



# Agenda

REGULAR MEETING OF  
THE GOVERNING BODY  
AUGUST 10, 2011  
CITY COUNCIL CHAMBERS

## AFTERNOON SESSION – 5:00 P.M.

CITY CLERK'S OFFICE

DATE 8/5/11 TIME 11:05 am

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 – July 27, 2011  
Sp. City Council Meeting – August 1, 2011
9. PRESENTATIONS
10. CONSENT CALENDAR
  - a) Request for Approval of Maintenance Agreement – Maintenance Services at Santa Fe Community Convention Center; Yearout Service, LLC. (Darlene Griego)
    - 1) Request for Approval of Budget Adjustments – Convention Center Fund.
  - b) Request for Approval of First Amendment to Title 1 Scenic Program Grant Agreement to Extend Term – Development of El Camino Real National Scenic Byway Trail; New Mexico Department of Transportation; New Mexico Tourism Department. (Brian Drypolcher)
  - c) Request for Concept Approval of Lease Agreement – Burro Alley Right-of-Way for Outdoor Seating Appurtenant to Burro Alley Café at 207 W. San Francisco Street; Majed Hamdouni. (Edward Vigil)
  - d) Request for Approval of Community Development Block Grant Contract – FY 2011/2012 CDBG Allocation; United South Broadway Corporation. (Kym Dicome)



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- e) CONSIDERATION OF RESOLUTION NO. 2011-\_\_\_\_\_. (Councilor Chavez)  
A Resolution Requesting that the New Mexico Department of Transportation (NMDOT), in the Interest of Public Safety, Expedite the NM 599/CR 62 Interchange Project. (Keith Wilson)
- f) Request for Approval of Consideration to Fill Vacant Positions. (Robert Romero)
- g) Request for Approval to Publish Notice of Public Hearing on September 14, 2011:
  - 1) Request for Approval of the Community Development Block Grant 2010-2011 Consolidated Annual Performance Evaluation Review (CAPER). (Kym Dicome)
- h) Request for Approval of 2012 Employee Holiday Calendar. (Vicki Gage)
- 11. Request for Approval of Revised Amendment 4 to a Lease Agreement between the City of Santa Fe and Santa Fe Air Center LLC, Successor in Interest to Santa Fe Aviation Services Ltd. Co. Exercising Renewal of the Agreement for Ten Years. (Jim Montman)
- 12. Request for Approval of Change Order No. 1 – Project Acceleration Costs Not Part of Original Bid; CIP #810A – Cerrillos Road Reconstruction Project Phase IIB, Cielo Court to Camino Carlos Rey; AUI, Inc. (Isaac Pino)
- 13. Request for Approval of Impact Fee Credit Agreement – Agreement Pursuant to SFCC 14-8.14 Between Beckner Road Equities and the City of Santa Fe for Beckner Road Equities to Receive Road Impact Fee Credits for Infrastructure Improvements Made Associated with the Las Soleras Development. The Development is Located South of Governor Miles Road, East of Cerrillos Road, North of I-25 and West of Richards Avenue; Beckner Road Equities. (Matthew O'Reilly and Judith Amer)
- 14. **Case #2011-98.** Request for Approval of the Recommendation of the City Attorney Pursuant to Santa Fe City Code §14-3.17(D)(6) that the Governing Body Dismiss the Appeal of Richard Klein and Claire Zoeller from the Issuance of Building Permit #11-864 for Grading at 442 Camino de Las Animas. (Kelley Brennan)



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15. MATTERS FROM THE CITY MANAGER
16. MATTERS FROM THE CITY ATTORNEY
17. MATTERS FROM THE CITY CLERK
18. COMMUNICATIONS FROM THE GOVERNING BODY

## **EVENING SESSION – 7:00 P.M.**

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE
- C. SALUTE TO THE NEW MEXICO FLAG
- D. INVOCATION
- E. ROLL CALL
- F. PETITIONS FROM THE FLOOR
- G. APPOINTMENTS
- H. PUBLIC HEARINGS:
  - 1) Request from BIGCO, LLC, for a Transfer of Ownership and Location of Dispenser License #2721 from RSJ, Inc., dba Rancho de San Juan, Hwy 215, Mile Marker 340, Espanola, to BIGCO, LLC, dba the Palace Restaurant, 142 W. Palace Avenue. (Yolanda Y. Vigil)
  - 2) Request from Joe Wade Fine Art for a Waiver of the 300 Foot Location Restriction and Approval to Allow the Dispensing/Consumption of Alcohol at Joe Wade Fine Art, 102 E. Water Street, Which is Within 300 Feet of The Church of Antioch (at the Loretto Chapel), 207 Old Santa Fe Trail. The Requests are for the Two Opening Events for Art Shows to be held on August 19, 2011 and September 2, 2011 from 5:00 p.m. to 7:00 p.m. (Yolanda Y. Vigil)



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- 3) Request from Tom Taylor Company for a Waiver of the 300 Foot Location Restriction and Approval to Allow the Dispensing/Consumption of Alcohol at Tom Taylor Company, 108 East San Francisco Street, Which is Within 300 Feet of the Cathedral Basilica of Saint Francis of Assisi, 131 Cathedral Place. The Request is for a Reception to be held on August 18, 2011 from 5:00 p.m. to 8:00 p.m. (Yolanda Y. Vigil)
- 4) CONSIDERATION OF BILL NO. 2011-25: ADOPTION OF ORDINANCE NO 2011-\_\_\_\_\_. (Councilor Ortiz)  
An Ordinance Amending Section 11-2.2 SFCC 1987 and Creating a New Section 11-2.6 SFCC 1987 Limiting General Fund Personnel Costs. (Kathryn Raveling)
- 5) CONSIDERATION OF BILL NO. 2011-30: ADOPTION OF ORDINANCE NO 2011-\_\_\_\_\_. (Councilor Calvert and Councilor Trujillo)  
An Ordinance Amending Article 18-4 SFCC 1987 to Require Core Recyclers, Precious Metals Dealers and Transient Precious Metals Dealers to Obtain a City Business License; and to Require Persons Licensed Under Article 18-4 SFCC 1987 to Comply With Regulations Regarding the Sale or Pledge of Copper, Catalytic Converters, Precious Metals and Other Items as May be Designated by Resolution of the Governing Body. (Melissa Byers)
- 6) CONSIDERATION OF BILL NO. 2011-31: ADOPTION OF ORDINANCE NO 2011-\_\_\_\_\_. (Councilor Calvert)  
An Ordinance Amending the Santa Fe Election Code, Article 9-1 SFCC 1987 and the Public Campaign Finance Code, Article 9-3 SFCC 1987 to Encourage Participation in Public Campaign Financing by Advancing the Pre-Election Timetable; Repealing Sections 9-3.12 and 9-3.13 SFCC 1987 Regarding Matching Funds; Amending Section 6-16.7(B) SFCC 1987; and Making Such Other Changes as are Necessary. (Yolanda Vigil and Geno Zamora)
- 7) CONSIDERATION OF RESOLUTION NO 2011-\_\_\_\_\_.  
Case# 2011-01. Purple Horizon Mobile Home Park General Plan Amendments. James W. Siebert, Agent for Purple Horizon Properties, LLC, Requests General Plan Future Land Use Map Amendments to Change the Designation of 0.84± Acres from Community Commercial to Medium Density Residential; 2.10± Acres from Mixed Use Transitional to Medium Density Residential; and 4.68± Acres from Low Density Residential to Medium Density



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Residential. The Property is Located North of Cerrillos Road, South of Rufina St. and West of Home Depot. (Dan Esquibel) **(Postponed at July 27, 2011 City Council)**

- 8) CONSIDERATION OF BILL NO. 2011-28: ADOPTION OF ORDINANCE NO 2011-\_\_\_\_\_.

Case #2011-02. Purple Horizon Mobile Home Park Rezoning. James W. Siebert, Agent for Purple Horizon Properties, LLC, Requests Rezoning of 7.62± Acres from R-3 (Residential, Single Family) to MHP (Mobile Home Park). The Application Includes a Development Plan for 44 Modular Home Spaces for Senior Housing. The Property is Located North of Cerrillos Road, South of Rufina St. and West of Home Depot. (Dan Esquibel) **(Postponed at July 27, 2011 City Council)**

- 9) **Case #2011-81 and Case #2011-82 – Desert Academy Special Exception and Variances.** Steven R. Boyles and Peter McCarthy Each Appeal the May 18, 2011 Decision of the City of Santa Fe Board of Adjustment in Case #2010-195 Approving the Application of Desert Academy for a Special Exception to Operate a Private High School (Grades 7-12) at the Vacant Kaune Elementary School Located at 1409 Monterey Drive, with Variances from the Minimum Acreage Requirement of 10 Acres and from the 15-foot Landscape Buffer Requirement for Non-Residential Uses Adjacent to Residential Uses. (Kelley Brennan) **(Postponed to September 14, 2011 City Council Meeting)**

## I. ADJOURN

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

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

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

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SANTA FE CITY COUNCIL MEETING  
August 10, 2011

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CONSENT AGENDA LISTING		2-3
<u>APPROVAL OF MINUTES:</u>		
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SPECIAL CITY COUNCIL MEETING – AUGUST 1, 2011	Approved	3
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<u>CONSENT CALENDAR DISCUSSION</u>		
REQUEST FOR APPROVAL OF MAINTENANCE AGREEMENT – MAINTENANCE SERVICES AT SANTA FE COMMUNITY CONVENTION CENTER; YEAROUT SERVICE, LLC.	Approved [amended]	3-4
REQUEST FOR APPROVAL OF BUDGET ADJUSTMENTS – CONVENTION CENTER FUND *****	Approved	3-4
END OF CONSENT CALENDAR DISCUSSION *****		
REQUEST FOR APPROVAL OF REVISED AMENDMENT 4 TO A LEASE AGREEMENT BETWEEN THE CITY OF SANTA FE AND SANTA FE AIR CENTER LLC, SUCCESSOR IN INTEREST TO SANTA FE AVIATION SERVICES LTD. CO., EXERCISING RENEWAL OF THE AGREEMENT FOR TEN YEARS	Approved	4
REQUEST FOR APPROVAL OF CHANGE ORDER NO. 1 – PROJECT ACCELERATION COSTS NOT PART OF ORIGINAL BID; CIP #810A – CERRILLOS ROAD RECONSTRUCTION PROJECT PHASE IIB, CIELO COURT TO CAMINO CARLOS REY; AUI, INC.	Approved	5-7

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
REQUEST FOR APPROVAL OF IMPACT FEE CREDIT AGREEMENT – AGREEMENT PURSUANT TO SFCC 14-8.14 BETWEEN BECKNER ROAD EQUITIES AND THE CITY OF SANTA FE FOR BECKNER ROAD EQUITIES TO RECEIVE ROAD IMPACT FEE CREDITS FOR INFRASTRUCTURE IMPROVEMENTS MADE ASSOCIATED WITH THE LAS SOLERAS DEVELOPMENT. THE DEVELOPMENT IS LOCATED SOUTH OF GOVERNOR MILES ROAD, EAST OF CERRILLOS ROAD, NORTH OF I-25 AND WEST OF RICHARDS AVENUE; BECKNER ROAD EQUITIES	Postponed to 08/30/11 To Finance & Public Works	7-9 7-9
CASE #2011-98. REQUEST FOR APPROVAL OF THE RECOMMENDATION OF THE CITY ATTORNEY PURSUANT TO SANTA FE CITY CODE §14-3.17(D)(6) THAT THE GOVERNING BODY DISMISS THE APPEAL OF RICHARD KLEIN AND CLAIRE ZOELLER FROM THE ISSUANCE OF BUILDING PERMIT #11-864 FOR GRADING AT 442 CAMINO DE LAS ANIMAS	Postponed to 08/30/11	9-11
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CALL TO ORDER AND ROLL CALL	Quorum	15
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APPOINTMENTS	None	18
<u>PUBLIC HEARINGS</u>		
REQUEST FROM BIGCO, LLC, FOR A TRANSFER OF OWNERSHIP AND LOCATION OF DISPENSER LICENSE #2721 FROM RSJ, INC., D/B/A RANCHO DE SAN JUAN, HWY 215, MILE MARKER 340, ESPANOLA, TO BIGCO, LLC, D/B/A THE PALACE RESTAURANT, 142 W. PALACE AVENUE	Approved	18-19

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REQUEST FROM JADE FINE ART FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/ CONSUMPTION OF ALCOHOL AT JOE WADE FINE ART, 102 E. WATER STREET, WHICH IS WITHIN 300 FEET OF THE CHURCH OF ANTIOCH (AT THE LORETTO CHAPEL), 207 OLD SANTA FE TRAIL. THE REQUESTS ARE FOR THE TWO OPENING EVENTS FOR ART SHOWS TO BE HELD ON AUGUST 19, 2011, AND SEPTEMBER 2, 2011, FROM 5:00 P.M. TO 7:00 P.M.	Approved	19-20
REQUEST FROM TOM TAYLOR COMPANY FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/ CONSUMPTION OF ALCOHOL AT TOM TAYLOR COMPANY, 108 EAST SAN FRANCISCO STREET, WHICH IS WITHIN 300 FEET OF THE CATHEDRAL BASILICA OF SAINT FRANCIS OF ASSISI, 131 CATHEDRAL PLACE. THE REQUEST IS FOR A RECEPTION TO BE HELD ON AUGUST 18, 2011, FROM 5:00 P.M. TO 8:00 P.M.	Approved	20-21
CONSIDERATION OF BILL NO. 2011-25: ADOPTION OF ORDINANCE NO. 2011- ____ . AN ORDINANCE AMENDING SECTION 11-2.2 SFCC 1987, AND CREATING A NEW SECTION 11-2.6 SFCC 1987, LIMITING GENERAL FUND PERSONNEL COSTS	Postponed to 12/14/11	21
CONSIDERATION OF BILL NO. 2011-30: ADOPTION OF ORDINANCE NO. 2011- ____ . AN ORDINANCE AMENDING ARTICLE 18-4 SFCC 1987, TO REQUIRE CORE RECYCLERS, PREVIOUS METALS DEALERS AND TRANSIENT PREVIOUS METALS DEALERS TO OBTAIN A CITY BUSINESS LICENSE; AND TO REQUIRE PERSONS LICENSED UNDER ARTICLE 18-4 SFCC 1987, TO COMPLY WITH REGULATIONS REGARDING THE SALE OR PLEDGE OF COPPER, CATALYTIC CONVERTERS, PRECIOUS METALS AND OTHER ITEMS AS MAY BE DESIGNATED BY RESOLUTION OF THE GOVERNING BODY	Postponed to 08/30/11	21



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CONSIDERATION OF BILL NO. 2011-31; ADOPTION OF ORDINANCE NO. 2011-28. AN ORDINANCE AMENDING THE SANTA FE ELECTION CODE, ARTICLE 9-1 SFCC 1987, AND THE PUBLIC CAMPAIGN FINANCE CODE, ARTICLE 9-3 SFCC 1987, TO ENCOURAGE PARTICIPATION IN PUBLIC CAMPAIGN FINANCING BY ADVANCING THE PRE-ELECTION TIMETABLE; REPEALING SECTIONS 9-3.12 AND 9-3.13 SFCC 1987, REGARDING MATCHING FUNDS; AMENDING SECTION 6-16.7(B) SFCC 1987; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY	Approved a/amended	21-25
CONSIDERATION OF RESOLUTION NO. 2011- _____. <u>CASE #2011-01</u> . PURPLE HORIZON MOBILE HOME PARK GENERAL PLAN AMENDMENTS. JAMES W. SIEBERT, AGENT FOR PURPLE HORIZON PROPERTIES, LLC, REQUESTS GENERAL PLAN FUTURE LAND USE MAP AMENDMENTS TO CHANGE THE DESIGNATION OF 0.84± ACRES FROM COMMUNITY COMMERCIAL TO MEDIUM DENSITY RESIDENTIAL; 2.10± ACRES FROM MIXED USE TRANSITIONAL TO MEDIUM DENSITY RESIDENTIAL; AND 4.68± ACRES FROM LOW DENSITY RESIDENTIAL TO MEDIUM DENSITY RESIDENTIAL. THE PROPERTY IS LOCATED NORTH OF CERRILLOS ROAD, SOUTH OF RUFINA ST. AND WEST OF HOME DEPOT	Denied	25-39
CONSIDERATION OF BILL NO 2011-28; ADOPTION OF ORDINANCE NO. 2011- _____. <u>CASE #2011-02</u> . PURPLE HORIZON MOBILE HOME PARK REZONING. JAMES W. SIEBERT, AGENT FOR PURPLE HORIZON PROPERTIES, LLC, REQUESTS REZONING OF 7.62± ACRES FROM R-3 (RESIDENTIAL, SINGLE-FAMILY) TO MPH (MOBILE HOME PARK). THE APPLICATION INCLUDES A DEVELOPMENT PLAN FOR 44 MODULAR HOME SPACES FOR SENIOR HOUSING. THE PROPERTY IS LOCATED NORTH OF CERRILLOS ROAD, SOUTH OF RUFINA ST. AND WEST OF HOME DEPOT	Denied	25-39

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CASE #2011-81 AND CASE #2011-82 – DESERT ACADEMY SPECIAL EXCEPTION AND VARIANCES. STEVEN R. BOYLES AND PETER McCARTHY EACH APPEAL THE MAY 18, 2011 DECISION OF THE CITY OF SANTA FE BOARD OF ADJUSTMENT IN CASE #2010-195, APPROVING THE APPLICATION OF DESERT ACADEMY FOR A SPECIAL EXCEPTION TO OPERATE A PRIVATE HIGH SCHOOL (GRADES 7-12) AT THE VACANT KAUNE ELEMENTARY SCHOOL LOCATED AT 1409 MONTEREY DRIVE, WITH VARIANCES FROM THE MINIMUM ACREAGE REQUIREMENT OF 10 ACRES AND FROM THE 15 FOOT LANDSCAPE BUFFER REQUIREMENT FOR NON-RESIDENTIAL USES ADJACENT TO RESIDENTIAL USES

Postponed to 09/14/11

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ADJOURNMENT

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**MINUTES OF THE  
REGULAR MEETING OF THE  
GOVERNING BODY  
Santa Fe, New Mexico  
August 10, 2011**

**AFTERNOON SESSION**

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor Pro-Tem Rebecca Wurzbarger, on August 10, 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**

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

**Members Excused**

Mayor David Coss  
Councilor Ronald S. Trujillo

**Others Attending**

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

**6. APPROVAL OF AGENDA**

Robert Romero said the sponsor requested that Item H(4) in the Evening Session be postponed to the Council meeting of December 14, 2011.

Councilor Calvert asked to postpone Item H(5) on the evening agenda to the next Council meeting on August 30, 2011.

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

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

## **7. APPROVAL OF CONSENT CALENDAR**

**MOTION:** Councilor Bushee moved, seconded by Mayor Pro-Tem Wurzbarger, to approve the following Consent Calendar, as amended.

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

**For:** Councilor Bushee, Councilor Calvert, Councilor Chavez, Councilor Dominguez, Councilor Ortiz, Councilor Romero, and Mayor Pro-Tem Wurzbarger.

**Against:** None.

- a) *[Removed for discussion by Councilor Chavez]*
- b) **REQUEST FOR APPROVAL OF FIRST AMENDMENT TO TITLE 1 SCENIC PROGRAM GRANT AGREEMENT TO EXTEND TERM – DEVELOPMENT OF EL CAMINO REAL NATIONAL SCENIC BYWAY TRAIL; NEW MEXICO DEPARTMENT OF TRANSPORTATION; NEW MEXICO TOURISM DEPARTMENT. (BRIAN DRYPOLCHER)**
- c) **REQUEST FOR CONCEPT APPROVAL OF LEASE AGREEMENT – BURRO ALLEY RIGHT-OF-WAY FOR OUTDOOR SEATING APPURTENANT TO BURRO ALLEY CAFÉ AT 207 W. SAN FRANCISCO STREET; MAJED HAMDOUNI. (EDWARD VIGIL)**
- d) **REQUEST FOR APPROVAL OF COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT – FY 2011/2012 CDBG ALLOCATION; UNITED SOUTH BROADWAY CORPORATION. (KYM DICOME)**
- e) **CONSIDERATION OF RESOLUTION NO. 2011-42. (COUNCILOR CHAVEZ). A RESOLUTION REQUESTING THAT THE NEW MEXICO DEPARTMENT OF TRANSPORTATION (NMDOT), IN THE INTEREST OF PUBLIC SAFETY, EXPEDITE THE NM 599/CR 62 INTERCHANGE PROJECT. (KEITH WILSON)**
- f) **REQUEST FOR APPROVAL OF CONSIDERATION TO FILL VACANT POSITION. (ROBERT ROMERO)**

- g) **REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON SEPTEMBER 14, 2011:**
  - 1) **REQUEST FOR APPROVAL OF THE COMMUNITY DEVELOPMENT BLOCK GRANT 2010-2011 CONSOLIDATED ANNUAL PERFORMANCE EVALUATION REVIEW (CAPER). (KYM DICOME)**
- h) **REQUEST FOR APPROVAL OF 2012 EMPLOYEE HOLIDAY CALENDAR. (VICKI GAGE)**

**8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING –JULY 27, 2011  
SPECIAL CITY COUNCIL MEETING – AUGUST 1, 2011**

**MOTION:** Councilor Bushee moved, seconded by Councilor Dominguez, to approve the minutes of the Regular City Council meeting of July 27, 2011, as presented.

**VOTE:** The motion was approved on a voice vote with Councilors Chavez, Dominguez, Ortiz, Romero, and Wurzbarger voting in favor of the motion, none voting against, and Councilors Bushee and Calvert abstaining.

**MOTION:** Councilor Ortiz moved, seconded by Councilor Romero, to approve the minutes of the Special City Council meeting of August 1, 2011, as presented.

**VOTE:** The motion was approved on a voice vote with Councilors Bushee, Chavez, Dominguez, Ortiz, Romero, Wurzbarger voting in favor of the motion, none voting against, and Councilor Calvert abstaining.

**9. PRESENTATIONS**

There were no presentations.

**CONSENT CALENDAR DISCUSSION**

- 10(a) **REQUEST FOR APPROVAL OF MAINTENANCE AGREEMENT – MAINTENANCE SERVICES AT SANTA FE COMMUNITY CONVENTION CENTER; YEAROUT SERVICE, LLC. (DARLENE GRIEGO)**
  - 1) **REQUEST FOR APPROVAL OF BUDGET ADJUSTMENTS – CONVENTION CENTER FUND.**

Councilor Chavez said the address on page 8 of the agreement indicates the address of the Civic Center in "Albuquerque" instead of "Santa Fe" and the contractor's address is listed in "Santa Fe" instead of "Albuquerque." He said this needs to be changed.

**MOTION:** Councilor Dominguez moved, seconded by Councilor Romero, to approve this request, as amended.

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

**For:** Councilor Bushee, Councilor Calvert, Councilor Dominguez, Councilor Ortiz, Councilor Romero and Mayor Pro-Tem Wurzbarger.

**Against:** Councilor Chavez.

**Explaining his vote:** Councilor Chavez said he believes we could look for a Santa Fe contractor.

**Explaining her vote:** Councilor Bushee said, for Councilor Chavez's benefit, she raised the question of a Santa Fe contractor at the Finance Committee, and it was determined that it is proprietary and this is the only firm that can maintain it.

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**END OF CONSENT CALENDAR DISCUSSION**  
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**11. REQUEST FOR APPROVAL OF REVISED AMENDMENT 4 TO A LEASE AGREEMENT BETWEEN THE CITY OF SANTA FE AND SANTA FE AIR CENTER LLC, SUCCESSOR IN INTEREST TO SANTA FE AVIATION SERVICES LTD. CO., EXERCISING RENEWAL OF THE AGREEMENT FOR TEN YEARS. (JIM MONTMAN)**

Mr. Montman presented information from his Memo, Addendum 2, with attachments, which is in the Council packet, noting all parties are agreeable with the amendments that have been made.

Councilor Bushee said this is a long term lease and asked Mr. Montman if he has considered cost of living adjustments.

Mr. Montman said yes, every 3 years, noting the rent has been increased by 26% in this amendment to bring it to the appropriate level.

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

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

**For:** Councilor Bushee, Councilor Calvert, Councilor Chavez, Councilor Dominguez, Councilor Ortiz, Councilor Romero and Mayor Pro-Tem Wurzbarger.

**Against:** None.

**12. REQUEST FOR APPROVAL OF CHANGE ORDER NO. 1 – PROJECT ACCELERATION COSTS NOT PART OF ORIGINAL BID; CIP #810A – CERRILLOS ROAD RECONSTRUCTION PROJECT PHASE IIB, CIELO COURT TO CAMINO CARLOS REY; AUI, INC. (ISAAC PINO)**

Mr. Pino presented information from a Memorandum dated August 2, 2011, with attachments, to the City Council from Desirae Lujan, Engineer Associates, which is in the Council packet.

Councilor Bushee asked Mr. Pino if he explored the option of billing the \$400,000 to New Mexico Gas Company, because that is the cause of the delay, commenting this is a big increase for six weeks of work.

Mr. Pino said no, he has not explored that with City legal. He said the gas line has been on Cerrillos Road for several years, and the City is lowering the grade of Cerrillos Road substantially. He said that didn't leave enough cover for portions of the gas line, noting it is an 8-inch pressure gas line that serves all of eastern Santa Fe. He said the gas company did all of the work, hired its own contractors and didn't back-charge the City for any of the work they did. He said he can't speak to the legal implications of seeking recovery at this time.

Councilor Bushee asked if the City is accelerating the work because there was a 6-week delay and if there is anything in the contract that the City has to pay.

Mr. Zamora said the terms of the contract with the contractor are going to determine all of those questions, noting he doesn't have the contract before him this evening. He said, "To the extent that those are addressed, what is the contractor responsibility versus the City responsibility, we'll be able to look into that and get you answers. But as far as unanticipated delays and unanticipated issues, such as the one described here, it's usually not covered in the contract, and you have to make adjustments for those unanticipated delays and costs and expenses associated with that."

Councilor Bushee said we essentially are paying them to "speed it up and work longer hours to try to make up the difference. I get that and that needs to be done, but I hate paying \$400,000 to do it, so I was looking for another way around that."

Mayor Pro-Tem Wurzbarger said she understands, based on the discussion yesterday at the Business & Quality of Life Committee meeting, is that this is coming from the contingency fund and it won't be additional money.

Mr. Pino said this is correct.

Mayor Pro-Tem Wurzbarger said it is not a matter of adding to the contract, so we are covered on that.

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

**DISCUSSION:** Councilor Chavez said it is good to try to move this project forward as quickly as possible, and it has been hard for a lot of the businesses along Cerrillos. His concern is that if we move too fast we will lose the quality, noting inspections and quality control will be important.

Eric Martinez, Director, Roadways and Trails, said we do have the same level of inspection effort and testing scheduled as originally planned, so nothing in that respect will change.

Councilor Chavez asked if the schedule will change.

Mr. Martinez said they will be working 20 hour shifts, and staff will be covering those shifts. He said there will be testing at the same level even without working the extended hours, so that same level of effort will be there.

Councilor Chavez said then if something is substandard, staff will have them rework that at that point in time.

Mr. Martinez said yes, and it would either be a price reduction or redoing the work.

Councilor Chavez said a price reduction would mean the quality is changing. He said the life span of the road could then be less.

Mr. Martinez said the same level of effort will be there. He said the price reduction depends on the type of material and infrastructure being replaced, and they would be required to bring it to the current level of specification.

Councilor Romero said she assumed Mr. Martinez had done a "plus/minus" analysis to ameliorate any concerns about the quality. She said there also is the quality of life and issues for the businesses which really are being impacted by this. She said we already are ahead by trying to push the contractor to move faster to get the businesses back on line.

Mr. Martinez said yes, and that was built into the contract up front as a part of the public involvement process during design. He said the businesses were stressing speed in getting the project done sooner so there would be minimal impact to the businesses, so this is to maintain the same level of completion.

Mayor Pro-Tem Wurzbarger said this was discussed yesterday at the BQL Committee, in recognition of the damage this will do on businesses, and in the future we need to explore, from the beginning, to have an accelerated program, rather than working 7:00 a.m. to 4:00 p.m., and do an accelerated program when there are problems. She said the Committee wants to follow up in this regard with Mr. Pino.

**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 Mayor Pro-Tem Wurzbarger.



**Against:** None.

13. **REQUEST FOR APPROVAL OF IMPACT FEE CREDIT AGREEMENT – AGREEMENT PURSUANT TO SFCC 14-8.14 BETWEEN BECKNER ROAD EQUITIES AND THE CITY OF SANTA FE FOR BECKNER ROAD EQUITIES TO RECEIVE ROAD IMPACT FEE CREDITS FOR INFRASTRUCTURE IMPROVEMENTS MADE ASSOCIATED WITH THE LAS SOLERAS DEVELOPMENT. THE DEVELOPMENT IS LOCATED SOUTH OF GOVERNOR MILES ROAD, EAST OF CERRILLOS ROAD, NORTH OF I-25 AND WEST OF RICHARDS AVENUE; BECKNER ROAD EQUITIES. (MATTHEW O'REILLY AND JUDITH AMER.**

Mr. O'Reilly presented information from his Memorandum of August 3, 2011, with attachments, to the Mayor and Council, which is in the Council packets. He said he worked on this extensively with the City Attorney's Office and the Traffic Engineer.

Councilor Ortiz asked if this item went to the Finance Committee, and Mr. O'Reilly said it did not.

Councilor Ortiz asked which committees did it go to, and Mr. O'Reilly said none at this point.

**MOTION:** Councilor Bushee moved, seconded by Councilor Romero, to postpone this item to the next meeting of the City Council on August 30, 2011, and to remand this item for hearing to the Finance Committee and the Public Works Committee.

**DISCUSSION:** Mr. O'Reilly said the way the ordinance reads is that this agreement has to be in place prior to any plat recordation. The developers of Las Soleras have been working very hard on this because they intend to record the first subdivision plat at the end of this month. The subdivision plat carries with it 3 large construction projects as the result of closing and recording this plat. If the Impact Fee Credit Agreement is delayed beyond that date, then those construction projects are likely not to start ever. He said he heard from the developers that their purchase agreements with these companies are ready to build and will fall through unless they record the plat at the end of this month.

Councilor Bushee said if this successfully goes through all the Committees, it will be here at the next Council meeting on August 30, 2011.

Mayor Pro-Tem Wurzbarger said then that should meet the deadline.

Councilor Bushee said she has questions she would rather ask at the committee level, commenting this isn't ready to go tonight, and her motion stands.

Councilor Calvert asked if that would be enough time for the recordation to occur.

Mr. O'Reilly said Ms. Amer said, as part of the Annexation Agreement, the concept of an impact credit agreement was part of that annexation agreement. He said the specific agreement wasn't part of the annexation agreement, but the concept that there would be an impact credit agreement was approved. He

said they are moving forward, and he sees no reason they can't record the plat by the end of the month, reiterating that if this agreement isn't in place by the end of the month, they will lose the ability to get credit for those improvements.

Councilor Calvert clarified his question is that if we postpone this to the next Council meeting on August 30, 2011, if one day would be sufficient time to do what needs to be done.

Mr. O'Reilly said that is "cutting it very fine." He said there is another option. He said the City could note in the agreement that it contemplates all future construction which would be eligible for impact fee credits. He said the developer already has constructed Item #1 on Exhibit C of the agreement, which are the improvements to Cerrillos Road. He said this Council could approve the agreement tonight, but only approve the impact fees for what they're already built for \$600,000 and leave the rest for discussion at the committee hearings.

Councilor Calvert asked if Item #1 is the only one which impacts on the recording of the plat, and Mr. O'Reilly said that is correct.

Councilor Romero said perhaps there was an assumption because of the language in the annexation agreement. However, she doesn't understand why it didn't go to the Finance Committee quickly.

**FRIENDLY AMENDMENT:** Councilor Romero would like to amend the motion to remand this only to the Finance Committee. **THE AMENDMENT WAS NOT FRIENDLY TO THE MAKER.**

**FRIENDLY AMENDMENT:** Councilor Calvert asked to amend the Motion to allow approval of Item #1 on Exhibit C, which has been completed, and remand the remaining items to the Committees and hear those at the Council meeting on August 30, 2011. **THE AMENDMENT WAS NOT FRIENDLY TO THE MAKER WHO ASKED THAT BE MADE AS A SEPARATE MOTION TO AMEND.**

**MOTION TO AMEND:** Councilor Calvert moved, seconded by Councilor Romero, to amend the Motion to allow approval of Item #1 on Exhibit C, which has been completed, and remand the remaining items to the Committees and hear those at the Council meeting on August 30, 2011.

**VOTE:** The motion to amend was defeated on the following Roll Call vote:

**For:** Councilor Calvert and Councilor Romero.

**Against:** Councilor Bushee, Councilor Chavez, Councilor Dominguez, Councilor Ortiz and Mayor Pro-Tem Wurzbarger

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

**For:** Councilor Bushee, Councilor Calvert, Councilor Dominguez, Councilor Ortiz, Councilor Romero and Mayor Pro-Tem Wurzbarger.

**Against:** Councilor Chavez.

- 14. CASE #2011-98. REQUEST FOR APPROVAL OF THE RECOMMENDATION OF THE CITY ATTORNEY PURSUANT TO SANTA FE CITY CODE §14-3.17(D)(6) THAT THE GOVERNING BODY DISMISS THE APPEAL OF RICHARD KLEIN AND CLAIRE ZOELLER FROM THE ISSUANCE OF BUILDING PERMIT #11-864 FOR GRADING AT 442 CAMINO DE LAS ANIMAS. (KELLY BRENNAN)**

A copy of a letter dated August 10, 2011, with attachment, to the Santa Fe City Council, from Joseph M. Karnes, Sommer, Karnes & Associates, LLP, regarding *Appeal of Grading Permit #11-864, 442 Camino de las Animas*, is incorporated herewith to these minutes as Exhibit "1."

Kelley Brennan, Assistant City Attorney, reviewed her Memorandum of August 1, 2011, containing the history of this case and the appeal, which is in the Committee packet. Ms. Brennan noted the letter which was handed out this evening from Attorney Karnes who represents the Appellant in this case, which she received today.

Councilor Bushee said she understands "you are very close to perhaps a mediated result between the parties."

Ms. Brennan said there has been an agreement. Today, one party said he is not going to sign, but he is considering it further.

Councilor Bushee said, "Staff is essentially saying this was not a timely filing of the appeal, and if it's that close to mediation, my hope is that you'll get a good result on that, so I uphold staff's... I vote in favor of the recommendation of staff."

**MOTION:** Councilor Bushee moved, seconded by Councilor Calvert, to uphold the recommendation of the City Attorney pursuant to the Santa Fe City Code §14-3.17(D)(6), to dismiss the appeal of Richard Klein and Claire Zoeller from the issuance of Building Permit #11-864 for grading at 441 Camino de las Animas.

**DISCUSSION:** Councilor Ortiz asked if Councilor Bushee is saying because they are so close to mediating...

Councilor Bushee said no, she believes staff is correct in terms of the timeliness of the appeal, they missed the deadline. However, she is hopeful they will get a mediated result, noting Councilor Ortiz is the one who shortened the appeal period.

Councilor Ortiz said he did, but there also is a savings provision, 14-3.17(K), "All procedures employed herein shall adhere to the procedural due process." He said there is something which doesn't sit right when there is an appeal, and the parties are in mediation, and then the party who filed the case withdraws that case and files a new application. It's really the same case, but they win their case based on a technicality. He doesn't believe that is the result that needs to happen. He said if we allow the parties to do the appeal, then the appellant process happens, and the parties would have the opportunity to mediate. If we say the appeal is done, then there is no incentive for any party to mediate the case. One side wins and one side loses.

Councilor Bushee said she is hearing Ms. Brennan say that they didn't timely file the appeal.

Ms. Brennan said this is correct, and she understands the due process argument, and in certain cases where the appeal was not timely filed we would just refuse it and say it wasn't on time. This is the reason staff is bringing this to Council for dismissal. She said this is a grading permit and for construction it would be necessary to go to the H-Board and obtain another building permit, both of which would have additional appeal points.

Councilor Ortiz said then you are saying, because this permit is for a portion of construction, in essence, when they come back in for the building permit, they will have a chance to appeal.

Ms. Brennan said yes.

Councilor Ortiz said then all of the issues that would be raised under the grading permit, would be relevant issues to raise in a building permit situation or under an H-Board permit, even though a grading permit has been deemed to be issued.

Ms. Brennan said she believes the issues raised would not be appropriate for a Historic Design Review Board appeal, but would be for a building permit.

Councilor Ortiz said then those would be whatever issues these people had because they missed the filing deadline on the grading permit, the slopes.

Ms. Brennan said the location of the house on the property will be dependent on slopes, height, and these kinds of things.

Councilor Ortiz said then if these appellants want to raise issues at the building permit level, relating to grading or drainage, anything they could appeal now, "they would be told by you and by staff that they are estopped because the permit has been validly issued."

Ms. Brennan said no, they would not be told that.

Councilor Ortiz said then they could raise any issue.

Ms. Brennan said they could raise any issue, because they would be arguing that the building permit was improperly issued because there was not compliance with the slope requirements. She said, to correct her previous statement, there may be an appeal point with the Historic Design Review Board because height is implicated in this issue.

Chair Ortiz said he would speak against the motion, and we should allow the appeal to continue so the parties can work things out, and that would be better so we don't have to hear this again. Councilor Ortiz asked if we can we postpone the decision on the appeal.

Ms. Brennan said yes.

Councilor Bushee said that would be the more appropriate motion.

Councilor Bushee said her concern is that staff's conclusion that they didn't timely file the appeal, commenting she is surprised this is before the Council in view of staff's conclusion.

Councilor Ortiz said it is here because Ms. Brennan sees a potential due process issue

Responding to Councilor Bushee, Councilor Ortiz said this is a procedural motion which takes precedence over the substantive motion, so there is no need to withdraw her motion.

**MOTION:** Councilor Ortiz moved, seconded by Councilor Bushee, to postpone this item to the first meeting in September.

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

**For:** Councilor Bushee, Councilor Calvert, Councilor Chavez, Councilor Dominguez, Councilor Ortiz, Councilor Trujillo and Mayor Pro-Tem Wurzbarger.

**Against:** Councilor Romero.

**15. MATTERS FROM THE CITY MANAGER.**

There were no matters from the City Manager.

**16. MATTERS FROM THE CITY ATTORNEY**

There were no matters from the City Attorney.

## **18. 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 August 19, 2011, is incorporated herewith to these minutes as Exhibit "2."

### **Mayor Coss**

Councilor Wurzbarger introduced a Resolution on behalf of Mayor Coss, supporting a partnership between the City and the Santa Fe Community Foundation to collaborate on strengthening the non-profit sector in Santa Fe. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "3."

### **Councilor Bushee**

Councilor Bushee said she is hearing from the Santa Fe Water Basin Association, about an administrative decision to change the northwest well from a backup well to a production well. She asked if we should have heard this matter at the Public Utilities Committee. She said this seems to her a policy decision, because in the past we had negotiations with people on Tano Road and other areas which considered it only a back-up well. She asked the reason this wasn't heard at PUC, and asked if it can be heard at that Committee.

Councilor Bushee said she has some small issues she will discuss with Robert Romero separately.

Councilor Bushee said she wants an Ordinance introduced "that brings us back to not being able to raid the enterprise funds. I know we undid that for one specific occasion, but I want to be sure we don't do that in the future."

Councilor Bushee said she has several things in the City Attorney's office that she would like "to hear back on."

Councilor Bushee said she has had a request to make changes to the Charter, and asked the last time it was reviewed, and what is the process for Charter review.

Councilor Bushee thanked staff for its quick response to the graffiti problems downtown, noting there is still "a pile of it" on the west side. She asked to be kept apprised of the progress in terms of apprehending the offenders.

Councilor Bushee said the event honoring SFC Leroy Petry, Medal of Honor recipient, was one of best events she has attended, and she wants to recognize the staff that put that event together – a Muchas Gracias – at the next meeting.

Mayor Pro-Tem Wurzbarger said she met with Councilor Ortiz before the meeting to discuss introducing a Resolution to revisit the Charter on a variety of issues, and would be happy to work with Councilor Bushee in this regard.

Councilor Bushee wants to know if a review is built into the Charter. She would like a copy of the Charter, as well as putting the minutes of the last Charter review at the website.

**Councilor Calvert**

Councilor Calvert had no introductions.

**Councilor Chavez**

Councilor Chavez had no introductions.

**Councilor Dominguez**

Councilor Dominguez introduced a Resolution amending Table 37, page 36 of the City of Santa Fe Impact Fees Capital Improvements Plan and Land Use Assumptions, 2007-2012, regarding planned park improvements, adding Salvador Perez Park for eligibility to receive impact fee funding. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "4."

Councilor Dominguez thanked Robert Romero and his staff for their work on the Tierra Contenta Regional Park public hearings, noting those were well attended.

Councilor Dominguez said school is starting next week, and he reminded the public to be careful in the school zones, and asked Mr. Romero to ensure the police are at the school sites as we are every year.

Councilor Dominguez said staff is working to bring a movie in the park to Cesar Chavez Park in Tierra Contenta, and he wants to be sure the Parks crew grooms the park as much as it can, in conjunction with the public schools, so we have a nice facility for the evening.

**Councilor Ortiz**

Councilor Ortiz introduced the following:

1. A Resolution setting the schedule for City annexation to redistribute and account for City resources. A copy of the resolution is incorporated herewith to these minutes as Exhibit "5."

Councilor Ortiz he understands we will be getting a report on the annexation in September, and he doesn't want to act on this Resolution until that presentation is made at Public Works.

Councilor Dominguez said he has been working with staff, and they are about ready to bring that forward. Councilor Ortiz said then his Resolution won't be adopted until that hearing.

Councilor Bushee said she introduced something regarding annexation and asked what this Resolution means.

Councilor Ortiz said it sets forth a plan for the annexation implementation we are required to do in accordance with the JPA, and sets out the cost – how we will afford the different impacts to the approximately 11,000 people on the south side of town. He understands that annexation has to occur next year, noting he doesn't believe we will be able to do that in this fiscal year, and the Resolution sets out a plan for the smoothest transition of the annexation as is possible.

Councilor Wurzbarger asked to be added as a cosponsor of the Resolution.

2. An Ordinance approving a lease between the City of Santa Fe and Bokum Burro Alley, LLC. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "6."
3. An Ordinance approving a lease between the City of Santa Fe and Majed Hamdouni d/b/a Burro Alley Care. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "7."

Councilor Ortiz said he questioned the reasons for introducing ordinances on 2 and 3, because we have approved agreements. However, staff said they have been told by the City Attorney's office that we have to do ordinances to approve these lease agreements, so he is introducing these as a courtesy to Ed Vigil. He asked that the City Attorney's office provide explanation about that before moving forward with this.

4. An Ordinance amending Chapter XXV, Exhibits C and D, SFCC 1987, to authorize the suspension of Santa Fe River target flows during "Water Warning – Orange," and "Water Emergency – Red," implementation stages. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "8."

Councilor Wurzbarger asked to be added as a cosponsor of the Ordinance.

### **Councilor Romero**

Councilor Romero would like a follow up regarding the placing of surveillance cameras in significant areas of the trailheads, noting she and Councilors Trujillo and Wurzbarger are interested in moving forward with that change. She said she wants to bring that to the next Council meeting as either an amendment to what was adopted previously in 2006, or as a whole new Resolution with support from 3 Councilors to move forward. She asked staff to follow-up on this.



Councilor Romero asked to be added as a cosponsor of Councilor Dominguez's Resolution, and asked if Councilor Wurzburger would like to be added as well.

**Mayor Pro-Tem Wurzburger**

Mayor Pro-Tem Wurzburger said she attended a kickoff for the Centennial Margarita, and will be introducing a Resolution to help promote the event because all of the proceeds from the sales state-wide will go to a legacy fund for youth programs. She said she has a button for each of the Councilors.

**END OF AFTERNOON SESSION AT 5:55 P.M.**

## **EVENING SESSION**

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

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

#### **Members Present**

Councilor Rebecca Wurzbarger, Mayor Pro-Tem  
Councilor Patti J. Bushee  
Councilor Christopher Calvert  
Councilor Miguel Chavez  
Councilor Carmichael A. Dominguez  
Councilor Rosemary Romero

#### **Members Excused**

Mayor David Coss  
Councilor Matthew E. Ortiz  
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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**MOTION:** Councilor Chavez moved, seconded by Councilor Romero, to amend the agenda to postpone Items H(7) and H(8) to the next Council meeting on August 30, 2011, and that these items be placed first on the Public Hearing agenda after consideration of any licenses.

**DISCUSSION:** Councilor Chavez said there are people in attendance to discuss Item H(7) and H(8), noting we did receive a letter requesting postponement of these items.

Councilor Bushee asked Ms. Vigil about the agenda for the August 30<sup>th</sup> Council meeting.

Ms. Vigil noted the following items are scheduled for the Council meeting of August 30, 2011: one liquor license; Zia Railrunner Express Station; St. Catherine's School; and the Precious Metals Ordinance.

Mayor Pro-Tem Wurzbarger noted the August 30<sup>th</sup> Council meeting is very full, although that has nothing to do with the motion, with preference given to not hearing items possibly twice.

**VOTE:** The motion failed to pass for lack of a majority vote on the following Roll Call vote:

**For:** Councilor Chavez, Councilor Dominguez and Mayor Pro-Tem Wurzburger.

**Against:** Councilor Bushee, Councilor Calvert and Councilor Romero.

**Explaining her vote:** Councilor Bushee said, "I think I'm going to vote no. I feel like there is a representative group of people here, but I want more people, but I feel like we should probably hear it."

**Explaining his vote:** Councilor Chavez said, "Some of the people in attendance tonight have asked that it be postponed as well, so I vote yes."

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#### **F. PETITIONS FROM THE FLOOR**

A copy of "Northwest Well Petition," dated August 10, 2011, submitted for the record by David Gold, is incorporated herewith to these minutes as Exhibit "9."

A copy of a letter dated July 19, 2011, to Anthony Montoya, Advantage Asphalt, signed by eight residents on Circita en Medio, submitted for the record by Erica Velarde, is incorporated herewith to these minutes as Exhibit "10."

**David Gold, on behalf of the Santa Fe Water Basin Association and the Tano Road Association,** said he provided a copy of a Northwest Well Petition fact sheet handed out. He said the City has, or is about to, submit an application for the Northwest well, to mine groundwater, rather than to use the well for emergency backup. The Santa Fe Water Basin Association is very concerned about this because of the impact on the aquifer and nearby residents. He said the request to hear this matter in a public hearing. He said they feel it is a deviation from the City's water policy, which promotes a sustainable use of groundwater. He said the application will have an impact on a number of people who must depend on groundwater for their water. He said they also request that this application be held until the hearing takes place.

Mayor Pro-Tem Wurzburger said Mr. Gold has provided sufficient information for this request, and it could be considered as early as the next PUC meeting, after she consults with staff to see if this is appropriate.

**Erica Velarde, 5312 Circita en Medio**, said she is representing the homeowners of Vistas Bonitas, and read her statement into the record. Please see Exhibit "11" for the text of this.

Ms. Velarde asked those in attendance here for this issue to raise their hands.

Mayor Pro-Tem Wurzbürger asked those people raising their hands to give their name and address to the City Clerk for the record.

Ms. Velarde said they would like one point of contact at the City, because they are getting mixed messages.

Mayor Pro-Tem Wurzbürger asked her to leave her name and phone number with staff, and they will get a single person to respond, and she will work to identify who that most properly should be.

**Manon Saucedá, 6060 Monte Verde Place**, said on May 7, 2011, she was attacked by two vicious dogs in the neighborhood while walking in the middle of the street. She said one of the teenage daughters was at home at the time and came out and grabbed the dogs, or "I would have gone right down to the street." She said this was a very terrifying and upsetting event. She called Animal Control, the Police, the EMTs because she was wounded, and they all came out. She has been to court 3 times and nothing is happening. She said Animal Control told her it is up to the Judge to take the dogs away, and take the owner to Court. The Police have told her it is up to the Judge to do something with the dogs. She asked if there is anything anybody can do to help me to help them do their job, noting Animal Control and the Police are frustrated, and she is frustrated as well.

Mayor Pro-Tem Wurzbürger said staff will follow up to see how we can respond to her concern, and asked Ms. Saucedá to leave her name and telephone number with staff.

#### **G. APPOINTMENTS**

There were no Appointments

#### **H. PUBLIC HEARINGS**

- 1) REQUEST FROM BIGCO, LLC, FOR A TRANSFER OF OWNERSHIP AND LOCATION OF DISPENSER LICENSE #2721 FROM RSJ, INC., D/B/A RANCHO DE SAN JUAN, HWY 215, MILE MARKER 340, ESPANOLA, TO BIGCO, LLC, D/B/A THE PALACE RESTAURANT, 142 W. PALACE AVENUE. (YOLANDA Y VIGIL)**

The staff report was given by Yolanda Y. Vigil, City Clerk, noting the location is not within 300 feet of a church or school, and there are staff reports in the packet regarding litter, noise and traffic. Staff recommends that the restaurant be required to comply with all of the City's ordinances.

### **Public Hearing**

There was no one speaking for or against this request.

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

**MOTION:** Councilor Romero moved, seconded by Councilor Bushee, to approve the transfer of ownership and location of Dispenser License #2721 from RSJ, Inc., d/b/a Rancho de San Juan, Hwy 215, Mile Marker 340, Espanola, to BIGCO, LLC, d/b/a the Palace Restaurant, 142 W. Palace Avenue.

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

**For:** Councilor Bushee, Councilor Calvert, Councilor Dominguez, Councilor Romero and Mayor Pro-Tem Wurzbarger.

**Against:** None.

**Absent for the vote:** Councilor Chavez.

- 2) **REQUEST FROM JADE FINE ART FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/ CONSUMPTION OF ALCOHOL AT JOE WADE FINE ART, 102 E. WATER STREET, WHICH IS WITHIN 300 FEET OF THE CHURCH OF ANTIOCH (AT THE LORETTO CHAPEL), 207 OLD SANTA FE TRAIL. THE REQUESTS ARE FOR THE TWO OPENING EVENTS FOR ART SHOWS TO BE HELD ON AUGUST 19, 2011, AND SEPTEMBER 2, 2011, FROM 5:00 P.M. TO 7:00 P.M. (YOLANDA Y. VIGIL)**

The staff report was presented by Yolanda Y. Vigil, City Clerk, noting there is a letter in the packet from The Most Rev. Daniel P. Danagaran, Pastor and Bishop of the Church of Antioch at Santa Fe, stating support for this event.

### **Public Hearing**

#### **Speaking to the request**

There was no one speaking for or against this request.

**The Public Hearing was closed**

**MOTION:** Councilor Calvert moved, seconded by Councilor Romero, to grant the request for waiver of the 300 foot restriction and to allow the dispensing/consumption of alcohol at Joe Wade Fine Art, 102 E. Water Street for two opening events for art shows to be held on August 19, 2011 and September 2, 2011, from 5:00 p.m. to 7:00 p.m.

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

**For:** Councilor Bushee, Councilor Calvert, Councilor Dominguez, Councilor Romero and Mayor Pro-Tem Wurzbarger.

**Against:** None.

**Absent for the vote:** Councilor Chavez.

- 2) **REQUEST FROM TOM TAYLOR COMPANY FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/ CONSUMPTION OF ALCOHOL AT TOM TAYLOR COMPANY, 108 EAST SAN FRANCISCO STREET, WHICH IS WITHIN 300 FEET OF THE CATHEDRAL BASILICA OF SAINT FRANCIS OF ASSISI, 131 CATHEDRAL PLACE. THE REQUEST IS FOR A RECEPTION TO BE HELD ON AUGUST 18, 2011, FROM 5:00 P.M. TO 8:00 P.M. (YOLANDA Y. VIGIL)**

The staff report was presented by Yolanda Y. Vigil, City Clerk, noting there is a letter in the packet from Jim Cutropia, Director of Finance and Administration, the Cathedral Basilica of St. Francis of Assisi, expressing support for this event.

**Public Hearing**

**Speaking to the request**

There was no one speaking for or against this request.

**The Public Hearing was closed**

**MOTION:** Councilor Calvert moved, seconded by Councilor Romero, to grant the request for waiver of the 300 foot restriction and to allow the dispensing/consumption of alcohol at Tom Taylor Company, 108 E. San Francisco Street for a reception to be held on August 18, 2011, from 5:00 p.m. to 8:00 p.m.

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

**For:** Councilor Bushee, Councilor Calvert, Councilor Dominguez, Councilor Romero and Mayor Pro-Tem Wurzbarger.

**Against:** None.

**Absent for the vote:** Councilor Chavez.

- 4) **CONSIDERATION OF BILL NO. 2011-25: ADOPTION OF ORDINANCE NO. 2011-\_\_\_\_ (COUNCILOR ORTIZ). AN ORDINANCE AMENDING SECTION 11-2.2 SFCC 1987, AND CREATING A NEW SECTION 11-2.6 SFCC 1987, LIMITING GENERAL FUND PERSONNEL COSTS. (KATHRYN RAVELING)**

This item is postponed to the Council meeting of December 14, 2011.

- 5) **CONSIDERATION OF BILL NO. 2011-30: ADOPTION OF ORDINANCE NO. 2011-\_\_\_\_ (COUNCILOR CALVERT AND COUNCILOR TRUJILLO). AN ORDINANCE AMENDING ARTICLE 18-4 SFCC 1987, TO REQUIRE CORE RECYCLERS, PREVIOUS METALS DEALERS AND TRANSIENT PREVIOUS METALS DEALERS TO OBTAIN A CITY BUSINESS LICENSE; AND TO REQUIRE PERSONS LICENSED UNDER ARTICLE 18-4 SFCC 1987, TO COMPLY WITH REGULATIONS REGARDING THE SALE OR PLEDGE OF COPPER, CATALYTIC CONVERTERS, PRECIOUS METALS AND OTHER ITEMS AS MAY BE DESIGNATED BY RESOLUTION OF THE GOVERNING BODY. (MELISSA BYERS)**

This item is postponed to the Council meeting of August 30, 2011.

- 6) **CONSIDERATION OF BILL NO. 2011-31; ADOPTION OF ORDINANCE NO. 2011-28. (COUNCILOR CALVERT). AN ORDINANCE AMENDING THE SANTA FE ELECTION CODE, ARTICLE 9-1 SFCC 1987, AND THE PUBLIC CAMPAIGN FINANCE CODE, ARTICLE 9-3 SFCC 1987, TO ENCOURAGE PARTICIPATION IN PUBLIC CAMPAIGN FINANCING BY ADVANCING THE PRE-ELECTION TIMETABLE; REPEALING SECTIONS 9-3.12 AND 9-3.13 SFCC 1987, REGARDING MATCHING FUNDS; AMENDING SECTION 6-16.7(B) SFCC 1987; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY. (YOLANDA VIGIL AND GENO ZAMORA)**

A copy of proposed amendments to Substitute Bill No. 2011-30, introduced by Councilor Chris Calvert, is incorporated herewith to these minutes as Exhibit "11."

Councilor Calvert presented information regarding this matter from the materials in the Council packet, noting reference to matching funds has been removed because of a recent Court case.

### **Public Hearing**

#### **Speaking to the request**

**Dershen Siegel, 11 Bonita Court**, said the last vestiges of democracy are “frayed, torn asunder, and this is one little tiny step to level the playing field, and it should be a no-brainer. At least Santa Fe can say we did what we could do to be a progressive community which I believe you are, so I would encourage approval.”

**Herb Cohen, 2744 La Bajada**, said he has been involved in various organizations which are concerned about what is happening in America in terms of money and politics, one of which is Common Cause. He said there are other organizations which are anxious to see what you have done with public financing to come to fruition. He congratulated the City Council in getting us this far with public financing. He said they will get congratulations from the whole community once they realize what a great thing this is. He said the improvements are absolutely necessary to make it function in the best possible way. He urged the Council to pass this Ordinance.

**Marilyn Bane, 622 ½-B Canyon Road**, said she agrees with the previous two gentlemen. She said this is a “no-brainer,” is much needed, and having money early when “you can use it means an enormous amount.” She believes it is vital to amend the ordinance in this manner. She said this is a terrific bill and asked the Council to vote for it, noting she is speaking for herself as well as for the Neighborhood Network Board.

**Robert Covelli, 2878 Calle de Molina**, said he is here to support this bill and the changes made to encourage people to take advantage of public financing. He is very concerned about public financing and money in politics, and “strongly urge you to pass this.”

**Elaine Giovando, 32 Double Arrow Road**, said she lives in the County. She wants to congratulate the Council for all it has done to start public financing in the City which is a very complicated issue, and we have start at the local levels to work out the problems. She is proud that Santa Fe is a leader in that regard.

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



**MOTION:** Councilor Calvert moved, seconded by Councilor Bushee, to adopt Ordinance No. 2011-28, with the amendments proposed by Councilor Calvert [Exhibit "12"].

**DISCUSSION:** Councilor Chavez said we are taking the next step and we'll see how this works. The idea is to take money out of campaigns so money isn't the only factor which influences how people vote. The last Mayoral campaign generated \$180,000, but only 27% of the eligible voters voted. He said the public needs to hold this system accountable. He said if one candidate accepts public financing, and one chooses private financing and out-spends the other candidate, "then what has public financing done." He said, "We're taking taxpayer dollars and we're going to fund campaigns. That's never been done before in Santa Fe. And, public financing hasn't worked in other places either, so it is still a test. We're still testing. So, I'm going to vote for this, but I'm asking the public to hold those candidates accountable. It's your taxpayer dollars that's at work here. And let's hope that it does elect the best possible candidates."

Councilor Bushee said, "This has been an important effort. We're following up with what the voters asked us to do with regard to at least public campaign financing reform. We haven't gotten that far with the ranked choice voting, and I had a question on that afterwards. I think it's essential at this point in the electoral process that we begin, in whatever way we can, to remove the influence of money in elections. And I disagree a little bit with Councilor Chavez in that I think it's been working in a lot of other places."

Councilor Bushee continued, "It becomes more clear who spends what, and who is contributing those funds, and it will become more clear what that candidate stands for. I think this is a fairly big step, and important step. Albuquerque has this, and it's time that Santa Fe has it."

Councilor Bushee said, "I did want to follow up with the letter we got from the Secretary of State, when they say that if we are interested in pursuing ranked choice voting, we would have to seek a solution through the New Mexico Legislature. Does that mean funding to buy our own machines, or a mechanism to actually be able to that, because it is through the County Clerk that you make available to the municipality located in the County the voting systems, so I'm trying to understand what that means."

Mr. Zamora said, "What that means is this, in a lot more detailed terms. State law requires the City to use county machines, and the counties within New Mexico use state machines. The State has purchased and provided all of the counties with all of the machines state-wide. And the Secretary of State's Office also certifies them. What they have done is gone back to their vendor, and asked their vendor if these machines are capable of ranked choice voting, and their vendor says no, these machines are not. The State would have to acquire machines that are capable of ranked choice voting. So, it's this slow up effect."

Councilor Bushee asked if he is saying there would have to be a change made through the entire Legislature or there's some administrative effort that could happen.

Mr. Zamora said the change would have to be to statute that requires cities to use the county and state machines, that would give cities the options to go out and purchase and maintain their own voting machines, or alternatively go to the Legislature for an appropriation for the State to purchase voting machines.

Mayor Pro-Tem Wurzbarger asked that further discussion on this item be at another time, noting we all received the letter.

Councilor Bushee said she work with City Attorney to interpret this a little more clearly, saying "maybe the County could buy them for us."

Councilor Romero said, "This is a momentous opportunity. And when I was elected in 2008 is when the voters voted that this was important, so I'd like to note this has been 3 years in the making with a lot a lot of time. I just never dreamed it would take this much time and the number of hours. But, I would like to thank the public who were interested in this, the voters, who moved forward with this. And, to the Council who actually put the money into the budget to make this happen. I hope the public understands it took money out of the budget to make this happen, and we actually killed it a couple of times. It was in and it was out. So, credit where it is due to a Council and staff who helped move forward with the budget and making this happen, and to the public and specific individuals who really stepped up to the plate, and to Yolanda for a lot of work behind the scenes to make this happen. I definitely want to congratulate folks for moving this forward. And to the public, I agree with Councilor Chavez that it will be a really tough thing to do to get those signatures with the dollar amounts, but I think more importantly, the amendments that have been brought forward make it feasible. This is about implementation and the changing of the timelines will make it feasible. It affects all of us in some way or another, and congratulations to those folks who spent the number of hours... I look forward to seeing how this really works."

Councilor Dominguez said, "I've been in support of this, and I've been in support of this for a long time. I think it's something that is good for the community. There is something to be said for incumbency though, because incumbents carry a lot of weight, especially in this community, as history has shown. But, nonetheless I think this is really going to require candidates to do more grass roots, if you will, campaigning, and so I think that's something that's good for everyone. And it could remove some of that stigma of having to raise so much money to combat that incumbency and this levels the playing field a little bit, so I'm in support of this."

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

**For:** Councilor Bushee, Councilor Calvert, Councilor Dominguez, Councilor Romero and Mayor Pro-Tem Wurzbarger.

**Against:** None.

**Explaining her vote:** Councilor Bushee said, "The reason I raised the ranked choice voting issue is that it is the same issue that was voted on by the public when they voted for this in terms of public campaign financing. They also supported ranked choice voting, so I hope we can continue to try to pursue that, but I am grateful to be able to vote for this. Yes."

**Explaining his vote:** Councilor Calvert said, "Yes. I wanted to thank staff, Melissa Byers and yourself, because I know the burden of this is going to fall on you. And so, you have my pledge for any support you need to implement this as we pass it, so then I vote yes."

- 7) **CONSIDERATION OF RESOLUTION NO. 2011- \_\_\_\_\_. CASE #2011-01. PURPLE HORIZON MOBILE HOME PARK GENERAL PLAN AMENDMENTS. JAMES W. SIEBERT, AGENT FOR PURPLE HORIZON PROPERTIES, LLC, REQUESTS GENERAL PLAN FUTURE LAND USE MAP AMENDMENTS TO CHANGE THE DESIGNATION OF 0.84± ACRES FROM COMMUNITY COMMERCIAL TO MEDIUM DENSITY RESIDENTIAL; 2.10± ACRES FROM MIXED USE TRANSITIONAL TO MEDIUM DENSITY RESIDENTIAL; AND 4.68± ACRES FROM LOW DENSITY RESIDENTIAL TO MEDIUM DENSITY RESIDENTIAL. THE PROPERTY IS LOCATED NORTH OF CERRILLOS ROAD, SOUTH OF RUFINA ST. AND WEST OF HOME DEPOT. (DAN ESQUIBEL) (Postponed at July 27, 2011 City Council).**

*Items H(7) and H(8) were combined for purposes of presentation and public hearing, but were voted upon separately.*

A copy of a Memorandum dated July 12, 2011 for the July 27, 2011 City Council Hearing, with attachments, to Mayor David Coss and City Council, from Daniel A. Esquibel, Land Use Planner Senior, Current Planning Division, regarding Case #2011-01 and Case #2011-02, is incorporated herewith to these minutes as Exhibit "12."

A copy of the statement for the record by Rick Montoya, entered for the record by Rick Montoya, is incorporated herewith to these minutes as Exhibit "13."

A copy of a power point presentation on the Purple Horizon Manufactured Home Park, entered for the record by Jim Siebert, is incorporated herewith to these minutes as Exhibit "14."

The staff report was presented by Daniel Esquibel. Please see Exhibit "13," for specifics of this presentation.

## Public Hearing

### Presentation by the Applicant

**Jim Siebert, 915 Mercer, was sworn.** Mr. Mercer presented information via power point. Please see Exhibit "14" for specifics of this presentation.

### Speaking to the Request

Mayor Pro-Tem Wurzbarger gave everyone 3 minutes to speak to the request.

*All those speaking were sworn en masse*

**Victor Montano, 2300 Brother Luke [previously sworn],** said he wants to thank the Council for listening to this project. He said he believes Jim Siebert spoke about all of the issues. He said there are seniors who are very interested in this project. He said Horizon is one of the projects about which he is very proud. He hopes the project is approved.

**Carlos Gallegos, 44 Penny Lane,** said he owns Zia Factory Outlet Mobile Home Sales in Santa Fe. He is here to support this project, and believes it is needed. He said it is affordable housing. He said his units sell for about \$35 per sq. ft.

**Joanie Miller, 3471 Cerrillos Road, owner/manager Trailer Ranch,** said the business has been in the family for 18 years, and she and her husband are the 2<sup>nd</sup> generation to live on site and manage the property. She said it is a senior mobile home park with more than 100 seniors. She said due to the late meeting many people were unable to attend and she is speaking on behalf of those who couldn't attend. She said their community has been almost completely crime-free for years. She understands the subject property will be developed some day, but their primary concern is the safety of their high risk residents. She appreciates the Applicant's proposing a senior community, but the property cannot be guaranteed to remain as such in perpetuity, and should not be approved based solely on that. The senior community designation is mandated by HUD as a privilege, not a right, noting HUD has no penalties for falling out of compliance. She said City Ordinance does not cover this designation, and the City would be helpless to enforce it after completion. If the property were to be sold to an entity which doesn't desire to continue it as a senior facility, it reverts back to the same the same zoning issues which have been vetted and denied by the Planning Commission – overcrowded schools, traffic on Rufina, public safety and emergency services, off street parking and the neighboring property owners ability to access Rufina. She reiterated that their concerns are continued safety and security and keeping the environment for the seniors because they have the right to continue that. She said they can't support the proposed development because it can't be upheld. She said as a condition of rezoning, if this is approved, they would ask the City to impose

high penalties for falling out of compliance, and how it would enforce the rezoning. She said they have mobile homes in their park, and if people are looking they should come and see them.

**Rick Montoya, 2805 Plaza Montoya**, entered his statement for the record, in opposition to the project. Please see Exhibit "13," for the text of Mr. Montoya's statement.

**Jesus Esparza, Moriarty, New Mexico**, said the trailer parks in which he has lived have been rowdy. He said if he decides to move here from Moriarty, he would like to think about living here, because there will be people there all the time to help them. He said this is a good project and something to think about if he decides to move to Santa Fe.

**Doug Ottersberg, 3956 Agua Fria**, said he is a community owner and owner of Creative Homebuyers. He said this is a family business, and he has been a manufactured home retailer for 17 years. This is a project that meets City Code and the City's objective of infill development. It is the most affordable housing in the community. He said every day they turn away people because there is no place to put their homes. He said this is a perfect project for people who want to live at home and in town. He serves on the Board for the New Mexico Manufactured Homes Association, but he isn't here in that capacity, but he sees the decisions that group has to make. He said we complain that our children and our parents can't afford to live in Santa Fe. He said this is a private citizen willing to step up at his own cost and develop and bring to you a project that meets your Codes, and has bent over backward to accommodate the local community. He said, "I would like your support on this matter."

**Patricia Gallegos, 2110 Paseo [inaudible] in the Village of Agua Fria**, said this is her community, her tradition, her heritage and her life. She said their property comes out onto Rufina and continues to Cerrillos Road, so she is very familiar with the area, its issues and concerns. She doesn't feel this project would have "that big of an impact on traffic flow or anything else." She said these people have been working hard to meet all City standards and requirements and regulations. She said the Applicant is also from Santa Fe and he cares a lot about Santa Fe and what is being provided. She said there are lot of concerns about "what if," and we can spend a lot of time on "what if." What if they don't keep their word, what if they change the use of the land, etc. She doesn't think they should be judged on "what if" can happen and should be judged on what it is now, what they have presented, and what they are willing to do for the City. She said she works for a program which houses homeless people, many of whom are seniors. She said there is a severe lack of senior housing in the Santa Fe area. She said the public housing on Alta Vista is not sufficient for the need. She said this is affordable housing and utilized to take care of "those who raised us," and it will protect them, give them a place to live. She said for us to say no to something that would help seniors, in her opinion, does not set a very good example for our children and our future as senior citizens of Santa Fe.

**Walter Mann, 417 Palace Avenue**, said he has been working on this project with the Montanos for about two years, and he is in favor of it. It represents an affordable housing project that is even more affordable than what you've been supporting all these years. It provides housing to a certain segment of the community that isn't found elsewhere. He surprised to hear that Joanie, a neighbor of the Montanos, is opposed to the project, because for the last year, they have been in favor of it. He said they have been opposed to the density, but mostly in favor of it. He supports the project, saying there is a need for it, and urged the Council to approve the project this evening.

**Rudy Garcia** said he grew up in Agua Fria, attending Agua Fria School then Sweeney, so he is familiar with the area. He has worked with Victor Montano in the past, noting Mr. Montano owned a concrete company in the past. He thanked Mr. Montano for coming forward with a planned development, noting a lot of rural sprawl happens down Rufina. He said Mr. Montano's project is engineered with proper traffic circulation and such. He said to the east of this property is a "50 foot wall which is the Home Depot," and he believes this area is to be utilized for this mobile home park. He asked the Council to approve this request.

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

Councilor Dominguez thanked everyone for speaking regardless of their position on the issue. He said he has four questions. He is somewhat confused about what has been presented with regard to parking. He noted the January 20<sup>th</sup> memo, packet page 84, from the Fire Marshal says, "3. Due to length of main entry into development there will be no parking in street." He said he looks at what has been submitted and there is a parking plan with a Fire Marshal's stamp which says "conditional approval." He said he doesn't see a memo from the Fire Marshal listing the conditions of approval.

Mr. Esquibel said the only one he received is in the Council packet, the one which says there will be no parking in the street.

Councilor Dominguez asked if anybody has a Memorandum from the Fire Marshal which indicates the conditions of approval, other than a stamp.

Mr. Esquibel said this is the only one which was received.

Councilor Dominguez asked the Applicant if they have anything from the Fire Marshal.

Mr. Siebert said there is approval from the Fire Department with the parking as shown.

Councilor Dominguez asked Mr. Siebert if he has a Memo from the Fire Marshal which indicates that.

Mr. Siebert said there is no Memo. He asked if he is referring to the conditionally approved.

Councilor Dominguez said he wants to know if there is a Memo from the Fire Marshal that talks about these conditions.

Mr. Siebert said, "No. And the reason for that, is when it says conditionally approved, all plans are conditionally approved until the actual permit is issued."

Councilor Dominguez said the conditions of approval talk about no parking. He said he is confused, and would like to see something from the Fire Department that talks about those conditions.

Councilor Wurzbarger said it appears that there is a discrepancy between a condition that's identified in the letter referenced by Councilor Dominguez and the presentation of the plan which shows all of the parking spots on the road.

Councilor Dominguez said he understands these plans are conditioned, but the condition says there will be no parking on the street. He said there is a conflict between conditions on packet page 79, Exhibit A-1, and condition #3 in the Memorandum from Fire Marshal Angelo Ortega which says, "Due to the length of main entry there will be no parking in the street."

Mayor Pro-Tem Wurzbarger asked Mr. Siebert if he would like to speak to that.

Mr. Siebert said the first plan had a local street which had a lesser standard.

Councilor Dominguez said he appreciates the Applicant's ability and expertise in being able to explain this, but he wants to hear from the Fire Marshal.

Mayor Pro-Tem Wurzbarger said then this is Councilor Dominguez's first question and asked him to proceed with the other 3 questions.

Councilor Dominguez said, "I've worked with you for a long time Jim. I'm not debating anything you're saying, I just want to hear from the Fire Marshal."

Mr. Siebert said he has no problem with that.

Councilor Dominguez said the second question has to do with senior housing. He said page 2 of the Applicant's Clarification of Issues provides, "...the City would have the right to check renter certificates that specify that the renter complies with the rules for Housing for Older Persons Act of 1995." He asked if it is the City's burden to check this – the City would bear the cost of taking any recourse if they are not in compliance.

Mr. Siebert said, "Typically, if the condition was imposed as stated, if someone thought they were in violation, they would notify the City. The City would then have the right to check these verification statements to see if, in fact, they've met the 80% standard."

Councilor Dominguez said, "So the City would have to bear the cost, whatever it costs, to verify."

Mr. Siebert said, "Like any zoning violation."

Councilor Dominguez asked if there is any recourse for the School District, which "was what kind of prompted this. It was first mobile homes in general, and I guess to sort of satisfy the School District's concern, it was changed to senior housing or senior mobile homes. Is there any recourse for the School District, because by then, it may be too late. If there's a violation and these children have lived there or have registered in the schools, then the overcrowding concern that they have, it's kind of too late. So, what recourse does the School District have."

Mr. Siebert said, "The recourse would actually be through the City. The City would have to be responsible for the enforcement activity. I don't see how the schools would have any enforcement rights."

Councilor Dominguez said, "But the damage will already have been done. Correct. I mean, wasn't that the premise of going from just mobile homes in general to seniors, is to satisfy that concern from the School District."

Mr. Siebert said, "Since the mobile home park would be in violation of the zoning, it would have to be brought into compliance."

Councilor Dominguez asked, "How would the School District respond to that. In other words, you know, it could be in violation. Their concern, the thing that they're concerned about, can't be fixed by the City. We can't take kids out of the school and tell them to go to a different school, because the Applicant... or because the rules weren't upheld."

Mr. Siebert said, "But the occupants of the Park would have to be... part of the rules is that they would have to be in compliance with 80% standard, so if they were out of compliance, they would have to relocate people out of the park."

Councilor Dominguez asked, "But what about those kids that are in the schools."

Mr. Siebert said, "I assume the kids would go along with them."

Councilor Dominguez said, "You assume, or you know. That's the question. What recourse does the School District have. If there's a violation and the school is over capacity, what recourse do they have then."

Mr. Siebert said, "Well, the School District would have no recourse. The recourse would have to be through City enforcement."



Councilor Dominguez said, "Okay. Well I think that's kind of risky, because if we approve this and for some reason there's a violation, the damage, in my opinion is already done. The school would then be over capacity and the City won't be able to do much about that."

Councilor Dominguez said his other question has to do with the idea that there is a demand for manufactured homes. "And you say the demand for manufactured homes spaces in the City is unsatisfied since there are very few places to place manufactured homes. And then you provided us, in your slide show presentation and in your Memo, numbers for comparison of City versus County mobile homes. How many more manufactured homes do we need in the City to satisfy that demand."

Mr. Siebert said, "There is a demand, and the question is, it is a housing type, and I realize that it has some stigma associated with it."

Councilor Dominguez said, "You realize that, or..."

Mr. Siebert said, "I think it was a sense I got at the Planning Commission meetings. But there is a real demand for this kind of housing, and like I said earlier, in some cases it is the only type of houses people can afford."

Councilor Dominguez said, "And I appreciate that, and I understand that. That's how I started as a young father with a young family, but how do you quantify that. Do we need one more manufactured home or 1,000. What data do you have to base that statement on."

Mr. Siebert said, "Well, my guess is the demand for 44 could be absorbed very quickly."

Councilor Dominguez said, "Your guess. Is there some study out there that says we don't have enough mobile homes, because you are referring to manufactured or mobile homes specifically, not affordable housing."

Mr. Siebert said, "The problem is that it would be difficult to do such a study since no manufactured home parks have been constructed in Santa Fe since 1980."

Councilor Dominguez said, "In your presentation, with regard to the General Plan Amendment, and you kind of looked at the land patterns, and you talked about how it would be difficult to accomplish compliance with the Southwest Area Master Plan. Would it be impossible, or just difficult."

Mr. Siebert said, "From a market standpoint, in my opinion, it would be impossible."

Councilor Dominguez said, "From a market standpoint, but not from a planning or development standpoint, because that is part of my concern. In the experience that we had before with regard to senior housing, I guess, and I don't have the history, but from what I've read, the market wouldn't support that

senior housing project. And so, I understand that from a marketing perspective you're making that statement, but from a planning and land use perspective..."

Mr. Siebert said, "What we're looking at is a very small piece of what would be C-2, a little larger piece of mixed use, and then the north end would be lower density residential, 7 units per acre. That's a very difficult kind of mix all in a very small tract of land. If you have a much bigger tract of land, it's much easier to accomplish that kind of a land use mix."

Councilor Dominguez said, "What development... right now, what's the zoning."

Mr. Esquibel said R-3.

Councilor Dominguez said, "Then there is the potential to develop R-3 in that parcel."

Mr. Esquibel said, "That's correct."

Councilor Chavez said he has questions of John Romero dealing with the roadway, Rufina. He wants to talk about the whole corridor and not just what is abutting this proposed development. He said something that came up in the presentation started him to think. He said Mr. Romero or Mr. Siebert mentioned the possibility of doing a corridor study dealing with the entire roadway. He said it seemed to make sense because we're talking about medians which weren't part of the original design, which will change the traffic plan for some and not others. He asked Mr. Romero to speak to this.

Mr. Romero said, "I think those words came out of Jim's mouth as far as a formal corridor study."

Councilor Chavez said those have been done in other areas, and it seems to make sense to do a corridor study on Rufina ahead of developing some of the parcels in that area.

John Romero said, "With regards to that, as far as when Rufina was constructed, I wasn't involved in the design. But, what I've noticed is that major access points, medians were constructed. And areas where there were minor access points, like 1 or 2 houses, or where there are vacant tracts of land, such as this, there were no access points generated. Now, as far as the City initiating a corridor study and trying to put these medians before development comes, I think that might be a little challenging, because it would be hard to guess which development is going to come where, and where we need to line up these access points and these deceleration lanes. So, in a case like this, it would have been hard for us to foretell that this was going to be where a major access point would be, and where a logical median break with turn lanes should be. So, development may be an appropriate time, as these vacant tracts develop around areas without medians, where we do construct medians."

Councilor Chavez said, "This seems to be a little piecemeal, and I think it is a challenge. It is a challenge for us to design, it's a challenge for the property owner, it's a challenge for the engineer, because of the way it's been developed up until now. So, we're dealing with the parcels that are left. It's a

tight fit. They're very long and narrow. It's all challenging. This seems piecemeal, and we don't know how these pieces are going to fit together. That's a little unsettling, and I think that the Southwest Area Master Plan and the work that went into that was supposed to help us work through some of this. That's my first concern."

Councilor Chavez continued, "The second question I have, has to do... is well twofold. The Planning Commission.... now there seems to be some ambiguity about what the Planning Commission approved and what they didn't approve. Can you touch on that for a minute."

Mayor Pro-Tem Wurzbarger asked Councilor Chavez if he is asking that question of Mr. Esquibel, and Councilor Chavez said yes. Mayor Pro-Tem Wurzbarger said then he wants a clarification of exactly what the Planning Commission recommended.

Councilor Chavez said yes, on both the General Plan amendments and the rezoning.

Mayor Pro-Tem Wurzbarger asked Mr. Esquibel to clarify this for us.

Mr. Esquibel said, "On page 12, you'll find the Findings of Fact and Conclusions of Law of the Planning Commission. They recommended to deny both the General Plan amendments and the rezoning."

Councilor Chavez said, "That's what I thought, but I was hearing a variation from the public, and I don't know if they were confused, or not getting the right information, but I just wanted to put that out on the record."

Councilor Chavez said "The other question I have has to do with an on-site manager or management of this particular property. Because, when we talk about apartment complexes or Section 8 Housing or Civic Housing Authority, sometimes we don't have a lot of leverage to suggest that those managers do something they don't want to do. They manage those properties the way they're directed to manage them. They're not going to... they might pay attention to our ordinances a little bit, but they're not going to go out of their way to actually help us enforce those ordinances. So how is that going to work for this Applicant and for this particular development. The management of what's being proposed."

Mr. Esquibel said, "At the present time, Chapter 14 doesn't require on-site management. That is strictly up to the Applicant and the developer. With regard to enforcement of 55 and older community, again Chapter 14 does not regulate that, so we would not be able to enforce that."

Councilor Chavez said, "So those are things that are outside our ordinances that are in place now. And then we have the ordinances that we all follow, or should be following. And, again, management is going to look the other way when people are in violation of those ordinances as well. So I just have a question about how that's going to be managed and how we work together to enforce the federal guidelines and our own ordinances."

Councilor Romero, "Could I have a clarification. I got confused there for a moment, because I thought that on page 17 of our packet, the Planning Commission, on May 11<sup>th</sup>, denied the development plan and the necessity to change.... so, Item 10, the proposed rezoning is not necessary and justified. And then under the Development Plan, Item 11, the Development Plan is not in compliance with the requirements. But I think I just heard something different. So, I'm looking at page 17, Planning Commission denied both."

Mr. Siebert asked if she is speaking about page 12.

Councilor Romero said it is page 17, dated May 5, 2011 – the minutes of the Planning Commission meeting.

Mayor Pro-Tem Wurzbarger said she sees no inconsistency.

Councilor Calvert said, "What you may have heard from some people from the public, you can take it on face value or not. Some public commenters said they thought this project met all of our zoning requirements. But obviously staff and the Planning Commission did not. So, I think that's where any confusion may have come from."

Councilor Calvert asked, in terms of demand, "were people in our Affordable Housing Department contacted about the housing needs assessments they've done and if it addressed any particular manufactured homes."

Mr. Esquibel said, "The Applicant did have a draft proposal that was signed and submitted to the Affordable Housing Program. No contract is in place yet, so I would assume that both Melisa Daley and the Applicant did discuss it."

Councilor Calvert said, "My question is, does our housing needs assessment that the Affordable Housing Department has done, does it address specifically in affordable housing, the manufactured home as a segment of that market."

Mr. Esquibel said, "I could not answer that question."

Mayor Pro-Tem Wurzbarger said, "I think I can. To my knowledge, having been involved in the issue for a long while, and being quite familiar with that report, and I hope I'm not wrong, but I do believe we never addressed that as a category, that the emphasis was on stick construction and the kinds of homes that would be built accordingly."

Councilor Calvert said, "A question. Maybe this is of the Applicant on what I call emergency access. You show an option gate so that the Fire Department can access this property from a second direction. Does that work both ways. Does it work for egress from this project for residents."

Mr. Siebert said, "The answer is yes."

Councilor Calvert asked how that works, commenting that "if it's an option gate, somebody has to have some kind of card or something to make it move right."

Mr. Siebert said there would be a provision to have a manual operator on the inside of the park to allow it to open as well.

Councilor Calvert said, "Then anybody in the park could operate that at any time."

Mr. Siebert said yes.

Councilor Calvert said, "So it would function as a thoroughfare or an alternate exit, not just in emergency situations, but any time."

Mr. Siebert said, "Part of the rules would regulate that kind of thing, and I think to respond to Councilor Chavez's concern about management, I mean he's 'spot on.' Management is the issue. If you take a look at various manufactured home parks around town, you can tell exactly which ones have good management and which don't. That would be part of the management. But, what I wanted to emphasize here is the fact that Victor Montano has been in business for 39 years here in Santa Fe. He began with a backhoe, and now he employs over 50 people. I think he has the management skills. His daughters run their businesses, their own businesses, and I think he has the proven management skills to manage this park as well."

Councilor Calvert asked if Mr. Montano will be personally managing this park.

Mr. Siebert said no, most likely one of his daughters will be managing it.

Councilor Chavez said, "So there will be a designated housing for management on site."

Mr. Siebert said there is an office within the park.

Councilor Chavez said, "No. Living quarters for the manager, on-site management."

Mr. Siebert said, "The on-site management would not be on a 24 hour basis. Let me continue... within the park, we're going to keep one unit where there is a woman living there who has lived there for several years. She will continue to live there. It's included in the park, and she would be responsible for after-hours security and protection for management for the park."

Councilor Calvert asked what is the experience of that person, in that regard. He understands she may have lived here, but in terms of management, does she have the same expertise.

Mr. Siebert said she has no management experience in running a park, but her responsibility would be more on an emergency basis, and she would not be running the park.

Councilor Calvert said, "I think it's a lot of problems... you mentioned yourself that you can tell the difference between different mobile home parks based on their management. And I think part of that is having somebody on-site 24/7 that manages, because some of the problems that occur, don't respect 8 to 5. What happens after dark. What happens when people have too many guest over or a loud party, or something like that. Those don't all occur 8 to 5, more likely than not, they don't. So I guess that's my concern with that in terms of a well run.... if we're trying to fit in and be good neighbors, that's sort of my concern, and I think you need that kind of an activity, not the least of which is it is a senior designated area, there's a lot of issues that might come up around that as well."

Mr. Siebert said, "If that's an issue to the Council, I can talk to my client, but he would be in agreement to have 24 hour professional management on site. The answer is yes."

Councilor Calvert asked, "In terms of how you keep it a senior project. You made statements like... you said it would be easy, or take minimal oversight, your words. My question is how will we know and monitor compliance, other than is it strictly by complaint. Is that how you assume we're going to monitor and maintain."

Mr. Siebert said, "It probably could be done one of two ways. One is through a complaint basis which would be typical of zoning, or you know, it could be a regular scheduled thing. Once a year the certificates would have to be provided to the City, and somebody would have to sign an affidavit that those certificates are real, and the City would then determine if they are in compliance or not."

Councilor Calvert said, "Usually the rule is don't ask a question if you don't have some vague idea of the answer, but I'm going to go out on a limb here. The Trailer Ranch next door, how do they keep it as a senior project or seemingly seem to keep it that way, and is there something you can adapt there, or is it because of the type of ownership difference between your project and their project that you don't have those same mechanisms available to you."

Mr. Siebert said, "It gets back to management. It was a decision on their part to maintain it as a senior housing park, and my guess it initially was initiated from a marketing standpoint."

Councilor Calvert said, "Their units are owned, right. Occupant owned, or are they not."

Mr. Siebert said, "You'll have to ask Joanie that, but it is my understanding that they actually own the majority of the units, the park owns the majority of the units."

Councilor Calvert asked, "What is the model. Are yours going to be owner occupied, or rented to the occupants. How do you envision this one working."

Mr. Siebert said, "It would probably be a combination of people bringing their own units, and in some cases it may be that the owner would put a unit on the space and he would lease both the space and the manufactured home unit."

**MOTION:** Councilor Dominguez moved, seconded by Councilor Chavez, to deny Case #2011-01, the Purple Horizon Mobile Home Park General Plan Amendments, and that the Findings will be consistent with those identified in the Planning Commission Findings of Fact and Conclusions of Law.

**DISCUSSION:** Councilor Dominguez said, "I do not believe this project is advantageous to the City. I think there's other ways to make the affordability advantageous to the City and the constituency. I have great concerns about the impacts that this could have on the School District if things are not enforced or complied with. And I have some other concerns about safety and on-site management."

Councilor Chavez said, "I would like to add that my vote does not mean that I... I believe that there is a need for senior housing, for affordable housing. But I think that there are enough mobile home parks that are concentrated in this area. The Southwest sector has taken really the brunt of that."

Councilor Romero said, "I support the motion, because of the Planning Commission findings. But I will note that, having read the minutes of the ENN and other meetings, I can see why the developer thought 'you were getting married.' I think that it's disingenuous for the public to lead folks on, saying 'but if you just meet one more condition, if you just do one more thing, we're going to support you'. I just think that's a wrong direction to go, so I can see how that happened. But, I also note we are fitting in, kind of, squares into round holes here with some of these left over places. This has these long strips and a lot of other problems. For that reason, I'm supportive of the motion and supportive of the effort. But, I just want to remind folks that when you go through these ENN's, it looks like you're trying to work things out. It looks like there is a direction, but it's not really where the developer, having spent a lot of money, time and energy to address all the issues, ends up. And I just think that's unfair. So, I think there may be different ways to look at this area because it has potential for creating affordable housing, and we've set that as one of our goals. And this is senior housing, and I think there's opportunities, but this really isn't the right fit for it."

Councilor Calvert said, "I've heard the comments from both people in support and against it. And, I'm wondering, those that are against it, if there were conditions on this, like professional management 24/7, and conditions along those lines, and maybe the density was not quite as dense, because I think that's part of the problem with this project and why they're having trouble with parking spaces or meeting the parking requirements, and I think... but I would like to know, from those who are against it, if there are conditions under which they would be in favor or not against such as a project. Such as the 24/7 professional management. I think the project has tried, and it might be financial reasons, and I understand that, but has tried to put too much in the space that is there, and that's why they ran up against some of the problems and why the Planning Commission recommended against it. I think that the Applicant had an opportunity to modify the plan on site. Too much in one place. The Applicant had an opportunity to modify their plan, and I can only guess that they but chose not to. And again, that's their decision, and it

might be financial. There's nothing to say that they can't come back with a slightly modified proposal and it might get approval if those things that are identified, by the Planning Commission and somewhat by the opponents, are addressed. I think they sort of addressed some of them, but didn't totally address them all and not satisfactorily. So, I guess, I'm going to have to support staff's recommendation."

Councilor Calvert continued, "I think I agree, or I'm not arguing should we have this and do people want it. I think if it's provided under the right circumstances with the right conditions and meets the Codes and makes a little more effort on being a good neighbor, then it might win approval. But I don't think that I can support it at this time."

Councilor Bushee said, "The one thing I did like was the attempt to change the designation from community commercial to medium density residential. I think that is the direction it should go, but I can concur that a good number of the concerns and questions really still remain unanswered. I'm kind of surprised the Applicant took it here to the Council without really working out some of the kinks. I applaud your effort to try and consider this to be medium density residential, and I think it's a tough property to make that work, in terms of the traffic and ingress and egress and parking. Then there's still the whole trying to maintain it as senior housing and to be honest, I think there needs to be some overall planning done in that area. I think the Southwest Area Sector plan touches on it to some degree and it doesn't work for all aspects of that plan. I think that whole corridor could use a lot more focus and work. I'm sorry to say this evening I don't support this, but I'm not opposed to seeing this project again with some of the things worked out a little bit better."

**VOTE:** The motion to deny Case #2011-01 was approved on the following roll call vote:

**For:** Councilor Bushee, Councilor Calvert, Councilor Chavez, Councilor Dominguez, Councilor Romero and Mayor Pro-Tem Wurzbarger.

**Against:** None.

- 7) **CONSIDERATION OF BILL NO 2011-28; ADOPTION OF ORDINANCE NO. 2011- \_\_\_\_.**  
**CASE #2011-02. PURPLE HORIZON MOBILE HOME PARK REZONING. JAMES W. SIEBERT, AGENT FOR PURPLE HORIZON PROPERTIES, LLC, REQUESTS REZONING OF 7.62± ACRES FROM R-3 (RESIDENTIAL, SINGLE-FAMILY) TO MPH (MOBILE HOME PARK). THE APPLICATION INCLUDES A DEVELOPMENT PLAN FOR 44 MODULAR HOME SPACES FOR SENIOR HOUSING. THE PROPERTY IS LOCATED NORTH OF CERRILLOS ROAD, SOUTH OF RUFINA ST. AND WEST OF HOME DEPOT. (DAN ESQUIBEL) (Postponed at July 27, 2011 City Council).**

**MOTION:** Councilor Dominguez moved, seconded by Councilor Romero, to deny Case #2011-02, Purple Horizon Mobile Home Park Rezoning, and that the Findings will be consistent with those identified in the Planning Commission Findings of Fact and Conclusions of Law, and considering all of the other comments made here tonight.



**DISCUSSION:** Councilor Chavez said, to follow up on Councilor Calvert's comments at the end of the discussion. He said, "Infill is a good thing, right. We need to do that, and it needs to be done right. We also have a rural character that we are trying to maintain, and I think we need to find that balance as well, as much as possible. And I think that's the challenge that we're going to be facing with most of the annexation that we're going to be doing in that area, because it's already built out. But still, I think that needs to be respected. When we started the annexation, we said to many of the people in the County that, you know, you can keep doing what you're doing. It's not going to change that much, that fast. And so, those are the reasons I think I am also questioning this project right now, and I hope that they can meet those challenges and fit in a little bit better."

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

**For:** Councilor Bushee, Councilor Calvert, Councilor Chavez, Councilor Dominguez, Councilor Romero, and Mayor Pro-Tem Wurzbarger.

**Against:** None.

- 8) **CASE #2011-81 AND CASE #2011-82 – DESERT ACADEMY SPECIAL EXCEPTION AND VARIANCES. STEVEN R. BOYLES AND PETER McCARTHY EACH APPEAL THE MAY 18, 2011 DECISION OF THE CITY OF SANTA FE BOARD OF ADJUSTMENT IN CASE #2010-195, APPROVING THE APPLICATION OF DESERT ACADEMY FOR A SPECIAL EXCEPTION TO OPERATE A PRIVATE HIGH SCHOOL (GRADES 7-12) AT THE VACANT KAUNE ELEMENTARY SCHOOL LOCATED AT 1409 MONTEREY DRIVE, WITH VARIANCES FROM THE MINIMUM ACREAGE REQUIREMENT OF 10 ACRES AND FROM THE 15 FOOT LANDSCAPE BUFFER REQUIREMENT FOR NON-RESIDENTIAL USES ADJACENT TO RESIDENTIAL USES. (KELLEY BRENNAN)**  
(Postponed to September 14, 2011 City Council Meeting)

## **I. ADJOURN**

The was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 9:15 p.m.

**Approved by:**

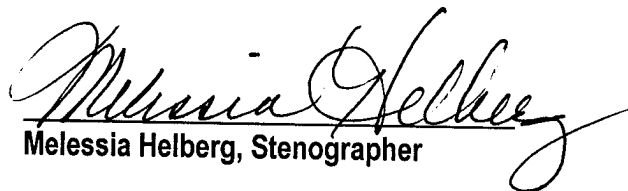
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**Mayor David Coss**

**ATTESTED TO:**

\_\_\_\_\_  
**Yolanda Y. Vigil, City Clerk**

**Respectfully submitted:**

  
\_\_\_\_\_  
**Melessia Helberg, Stenographer**