because she hasn't studied #4 on his amendment sheet sufficiently to answer the question. She said, "I just know that in drafting the ordinance they overlap and will not mesh."

Councilor Chavez said he hope's staff's recommendation covers the amendments which were deleted from the motion.

**FRIENDLY AMENDMENT:** Councilor Chavez would like to amend the Ordinance to require a one year review. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER COUNCILORS.**

**VOTE:** The restated 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, "yes overall, but I really think we made a mistake with the staff amendments.

**MOTION:** Councilor Romero moved, seconded by Councilor Calvert to adopt Resolution No. 2011-23.

**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.

- 2) **REQUEST FROM WESTERN REFINING SOUTHWEST, INC., FOR A TRANSFER OF LOCATION OF DISPENSER LICENSE #0003 FROM GIANT STORE #6056. 1698 ST. MICHAELS DRIVE, SANTA FE, TO GIANT STORE #861, 5741 AIRPORT ROAD. (YOLANDA Y. VIGIL)**

A copy of a letter dated March 24, 2011, to Mayor Coss and City Council Members, from the Capital High School Parents Club, submitted for the record by Ramona Flores Lopez, is incorporated herewith to these minutes as Exhibit "11"

The staff report was given by Yolanda Y. Vigil. Ms. Vigil said the following items are included in the packet in opposition to this license transfer: a letter from Bobbie Gutierrez, Superintendent of Santa Fe Public Schools on behalf of Sweeney Elementary and the PMS/Head Start Program, Theresa Ulibarri, Principal, Sweeney Elementary School and letters from interested parents. There is a letter from Taylor Velasquez, Capital High School, with an accompanying petition, which was filed with the State of New Mexico Alcohol and Gaming Division, a petition to deny the license from Sweeney Elementary community, Student Wellness Action Team, and the Santa Fe Underage Drinking Prevention Alliance. She said, also

in the packet, pursuant to a request from Councilor Dominguez, is Giant's citation history from the State Alcohol and Gaming Division and also for establishments located on Airport Road.

Ms. Vigil said staff reports regarding litter, noise and traffic are in the packet. She said staff recommends that Giant be required to comply with the City's litter and noise ordinance as a condition of doing business in the City, and staff does not anticipate any unacceptable traffic impacts due to the approval of the request.

### **Public Hearing**

*All those speaking were sworn en masse*

**Shelley Mann-Lev, Chair, Santa Fe Underage Drinking Prevention Alliance**, thanked the Governing Body for its efforts to address alcohol abuse and issues in the community. She is here to speak against this liquor license transfer, at the corner of Meadows and Airport Road, which is within 300 feet of two schools, PMS/Sweeney Head Start and Sweeney Elementary School, with 600 combined students, which is directly across the street from the business. She objects on the basis of the State Statute. Ms. Mann-Lev said §60-6B-10 provides:

"Locations near Church or School. Restrictions on licensing. No license shall be issued by the Director for the sale of alcoholic beverages at a licensed premises where alcoholic beverages were sold not prior to 1981, that is within 300 feet of any church or school. A license may be granted for a proposed license premises if the person has obtained a waiver from a local option district governing body for proposed license premises. For purposes of this section, all measurements taken in order to determine location of licensed premises in relation to churches or schools shall be the straight line distance from the property line of the license premise to the property line of the school."

Ms. Mann-Lev said the reason for the statute is to create an appropriate buffer zone which experts recommend should be 1,000 ft., to reduce the exposure and the access to alcohol by children. She said, "We would like to request that the City Council deny this request based on State statute."

**Bobbie Gutierrez, Superintendent of Schools**. Ms. Gutierrez appreciates the work done by the Governing Body as elected officials, commenting that Mayor Coss has a difficult job. She knows all of them work to make the very best decision possible to run the City and keep the quality of life as wonderful as it has always been in Santa Fe. She said she is a long time Santa Fe resident and a 25 year employee of the School District. She said unfortunately she has no control over the issuance of liquor licenses, but she can share the effects of alcohol on the families and the people with whom they work every day in the schools.

Ms. Gutierrez said she went before the County Commission 10 years ago to protest a liquor license for this same location, noting it was an Amigo Mart/Shell at that time. She said one of their young

people petitioned the Governing Body this evening to deny this request. She said she can't improve the schools without the help of the Governing Body in external influences which impact the schools.

Ms. Gutierrez said as the Superintendent of Schools, she is requesting that the Governing Body deny this request by Giant/Conoco to transfer this liquor license. She said the State law is pretty clear about it being 300 feet from the property line.

Ms. Gutierrez spoke about a 6<sup>th</sup> grader in one of the schools who is having some difficulty, and the parent came in today to talk to the school about the student. The parent was on a cane, having broken her leg in 5 places in December as the result of being hit by a drunk driver, and the boy's grandfather was killed in the same accident. She said we are supposed to be responsible for this child, his well being and for his success, but he is focused on his mother and the loss of his grandfather. She said she sees similar situations every day. She said, "I beg of you your help in denying this liquor license."

**Ramona Flores Lopez, a volunteer with the Capital High Parents Club**, said they discussed this at their meeting on March 24, 2011. She said there was concern about the liquor license transfer to the Giant-Conoco was within the prohibited distance from the two schools. She said they urge the Governing Body to deny approval of the proposed transfer.

**Teresa Ulibarri, Principal of Sweeney Elementary**, said she is here this evening to tell you that part of her job is to help protect students, in addition to the academic concerns. She also has the social well being of each student in her mind every day. She said when she encounters students with difficulty some of the roots of their troubles have to do with alcohol in the family, and she can't help but think how dangerous it is to have a liquor establishment so close to her school providing such bad role models that frequent this business. She worries about the safety of her school, about the people purchasing alcoholic beverages, the clientele that hangs out and waits for the beverage, and she is here this evening to humbly request that the Governing Body deny them the access to this liquor license.

**Miguel Acosta, Director, Santa Fe Partnership for Community and Schools**, said his organization has worked for 25 years to reduce alcohol use, drugs, violence, etc., in communities in Santa Fe. He is here to speak against this request, in the hope that you honor the letter of the law, and the growing collaboration of institutions, community members, student and parents on the south side. He said some couldn't attend this evening, but are well represented by the people here this evening. He said there is a growing effort to make all of Santa Fe as beautiful as we want it to be. He hopes the Governing Body will vote against this request, and thanked them for their work.

**Stefanie Beninato** said she hopes the Governing Body votes against this liquor license, saying the State law is very clear. She wishes you would vote against these liquor licenses more regularly. She said people come in requesting a waiver, but they don't have to produce a reason they need the waiver. It is time for the City to establish a standard for granting waivers, and requiring the applicant to demonstrate a need or a hardship, or something to allow them to do that. This would establish when a waiver should be granted and when you should follow State law. She said the City should, as a general rule, have events

that don't require alcohol, noting there are many events where alcohol can be served or sold on City property. She said the Governing Body needs to be role models to show our young people that you can have a good time without alcohol and drugs, and that it is not a mark of adulthood to be able to purchase and consume alcohol. She supports everyone here who has spoken in opposition to the waiver.

**Suzanne Adams, Attorney, representing Giant and Western Refining Southwest, on the application.** Ms. Adams clarified that the applicant is not seeking a waiver, noting the establishment, when measured in accordance with the statute is 377 feet from the schools, and is beyond the 300 ft. limitation. She said, according to Attorney General's Opinion No. 74-18, the distance is measured from the edge of the licensed premises to the property line.

Ms. Adams said Western is a very responsible organization which has implemented best practices, and takes this responsibility very seriously. She said they train their employees very carefully, and said she has someone here this evening who is in charge of New Mexico operations who can describe in detail exactly how they train their staff to avoid underage drinking, and to avoid serving intoxicated persons. She said because of the type of establishment these citations could occur at any establishment. She said they do everything possible and want to demonstrate their commitment to be a responsible retailer. Commitment to be a responsible retailer. She said they are here this evening to speak more in detail about policies and practices, and how they do their training, and to answer any questions.

Mayor Coss thanked her, and said there may be questions during the discussion.

#### **The Public Hearing was closed**

Councilor Dominguez said he has been very concerned about the proximity of this establishment to the school, so he looked up the State statute, and asked Mr. Romero to provide him with a GIS map which showed the distance from property line to property line. He said he would like to get Mr. Zamora's clarification of the State statute provisions regarding its proximity to the school.

Mr. Zamora said, "There are two State statutes that apply. Ms. Adams stated that they are not applying for a waiver, they are simply applying for a transfer and it is their contention that they are outside of 300 ft. from the School. State statute 60-6B-10 addresses locations that are near a Church or School. The relevant language states that, 'No license shall be issued to a premises within 300 feet of a church or school.' And very specifically in the statute it says, 'For purposes of this section, any measurements taken to determine the location of a licensed premises in relation to church or schools shall be the straight line distance from the property line of the licensed premises to the property line of the church or school.' So, per State statute it is property line to property line."

Mr. Zamora continued, "That being said, let me tell you that there is some difference between the statute and the subordinate regulation, and that regulation is New Mexico Administrative Code 15.10.32.8, which actually contradicts the statute. It says, 'All measurements shall be the shortest straight line measure between the actual limits of the churches or schools real property,' and using all the relevant

language just to churches and schools. Because they talk about other organizations and military organizations and that. So, the actual limits of the church's or school's real property in which there is a regularly conducted church or education function to the licensed premises where the alcoholic beverages are proposed to be sold. It has been interpreted that the subordinate regulation, again it contradicts the statute, calls for a measurement from the school property line to the front door of the location where the alcohol is sold, or the first piece of the building where alcohol is being sold. So you have a contradiction there. The statute says from property line to property line, and in fact there is a New Mexico Supreme Court Case from 1992, University of New Mexico v. Hughes, 113 NM 304, which addresses the part of the regulation that contradicts the statute, but did not rule specifically on this issue. But the part of the regulation prescribing how the distance shall be measured, again I'm summarizing, the part of the regulation prescribing how the distances shall be measured is probably invalid as conflicting with the State statute. And this particular request falls in that ground where the State statute provides, which governs above the regulation, property line to property line. This location, according to the information you have from GIS, property line to property line, is at best 155.05 ft. measured property line to property line for the sites. And, if for some reason they argue that the Chicago Dog is a separate premises, there is also a measurement from the school's property line to the canopy which is clearly where they sell gasoline, that is 244.27 feet."

Councilor Dominguez said there obviously is a conflict. And based on information provided by the City it is clear that if you measure from property line to property line, as the statute suggests, that a waiver would have to be applied for. He asked the risks or the difference between denying the application tonight and asking them to come back.

Mr. Zamora said, "It is noticed on the agenda as an approval vote for a transfer, which puts it under §60-6B-4(F), the presumption is that a license would be issued, but the Governing Body may disprove the transfer on several issues, including whether the issuance or transfer would be detrimental to the public health, safety of the residents of the local option district. The difference is the presumption that the license will issue under §60-6B-4(F), whereas if properly followed under §60-6B-10, property line to property line, it falls under a waiver situation, where the presumption is no license issues unless the Governing Body waives."

Councilor Dominguez said given that and we have another liquor license coming up after this, he will move to postpone.

**MOTION:** Councilor Dominguez moved, seconded by Councilor Wurzbarger, to postpone this request to the last meeting in April, and ask the applicant to apply for a waiver, if they choose to do so.

**DISCUSSION:** Councilor Bushee said the last time the City rejected a license, it went back to the State and the State overturned the City's decision.

Mr. Zamora said, "Different situations have different fact patterns."

Councilor Bushee asked if he is familiar with the situation about which she spoke.

Mr. Zamora said, "I am not directly [inaudible], and we have a Supreme Court Decision from 1992, so it might be from that. If you are under §60-6B-4, the Governing Body must hear evidence to support a denial because the presumption is that the license will grant unless sufficient evidence is presented to deny. That's under straight consideration. Under a waiver consideration, the other statute that we've discussed, the presumption is that no license will issue, yet the Governing Body has the discretion to issue. To give the best example recently, in February you had a waiver request from Goler to serve alcohol and they were within 300 feet of a church. One different fact pattern, is that the church itself sent a letter in support of the event, approving the request."

Councilor Dominguez said as he understands this, if we were to just flat-out deny and not consider a waiver, then it gives the State the ability to grant the license a lot easier than if we have a waiver hearing and deny it based on the waiver, then the State has a specific statute they can follow and also deny it.

Responding to Councilor Bushee, Mayor Coss said right now we are on a motion to postpone.

**FRIENDLY AMENDMENT:** Councilor Dominguez said he should have stated in his motion that he finds that the measurement is within 300 ft. of the school, and the measurement from property line to property line is less than 300 feet of the school. **THE AMENDMENT WAS FRIENDLY TO THE SECOND AND THERE WERE NO OBJECTIONS BY THE OTHER COUNCILORS.**

**FRIENDLY AMENDMENT:** Councilor Ortiz would like to add a finding that we take judicial notice that there is an apparent conflict between the State statute and the Administrative Regs, and that given the factual finding and the legislative finding or judicial notice of the legislative finding, that a waiver is the more appropriate forum that we should consider, and we are giving the applicant the opportunity to request that or not. **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 Calvert, Councilor Chavez, Councilor Dominguez, Councilor Ortiz, Councilor Romero, Councilor Trujillo and Councilor Wurzbarger.

**Against:** None.

**Abstain:** Councilor Bushee.

3) **REQUEST FROM WALMART STORES EAST, L.P., FOR A TRANSFER OF OWNERSHIP AND LOCATION OF DISPENSER LICENSE #1317 FROM BALCONIES, INC., D/B/A ORE HOUSE ON THE PLAZA, 50 LINCOLN AVENUE, SANTA FE, TO WAL-MART STORES EAST, L.P., D/B/A WAL-MART SUPERCENTER #3423, 5701 HERRERA DRIVE. (YOLANDA Y. VIGIL**

The staff report was given by Yolanda Y. Vigil, noting there is a letter in the packet from Bobbie Gutierrez, Superintendent, Santa Fe Public Schools, in opposition to the license request. There is also a petition opposing the request from the Capital High School Community Student Wellness Action Team and Santa Fe Underage Drinking Prevention Alliance. She said there also are staff reports in the packet regarding litter, noise and traffic, and staff recommends this business be required to comply with the City's litter and noise ordinances, and staff does not anticipate any negative traffic impacts related to this request.

**Public Hearing**

*All those speaking were sworn en masse*

**Shelley Mann-Lev, Chair of the Underage Drinking Prevention Alliance**, thanked the Governing Body for its leadership, noting many were involved in the effort that began 1½ years ago with the City/County Leadership group to look at how to address the issue of alcohol abuse, the cost, the public health impact on safety, the kids and residents. She said over the past 1½ years progress has been made by the Alliance, as well as the City, including adopting an ordinance restricting drinking of alcohol at many events on City property, one of the environmental strategies that can change the alcohol landscape.

Ms. Mann-Lev said another key environmental strategy to reduce alcohol abuse is to address the issue of alcohol outlet density, and this is the issue we're looking at here with WalMart. She said the job of the Governing Body right now is to determine that adding another liquor establishment to the neighborhood that you see on that map is in fact contrary to public health and safety, noting she will describe the map. She said, "That map is drawn, the red line, with the help of the wonderful City staff, a two mile radius within Sweeney Elementary School, we consider the center of the Airport Road and neighborhood. And so, we drew that two mile radius. That means walking distance." She said there other schools on the map, noted in yellow, and 20,000 students attending those schools. She said we have talked about that before and you saw that wonderful video from Capital High. Ms. Mann-Lev said most families that go to these schools live in this neighborhood, noting they are not transfers-in, and this is the landscape they live in.

Ms. Mann-Lev said, "Tonight as you consider this liquor license, we want you to notice the density of alcohol outlets in this neighborhood. And the packet we gave you contained some of the research articles by some of the top researchers in the nation. She said alcohol outlet density is correlated with all forms of alcohol abuse, including heavy drinking and all the alcohol-related crimes at alcohol related property, that means violence and there are some specific things related to that that you saw in credible studies in city after city. And regardless of economics and regardless of ethnicity, that violence occurs where there are more alcohol outlets in the same area. We have violence, we have crime, we have

vandalism, we have child abuse or neglect, we have DWI, we have alcoholism, and cirrhosis of the liver. All of these harms are associated with a higher density of alcohol outlets."

Ms. Mann-Lev said, "So, looking at the yellow push-pins of the schools, gives you an idea of the population density of that neighborhood. And if you look over there at the blue push pins, those are the at premise outlets, red push-pins are the on-premise outlets, white push-pins beer and wine licenses. There are 12 on-premise, 11 off-premise, that's 23 liquor licenses in that two mile radius of Sweeney Elementary. Let me say that the State passed a law after so many liquor licenses were already established that said population to liquor license, one liquor license for every 2,000 people. Of course, all of the liquor licenses were grandfathered-in. So we have 23 liquor licenses in that 2 mile radius, and if you do the math, you know we don't have 46,000 people. With 4,000 school children, you have some adults, we don't have the exact population figures, but we are talking about an area that has 23 full liquor licenses and 11 beer and wine, more than 35 places that would be enough to cover the entire City."

Ms. Mann-Lev said, "Walmart is going to bring some good things to our City, particularly to our neighborhood. They're going to bring groceries priced to buy, many kinds of goods. They're a profitable business, apparently, on Cerrillos Road, I'm sure they're making good money. Why now. Why do we need liquor in an area that already has enough liquor and has serious public health issues. You heard the story from our Superintendent, we could tell you some serious stories and a few people here will do that. So, we are requesting that on the basis that adding another liquor license, another full off premises license in this neighborhood is, in fact, contrary to public health and safety. And the evidence for that goes so far beyond the density that is recommended by the State."

*Mayor Coss said although he did not set a time limit, he would ask people to be quick in giving their remarks.*

**Bobbie Gutierrez, Superintendent**, said she is speaking for Ms. Romero, the Principal, who has two young children she had to pick up from her mother a little after 9:00 p.m. She said she and Ms. Romero want to thank Councilor Dominguez for his support and the work he has done recently with Capital High students on what makes a healthy neighborhood. She said she doesn't think issuing this liquor license to Walmart is helpful, although WalMart will be helpful to the community in many ways. Her interest in having WalMart is that it provides jobs for the community which is essential for our economic growth and development, which is important to the schools and to the City. However, it is too easy for our kids to get alcohol in this community. She said you can park at a convenience store, just about any store that sells liquor to go now, and if you watch long enough, you will see some of our high school students pay someone to go in and buy liquor for them – they call it "shoulder-bumping," and other things. She said it's real, and it happens. She said come with Shelly and her sometime and they'll show you what happens and what happens in our community. It is easy access.

Ms. Gutierrez said we all have responsibility about what's happened in the Airport Road corridor and the south side of our City and the quality of living. There are many families living in that area at the poverty limit which puts stress on the schools, which struggle with academic achievement. The young

people come from homes which most of you couldn't believe, and there is alcohol in the homes of most of them, and sometimes there's drugs.

Ms. Gutierrez said, "So I will ask you to think about this. Again, this is not something that, as the Superintendent of Schools, that I have control over, but you do. And it would be helping the young people in our community, because they're our future, and if we don't start investing in them, we're not going to have a future. I know that probably this may be important in some way, but I don't think that any amount of money a vendor or business owner makes replaces the life of a child."

Ms. Gutierrez said, "In 2005, I was still the Associate Superintendent of Schools and Dr. Rendon was out of town, and I had to deliver the graduation speech for our Summer School graduates. And 3 days before graduation, some of you may remember this accident, Carmichael you will remember this accident, we had some teenagers who were out goofing around, a summer night in July. One of them fell backwards out of a convertible. Drugs, as well as alcohol, were involved. And 3 days later, I was in the Capital high theater, Carmichael was there, and this young man was scheduled to graduate from high school on that day. So the other students and the principal decorated the chair where he would have sat. and I don't think any of you, except Carmichael, and I doubt any of the vendors that sell alcohol, have had to present a posthumous diploma to a young man's parents. Again I ask you to consider this carefully, and I'm begging for your help. This is an issue in our community. It is an issue in our State and it's something you have the power to control."

**Jessica Apodaca** said she works as a Prevention Specialist for the Schools, and also is the mother of a kindergartner in the schools. She is a single mom who works, and is excited about the one-stop shopping at Wal-Mart. However, isn't excited about "another exposure of alcohol to my daughter." She said this is the problem. It's the density, the exposure, another Giant Station, another Walmart Station. She asked how many more we need. She asked her daughter what she thinks should be across the street from her school. She said good things that make you healthy, and this is a 6-year old. She said this isn't good for our community. She wants to make a safe good place for daughter and her friends with whom she plays soccer and tee-ball and gymnastics.

**Phil Lucero** said he works with SWAT [Student Wellness Action Team], representing 140 youth across the City, who come together to address issues involving alcohol, drugs and other things. He said Taylor Velasquez spoke earlier this evening about a team project which was to do a study on how alcohol advertising impacts our community. The first year of the study, they came across the license at the Giant/Conoco and their study turned into a much different project. They ultimately made a film about the Giant/Conoco license. They soon found out about the Walmart license and "it just ballooned from there."

Mr. Lucero said they made a film which was shown to the Council on February 23<sup>rd</sup>. He said many of the students feel the same way about the proposed liquor license, noting the petition in the packed. He said, "On behalf of the students I represent, 140 across the City, I would just like to share with you all that we do not approve of the liquor licenses that are going on in this community. On a personal note, my wife is a Social Worker at Ortiz Middle School, and through our stories, we have a good understanding of some

of the issues that plague the City, especially on that side of town. And I would just like to say that alcohol comes up a lot. Alcohol ruins lives. Alcohol ruins the lives of the youth we work with and it's just something that I think we need to pay special attention to."

**Miguel Acosta, Santa Fe Partnership for Communities and Schools.** Mr. Acosta said he is involved with the Juvenile Probation Office and Judge Vigil on restorative justice. He said over 90% of the cases involve alcohol or another substance which alters their thinking and alters their lives. He said he is a recovering alcoholic, and he has committed part of his life's work battling against the marketing of disease to poor communities. He said, "It's not an accident that you have this kind of concentration of liquor licenses in that area. It isn't because of money. It's that people who are poor and struggling are targets for the liquor and tobacco industries." Mr. Acosta said we don't need another liquor license in that part of town. He said we need support from these kinds of people that are building a health community. He said they are going to build a model for Santa Fe and hopefully New Mexico. He asked support in not contributing to the marketing of disease in the Chicano and Hispano communities.

**Shelley Mueller, Santa Fe Underage Drinking Prevention Alliance,** said she has a Masters in Health and Community Regional Planning, and is an evaluator for and with the Alliance. She said the Rand Corporation, the research and development non-profit corporation, aims to improve policy and decision making in communities through research and analysis. One of its top ten strategies to reduce underage drinking is to reduce and or eliminate the number of alcohol sales outlets in a given geographic area. The Centers for Disease Control also lists the same strategy as a way to address and reduce underage drinking and alcohol consumption in general in its community guide, which is on-line. It is a references for communities to review in addressing community health issues. All strategies listed have been evaluated and are known as best and proven practices. Keep this in mind, alcohol density, as you consider this tonight. She encourages you to look at the policy about the number of alcohol licenses that are supposed to be given out in relation to the number of people living in a given area.

**Lisa Grace Jufra, member of the Santa Fe Underage Drinking Prevention Alliance.** She said one of her responsibilities is to manage the Santa Fe Retailing Project. The project is an educational program which utilizes pseudo-intoxicated mystery shoppers as an opportunity to assist alcohol retail establishments and recognizing and effectively dealing with intoxicated persons in order to comply with New Mexico State law.

Ms. Jufra said, "We conduct compliance checks of 40 off-premise locations, alcohol retail establishments within the City limits as well as in the County, and provide them with written feedback on employee performance regarding sales to intoxicated customers. And I can proudly say that the Santa Fe model was presented at the National Conference for the Responsible Retailing Forum in 2009. The fiscal results at the end of 2010, showed that 18% of Santa Fe County off-premise retailers agreed to sell alcohol to the pseudo-intoxicated, but 82% of the retailers refused to sell to intoxicated persons. Of the 9 establishments who agreed to sell, 9 out of 14, 4 were grocery stores, and 5 were gas station stores and 7 of the 9 also agreed to sell throughout the year. Results in 2008-2010, illustrated approximately 20% of cashiers on duty at the time of a mystery shopper visit agreed to sell. Additionally, they have noticed a few

trends, over the past 3 years, in that establishments with the highest rates of success who refused to sell were establishments where cashiers sold fewer types of products in a clearly designated area – basically where cashiers were less distracted, as is the case with segregated alcohol sales.”

Ms. Jufra continued, “In addition to discouraging youth, a segregated sales area is also a productive mechanism to eliminate other associated problems such as theft. And I hope you consider this, and if you have other questions and/or need the final report, they are happy to share that with the City. She urged that you deny the request of Walmart.

**Diane Pacheco, Capital High School, Project Success Director**, said she deals with high risk youth. She spoke about a student whose father became an alcoholic after losing his job in the construction industry, noting the student was an A-B student her Freshman/Sophomore year. She is now a Junior and failing. He mother works 3 jobs to make ends meet, and this young woman picks up her siblings after school and daycare, takes them home, cooks dinner for the kids, sees that they do their homework, cleans up after dinner and bathes the kids, and puts them to bed. She gets to bed about 11:00 p.m. every night, and she is failing in school. She is no longer able to play on the soccer team. The student is failing Geometry and no longer is able to come to after-school tutoring. She said all of this is due to the use of alcohol in the family. She has had over 300 referrals this year, and said the impact of alcohol in our community is devastating. She said students are sometimes ashamed of the parents and she tells them their parents didn’t say once, “I want to be an alcoholic. I want to be a drug addict.” However, because alcohol is so readily available in our community this is what they go to. She said they want a quick fix.

Ms. Pacheco told another success story about a young man who was an alcoholic, and it has been one year on Monday since he has had a drink. She said he's itching to take a drink, and sees it all the way up Airport Road, commenting she doesn't understand how Walgreens's got its liquor license. She said when you're craving a drink, you don't have the patience, the internal locus of control. She is “battling” with him to keep him straight, and advised him to have some fun time with his family – treat his family to a movie.

**Randy Maes, Walmart, Market/Human Resources Manager**, said he wants to iterate that WalMart is interesting in being more responsible and contributing to this community, and believes they will continue to be so. He said he too is concerned about alcoholism as well, but as an organization, they have put in great measures to be sure that the cashiers and those distributing alcoholic beverages to their customers are very well trained. They are required to go through C.B. Ellison and education with regard to responsible distribution of alcohol to avoid sales to underage people and those who are intoxicated or appear to be intoxicated, who come into their store. He said when someone scans a product, they have one of the most dynamic systems in the industry, in terms of the point of sales, and requires those individuals to check an ID every single time an alcohol sales is run through a point of sale system. He said he believes they take great measures in compliance issues to make sure they are thwarting inappropriate sales and distribution to those who come into their stores. He understands the stories this evening, and they are very disturbing to him because he is a parent as well. He wants to assure the Mayor and

Councilors they very much want to be a responsible citizen in Santa Fe, and make sure they contribute to cleaning up some of the things that are happening in alcohol distribution in this community.

**B.J. Tyco, current Manager at WalMart on Cerrillos**, said he has lived in Santa Fe for 15 years, and has been with WalMart for 20 years. He said WalMart is definitely a very powerful company coming into Santa Fe as a super center. It is one-stop shopping. He said you will see no neon lights advertising alcohol, such as in a convenience store or in the bars. He said the liquor will be packaged and at the back of the store, one aisle, and after times when it can't be sold, the gates will be closed. He said WalMart donates a tremendous amount of money back to the community. He is very involved in the music industry on the south side for elementary and junior high students, so they look forward to coming into Santa Fe and keeping more gross receipts tax in Santa Fe, noting a lot of his family can't buy groceries in Santa Fe, so they go to Bernalillo or to Espanola, and that loses GRTs for Santa Fe. He said WalMart is here to save people money so we can live better and that's what they want to do. He said the last time we talked about the super center, we were at the Chavez Center until 3:00 a.m., and is glad it is only 11:00 p.m., which is much better.

**Brent Cohen, Market Asset Protection Manager for Northern New Mexico**, said he is charged with the facilities safety and security. He said he heard references to theft, and they understand theft is a way to divert merchandise for underage patrons. He said there are several layers of security in the store, which work on a detection entity deterrence factor. He said there will be gates closing the aisle after hours, and there also is a plan for a digital recording system which records 24 hours a day inside and outside the facility, noting it is very expensive. He said there is a salaried management staff – plainclothes asset protection associates, visible uniformed asset protection associates, and our asset facilities managers within the facility. These are all extra sets of eyes to deter theft of alcohol and other items which could be damaging or harmful to our youth. He said in the event the deterrents don't work, they will comply with the law and apprehend any individuals caught taking items and refer them to either their parents or law enforcement.

**Linda Aiken, 1952 Thomas Avenue, Attorney for WalMart on this particular matter.** Ms. Aiken said this isn't a convenience store and there are a number of individuals to monitor and watch what's going on, instead of just two people at a convenience store at a time. She said this is not the type of place where youths are going to want to try to steal liquor, because you have to go from the back northeast corner to get to the south side to get out. Walmart does not carry small sizes and lots of people are watching them.

Ms. Aiken said also, in terms of theft, in 2004, the New Mexico Legislature created the New Mexico Inter-Agency Behavioral Health Collaborative, composed of a number of State agencies together. About a year ago, they issued a press release entitled, "New Mexico Ranks the Second Lowest in the Nation for Underage Purchase of Alcohol." She said the bottom line is the data from 2006-2008, found the percentage of past month drinkers age 12-20, who bought their own alcohol were among the lowest: Alaska 3.1 and New Mexico 3.7, noting the national average is 8.6. In New Mexico youth aren't able to

buy alcohol for themselves, because there are lots of sting operations and serious penalties, so that's not where it's happening. She said this is a theft issue and not an ability to purchase in New Mexico.

Ms. Aiken said some of you were discussing the Airport Road corridor, which she's seen in the newspaper, and how things should develop along the road. However, this is not in the area which she saw on the map in the newspaper she saw for consideration, and this business is further outside the limit of that. It is in the same end of town, but it's not within the particular map she was able to see. She said the address for WalMart is on Herrera, but it is right next to Cerrillos Road and very close to the Outlet Mall.

Ms. Aiken said she has heard comments regarding density. She said beer and wine licenses are not full licenses, and secondly a number of those are around Villa Linda Mall or around the theaters. Those restaurants are there to cater to the entire City when people go shopping, and not just for people who go to the theater. She said the Walmart is one mile away and there is only one liquor license, so there is not a great density at this end of the City or close to Walmart, noting it is not close to a lot of things. She understands the two-mile radius, but that two-mile radius from Sweeney goes almost to Richards Avenue which is a long way.

Ms. Aiken said, "So, if you were ever to get into a policy discussion about availability and density, I'm not sure that two miles would be the appropriate distance you would be discussing. It's also not part of any law any place in the State in terms of density. And I've heard the arguments and the discussion on both sides. Some people think you should have them all in one location and protect the rest of the City, and some people think you should have one every mile or half mile, just don't get too close together. So, that's a policy decision to be made, and as far as I know, has never been made any place in New Mexico to date."

Ms. Aiken said there are a lot of liquor licenses up and down Cerrillos Road, and "I don't believe that's where the City or Council is going, is prohibiting liquor licenses up and down Cerrillos Road. I understand Airport Road is still developing and there is still plenty of time to consider what to do with that in the future. But I think Cerrillos Road has a number of liquor licenses as it is. It would be inappropriate to disapprove this one because of its location."

Ms. Aiken said, "I think the City Attorney referred to the standard, so there has to be real evidence to support a disapproval. And that real evidence has to be something specific. I feel bad about, and I can tell you stories myself about, horrible alcohol problems, but they have to relate to this location. They have to be something particular about this location, and not the whole City, under consideration."

**John Beaupre** said he has operated the Ore House on the Plaza since 1976, and he has tried to do a good job, and has never had a major incident. He said so it wasn't without some conscience that when he sold the license he was particular to whom it would go, and he was delighted that WalMart is buying the license. He said, "I can't think of a more responsible company. It's well run, it's beautifully organized, the biggest retailers in the world. I would think this would be, of all places, to have a license, a

package license like this, would be as good a one as you could have. And I feel pretty solid in my own mind that our sale is worthwhile and a terrific operator, so I urge your approval."

**Stefanie Beninato** said she also opposes any more sale of liquor at WalMart. She said, however, being a lawyer, I sort of have to play "devil's advocate," because as the lawyer pointed out, for WalMart, there has to be real proof. Now, most of the people who got up here didn't just say I don't want this license, I don't want it. They gave you some pretty specific reasons I think. But it will be up to you to decide if that is enough proof to deny a license to a business, that there's no other real law constraining it. The recommendation on the density to have one liquor store for every 2,000 people, that's just a recommendation. So, I'm doing to urge you tonight is that you all come up with an ordinance or a policy that says this is the density of liquor that we want in our town, not just on Rodeo Road or the south side of Cerrillos Road, but all over town, so you have a rational basis from now on, at least, to be able to not deny the proliferation of liquor stores in our town, whether they're liquor stores, or they're WalMart type stores, grocery stores, whatever they are. I think the City would be in a better position, much more protected position, that means not going to Court, if you had this in place before you deny this. I'm still urging you to deny it, but I would assume that if you do that you may be challenged in Court because you don't really have a provision, either a State provision requiring this, or you don't have any basis for denying this particular license, because you have no plan for where a liquor should be and the density."

#### **The Public Hearing was closed**

Councilor Dominguez said Ms. Aiken has heard the safety concerns, and part of the transportation plan for that area is to get kids to get off the streets in the neighborhood of Tierra Contenta and Airport Road, and use Cerrillos and another street to get to Capital High. He asked how WalMart will address those safety concerns and making sure they are a good neighbor to the community.

Ms. Aiken asked clarification for Councilor Dominguez's particular worry, and asked if he is worried that the students will have access to liquor, that people will be drinking in that part of town. She is unsure she understands his safety concerns.

Councilor Dominguez said it is obvious that kids will be driving through that area to get to school. How will Walmart address the potential that some kids may stop there to try to get alcohol, whether they are going to shoplift it, or try to purchase it, or have the employees at WalMart get it, noting that a lot of theft comes from the employees of that kind of establishment. He asked how WalMart will ensure they will do everything they can to see that kids or children won't have access to the alcohol.

Ms. Aiken said she heard this evening that there will be security caps on the alcohol that have to be removed, or they make a big noise when the person leaves the store. She said there has been comment about appropriate buffers between the school and the licensed premises, being 300 feet in New Mexico which she hasn't heard before. She said this is half a mile away and not even close to the limit.

Councilor Dominguez asked if WalMart is going to do anything else than what has been articulated tonight.

Ms. Aiken said she can ask them, and they are open to suggestion.

Councilor Dominguez asked if WalMart would be willing to segregate the location of their alcohol and purchase terminals. He asked if they would be willing to put the alcohol in the back of the store, or as far away from the entrance is possible, commenting these are the things he wished they had said in the beginning.

Ms. Aiken said she did mention it was in the back of the store and they would have to clear through the store.

Councilor Dominguez asked if there will be segregated sales.

Ms. Aiken said there is no cash register at the back of the store where the liquor is located.

Councilor Dominguez said this would be one way he could say that WalMart was doing everything it could to limit the sales of alcohol to minors. He said this has been proven in other stores in Santa Fe and around the country. He asked if WalMart would be willing to do something like that.

Ms. Aiken said she hasn't discussed that with Walmart and she can't commit to that, noting she has represented Walmart on the other liquor licenses they have in the State of New Mexico, and none have the separate area, so it's doubtful. She lives two blocks from Santa Fe High, noting there are more liquor licenses in that area than in this one.

Councilor Dominguez said this license is more difficult because it doesn't require a waiver, and is not within 300 feet of a school, so we have to look at the general health and safety concerns and whether or not there is a concern about those things as this application is being considered.

Councilor Dominguez asked Mr. Zamora, in case there is a denial, what is it the applicant has available to them. What is the next step. Do they appeal to the State.

Mr. Zamora said, "My understanding Councilor, they have the ability to appeal to the Director of Alcohol & Gaming for an over-rule from them and they further have remedies through the Courts to litigate and appeal this."

Councilor Dominguez said, "Then basically, this is one of those instances we talked about before where the State more than likely would consider that appeal and possibly approve the license, irregardless of the City's position on it."

Mr. Zamora asked him to repeat his question.

Councilor Dominguez said, "It sounds like what you're saying is irregardless of the City's position on it, because there is an appeal process, the State could potentially approve that license, depending on how strong our argument is, I suppose."

Mr. Zamora said, "That is correct. The State will have the opportunity to evaluate the minutes and the record of the meeting in which approval or denial was considered by the Governing Body."

Councilor Chavez said there is a document in the packet from the Regulation & Licensing Department, and "Councilor Dominguez, all of that is in there. It gives a timeline for the applicant that's requesting a transfer of ownership and location. We have to respond in writing within 30 days after the public hearing, and we must notify the Alcohol and Gaming Division in writing as to whether the local governing body has approved or disapproved the issuance or transfer of license. And in that correspondence, we also have to provide all of the minutes for the meetings. So, we are pretty much tied to the Regulation and Licensing Department, what their regulations are, and it's pretty clear."

Councilor Trujillo asked why this WalMart needs liquor, when the original WalMart that has been there for many years does not sell alcohol and never has.

Ms. Aiken said it might be appropriate for the others to answer, but based on what she knows about these kinds of operations, this will be a much broader kind of sales. Grocery is a definite addition.

Councilor Trujillo asked if liquor is considered to be grocery.

Ms. Aiken said it is considered a grocery in terms that it goes with all the products that a typical grocery store has, and to be competitive they do the same things everyone else does.

Councilor Trujillo asked if the sales at the current Walmart have been hurt because there is no sales of liquor, noting he lives directly across the street and goes there 2-3 times a week and Walmart is always busy.

Mr. Tyco said he sees Councilor Trujillo in the store quite a bit and appreciates that. He said there are a lot of tourists who come in to buy liquor – wine, beer and such – to go back to their hotel room and have a few adult beverages and watch a ball game, or relax from skiing. He said they are requesting liquor sales at the Super Walmart because it is all about one-stop shopping – getting everything at one time. For example, a single mother can take her kids out of the car once to buy what she needs and then go home.

Councilor Trujillo said in Santa Fe we have Walmart, Target and K-Mart, none of which sell liquor. He is glad there is a new Walmart on the south side to serve both City and County residents..

Councilor Trujillo asked Mr. Zamora if a school were to be built across the street from Walmart, and we approved this liquor license, would the liquor license be pulled or it be grandfathered.

Mr. Zamora said, "To be honest with you, that's a pretty complicated question that would take some research. Again, the fact is that a license is granted to this licensee and a school comes in afterward, I just haven't looked at that issue, and I do not have an answer for that."

Councilor Dominguez said this isn't so much about the technical issues for him, as it is about sending a message. He said, for himself, if Walmart had come in with a message that they will do everything they can, include segregate point of sale, all of that, it would tell him they are considering the impact that alcohol has in general. He said, "I say this with all due respect to what Walmart is providing in terms of the one-stop shop. My wife will get upset because she can't buy me something while she's there. But nonetheless we have to look at the overall picture. And I'm not so much concerned about the State. If the State wants to approve this, they can go ahead and approve it. But, as far as I'm concerned, we as a Governing Body and community need to start sending the message that we're going to start taking these kinds of things seriously. Since when have we worried about the State. I don't know. We've battled with them for the Rail Runner, for all kinds of issues. You name it, we battled with the State all the time, whether it's our Historic District or some of the cultural things they have for us to consider... We've challenged and battled with the State all the time."

**MOTION:** Councilor Dominguez moved, seconded by Councilor Wurzbarger, to deny this request, based on the general health and safety issues that we have in our community.

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

**For:** Councilor Calvert, Councilor Trujillo, Councilor Wurzbarger and Councilor Dominguez.

**Against:** Councilor Bushee, Councilor Chavez, Councilor Ortiz and Councilor Romero

The resulting vote was a tie, and Mayor Coss voted yes, and the motion to deny was approved.

**Explaining her vote:** Councilor Bushee said, I'm going to explain my vote. You know, we tried this before and tried, I can't recall, it was before Brian Egolf got elected to the State Legislature. He was representing the liquor company. And we decided there were too many liquor licenses on that side of town. And pretty quickly, we were reversed by the State. And as empathetic and sympathetic as I am to the issues of being close to a school... I actually opposed the super Walmart coming in, but never was the discussion at the time of approval of the Super Walmart, well we don't want future liquor sales. In fact, the argument was made by the folks that represented that side of town was that people want to shop there and they want to shop on that side of town and this is needed. I have to say.... I understand Councilor Dominguez's vote, it's fairly symbolic, because I don't think this is going to go anywhere with the State. We are not allowed... and I know somebody talked about it being in our hands. We really don't have much say over this. We're just sort of a pass through, so I am going to have to vote no."

**Explaining his vote:** Councilor Calvert said I'll vote yes, with the understanding that we're citing the density of liquor serving businesses in this area.

**Explaining his vote:** Councilor Chavez said, "Well we haven't even established policy on that density. I know that density is a concern, but I do feel that there are a lot of people that have waited a long time for WalMart, and it was full service. The good with the bad. And the good is all the good it provides, the food, the produce and provides liquor sales. And I think we need to do that... we need to be cautious about that. We need to send the message that we have a concern about DWI, not only underage drinking but in general, and so I'm not going to support the motion at this time.

**Explaining his vote:** Councilor Dominguez said, "I think I respect everyone's position and everything that everyone has to say, and one of the reasons I'm proposing that we start coming up with policy on density, especially in that part of the community. It's something that's needed in the entire community, so obviously, I vote yes.

**Explaining his vote:** Councilor Ortiz said, "First of all, I want to apologize to those of you who stayed late. We should have not moved you guys back so you could hear one of the more picayune conversations about an ordinance that we spent way too much time on, and so I apologize for that. I will say, however, that in your presentation, as clear and sharp as you were on the first case, you sort of lost focus on the second. If you would have presented evidence that showed that this is an area that is out, essentially in the boon docks, and because of that, there is activity of underage drinking, both in Las Soleras that I have noticed, as well as in this particular area, and that drinking would be exacerbated by the granting of this license, and it would make it easily accessible to allow people to purchase alcohol and then go, essentially, across Cerrillos Road and be in an open space. Then those are the kinds of fact and evidence that I think could have persuaded me that we have grounds to do general health, welfare and safety for this particular location, but that evidence wasn't presented. And, because it wasn't presented, and, as Councilor Bushee said, we are largely, as the result of State statute, a pass through, when we don't have a hook to hang our decision. For that reason, because really of the lack of evidence, I have to vote no.

**Explaining her vote:** Councilor Romero said, "I appreciate everybody who did come tonight, and it's a hard one to say no to this, but I'm going to have to for the reasons just noted. As a person last year who tried to get through just a fifty cent tax on alcohol, it got nowhere at the State. Councilor Dominguez is correct, we have had our issues with the State and one we definitely need to take on at the State level. But, we are a pass through on this one, and I just see it will come back in a completely different way. It's not that we don't support the issues that have been mentioned strongly, but I think there's other ways that we need to change the laws that allow the State to do what they do. For that reason, I'm going to say no, but I deeply appreciate that folks did come tonight, and I feel great that we did right on the first one. We set the groundwork on doing something on the first one."

- 5) **CONSIDERATION OF BILL NO. 2011-3: ADOPTION OF ORDINANCE NO. 2011- \_\_\_\_ (COUNCILOR CALVERT AND COUNCILOR BUSHEE). AN ORDINANCE ADOPTED AS AN URGENT MEASURE ESTABLISHING A SIX MONTH MORATORIUM ON THE APPROVAL OF PERMITS FOR THE INSTALLATION OF TOWERS AND ANTENNAS SUBJECT TO CHAPTER 14 OF THE CITY CODE, LOCATED ON PRIVATE PROPERTY OR CITY PROPERTY EXCLUDING PUBLIC RIGHTS-OF-WAY. (MARCOS MARTINEZ) (Postponed at March 9, 2011 City Council meeting) (Withdrawn)**

This item was withdrawn by the sponsor.

- 6) **REQUEST FROM BALCONIES, INC., FOR A RESTAURANT LIQUOR LICENSE (BEER AND WINE ON-PREMISES CONSUMPTION ONLY) TO BE LOCATED AT THE ORE HOUSE, 50 LINCOLN AVENUE. (YOLANDA Y. VIGIL, CITY CLERK) (Postponed to April 13, 2011 City Council Meeting)**

This item is postponed to the Council meeting of April 13, 2011.

- 7) **CONSIDERATION OF BILL NO. 2010-32: ADOPTION OF ORDINANCE NO. 2011- \_\_\_\_ (COUNCILOR ORTIZ AND COUNCILOR TRUJILLO). AN ORDINANCE AMENDING VARIOUS SECTIONS OF CHAPTER 14 SFCC 1987, LAND DEVELOPMENT CODE, RELATED TO APPEALS. (MATTHEW O'REILLY) (Postponed at February 23, 2011 City Council Meeting). (Postponed to April 13, 2011 City Council Meeting)**  
a) **CONSIDERATION OF RESOLUTION NO. 2011- \_\_\_\_ (COUNCILOR ORTIZ AND COUNCILOR TRUJILLO). A RESOLUTION ADOPTING ADMINISTRATIVE PROCEDURES RELATED TO APPEALS OF LAND USE DECISIONS. (MATTHEW O'REILLY) (Postponed at February 23, 2011 City Council Meeting). (Postponed to April 13, 2011 City Council Meeting)**

This item is postponed to the Council meeting of April 13, 2011.

#### **16. MATTERS FROM THE CITY CLERK**

There were no matters from the City Clerk.

#### **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 March 30, 2011, is incorporated herewith to these minutes as Exhibit "12"

### **Councilor Dominguez**

Councilor Dominguez introduced the following:

- a. A Resolution to allow an access break along the I-25 Frontage Road. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "13."
- b. An Ordinance creating a new Article 10-11 SFCC 1987 to establish Beekeeping Regulations. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "14."

### **Councilor Calvert**

Councilor Calvert introduced the following:

- a. An Ordinance Repealing Section 14-6.2(E) SFCC 1987 and creating a new section 14-6.2(E) SFCC 1987, regarding telecommunications facilities outside public rights-of-way and making such other necessary changes.
- b. A Resolution adopting application fees for the review of telecommunications facilities in accordance with Chapter 14 SFCC 1987. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "15."

Councilor Calvert said Santa Fe earned Tree City USA designation for the second straight year, and thanked everyone in the Parks Division – Fabian Chavez and Robert Woods and everyone that worked to get that distinction.

### **Councilor Trujillo**

Councilor Trujillo introduced an ordinance repealing Article 20-21 SFCC 1987, and creating a new Article 20-21 SFCC 1987, regarding vehicle towing services. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "16."

Councilor Trujillo said he spoke with Robert Romero and with Isaac Pino about the Fishing Derby, and said he doesn't know the current situation at the reservoir. He said if it is good for this year, they are looking at the possibility of closing off the section of Alameda in front of Land Office. He did speak about this with Isaac Pino, but he hasn't gotten back to him in this regard. He doesn't know if the Derby will be with the River Festival or if we're looking at postponing it to Community Days. However, if it is with the River Festival they are looking at that section of Alameda, and asked Mr. Romero to check into this. He

said with the warmer weather, we need to make sure the fields are ready for the kids to play on, and that there are no prairie dogs or gophers.

### **Councilor Ortiz**

Councilor Ortiz said he introducing a Resolution on behalf of Councilor Wurzbarger, suspending the enforcement of those sections of Chapter 14 SFCC 1987, setting forth the expiration of development approvals due to severe economic conditions, and asked to be a cosponsor on the Resolution. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "17."

Councilor Ortiz said he wants to echo what Councilor Trujillo said, noting that some of the teams that have contracted to use the baseball at Ft. Marcy are being advised they have to contact an ex-City employee, and they aren't dealing for City Staff, noting he was contacted by the Santa Fe Prep team. He asked Mr. Romero to look into the matter to be sure all the fields are maintained by City staff and all the vermin are off the fields.

Councilor Ortiz thanked the Council for supporting the Don Lovato Resolution, noting the Lovato family is having a problem with some of the expenses, the funeral and burial and such. He said a Memorial Fund has been set up so people can contribute at any First National Bank branch. He thanked the employees for the Frito Pie benefit at the Parks Department on Siler Road yesterday. He said Mr. Lovato was a great guy, and his family could use some help.

### **Councilor Bushee**

Councilor Bushee introduced the following:

- a. A Resolution in honor of Gail Ryba, naming a combination of existing and planned trail segments following the alignment of the Arroyo de Los Chamisos eastward from the Santa Fe Rail Trail, under St. Francis Drive and continuing to the intersection of West Zia Road and Old Arroyo Chamiso Road. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "18."
- b. An Ordinance amending Section 27-2.16 SFCC 1987, regarding the Communication Franchise Advisory Committee in order to rename the Committee as the Telecommunications Advisory Committee and to revise its duties.
- c. A Resolution amending Resolution No. 2010-56 in order to rename the Communication Franchise Advisory Committee as the Telecommunications Advisory Committee, and to revise its duties.

- d. An Ordinance amending various sections of the *City of Santa Fe Uniform Traffic Ordinance* related to bicycles. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "19."

Councilor Bushee said she knows we are in transition at the Police Department, noting an article in the newspaper said major crimes had dropped in Albuquerque by 8%, including burglary and robbery dropping by 15%. She said she doesn't know what Mr. Romero is planning, but hopes the new leadership won't lose sight of the fact that crime in Santa Fe is the highest it has been ever been in Santa Fe and it needs to be reversed. She will keep this in mind as we go through the budget process, in terms of how to treat Public Safety. She said she wants to see some progress.

Councilor Bushee said the former Police Chief told her the catalytic converter theft issue was under control, but she continues to hear about several instances on a weekly basis. She asked Councilor Trujillo as Public Safety Chair to get a handle on this. She is ready for some answers.

#### **Councilor Romero**

Councilor Romero introduced an Ordinance amending Ordinance No. 2009-15 that authorized the sale of real property, located adjacent to 312 Catron Street in order to amend the terms of the sale, specific to the time and manner of payment. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "20."

Councilor Romero asked to be added as a cosponsor for Councilor Wurzburger's Resolution.

Councilor Romero asked Mr. Romero to extend her thanks to staff at Ragle Park, noting her grandchildren live next door to Ragle park, and they've spent a lot of time there the past two weeks. She said it is a great park and delightful.

Councilor Romero said two people have called her whose teen age children are students using the transit system to get to school, complaining about problems with drunkenness on the bus, as well as the drug use that happens on the bus. She will provide the complaints to Mr. Romero.

#### **Councilor Chavez**

Councilor Chavez introduced a Resolution requesting a one-time authorization of up to \$20,000 of City funds to assist property owners of affordable housing in paying property taxes during Fiscal Year 2011-2012. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "21"

### **Mayor Coss**

Mayor Coss said he is not introducing the Resolution on Outside/In, because if they want to move to the Railyard, a resolution isn't required, and if they don't, then we have more talking to do, noting he hasn't talked to them yet.

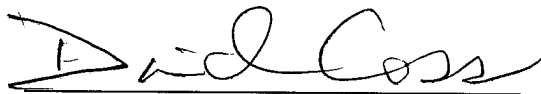
Mayor Coss introduced the following:

- a. A Resolution directing staff to work with Rodeo de Santa Fe in order to locating funding sources for the purpose of exploring and developing an indoor arena development complex at the Rodeo grounds, cosponsored by Councilors Trujillo, Ortiz and Dominguez. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "22."
- b. A Resolution authorizing the City of Santa Fe to support a living Santa Fe River by allowing water to bypass McClure and Nichols Reservoirs in 2011, cosponsored by Councilor Trujillo. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "23."
- c. A Resolution keeping Santa Fe working, ensuring essential City services, investing in a strong City, and stabilizing the City's budget by controlling costs and enacting a property tax rate increase of \$116 per \$1000 of net taxable value, noting it goes to Finance on Monday. A copy of the Resolution incorporated herewith to these minutes as Exhibit "24."
- d. A Resolution to use the City's limited healthcare resources in a more efficient manner and to enter into an agreement with Christus St. Vincent Regional Medical Center to manage the provision of free healthcare and social services to the indigent residents of the City of Santa Fe, cosponsored by Councilor Romero. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "25."

### **I. ADJOURN**

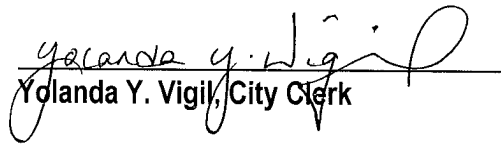
There was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 11:35 p.m.

**Approved by:**

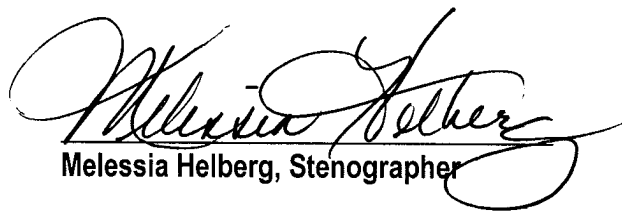
A handwritten signature in black ink, appearing to read "David Coss", written over a horizontal line.

**Mayor David Coss**

**ATTESTED TO:**

  
Yolanda Y. Vigil, City Clerk

**Respectfully submitted:**

  
Melessia Helberg, Stenographer