



# Agenda

REGULAR MEETING OF  
THE GOVERNING BODY  
JANUARY 11, 2012  
CITY COUNCIL CHAMBERS

## AMENDED – ITEM #10-k-3

### AFTERNOON SESSION – 5:00 P.M.

CITY CLERK'S OFFICE

DATE 1-10-12 TIME 4:38 pm

SERVED BY \_\_\_\_\_

RECEIVED BY \_\_\_\_\_

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 – December 14, 2011
9. PRESENTATIONS
  - a) Employee of the Month for January 2012 – John Allen, Golf Course Superintendent. (5 Minutes)
  - b) Introduction of Law Enforcement Academy Graduates. (Chief Raymond Rael) (5 Minutes)
  - c) 2011 Boys Soccer City Champions Trophy Presentation – Capital High School. (5 minutes) (**Postponed at December 14, 2011 City Council Meeting**)
  - d) 2011 Girls Soccer City Champions Trophy Presentation – St. Michael's High School. (5 Minutes)
10. CONSENT CALENDAR
  - a) CONSIDERATION OF RESOLUTION NO. 2012-\_\_\_\_\_. (Mayor Coss)  
A Resolution Repealing Resolution No. 2011-1 Relating to the Open Meetings Act; Adopting the State of New Mexico Open Meetings Act by Reference; and Adopting Notice Requirements. (Yolanda Vigil)



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- b) Bid No. 12/06/B – Liquid Aluminum Sulfate Chemicals for Water Division; General Chemical LLC. (Victor Archuleta)
- c) Bid No. 12/07/B – Soda Ash Chemicals for Water Division; Thatcher Company of Arizona. (Victor Archuleta)
- d) Bid No. 12/08/B – Sodium Hypochlorite Chemicals for Water Division; DPC Industries. (Victor Archuleta)
- e) Bid No. 12/09/B – Liquid Sodium Permanganate Chemicals for Water Division; Carus Corporation. (Victor Archuleta)
- f) Bid No. 12/10/B – Salt Chemicals for Water Division; Brenntag Pacific, Inc. (Victor Archuleta)
- g) Request for Approval of Amendment No. 1 to Professional Services Agreement – Santa Fe Municipal Watershed Management Project for Water Division; Santa Fe Watershed Association. (Dale Lyons)
- h) Request for Approval of Amendment No. 1 to Professional Services Agreement – Public Access and Education Portion of Peg Channels on Comcast Cable Programming; Santa Fe Community Television Channel 16 (Santa Fe Community College). (Joe Abeyta)
- i) Request for Approval of Procurement Under State Price Agreement – City Vehicle and Heavy Equipment Repairs and Maintenance; Various Vendors. (Robert Rodarte)
- j) Request for Approval of Old Las Vegas Place and Transfer of CIP/Affordable Housing Trust Fund Money Usage to Pinon Ridge at Las Estrellas and Transfer Five (5) Remaining Fee Waivers. (Melisa Dailey)
- k) Request for Approval to Publish Notice of Public Hearing on February 8, 2012:
  - 1) Bill No. 2012-1: An Ordinance Amending Section 4-2.2 SFCC 1987 to Prohibit Open Containers in Unlicensed Public Places. (Councilor Bushee) (Alfred Walker)



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- 2) Bill No. 2012-2: An Ordinance Amending Article 24-9 SFCC 1987 Regarding the City's Vehicle Forfeiture Ordinance. (Councilor Bushee and Councilor Trujillo) (Alfred Walker and TJ Grundler)
  - a) A Resolution Adopting Administrative Procedures for the Vehicle Forfeiture Ordinance, Article 24-9 SFCC1987. (Councilor Bushee and Councilor Trujillo)
- 3) Bill No. 2012-3: An Ordinance Approving Technical Corrections to Ordinance No. 2011-37 Related to Chapter 14 SFCC 1987 by Amending §§ 14-2.3(C)(7), 14-3.10(E), 14-7.1(C)1, 14-8.5(A)(1); Reenacting §14-8.11(F); and Amending §14-9.2(D), Table 14-9.2-1, §14-9.2(K)(1) and Article 14-12 to Refine the Definition of "Group Home", Include the Previously Approved Definition of "Housing Opportunity Program" and Repeal the Obsolete Definition of "One Hundred Year Flood"; All for the Sole Purpose of Providing Technical Corrections. (Greg Smith)
- l) CONSIDERATION OF RESOLUTION NO. 2012-\_\_\_\_. (Councilor Calvert and Councilor Bushee)  
A Resolution Authorizing Public Utilities Department Staff to Apply for U.S. Bureau of Reclamation Funding Opportunities to Install or Replace Automatic Meter Reading Devices for City of Santa Fe Water Customers. (Peter Ortega)
- m) CONSIDERATION OF RESOLUTION NO. 2012-\_\_\_\_. (Mayor Coss)  
A Resolution Repealing the Current Human Services Committee Membership Criteria and Creating New Membership Criteria for the City of Santa Fe Human Services Committee. (Terrie Rodriguez)
- n) CONSIDERATION OF RESOLUTION NO. 2012-\_\_\_\_. (Councilor Bushee)  
A Resolution Adopting the 2011 Industrial Revenue Bond Policy for the City of Santa Fe. (Fabian Trujillo)
- o) CONSIDERATION OF RESOLUTION NO. 2012-\_\_\_\_. (Councilor Calvert and Councilor Wurzburger)  
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- p) CONSIDERATION OF RESOLUTION NO. 2012-\_\_\_\_. (Mayor Coss)  
A Resolution Establishing the City of Santa Fe, Division of Senior Services Advisory Board of Directors. (Ron Vialpando)
- q) CONSIDERATION OF RESOLUTION NO. 2012-\_\_\_\_. (Councilor Dominguez)  
A Resolution Directing the City Clerk to Limit the Number of Special Dispenser Permits that are Administratively Approved and Issued at the Same Location, to Three Permits, Per Calendar Year; and Requiring that Any Request for a Special Dispenser Permit Above Three, at the Same Location, be Considered by the Governing Body. (Yolanda Vigil)
- r) CONSIDERATION OF RESOLUTION NO. 2012-\_\_\_\_. (Mayor Coss)  
A Resolution Directing Staff to Begin the Process for the City of Santa Fe to Acquire St. Catherine's Industrial Indian School Campus for the Public Purposes of Historic Preservation, Promoting Arts Education in the City and Leasing the Property to the New Mexico School for the Arts, a New Mexico State Charter School. (Robert Romero)
- s) CONSIDERATION OF RESOLUTION NO. 2012-\_\_\_\_. (Councilor Bushee)  
A Resolution Granting City Staff the Authority to Prepare the Necessary Documents for the Conveyance of Approximately 2.5 Feet of Property Along the Southerly Boundary Line and Approximately 8 Feet of Property Along the Easterly Boundary Line of 1115 Hickox Street, Known as Lot 13, Block 2 of Agua Fria Addition, The Tune Up Café. (Edward Vigil)
- t) CONSIDERATION OF RESOLUTION NO. 2012-\_\_\_\_. (Mayor Coss, Councilor Bushee, Councilor Calvert, Councilor Wurzburger and Councilor Dominguez)  
A Resolution Supporting Proposed State Legislation Sponsored by Members of Santa Fe's Legislative Delegation, 50<sup>th</sup> Legislature – State of New Mexico – Second Session, 2012 that Relates to Reducing PERA Contributions for State Employees; Stabilizing Education Through the Use of the Permanent Land Grant Fund; Encouraging New Mexico Governmental Entities to Use Local Banks; Operating the Higher Education Center in Santa Fe and Amending the New Mexico Condominium Act. (Robert Romero)



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A Resolution Directing Staff to Review the Possibility of Entering Into a Public-Private Partnership with New Energy Economy to Fund and Construct a Photovoltaic System at Fire Station No. 3. (Nick Schiavo)
- v) Request for Approval of Consideration to Fill Vacant Positions. (Robert Romero)
- w) Request for Approval of Appointment of Precinct Officials for the March 6, 2012 Regular Municipal Election. (Yolanda Y. Vigil)
  - 1) Request for Approval to Extend City Clerk's Hours on February 28, 2012 from 5:00 p.m. to 9:00 p.m. to Allow Precinct Officials to Vote Absentee for the March 6, 2012 Regular Municipal Election.
- 11. CONSIDERATION OF RESOLUTION NO. 2012-\_\_\_\_\_. (Councilor Bushee and Councilor Calvert)  
A Resolution Joining the *Move to Amend* Campaign and Supporting the Call for an Amendment to the United States Constitution to Abolish Corporate Personhood.
- 12. MATTERS FROM THE CITY MANAGER
- 13. MATTERS FROM THE CITY ATTORNEY
- 14. MATTERS FROM THE CITY CLERK
- 15. 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



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F. PETITIONS FROM THE FLOOR

G. APPOINTMENTS

H. PUBLIC HEARINGS:

- 1) A Request from Mike's El Comal Café, LLC, for a Restaurant Beer and Wine Liquor License (On-Premise Consumption Only) to be Located at El Comal, 3571 Cerrillos Road. (Yolanda Y. Vigil)
- 2) Request for Approval of Amendment No. 4 to the Economic Development Professional Services Agreement; ¡Youthworks! (RFP #09/02/P). (Kate Noble)
- 3) CONSIDERATION OF BILL NO. 2011-45: ADOPTION OF ORDINANCE NO. 2012-\_\_\_\_\_. (Mayor Coss)  
An Ordinance Amending Section 2-3.3 SFCC 1987 Regarding the Qualifications and Salary of the Municipal Judge. (Judge Ann Yalman)
- 4) CONSIDERATION OF BILL NO. 2011-46: ADOPTION OF ORDINANCE NO. 2012-\_\_\_\_\_. (Councilor Wurzbarger, Councilor Ortiz and Councilor Dominguez)  
An Ordinance Amending Section 14-8.14(E)(1) SFCC 1987 so that for a Period of Two Years, the Impact Fees for Residential Developments Shall be Reduced by 100%; and Making Such Other Necessary Changes. (Matthew O'Reilly)
- 5) CONSIDERATION OF BILL NO. 2011-49: ADOPTION OF ORDINANCE NO. 2012-\_\_\_\_\_. (Councilor Calvert)  
An Ordinance Amending Section 7-4.2 SFCC 1987 Regarding the Administration of the Residential Green Building Code; Repealing Exhibit A to Chapter VII SFCC 1987, Santa Fe Residential Green Building Code; and Adopting a New Exhibit A to Chapter VII SFCC 1987, Santa Fe Residential Green Building Code, to be Consistent with the National Green Building Standard. (Katherine Mortimer)
  - a) CONSIDERATION OF RESOLUTION NO. 2012-\_\_\_\_\_. (Councilor Calvert)  
A Resolution Repealing Resolution No. 2009-42, Resolution No. 2009-73 and Resolution 2010-63 that Adopted and Amended the Administrative Procedures for the Santa Fe Residential Green Building Code; and Adopting Updated Administrative Procedures for the Santa Fe Residential Green Building Code to be Consistent with the National Green Building Standard. (Katherine Mortimer)



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- 6) CONSIDERATION OF BILL NO. 2011-50: ADOPTION OF ORDINANCE NO. 2012-\_\_\_\_\_. (Councilor Romero, Mayor Coss, Councilor Trujillo, Councilor Calvert and Councilor Dominguez)  
An Ordinance Amending Section 25-1.3 SFCC 1987 to Exempt Public Post Secondary Educational Institutions from Being Required to Comply with Chapter 14 SFCC 1987 (Land Development Laws) when Applying for City Water and Making Other Such Changes as are Necessary. (Matthew O'Reilly and Brian Snyder)
- 7) **Case #2011-106. Appeal.** Sommer Karnes & Associates, LLP, Agent for Mark and Beth Jernigan, Appeals the August 23 and September 13, 2011 Decisions of the Historic Design Review Board in Case #H-11-079A Designating the Main House and the Guest House at 1041 Camino Cruz Blanca as Significant. (David Rasch and Kelley Brennan) **(Postponed at December 14, 2011 City Council Meeting)**
- 8) CONSIDERATION OF BILL NO. 2011-51: ADOPTION OF ORDINANCE NO. 2012-\_\_\_\_\_.  
**Case #2011-110. Thomas Properties Rezoning.** Duty and Germanas Architects, Inc., Agent for T-P Llano, LLC, Requests Rezoning of 2.51± Acres of Land from R-5 (Residential, Five Dwelling Units Per Acre) to C-2 (General Commercial). The Property is Located Between St. Michael's Village Shopping Center and DeVargas Middle School on Llano Street. (Heather Lamboy)
- 9) **Case #2011-135.** Review in Accordance with §14-2.2(A)(2) SFCC 1987, the November 3, 2011 Decision of the Planning Commission in Case #2011-88, Entrada Contenta Final Subdivision Plat and Variances, for the Sole Purpose of Reconsidering the Name of Las Soleras Drive (West of Cerrillos Road); JenkinsGavin Design & Development, Inc., Agent for Herrera Associates, LLC (Applicant). (Heather Lamboy)
- 10) CONSIDERATION OF BILL NO. 2011-47: ADOPTION OF ORDINANCE NO. 2012-\_\_\_\_\_.  
An Ordinance Authorizing the Issuance and Sale of the City of Santa Fe, New Mexico Gross Receipts Tax (Subordinate Lien)/Wastewater System Refunding Revenue Bonds, Series 2012b in an Aggregate Principal Amount Not to Exceed \$16,500,000 for the Purpose of Defraying the Cost of Refunding, Paying and Discharging the Outstanding City of Santa Fe, New



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Mexico Gross Receipts Tax (Subordinate Lien)/Wastewater System Variable Rate Revenue Bonds, Series 1997b; Providing that the Bonds will be Payable and Collectible From the Net Revenues of the City's Wastewater System and Certain Gross Receipts Tax Revenues Distributed to the City; Establishing the Form, Terms, Manner of Execution and Other Details of the Bonds; Authorizing the Execution and Delivery of a Bond Purchase Agreement in Connection with the Bonds; Providing for Redemption of the Series 1997b Bonds; Approving Certain Other Agreements and Documents in Connection with the Bonds; Ratifying Action Previously Taken in Connection with the Bonds; Repealing All Ordinances in Conflict Herewith; and Related Matters. (Dr. Melville Morgan) **(Postponed to January 25, 2012 City Council Meeting)**

11) CONSIDERATION OF BILL NO. 2011-48: ADOPTION OF ORDINANCE NO. 2012-\_\_\_\_\_.

An Ordinance Authorizing the Issuance and Sale of the City of Santa Fe, New Mexico Gross Receipts Tax Improvement and Refunding Revenue Bonds, Series 2012a in an Aggregate Principal Amount Not to Exceed \$40,000,000 for the Purpose of Defraying the Cost of (1) Public Projects Related to Public Utilities, Public Works, Parks and Recreation, and Community Services as Authorized By Law and the City's Home Rule Powers and (2) Refunding, Paying and Discharging the Outstanding City of Santa Fe, New Mexico Gross Receipts Tax Improvement Revenue Bonds, Series 2004; Providing that the Bonds will be Payable and Collectible From the Gross Receipts Tax Revenues Distributed to the City; Establishing the Form, Terms, Manner of Execution and Other Details of the Bonds; Authorizing the Execution and Delivery of a Bond Purchase Agreement and an Escrow Agreement; Providing for Redemption of the Series 2004 Bonds; Approving Certain Other Agreements and Documents in Connection with the Bonds; Ratifying Action Previously Taken in Connection with the Bonds; Repealing All Ordinances in Conflict Herewith; and Related Matters. (Dr. Melville Morgan) **(Postponed to January 25, 2012 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.**





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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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CITY CLERK'S OFFICE

DATE 1-6-12 TIME 10:50 am

SERVED BY \_\_\_\_\_

RECEIVED BY \_\_\_\_\_

*Paralle Cordero*

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13. MATTERS FROM THE CITY ATTORNEY
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- 8) CONSIDERATION OF BILL NO. 2011-51: ADOPTION OF ORDINANCE NO. 2012-\_\_\_\_\_.  
**Case #2011-110. Thomas Properties Rezoning.** Duty and Germanas Architects, Inc., Agent for T-P Llano, LLC, Requests Rezoning of 2.51± Acres of Land from R-5 (Residential, Five Dwelling Units Per Acre) to C-2 (General Commercial). The Property is Located Between St. Michael's Village Shopping Center and DeVargas Middle School on Llano Street. (Heather Lamboy)
- 9) **Case #2011-135.** Review in Accordance with §14-2.2(A)(2) SFCC 1987, the November 3, 2011 Decision of the Planning Commission in Case #2011-88, Entrada Contenta Final Subdivision Plat and Variances, for the Sole Purpose of Reconsidering the Name of Las Soleras Drive (West of Cerrillos Road); JenkinsGavin Design & Development, Inc., Agent for Herrera Associates, LLC (Applicant). (Heather Lamboy)
- 10) CONSIDERATION OF BILL NO. 2011-47: ADOPTION OF ORDINANCE NO. 2012-\_\_\_\_\_.  
An Ordinance Authorizing the Issuance and Sale of the City of Santa Fe, New Mexico Gross Receipts Tax (Subordinate Lien)/Wastewater System Refunding Revenue Bonds, Series 2012b in an Aggregate Principal Amount Not to Exceed \$16,500,000 for the Purpose of Defraying the Cost of Refunding, Paying and Discharging the Outstanding City of Santa Fe, New Mexico Gross Receipts Tax (Subordinate Lien)/Wastewater System Variable Rate Revenue Bonds, Series 1997b; Providing that the Bonds will be Payable and Collectible From the Net Revenues of the City's Wastewater System and Certain Gross Receipts Tax Revenues Distributed to the City; Establishing the Form, Terms, Manner of Execution and Other Details of the Bonds; Authorizing the Execution and Delivery of a Bond Purchase Agreement in Connection with the Bonds; Providing for Redemption of the Series 1997b Bonds; Approving Certain Other Agreements and Documents in Connection with the Bonds; Ratifying Action Previously Taken in Connection with the Bonds; Repealing All Ordinances in Conflict Herewith; and Related Matters. (Dr. Melville Morgan)  
**(Postponed to January 25, 2012 City Council Meeting)**





# Agenda

REGULAR MEETING OF  
THE GOVERNING BODY  
JANUARY 11, 2012  
CITY COUNCIL CHAMBERS

11) CONSIDERATION OF BILL NO. 2011-48: ADOPTION OF ORDINANCE NO. 2012-\_\_\_\_\_.

An Ordinance Authorizing the Issuance and Sale of the City of Santa Fe, New Mexico Gross Receipts Tax Improvement and Refunding Revenue Bonds, Series 2012a in an Aggregate Principal Amount Not to Exceed \$40,000,000 for the Purpose of Defraying the Cost of (1) Public Projects Related to Public Utilities, Public Works, Parks and Recreation, and Community Services as Authorized By Law and the City's Home Rule Powers and (2) Refunding, Paying and Discharging the Outstanding City of Santa Fe, New Mexico Gross Receipts Tax Improvement Revenue Bonds, Series 2004; Providing that the Bonds will be Payable and Collectible From the Gross Receipts Tax Revenues Distributed to the City; Establishing the Form, Terms, Manner of Execution and Other Details of the Bonds; Authorizing the Execution and Delivery of a Bond Purchase Agreement and an Escrow Agreement; Providing for Redemption of the Series 2004 Bonds; Approving Certain Other Agreements and Documents in Connection with the Bonds; Ratifying Action Previously Taken in Connection with the Bonds; Repealing All Ordinances in Conflict Herewith; and Related Matters. (Dr. Melville Morgan) **(Postponed to January 25, 2012 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.

SUMMARY INDEX  
SANTA FE CITY COUNCIL MEETING  
January 11, 2012

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
<u>AFTERNOON SESSION</u>		
CALL TO ORDER AND ROLL CALL	Quorum	1
APPROVAL OF AMENDED AGENDA	Approved [amended]	1-2
APPROVAL OF CONSENT CALENDAR	Approved [amended]	2
CONSENT CALENDAR LISTING		2-5
APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – DECEMBER 14, 2011	Approved	5
<u>PRESENTATIONS</u>		
EMPLOYEE OF THE MONTH FOR JANUARY 2012 – JOHN ALLEN, GOLF COURSE SUPERINTENDENT		5
INTRODUCTION OF LAW ENFORCEMENT ACADEMY GRADUATES		6
2011 BOYS SOCCER CITY CHAMPIONS TROPHY PRESENTATION – CAPITAL HIGH SCHOOL	Postponed to 01/25/12	6
2011 GIRLS SOCCER CITY CHAMPIONS TROPHY PRESENTATION – ST. MICHAEL'S HIGH SCHOOL		6
<u>CONSENT CALENDAR DISCUSSION</u>		
CONSIDERATION OF RESOLUTION NO. 2012-09: A RESOLUTION SUPPORTING PROPOSED STATE LEGISLATION SPONSORED BY MEMBERS OF SANTA FE'S LEGISLATIVE DELEGATION, 50 <sup>TH</sup> LEGISLATURE -- STATE OF NEW MEXICO — SECOND SESSION, 2012 THAT RELATES TO REDUCING PERA CONTRIBUTIONS FOR STATE EMPLOYEES; STABILIZING EDUCATION THROUGH THE USE OF THE PERMANENT LAND GRANT FUND; ENCOURAGING NEW MEXICO GOVERNMENTAL ENTITIES TO USE LOCAL BANKS; OPERATING THE HIGHER EDUCATION CENTER IN SANTA FE AND AMENDING THE NEW MEXICO CONDOMINIUM ACT	Approved [amended]	7-8

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
CONSIDERATION OF RESOLUTION NO. 2012-10: A RESOLUTION DIRECTING STAFF TO REVIEW THE POSSIBILITY OF ENTERING INTO A PUBLIC- PRIVATE PARTNERSHIP WITH NEW ENERGY ECONOMY TO FUND AND CONSTRUCT A PHOTOVOLTAIC SYSTEM AT FIRE STATION NO. 3	Approved	8-9
***** END OF CONSENT CALENDAR DISCUSSION *****		
CONSIDERATION OF RESOLUTION NO. 2012-11: A RESOLUTION JOINING THE <i>MOVE TO AMEND</i> CAMPAIGN AND SUPPORTING THE CALL FOR AN AMENDMENT TO THE UNITED STATES CONSTITUTION TO ABOLISH CORPORATE PERSONHOOD	Approved	9
MATTERS FROM THE CITY MANAGER	None	10
MATTERS FROM THE CITY ATTORNEY	None	10
MATTERS FROM THE CITY CLERK	None	10
COMMUNICATIONS FROM THE GOVERNING BODY	Information/discussion	10-14
<u>EVENING SESSION</u>		
CALL TO ORDER AND ROLL CALL	Quorum	16
PETITIONS FROM THE FLOOR		16-17
<u>APPOINTMENTS</u>		
City of Santa Fe, Division of Senior Services Advisory Board of Directors	Approved	17

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
<u>PUBLIC HEARINGS</u>		
A REQUEST FROM MIKE'S EL COMAL CAFÉ, LLC, FOR A RESTAURANT BEER AND WINE LIQUOR LICENSE (ON-PREMISE CONSUMPTION ONLY) TO BE LOCATED AT EL COMAL, 3571 CERRILLOS ROAD	Approved	17-18
REQUEST FOR APPROVAL OF AMENDMENT NO. 4 TO THE ECONOMIC DEVELOPMENT PROFESSIONAL SERVICES AGREEMENT; ; YOUTHWORKS! (RFP #09/02/P)	Approved	18-19
CONSIDERATION OF BILL NO. 2011-45; ADOPTION OF ORDINANCE NO. 2012- 1. AN ORDINANCE AMENDING SECTION 2-3.3 SFCC 1987, REGARDING THE QUALIFICATIONS AND SALARY OF THE MUNICIPAL JUDGE	Approved	19-22
CONSIDERATION OF BILL NO. 2011-46; ADOPTION OF ORDINANCE NO. 2012-02. AN ORDINANCE AMENDING SECTION 14-8.14(E)(1) SFCC 1987, SO THAT FOR A PERIOD OF TWO YEARS, THE IMPACT FEES FOR RESIDENTIAL DEVELOPMENTS SHALL BE REDUCED BY 100%; AND MAKING SUCH OTHER NECESSARY CHANGES	Approved	22-36
CONSIDERATION OF BILL NO. 2011-50; ADOPTION OF ORDINANCE NO. 2012- ____ . AN ORDINANCE AMENDING SECTION 25-1.3 SFCC 1987, TO EXEMPT PUBLIC POST SECONDARY EDUCATIONAL INSTITUTIONS FROM BEING REQUIRED TO COMPLY WITH CHAPTER 14 SFCC 1987 (LAND DEVELOPMENT LAWS) WHEN APPLYING FOR CITY WATER AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY	Approved [amended]	37-46

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
<p>CONSIDERATION OF BILL NO. 2011-49; ADOPTION OF ORDINANCE NO. 2012-4. AN ORDINANCE AMENDING SECTION 7-4.2 SFCC 1987, REGARDING THE ADMINISTRATION OF THE RESIDENTIAL GREEN BUILDING CODE; REPEALING EXHIBIT A TO CHAPTER VII SFCC 1987, SANTA FE RESIDENTIAL GREEN BUILDING CODE; AND ADOPTING A NEW EXHIBIT A TO CHAPTER VII SFCC 1987, SANTA FE RESIDENTIAL GREEN BUILDING CODE, TO BE CONSISTENT WITH THE NATIONAL GREEN BUILDING STANDARD</p>	Approved	46-48
<p>CONSIDERATION OF RESOLUTION NO. 2012-12. A RESOLUTION REPEALING RESOLUTION NO. 2009-42, RESOLUTION NO. 2009-73 AND RESOLUTION 2010-63, THAT ADOPTED AND AMENDED THE ADMINISTRATIVE PROCEDURES FOR THE SANTA FE RESIDENTIAL GREEN BUILDING CODE; AND ADOPTING UPDATED ADMINISTRATIVE PROCEDURES FOR THE SANTA FE RESIDENTIAL GREEN BUILDING CODE TO BE CONSISTENT WITH THE NATIONAL GREEN BUILDING STANDARD</p>	Approved	46-48
<p><u>CASE #2011-106</u>. APPEAL. SOMMER KARNES &amp; ASSOCIATES, LLP, AGENT FOR MARK AND BETH JERNIGAN, APPEALS THE AUGUST 23 AND SEPTEMBER 13, 2011 DECISIONS OF THE HISTORIC DESIGN REVIEW BOARD IN CASE #H-11-079A, DESIGNATING THE MAIN HOUSE AND THE GUEST HOUSE AT 1041 CAMINO CRUZ BLANCA AS SIGNIFICANT</p>	Appeal granted	48-59
<p>CONSIDERATION OF BILL NO. 2011-51: ADOPTION OF ORDINANCE NO. 2012- ____ <u>CASE #2011-110</u>. THOMAS PROPERTIES REZONING. DUTY AND GERMANAS ARCHITECTS, INC., AGENT FOR T-P LLANO, LLC, REQUESTS REZONING OF 2.51± ACRES OF LAND FROM R-5 (RESIDENTIAL, FIVE DWELLING UNITS PER ACRE) TO C-2 (GENERAL COMMERCIAL). THE PROPERTY IS LOCATED BETWEEN ST. MICHAEL'S VILLAGE SHOPPING CENTER AND DeVARGAS MIDDLE SCHOOL ON LLANO STREET</p>	Approved	60-62

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
<b>CASE #2011-135. REVIEW IN ACCORDANCE WITH §14-2.2(A)(2) SFCC 1987, THE NOVEMBER 3, 2011 DECISION OF THE PLANNING COMMISSION IN CASE #2011-88, ENTRADA CONTENTA FINAL SUBDIVISION PLAT AND VARIANCES, FOR THE SOLE PURPOSE OF RECONSIDERING THE NAME OF LAS SOLERAS DRIVE (WEST OF CERRILLOS ROAD); JENKINS GAVIN DESIGN &amp; DEVELOPMENT, INC., AGENT FOR HERRERA ASSOCIATES, LLC (APPLICANT)</b>	<b>Name reconsidered</b>	<b>62-66</b>
<b>CONSIDERATION OF BILL NO. 2011-47: ADOPTION OF ORDINANCE NO. 2012- _____. AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF SANTA FE, NEW MEXICO GROSS RECEIPTS TAX (SUBORDINATE LIEN) WASTEWATER SYSTEM REFUNDING REVENUE BONDS, SERIES 2012B, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$16,500,000, ET AL</b>	<b>Postponed to 01/25/2011</b>	<b>66</b>
<b>CONSIDERATION OF BILL NO. 2011-48: ADOPTION OF ORDINANCE NO. 2012- _____. AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF SANTA FE, NEW MEXICO GROSS RECEIPTS TAX IMPROVEMENT AND REFUNDING REVENUE BONDS, SERIES 2012A IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$40,000,000 , ET AL.</b>	<b>Postponed to 01/25/2011</b>	<b>67</b>
<b>ADJOURN</b>		<b>67</b>
<b>Melessia Helberg, Stenographer</b>		

**MINUTES OF THE  
REGULAR MEETING OF THE  
GOVERNING BODY  
Santa Fe, New Mexico  
January 11, 2012**

**AFTERNOON SESSION**

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor David Coss, on Wednesday, January 11, 2012, at approximately 5:00 p.m., in the City Hall Council Chambers. Following the Pledge of Allegiance, Salute to the New Mexico flag, and the Invocation, roll call indicated the presence of a quorum, as follows:

**Members Present**

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

**Others Attending**

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

**6. APPROVAL OF THE AMENDED AGENDA**

Robert Romero, City Manager said staff is requesting to remove Item 9(c) from the evening agenda, because they were unable to be here. He said Item 10(k)(3) has been added to this afternoon's agenda, and there is a handout of that item on the Governing Body's desks.

Mayor Coss noted that Item 10(r) is removed, postponed to the next meeting, and referred back to the Finance Committee.

**MOTION:** Councilor Bushee 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, Ortiz, Romero, Trujillo and Wurzbarger voting in favor of the motion, none voting against and Councilor Dominguez absent for the vote.

**7. APPROVAL OF CONSENT CALENDAR**

Councilor Bushee asked that her name be added to Item 10(q) as a cosponsor.

**MOTION:** Councilor Bushee moved, seconded by Councilor Trujillo, 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, Councilor Trujillo and Councilor Wurzbarger.

**Against:** None.

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

A copy of an Action Sheet from the Public Works/CIP and Land Use Committee meeting of Monday, January 9, 2012, regarding Item 10(q), is incorporated herewith to these minutes as Exhibit "1."

A copy of *Proposed amendments to Bill No. 2012-3*, with amendments, submitted by staff, regarding Item 10(k)(3), is incorporated herewith to these minutes as Exhibit "2."

- a) **CONSIDERATION OF RESOLUTION NO. 2012-01 (MAYOR COSS). A RESOLUTION REPEALING RESOLUTION NO. 2011-1, RELATING TO THE OPEN MEETINGS ACT; ADOPTING THE STATE OF NEW MEXICO OPEN MEETINGS ACT BY REFERENCE; AND ADOPTING NOTICE REQUIREMENTS. (YOLANDA VIGIL)**
- b) **BID NO. 12/06/B – LIQUID ALUMINUM SULFATE CHEMICALS FOR WATER DIVISION; GENERAL CHEMICAL LLC. (VICTOR ARCHULETA)**
- c) **BID NO. 12/07/B – SODA ASH CHEMICALS FOR WATER DIVISION; THATCHER COMPANY OF ARIZONA. (VICTOR ARCHULETA)**
- d) **BIS NO. 12/08/B – SODIUM HYPOCHLORITE CHEMICALS FOR WATER DIVISION; DPC INDUSTRIES. (VICTOR ARCHULETA)**
- e) **BID NO. 12/09/B – LIQUID SODIUM PERMANGANATE CHEMICALS FOR WATER DIVISION; CARUS CORPORATION. (VICTOR ARCHULETA)**



- f) BID NO. 12/10/B – SALT CHEMICALS FOR WATER DIVISION; BRENNATAG PACIFIC, INC. (VICTOR ARCHULETA)
  - g) REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT – SANTA FE MUNICIPAL WATERSHED MANAGEMENT PROJECT FOR WATER DIVISION; SANTA FE WATERSHED ASSOCIATION. (DALE LYONS)
  - h) REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT – PUBLIC ACCESS AND EDUCATION PORTION OF PEG CHANNELS ON COMCAST CABLE PROGRAMMING; SANTA FE COMMUNITY TELEVISION CHANNEL 16 (SANTA FE COMMUNITY COLLEGE). (JOE ABEYTA)
  - i) REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – CITY VEHICLE AND HEAVY EQUIPMENT REPAIRS AND MAINTENANCE; VARIOUS VENDORS. (ROBERT RODARTE)
  - j) REQUEST FOR APPROVAL OF OLD LAS VEGAS PLACE AND TRANSFER OF CIP/AFFORDABLE HOUSING TRUST FUND MONEY USAGE TO PINON RIDGE AT LAS ESTRELLAS AND TRANSFER FIVE (5) REMAINING FEE WAIVERS. (MELISSA DAILEY)
  - k) REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON FEBRUARY 8, 2012.
    - 1) BILL NO. 2012-1: AN ORDINANCE AMENDING SECTION 4-2.2 SFCC 1987, TO PROHIBIT OPEN CONTAINERS IN UNLICENSED PUBLIC PLACES (COUNCILOR BUSHEE). (ALFRED WALKER)
    - 2) BILL NO. 2012-2: AN ORDINANCE AMENDING ARTICLE 24-9 SFCC 1987, REGARDING THE CITY'S VEHICLE FORFEITURE ORDINANCE (COUNCILOR BUSHEE AND COUNCILOR TRUJILLO). (ALFRED WALKER AND T.J. GRUNDLER)
      - a) A RESOLUTION ADOPTING ADMINISTRATIVE PROCEDURES FOR THE VEHICLE FORFEITURE ORDINANCE, ARTICLE 24-9 SFCC 1987. (COUNCILOR BUSHEE AND COUNCILOR TRUJILLO)
    - 3) BILL NO. 2012-3: AN ORDINANCE APPROVING TECHNICAL CORRECTIONS TO ORDINANCE NO. 2011-37, RELATED TO CHAPTER 14 SFCC 1987, BY AMENDING §§14-2-3(C)(7), 14-3.10(E), 14-7.1(C)(1), 14-8.5(A)(1); REENACTING §14-8.11(F), AND AMENDING §14-9.2(D), TABLE 14-9.2-1, §14-9-2(K)(1) AND ARTICLE 14-12, TO REFINE THE DEFINITION OF "GROUP HOME," INCLUDE THE PREVIOUSLY APPROVED DEFINITION OF "HOUSING OPPORTUNITY PROGRAM," AND REPEL THE OBSOLETE DEFINITION OF "ONE HUNDRED YEAR FLOOD," ALL FOR THE SOLE PURPOSE OF PROVIDING TECHNICAL CORRECTIONS. (GREG SMITH)
- THIS ITEM WAS ADDED TO THE AMENDED AGENDA**

- l) CONSIDERATION OF RESOLUTION NO. 2012-02 (COUNCILOR CALVERT AND COUNCILOR BUSHEE). A RESOLUTION AUTHORIZING PUBLIC UTILITIES DEPARTMENT STAFF TO APPLY FOR U.S. BUREAU OF RECLAMATION FUNDING OPPORTUNITIES TO INSTALL OR REPLACE AUTOMATIC METER READING DEVICES FOR CITY OF SANTA FE WATER CUSTOMERS. (PETER ORTEGA)
- m) CONSIDERATION OF RESOLUTION NO. 2012-03 (MAYOR COSS). A RESOLUTION REPEALING THE CURRENT HUMAN SERVICES COMMITTEE MEMBERSHIP CRITERIA AND CREATING NEW MEMBERSHIP CRITERIA FOR THE CITY OF SANTA FE HUMAN SERVICES COMMITTEE. (TERRIE RODRIGUEZ)
- n) CONSIDERATION OF RESOLUTION NO. 2012-04 (COUNCILOR BUSHEE). A RESOLUTION ADOPTING THE 2011 INDUSTRIAL REVENUE BOND POLICY FOR THE CITY OF SANTA FE. (FABIAN TRUJILLO)
- o) CONSIDERATION OF RESOLUTION NO. 2012-05 (COUNCILOR BUSHEE). A RESOLUTION DIRECTING STAFF TO EXPLORE THE NATIONAL LEAGUE OF CITIES SERVICE LINE WARRANTY PROGRAM, ADMINISTERED BY UTILITY SERVICE PARTNERS, INC., AS AN OPTION FOR PROPERTY OWNERS IN THE CITY OF SANTA FE TO PURCHASE WATER AND SEWER LINE PROTECTION. (BRIAN SNYDER)
- p) CONSIDERATION OF RESOLUTION NO. 2012-06 (MAYOR COSS ). A RESOLUTION ESTABLISHING THE CITY OF SANTA FE DIVISION OF SENIOR SERVICES ADVISORY BOARD OF DIRECTORS. (RON VIALPANDO)
- q) CONSIDERATION OF RESOLUTION NO. 2012-07 (COUNCILOR DOMINGUEZ, COUNCILOR BUSHEE). A RESOLUTION DIRECTING THE CITY CLERK TO LIMIT THE NUMBER OF SPECIAL DISPENSER PERMITS THAT ARE ADMINISTRATIVELY APPROVED AND ISSUED AT THE SAME LOCATION TO THREE PERMITS PER CALENDAR YEAR; AND REQUIRING THAT ANY REQUEST FOR A SPECIAL DISPENSER PERMIT ABOVE THREE AT THE SAME LOCATION, BE CONSIDERED BY THE GOVERNING BODY. (YOLANDA VIGIL)
- r) CONSIDERATION OF RESOLUTION NO. 2012-\_\_\_ (MAYOR COSS). A RESOLUTION DIRECTING STAFF TO BEGIN THE PROCESS FOR THE CITY OF SANTA FE TO ACQUIRE ST. CATHERINE'S INDUSTRIAL INDIAN SCHOOL CAMPUS FOR THE PUBLIC PURPOSES OF HISTORIC PRESERVATION, PROMOTING ARTS EDUCATION IN THE CITY AND LEASING THE PROPERTY TO THE NEW MEXICO SCHOOL FOR THE ARTS, A NEW MEXICO STATE CHARTER SCHOOL. (ROBERT ROMERO)  
THIS ITEM WAS REMOVED FROM THE AGENDA TO BE POSTPONED TO THE NEXT COUNCIL MEETING, AND RETURNED TO THE FINANCE COMMITTEE

- s) **CONSIDERATION OF RESOLUTION NO. 2012-08 (COUNCILOR BUSHEE). A RESOLUTION GRANTING CITY STAFF THE AUTHORITY PREPARE THE NECESSARY DOCUMENTS FOR THE CONVEYANCE OF APPROXIMATELY 2.5 FEET OF PROPERTY ALONG THE SOUTHERLY BOUNDARY LINE AND APPROXIMATELY 8 FEET OF PROPERTY ALONG THE EASTERLY BOUNDARY LINE OF 1115 HICKOX STREET, KNOWN AS LOT 13, BLOCK 2 OF AGUA FRIA ADDITION, THE TUNE UP CAFÉ. (EDWARD VIGIL)**
- t) *[Removed for discussion by Councilor Chavez]*
- u) *[Removed for discussion by Councilor Chavez]*
- v) **REQUEST FOR APPROVAL OF CONSIDERATION TO FILL VACANT POSITIONS. (ROBERT ROMERO)**
- w) **REQUEST FOR APPROVAL OF APPOINTMENT OF PRECINCT OFFICIALS FOR THE MARCH 6, 2012 REGULAR MUNICIPAL ELECTION. (YOLANDA Y. VIGIL)**
  - 1) **REQUEST FOR APPROVAL TO EXTEND CITY CLERK'S HOURS ON FEBRUARY 28, 2012, FROM 5:00 P.M. TO 9:00 P.M., TO ALLOW PRECINCT OFFICIALS TO VOTE ABSENTEE FOR THE MARCH 6, 2012 REGULAR MUNICIPAL ELECTION.**

#### **8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – DECEMBER 14, 2011**

**MOTION:** Councilor Wurzbarger moved, seconded by Councilor Romero, to approve the minutes of the Regular City Council meeting of December 14, 2011, as presented.

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

#### **9. PRESENTATIONS**

- a) **EMPLOYEE OF THE MONTH FOR JANUARY 2012 – JOHN ALLEN, GOLF COURSE SUPERINTENDENT**

Mayor Coss read the letter of nomination into the record, and presented Mr. Allen with a plaque and a check from the Employees Benefit Fund for \$100. He thanked Mr. Allen for his dedicated work on behalf of the City at the MRC.

Mr. Allen said he wants to share the credit for this honor with his staff who do a fantastic job, and without their efforts, he wouldn't have received this award.

**b) INTRODUCTION OF LAW ENFORCEMENT ACADEMY GRADUATES. (CHIEF RAYMOND RAE)**

A copy of *ACADEMY CLASS 182 – NEW OFFICERS ADDED TO THE SANTA FE POLICE DEPARTMENT*, entered for the record by Deputy Chief Alessio, is incorporated herewith to these minutes as Exhibit "3."

Chief Rael introduced the Academy Class to the Council, giving a brief bio on each of the new officers.

Mayor Coss said we are proud to have the new officers with the City and welcomed them to the Police Department. Mayor Coss said Chief Leyba was just recertified and graduated at the top of his class.

Councilor Trujillo Officer said he coached Officer Miles who played baseball when he was in high school, and he knows, based on the way he played baseball, that he will be an excellent Police Officer. He noted that Officer Miles' grandfather is Franklin Miles.

Councilor Bushee asked about the vacancies in the Police Department.

Chief Leyba said currently, there are 13 vacant positions. He said he is continuing with recruiting efforts, noting 8 people are now in the background phase.

**c) 2011 BOYS SOCCER CITY CHAMPIONS TROPHY PRESENTATION – CAPITAL HIGH SCHOOL. (Postponed at December 14, 2011 City Council Meeting)**

This item was removed from the Agenda and postponed to the meeting of January 25, 2012.

**d) 2011 GIRLS SOCCER CITY CHAMPIONS TROPHY PRESENTATION – ST. MICHAEL'S HIGH SCHOOL.**

Mayor Coss, assisted by Councilor Trujillo presented the trophy to the 2011 Girls Soccer City Champions Trophy.

Coach Ed Velie said there is only one Senior on the team, Alexa Ortiz. He said they exceeded expectations this year, because last year they graduated 9 Seniors and everyone thought they could beat them. He said, although, sadly, they will be losing Alexa Ortiz, he believes they can be even better next year.

Councilor Bushee congratulated the coach of the team and his success, noting in years past, she too, coached soccer.

*Councilor Dominguez arrived at the meeting*

### **CONSENT CALENDAR DISCUSSION**

- 10 (t) **CONSIDERATION OF RESOLUTION NO. 2012-09 (MAYOR COSS, COUNCILOR BUSHEE, COUNCILOR CALVERT, COUNCILOR WURZBURGER AND COUNCILOR DOMINGUEZ, COUNCILOR CHAVEZ, COUNCILOR ROMERO AND COUNCILOR TRUJILLO.) A RESOLUTION SUPPORTING PROPOSED STATE LEGISLATION SPONSORED BY MEMBERS OF SANTA FE'S LEGISLATIVE DELEGATION, 50<sup>TH</sup> LEGISLATURE – STATE OF NEW MEXICO — SECOND SESSION, 2012 THAT RELATES TO REDUCING PERA CONTRIBUTIONS FOR STATE EMPLOYEES; STABILIZING EDUCATION THROUGH THE USE OF THE PERMANENT LAND GRANT FUND; ENCOURAGING NEW MEXICO GOVERNMENTAL ENTITIES TO USE LOCAL BANKS; OPERATING THE HIGHER EDUCATION CENTER IN SANTA FE AND AMENDING THE NEW MEXICO CONDOMINIUM ACT. (ROBERT ROMERO)**

*A copy of Proposed amendments to this Resolution, submitted by Mayor Coss, regarding this Resolution, is incorporated herewith to these minutes as Exhibit "4."*

Councilor Chavez commented on the amendments to the Condominium Act, saying he is in support of these amendments. He said this changes a practice which isn't always good for the neighborhood, because it increases density and sometimes establishes condominiums which are legally non-conforming. He said there is an emerging pattern of this in the Baca and Sierra Vista neighborhoods near the Railyard.

Councilor Chavez said he would like discussion on the Higher Education Center in Santa Fe, where it will be placed and what that will bring to our current education system.

Mayor Coss said the Higher Education Center will be on some of the property acquired from the City during the purchase of the College of Santa Fe, near the current Santa Fe University of Art & Design. He said they are striking much of the language relating to the Higher Education Center due to a misunderstanding. He said with the Attorney General's new opinion, the Community College doesn't believe it would be in their best interest to ask the Legislature to approve something which it has already approved.

Mayor Coss said the major change in his proposed amendments would remove any language regarding the SFCC seeking approval.

Councilor Chavez asked what the fiscal impact will be to the City, and what commitment the City would be making in adopting this Resolution, and supporting the Legislative efforts.

Mayor Coss said, regarding this specific legislation, it will allow our legislative delegation to know our Governing Body is also supporting this legislation, commenting there is no fiscal impact to the City, noting the language will be deleted from the bill caption as well.

**MOTION:** Councilor Chavez moved, seconded by Councilor Trujillo, to adopt Resolution No. 2012-09, with the amendments in the packet, and the amendment proposed by Mayor Coss .

**DISCUSSION:** Mayor Coss reviewed the proposed amendments to the Resolution. Please see Exhibit "4" for specifics of this presentation.

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

Councilor Romero asked to be added as a cosponsor as well.

Councilor Bushee would like to receive the final version of "these bills" as soon as they are available.

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

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

**Against:** None.

**10 (u) CONSIDERATION OF RESOLUTION NO. 2012-10 (COUNCILOR CALVERT, COUNCILOR WURZBURGER, COUNCILOR BUSHEE, COUNCILOR TRUJILLO AND MAYOR COSS). A RESOLUTION DIRECTING STAFF TO REVIEW THE POSSIBILITY OF ENTERING INTO A PUBLIC-PRIVATE PARTNERSHIP WITH NEW ENERGY ECONOMY TO FUND AND CONSTRUCT A PHOTOVOLTAIC SYSTEM AT FIRE STATION NO. 3. (NICK SCHIAVO)**

Councilor Chavez asked if New Energy has an office based here.

Mr. Schiavo said yes, it is a non-profit based in Santa Fe.

Councilor Chavez asked how much of the material and equipment and solar panels for the photovoltaic system will be purchased locally or in the United States.

Mr. Schiavo said the Resolution is for staff to explore the possibility of doing a system.

**MOTION:** Councilor Chavez moved, seconded by Councilor Calvert, to adopt Resolution No. 2012-10, with the amendment in the Council packet.

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

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

**Against:** None.

Councilor Bushee thanked Mr. Schiavo for all of his work on the "solar energy front."

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**END OF CONSENT CALENDAR DISCUSSION**

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**11. CONSIDERATION OF RESOLUTION NO. 2012-11 (COUNCILOR BUSHEE AND COUNCILOR CALVERT). A RESOLUTION JOINING THE *MOVE TO AMEND* CAMPAIGN AND SUPPORTING THE CALL FOR AN AMENDMENT TO THE UNITED STATES CONSTITUTION TO ABOLISH CORPORATE PERSONHOOD.**

Councilor Bushee said this has been a movement since the Citizens United Decision by the Supreme Court, and hopes we can stop treating corporations as if they are people and "turn this around."

**MOTION:** Councilor Bushee moved, seconded by Councilor Calvert, to adopt Resolution No. 2012-11.

**DISCUSSION:** Councilor Calvert said the City of Los Angeles, among others, adopted this, and we're already seeing the results of the Citizens United Decision in the presidential campaign with all of the PACs that are entering into the fray in terms of influencing voters.

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

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

**Against:** None.

**Explaining her vote:** Councilor Wurzbarger said, "Yes, and I want to thank the record number of people who called me today on this. I didn't catch the name of the very elderly gentleman in District 2 who described this, not the Resolution, but the legislation as one of the most ridiculous ideas and most ludicrous things he had ever heard in his long life.

**Explaining her vote:** Councilor Bushee said, "Yes, and I'm just proud to see Santa Fe join in this movement.

Mayor Coss said if he could he would vote in favor of the Motion.

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

There were no matters from the City Manager.

**13. MATTERS FROM THE CITY ATTORNEY**

There were no matters from the City Attorney.

**14. MATTERS FROM THE CITY CLERK**

There were no matters from the City Clerk.

**15. 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 January 11, 2012, is incorporated herewith to these minutes as Exhibit "5."

**Councilor Dominguez**

Councilor Dominguez said he had no communications.

**Councilor Calvert**

Councilor Calvert introduced a resolution supporting the efforts of the Santa Fe Innovation Park and Santa Fe Community College to establish a microgrid research, development, demonstration and deployment laboratory in Santa Fe. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "6." He said it will go to the BQL Committee, Finance Committee and the City Council.

**Councilor Trujillo**

Council Trujillo wished everyone a Happy New Year. He wished a happy birthday to his daughter, Krystianna, who turned 10 years old on January 6, 2012.

**Councilor Wurzbarger**

Councilor Wurzbarger said she is cosponsoring a Resolution which will be introduced by Councilor Romero.



Councilor Wurzbarger said Geno Zamora, Assistant City Attorney, had promised information would be on their desks tonight regarding the complaints we have received from The New Mexican, but she doesn't see anything.

Mr. Zamora said, because of the late timing and getting ready for this meeting, he didn't distribute it, but he does have it with him, and he will distribute it during the break.

Councilor Wurzbarger said the BQL has been working on an innovative project, noting the Council adopted a Resolution supporting the film industry in New Mexico. She said over the past 6 weeks, a small work group has been meeting and discussing a strategy of how to turn around "the image of New Mexico not being in the film business." She said this has been done primarily with volunteers. She said there will be a presence at Sundance, and hopefully later at Southwest Southwest. She said the Sundance event will be focusing on a new event called "Shoot Santa Fe." She said this is a joint City/County effort and they have been joined by the Economic Development group, noting Espanola and Rio Arriba contributed \$1,000 to the effort as well.

Mayor Coss thanked Councilor Wurzbarger and the other members of the group for doing this, and said he heard today that the Los Alamos County Council will be sending a delegate to the Sundance event.

### **Councilor Bushee**

Councilor Bushee said she we all received the same concerns from The Santa Fe New Mexican with regard to the timing of responses to IPRA, and falls on the heels of what was in the transparency resolution and the Sunshine Portal. She said a report was expected. She said, "In conjunction with what you're going to deliver us in response to the packet The New Mexican gave us, I would really like to look at... I looked at... reviewed the administrative policies that we have in place, and so I would like to sort of speed up the report that was expected from the transparency resolution that we passed if you could. And then I also want to see how the Sunshine Portal can get better implemented, because we really haven't done a whole lot with it, and I understand it came with a budget and a concern as to how staff would address that. It feels like both of those resolutions are hanging out there and they were passed by the Council, and I really would like to see more work on that, and again, I don't know what committee you bring that to."

Councilor Bushee introduced the following:

1. A Resolution directing staff to amend the City policies, procedures and the City's website relating to the Water Conservation Incentive Program for clothes washer rebates so that Sangre de Cristo Water customers are allowed to submit photocopies of their receipts for the purchase of a clothes washer. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "7."

2. A Resolution supporting wilderness and national recreation area designations for the inventoried roadless areas adjacent to the Pecos Wilderness. She noted this is a compromise resolution which is a follow up to the other resolution, allowing mountain bicycles in the Pecos Wilderness. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "8."

Councilor Bushee said she received an email from a gentleman who has done some trade for water harvesting tanks, and wonders "if there's a way to accommodate, because there's a lot of folks here who like to "do it yourself," and I don't know that our end goal's really about the saving of the water. So, I'd like to see if there's some way to adapt our current procedures to accommodate sort of "an alternative do it yourself project folks."

Councilor Bushee thanked everyone involved in the Grand Opening for the Santa Fe Resource Opportunity Center (ROC). She said it was very moving and fabulous, noting that Councilor Trujillo is a volunteer and his wife is on the Board. She said the faith community and the non-profits came together, once the City provided money to purchase the building, and it is amazing to see what they accomplished on such a small budget. They are accommodating everybody who is homeless.

Councilor Bushee said a BBER study is coming out to deal with the potential cost of annexation. She said her Resolution introduced last May which dealt with phasing was never heard at Public Works. She said it was to have been heard, but it "never got heard from again, from what anybody can find from the minutes." She would like it to be heard in conjunction with the BBER study and the cost of annexation.

Councilor Ortiz said he will ask staff to find out when the BBER people can be here to present their study, and we can put those together in tandem.

Councilor Dominguez the Public Works Committee did hear it, but the Committee wanted to hear it again with the BBER study, so they were waiting for that study so they could hear it "collectively and together" at the same time.

Councilor Bushee said the minutes say you postponed it for one meeting and it never came back again.

Councilor Dominguez said he is unsure what the minutes say, but that was the intent.

### **Councilor Ortiz**

Councilor Ortiz noted that the Finance Committee will be meeting on Tuesday because of the holiday. He said they had a discussion at Finance about capping the amount of money the City can take from the enterprise funds. He said Mayor Coss is working on a resolution in this regard which will be an informational item. He said at one of the next two meetings, in light of the water rate increase, they will be discussing the amount of money the City has taken from the enterprise funds to assure the public that we are not raising their rates to balance the budget on the General Fund side. He noted he has a Resolution

ready to drop which caps the amount of money that can be taken from the Water company, Solid Waste and in Wastewater. He said, however, in deference to the Mayor, he is waiting to what Mayor is proposing. He said this will be a discussion item first, and then, once the Mayor introduces his Resolution, he will put it on the agenda for discussion.

He wished everyone a Happy New Year.

### **Councilor Chavez**

Councilor Chavez said, with regard to The New Mexican letter requesting information, he did provide his copy to the League of Women Voters, and they will be reviewing that letter.

Councilor Chavez said he has question about the 2012 Legislative priorities. He said Larragoite Park still is listed in District #3, although it is in District #1, so that needs to be corrected, and we need to find another project. He said he thought Larragoite Park had been done with the last bond. He said secondly there is \$700,000 left over which wasn't reallocated, and he believes some of that could have been used for the \$100,000 to finish Larragoite Park. He asked if Larragoite Park is on the list for the next General Obligation Bond ["GO Bond"] going to the voters.

Mr. Romero said he can't answer that, and he will have to look into it.

Councilor Chavez said we need to fix the list to be clear in which District the parks are located. He said if so, he would like to know why there is a Legislative request, and why some of the \$700,000 which was reallocated didn't go to Larragoite.

Councilor Chavez requested a list of buildings, parks and facilities for which the City is providing operation and maintenance.

Councilor Chavez introduced the following:

1. A Resolution directing staff to prepare amendments to the City of Santa Fe Procurement Code to expand Section 15.2 in order to establish a "Buy American" procurement policy. He said we should buy local, even it costs 30% more. He said this will go to Public Works, Finance and then the Council. Councilor Wurzbarger asked that it go to the Business & Quality of Life Committee. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "9."
2. An Ordinance amending Article 23-6 SFCC 1987, to permit the limited sale and consumption of beer and wine only at Fort Marcy ballpark for non-profit events. He said the Ordinance and Resolution will go to Public Works, Finance and then Council. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "10."

3. A Resolution authorizing the sale and consumption of beer only at Ft. Marcy Ballpark as part of a one-time fund raising event sponsored by Keep Santa Fe Beautiful, a not-for-profit volunteer program. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "11."

Councilor Chavez said at some point the list of parks will need to mesh with the redistricting, and asked Mr. Romero to work on an updated list of parks per district, noting he has questions about Ashbaugh Park as well. He said a lot of Parks which were in District #3, will be moving into District #1, which means District #1 now has more park acreage than any other District.

### **Councilor Romero**

Councilor Romero introduced the following:

1. A Resolution directing staff to prepare the required documents to amend the current agreement between the City of Santa Fe and the Santa Fe Railyard Park stewards for continued services to be provided at the Santa Fe Railyard Park and Plaza for an additional \$100,000 per year to be paid over a three year term. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "12."
2. A Resolution directing staff to investigate developing an overlay district as part of continuing work on a community development process for the St. Michael's Drive area that will result in a vibrant community-centered streetscape and affiliated enhancements for the surrounding area, noting Councilor Bushee has asked to be added as cosponsor. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "13."

Councilor Romero said the Rio Metro is considering the request from the City and the North Central Regional Transit District to have a seat on its Board, so they will be making a recommendation, and she will bring that information forward. She noted this is the first year the NCRTD has completed an audit with no findings.

Councilor Romero congratulated her daughter, Lania, who is beginning her last semester at Highlands, to earn her Master's in Social Work.

### **Mayor Coss**

Mayor Coss said he met with the Occupy Santa Fe group on Monday, and they have agreed to close the camp, and have, or are moving out. He thanked Chief Rael and his officers and Matthew O'Reilly and staff, and the Parks Department people for their work in respecting the constitution, while protecting the park. He appreciates that the Occupy Santa Fe people have decided to close the encampment for now.

**END OF AFTERNOON SESSION AT 6:00 P.M.**

## **EVENING SESSION**

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

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

#### **Members Present**

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

#### **Others Attending**

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

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

**Maria Bautista, 996 Camino Rizo**, thanked Councilors Bushee, Dominguez and Trujillo for the open container bill and as well as looking at the forfeiture of automobiles in the appropriate situations. She said she is requesting the Governing Body to delay action on Item H(1) until after the Legislature, so we can be more clear what the new DWI laws will be, specifically on penalties as proposed by the Governor and organizations. Ms. Bautista said she eats at El Comal, which is a good restaurant, but she wants to wait so people will know what they're getting into when they "are going to use beer and wine alcohol licenses."

*Councilor Wurzbarger arrived at the meeting*

**Stefanie Beninato 604-604½ Galisteo Street**, said she is here to talk about her historic contributing adobe that was damaged by stormwater in August 2011. She said, "Mayor, I believe you asked the City Manager to meet with me, that happened. The Insurance reconsidered and denied it because I should have had some way of draining the water from 45 other peoples' property off my property, apparently, according to the letter. It is a historic contributing adobe. This is the second time in 10 years that stormwater has come off the street and onto the property. I do want to sell it at some point

and I need help. I need the City to be able to tell me what they're going to do at the street so that it won't happen again. I understand from the City Engineer that things were being considered. I send him an email on 14 December asking what had been decided, what was the timetable. Four plus months later, I have received no response so far. I've asked to meet with the City Attorney to talk about negotiate to a settlement, rather than to go to Court. You know, again, I can be much more reasonable if we can negotiate sooner rather than later, and I can get my house back in order. And I got an email with his paralegal that the City Attorney wouldn't talk to me at all, not even knowing that I was there, that I was asking for the meeting before. So, again, I'm going to ask that you direct the City Manager, City Attorney to talk me about this and to give me some information about what the City's going to do at the street. Otherwise, basically, the City has taken my house without compensating me for it. Thank you."

## **G. APPOINTMENTS**

### **City of Santa Fe, Division of Senior Services Advisory Board of Directors**

Mayor Coss made the following appointments to the City of Santa Fe, Division of Senior Services Advisory Board of Directors:

Bernardo C de Baca – term ending 01/2014;  
Andres Romero – term ending 01/2014;  
Elaina K. Gonzales – term ending 01/2013;  
Virginia M. Lucero – term ending 01/2014; and  
Kenneth Scott – term ending 01/2013.

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

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

*Councilor Ortiz arrived at the meeting*

## **H. PUBLIC HEARINGS**

- 1) **A REQUEST FROM MIKE'S EL COMAL CAFÉ, LLC, FOR A RESTAURANT BEER AND WINE LIQUOR LICENSE (ON-PREMISE CONSUMPTION ONLY) TO BE LOCATED AT EL COMAL, 3571 CERRILLOS ROAD. (YOLANDA Y VIGIL)**

The staff report was given by Yolanda Y. Vigil, City Clerk, noting the business is not within 300 feet

of a church or school, noting there are reports in the Council packet regarding litter noise and traffic. Staff recommends if the license is approved, El Comal be required to comply with all City ordinances.

### **Public Hearing**

**Maria Bautista, 996 Camino Rizo, was sworn.** Ms. Bautista said she is asking the Council to take a stand for 30 days, and let the Legislature “move through.” She said she has a real concern about the City issuing new liquor licenses, considering the problem we have with alcohol in the City and County. She realizes this is a restaurant and liquor can’t be removed from the premises, but since they can drink on premises, we don’t know how many drinks someone will take and then leave. She said these kinds of situations happen where people do drink at a restaurant and then have a terrible accident on Cerrillos Road after they leave. She said, “I know you’re taking a stand and trying to come up with constructive ways to deal with the situation, and in this instance I would ask that you put a moratorium on any new liquor licenses and/or venues and/or City sponsored events until the Legislature moves through this session.”

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

**MOTION:** Councilor Wurzbarger moved, seconded by Councilor Romero, to approve the request by Mike’s El Comal Café, LLC, for a Restaurant Beer and Wine Liquor License (on-premise consumption only), to be located at El Comal, 3571 Cerrillos Road.

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

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

**Against:** None.

### **2) REQUEST FOR APPROVAL OF AMENDMENT NO. 4 TO THE ECONOMIC DEVELOPMENT PROFESSIONAL SERVICES AGREEMENT; ¡YOUTHWORKS! (RFP #09/02/P). (KATE NOBLE)**

The staff report was presented by Kate Noble from the information in her Memorandum of December 22, 2011, which is in the Council packet. Please see this Memorandum for specifics of this presentation. Ms. Noble said she’s proud of how this program has grown over the past few years. She noted this is a 9 month contract which will get ¡Youthworks! through the important part of the year. However, we are bound by the four-year contract term limit, so we cannot go beyond 9 months, noting it was extended 3 months in the first part of the contract.



Ms. Noble asked Victor Ramirez to speak about the program since he's one of two on track for HVAC certification.

### **Public Hearing**

**Raymond Ramirez**, said he is 21 years old, and this program means a lot to him, because he's a young father and looking forward to furthering his education and moving forward with a good career. He said ¡Youthworks! has helped him, noting he will be graduating next semester. He also is working with an HVAC company in the field. He reiterated that this means a lot to him.

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

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

**DISCUSSION:** Mayor Coss said this is a great program.

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

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

**Against:** None.

**Explaining her vote:** Councilor Wurzburger said, "Yes. And I want to thank the Economic Development staff for moving this forward over the years, as well as all of the people in it."

### **3) CONSIDERATION OF BILL NO. 2011-45; ADOPTION OF ORDINANCE NO. 2012- 1 (MAYOR COSS). AN ORDINANCE AMENDING SECTION 2-3.3 SFCC 1987, REGARDING THE QUALIFICATIONS AND SALARY OF THE MUNICIPAL JUDGE. (Judge Ann Yalman)**

Judge Yalman said Article 7, Section 7 of the City Charter, requires the Governing Body to review the Municipal Judge's salary at least once every 4 years. She said approximately 4 years ago the Council reviewed the salary. She said whatever salary is determined applies during the entire 4 year term, and cannot be increased or decreased once the term of office begins. She said at the Regular Municipal Election 4 years ago, the voters of Santa Fe voted to require the Municipal Judge to be a licensed, New Mexico lawyer, noting at the time the salary was reviewed 4 years ago, that was not a requirement. She said City Attorney Geno Zamora has recommended that the salary be stated as a percentage of the District Judge's salary to put it into line with the other judges whose salaries are a percentage of some higher level judge. She said the City of Las Cruces, which requires its judge to be an attorney, pays its Municipal Judge 90% of the District Judge's salary.

## **Public Hearing**

### **Speaking to the request**

**Maria Bautista, 996 Camino Rizo [previously sworn]**, said, "Whatever she wants, give it to her. I have been in front of Judge Yalman. She's fair, she's good, we need her, we got her, keep her, give her the benefits, give her whatever, because Judge Yalman is one of the best judges I've ever seen. And I don't just go there, but I have a ticket here and there, and I see how she treats everyone in the Courtroom. And she's just spectacular, and we're lucky to have her, so yes."

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

**MOTION:** Councilor Calvert moved, seconded by Councilor Bushee, to adopt Ordinance No. 2012-01.

**DISCUSSION:** Councilor Chavez asked if there is a dollar amount, and asked if we are approving 85% of the annual salary, and the Mayor said it is 90%. Councilor Chavez said the motion should state that.

Councilor Calvert said his motion is to approve the original version of the Ordinance which says 90%, and in the Memo it says that equates to \$100,467.90 per year.

Responding to Councilor Chavez, Councilor Bushee said she included two potential amendments for discussion purposes, one says 85% and one says 80%, as a backup in case folks didn't like the 90%. She said she raised this at Finance as a possibility.

Councilor Ortiz said he opposed this at Finance for two reasons. He said, "Number one, I questioned the timing of this review. The Judge and you [Mayor] put forward this ordinance after the time it was determined the Judge was going to be running unopposed. And so, therefore, what we were essentially doing, is we were doing a salary review without the opportunity for any otherwise qualified candidates to run for this office."

Councilor Ortiz continued, "And secondly, as you know, In these kinds of times, all of the City workers, even those who are elected, have been under certain financial straits. We have sometimes successfully, but a lot of times unsuccessfully, tried to cut back the salaries of some of the employees who are working at the top level of the structure. The Judge is certainly at the top of her department. There are many employees who have exemplary service with the City. There are many employees who are working above and beyond the call of their office, be that at a \$10 wage or a \$30 or \$40 wage, and yet, by passing this Ordinance, what we are doing is we are giving this particular public employee a raise. A raise that amounts to a fair chunk of percentage that again, without going through whether or not the Municipal Court deserves it or not, it is unfair and I am not going to vote for a raise for a person in the position with the salary that this Judge makes, when I have been consistent in trying to knock down the salaries of other employees within City government, and held the lines on raises for people throughout the organization."

Councilor Ortiz continued, "And so, I've opposed this from the beginning. It's not a comment on the Judge or the Judge's job, it's a comment on our situation now. We just aren't in the position to be giving anyone a raise. And what we would be doing by passing this Ordinance, we would be giving this Judge a raise of about 16% for the next 4 years, irregardless of what our economic climate is, and that's not something I'm going to do. So, I'm against this Ordinance."

Mayor Coss said, "I was pleased to sponsor this for you, because that's going to be it for 4 years. You didn't have a raise for years, you're not going to get a raise the next 4 years. The Charter did change requiring it to be an attorney, so I think we're setting something in place here that will go on into the future. And if somebody was planning to run for judge, and the only reason they didn't run was they didn't like the salary, you decided to run knowing what the salary was. And if the only reason for running was to get the \$100,00, I'm not sure I want them to be a Judge anyway, but we're not faced with that. We're faced with a Judge who found the situation changed, requiring a law degree, has signed up for 4 more years and has been a great Judge. And so, I do support this, and thank you for asking me to sponsor it."

Councilor Bushee said, "Mayor, I also raised the issue at Finance, that this Judge is not only the sitting judge, but she's also the manager of a Court that's well run, and so I think this brings her in line with more of a management salary. The other aspect that I wanted to raise, is that not only has she done a good job, but when she first came in, there was talk in the election cycle of needing a second judgeship to cover all of the cases that we have over there. And she's run an efficient Court, and we've not seen the need to have an additional judge, so I really see this Judge as deserving of this salary as both a manager and an efficient Court Administrator and a sitting Judge."

Councilor Ortiz said, "On the point of whether we need a second judgeship or not, I would agree that there has been talk of having a second judgeship. Under Judge Yalman's term, these last four years, we have gone from having two Judges Pro-Tem to now four Judges Pro-Tem, and so we have doubled the amount of contracts that we are paying to licensed attorneys to sit as Judges Pro-Tem on cases either the Judge cannot handle, or that she has a conflict on. And so, I also agree that there needs to be in this next couple of years, consideration as to whether or not this Court needs to expand to a second, full time Judge, and whether we should look at the situation that we've been living with for the past two years in which we've had four Pro-Tem Judges to handle the increase in docket in Municipal Court."

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

**For:** Councilor Bushee, Councilor Calvert, Councilor Chavez, Councilor Romero and Councilor Wurzbarger.

**Against:** Councilor Trujillo, Councilor Dominguez and Councilor Ortiz.

**Explaining his vote:** Councilor Trujillo said, "Judge, my vote is no way a reflection as to who you are and what you've done. But I, myself, would like to give the entire, all the employees of the City a raise as well. I agree with Council Ortiz, that with the problems facing us right now, this isn't the right time. And you are at the top of your.. You are earning \$85,000. There are a lot of people in this community that are working here for \$30,000, \$40,000, and I think they've doing one hellva job too. I would love to give them a raise. But, because of that, I'm going to have to vote no."

**Explaining his vote:** Councilor Dominguez said, " Just to be consistent with my vote at Finance, I'll vote no."

**4. CONSIDERATION OF BILL NO. 2011-46; ADOPTION OF ORDINANCE NO. 2012-02 (COUNCILOR WURZBURGER, COUNCILOR ORTIZ AND COUNCILOR DOMINGUEZ). AN ORDINANCE AMENDING SECTION 14-8.14(E)(1) SFCC 1987, SO THAT FOR A PERIOD OF TWO YEARS, THE IMPACT FEES FOR RESIDENTIAL DEVELOPMENTS SHALL BE REDUCED BY 100%; AND MAKING SUCH OTHER NECESSARY CHANGES. (MATTHEW O'REILLY)**

A copy of *Petition to Support Bill 46*, submitted for the record by Rob Woods, is incorporated herewith to these minutes as Exhibit "14."

Councilor Chavez asked Mr. O'Reilly to provide, briefly, a list of items which usually are funded with Impact Fees.

Mr. O'Reilly said the City assesses four types of Impact Fees: Roads, Parks, Police and Fire. The monies collected for the impact fees are for capital improvements for those four areas.

Councilor Chavez said we know that impact fees and any kinds of taxes aren't popular. He said the impact fees have been central in debate of where growth takes place, who pays for it, and the cost of existing infrastructure, and new infrastructure. When he was elected in 2000, the impact fees were revised and updated the impact fees for the first time in 11 years. The fees were increased by 300%, but we were behind. He said now, because of the economy, we are considering eliminating impact fees for two years to help jump-start the economy. He said we are focusing only on the residential portion of the economy, when perhaps we should focus on both residential and commercial. He said there are a lot of vacant commercial buildings which are for rent or sale, and more are becoming vacant and going on the market. He has concerns about this bill. He noted Mr. O'Reilly provided a list of eligible facilities for impact fees.

Councilor Chavez noted the State Legislature was requested to pass legislation which would include schools and libraries as eligible facilities, but that legislation has not been passed, noting other states do recognize these as eligible facilities.

Mayor Coss disclosed that "I've been lobbied by Jeff Branch on this issue, and Jeff's a friend of mine and a political contributor as well, but I don't think I have a conflict of interest in hearing this case, or this Ordinance amendment tonight."

Councilor Chavez said, "Mayor, I was going to save that for later, but I did get the same call from Jeff Branch. As a footnote, it was an international phone call. He was calling from Barcelona, Spain. So that shows you that the economy is fluid and when you do well, you can move... you can be mobile. So, it was surprising to get a call from Jeff, but it's encouraging. I thought it was good that he was in Barcelona, Spain, but maybe he should be here instead."

### **Public Hearing**

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

Mayor Coss gave each person 2 minutes to speak to the issue, and asked everyone to be as brief as possible.

**Bruce Poster, Southwest Planning & Marketing**, said he's a 34 year resident, and his firm does real estate research and has worked for a number of Santa Fe entities. He said the economy recovery has not reached Santa Fe, and our State ranks 50<sup>th</sup> in the rate of annual construction growth, noting New Mexico lost 13% of its construction jobs last year. He said Santa Fe, since 2007, has lost 45% of our jobs or 2,000 jobs in Santa Fe County, and 44% of our wages, equivalent to \$7-\$8 million in annual wages which have been lost since 2007. Apartments aren't being built. Only 18 units have been built in Santa Fe since 2004. A lot of households can't qualify for mortgages, so apartments become the only option, but we're not building them because they're too expensive to construct. He thinks something needs to be done to stimulate the economy and the housing market. Albuquerque reduced its impact fees in 2010, and in the next year, apartments increased by 16%, and by 32% in 2011. He said all the areas around Albuquerque continue to lose permits. He said, given that experience, a moratorium on impact fees really could make a difference, and would created needed jobs and housing.

**Barbara Levin, 2200 Arter, Candlelight Homes**, said she is in opposition to the waiver of impact fees. She said it seems strange to consider this Ordinance, when the City is bringing before the voters a \$20 million bond because it is running out of money. She said in the last 5 years, they have employed numerous people to remodeled and maintained their home. She said no one is talking about reducing our taxes, commenting they bought 12 toilets from people. She thinks this is not appropriate to consider this waiver at this time.

**Donna Reynolds, on behalf of the Santa Fe Association of Realtors**, noting the Realtors are in support of the Ordinance, commenting that the two-year waiver may not be enough to jump-start the building industry, because builders work under a longer horizon. She commended the Council for its

actions over the past year to reduce the regulatory cost burden on new housing and providing community investment funds for down-payment assistance.

**Jim Siebert, Planning Consultant**, said a potential client from out of town, came to him looking to do an apartment complex in Santa Fe. The client looked at the market and felt it was substantial, and sufficient to move forward with a pro forma. The problem is the financing. He said the bank looks at every item in the pro forma, and the affordable housing impact on rents, as well as the impact fees impact on the initial capital outlay. He said the client couldn't make it work. Mr. Siebert believes, as a consequence, Las Cruces will get an apartment complex instead of Santa Fe. He said there have been no serious building of apartment complexes for the past 4-5 years. He said people are having to move out of houses they can't afford and into apartments, and if we eliminate that possibility, there is a serious consequence in Santa Fe. He said this is a two-year moratorium, while it takes at least 1½ years to get through the review process, and he would recommend a four-year moratorium.

**Mark Wilman**, said he is a business partner of Jeff Branch, and another business partner, Greg Gonzales, is in the audience. He said they have 176 units which have approved by HUD, and on Thursday they will be going in for the final commitment. He said this is the first letter of invitation ever awarded to Santa Fe. It is a market rate apartment in San Isidro, and the impact fees are \$475,000, and without the impact fees they can make this project work. He said there is a total of \$2 million in fees, including impact fees, part of which is \$1 million in GRTs, UECs and water rights they purchased at about \$1 million. He said they have a tax credit apartment complex next door, and a 1 bedroom apartment at the tax credit complex is \$654 per month, and in the market rate apartment complex it is \$750 per month. He said they are almost to the tax rate in the market rate complex. He said a couple making \$32,581 per year can't qualify for a tax credit apartment. He said they have converted most of their market rate apartments to condos, noting there hasn't been a significant market rate apartment complex built in more than 10 years. He urged the Council to adopt this Ordinance.

**Avanell Gonzales** said she has been working in the construction industry for about 12 years. Several months ago, because of the economic downturn, her hours and benefits were cut by 20% which hugely impacted her family. If nothing is done to stimulate the economy, she is afraid her hours will be cut further, or she will lose her job completely. She said removing the impact fees will encourage building in Santa Fe and provide more jobs. She urged the Council to adopt this Ordinance and support the workers and their families in Santa Fe.

**Jennifer Jenkins** said she is a planning consultant, and she sometimes works with potential landowners to do a feasibility analysis on a project. She has had similar experiences as Mr. Siebert with high quality apartment builders who desperately want to get into the Santa Fe market. She said they tell her, "If the land is free, maybe I can make the numbers work, maybe." She said multi-family housing is an important element of the housing spectrum, noting home ownership isn't a possibility for everyone. She

said the City's hands are tied in some ways because of the Anti-Donation Clause, and this is something they can do. She said the City made a positive step in adjusting the Santa Fe Homes Program last year, and this is another positive step. This is something in the City's toolbox to stimulate construction activity in the community, and she urges the Council to adopt the Ordinance.

**Michael Chapman, 1842 Forest Circle**, said he is a local builder/developer, noting the family started the business in Santa Fe in 1946. He said we know nationally \$1,000 decrease in the cost of a home, puts 100,000 families in the market place. He said when they did the \$8,000 and \$6,500 tax credit a few years ago, there was help in the industry nation-wide. He can't say he will build twice as many homes next year if the City adopts this Ordinance, but we don't know that. He said as a community, we have to decide in very difficult economic times what our commitment is to the people in the community – whether or not to provide an opportunity for someone to own or rent a new home in Santa Fe. This is simply about what we can do as a community to improve opportunities for the people who live here to own or rent a home. He said it is a commitment of the City Council's to the opportunities it will provide to the people to live here.

**Ira Griffin** said he works as a project manager for Pavilion Construction, and they have been building a few projects here, but some of the funding for the work they have been doing is going away. He said there are hundreds of people who will go to work if this Ordinance is adopted. He said they have 170 units "that Branch was talking about that will pencil if this Ordinance is adopted." He said he knows for a fact it will feed his family and many other New Mexicans locally on his payroll, noting there are hundreds of Santa Feans sitting at home right now looking for work. He said he believes this is a good Ordinance.

**Benny Roybal** said he has owned Coronado Paint and Decorating, a small business, for the past 25 years. He said in the past 3 years they have been in a "terrible survival mode," and have lost more than \$3 million of builder business. He said the only way they are surviving is that 30% of their work is out of Albuquerque. He urge the Mayor and Council to pass this Ordinance, which he believes would stimulate the economy and open some doors. This is a good opportunity for this Council to show that it can change when times are hard. He said, "Please. Let's change, move forward and pass this Ordinance, and I think it will make a difference for Santa Feans and especially for small business persons like myself." He said he supports the community and the non-profits, and it has been difficult to support everything he would like to support.

**Rick Martinez, 725 Mesilla Road**, said this Council reduced affordable housing from 30 to 20% for the next 4 years, then the Council gave away the cut of 70% of in-lieu for affordable homes, and asked "what's next, the water." He said Centex is building homes on the south side of town, but they're not hiring anybody from Santa Fe, noting they are planning on building more. He is concerned this will benefit out-of-state builders that don't hire locally.

**Sam Martinez, owner of Sam's Construction for the past 25 years**, which is a drywall contractor, said Ordinance, if adopted, would help them to get busy again, noting he works with Branch and Chapman Homes. He said, "We're hanging in there, but it's been tough and I think this would really help us out a whole bunch."

**John Reeders, 27 Tano Road**, said he has been a general contractor in Santa Fe for 28 years. He sees this bill as a real opportunity for our elected representatives to do something positive for Santa Fe, by creating more jobs, putting people back to work who are on unemployment, and help the construction industry as well as the people who are buying homes who can't qualify currently. He would appreciate Council support for this bill.

**Shane Woods and Rob Woods, of Woods Design**, said they came back to Santa Fe 4½ years ago to run the family business, which has been in existence for the past 35 years. He said they both moved their families, noting they both have young children. He said over the past 4 years their business has dropped, and they have had to lay-off people for the first time. He said their subcontractors have laid off people and gone out of business. He said they support this bill. He said they do the cost break-down for people for the City and for the County. He said the permit fees are sky high in the City, in addition to the costs of the new Green Code, and on top of that are the impact fees. He said people are making the choice to build in the County, and then Santa Fe loses those taxes. He believes it is a win-win for everyone if this Ordinance is passed, and they urge the County to approve the Ordinance.

**Stefanie Beninato 604-604½ Galisteo Street**, said she is an owner/builder and has been impacted by the impact fees. She said although she would prefer not to pay impact fees, she sees the wisdom in having to pay them. She thinks its absolutely absurd that the City would think about doing away with impact fees while asking to raise property taxes to "build exactly the kind of infrastructure that the impact fees would help pay." She said \$500,000 in impact fees sounds like a lot on an apartment complex, we don't know the percentage, but she has heard it is 1-3% of a total project. She doesn't think this is significant enough to jump start the construction industry. She said we are hearing from builders they can't guarantee it will jump start the economy, and we heard the giveaways to construction from Rick Martinez which hasn't helped. She said lots of segments in the community are hurting, and if you want to help, you could cut the GRTs which would spread across the entire community to jump start the entire community. She said everybody's hurting, not just construction, and "I don't think these are significant, and again the City is cutting out a significant stream of revenue, yet it wants us property owners to pay for taxes, including \$3.5 million for a fire station that there's no money to staff that fire station. And again, expansion of Police Department, why not use the impact fees."

**Bob Payton** said he urges the Council to support his Ordinance which will affect so many local vendors and subcontractors and local jobs.



**Glen Craley** said he has been successfully in the construction business since 1984. He said jobs are dwindling for everyone. He urged the Council to pass this Ordinance which will continue his salary, his workers' salaries, suppliers and subcontractors and everyone involved.

**Ray Patterson**, said he owns Sunwest Construction Specialty, a window supply company. He employs 9 people, and every Friday, "I look at their faces before they go home and think, I really probably should lay somebody off. And then I think about how many family members they're got, how many children they've got, and I find a way to try to keep it going." He thinks the reduction in fees will help, and strongly urged the Council to adopt this Ordinance which he thinks will be a great thing.

**Sharon Woods, owner, Woods Design Builders**, for 35 years. She said she has been through "busts and booms," and this has been the "bust of busts." She said the economic downturn has effected everyone. 4 years ago, she had more than 30 employees, and today she has 12, and they're trying not to lay off any more employees. She said the building industry has been devastated by the 50% drop in construction since 2008, and a 59% drop in GRTs on construction since 2007. She said construction employment is at its lowest level since 1992. She said the cost of a permit on a \$1 million home is \$25,272, of which \$4,000 is for impact fees, noting it is about \$15,000 on a \$500,000 home and \$3,714 of that is for impact fees. She said this won't cure everything, but we all have to do what we can to hopefully get the industry going again, commenting it is an important industry in Santa Fe, employing a lot of people. She urged the Council to pass this bill.

**Bill Roth, local builder and plastering contractor**, said he also does small scale development. He said at the market segment where he works, makes it more possible for him to keep building small infill projects, and help fulfill one of the City's goals to foster infill development. He said with affordable housing, and fees such as this, you're asking one important segment of the economy, the construction industry, to take care of things that the whole community would like to see done. In other words, you are asking us to finance affordable housing without asking other segments of the community to help finance it. He said it is the same with impact fees, which are used for aspects of the community which benefit everyone. He is happy to support this Ordinance.

**Karl Sommer** said he is in support of this Ordinance. He said you have heard tonight that there is a problem, and we all know what it is, you've heard the statistics. He said it is incumbent on us as a community, because all of us are homebuyers, workers or employees or builders, to do something about it. He said he believes it is incumbent on the City to do whatever it can to help. He said it will have a real impact on people here tonight. He said some have been turned away and gone elsewhere, while Mr. Branch's project is ready to go. He said this has been done in Albuquerque, and the statistics show there was an increase in construction activity in Albuquerque, while at the same time it was declining in the surrounding communities. He said this probably will help, but not doing anything places our entire

community at a disadvantage compared to Albuquerque. He urges support of this bill, commenting he believes its adoption will present immediate benefits.

**Rob Woods, Wood Design Builders**, presented a petition for the record with more than 50 signatures of people in the industry in support of this bill. He read one quote from the petition, "My business, TechniGraph, depends on the income from printing construction documents. We are losing money every month and are still open only because I invested my entire retirement savings into the company. We may not survive through another winter and already have two federal tax liens against us closing." [Exhibit "14"].

**Maria Bautista, 996 Camino Rizo, Santa Fe**, said she is really torn about this, because she works with people in the construction trade, noting "I'm the tile layer," and does landscaping as well. She said construction is down and everybody has been affected. However, she talks to people who tell her this is really great, but there's nothing to build. She said they are also saying, great, go ahead give them the jump start, but make sure they are a New Mexico company so the money doesn't go out of state. She said this may not jump-start anything. She said you are asking her to put more money out for the bond, so if she votes yes on that, is it used for administrative fees, and asked what happens to the GRTs. She asked, "How does all this come together so the City Council isn't broke and we don't have to go through this, and what are we going to build. It really is Catch-22 and I wish you'd go out into the community and talk to some of the builders. And I appreciate all of you being here to really make that real, because the people are broke."

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

Councilor Wurzbarger said, "I'd like to make one simple comment. Zero percent of zero is zero, and right now, under the hierarchy of issues, the fact is that the impact fees are tied to the projects in the neighborhood. If nothing is being built, it doesn't impact our budget in the sense of offsetting, with the exception that if something is being built, GRT will result. Now what the tradeoff is, and I have been out in the community talking to builders. And, some of you may not know, I am, and was a builder and haven't worked in 3 years, and I too have seen men who had their companies for 25 years sell their equipment, fire their employees and then let their [inaudible] go. I have been consistent in the Finance Committee of saying this recession is far from over. And again, I say, let's please move forward. Let's give this opportunity to the community, and the fact is, financially, we lose nothing. Because if we're not building, we won't have this money."

**MOTION:** Councilor Wurzbarger moved, seconded by Councilor Dominguez, to adopt Ordinance No. 2012-02.

**DISCUSSION:** Councilor Chavez disclosed that he has a background in construction and remodeling, so he might have a vested interest in passing this Ordinance. He said he also operates sometimes as a homebuilder, and is fortunate to use two small lots in the City at 896 and 898 Acequias de los Joyas in District 3. He has just been issued a permit to fence those properties, noting he intends to build on the lots in the next 2 years. He said, "My question is: should I be voting on this. I have a vested interest in the industry. I have a background in construction and remodeling, I build custom furniture and doors, most of it goes out of State. But I stand to benefit in two ways if I vote on this. So I'm going to disclose now, and I want your opinion on my questions."

Gino Zamora, City Attorney, said, "The decision as to whether to recuse, rests solely upon the individual Councilor, first and foremost. So, if the individual Councilor feels a discomfort level, or a need to avoid a potential ethics violation, or any other type of discomfort, it is up to the Councilor to make that determination. Based upon what you've said, I think it's important for you, as a Councilor, to analyze whether your decision, whether your vote this evening, is for the purpose of personal gain, or whether your vote this evening is for the purpose of advocating a policy that is for a broader purpose. That being said, sort of on the spot, not taking the time which I normally would, at least an hour if not 2 or 3, analyzing individual situations, all that I can recommend is that you make a determination that you're most comfortable with, and, as is the usual case when I'm approached by Councilors, I advise to err on the side of caution."

Councilor Chavez said, "Makes sense. Thank you Geno."

Councilor Bushee said she found the minutes from the Capitol Improvement Advisory meeting, which were very helpful, and "I'm grateful this went there for a discussion after the Planning Commission. So that I understand, and I don't know if it was the Planning Commission minutes or that committee's minutes, but I'm looking at the Table, Exhibit A, Impact Fees Summaries, Fiscal Years 2004 to 2011-12, and I see a total of impact fees collected for Fiscal Year 11-12 as \$93,669. I read somewhere in the minutes that \$18,500 of those dollars were for UEC charges, am I misreading that."

Mr. O'Reilly said, "That's correct."

Councilor Bushee asked if this ordinance will impact the \$18,490 which would be captured in that sum, or are those still in place.

Mr. O'Reilly said, "The Ordinance doesn't address Utility Expansion Charges which would stay in place. "

Councilor Bushee said then we're really looking at a little more than \$70,000 which was collected.

Mr. O'Reilly said in Exhibit A, Table 1, that was only through October 19, 2011, which isn't a full fiscal year. He said staff estimates were based on actuals for 09-10 and 10-11, and from those, staff estimates a loss of about \$350,000 per year that we wouldn't collect.

Councilor Bushee asked if the entire fiscal year would generate \$350,000.

Mr. O'Reilly said that is a complete projection based on the data we had as of October 19, 2011.

Councilor Bushee asked if it includes UECs.

Mr. O'Reilly said it is inclusive of UECs at the \$93,000 level, and amounts to about \$75,000 if we were dealing just with impact fees. He said the projected sum of \$350,000 is for impact fees alone.

Responding to Councilor Bushee, Mr. O'Reilly said what they are seeing at the Land Use Department is a small uptick in the volume of permits consistently over the past year. He said the \$350,000 is also based on "what we know is coming up the road. We know there are a number of large commercial projects that are going to be coming in." He said the impact fees collected are both residential and commercial, and commercial accounts for more than two-thirds of the impact fees collected. He said this Ordinance addresses only the 1/3 of the impact fees for residential, and for only this short period of time.

Responding to Councilor Bushee, Mr. O'Reilly said it is a guess, but he believes construction will stay at, or slightly below what we've seen in the past two years, and the \$350,000 is staff's best guess.

Councilor Bushee asked if it is still 2/3 commercial in view of the small uptick about which she hasn't heard, and Mr. O'Reilly said yes, the weighted average is about 2/3.

Responding to Councilor Bushee, he said he would like to stick with the projections in the FIR which is a total of \$350,000 for residential for two years.

Councilor Bushee asked what is the City allowed to waive in terms of impact fees for residential.

Mr. Zamora said, "Without the proposed amendments waiving impact fees, we're not currently allowed to waive impact fees."

Councilor Bushee asked if that is just for residential.

Mr. Zamora said, "We're not given that authority. Okay, I'm going to defer to Matt in that, but as I understand it, relating specifically to the question of residential."

Councilor Bushee asked how we waived the fees for the Railyard LLC.

Mr. Zamora said, "It's a matter of semantics, Councilor, Mayor, Members of the Governing Body. It's sort of an apples to oranges situation, in that we were in litigation with the Railyard LLC..."

Councilor Bushee said, "We were in threatened litigation."

Mr. Zamora continued, "We were in threatened litigation, thank you, with Railyard LLC. The Governing Body chose to enter into a settlement agreement, as the language, as it relates to impact fees, is not collecting. Impact fees remain assessed on that property, but as part of the overall settlement, one of the components was not collecting the assessed impact fees. So the impact fees remain assessed."

Councilor Bushee said, regarding a big box store which was considering coming into Santa Fe, there was a sense of being able to leverage and waive impact fees as an incentive to bring the big box store to Santa Fe.

Mayor Coss said that was something they put on the table.

Councilor Bushee believes "we also had it on the table, and so how was that allowed for."

Mr. Zamora said, "Again there is a difference between waiving the assessment of impact fees and not collecting the assessed impact fees. Again, it's a matter of semantics, so there's a difference. And I defer to Matt O'Reilly, not only in the explanation, but if there's clarification that's necessary."

Mr. O'Reilly said, "The way our Impact Fee Ordinance is written right now, the term waiver is only used and we can only grant a waiver for affordable housing units. That is the only way we can waive, meaning not collect, and not have impact fees paid, is for affordable housing. Now, the Ordinance also talks about exemptions. Things that are exempt from having to pay impact fees, that's not a waiver. For instance, if there's an existing building and someone does a bunch of work inside, impact fees are not charged. There's no net change in square footage of the building. That's exempt from impact fees. There are a few other things that are exempt. With regard to the City, for whatever reason, the threat of a lawsuit, the negotiation of an agreement with someone, choosing that those impact fees be assessed, but not be paid, there is provision in the Impact Fee Ordinance for the City itself to pay the impact fees for a specific project if it thought it was important to do that. But those impact fees still have to be paid. Now they could be paid by the City putting cash into its own Impact Fee account, or the City doing something else where the value of that money is taken from the developer and put in by the city. That could happen by an agreement to avoid a lawsuit or something like that. So in terms of a specific waiver, it's only for affordable housing."

Councilor Bushee said some of the "minutes I found intriguing in the impact fee committee were around discussions trying to make sure that whatever jobs are generated by not waiving, but perhaps assessing but not having them pay, could we create a scenario where, instead of a blanket waiver, we were asking... say a corporation wants to come in, build some apartments which we might need, and that might be the missing element in the housing stock, and we wanted to assess, but not necessarily collect the fee, but also in that arrangement.... and so the City would make up the difference, but in that arrangement we could put a condition that required that the jobs that were created through that construction project needed to be local."

Mr. Zamora asked Councilor Bushee to repeat her question so he can be clear about the full context of what she is asking.

Councilor Bushee said, "Well, we're looking for those ways through and around things, and so one of the things in rough discussion of the Capital Improvements Advisory Committee, was how we could try and make the jobs that might be generated by these projects remain here in the local economy. We've all seen, the Branch.... we're grateful for a lot of the construction projects that happen in and around Zafarano. But Centex built a lot of those residential projects. Centex is not necessarily hiring local. They're a national company, and that was the limit on the affordable housing ordinance we had from a lot of local developers and contractors that only the big corporations.... in particular commercial which is separate, but, you know, most all of those projects are done by large either Albuquerque and/or outside national companies. So, if one were to make an arrangement, rather than a blanket waiver that allowed for encouragement and incentivization of trying to bring particular projects here, could one also build in a condition that required that the jobs remain in Santa Fe."

Mr. Zamora said, "As described, as much as it would be important and the will of the community and the Governing Body, unfortunately you cannot have local only restrictions on commerce where the Governing Body has been able to encourage local jobs, local businesses... purchases from local businesses, the places they've been able to do that and incentivize that is in municipal procurement by giving incentives in the RFP process. But as far as imposing a land use condition that only local employment can be used in developing land within the City limits, I.... [Councilor Bushee interrupted Mr. Zamora's statement here]."

Councilor Bushee said she has an issue about apartments because they wind up being condos. She said her experience is that once they get the tax credits they sell them and it doesn't help the City. Councilor Bushee said, "Then they come in, look at the pro forma and are willing to assess... just like when we put money in for affordable housing. We put some money in out of the Capital Improvements Bond toward affordable housing infrastructure. We will offer to cover these impact fees for this development if you...., you know, we can ask for certain things. Could we not do it through that construct."

Mr. Zamora said he will have to look into this, saying "I am not aware of a way to do that, and of course, I'll continue to voice federal constitutional concerns on commerce, interstate commerce issues, but I can continue to look into that to see if there's something, but at first blush, I believe it runs into constitutional restraints."

Councilor Bushee understands, but there are a lot of "what if's" thrown in here. She sees the answer to a question on the Capital Improvements Advisory Committee about where the money will come from if not from impact fees, and "Mr. O'Reilly said from the GO Bonds." She asked what happen if the GO Bond doesn't pass, and where will the community get the money to pay for the infrastructure needs generated by these new projects." She said there are a lot of questions as to whether this jump-starts anything.

Councilor Bushee said she doesn't know if the affordable housing reduction over the past 6 months has jump-started anything. She said, "When you're standing here and telling me that yes, we need this, it's going to happen, and we'll pay for it out of bonds that haven't even been put to the voters yes, it starts to

get a lot less clear to me that this is a policy that really targets what we're trying to do here." She said she isn't questioning the intention, and would like to see jobs remain in Santa Fe. She wants to look at a different way of doing this, if possible.

Councilor Wurzbarger said, "I would just like, for purposes of the public, to clarify that I wasn't at that meeting to clarify the insinuation that the assumption is that this would be taking money.... that we're pushing this over to the bonds. To me, it is a separate issue. Am I misunderstanding our whole structure with respect to impact fees being tied to the project which is being built. And if it's not being built, therefore, theoretically and conceptually and actually, it is not creating an infrastructure need. Is that not... what did you say there Matt. I'm sorry I wasn't there."

Mr. O'Reilly commented it will take some time to find the minutes.

Councilor Wurzbarger said she goes back to the position is that this is taking nothing from the community, it is creating a very much needed opportunity. She said we need housing. She said in two years she hopes we can say we helped restart this industry that has "gone down the toilet." She said, with regard to CenTex, although it is an out of City company, it does have spin-offs to people here in terms of people who live in the houses and spend their money here. She believes CenTex does hire some subcontractors. She believes we need to move forward and create an opportunity and she would like to move forward with a vote.

Councilor Bushee asked the reason "residential impact fees alone are considered."

Councilor Wurzbarger said, "Because we spent months talking to staff and Matt pointed out to me that there were definite projects coming in on the commercial side that were going to give us definite money, and so I didn't even touch the commercial side. We looked to the residential side which has been one of the major weaknesses for the past 3-5 years. That was the rationale."

Councilor Calvert said he would like to clarify what was said with regard to the GO bonds and taxes. He said the GO bond proceeds will be used for very specific projects which have no intersection with where this money would go. However, there might be some intersection with our CIP bond and some of these funds, because those funds go for streets and building of various things. However, he sees no intersection of the GO bond with impact fees.

Councilor Calvert said he has heard people, including City staff, say our need is for apartment buildings. He said, speaking of residential, he is unsure we need to be incentivizing building stock in something in which there already is a glut. He said, "I guess if I were to try and balance between whether we're giving something up or if we're spending the public's money to incentivize this, I would hope that we would be getting something that fills the need in the community and something that's been identified as a need, and I see that as the apartment buildings, not just residential in general. We're not in this market because of impact fees. We're in this because of global financial crises, and lending is tight everywhere and it's hard to get money to finance projects." He understands how impact fees might intersect with that slightly, but

he wants to meet the community need which has been identified. He said he could support this if we could limit it to residential apartments, otherwise "I think we're over-reaching and incentivizing more things than we want to incentivize."

Councilor Wurzbarger said she would like to say in response, "We've heard from several small builders of single family homes and infill, and even if the market is greater for apartments... again, looking at trying to effect, not just meeting the need, the real need right now in our community right now is to try to impact the economy. And part of that is the residential need that is served by the small builders such as Chapman and others in the audience who are doing 1-2 projects, and this would help those numbers work. So, if that was a friendly amendment, I would not be comfortable with that. I think, again, in terms of incentivizing and what the City is going to lose for the 10-20-30 houses that might be built.. I don't know how many, basically, right now there are very few single family home permits, so I don't see that problem from my perspective, and I would hate to minimize the opportunity for those who have come out and expressed what has happened to their segment of the industry."

**FRIENDLY AMENDMENT:** Councilor Bushee would like to amend the motion to provide that the waiver is for a period of one year, and check in within a year. **THE AMENDMENT WAS NOT FRIENDLY TO THE MAKER.**

Councilor Wurzbarger said she would be happy to check in within a year, or six months from now, and have a report, but this will take time, and any project not through plan check at this very minute would be the only one considered. She said if we adopt this, small projects could be started and created within a year, and we would have a dysfunctional result of the broad goal of trying to impact the economy. However, she doesn't want to see this sunset in one year.

**MOTION TO AMEND:** Councilor Bushee moved to amend the motion to provide the waiver is for one year. **THE MOTION DIED FOR LACK OF A SECOND.**

**CONTINUATION OF DISCUSSION:** Mayor Coss said, "I may not get to vote, but I came in tonight just very ambivalent about this. And, as I listened to the testimony, I saw something that I hadn't seen in about 3½ years, and that's a room full of the development business, and there's a reason we haven't seen that in 3½ years. It has been very slow. And I tip my hat to all the people that are still in business and still providing jobs through this economy, and I've been ambivalent about it. But, I think Councilor Wurzbarger is right – zero percent of zero is still zero. And if we have a problem in a years where there's building going gangbusters, and jeez, we're losing hundreds of thousands of dollars in impact fees, that'll be a good problem to have. And I don't think we'll have that problem, but I think that would be a good problem to have."

Mayor Coss continued, "And so I think Councilor Wurzbarger, Councilor Ortiz and Councilor Dominguez you've brought something forward that is in the line of something we can do. Let's keep trying to do things to make our economy survive this national/international downturn. And I think maybe Matt misspoke or maybe was misquoted. There are no projects on the GO Bond list that are going to get built if that bond is



passed, and it has nothing to do with this Impact Fee Ordinance whether we change that or not. But, it is an effort to get work for people and get opportunities for people, as the GO Bonds are, as the purchase of the College of Santa Fe was, which gave work to Lockwood Construction and to Coronado Paint and Decorating and to many many people. There are things this City is trying to do to give everybody out there a chance to come through this economy and be stronger at the other end of it."

Mayor Coss continued, "So, you know, I came in ambivalent, but I sit and I listened to these people, and I said I just haven't seen this many people from this industry all together in about 3 years now, and it's good to see you all together and see you supporting this, and I'm going to support it as well, if I get to work, but I don't know. Thanks."

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

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

**Against:** Councilor Chavez.

**Explaining her vote:** Councilor Wurzburger said, "I vote yes and I will publicly say that I have absolutely no conflict with this. I doubt that I shall have another construction job over the next 2 years, but the nature would not be affected by this, the nature of what I do when I do that kind of work. It's in the large budget."

**Explaining her decision to pass at this time:** Councilor Bushee said, "You know, I was very moved tonight too, and I had a real different feeling. I'm going to pass for now, and see where this goes. I would like a little shorter time."

**Explaining his vote:** Councilor Calvert said, "I too, like the Mayor was, and is, somewhat ambivalent over this and the reach of it. I think that we have a definite need for the apartment complexes which several people attested to, and I hate to quote incentivize people/large companies that don't need it. And I guess though, what I will say, is I guess I will vote for this and hope that the promised benefits come, but won't be surprised if they don't."

**Explaining his vote:** Councilor Chavez said, "Well, I did disclose earlier, and I guess I thought about it, and I'm going to vote no, because I think that it is a little unfair to reduce taxes for one, but yet raise them for another group, whether the projects overlap or not. That's not good to the public. What is going to be on the GO Bond to begin with. We raised... if the GO Bond passes, we rise the property tax for all the people that we're going to reduce the cost of housing for, so it goes round and round and round and round. Property tax is somewhat regressive in nature, because if you have a renter that doesn't own property or someone that used to own property, but is now a renter because I guess we need more rental property, they're going to pay more. The landlord is going to pass that on to their tenant whether it's residential or commercial as the cost of

doing business. I have a vested interest in the construction industry. I do plan on applying for a permit to build and I think we should pay those impact fees and permit fees and whatever else it takes to run a municipality in good times and in bad times. So, I vote no."

**Explaining his vote:** Councilor Dominguez said, "I guess, as one of the cosponsors of this, I just wanted to make a real quick statement. And, it's really simple for me. I guess there's... people can find a reason not to support anything really. And the way I look at this, and this is has always been the way I've seen things, is that you can look at things as the glass being either half empty or half full. And, I see this as a way we can fill the glass up a little bit more, because people are hurting right now. Oftentimes, we see those representatives of developers or applicants, but many times we don't see all the other people that are impacted by the work that they do and that they bring in front of us. Yes, some of that work is done from folks that don't live here in Santa Fe, but yes, some of that work is done by people who do live here in Santa Fe and that's where I see the glass being half full, and I want to support this. So, I vote yes."

**Explaining her vote:** Councilor Romero said, "I too, came in thinking a completely different way, but I'm going to note this... I'm usually a hopeful person and even with our affordable housing, it took a tremendous amount of effort to lower that. I felt pretty hopeful. And, I'll underline again, I don't think it's the impact fees, it's the financing, similar to getting people in homes, it's getting the down payment and teaching people how to make their payments. It's not some other issue, and in this instance, it will benefit probably two corporations immediately – Jeff Branch and Centex. And, it will be split down the middle. It'll be out of state and in-state and it'll be local, and I think there will be jobs created. I think there will be gross receipts, but in the end we all pay. There's no escape for anyone. We all pay somewhere along the line, whether it's parks, or fire or safety, what impact fees go for. We're going to spread that around, and the windfall that the two entities receive, we'll see how that gets spread around, because it will be narrowed down to just a handful. And I feel bad about that, but I'm going to support this, but I'm not hopeful that it's really going to stimulate the economy that people believe it is, because I don't believe it's about us. I think it's about the global economy and it's about financing. I probably would have supported the one year, but I doubt that that would have done anything. So, if there is to be any kind of hope, maybe the two years, but I remain skeptical about how this is really going to play out for who it really benefits just give who is in the pipeline to do anything. And I wish that it would be different, but it's not. So, I'm going to support this and be hopeful, and I remain a total skeptic about it. And I vote yes."

**Explaining her vote:** Councilor Bushee said, "You know, it's interesting, because I really was not in favor of this to begin with, and I have a healthy skepticism and I don't think, you know, you don't get to vote maybe, but I felt pretty moved this evening, so I am going to vote yes."

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**MOTION:** Councilor Romero moved, seconded by Councilor Trujillo to reconsider the approval of the Amended Agenda, to hear Item #6 next on the agenda, and to approve the Amended Agenda as amended.

**VOTE:** The motion was approved on a voice vote with Councilors Bushee, Calvert, Dominguez, Ortiz, Romero, Trujillo and Wurzbarger voting in favor of the motion and Councilor Chavez voting against.

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6. **CONSIDERATION OF BILL NO. 2011-50; ADOPTION OF ORDINANCE NO. 2012-3 (COUNCILOR ROMERO, MAYOR COSS, COUNCILOR TRUJILLO, COUNCILOR CALVERT AND COUNCILOR DOMINGUEZ). AN ORDINANCE AMENDING SECTION 25-1.3 SFCC 1987, TO EXEMPT PUBLIC POST SECONDARY EDUCATIONAL INSTITUTIONS FROM BEING REQUIRED TO COMPLY WITH CHAPTER 14 SFCC 1987 (LAND DEVELOPMENT LAWS) WHEN APPLYING FOR CITY WATER AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY). (MATTHEW O'REILLY AND BRIAN SNYDER)**

Matthew O'Reilly noted when this was presented previously, Council Chavez requested for more specific information about what would be exempted under this Ordinance, noting there is a Memorandum in the Council packet with this information.

#### **Public Hearing**

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

**Jennifer Jenkins, agent for the Santa Fe Community College ["SFCC"]**, said the intent behind the original Ordinance that was adopted was "in order for the City to adequately plan for its water supply and delivery to all customers." This was the fundamental foundational intent of the Ordinance. She said while there is an exemption from Chapter 14, there is not an exemption from complying with the requirement for the development water budget. Therefore the SFCC, with the construction of the Higher Education Center ["HEC"] at the campus of the University of Art and Design, will be complying with the water budget requirements, which will enable the City to manage it's water supply and the play for the delivery, so the intent of the original Ordinance is still being satisfied."

Ms. Jenkins continued, "There is nothing being lost here with this amendment. This amendment empowers a State entity to do what State entities have done historically, while complying with more than they ever have before historically." She said it is a time issue, it's a cost savings issue, noting there already are 500 students enrolled in the HEC at the SFCC campus. She said there obviously already is a huge demand of what is being offered. She said, "On behalf of Dr. Ortego and the SFCC we greatly appreciate your support of this amendment."

**Rick Martinez** said he speaking for the Neighborhood Network, and they are concerned that "you are avoiding the ENN in this process." He said the ENN is important to neighborhoods. He said "this is a broad bat and you need to make it specific for where it's at. But right now, it's broad. It doesn't make any

sense. ENN is very important to neighborhoods. ENN is very important to the public because it's an open public process. When you're taking that away, that's really shameful. I think if you're going to move forward with this, make sure the ENN stays in. Who knows. Is this going to be a 10-story building. Do you guys know. Well neither do I. We want to make sure the ENN process is still involved in this as far as the Neighborhood Network is concerned. And we represent neighborhoods, and we want to make sure that neighborhood is represented with an ENN. And it doesn't cost that much for an ENN to have that come forward. So please put the ENN back in this. That's all we ask for."

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

*[Mayor Pro-Tem Wurzbarger temporarily assumed the duties of the Chair]*

Councilor Bushee said there are a "lot of like double negatives in this it seems." She said line 14, page 2 of the Ordinance [packet page 7] provides in part:

"B. All applicants for City water service requiring a water service agreement or written contract as set forth elsewhere in this Chapter shall agree, as a matter of contract, that future development of the property shall require compliance with all provisions of Chapter 14 SFCC 1987 (Land Development)...."

She asked if this language includes the ENN, noting Mr. O'Reilly said at Committee that it didn't, and she is trying to be clear.

Mr. O'Reilly said Item B, quoted by Councilor Bushee, is what is in the existing Ordinance, which requires compliance with Chapter 14.

Councilor Bushee said, then according to Item C on page 1 of the Ordinance, line 19, "In other words, we're not going to make them follow a development water budget."

Mr. O'Reilly said, "No Councilor. We are going to make them comply with a water budget and we are going to make them pay impact fees, but everything else that is in Chapter 14 would be exempted."

Councilor Bushee asked, "What is Section 14-8.13 SFCC 1987. What's that requirement."

Mr. O'Reilly said that is the Development Water Budgets.

Councilor Bushee asked if we can add the ENN requirement from Chapter 14 "in that laundry list of things."

Mr. O'Reilly said yes, if that is the wish of the Council.

Councilor Bushee said then we legally could do that. She said she would be willing to waive impact fees for this development, more than the ENN.

**MOTION:** Councilor Bushee moved, seconded by Councilor Chavez, to adopt Ordinance No. 2012-3, as proposed, with the amendment in the packet and with an amendment to Item C on page 2 of the Ordinance, which restores the ENN requirement in Chapter 14."

**DISCUSSION:** Councilor Chavez said he was concerned about the ENN because it is a good way to know your neighbor and believes it should apply to everyone. He said an argument was made that there is no residential component in this area, but the neighbors should know what's happening and that things may change.

Councilor Chavez quoted from page 1 of Mr. O'Reilly's Memo of December 20, 2011:

"The main exemptions for a project under this ordinance would be the exemptions from public hearing and Early Neighborhood Notification requirements. The project would also be exempt from building height, parking, landscape and terrain management requirements. This is not to say that such a project would not have proper parking, landscaping or grading and drainage; it simply means that those aspects of the project would not be subject to the city's standards for those elements of the design. The international Building Code (IBC) does contain general requirements for almost all aspects of building construction."

He asked if the City would be issuing the permit or will CID issue the permit, and Mayor Pro-Tem Wurzbarger said it would be the CID. He asked if the City will receive GRTs from the construction.

Mr. O'Reilly said, as stated in the Memo, the City does not issue permits on City, State and federal projects, and those come from the Construction Industries Division. He said the City has a sort of understanding with the CID that before it issues a permit in the City limits, it will require the applicant to get written confirmation from the City that they have complied with all City requirements. As stated in his Memorandum, the applicant will bring in a set of plans, and City staff will review it. If, for example, there was no ponding, we would request it. So, even though they technically don't have to comply with our grading and drainage rules, we ask that they do, and "they almost always do that."

Mr. O'Reilly said at this time, the City also ensures the applicant has complied with the water budget requirements and have paid impact fees. The applicant then goes back to CID to process the permit. When the construction is done, if it is within the City limits, he understands the City gets its share of the GRTs.

Councilor Chavez said, then the only thing we would lose would be the permit fees, and Mr. O'Reilly said this is correct since the City doesn't issue the permit.

Councilor Chavez asked if they would be exempted from inspections, and Mr. O'Reilly said this is correct.

Councilor Chavez asked about the building height, saying he is unsure we should exempt this.

Mr. O'Reilly said the Ordinance exempts this specific kind of project from all of the other parts of Chapter 14, including building height. He is unsure what is to be build, commenting he can ask representatives from the SFCC.

*Mayor Coss returned to the meeting and assumed the duties of the Chair*

Councilor Wurzbarger said it appears we can't regulate building height, noting this is under the CID with which the City has a special relationship.

Mr. O'Reilly said the Council adopted Ordinance 2009-54, in 2009, which made it clear that all projects – State, County, School, Federal – have to comply with Chapter 14. He said he believes the reason this was done, was because some of those entities held the opinion that "this is our land, we can do what we want, we don't need to comply with local ordinances." He said until 2009, in some cases the State and the other political entities built whatever it wanted to build on its own property. He said 2009-54 provided that if they were going to enter into an agreement to get water from the City, the only way they could do that was to comply with Chapter 14.

Councilor Wurzbarger said the second paragraph of Mr. O'Reilly's Memo said they can do it anyway, and asked the reason the City was asked to make the exception, unless the implication is they are going to do it anyway. She asked if we would be doing this if it was a State building. She asked the reason we are choosing to go this path, commenting she 100% wants this to happen, but she isn't following the logic of this exception, given the action we took previously.

Mr. O'Reilly said he can't say why this entity doesn't want to comply with certain parts of the Code. However, at the last Council meeting, Councilor Chavez asked him to be more specific about what they wouldn't have to comply, so he added those for Council information. He said Chapter 14 addresses so many things – 500 pages, and it addresses water, impact fees, building height, setbacks and lots of other things, so he provided this information. He does not expect them to build a 10-story building, but this would allow them to not have to comply with Chapter 14 in that area.

Councilor Wurzbarger asked somebody to explain the rationale for SFCC not wanting to do this.

Ms. Jenkins said the primary issue comes down to the recent bond issue which was approved by the SFCC to build the facility. The SFCC is legally obligated to the taxpayer to build a two-story building educational facility at an existing university campus. She said to engage in a discretionary process through the City's Chapter 14 is completely antithetical to the obligation already in place.

Councilor Romero said the original intention of the Ordinance sponsored by Councilor Ortiz and herself had a very specific ending to it, and this is a little different. She said it is for higher education, not for an elementary school or anyone else, it is specific to the Community College in this instance. It is for a two-story building. She said she is intrigued with the idea of waiving the impact fees, and asked Ms. Jenkins "how would that play out." She asked Mr. O'Reilly if this is relevant to the amendment already brought forward. Councilor Romero asked if it is under commercial.

Ms. Jenkins appreciates Councilor Bushee's offer to waive impact fees, and this would help their budget and they would appreciate it.

Councilor Wurzbarger asked if the bond approved considered and approved impact fees, and Ms. Jenkins said she doesn't know.

Councilor Bushee said the Ordinance is tailored for this educational center, but we have to be clear that this also could apply to other future educational institutions in the future. She asked, "Do we have to, in the title state Higher Educational Institution, so we aren't looking at State high schools or charter schools... I'm trying to... and then you would have to come up with a construct that made sense on waiving an impact fee, because you just told me that I can't waive impact fees. You've told me that sometimes I can't collect them, but I need you to be clear, so I'm back to the first question, is, do you want in the title to have it be Higher Educational Institutions, or does that matter, because you can't be doing things singularly for one specific.... you can't just say for the Santa Fe Community College Higher Educational Center."

Mayor Coss asked if Public Post-Secondary is the same as Higher Education.

Mr. Zamora said, "There's been an amendment."

Yolanda Vigil, City Clerk, said Councilor Bushee's amendment is included in the packet.

Councilor Chavez said Mr. O'Reilly's Memo says Public Post Secondary Educational Institutions, and asked what is the correct language she's seeking.

Mayor Coss said that is the correct language, noting Public Post-Secondary Educational Institutions is correct.

Mr. O'Reilly said the language in the amendment is correct.

Responding to Councilor Bushee, Mr. O'Reilly said the City can adjust impact fees, by ordinance. He said it can be removed from line 20 on page 2 of the ordinance.

**MOTION TO AMEND:** Councilor Bushee moved, seconded by Councilor Chavez, to amend line 20, page 2 of the ordinance to strike language as follows: "... and the Impact Fee Ordinance, Section 14-8.14 SFGC 1987, this..."

**DISCUSSION ON THE MOTION TO AMEND:** Responding to Mayor Coss, Councilor Bushee said she is offering this as a separate amendment in order not to “tank” the original motion.

Councilor Ortiz said the question is, since this was “snuck in at the last minute,” despite what’s being discussed, what are the proposed impact fees which are being waived, noting there was no FIR and it wasn’t part of the original ordinance tracked through Committee. He said we are now being asked to consider waiving impact fees, so he wants to know that amount.

Mr. O’Reilly said the impact fees are estimated at \$754 per thousand square feet. The building will be approximately 30,000 sq. ft, so there would be approximately \$21,000 in impact fees.

Councilor Ortiz said that is an easier number. He asked if this property is City-owned.

Mr. O’Reilly said it is owned by the State.

Councilor Ortiz said then this would be the distinction for this property, as opposed to the Railyard property which is owned by the City.

Mr. O’Reilly said, “Technically, we’re not waiving anything. We are saying that the impact fees for this kind of product would be zero.”

Councilor Ortiz said then that can be done by Ordinance, and Mr. O’Reilly said this is correct.

Councilor Ortiz said since the impact fees are less than \$25,000, he has no problem with waiving those fees.

**WITHDRAWAL OF THE MOTION:** Councilor Bushee withdrew her motion to amend.

**FRIENDLY AMENDMENT:** Councilor Bushee would like to amend line 20, page 2 of the ordinance to strike language as follows: “... and the Impact Fee Ordinance, Section 14-8.14 SFCC 1987, this...”. **THE AMENDMENT WAS FRIENDLY TO THE SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

**CONTINUATION OF DISCUSSION ON THE MAIN MOTION, AS AMENDED:** Councilor Ortiz asked the timeframe for the construction of the higher education center.

Ms. Jenkins said the Legislature may not be a hurdle, architectural efforts are under way, noting this is an ASAP project. It is a high priority for the SFCC and the intent is to start construction in the Spring as soon as the weather is good.

Councilor Ortiz asked, regarding the statement that the Legislature may not be an impediment, if the SFCC has to go to the Legislature for funds.



Dr. Ortego said, "It has been suggested by the Cabinet Secretary of Higher Education Department that we have to take this back to the Legislature for approval, which we have disputed, and for which we've just received an AG's letter on, saying they don't agree that we need to take it back to the Legislature. So, where we stand right now is, we're about a year behind schedule in constructing the building, we have over 500 students enrolled, and we're already having to turn students away from this opportunity. So, we would begin as soon as possible, but we still have some issues to work out. But one of the reasons we've asked for this is if we went with a standard process it would entail more major delays, and we feel like we're already so far behind, and there is such a great need out there that we would want to move ahead as soon as possible, and still cooperate with all the requirements."

Chair Ortiz said according to the Ordinance, they will have no requirements except having to do an ENN. He asked if it is true that they have not finished the architectural drawings.

Dr. Ortego said no, they have done the schematics, and it will be a two-story building, about 30,000 ft. However, construction costs are increasing while they get all issues resolved. They want to work through all of the issues simultaneously so there will be no further delays.

Councilor Ortiz asked, "So is it the intent of the Community College to move forward, even if whatever issues you have with the state are not resolved, in the Spring of this year."

Dr. Ortego said, "We certainly intend to do that, but we can't say what we'll be able to do. Right now, we have the entire Santa Fe Legislative Delegation saying that they agree it is not appropriate to take it to the Legislature and they're trying to intervene to talk to the Cabinet Secretary, the Governor and help us get through this. Either in terms of some sort of agreement that there would be a certain delay in construction, or that we would simplify the issue and call the building the Santa Fe Community College at this site – something that would satisfy the Governor and the Cabinet Secretary. So, we're hopeful at this point, but we can't give you answer, but we're certainly not going to give up."

Councilor Ortiz asked if it is the Sponsor's intent that this exception would some indeterminate time, or is a time limitation the sponsors would like to add to this request. He said he especially asks the sponsors who had some ambivalence in waiving impact fees, to see what there position is on sunseting this waiver, because it amounts to a significant improvement in the time value of this project. It would lessen any number of hurdles for them which ultimately will save them money.

Councilor Romero said one of the original intents was to move this quickly, and would happen within a 5-year time frame. She asked Dr. Ortego what time limit would be reasonable, and if that would be 5 years.

Dr. Ortego said the 5-year time frame should be safe, because they have to spend the funds within 3 years after selling the bonds, noting the bonds haven't been sold because they are waiting to see what happens. She said they have to sell the bonds with the expectation they can spend them within 3 years, so it might need to be a little longer, because they might be in appeals at that point.

Councilor Ortiz said the City is being asked to waive these requirements for a project which haven't sold the bonds, don't know if they will go forward if the State issue isn't resolved, and yet we are hearing that we need to keep this project open for a period of 5 years, and asked the sponsors if this is the time frame being considered when this Ordinance was introduced.

Councilor Romero said the intent of the sponsors was to have a one-time change for one year, but she also understood it was not contingent on the State.

Dr. Ortego said there is no problem with financing, and they have the bonds which can be sold at any point. However, there is an issue of whether the Capital Projects Committee of the Higher Education Department will approve the construction. She said, "It's just a *pro forma* final issue, but it has become somewhat political and we're trying to work through that."

Councilor Romero said as the initiator of the Ordinance change, with all of the new information, she would advocate that it be for 5 years. She isn't comfortable with the one year at all. She said, "There's just too many moving parts in my mind. And it seems if we're going to be giving something... this is a project for a higher education center that's already being developed with stories. It's pretty clear what we're buying, so I'm more comfortable with the 5 years. This is new information I didn't know when we originally brought this forward, what the timeframe was going to look like, but now, my sense is at least 5 years."

Councilor Bushee said she is unclear why we have to a time limit. Her understanding is that we are making a special exception for post secondary educational institutions, period. She would feel the same about any educational institution that wants to add to our already great campus. She said, "So we are just plain, period, not requiring impact fees be paid, the sum of zero be paid for institutions of this type."

Councilor Ortiz said at Finance, Councilor Bushee raised the question, if we are going to be limiting this exception to this particular entity with a particular educational purpose, which he thinks is behind this legislation. He said if we allow it for a period of 3, years, 5 year, indefinitely, he still could see a situation where the SFCC still has the property, but decide to turn it into something else, such as the School for the Deaf, or an Indian School situation with a waiver from all the requirements. He said as he understood the Ordinance, as introduced, it was specifically so SFCC could get the higher education center built on this parcel.

Councilor Ortiz said his question is how we help the Community College either break through the political impasse, or they exert enough political will on their own to get it built sooner, rather than later, so 3 years from now, a Governing Body isn't faced with a different President of the same SFCC proposing to build commercial buildings. He asked if the language in the second amendment, "public post secondary educational institutions," covers his particular concern.

Councilor Bushee said this is what she asked the City Attorney, and if they think it is narrow enough. Her concern is to encompass only the actual institution, and asked if that has been done with the narrowing of that language she suggested as an amendment.

Councilor Ortiz asked Councilor Bushee if Amendment #2 of her amendments covers that this is the only way this exception applies.

Councilor Bushee said she asked Mr. Zamora at Finance if that language is sufficiently narrow to prevent SFCC from building anything else, such as a housing complex.

Mr. Zamora said, "As I understood the question from Finance, and the answer was in the affirmative, was, does this limit it to this category of educational institutions, and not allow for other educational institutions to take advantage on the exemption. On that limited question, that was the answer we provided. I will defer to Matt O'Reilly on the use."

Mr. O'Reilly said, "I'm afraid I don't have the answer. I think that my staff would probably leans toward, in having to interpret this, saying now you're building housing, or leasing out your property to a developer to build an office building, that's not an educational institution, so no, you're not exempt from all this."

Councilor Calvert said we can take the language in the amendment, but add language to it saying this is exempting the Community College for the purpose of building a higher education center, so you get the higher purpose and the use to which you want it restricted.

**FRIENDLY AMENDMENT:** Councilor Ortiz proposed to amend Amendment #2, as follows: "... as defined in, and for the expressed purposes found within, the Post-Secondary Educational...." **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

**CONTINUATION OF DISCUSSION ON THE MAIN MOTION, AS AMENDED:** Councilor Chavez asked if the 500 students enrolled are warm bodies or on-line students.

Dr. Ortego said they are not all warm bodies at this point, because the space is very limited, and one of the reasons for the urgency for further space. She said 300 of the 500 students are warm bodies, most of which are from Highland University.

Councilor Chavez asked if this proposal doesn't work out, for whatever reason, could the main campus absorb these students.

Dr. Ortego said yes. She said one of their hopes, if everyone stands firm, is that they could house the higher education students at the campus and alleviate the space problem at the main campus by opening the downtown site. She said the bond references a higher education center or a downtown site. She said their intent has always been to create building of the SFCC that would be in town, more convenient to the students, whether their traditional two-year students or from their partner institution. She said they are trying to maintain the original intent to have the two-year students go through their first two years, and to house all of our university partners at that building. She said they may have to compromise on this issue,

but certainly they will accommodate all of the university students on line or at the campus, if that compromise is necessary.

Councilor Bushee asked if anything will have to be changed if we pursue an overlay district for the St. Michael's corridor with respect to this particular parcel and Mr. O'Reilly said no.

Councilor Wurzbarger asked if the 5 year limitation is in or out of the Ordinance, and Councilor Bushee said it's out.

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

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

**Against:** None.

**Explaining her vote:** Councilor Bushee said, "Yes, and add me as a cosponsor."

**Explaining his vote:** Councilor Trujillo said, "When we bought the College of Santa Fe, this was the main reason, was to get this higher learning center, so I'm voting yes, but Dr. Ortego I wish you the best of luck with the Governor and the Legislature. Let's get this thing started, because there's a lot of kids here in Santa Fe that want to go to this thing."

**Explaining her vote:** Councilor Wurzbarger said, "Yes, and I want to be added as a cosponsor."

- 5) **CONSIDERATION OF BILL NO. 2011-49; ADOPTION OF ORDINANCE NO. 2012-4 (COUNCILOR CALVERT). AN ORDINANCE AMENDING SECTION 7-4.2 SFCC 1987, REGARDING THE ADMINISTRATION OF THE RESIDENTIAL GREEN BUILDING CODE; REPEALING EXHIBIT A TO CHAPTER VII SFCC 1987, SANTA FE RESIDENTIAL GREEN BUILDING CODE; AND ADOPTING A NEW EXHIBIT A TO CHAPTER VII SFCC 1987, SANTA FE RESIDENTIAL GREEN BUILDING CODE, TO BE CONSISTENT WITH THE NATIONAL GREEN BUILDING STANDARD. (KATHARINE MORTIMER)**
  - a) **CONSIDERATION OF RESOLUTION NO. 2012-12 (COUNCILOR CALVERT). A RESOLUTION REPEALING RESOLUTION NO. 2009-42, RESOLUTION NO. 2009-73 AND RESOLUTION 2010-63, THAT ADOPTED AND AMENDED THE ADMINISTRATIVE PROCEDURES FOR THE SANTA FE RESIDENTIAL GREEN BUILDING CODE; AND ADOPTING UPDATED ADMINISTRATIVE PROCEDURES FOR THE SANTA FE RESIDENTIAL GREEN BUILDING CODE TO BE CONSISTENT WITH THE NATIONAL GREEN BUILDING STANDARD. (KATHERINE MORTIMER)**

The staff report was presented by Katherine Mortimer from her Memorandum of November 6, 2011, which is in the Council packet.

### **Public Hearing**

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

**Bill Roth** said he is a HERS rater, so he is becoming familiar with the current City Code. He said while he thinks it is effective, he believes the City's effort to streamline and simplify it, will make it more effective and easier to get builders to adopt it. He said the Code currently is somewhat intimidating, although the intentions were wonderful. He said reexamining it after it has been in use for a while is a good thing, and what Mr. Mortimer has come up with will aid in its acceptance and adoption by the builders in Santa Fe.

**Amanda Evans, Director of the Center of Excellence for Green Building and Energy, Santa Fe Community College**, said she helped on this rewrite of this Code. She speaks nationally and around the State about ventilation needs and indirect lighting for buildings. She hopes the Council will support this bill. She said the ventilation and radon requirements are imperative for the way we are constructing houses in the City which are becoming tighter, and we could end up with air quality issues, and she believes this rewrite will help with that.

**Steve Olmstead**, said he is a HERS rater and a building science consultant. He said on this committee for the past two years, and it has been grueling to get this to this place. He said it is a better program, simplified, and will be better received by the building community. He is very sensitive to the issue of indoor air quality, but most of the builders actually do provide the mechanical ventilation now because it gets quite a two months, and it isn't as if this will be another hurdle for builders.

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

Councilor Calvert thanked the builders who gave us feedback, especially the people on the Committee who worked to revise this. As stated, it is simplified significantly in the Green Building Code for those people who aren't going for the State tax credits. However, for those who are, it is more in line with the State's requirement, and makes it easier for the people who are doing that as well. He said with the new requirements for indoor air quality and radon testing, it makes it an improved product.

**MOTION:** Councilor Calvert moved, seconded by Councilor Wurzburger, to adopt Ordinance No. 2012-4.

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

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

**Against:** None.

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

**MOTION:** Councilor Calvert moved, seconded by Councilor Romero, to adopt Resolution No. 2012-12.

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

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

**Against:** None.

**Pass/Abstain:** Councilor Chavez.

7. **CASE #2011-106. APPEAL. SOMMER KARNES & ASSOCIATES, LLP, AGENT FOR MARK AND BETH JERNIGAN, APPEALS THE AUGUST 23 AND SEPTEMBER 13, 2011 DECISIONS OF THE HISTORIC DESIGN REVIEW BOARD IN CASE #H-11-079A, DESIGNATING THE MAIN HOUSE AND THE GUEST HOUSE AT 1041 CAMINO CRUZ BLANCA AS SIGNIFICANT. (DAVID RASCH AND KELLEY BRENNAN). (Postponed at December 14, 2011 City Council Meeting)**

A copy of a Memorandum prepared dated December 5, 2011, with attachments, to Members of the Governing Body, from Kelley Brennan, Assistant Attorney, in this appeal, is incorporated herewith to these minutes as Exhibit "15."

A copy of the definition of *Contributing Structure* and *Significant Structure*, submitted for the record by Karl Sommer, Attorney for the Appellants, is incorporated herewith to these minutes as Exhibit "16."

The staff report was presented by Kelley Brennan, Assistant City Attorney. Please see Exhibit "15" for the specifics of this presentation. She said David Rasch has comments on the historical aspects.

David Rasch said he has a few comments about the Appellant's request, including consultants who do the historic cultural properties inventories. He said these are professionals certified by the State, noting we utilize the State list, and they are required to use the State Historical Properties forms. He said

the Appellant states that the H-Board denied the consultant's recommendation to make these as contributing structures. He said the State form is on page 18 of the packet, follows state standards and protocols, and there is no check box for significant. He said, according to the State, the Historical Properties Inventory, the consultant shall choose contributing or non contributing. He said, "The H-Board did not deny Katherine Colby's request for the highest status. I wanted to point that out. It's just a difference between the State form and our Code."

David Rasch said the other statement made by the Appellant that we're just beginning to do reviews of status within this Historic Review District which is true. They have only done a few reviews for status in this District last year. He said they are starting to do reviews because a lot of these buildings are now coming of age – 50 years old – and they are also becoming at risk, because these properties are going up by sale and being bought by different owners.

David Rasch said there was a statement by the Appellant that these buildings are not publicly visible. He said the residence is visible, but he wants to talk about the standards for historic status. He said, "Public visibility is not a criteria in applying status to a structure, so visibility is not really the issue as to why they should not be listed as historic."

Mr. Rasch said the appellant states there will be an unduly burdensome process of providing the status to these buildings to this owner. He said, "I want to point out that whether significant or contributing, the process for any remodel will be the same and the standards will be essentially same, so that burdensome quality is not reduced if the status is downgraded to contributing."

## **Public Hearing**

### **Presentation by the Appellants**

**Karl Sommer, P.O. Box 2476, Santa Fe, NM 87504, Agent for the Appellant was sworn.** Mr. Sommer introduced the Appellants, his law partner Mr. Karnes and Mr. Martinez the architect for the project. He said he will cover the background and why they believe and can demonstrate unequivocally that the Board has improperly applied its standard, and ask for designation that is appropriate under the ordinance.

Mr. Sommer said the Jernigans have been coming to Santa Fe, Beth since she was 4, and their connection to the community is long-standing. They were looking for a place to live and chose Santa Fe. He said this is significant, so this isn't a fly by night decision. They have redone their current residence and done a good job with the historic preservation, and have familiarity with historic preservation as it applies to buildings, and have experience with it. They were not naive and they came to Santa Fe sophisticated and looked at this property. They purchased the property from the heirs of Sallie Wagner. At the time they purchased the property, the Historic Design Review office did not have a practice in this Historic District of designating status.

Mr. Sommer said when the Appellants came in to do the first renovation, they were going to move the entire façade from the guest house, and somebody from the City said no problem was because there was no practice of status review prior to a determination. He said, "They changed that practice, and they changed it when they applied, not when they bought, when they applied." He said this is significant and has a burden on them, and the impact from contributing to significant in this case, means that the façade can be affected, and the changes which can be made obviously have to comply with the standards in the Code relating to style and such. However, the façades, openings and things that can be changed are significantly different in those regulations. If it is significant, it is highly restricted and every façade can become primary, not just what is designated as a primary façade. In that regard, the regulation and visibility is important. He said visibility becomes important when you are regulating a building.

Mr. Sommer said this severely affects Mark and Beth's plans for this property, noting the property was designed for a single person, has a very small kitchen, with bedrooms that are outdated in many days. He said the Appellants don't have big plans, but they have to make the kitchen bigger and they have to have a dining room that accommodates. This would impact façades on the rear of the house that are not publicly visible, but that becomes very very problematic if the house is designated significant. He said,

Mr. Sommer continued, "That shouldn't drive the decision. I'm just telling you that because it's important to them, and they would have known this if it had been disclosed as a matter of policy that the plans they had for the property might be in jeopardy. Perhaps they would have bought it anyway once they got their plans. But this practice has had an effect on them in a very particular way. That's important, because in this case, we are asking you, because of that effect, to look very closely at the criteria. Give this the scrutiny it deserves because of the impact on Mark and Beth Jernigan."

Mr. Sommer continued, "Now when you turn to the analysis and you apply the Ordinance, you will find that.... I beg to differ with Mr. Rasch saying that the consultant was not ignored. Katherine Colby is a consultant that is on the City's list. They weren't going to hire Katherine Colby, because they didn't know anything about it. They had to hire Katherine Colby because they couldn't get through the process without it. They hired her and Ms. Colby is a very sophisticated individual, and the portion of the form that she fills out is not to check the box for them."

Mr. Sommer continued, "You'll find in your packet, Ms. Colby's report and it has, if I can approach you all and just show you where it is. On her report you will see, and I'm pointing to the yellow right here. The portion of the report that she fills out, she fills out herself. Now she's being hired under the City's Ordinance to do a review... I'm pointing to the figure right there. She fills that out. She doesn't check a box. She says that is "Contributing," and the check the box portion of this form is an answer to questions about whether or not it's on a State or National Register, Contributing, Non-Contributing, Unknown. You will note she left those boxes blank. She's not filling out this form for a State review. She's filling it out, as she knows, for a City review. And she said, as the professional on the list required to be hired, 'This building is contributing.'"



Mr. Sommer continued, "She took and analyzed this building and the qualities of this building and said, not checked a box, this is contributing under your ordinance. Now why did she do that. Why is that important. Because, and this is the heart of this matter and we ask you to look very very closely at these two paragraphs. [STENOGRAPHER'S NOTE: At this time Mr. Sommer distributed copies of Exhibit "16"] Ms. Colby was saying, she was looking at these definitions and her determination was that it was contributing. And I put in boldface the significant difference between these two definitions. There is a very important distinction. A Contributing building, although it is not unique in itself, Ms. Colby's report does not point out any distinctive characteristics about this building. She doesn't say this is emblematic of a particular architectural style. She didn't say that this epitomizes this particular feature of the historic quality of the building. It's almost silent on it, and this is a professional. There's a reason for that, because the building is not distinctive in that fashion."

Mr. Sommer continued, "The other thing is, the definition of Contributing says the structure may have had minor alterations, however, its integrity remains, in this particular instance the main house. Sallie Wagner is the person who is of significant importance in our local lore and history in New Mexico, she took and made significant changes to the front of this building. She put a portal that cuts right through the windows so that the roof is right midway through the windows. She punched a hole out to that portal through what was a window and made a door that drops off on the primary façade. When you drive up to this property....Sallie Wagner made an alteration, a significant and important alteration, she added a kitchen. She changed windows. She did all these things. Now why is that important. Because this definition says, 'The structure may have had minor alterations, however, its integrity remains.' Nobody argues that the integrity of the structure doesn't remain, but it has had minor alterations."

Mr. Sommer continued, "Mark and Beth, by the way, the first phase of their construction is to put the portal in a way that it works with that façade. Get it out of halfway through the windows, lift it up and the like. That was their first phase of construction – to restore some semblance of integrity to the front of this façade. That's important, because the definition of Significant deals with something very different. If you look at the definition of Significant, it says nothing about minor alterations. It doesn't talk about minor alterations. It goes the other direction. It says as a requirement, in all instances, the requirement must be met, 'It must retain a high level of historic integrity.' It doesn't talk about alterations. The other definition talks about alterations. Mark and Beth are not here saying it doesn't deserve designation. It deserves a definition that the professionals say it deserves, because they did the analysis."

Mr. Sommer continued, "The Board ignored that particular requirement and ignored the distinction between the two. And if you look at the minutes... before that, before you get to the minutes, if you look at the Staff Report, staff was comfortable with either designation – Contributing or Significant – and I think, because there is this minor alteration that does affect its integrity. Just around the corner from this property is the Hollenbeck property that was designated in a very similar fashion in 2011 in this District, as Significant. That building has almost, almost zero changes. It is, in the words of some, John Gaw Meem's masterpiece. It's integrity is fully intact. It has no changes. And if you look and compare the pictures of

that Hollenbeck designation to this one, you see why there is a difference between Significant and Contributing. Both of them are highly regulated. One has a historic preservation importance that this Ordinance recognizes."

Mr. Sommer continued, "I think staff's equivocation on this is telling, because I think staff recognizes there is a difference between Contributing and Significant, and that it is important to make that distinction, and in this particular case for the practice and policy of applying it right in the hearing at application requires we give this close scrutiny."

Mr. Sommer continued, "Why was it designated Significant, and I again turn to, and this is the heart of this case, I turn to the heart of the case. If you look at Contributing and you look at Significant, a property can be Significant because of its historical associations. And its historical association in this case, is the property was designed by Katherine Stinson Otero, whose fame is for other reasons than architecture. She's famous as a first female pilot. She's famous for some architecture she did. She's not famous for this house. This is the first house she did and this is not the epitome of this kind of design. However, she's an important figure. It has a historical association that is important."

Mr. Sommer continued, "Sallie Wagner was important across New Mexico for many, many reasons which I won't go into, but a lot of it dealing with textiles, a lot dealing with the Navajo Nations and trading. She moved to Santa Fe and retired here, and proceeded to make changes to this house, many changes to this house, but she's an important person and that historical association is important. That's not the end all, because both definitions say it adds to the historical association that's in Contributing. So, yes, it meets the definition of Contributing in that regard. And the Significant definition has a very similar quality. It says, a structure may also be designated as significant for its association with individuals that are important. Both definitions incorporate this historic association. Really, the distinction between these two definitions is the level of integrity, and when you look closely at the facts of this case, you see that the integrity of a building that is Significant is different than a building that is Contributing."

Mr. Sommer continued, "The alterations in this case reduce it's integrity, not remove, but reduce it, and that is significant. And it was not discussed at the Board level. What was discussed at the Board level was 'Oh wow, this was Sallie Wagner, well she was... I knew her.' You know, they were calling her by the first name at the Board level. That's not the way the ordinance is applied. These two individuals, and people in their circumstance, deserve to have ordinance applied in a way that is fair and the way it is written; not to get carried away by personal recollections of who these people were, or personal associations with them, and then to ignore the rest of the Ordinance as if that was the only thing in the Ordinance."

Mr. Sommer continued, "That being said, I think it's quite clear that the Jernigans are not asking you to cut them a break because the Historic Design Review Board has a new policy. We're asking you to apply the law as written and do it strictly because of the way this new policy was sprung on this particular

applicant. Now I don't fault the Historic Design Review staff or anybody else for changing their policy. It's probably a good thing that these areas be designated in some way or another, but with notice, with an opportunity to really be heard, and have the committee to consider it."

Mr. Sommer continued, "That being said, we believe the facts are clear that this case and this definition make clear that this is a Contributing building, not a Significant building, and the definition makes a clear distinction. With that we would stand for any questions you would have of the Jernigans, Mr. Martinez or their plans for the property you would like. We ask that you apply the law as it's written."

### **Speaking to the request**

**Lane Coulter, 2120 Conejo Drive, 87501 was sworn.** Mr. Coulter said he has an antique store in Santa Fe, and is a historian and a teacher, and wrote a history about tinsmiths, noting there were a number of tinsmiths marketing at Spanish Market. He said his concern is about preservation. He is proud of the contribution his book made to the history of this decorative art in New Mexico. He is here because they have direct interests in projects such as this one in their business. He said they try to supply antique furniture and tin lighting fixtures for people who are restoring historic homes in Santa Fe. He said their clientele tends to be, like the Jernigans, people who are dedicated to learning the history of New Mexico. He said in terms of the Sallie Wagner house, he was in that house 25 years ago, and again a year ago. He also spent a lot of time in the Hollenbeck house, so he is quite familiar with the nature of these houses. The Hollenbeck house is a really remarkable house in terms of what John Gaw Meem did with the owner. He said people like the Jernigans, in his experience, are quite rare, and their intention is to learn about the architecture here. He said they have a large family, and a lot of children and grandchildren who will be visiting them, so some of the existing rooms are really inadequate, and the same is true with the guest house. He supports their interest in moving forward with their architectural program."

**Jan Brooks, 2120 Conejo Drive, was sworn.** Ms. Brooks read a statement into the record as follows:

"I have a long association with Santa Fe that dates back to the 1950's, and I moved here in 1995 permanently. I'm a recovering academic, and my current professional work is divided between our antiques business and a long career in organized philanthropy as a designer or program initiator for private organizations. I have 25 years experience in adjudicating grants as a CEO of the New Mexico Association of Grantmakers for 6 years. I received a really broad education about the cultural issues that are impacting Northern New Mexico."

"My husband and I have been blessed with running an antique store that specializes in all things New Mexico. We use this store as a platform to educate newcomers about the things we love about New Mexico, its historic furniture, textiles, santos, jewelry and metal work. We've been responsible for writing, lecturing, curating, traveling shows and selling rare examples to members

of American museums. Thanks to our reputations as honest scholars and brokers of authentic examples of historic expressions of New Mexico, we have been blessed to work with a number of families that have purchased historic properties, advising them on the design, restoring lighting, making suggestions and generally serving as academic cheerleaders."

"Lane and I have become recently, in recent years, not just because of the Jernigans, but in recent years, we've become very alarmed at the seeming capricious decision making that has characterized the H-Board. As a philanthropic consultant, I teach grantmakers how to do evidence based decision making so that their charitable gifts have measurable results. As scholars and appraisers, my husband and I use research to make decisions on the value and rarity of the things that we sell. Katherine Colby's research informed her recommendation."

"The H-Board has ignored and become more myopic, ignoring the social consequences of their zeal for assigning significance and demeaning the whole concept of what significance really is about. This is not only hurting Santa Fe's process of preserving its historic architecture, it's actually dissuading buyers from considering historic properties at all. We know this, because we have those buyers in our store. We hear what they're learning from Realtors and from their friends in the community, and the hurdles that have been put before these buyers, and we see the process as it is impacting peoples lives and as its impacting our lives."

"The H-Board needs to give consideration to the current and future social and cultural fabric of Santa Fe, not just the past. History is not static. It's an ongoing process. We need to provide opportunities for our new residents to create legacies of their own. Making it nearly impossible to remodel a historic home that can reasonably accommodate a family in 2012 after a property is purchased is, frankly, fundamentally unfair."

"The Jernigans are not novices and they bring, as to many of our other clients, a spirit of cooperation, sensitivity, and most of all, experience to the process. However, the H-Board provides us with yet another example of 'Let no good deed go unpunished' decision making that results in depressing the opportunity for citizens to participate in the cultural preservation. This is not just hurting future preservation. It is hurting the cultural and intellectual fabric of Santa Fe. We're really running off the type of contributing citizens we most need at this time in our history. I urge the Council to apply reasonable standards, and in the spirit of fairness, overturn the H-Board's designation. The future of fair and reasoned historic preservation and the opportunity for creating new cultural legacies for the people of Santa Fe is at stake."

#### **Commentary by the Assistant City Attorney**

Ms. Brennan said, "I just want to respond on a few points, and David and I will stand for questions. I want to say that Ms. Colby's designation was a recommendation. If we were going to dispense with the Board and the Staff Report and the site visit and the experience of the Board members, we could just have an inventory and make a decision based on that, that really isn't practice. Too, this is not the first status

review in the District, in fact, others have taken place. As David mentioned, status review has always been a possibility, it's on the books, it has not been excluded in the District. It's has just but been practices. David explained some of the reasons they are now beginning to evaluate these buildings."

Ms. Brennan continued, "And also, the Application for an Alteration is what triggers a status review typically.

Ms. Brennan continued, "Three. This is Stinson's first house. It may not be the epitome of what she achieved later, but because it's her first house, it may be important for that reason."

Ms. Brennan continued, "Fourth. This is a *de novo* hearing. It's not whether you think that the H-Board reached its decision appropriately or not, or might have done a better job or not. You have the evidence before you, and are making the decision."

Ms. Brennan continued, "Fifth. Just on the point of making it impossible to renovate, I want to say that the Board has already approved an Application for Alteration to the house, to the main façade, including that portal. So David and I will stand for questions."

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

Councilor Wurzbarger asked Mr. Rasch to "clarify the process issues that were raised from your perspective, both with this whole topic of status review as well as the statement...clarify... I'd like to know your specific recommendation." She said the first part has to do with the process and the questions raised about that, and secondarily what is recommendation was in the beginning to the H-Board.

Mr. Rasch said, "Status review, as written in the Historic District Ordinance, is something that can be called up by staff, by any member of the Historic Design Review Board or a property owner. And typically, I don't go out searching for buildings to designate. I use the trigger of someone coming to our office and wanting to do a remodel. That triggers the status review. Whether a property has status or not, it triggers a status review. That's what we practice. And in this case, it was the remodel that was proposed that triggered the status review, and as a matter of fact, it was the architect that said to me, yes, I think we're needing a status review in this issue. Because typically, a building without status, staff approves remodeling without the Historic Design Review Board. So even the architect, when he came forward with the proposal said to me, 'We need to do a status review.' It's not going to be an office approval, so that's why it came forward."

Mr. Rasch continued, "The second question. Yes, I did recommend Significant or Contributing, and as Ms. Brennan stated, the H-Board weighs all these different things – the inventory of the consultant, the staff testimony, any other testimony. They also do a site visit, and in this case, got out of the van and walked all the way around the building, looking at every single façade. They have to weigh all of that information – not just my review and not just the inventory. So they do a much more thorough investigation that any one of these things, such as my recommendation. So, I didn't want to force their hand of saying

Significant or not. I understood it was a historic building and I was willing for them to make that decision. And that decision is not mine, I just give them the facts behind it and they weigh all the evidence that comes forward."

Councilor Wurzbarger said, "Your facts from your professional opinion is written in your report that it could have been either."

Mr. Rasch said, "Yes."

Councilor Wurzbarger said, "And when you feel strongly, one way or another, my experience with you for many years is you let us know that."

Mr. Rasch said, "Certainly. I do try to give a single recommendation, but in this case, I did do both. And I would like to say the other thing about the Ordinance is, it recognizes that buildings change over time. And although Sallie Wagner made some changes, those changes are historic. This year, any changes made up to 1962 are considered historic. The only non-historic change that I'm aware of is that south portal which was a reversible treatment and doesn't affect the integrity of the house. So, that's why I think the Board saw that as significant."

Councilor Wurzbarger said, "The last question I have, at least momentarily, is there was some statement you made a moment ago, about you received the review and you've approved their application."

Mr. Rasch said yes.

Councilor Wurzbarger said, "And are you saying, am I inferring correctly, that you have approved what they want to do."

Mr. Rasch said they have come forward with a remodel which already has been approved by the H-Board. It is his understanding that the applicants want to make more improvements, but they haven't brought that forward.

Councilor Wurzbarger said, "And therefore, you earlier stated something about the distinction between Contributing and Significant. We do know all of the issues with respect to the façades, etc., which is not [inaudible] for contributing."

Mr. Rasch said the only difference between Significant and Contributing, in terms of standards that affect a remodel, is yes. On a Contributing structure there are fewer elevations that have that standard, but it's still the same process and the same standard.

Councilor Wurzbarger said, "Am I inferring that if they gave approval to do what they're already requested, then their concern... and maybe I should be asking them that, so we understand the whole picture. And I ask that, if I may, of the representative. Then the concern is for what you also want to do

that hasn't come forward, that this will impede. I'm asking the representative. And thank you David."

Mr. Sommer said, "Yes. The kitchen is about 5 feet wide and 10 feet long, and the dining area, which was designed for a single woman, is a small room. So the changes they had planned in the second phase were to make the kitchen a little bigger and add a dining room, which would affect two façades on the rear of the house, which is not visible from public ways, and that's the visibility issue."

Councilor Wurzbarger said, "Is the status review, if it is Significant, are those façades, permanent façades, and therefore they can't do this."

Mr. Rasch said, "If it is a Significant building, and hearing the proposal, I think I know where those additions would be, they would be required to have an exception met, so they would have to prove the six criteria. Until I see them, I don't know if I can recommend approval or not. But if the building is contributing, we still have to determine if any of those rear elevations are primary, so it's not about public visibility on primary elevations. That still has to be determined, if those rear elevations are primary or not."

Councilor Wurzbarger said then that hasn't been determined.

Mr. Rash said, "Correct. Because it is significant. We haven't gone to if it's Contributing, what are the primaries."

Councilor Chavez asked the Appellant to give an idea of the existing square footage and the proposed square footage to be added to the existing structure.

**Richard Martinez, Architect for the Appellants, 519 Cerrillos Road, was sworn.** Mr. Martinez said, "The renovation that was approved... the addition that was approved was just for the renovation of the bedrooms and bathrooms. Further renovations would be for the kitchen and the addition of a dining room which would be maybe 600 sq. ft. on a 4,500 sq. ft. house, I think."

Councilor Chavez said then that is roughly 15% for the overall addition, or 600 sq. ft. total for all of the additions proposed, and Mr. Martinez said, "Yes, probably so."

David Rasch said, "For historic buildings on the City register, Code allows up to 50% of the square footage to be added to the building without an exception."

Councilor Chavez said, "As part of your presentation, you said something about making corrections to alterations that were made in the past, and asked if that is included in the 600 sq. ft., or is that living space."

Mr. Sommer said, "It is not. It is the portal that was built on this building. If you could imagine a portal right through the middle of those and the portal down below that, and trying to get to that from a... it is a very odd addition. And I would like to point out that the Ordinance and the one I gave you, doesn't

make a distinction between minor alterations that are historic and minor alterations that are non-historic. It says 'minor alterations.' That's important because the integrity of the building, architecturally, could have been altered in the 1930s, but it could have destroyed its integrity, and the Ordinance doesn't make that distinction. So the alterations that were made, were the addition of kitchens, the changing of windows, the adding of other space, the closing of garages, closing-in a garage and this portal, this rather odd addition. Those were all the changes, and we believe they were minor, but that's why they affect and the Jernigans have approval to correct that one so the façade is in keeping with the historic style of the structure."

Councilor Chavez asked Mr. Rasch's response to this observation.

Mr. Rasch said, "The Code is very clear that it recognizes changes over time. And any changes from 1962, or earlier are historic, and part of the integrity of the building, whether they're original or not."

Councilor Chavez said, "Or whether they look good or are placed correctly."

Mr. Rasch said, "Correct, and they're part of the history of that building, up to 1962 we recognize as historic by Code."

Councilor Dominguez said, "I just want to make sure, you said 1962 and before, but if I read your memo correctly, the original was built in 1929. There was a remodel in 1954, and something done in 1970, so that's beyond that time frame, what occurred in 1970. And does that impact the designation of the historic integrity, and considered an alteration."

Mr. Rasch said, "Yes. The post 1962 remodel is the south portal, and I believe that portal is a reversible treatment, meaning that if it is removed the south façade retains its original integrity. That portal didn't physically impact the south elevation. It's easily removed."

Councilor Dominguez said, "I just want to make sure I get this straight. With the 1970's portal on south elevation, the only non-historic addition, when was the 1970's portal built is the question."

Mr. Rasch said that portal was built sometime after 1963, although he doesn't know the exact date.

Councilor Dominguez said but that's an alteration.

Mr. Rasch said yes, but that alteration doesn't impact the physical structure of the south elevation, because it's easily reversible.

Councilor Dominguez asked how he defines 'easily reversible' as it pertains to a portal. What would make it easy.



Mr. Rasch said if a portal is inset and you remove it by filling in the wall, that changes the character of the south elevation, but if the portal is merely built in front and tacked on in two places, those two little areas are what impacts the historic façade. They can easily be repaired, it's not a structural change to the building.

Councilor Dominguez asked if this is defined in Code, or is it just really staff's interpretation.

Mr. Rasch said this is the subjective part of the Code and the reason for the Board to determine what is and isn't substantial.

Mr. Sommer said he has an aerial photo from the NM Department of Transportation from 1966, which he showed on the overhead. He said, "This larger structure down here is the house, and in 1966, it didn't have the portal along the entire area of the façade. And we're not talking about taking it off and removing it. What the Board has approved is to put it up where it normally would be, and to put a deck where you would normally walk out onto a portal. That alteration itself is a recognition, and that's on the south façade, that staff itself has said would be the primary façade if it was contributing. So this photograph shows that it was post-1966. We believe it was mid to early 70s, and I can show this to you. I don't know if it's helpful, but it adds to that. And I think that the question is apropos is... it's an alteration and that's what the definition recognizes and that's what we're after, is the application of the definition."

**MOTION:** Councilor Chavez moved, seconded by Councilor Bushee, uphold the appeal in Case #2011-106, and to designate both structures as Contributing.

**DISCUSSION:** Ms. Brennan said, "As a point of order, if they are designated as Contributing, they will need to have primary façades designated, and we have recommended that you remand this to the Historic Design Review Board to do that."

**MAYOR COSS ASKED IF MS. BRENNAN'S DIRECTION WOULD BE PART OF THE MOTION AND THE MAKER SAID YES, AND THE SECOND AGREED.**

**RESTATED MOTION:** Councilor Chavez moved, seconded by Councilor Bushee, uphold the appeal in Case #2011-106, to designate both structures as Contributing, and to remand this back to the Historic Design Review Board to designate the primary façades of the Contributing structures.

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

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

**Against:** None.

- 8) **CONSIDERATION OF BILL NO. 2011-51: ADOPTION OF ORDINANCE NO. 2012-5 CASE #2011-110. THOMAS PROPERTIES REZONING. DUTY AND GERMANAS ARCHITECTS, INC., AGENT FOR T-P LLANO, LLC, REQUESTS REZONING OF 2.51± ACRES OF LAND FROM R-5 (RESIDENTIAL, FIVE DWELLING UNITS PER ACRE) TO C-2 (GENERAL COMMERCIAL). THE PROPERTY IS LOCATED BETWEEN ST. MICHAEL'S VILLAGE SHOPPING CENTER AND DeVARGAS MIDDLE SCHOOL ON LLANO STREET. (HEATHER LAMBOY)**

A Memorandum prepared December 21, 2011, for the January 11, 2012 City Council Hearing, with attachments, to Mayor David Coss and Members of the City Council, from Heather L. Lamboy, Senior Planner, Current Planning Division, is incorporated herewith to these minutes as Exhibit "17."

A copy of a power point presentation *Thomas Properties Rezoning, Case #2011-110*, is incorporated herewith to these minutes as Exhibit "18."

The staff report was presented by Heather Lamboy. Please see Exhibits "17" and "18" for the specifics of this presentation.

### **Public Hearing**

#### **Presentation by the Applicant**

**Michael Duty, Duty and Germanas Architects, Inc., 404 Kiva Court, representing the Santa Fe University of Art and Design and Forest Thomas Properties, technically his client, was sworn.** Mr. Duty the history is he began serving the University in the renovation of the campus. Recently they renovated the dorms, provided dining hall space and got the campus working for the students. He said the student count is a big issue, noting they are growing which differs from the national trend, and expect to continue growing. He said the student count is now about 650, expecting 800 students next year, and upwards from there. He said at the 800 student count, they will have no more dormitories, so they will require more dormitories in the future.

Mr. Duty said this land is unique. It is a private parcel, immediately adjacent to the campus and immediately adjacent to parking on the campus and to the dormitories. The clearest, best and highest use for this parcel is as a dormitory function for the Santa Fe University of Art & Design. He said they discussed it with the University and they were excited about the private sector building dormitories on this property and working out a lease agreement with the University over time as dormitories. He said this is a national trend.

Mr. Duty said the first step was to begin the process with the City. He met with City staff regarding the zoning, and it was staff recommendation to seek C-2 zoning, because it allows housing of this type and it is consistent with the general plan which already has designated this site as C-2. He said they wanted to

get a good understanding of what the City would require for zoning and begin a process to move them into position where they would be ready to provide dormitory space on a reasonably tight timeframe.

Mr. Duty said they expect there will be no need for the dormitories until 2014, but that isn't far away, since it takes about 2 years to go through rezoning, the development plan process, the construction plan documents and construction. They want to be in a position where they are "closer to the end, rather than further away." He said they are not requesting waivers and are trying to follow the process. He said the process is that they need a rezoning which can be done with or without a development plan, noting they are doing it without a development plan, because they want to test the question of what is the proper zoning.

Mr. Duty said, "We understand fully that the next step will be a development plan for whatever we build, even though we've shown what we want to build, we will have to come back and go through the whole process. We are prepared to do that, and we will do that after having gone through this process, and giving the opportunity for the City staff to give us all the input they would like to give us relative to this project. So we would be prepared to move forward. So that's why we're doing what we're doing. We think it's a good plan. It's totally consistent with the land use plan of the City, long term, and we're prepared to accept all the conditions, and to go forward into a development plan process as soon as we can, and tie down the intentions with the Santa Fe University of Art and Design."

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

**Tom Olmstead, Santa Fe University of Art & Design, was sworn.** Mr. Olmstead said he is here to say that the University does support this rezoning and supports the general concept of putting a dormitory there. At this point in time, we don't have the full visibility of exactly when we are going to need it. Mr. Duty said it looks like it is in the 2014 time frame, but we're very fortunate to continue to grow when many national universities are regressing because of the overall economy. He said they hope their projections for the future continue and they will need these dormitories in 2014.

Mayor Coss said we are also hopeful that the University will need the space by 2014.

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

**MOTION:** Councilor Wurzbarger moved, seconded by Councilor Bushee, to adopt Ordinance No. 2012-05, approving Case #2011-110, Thomas Properties Rezoning, with all conditions of approval as recommended by staff.

**DISCUSSION:** Councilor Bushee asked if this falls under commercial impact fees.

Mr. O'Reilly said he doesn't remember whether the impact fee schedule includes a category for dormitories. He said the staff just told him it falls under multi-family housing which would be a residential use in a commercial district and the impact fees would be zero, not waived, zero.

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

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

**Against:** None.

9. **CASE #2011-135. REVIEW IN ACCORDANCE WITH §14-2.2(A)(2) SFCC 1987, THE NOVEMBER 3, 2011 DECISION OF THE PLANNING COMMISSION IN CASE #2011-88, ENTRADA CONTENTA FINAL SUBDIVISION PLAT AND VARIANCES, FOR THE SOLE PURPOSE OF RECONSIDERING THE NAME OF LAS SOLERAS DRIVE (WEST OF CERRILLOS ROAD); JENKINS GAVIN DESIGN & DEVELOPMENT, INC., AGENT FOR HERRERA ASSOCIATES, LLC (APPLICANT). (HEATHER LAMBOY)**

A Memorandum prepared December 28, 2011, for the January 11, 2012 City Council Hearing, with attachments, to Mayor David Coss and Members of the City Council, from Heather L. Lamboy, Senior Planner, Current Planning Division, is incorporated herewith to these minutes as Exhibit "19."

A copy of a power point presentation *Street Name Reconsideration: Entrada Contenta*, is incorporated herewith to these minutes as Exhibit "20."

The staff report was presented by Heather Lamboy. Please see Exhibits "19" and "20," for the specifics of this presentation.

### **Public Hearing**

#### **Presentation by the Applicant**

**Jennifer Jenkins, Agent for Herrera**, said she represented Herrera & Associations on the original subdivision application and she is here to provide background on the original request for the street change name as part of the subdivision application.

Ms. Jenkins, using a drawing of the area, projected on the overhead, said, "We have here the location of the new Super Walmart. This is the main street portion of the development that is still owned by the Herrera Family, and we have Las Soleras across the street, and this is Las Soleras Drive. Originally, Las Soleras Drive was intended to dead end at Hernandez Road. This is Hernandez Road here. That was part of the original plan, and... let me jump back even a little bit further here. This is the Tierra Contenta

Master Plan, and this was the original roadway network. It shows Herrera Drive serving the Herrera family properties here that were annexed, along with Tierra Contenta. And Herrera Drive would extend into Paseo del Sol, and be a gateway into Tierra Contenta."

Ms. Jenkins continued, "If you notice, there is no Las Soleras Drive. There is no additional intersection here, and then you have Ocate Road, which Heather pointed out, which is existing. And Ocate Road was proposed to extend further west to Capital High School. And, so now that this change was made, and now we have two significant signal lights/intersections serving Entrada Contenta. We have the signalized intersection at Herrera Drive. We have a signalized intersection at Las Soleras Drive. The City Traffic Division, in their wisdom said, if we're going to... yes, Herrera Drive eventually gets extended into Tierra Contenta to connect with Paseo del Sol as in the original intention of the master plan, but it doesn't make sense to extend Ocate Road into Tierra Contenta. This is not a signalized intersection. This is a tiny little road built to County standards. So, we need to take full advantage of this signalized intersection."

Ms. Jenkins continued, "So now, the priority for extending a roadway west to create an access point for the entire Tierra Contenta neighborhood, for the entire community there, is that Las Soleras Drive is going to come up and this is the point of connection. This is the driveway that serves Capital High School. So, there have been some significant changes. So, in terms of wayfinding, I completely agree with staff. It is very important to support wayfinding, but it's also important to support community identity. Las Soleras development is a significant development with a unique identity. The street name of Las Soleras Drive is a perfect opportunity to recognize that."

Ms. Jenkins continued, "Las Soleras Drive, extending west from Cerrillos Road, as a gateway as the front door into Tierra Contenta up to Capital High School – that doesn't make any sense. Things have changes. Now we have an opportunity, we are proposing Tierra Contenta Drive. We have chatted with Dave Thomas and James Hicks at Tierra Contenta about this, and we have their support. And we feel that.... these two roadways are separated by a State highway. This is a significant intersection where we would argue that this is where Las Soleras Drive begins, and on the west side of Cerrillos Road is where Tierra Drive can begin as a moniker to designate 'you are now entering the Tierra Contenta community.' I would say that changing the name of Las Soleras Drive, west of Cerrillos Road supports wayfinding and reduces confusion. So this is the priority plan for the roadway that is going to be extended into Tierra Contenta first. From this point, is Las Soleras Drive. And so for that to be serving Tierra Contenta, which is an important community that the City obviously has invested in greatly, and to reach Capital High School, it no longer makes any sense."

Ms. Jenkins continued, "And so we respectfully request that the Council overturn the Planning Commission's decision to deny our street name change request, and allow this portion of this roadway that originally was going to dead end right here. It's not going to dead end here any more. I worked on this with John Romero in the City Traffic Division and he concurs with this alignment. The alignment does not completely resolve yet, but this is the plan. And so, at this point, it doesn't make sense any more. It's time to allow this important gateway into the Santa Fe Community to also allow for the identity for things to state

projects on either side of the road. So with that, I appreciate your attention and I would be happy to stand for any questions."

### **Speaking to the request**

**James Hicks, Tierra Contenta**, said he is supportive of the requests. He said one of the main reasons is that currently, Tierra Contenta is 2/3 built, and there are 7,000 people living in Tierra Contenta, about 1/10 th of the population of Santa Fe. He said there are several different ways to get into Tierra Contenta, but there is no place to get into Tierra Contenta from 599, Cerrillos or Rodeo Road which readily identifies itself as an entrance to Tierra Contenta. He said to have an entrance to Tierra Contenta named after a competing subdivision across the street doesn't make sense to them. He said this isn't a "killer issue," to them, and they are just being supportive of this request, but it makes good sense and he hopes the Council approves it.

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

**MOTION:** Councilor Dominguez moved, seconded by Councilor Wurzbarger, to reconsider the name of Las Soleras Drive west of Cerrillos Road to Tierra Contenta Drive.

**DISCUSSION:** Councilor Dominguez said he appreciates staff's presentation, and respect staff's interpretation, but as far as he is concerned, this is not an extraordinary request to reconsider this name. He believes this is in the best interest of the community do this and avoid confusion. He said, right now, there is no Las Soleras, and it is on paper conceptually, but it's not really there. However, there is a Tierra Contenta, this promotes the opportunity to identify this neighborhood. He lives in Tierra Contenta and believes it would be confusing to call it Las Soleras Drive. It is a road into Tierra Contenta. These are the reasons he is making this motion.

Councilor Chavez how long has the street been signed the way it is.

Ms. Lamboy said the street sign has been up for approximately 3-4 months. However, it has been on the plat since 2006 when the Entrada Contenta plat was first recorded.

Councilor Chavez asked if it has caused any confusion to now, and Ms. Lamboy said no, noting the request for reconsideration came with the subdivision plat.

Councilor Chavez asked if there is a sign on Airport Road marking Tierra Contenta near the business incubator.

Mr. Hicks said yes, there is a small stone monument at Paseo del Sol, although it isn't a street name, so he erred in that respect.

Councilor Chavez said he will support staff's recommendation, and believes it does make some sense to have the street names the same on both sides.

Councilor Bushee asked, process-wise, how we are able to hear this again, noting it is not an appeal, and asked if the Council normally decides these kinds of things.

Mr. Zamora said, "This citation in the agenda, Section 14-2.2(A)(2), allows the Council to pull it before them to review decisions such as these, and to take action. So it is pursuant to that section. I'm sorry I don't have it before you, and it's been articulated to me through Kelley that that section allows us to have actually the kind of review you're having this evening."

Councilor Bushee asked if it is just for roads and naming of roads.

Mr. Zamora said, "Again Councilor, I don't know that it's limited to the scope of just roads, but it does allow the review of roads in this instance."

Councilor Bushee said the only time she can recall the Council looking at a whole development and its road names was in the Railyard. She said it isn't an appeal from a Planning Commission decision, and she was just curious

Tamara Baer said it is what we call a "call up." It's been called up from the Planning Commission. She said, "The specific Code citation provides, 'In addition, the Governing Body shall receive duly executed copies of the minutes and any final orders or determinations of the Planning Commission if requested. And then it goes on to say, 'If, within 30 days of any final order, determination by the Planning Commission, the Governing Body decides to review any such order or determination...' and then it goes on to say how you go about doing that. But that gives you the authority."

Councilor Bushee asked who named the street Las Soleras.

Ms. Baer said the Las Soleras name came from the Las Soleras development.

Councilor Bushee asked how they had the authority to do that.

Ms. Lamboy said, "The street network was determined together with both Las Soleras as well as the Entrada Contenta folks in 2005. That was City staff facilitated process, that was actually reported back to the Governing Body after the initial approval of Entrada Contenta in 2005."

Councilor Bushee said then somebody changed their minds.

Ms. Lamboy said she would defer to the Applicant on this.

Ms. Jenkins said, "The Herrera family, the entire property initially was under contract, all of their parcels. The WalMart and Walgreen's originally were collaborating. They had their own set of consultants. The Herrera family was really not directly involved, and they were not directly involved in the street name decisions. Those were made by the parties under contract to purchase all their property from them. And then it turned out that only WalMart stayed in the deal. They purchased their tract, and then the Herrera family retained ownership of the remainder of the property."

Councilor Dominguez said, "For the record, one of the things that happened was, of course I've known there was supposed to be connections into Tierra Contenta off Cerrillos Road, and I've been watching some of this stuff pretty closely, and I first saw the sign, Las Soleras Drive, is kind of when I started to ask questions about what it is that's happened, and what has transpired."

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

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

**Against:** Councilor Chavez.

- 10) **CONSIDERATION OF BILL NO. 2011-47: ADOPTION OF ORDINANCE NO. 2012- \_\_\_\_.**  
**AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF SANTA FE, NEW MEXICO GROSS RECEIPTS TAX (SUBORDINATE LIEN) WASTEWATER SYSTEM REFUNDING REVENUE BONDS, SERIES 2012B, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$16,500,000, FOR THE PURPOSE OF DEFRAYING THE COST OF REFUNDING, PAYING AND DISCHARGING THE OUTSTANDING CITY OF SANTA FE, NEW MEXICO GROSS RECEIPTS TAX (SUBORDINATE LIEN)/ WASTEWATER SYSTEM VARIABLE RATE REVENUE BONDS, SERIES 1997B; PROVIDING THAT THE BONDS WILL BE PAYABLE AND COLLECTIBLE FROM THE NET REVENUES OF THE CITY'S WASTEWATER SYSTEM AND CERTAIN GROSS RECEIPTS TAX REVENUES DISTRIBUTED TO THE CITY; ESTABLISHING THE FORM, TERMS, MANNER OF EXECUTION AND OTHER DETAILS OF THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT IN CONNECTION WITH THE BONDS; PROVIDING FOR REDEMPTION OF THE SERIES 1997B BONDS; APPROVING CERTAIN OTHER AGREEMENTS AND DOCUMENTS IN CONNECTION WITH THE BONDS; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION WITH THE BONDS; REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND RELATED MATTERS. (DR. MELVILLE MORGAN). (Postponed to January 25, 2012 City Council Meeting)**

This item is postponed to the City Council meeting of January 25, 2012.



11. **CONSIDERATION OF BILL NO. 2011-48: ADOPTION OF ORDINANCE NO. 2012- \_\_\_\_.**  
**AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF SANTA FE, NEW MEXICO GROSS RECEIPTS TAX IMPROVEMENT AND REFUNDING REVENUE BONDS, SERIES 2012A IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$40,000,000 FOR THE PURPOSE OF DEFRAYING THE COST OF (1) PUBLIC PROJECTS RELATED TO PUBLIC UTILITIES, PUBLIC WORKS, PARKS AND RECREATION AND COMMUNITY SERVICES AS AUTHORIZED BY LAW AND THE CITY'S HOME RULE POWERS, AND (2) REFUNDING, PAYING AND DISCHARGING THE OUTSTANDING CITY OF SANTA FE, NEW MEXICO GROSS RECEIPTS TAX IMPROVEMENT REVENUE BONDS, SERIES 2004; PROVIDING THAT THE BONDS WILL BE PAYABLE AND COLLECTIBLE FROM THE GROSS RECEIPTS TAX REVENUES DISTRIBUTED TO THE CITY; ESTABLISHING THE FORM, TERMS, MANNER OF EXECUTION AND OTHER DETAILS OF THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT AND AN ESCROW AGREEMENT; PROVIDING FOR REDEMPTION OF THE SERIES 2004 BONDS; APPROVING CERTAIN OTHER AGREEMENTS AND DOCUMENTS IN CONNECTION WITH THE BONDS; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION WITH THE BONDS; REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND RELATED MATTERS. (DR. MELVILLE MORGAN) (Postponed to January 25, 2012 City Council Meeting)**

This item is postponed to the City Council meeting of January 25, 2012.

**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 11:00 p.m.

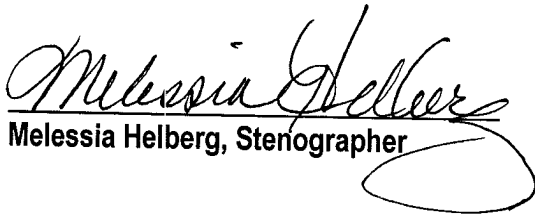
**Approved by:**

\_\_\_\_\_  
**Mayor David Coss**

**ATTESTED TO:**

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

Respectfully submitted:

  
Melessia Helberg, Stenographer