



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
JANUARY 31, 2007
CITY COUNCIL CHAMBERS

AFTERNOON SESSION – 5:00 P.M.

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. INVOCATION
4. ROLL CALL
5. APPROVAL OF AGENDA
6. APPROVAL OF CONSENT CALENDAR
7. APPROVAL OF MINUTES: Reg. City Council Meeting – January 10, 2007
8. PRESENTATIONS
 - a) Muchas Gracias – Lawrence Ortiz. (5 Minutes)
 - b) National Neighborhood Awards. (Mike Loftin, Homewise) (5 Minutes)
9. CONSENT CALENDAR
 - a) Bid No. 07/26/B – Rodeo Road Median Safety Improvements Construction Agreement; Star Paving Company. (Eric Martinez)
 - 1) Request for Approval of Budget Adjustment – Project Fund.
 - b) Bid No. 07/27/B – Santa Fe Trail Project Siringo Road to St. Michael's Drive Construction Agreement; A.S. Horner, Inc. (Eric Martinez)
 - 1) Request for Approval of Budget Adjustment – Project Fund.
 - c) Bid No. 07/29/B – Curbside Recycling Containers for Solid Waste Management Division; Ameri-Kart Corporation. (Vivian Martinez and William DeGrande)
 - d) Bid No. 07/31/B – Bicentennial Swimming Pool-Plaster; Lee-Sure Pools, Inc. (Chip Lilienthal)
 - e) Bid No. 07/35/B – Chemicals for Water Division; F-2 Industries, LLC. (Michael Gonzales)

CITY CLERK'S OFFICE

DATE 1-26-07 TIME 4:00 pm

SERVED BY _____

RECEIVED BY Hydominguez



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- f) Request for Approval of Budget Adjustment in Project Fund – Santa Fe Youth and Family Consortium; Zona Del Sol, Inc. (Chip Lilienthal)
 - 1) Request for Approval of Budget Adjustment – Project Fund.
- g) Request for Approval of Grant Agreement – 2004 New Mexico Legislative Appropriations for Southside Library; State of New Mexico Special Appropriations Project. (Chip Lilienthal and Frank Archuleta)
 - 1) Request for Approval of Budget Increase – Project Fund.
- h) Request for Approval of Construction Agreement – Rodeo Road/Richard's Avenue Traffic Signal Improvements Project; A.S. Horner, Inc. (Leroy Pacheco)
 - 1) Request for Approval of Budget Increase – Project Fund/Impact Fees.
- i) Request for Approval of Grant Application and Award – Santa Fe Municipal Airport Construction and Design Projects; New Mexico Department of Transportation Aviation Division. (Jim Montman)
- j) CONSIDERATION OF RESOLUTION NO. 2007-_____.
A Resolution in Support of a Capital Cooperative Agreement with the New Mexico Department of Transportation for 2006 Legislative Appropriations for Kachina Ridge Road in the City of Santa Fe. (Eric Martinez)
 - 1) Request for Approval of Capital Cooperative Agreement – 2006 Legislative Appropriations for Road Improvements to Kachina Ridge Road; New Mexico Department of Transportation.
 - 2) Request for Approval of Budget Increase from Grant Revenues – Project Fund.
- k) Request for Approval of Professional Services Agreement – Design and Construction of La Tierra Trails (RFP #07/15/P); Pecos Baldy Enterprises. (Anne McLaughlin)



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- l) Request for Approval of Professional Services Agreement – On Call Planning and Engineering Design Services for Non-Motorized Trails (RFP #07/26/P); Gannett Fleming West, Inc. and Parsons Brinckerhoff. (Anne McLaughlin)
- m) Request for Approval of Amendment No. 2 To Professional Services Agreement – Hot Emulsion System for Streets and Drainage Maintenance Division; Plumbtech Plumbing & Mechanical, Inc. (Mary MacDonald)
- n) Request for Approval of Professional Services Agreement – Environmental Remediation at Santa Fe Railyard Park; Intera, Inc. (Frank Romero)
- o) Request for Approval of Initial Funding Goals for Investment Loan Fund for Affordable Housing. (Melisa Collett)
- p) Request for Approval of Sole Source Procurement to Professional Services Agreement – Water Rights and Resource Management for Water Division; Norman Gaume, P.E. (Kyle Harwood)
- q) Request for Approval of Professional Services Agreement – Provide Teen Activities and Events for Teen Nights Program (RFP #07/19/P); Youthworks. (Rick Anaya)
- r) Request for Approval of Appointment of Pro-Tem Municipal Judge – Ruth L. Kovnat. (Judge Ann Yalman)
 - 1) Request for Approval of Legal Services Agreement – Temporary Municipal Judge Services; Ruth L. Kovnat.
- s) Request for Approval of Sole Source Procurement to Amendment No. 2 to Professional Services Agreement – Specific Engineering Services for Planning and Land Use Division; Joe Barela, P.E. (Wendy Blackwell)
- t) Request for Approval of Sole Procurement – Baseball In-Field Soil Material for Parks Division; Buildology. (Ben Gurule)
- u) Request for Approval of Procurement Under Federal Price Agreement – Water Tanker Truck for Streets and Drainage Division; Rush Truck Center. (Robert Rodarte)



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- v) CONSIDERATION OF RESOLUTION NO. 2007-_____. (Councilor Heldmeyer and Councilor Chavez)
A Resolution Directing Staff to Plan a Celebration of the Fiftieth Anniversary of the Passage of the First Historic Preservation Ordinance in Santa Fe. (David Rasch)
- w) Request for Approval to Publish Notice of Public Hearing on February 28, 2007:
 - 1) Bill No. 2007-3 – An Ordinance Amending Section 24-2.6 SFCC 1987 to Restrict Truck, Truck Trailer and Other Large Vehicle Traffic on Jay Street; Navajo Drive; Quapaw Street; and Via Antigua. (Councilor Heldmeyer) (Rick Divine)
 - 2) Bill No. 2007-4 – An Ordinance Amending Sections 18-10.1, 18-10.3, 18-10.4 and 18-10.5 SFCC 1987 Regarding Municipal Local Option Gross Receipts Tax; Clarifying the Imposition and Dedication of Municipal Local Option Gross Receipts Tax; in Compliance with State Law. (Kathryn Raveling)
- x) Request for Approval of Project Agreement – Selective Traffic Enforcement Program (S.T.E.P.); New Mexico Department of Transportation Safety Bureau. (Chief Eric Johnson)
 - 1) Request for Approval of Budget Increase – General Fund.
- y) CONSIDERATION OF RESOLUTION NO. 2007-_____. (Councilor Dominguez)
A Resolution Endorsing and Supporting Governor Richardson's Investment Partnership 2 ("GRIP2"). (Robert Romero)
- z) CONSIDERATION OF RESOLUTION NO. 2007-_____. (Councilor Chavez and Councilor Dominguez)
A Resolution Authorizing and Approving Submission of an Executed Agreement for Financial Assistance to the New Mexico Environment Department, Construction Programs Bureau, to Plan, Design and Construct an Effluent Water Line From the Santa Fe Wastewater Treatment Plant to the Tierra Contenta Subdivision Area. (Nick Schiavo)
 - 1) Request for Approval of Budget Increase – Project Fund.



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- aa) Request for Approval of 2006 CIP Bond Funds for Technology Projects for ITT Division. (Thomas Williams and Jack Hiatt)
- bb) CONSIDERATION OF RESOLUTION NO. 2007-_____. (Councilor Chavez and Mayor Coss)
A Resolution Investing in Northern New Mexico's Future; Regarding Gross Receipts Tax Revenue Resulting From the New Lab Management Contract at Los Alamos National Laboratory. (Lynette Montoya)
- cc) CONSIDERATION OF RESOLUTION NO. 2007-_____. (Councilor Chavez and Mayor Coss)
A Resolution Supporting and Adopting a Cooperative Agreement Between Los Alamos County, the North Central Regional Transit District, and the Regional Development Corporation for the Distribution of \$1.5 Million of New Gross Receipts Tax Received by Los Alamos County. (Jon Bulthuis)
- dd) Request for Approval Under Provisions of Ordinance No. 2006-60 For an Increase in City Water and Sewer Service by Linda Tigges on Behalf of the Santa Fe Youth Shelter. (Antonio Trujillo)
- ee) Request for Approval of the Railyard Major/Minor Projects Development Review Process. (Frank Romero) **(Postponed at the January 10, 2007 City Council Meeting)**
- ff) CONSIDERATION OF RESOLUTION NO. 2007-_____. (Mayor Coss, Councilor Bushee and Councilor Trujillo)
A Resolution Repealing Resolution No. 2001-27 and Adopting a Resolution Reestablishing the Santa Fe River Commission. (Robert Romero and Janine Johnston) **(Postponed at the January 10, 2007 City Council Meeting)**
- 10. Consideration of Budget Increases for Salary Adjustments for AFSCME, Police Officers' Association and Non-Union Employees. (Kathryn Raveling)
- 11. MATTERS FROM THE CITY MANAGER



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12. MATTERS FROM THE CITY ATTORNEY

EXECUTIVE SESSION:

- 1) Discussion of Potential Appeal of the Municipal Boundary Commission Decision on Las Soleras Annexation, Pursuant to §10-15-1 (H) (7) NMSA 1978.

13. Action Regarding Municipal Boundary Commission Decision on Las Soleras Annexation. (Frank Katz)

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. INVOCATION

D. ROLL CALL

E. PETITIONS FROM THE FLOOR

F. APPOINTMENTS

G. PUBLIC HEARINGS:

- 1) Request from I.P. Inc., for a Restaurant (Beer & Wine) License to be located at India Palace, 227 Don Gaspar Avenue. (Yolanda Y. Vigil)
- 2) Request from Daisy Lay, LLC, for a Restaurant (Beer & Wine) License to be located at Josh's Barbecue, 3486 Zafarano Drive, Suite 1. (Yolanda Y. Vigil)



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- 3) CONSIDERATION OF RESOLUTION NO. 2007-_____.
Case #M 2005-44. 1034 & 1038 Old Taos Highway General Plan Amendment. Derrick Archuleta, Agent for SAFE Properties, LLC/Kevin McKown Requests General Plan Amendment from "Residential – Very Low Density" to "Residential – High Density" for ± 2.179 Acres at 1034 and 1038 Old Taos Highway. The Property is Zoned R-2. The Applicant is Proposing a 25-Unit Residential Development with Access Off of Old Taos Highway. (Greg Smith)
- 4) CONSIDERATION OF BILL NO. 2007-1: ADOPTION OF ORDINANCE NO. 2007-_____.
Case #ZA 2005-20. 1034 & 1038 Old Taos Highway Rezoning. Derrick Archuleta, Agent for SAFE Properties, LLC/Kevin McKown Requests Rezoning from R-2 (Residential, 2 Dwelling Units Per Acre) to RM-LD (Multifamily Residential – 12 Dwelling Units Per Acre) for ± 2.179 Acres at 1034 and 1038 Old Taos Highway. (Greg Smith)
- 5) CONSIDERATION OF BILL NO. 2007-2: ADOPTION OF ORDINANCE NO. 2007-_____.
Case No. ZA 2006-20 – Rosanna Vasquez, Agent for John McCarthy, Dan Terrell and Robert Trujillo, Requests Amendment to Ordinance No. 1975-21, Increasing the Density Limit to Allow a Second Phase Consisting of 10 Dwelling Units. The Property is Located at the Southwest Corner of Zia Road and Yucca Street and is Zoned RM-LD (Multi-Family Residential – 12 Dwelling Units Per Acre). (Katherine Mortimer)
- 6) **Case #A 2006-12. 1631 Camino Cruz Blanca Variance Appeal.** William H. Donahue Appeals the Planning Commission Decision to Grant Approval of a Variance to the Minimum 20 Foot Roadway Width Required For a Lot Split. The Property is Located 1631 Camino Cruz Blanca. (Greg Smith)

H. 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.

*Translator for the hearing impaired available through the City Clerk's Office upon 5 days notice.

CITY COUNCIL MEETING
EXECUTIVE SESSION
January 31, 2007

The governing body of the City of Santa Fe met in an executive session duly called on January 31, 2007 beginning at 6:40 p.m.

The following item was discussed:

1) Discussion of Potential Appeal of the Municipal Boundary Commission Decision on Las Soleras Annexation, Pursuant to §10-15-1 (H) (7) NMSA 1978.

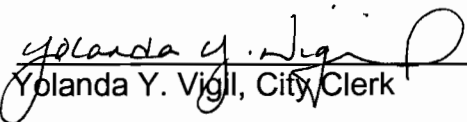
PRESENT

Mayor Coss
Councilor Bushee
Councilor Calvert
Councilor Chavez
Councilor Dominguez
Councilor Heldmeyer
Councilor Ortiz
Councilor Trujillo
Councilor Wurzbarger

STAFF PRESENT

Galen Buller, Acting City Manager
Jack Hiatt, Deputy City Manager
Frank Katz, City Attorney
Yolanda Y. Vigil, City Clerk

There being no further business to discuss, the executive session adjourned at 6:55 p.m.


Yolanda Y. Vigil, City Clerk

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SANTA FE CITY COUNCIL MEETING
January 31, 2007

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APPROVAL OF MINUTES: Reg. City Council Meeting – January 10, 2007	Approved	5
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Muchas Gracias – Lawrence Ortiz.		5
National Neighborhood Awards. (Mike Loftin, Homewise)		6
 CONSENT CALENDAR DISCUSSION		
 CONSIDERATION OF RESOLUTION NO. 2007-15. A Resolution Directing Staff to Plan a Celebration of the Fiftieth Anniversary of the Passage of the First Historic Preservation Ordinance in Santa Fe.		
	Approved	6
 Request for Approval to Publish Notice of Public Hearing on February 28, 2007:		
1) Bill No. 2007-3 – An Ordinance Amending Section 24-2.6 SFCC 1987 to Restrict Truck, Truck Trailer and Other Large Vehicle Traffic on Jay Street; Navajo Drive; Quapaw Street; and Via Antigua.		
2) Bill No. 2007-4 – An Ordinance Amending Sections 18-10.1, 18-10.3, 18-10.4 and 18-10.5 SFCC 1987 Regarding Municipal Local Option Gross Receipts Tax; Clarifying the Imposition and Dedication of Municipal Local Option Gross Receipts Tax; in Compliance with State Law.		
	Approved	6-7
 CONSIDERATION OF RESOLUTION NO. 2007-16 A Resolution Supporting and Adopting a Cooperative Agreement Between Los Alamos County, the North Central Regional Transit District, and the Regional Development Corporation for the Distribution of \$1.5 Million of New Gross Receipts Tax Received by Los Alamos County.		
	Approved	7

ITEM	ACTION	PAGE(S)
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Request from I.P. Inc., for a Restaurant (Beer & Wine) License to be located at India Palace, 227 Don Gaspar Avenue.	Approved	13-14
Request from Daisy Lay, LLC, for a Restaurant (Beer & Wine) License to be located at Josh's Barbecue, 3486 Zafarano Drive, Suite 1.	Approved	14
CONSIDERATION OF RESOLUTION NO. 2007-_____. <u>Case #M 2005-44. 1034 & 1038 Old Taos Highway General Plan Amendment.</u> Derrick Archuleta, Agent for SAFE Properties, LLC/Kevin McKown Requests General Plan Amendment from "Residential – Very Low Density" to "Residential – High Density" for ± 2.179 Acres at 1034 and 1038 Old Taos Highway. The Property is Zoned R-2. The Applicant is Proposing a 25-Unit Residential Development with Access Off of Old Taos Highway.	Postponed	14
CONSIDERATION OF BILL NO. 2007-1: ADOPTION OF ORDINANCE NO. 2007-_____. <u>Case #ZA 2005-20. 1034 & 1038 Old Taos Highway Rezoning.</u> Derrick Archuleta, Agent for SAFE Properties, LLC/Kevin McKown Requests Rezoning from R-2 (Residential, 2 Dwelling Units Per Acre) to RM-LD (Multifamily Residential – 12 Dwelling Units Per Acre) for ± 2.179 Acres at 1034 and 1038 Old Taos Highway.	Postponed	14

ITEM	ACTION	PAGE(S)
CONSIDERATION OF BILL NO. 2007-2: ADOPTION OF ORDINANCE NO. 2007-20. <u>Case No. ZA 2006-20</u> – Rosanna Vasquez, Agent for John McCarthy, Dan Terrell and Robert Trujillo, Requests Amendment to Ordinance No. 1975-21, Increasing the Density Limit to Allow a Second Phase Consisting of 10 Dwelling Units. The Property is Located at the Southwest Corner of Zia Road and Yucca Street and is Zoned RM-LD (Multi-Family Residential – 12 Dwelling Units Per Acre).	Approved with conditions	15-19
<u>Case #A 2006-12. 1631 Camino Cruz Blanca Variance Appeal.</u> William H. Donahue Appeals the Planning Commission Decision to Grant Approval of a Variance to the Minimum 20 Foot Roadway Width Required For a Lot Split. The Property is Located 1631 Camino Cruz Blanca.	Tabled	19-28
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**MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
January 31, 2007**

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 January 31, 2007, at approximately 5:00 p.m., in the City Hall Council Chambers. Following the Pledge of Allegiance and Invocation, Roll Call indicated the presence of a quorum, as follows:

Members Present

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

5. APPROVAL OF AGENDA

No changes were recommended by staff.

Councilor Bushee moved, seconded by Councilor Ortiz, to approve the agenda.

Galen Buller, City Manager, apologized and asked to pull items off on the consent agenda so it can go back to Public Works for some more work. He also requested postponement on behalf of Jenkins Gavin representing Old Taos Highway to the meeting of February 28th.

Mayor Coss noted that this has been published for awhile so suggested waiting until 7 p.m. to make a decision on postponement of the Old Taos Highway General Plan Amendment and Rezoning.

Councilor Ortiz said in his experience when the applicant on a general plan amendment or rezoning asks for postponement they get it. He thought this should be done now.

Councilor Ortiz moved as an amendment to postpone items G(3) and (4).

Councilor Bushee noted that her fellow District 1 Councilor is not available at the February 28th meeting. She said usually the applicant comes to the meeting and explains why they want to postpone.

Councilor Calvert said this particular application has had so many postponements and cancellations so he thinks unless the neighbors have been noticed he does not know why they

would postpone this. This is just one more time the neighbors have been inconvenienced on this project.

Councilor Bushee asked Ms. Jenkins to explain why they want to postpone.

Councilor Heldmeyer does not recall this item being on this body's agenda previously. She said the reason stated in the letter is to revisit the plan and she thinks that to have public comment on a plan that is not going to be the one presented would be a greater waste of the public's time rather than postponing it now.

Councilor Ortiz clarified that this is the first time this case has been on the Council agenda. He said if the concern is having a quorum then they can postpone this to a specific date. He agreed Councilor Calvert should be present for this hearing.

Councilor Ortiz amended his motion to postpone items G(3) and G(4) to the last meeting in March.

Councilor Bushee questioned whether the changes to the plan will warrant this going back to Planning Commission and an additional ENN.

Jennifer Jenkins said she did publish the letter requesting deferral because they would like the opportunity to revisit the plan with the neighborhood to allay some of the concerns expressed. She added that they are concerned with a shift in staff's position with respect to the project. They would like to work with staff as well to clear things up.

Councilor Bushee clarified that they will be having another ENN, returning to Planning Commission and then coming back here.

Ms. Jenkins does not expect a trip back to the Planning Commission unless staff directs them to do so. There will be another neighborhood meeting. She is not ready to report if the changes will be substantial or not.

Councilor Trujillo commented that he will not be here for the last meeting in March.

Councilor Ortiz amended his motion to postpone this case to no earlier than the first meeting in April. Councilor Bushee accepted the amendment as friendly. There being no abstaining or dissenting votes, the motion passed by unanimous voice vote.

6. APPROVAL OF CONSENT CALENDAR

Councilor Ortiz moved, seconded by Councilor Bushee, to approve the following Consent Calendar as amended. The motion passed by the following roll call vote:

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

Against: None.

a) Bid No. 07/26/B – Rodeo Road Median Safety Improvements Construction Agreement; Star Paving Company. (Eric Martinez)

1) Request for Approval of Budget Adjustment – Project Fund.

- b) **Bid No. 07/27/B – Santa Fe Trail Project Siringo Road to St. Michael's Drive Construction Agreement; A.S. Horner, Inc. (Eric Martinez)**
 - 1) **Request for Approval of Budget Adjustment – Project Fund.**
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 - 1) **Request for Approval of Budget Increase – Project Fund/Impact Fees.**
- i) **Request for Approval of Grant Application and Award – Santa Fe Municipal Airport Construction and Design Projects; New Mexico Department of Transportation Aviation Division. (Jim Montman)**
- j) **CONSIDERATION OF RESOLUTION NO. 2007-10.**
A Resolution in Support of a Capital Cooperative Agreement with the New Mexico Department of Transportation for 2006 Legislative Appropriations for Kachina Ridge Road in the City of Santa Fe. (Eric Martinez)
 - 1) **Request for Approval of Capital Cooperative Agreement – 2006 Legislative Appropriations for Road Improvements to Kachina Ridge Road; New Mexico Department of Transportation.**
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- r) **Request for Approval of Appointment of Pro-Tem Municipal Judge – Ruth L. Kovnat. (Judge Ann Yalman)**
 - 1) **Request for Approval of Legal Services Agreement – Temporary Municipal Judge Services; Ruth L. Kovnat.**
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- u) **Request for Approval of Procurement Under Federal Price Agreement – Water Tanker Truck for Streets and Drainage Division; Rush Truck Center. (Robert Rodarte)**
- v) **[Removed for discussion by Councilor Heldmeyer].**
- w) **[Removed for discussion by Councilor Calvert]**
- x) **Request for Approval of Project Agreement – Selective Traffic Enforcement Program (S.T.E.P.); New Mexico Department of Transportation Safety Bureau. (Chief Eric Johnson)**
 - 1) **Request for Approval of Budget Increase – General Fund.**
- y) **CONSIDERATION OF RESOLUTION NO. 2007-11. (Councilor Dominguez)**
A Resolution Endorsing and Supporting Governor Richardson’s Investment Partnership 2 (“GRIP2”). (Robert Romero)
- z) **CONSIDERATION OF RESOLUTION NO. 2007-12. (Councilor Chavez and Councilor Dominguez)**
A Resolution Authorizing and Approving Submission of an Executed Agreement for Financial Assistance to the New Mexico Environment

Department, Construction Programs Bureau, to Plan, Design and Construct an Effluent Water Line From the Santa Fe Wastewater Treatment Plant to the Tierra Contenta Subdivision Area. (Nick Schiavo)

1) Request for Approval of Budget Increase – Project Fund.

aa) Request for Approval of 2006 CIP Bond Funds for Technology Projects for ITT Division. (Thomas Williams and Jack Hiatt)

bb) CONSIDERATION OF RESOLUTION NO. 2007-13. (Councilor Chavez and Mayor Coss)

A Resolution Investing in Northern New Mexico's Future; Regarding Gross Receipts Tax Revenue Resulting From the New Lab Management Contract at Los Alamos National Laboratory. (Lynette Montoya)

cc) [Removed for discussion by Councilor Chavez].

dd) Request for Approval Under Provisions of Ordinance No. 2006-60 For an Increase in City Water and Sewer Service by Linda Tigges on Behalf of the Santa Fe Youth Shelter. (Antonio Trujillo)

ee) Request for Approval of the Railyard Major/Minor Projects Development Review Process. (Frank Romero) (Postponed at the January 10, 2007 City Council Meeting)

ff) CONSIDERATION OF RESOLUTION NO. 2007-14. (Mayor Coss, Councilor Bushee and Councilor Trujillo)

A Resolution Repealing Resolution No. 2001-27 and Adopting a Resolution Reestablishing the Santa Fe River Commission. (Robert Romero and Janine Johnston) (Postponed at the January 10, 2007 City Council Meeting)

7. APPROVAL OF MINUTES: Reg. City Council Meeting – January 10, 2007

Councilor Bushee moved, seconded by Councilor Wurzbarger, to approve the minutes of January 10, 2007 as presented. The motion was approved on a voice vote with Councilor Bushee, Councilor Calvert, Councilor Chavez, Councilor Dominguez, Councilor Heldmeyer, Councilor Ortiz, Councilor Trujillo and Councilor Wurzbarger voting for the motion and none against.

8. PRESENTATIONS

a) Muchas Gracias – Lawrence Ortiz.

Mayor Coss presented Lawrence Ortiz a Muchas Gracias Award for serving the City for 25 years in Public Works. He has been the Director of Streets and Drainage for 16 years now. Mr. Ortiz will be retiring on February 13, 2007. Mayor Coss thanked Mr. Ortiz for his service to the citizens of Santa Fe and said it was a pleasure supervising him when he was the Public Works Director. Mr. Ortiz thanked everyone and said he is extremely proud to be a City employee and it is hard to go. Mr. Ortiz thanked all his employees and said he was proud of how they handled the biggest storm in 50 years even though they were criticized.

b) National Neighborhood Awards. (Mike Loftin, Homewise)

Mr. Loftin reported that NeighborWorks America granted the City of Santa Fe its government service award for its initiative in the Santa Fe Homes Program. He said Councilor Bushee traveled to Washington to receive the award on behalf of the City. He thanked everyone for their support of affordable housing. He presented each of the Councilors who were on the Council when the ordinance was passed a plaque.

9. CONSENT CALENDAR DISCUSSION

**v) CONSIDERATION OF RESOLUTION NO. 2007-15. (Councilor Heldmeyer and Councilor Chavez)
A Resolution Directing Staff to Plan a Celebration of the Fiftieth Anniversary of the Passage of the First Historic Preservation Ordinance in Santa Fe. (David Rasch)**

Councilor Heldmeyer pulled this so that Councilor Wurzbarger could be added as a co-sponsor. She commented that the feeding celebration should not be just ice cream and cake. She wanted this to be given the recognition that it deserves as it should be put into the context of the tourism and economic development issues.

Councilor Heldmeyer moved, seconded by Councilor Wurzbarger to approve this request.

Councilor Wurzbarger agreed that this is a tremendous opportunity for the City's economic development effort. She hoped to bring the creative cities and sister cities in to collaborate on this event.

The motion passed by unanimous voice vote.

**For: Councilor Calvert, Councilor Chavez, Councilor Heldmeyer, Councilor Ortiz, Councilor Trujillo, Councilor Bushee, Councilor Dominguez and Councilor Wurzbarger.
Against: None**

w) Request for Approval to Publish Notice of Public Hearing on February 28, 2007:

- 1) Bill No. 2007-3 – An Ordinance Amending Section 24-2.6 SFCC 1987 to Restrict Truck, Truck Trailer and Other Large Vehicle Traffic on Jay Street; Navajo Drive; Quapaw Street; and Via Antigua. (Councilor Heldmeyer) (Rick Divine)**
- 2) Bill No. 2007-4 – An Ordinance Amending Sections 18-10.1, 18-10.3, 18-10.4 and 18-10.5 SFCC 1987 Regarding Municipal Local Option Gross Receipts Tax; Clarifying the Imposition and Dedication of Municipal Local Option Gross Receipts Tax; in Compliance with State Law. (Kathryn Raveling)**

Councilor Calvert did not see the follow up requested at Finance included in the packet.

Ms. Raveling said the follow up was to go back to the Finance Meeting. She explained that this is just a request to publish and the item will not be for approval until February 28th.

**Councilor Calvert moved, seconded by Councilor Wurzbarger approval of this request.
The motion passed by unanimous voice vote.**

For: Councilor Chavez, Councilor Dominguez, Councilor Heldmeyer, Councilor Ortiz, Councilor Trujillo, Councilor Wurzbarger, Councilor Bushee, and Councilor Calvert.
Against: None.

**cc) CONSIDERATION OF RESOLUTION NO. 2007-16. (Councilor Chavez and Mayor Coss)
A Resolution Supporting and Adopting a Cooperative Agreement Between Los Alamos County, the North Central Regional Transit District, and the Regional Development Corporation for the Distribution of \$1.5 Million of New Gross Receipts Tax Received by Los Alamos County. (Jon Bulthuis)**

Councilor Chavez wanted to recognize staff and their effort behind this initiative that will benefit the North Central Regional Transit District. He noted that Max Baker and staff from the North Central RTD, Josette Lucero and Jack Valencia; are present. He asked Mr. Bulthuis to walk them through this request.

Mr. Bulthuis explained that this is an initiative of Los Alamos County resulting from renegotiation of the lab contract in which gross receipts revenues are now being made available to the County. The County has opted to make a portion of those receipts available to the region, specifically for the purpose of regional transit and economic development possibilities.

Mr. Baker said this initiative started over a year and a half ago. He said this supports the Los Alamos Council's initiatives which are to act regionally and use some of the resources they have to leverage other things across the region.

Ms. Lucero said they are looking forward to the monies that will be received so they can let out the different contracts to the member organizations. This will start a true regional transportation service in northern New Mexico. The City of Santa Fe will benefit over \$100,000 to expand services out into the County. She thanked the Council for supporting this.

Councilor Chavez moved, seconded by Councilor Wurzbarger, to approve this request with the Finance Committee recommendations.

The motion passed by unanimous voice vote.

For: Councilor Dominguez, Councilor Heldmeyer, Councilor Ortiz, Councilor Trujillo, Councilor Wurzbarger, Councilor Bushee, Councilor Calvert, and Councilor Chavez.
Against: None.

10. Consideration of Budget Increases for Salary Adjustments for AFSCME, Police Officers' Association and Non-Union Employees. (Kathryn Raveling)

Councilor Wurzbarger moved, seconded by Councilor Heldmeyer, for conditional approval subject to the annual gross receipts as of February 15th being 4% or greater.

Councilor Bushee thought they had negotiated with the union already.

Mr. Buller said the AFSCME and Police Officer's Association contracts read that there should be a preliminary negotiation by which a recommendation is made to the Council. He said in the two negotiations they agreed on the recommendation of a 1.5% increase.

Councilor Bushee asked if it was represented during the negotiations that there was enough money.

Ms. Raveling said she proposed adjusting the gross receipts tax budget which was based on 4% of projected last fiscal year. This did provide the money. She said the concern is that they are at 6% currently based on low months. During the first six months there was concern that they would be several million dollars down, but once the State ironed everything out the second half of the year showed huge increases. She is comfortable that this minor adjustment to bring all the increments up the 4% is relatively conservative, but she cautioned the Finance Committee. The last month was flat which brought it down from 7% up to 6% up, so two more flat months could bring it down to 4%.

Councilor Bushee asked what waiting two weeks will reveal.

Ms. Raveling said it is just one more month of information they would have prior to making a decision.

Councilor Bushee asked if any of this could be deemed bad faith.

Mr. Katz did not believe so as they are trying to ensure the amount of money is available.

Councilor Bushee asked if there is a move or attempt from the Finance Committee to change the way they do this negotiation.

Mayor Coss said on the direction from Finance he has talked with the Police Officer's and AFSCME leadership to change the practice of mid term budget increases as it does not work for either side.

Councilor Bushee asked if Finance is comfortable with not waiting for the mid year budget.

Ms. Raveling commented that they never get out of doing pay plans which is a significant amount of work. She said this year there have been increases for various groups and lump sums which requires personnel action forms, projections, and budget adjustments. She said pay increases hit every single business unit and every single line item.

Councilor Ortiz said the issue he has with this particular raise goes to the heart of how they have conducted collective bargaining over the last four years. He asked the union representatives and management where they are in terms of negotiations. It was very clear that the Council gave direction to conclude contracts before they passed a mid year budget. He asked what the expected timeline is.

Mr. Buller explained that he has talked to the management negotiating team with AFSCME, POA and the firefighters. He said AFSCME was finishing up their negotiations on the non-economic. He said he is working with Ms. Raveling to come up with some numbers to work with.

Mr. Len Montoya reported that they started negotiating again last week. He agreed that they started going through the non-economic articles in the contract. They are making progress, but it is slow. He is not sure when they will be done.

Mark Barnett, POA, said he is not the lead negotiator for the union. He said his understanding from the lead negotiator is that they have not met since November. He believes the problem is that there are no timelines.

Councilor Ortiz said again they will be approving the collective bargaining agreements the same evening they are approving the budget which is unfair to management, the union and the Council. He reported that he is introducing an ordinance that states management and unions have to start negotiation for the fiscal year no later than September 1st and they have to conclude by February 1st with a contract to the Council for approval by March 1st. He said mid year raises is how they have balanced their budget for many years and he feels this has to stop. He feels they were very clear that they did not want to be in this position again and questions why staff did not understand this. He said he will not vote against the non union raise, but said the next time this comes up he wants to see the people at the bottom taken care of and the managers should not be getting the same amount of raise. He will support this motion.

Councilor Chavez agreed that this would be better on a timeline. The bottom line to him is the equity between the union and non union employees as it takes everyone to get the job done. He hopes the union understands the situation they are in trying to balance the budget. He did not want to be faced with the numbers not working out as they cannot depend on the gross receipts.

Councilor Dominguez supports this for all the reasons articulated. He agreed there are non union families who struggle to survive in this community. He feels this is where it counts because being a young public employee on a fixed income and trying to raise a family in this community can be tough; these pay raises are where it counts. He is concerned with making people wait.

Councilor Heldmeyer explained that the January 15th check for the GRT was completely flat which was not anticipated. This caused some consternation about whether or not this was a one time aberration or if this is an indication of things to come. She said the February 15th check is always the best check as it reflects the Christmas spending. Finance wanted to see this check before going forward as they felt this would make them feel more confident. She said on the other hand if the February 15th check is not good then they probably need to look into it as it is a good indication of larger problems.

Councilor Dominguez feels this is why they have mid year budget increases so they can see where they are in terms of money. He wants to support the employees of this community.

Councilor Wurzbarger appreciates what Councilor Ortiz is proposing. She agreed the system does not work for either side. She hopes the timeline does not force them into balancing the budget on the backs of the workers. She said they give the raises but there are vacancies across the board which means the work does not get done. She thought they might be able to back up the dates a little more. She questioned why the meetings have not been held for negotiations. She does not want to continue to make promises that they cannot keep and they can't keep hoping tomorrow works out.

Councilor Trujillo did not understand why they need to make them wait two more weeks and wants the raises given now. He does not want to vote against the motion because he wants everyone to get their raises, but said it is evident that every February the check spikes.

Councilor Trujillo moved, seconded by Councilor Bushee, to amend the motion to give the raises effective now. Councilor Wurzbarger did not accept this amendment to the motion.

Councilor Bushee said the firefighters were specific in getting their raises in January, but she thinks this was promised to all three unions. She is confident that they will not, not give the raises when fire already has gotten them.

Councilor Heldmeyer commented that the last year has been full of promises. She said union contracts should not be done on promises and deals. The appropriate way to do this is to negotiate the contracts correctly to begin with by having enough time to do the work properly. Many times the hasty negotiations end up with people thinking they agreed to things that are not written down.

Councilor Chavez feels that a timeline will allow all the contracts to be completed at the same time and within a reasonable time period so the Council can approve them with respect to the budget.

Councilor Ortiz explained that this is a conditional approval and the pay will be retroactive so there will be no loss in pay. He said if the check dives and the agreements are approved there is nothing they can do. He said when the check comes in and it is as anticipated the employees will not have any pay taken out of their pockets.

Councilor Trujillo said his concern was that the pay was not retroactive. For this reason, he withdrew his amendment in light of the additional information.

Mayor Coss clarified with Ms. Raveling that it could be retroactive.

Ms. Raveling said they will make it work.

Councilor Bushee asked where the gross receipts are today.

Ms. Raveling replied up 6%. She said one month of being flat brought it down to 6% up from being up 7%. She explained that they compare to the previous January, not the previous month.

Councilor Bushee expressed concern that the firefighters were approved January 10th with no concerns being pointed out.

Ms. Raveling said she brought everything forward at the same time, but the firefighters had an earlier date so Finance went ahead and approved it. The contracts have a difference of timing.

Councilor Wurzbarger said it was not a matter of not being concerned, but the dates in the contracts were different so they felt that they had no choice. She said the decision was made regardless of the money which is what they want to avoid doing with this request.

Councilor Bushee said that was her concern from the beginning that this was a violation of the spirit of the negotiations conducted to date.

Councilor Heldmeyer thanked Councilors Trujillo and Chavez for coming to the Finance meeting. She said this last year was very unusual in terms of management's relation to the union because many things happened that do not normally happen. She said an annual negotiated contract with an annual negotiated raise that they are reasonably sure they can deliver should be taken very seriously. She said everyone needs to work together if the City cannot deliver the amount agreed upon; the union and management need to cooperate when

this occurs even if the negotiations are done earlier. She does not want to be the one making empty promises.

Councilor Chavez asked what the differences are in the contracts besides the dates.

Ms. Raveling said there were two differences; the fire had the specific 1.5% increase to be in effect the first full pay period in January. The other two contracts did not have a specific negotiated percentage and the raises were to be in effect the first full pay period in February.

Councilor Chavez hopes they can get this a little more uniform for the future.

Mayor Coss is glad to see that the Council found a way to approve this rather than sticking to the Finance Committee recommendation. He believes the revenue will be there. He shares the opinion that they should not do these mid year pay raises because it is hard to pick a number way before a budget is done. He favors bargaining raises once every couple of years as the City has the wherewithal, financial stability and strength of economy to do so. He asked the Chief to please get on the bargaining as he hates to hear they have not been working on this since November.

The motion passed by unanimous voice vote.

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

Against: None.

11. MATTERS FROM THE CITY MANAGER - None

12. MATTERS FROM THE CITY ATTORNEY

EXECUTIVE SESSION:

- 1) Discussion of Potential Appeal of the Municipal Boundary Commission Decision on Las Soleras Annexation, Pursuant to §10-15-1 (H) (7) NMSA 1978.

Councilor Chavez moved, seconded by Councilor Ortiz to go into executive session pursuant to §10-15-1 (H) (7) NMSA 1978 to discuss potential appeal of Municipal Boundary Commission decision on Las Soleras Annexation. The motion passed by unanimous voice vote.

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

Against: None.

The Council went into Executive Session at 6:25 p.m. and came out at 7:10 p.m.

Councilor Heldmeyer moved, Councilor Chavez seconded the motion to come out of executive session. The only matters discussed were those listed in the agenda. No action was taken, just direction to staff.

The motion passed by unanimous voice vote.

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

Against: None.

13. Action Regarding Municipal Boundary Commission Decision on Las Soleras Annexation.
(Frank Katz)

EVENING SESSION

A. CALL TO ORDER

The evening Session was called to order by Mayor David Coss at approximately 7:10 p.m.

B. PLEDGE OF ALLEGIANCE

C. INVOCATION

D. ROLL CALL

Roll call indicated the presence of a quorum as follows:

Members Present:

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

E. PETITIONS FROM THE FLOOR

Ed Keller, Acting Chair of Mayors Committee on Disability, congratulated the Governing Body on passing the updated resolution 2006-151 which continues the mandate of his committee. He thinks the previous name, Mayors Committee for Concerns of People with Disabilities, was better. He would like to continue the spirit of the resolution to have barrier free sidewalks by adopting that for buildings. His understanding is that the Committee is set up to advise the Council on the issues. His concern is the proposal regarding wireless access to internet on City owned properties. He believes there is not enough information to know whether this is harmful to people or not. He wants to see a plan and timeline established for this proposal.

Mayor Coss announced that the Old Taos Highway cases were postponed to no earlier than the first meeting in April for those that arrived late.

Michael Moquin, historic preservationist, expressed concern with the 400th Anniversary Committee as they are inactive and have not accomplished anything. There is a lobbyist serving as the Chairman who also formed the Committee. He said there are no professional historians, archaeologists, educators, city representatives or Indian representatives on the committee. He feels this is very important to the State and City and normally a Committee like this would have at least 35 members. He said no work has been assigned. There has only

been a quorum met twice out of five meetings. He is disappointed with the low priority given to this important event. He disagrees with the dates and figures included in this.

Councilor Ortiz said it was his resolution and there was a mistake with the founder which has been corrected. He noted that the state historian was supposed to be part of this Committee and was not appointed. He said this is important to many of the Councilors and he is willing to revisit the appointments so they membership is active.

Mr. Moquin agreed and wanted this to be more inclusive as it seems to be those who know people are on it. He said the Caballeros and Conquistadores are dominating the Committee. He feels there is evidence for the founding of Santa Fe in 1607 and 1605.

Councilor Chavez said the resolution has a specific timeline of 1607-1610. So, there is a three year window to design programs and events. He feels there is still time to address this. He suggested La Herencia playing a role.

Councilor Trujillo commented that there are only two Caballeros on the Committee and they are not representing the Caballeros.

Mr. Moquin said Santa Fe has missed the opportunity to work with Jamestown as they are printing all the literature already. He said if Santa Fe does not get on board with Quebec and Jamestown in the next two weeks then they will be left out of the discussion.

Councilor Trujillo's understanding is that there is no proof that Santa Fe was founded before 1607.

This issue was debated some before moving on.

F. APPOINTMENTS

Board of Adjustment

Mayor Coss made the following appointments to the Board of Adjustment: Reuben Montes to fill unexpired term ending 09/2008 and Roderick Thompson to fill unexpired term ending 9/2007.

Councilor Chavez moved, seconded by Councilor Dominquez, to approve the appointments. The motion passed by unanimous voice vote.

Airport Advisory Board

Mayor Coss made the following appointments to the Airport Advisory Board: Richard Allison adjustment of term only, term ending 2/2008; Robert Romero adjustment of term only, term ending 02/2008; John T. Keiser reappointed term ending 2/2010 and Geoffrey Veneklassen reappointed term ending 2/2010.

Councilor Heldmeyer moved, seconded by Councilor Chavez, to approve the appointments. The motion passed by unanimous voice vote.

G. PUBLIC HEARINGS:

- 1) Request from I.P. Inc., for a Restaurant (Beer & Wine) License to be located at India Palace, 227 Don Gaspar Avenue. (Yolanda Y. Vigil)**

The staff report was given by Yolanda Vigil, noting that India Palace is not within 300 feet of a church or school, and staff recommends that the India Palace be required to comply with the City's litter and noise ordinances as a condition of doing business with the City.

Councilor Bushee moved, seconded by Councilor Wurzburger to approve this request. The motion passed by unanimous roll call vote:

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

Against: None.

- 2) Request from Daisy Lay, LLC, for a Restaurant (Beer & Wine) License to be located at Josh's Barbecue, 3486 Zafarano Drive, Suite 1. (Yolanda Y. Vigil)**

The staff report was given by Yolanda Vigil, noting that Josh's Barbecue is not within 300 feet of a church or school, and staff recommends that the India Palace be required to comply with the City's litter and noise ordinances as a condition of doing business with the City.

Councilor Wurzburger moved, seconded by Councilor Ortiz to approve this request. The motion passed by unanimous roll call vote:

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

Against: None.

- 3) CONSIDERATION OF RESOLUTION NO. 2007-____.
Case #M 2005-44. 1034 & 1038 Old Taos Highway General Plan Amendment. Derrick Archuleta, Agent for SAFE Properties, LLC/Kevin McKown Requests General Plan Amendment from "Residential – Very Low Density" to "Residential – High Density" for ± 2.179 Acres at 1034 and 1038 Old Taos Highway. The Property is Zoned R-2. The Applicant is Proposing a 25-Unit Residential Development with Access Off of Old Taos Highway. (Greg Smith)**

This item was postponed per approval of the agenda to a date no earlier than the first meeting in April.

- 4) CONSIDERATION OF BILL NO. 2007-1: ADOPTION OF ORDINANCE NO. 2007-____
Case #ZA 2005-20. 1034 & 1038 Old Taos Highway Rezoning. Derrick Archuleta, Agent for SAFE Properties, LLC/Kevin McKown Requests Rezoning from R-2 (Residential, 2 Dwelling Units Per Acre) to RM-LD (Multifamily Residential – 12 Dwelling Units Per Acre) for ± 2.179 Acres at 1034 and 1038 Old Taos Highway. (Greg Smith)**

This item was postponed per approval of the agenda to a date no earlier than the first meeting in April.

- 5) **CONSIDERATION OF BILL NO. 2007-2: ADOPTION OF ORDINANCE NO. 2007-2.**
Case No. ZA 2006-20 – Rosanna Vasquez, Agent for John McCarthy, Dan Terrell and Robert Trujillo, Requests Amendment to Ordinance No. 1975-21, Increasing the Density Limit to Allow a Second Phase Consisting of 10 Dwelling Units. The Property is Located at the Southwest Corner of Zia Road and Yucca Street and is Zoned RM-LD (Multi-Family Residential – 12 Dwelling Units Per Acre). (Katherine Mortimer)

Memorandum dated January 22, 2007, to Mayor Coss and City Council Members, with attachments, from Katherine Mortimer, Supervising Planner, is incorporated herewith to these minutes as Exhibit "1."

Staff report was presented by Katherine Mortimer, which is contained in Exhibit "1."

Staff Recommendation: The Planning Commission and staff recommend approval of the requested rezoning of this property, to allow for an additional 10 dwelling units. the following language should be included in the draft bill to clearly document the new density limitation: "the density on the site shall be limited to 147 dwelling units."

Public Hearing

Lee Sternal, 2600 Zia Road, unit C-8, was sworn. Mr. Sternal said he lives in Colorado, but owns this unit. He said the neighborhood meeting information from April 2005 is inaccurate and misleading stating there was no objection to the proposal. He noted that there was a petition with 60 something signatures in objection submitted at that meeting. He submitted a letter that was not presented to the Planning Commission in his absence at that meeting.

Letter from Lee Sternal dated December 4, 2006 is incorporated herewith to these minutes as Exhibit "2."

Mr. Sternal said the representation that the Board has entered into an agreement with this development plan is less than the whole story. He said the Board refused the specific request to poll the association members to learn if they approved of the proposal. He said the Board never told them that they had a chance to buy out the purported development rights and instead tried to get it approved without telling everyone what they are doing. He feels the present Board has made a good faith effort to comply with Mr. McCarthy's request to approve the proposed development. He said everyone knew when they bought their units that the developer reserved a future development right. He wanted to make it clear that the Board never knew that when the complex was originally approved it was limited to 136 units for the entire 13.3 acres. He referred to the Council minutes of July 9, 1975 where the neighbors expressed concern with the adverse affects of this high density development. He said this request increases the units from 137 to 147 and the units will be twice as large as the existing units. He said the new development will have four bedroom units and the majority of the existing development is one bedroom units. He said the area where the proposed development will go is now open space. He is excited about this as he has to fight for parking spaces when he has guests the few times he comes to town. He personally made room for 7 additional parking spaces in this open space as there is not enough parking now. He asked that the Council not approve the density change. He pointed out that there has to be sound justification for the change and the applicant must demonstrate that the existing zoning is inappropriate which was not addressed by the Planning

Commission. He feels the Council is unaware of the extent of the opposition which really exists to this project.

Rosanna Vasquez, agent for applicants, was sworn. She wanted to address some of the concerns raised. She is unsure who drafted the minutes for the original ENN meeting as she was not involved with the project at that time. She spoke with her clients and Mr. Sternal is correct that there was a petition and concerns with the impact of the additional units to the community as a whole. She said in response to these concerns, Mr. McCarthy and Mr. Trujillo went to the Board to meet on every single issue regarding the additional units and they reached a compromise. She said there is an agreement in the packet regarding the issues. She said one of the concerns was the number of units so they agreed on 10 units. There was concern with the size of the homes and an agreement was reached that does not include any 4-bedroom homes. She explained that they were unaware that they would have to rezone until they filed the development plan. At this time, they submitted an application for rezoning notifying all those they were required to. She said 320 letters were sent out regarding this rezoning. She said none of the responses she received were complaints about this, they just wanted more information.

Ms. Vasquez explained that the RMLD zoning allows for the density they are looking for, but there was a condition that there only be 137 units so they are requesting the condition be lifted. She added that on the plat this area was proposed for future development. She said the ENN regarding this zoning brought concerns with parking, view corridor protection, the designs looking the same and the size of the units being compatible with what was already there. They have agreed to amenity improvements that are needed. The trails and open space were reviewed. There was not a TIA required. They will be able to do retrofits to comply with the water budget requirements. The Affordable Housing Agreement has been signed. She asked for approval of this rezoning because it meets the ordinance and falls within the guidelines for this area.

Ms. Vasquez addressed the concerns of Cami Martinez's letter in the packet. She noted that she used to work with Ms. Martinez at the County. The concern was that the environment would change which Ms. Vasquez feels is legitimate, but should be balanced with the benefits to the community in the area regarding the affordable housing units.

John McCarthy, 825 Allendale, was sworn. Mr. McCarthy said in October of 2001 they acquired and filed a condominium plat on the subject property comprised of 112 one-bedroom units and 25 two-bedroom units. His intention was to enhance the project in a sustainable manner. The Dale Ball Trail crew was used to enhance the trail and drainage system. Electronic gates were added for a sense of community. The one bedroom units were sold for \$76,500 and the two bedroom units were sold for \$125,000 doing their own affordable housing. They voluntarily retrofitted all the commodes prior to the retrofit program being in place. They did their best to stop the chiasm that is normally felt between the neighbors and developer. He said they are within the RMLD requirements. He asked that the issues be considered in support of this.

Jay Mars, President of Homeowners Association Board, was sworn. He said everything he has heard is what actually transpired. He said they worked a long time on exploring the triangle development area. There have been dozens of meetings with the developers to bring things in line and they have reached an agreement that this development is good and worth doing. He appreciates the work in good faith on behalf of the developer.

Ernie Zapata, 2501 West Zia Road, was sworn. He has been involved in the development of this parcel for quite some time. He said the project offers infill with no major impact to the community. He feels the best use of this property is to provide affordable housing.

The Public Hearing was closed.

Councilor Bushee asked about the parking plan.

Ms. Vasquez said the requirement for the additional 10 homes is 12 parking spaces, but they will be providing 20 spaces. She said the parking is a little difficult currently, but there are 160 spaces for 137 units.

Councilor Bushee asked the representative from the Homeowner's Association if there are issues with parking as they are currently structured.

Mr. Mars replied not daily, but there are issues at times. He feels there are enough spaces on the property, but they are not necessarily where everybody wants them. He said some spaces are empty continuously.

Councilor Bushee asked how the area for the proposed development is used now.

Mr. Mars explained that it is an arcing drive that cuts around the perimeter of the existing B and C buildings. The new development is the triangle. He said officially there is no parking in this area, but Mr. Sternal did cut out some spaces there which are not used regularly.

Ms. Vasquez added that 7 of the units will have two car garages which will add to the parking. She confirmed that the overall parking to the area is 1.224.

Councilor Bushee asked if there is a reason the design of the new units is different than what exists.

Ms. Vasquez said this was a compromise with the Homeowner's Association, but they do resemble the existing units although the designs are different.

Councilor Bushee questioned the decision to not go with the design of the existing units which would have provided more units.

Ms. Vasquez explained that the one bedroom units do not fall into affordable criteria for the City and they do not serve families very well.

Councilor Bushee asked how much the current units sell for.

Ms. Vasquez replied \$140,000 for the one bedroom units and \$180,000 for the two bedroom units.

Councilor Bushee asked what the plan is for the drainage as this area was designated for retention or detention ponds.

Mr. Smith said the plan was reviewed by the technical review staff and the drainage is being provided in accordance with the City standards. He is unsure where the ponds will be.

Ms. Vasquez said her engineer is not present, but the project began when the applicant met with the City engineers to figure out where the drainage would be.

Councilor Heldmeyer asked how many parking spaces this project would be required to have if they came in with 147 units today.

Mr. Smith said it depends on the square footages and the parking could be anywhere from 1.25 to 2.0 spaces per unit. He said the basic parking standards have not changed since the units were constructed.

Councilor Heldmeyer thinks the parking does sound low. She asked if staff would re-evaluate the parking spaces for the entire area when this came in for the additional 10 units.

Mr. Smith recalls that the staff concluded that the existing situation was either conforming or legally nonconforming. There was no analysis of the existing parking to his knowledge.

Councilor Heldmeyer asked where it says that right now they are allowed 137 units.

Mr. Smith said this was by reference to the minutes and previous ordinance at the time of the initial rezoning. He added that they could add a clarification to the number of units as an amendment.

Councilor Heldmeyer asked if by code they have to come in with a development plan.

Mr. Smith said the development plan review is triggered by the gross floor area exceeding 10,000 square feet, not by the number of units involved.

Councilor Heldmeyer moved, seconded by Councilor Chavez, to approve this rezoning with two additional conditions: 1) Development Plan has to be approved by the Planning Commission and 2) the totality of the parking has to be considered and in conformance with the code. She requested that the title of the ordinance say it is to increase the number of the allowable dwelling units by 10 additional units to a total of 147 units.

Councilor Trujillo asked what the heights are.

Ms. Vasquez replied 24 feet. She responded to an earlier question by Councilor Bushee and said the ponding is set out in plan C-3 as they have already submitted a development plan.

Councilor Trujillo asked if there are ways that more parking could be placed as he sees areas where additional parking could work if the homeowners agreed.

Ms. Vasquez explained that they would have to work with the homeowners on this as they do not own the land. She thinks this would be possible, but has to be balanced with the open space requirements. She noted that it could be re-stripped.

Councilor Ortiz wanted to allow the Colorado landlord to speak since he is not familiar with the process. He asked Mr. Sternal if he is in agreement with any of the discussion tonight.

Mr. Sternal said tonight when he got to town; there were three vehicles in the additional parking area he carved out. He said on some occasions all these spots are taken. There is only one spot designated for visitors on his side of the complex and there is a car in there covered in

snow so it is obviously not being enforced that a visitor park there. He pointed out that there is no parking on Yucca or Zia which the code assumes there is on-street parking.

Councilor Ortiz asked if his unit is rented long term or short term.

Mr. Sternal said no, but they let friends use it. He keeps a car in Santa Fe which does not allow his visitors to park.

Councilor Ortiz clarified his concern being that the guests do not have sufficient parking.

Mr. Sternal said the totality of his concern is that the people living there full time do not have enough parking.

Councilor Bushee wished she had the number of parking spaces that this project should have.

Councilor Bushee made a friendly amendment to have this come back. Councilor Heldmeyer accepted this amendment.

Councilor Ortiz thought the applicant should be asked if this is acceptable.

Councilor Bushee said this is not a condition and they could pull this up from the Planning Commission. She wants to do this now or she will vote against it or abstain until she has the information on the parking.

The motion was approved by majority roll call vote of 6 to 2.

For: Councilor Calvert, Councilor Chavez, Councilor Heldmeyer, Councilor Ortiz, Councilor Trujillo, and Councilor Bushee.

Against: Councilor Dominguez. Councilor Wurzbarger voted no because she did not think this needs to come back.

- 6) **Case #A 2006-12. 1631 Camino Cruz Blanca Variance Appeal. William H. Donahue Appeals the Planning Commission Decision to Grant Approval of a Variance to the Minimum 20 Foot Roadway Width Required For a Lot Split. The Property is Located 1631 Camino Cruz Blanca. (Greg Smith)**

Memorandum dated January 23, 2007, to Mayor Coss and City Council Members, with attachments, from Greg Smith, Current Planning Division Director, is incorporated herewith to these minutes as Exhibit "3."

Staff report was presented by Katherine Mortimer, which is contained in Exhibit "3."

Staff Recommendation: After reviewing the appeal and other relevant material, determine whether to uphold or deny the appeal. Action to uphold the appeal would overturn the Planning Commission's action to grant a variance to the access standards. Based upon the finding required per Section 14-3.8 (F):

Where the Planning Commission finds that extraordinary hardship may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured; provided that such

variation shall not have the effect of nullifying the intent and purpose of these regulations.

The Council should also consider whether approval of the variance request might be viewed as a precedent for future lot split applications, or whether it would be a grant of special privilege to the property at 1631 Cruz Blanca.

Planning and Land Use staff recommended postponement of the variance at the Planning Commission, due to the poor documentation of the work that was done without permits, and the actual extent of the variance that was being requested.

First, the appeal cites the lack of detailed topo and grading plans as required in the subdivision regulations. Planning and land use staff shares this concern to some extent, although the Subdivision Engineer exercises considerable discretion in the level of detail required for lot splits and other small subdivisions.

Second, the lot split approval from 2001 has expired because conditions have not been complied with and too many time extensions have been granted. Staff believes that the action by the Commission on this and other cases have established that the regulations may properly be interpreted to allow more than one extension, if approved by the commission at a public hearing.

Third, the appeal alleges that the findings required to approve a variance are not supported. The Commission's motion to approve the variance did not include specific findings, although the applicant's testimony did not address the basis for the variance. Note that variances to subdivision regulations are based on Section 14-3.8(F):

Public Hearing

Bill Donahue, 1611 Camino Cruz Blanca, was sworn. He reported that he filed this appeal on behalf of the neighborhood association with 6 out of 8 lot owners in support of this appeal. He said he would present the pertinent points rather than giving a lengthy presentation. The first issue he addressed was whether the road was substandard or not. He said the lower part was really substandard to begin with. Steve Carson has done some grading on the road which was basically road maintenance. He referred to the email in the packet from Mr. Carson. He said previously the Pakin's tried to create the impression during a previous hearing that they had employed Mr. Carson to come do the work to bring the road up to standards so they could have their lot split. He actually brought in Mr. Carson and the Pakin's contributed to the project, but it was in no sense the Pakin's project. The project was aimed at making the road usable for the density present currently. He handed out a recent survey of the road which is incorporated herewith to these minutes as Exhibit "4." He feels this demonstrates that the road is still very seriously non-compliant in terms of the road grade. He reviewed the different exhibits in the packet regarding the road. He said the road has been widened in the area of the ditch to approximately 15-17 feet wide. Substantial parts of the road are still substandard and it is considerably below the City code standards.

Letter from Ken and Mary Ann Lowe dated January 26, 2007 was entered into the record and is incorporated herewith to these minutes as Exhibit "5."

Mr. Donahue discussed whether a variance is justified. He said staff recommended that the appeal be denied as the applicant did not meet the variance conditions for approval and failed to

provide a shared private driveway improvement plan conforming to City subdivision design standards. At this point, he noted his attorney says the criteria has not been met as there is no extraordinary hardship as a result of the City's strict application of the road safety requirements and waiving safety requirements would result in substantial justice and secure the public interest. He said the waiver would not have the effect of nullifying the intent and purpose of the City's regulations. He said the public interest would have to be served by increasing traffic on a dangerous, substandard road without requiring any modifications to the road.

Mr. Donahue reported that the Fire Marshal, Ted Bolleter, initially thought a fire hydrant would have to be installed at the entrance. Later in 2004, Mr. Bolleter said the road has to be brought up to City standards which is a 20-foot width and the only flexibility would be reducing the grade to 14%, but that the applicant would still have to meet the rest of the requirements. Mr. Kenneth Cassutt, Mr. Donahue's attorney, says that the Fire Marshall does not have any authority to relax the road width requirement. In 2005, the Fire Marshall approved a narrower road if the Pakin's could reduce the grades to 15% or less. There was a plan to reduce the road width to 11 feet presented by the Pakin's, but then after discussion regarding why the Fire Marshall signed off on this, the decision remained. Finally, there was a memo in September 2006 where Ted Bolleter recommends approval without conditions even though the road is too narrow and too steep. He said it is clear that Mr. Bolleter made a mistake.

Mr. Donahue said they do have covenants that cover 6 out of the 8 lots in the neighborhood. The covenants do not prohibit lot splits, but they do limit them. He said there is a sunset clause that kicks in after 20 years and the whole thing could be thrown open again. He fears at this time there could be more lot splits. He said added lots will create further fire danger. He thinks the City should not bend the rules to increase density in an area with this kind of sensitivity.

Pamela Messer, 1603 Camino Cruz Blanca, was sworn. Ms. Messer said she was present at the Planning Commission meeting of November 2, 2006. She was surprised by the irregular process in which the case was heard. The City staff recommended postponement as they had not had adequate time to review roadway. The Planning Commission Chairman allowed the Pakin's representative to insist that the case be heard contrary to numerous objections. She said she spoke, but was not given equal time to state their objections. She expected the Commission to rule on whether to table or hear the case, but instead the Pakin's representative was given considerable time to once again state her case. Ms. Messer felt she was not allowed to address or correct any of the statements made. The Commission voted with the Chairman breaking the tie in favor of the Pakin's. She thought the decision was made very arbitrarily.

Howard Fisher, 1611 Camino Cruz Blanca, was sworn. Mr. Fischer's experience with the road is that it is very dangerous. He said there are many places where two cars cannot pass and one has to pull off the road. He said the situation would be very serious if an ambulance or fire truck tried to pass even with the present amount of traffic. He said opening up the possibility of further lot splits will increase the traffic. He feels the neighborhood has made a good faith effort to make the road usable, but there is no way to make it safe.

Jennifer Jenkins, 128 Grant Avenue, Suite 227, was sworn. Ms. Jenkins represents Howard and Pat Pakin. She said in 2001 the Pakins came forward with a simple application to split their three acre parcel. The Summary Committee approved this request without conditions and the approval was appealed to Planning Commission. The appeal was denied and an additional condition was added that the road needed to be brought up to emergency access standards. The Pakin's hired an engineer to develop a plan for the road to satisfy this condition. She noted that there is a 50 foot easement, but with the grade and terrain making a 20 foot road at a 10%

grade is not a road that anybody would want in this rural neighborhood. Besides the fact that this would cost hundreds of thousands of dollars this was not a reasonable endeavor. The grade was addressed and a plan submitted in an effort to comply with the condition. This required a variance, so a variance request was submitted to the Planning Commission. At this hearing the neighbors were concerned with the proposed design for the roadway so the Planning Commission gave an extension on the lot split approval to allow the Pakin's time to work with the neighbors on the road design. The neighbors took the lead and engaged Steve Carson to work on the road. She handed out the scope of work regarding the improvements to the roadway which is incorporated herewith to these minutes Exhibit "6." The Pakin's cooperated fully and contributed much more than their fair share financially. The variance request was amended to reflect the new improvements. She disagrees that this was represented as maintenance to the tune of \$40,000. She said the improvements did not bring the road up to standard, but it did improve the roadway by widening it, improved the graded areas, and improving the surface and drainage. She said when they returned to the Planning Commission they received approval to proceed with the lot split.

Ms. Jenkins pointed out that there are parcels that do not necessitate a lot split to build another dwelling unit. She added that this area is zoned R-1. She said the Ferber property directly north of the Pakin's recently added another house without having to go through any public process. She said this is available to all the landowners in this neighborhood. Her clients chose the lot split process which meant a public process. The improvements will make the road easier to maintain as others build additional units on their lots as the zoning allows. She said they have been successful in getting the financial cooperation of everybody on the road. She feels the precedent has already been set with lot splits approved in this neighborhood historically already.

Page Pennell, 1674 Camino de la Cruz Blanca, was sworn. Mr. Pennell has been on his property for 30 years. The neighborhood has been tranquil and pleasant until the last couple of years. He said in 1976 there were four of them who bought 40 acres. Two of the original owners are still part of the property. He explained that when they wanted to put a road in and get building permits they were not recognized by the County or the City. He said they all have wells, septic tanks and gas tanks. He had hoped the neighborhood could work together and resolve all this. He said only four remaining parcels can be subdivided and only two of those could be divided down to 1.3 acres and the other two would have to remain 2.5 acres. He feels even with infill happening you still will not feel it with the amount of open space they have. He said lately there is a faction in the neighborhood that is rigidly antidevelopment. He said Mr. Donahue runs a publishing business out of his house with a couple of employees, stored inventory, a renter that testified the road was not safe, and FedEx delivering up and down the road. So he is not sure how they can say it is dangerous when FedEx and UPS deliver on it all the time. He feels there will be great pressure from the four homeowners who can still divide to take it to the lowest possible denominator and then at that time he hopes the neighbors can start dealing with each other again. He said until that time he fears the Council will be hearing from them on numerous occasions. He commented that he feels it is the lack of City oversight in the beginning that caused this situation to escalate. He hopes this issue can finally be resolved.

Peter Wolf, Canyon Neighborhood Association, was sworn. He said they agree with the staff comments that the road is too dangerous. They fear there will be many more lot splits to come adding to the danger. He is not opposed to lot splits, but the road would definitely have to be upgraded.

Mr. Donohue said the significance of this lot split is that it is the first lot split that would create a second generation lot substantially under 3 acres. He said he does have a business, but his entire inventory is now in New Hampshire with no deliveries to or from his property relating to his business. He was told that due to the rounding rules a developer could get substantially more than one lot per acre, so he disagrees with what Mr. Pennell says.

Public Hearing was closed.

Councilor Wurzbarger asked if the Pakin's could go and build another house tomorrow as she heard that they chose this approach.

Ms. Jenkins said the intention is not to build another home on the property at this time. She said she was just pointing out what could be done and the inconsistencies in what is being done.

Councilor Wurzbarger asked what the extraordinary hardship is if this is not granted.

Ms. Jenkins said they are not looking at extraordinary hardship and does not see this as a criterion.

Councilor Chavez clarified that the main lot is 3 acres and asked what size lots the proposal would create.

Ms. Jenkins said it would create one lot of 1.7 and the other at 1.3.

Councilor Ortiz asked Ms. Jenkins if she has seen the appellants appeal and what her response is to the points raised.

Ms. Jenkins explained that the roadway was not a creation of the Pakin's as it was created early on. She feels that the applicant would be deprived of rights others enjoyed in the same district. She assumes that this met the standards when it was accepted and approved by the Summary Committee in 2001.

Councilor Ortiz asked what the position is that the time allowed by the ordinance for satisfying the conditions is expired.

Ms. Jenkins said they have received extensions of the lot split approval and were granted additional time by the Planning Commission to satisfy this.

Councilor Ortiz pointed out that on an appeal the Council has the authority to look at the extension and review whether it is appropriate or not. He asked why there is no topographic survey.

Ms. Jenkins said there was no permit requested by the neighborhood from the City for the roadway improvements.

Councilor Ortiz asked if Ms. Jenkins feels that the road to the proposed lots complies with the standards set forth.

Ms. Jenkins said with the addition of fire suppression being included with any new construction that provides the extra layer of protection because the road is not to standard.

Councilor Bushee asked Mr. Bolleter to respond.

Mr. Bolleter said he has been involved in this case for the last 6 years and the code changed two years ago. He said the code they started with did not give them a lot of flexibility and now they have exceptions. Originally there were no exceptions to allow anything other than a 20-foot road. When they adopted the International Fire Code in 2005 there are exceptions that he does not advertise. He tries to get as much fire protection as he can. He said the public way for this road ends just north of St. John's College so holding the code would mean improving all of Camino Cruz Blanca.

Councilor Bushee asked if this would be considered a hardship.

Mr. Bolleter read the conditions that allow him to make the exceptions. He said this applicant meets all three exceptions. He said he just learned about the new home built as they do not see any plans when it is a single family dwelling. He said the road does not meet standards, but the road is much better than it was five years ago and he has a sprinkler system on any new lots.

Councilor Bushee commented that this is a wonderful part of town, but it is not like the City. She said it takes a hearty person to live on the road. She asked if the Pakin's are one of the original owners.

Mr. Pennell replied no. He said the other original partner is Alton Walpole. He believes the Pakin's have lived here for about 10 years.

Councilor Bushee asked if Mr. Pennell feels the road has been improved.

Mr. Pennell said the road is hardly recognizable although it has a way to go to meet City standards. He thinks the mindset is that if a wealthy person were able to pay for the road and improve it there would still be resistance to it.

Councilor Bushee moved, seconded by Councilor Trujillo, to deny the appeal. She asked that staff make the appropriate findings and fact.

Councilor Bushee hopes the neighbors can repair the divisions erupted over this. She agreed the road is vastly improved. She can't imagine that even if every lot split there being that much additional traffic. She is sorry to see this taken so far.

Councilor Wurzbarger said the Planning Commission found extraordinary hardship, but it does not state what that is.

Mr. Smith said the findings were cited by staff in a previous staff report, but the current position is that the one finding in the staff report is the one required. He said when staff is asked to evaluate hardship they do so in relation to a developer making reasonable use of the property with regard to the development patterns typical in the neighborhood and allowed by code. He said if the Pakin's choose not to subdivide their property there is no hardship so staff would not recommend support for the finding of hardship. He presumes the Planning Commission made a finding, but he does not find specifics or testimony on this topic.

Councilor Wurzbarger said not supporting the lot split could be not allowing the Pakin's the same benefit that is already happening.

Mr. Smith said in most cases they can build as many houses as you have acres of land. The standard for subdivision is more specific and strict than the standard for multifamily development. He added that it is not clear to staff if the development limits cited by Mr. Pennell are correct.

Councilor Heldmeyer asked if it is true that only four lots could do further lot splits.

Mr. Smith explained that he is not sure what this was based on. He noted that an accessory dwelling unit is allowed on each lot of record.

Councilor Heldmeyer asked if the City would catch that a lot needed a sprinkler system if it came in as a separate lot.

Mr. Smith said in this case advisory notes would most likely be placed on the plat as to the requirement for alternative fire protection.

Councilor Heldmeyer asked if there could be circumstances where there could be more than two single family dwellings per the fire code.

Mr. Bolleter said the fire code does not really get into the specifics. He added that typically the fire department does not look at building permits for anything less than a four-plex or over 3600 square feet.

Councilor Heldmeyer asked Mr. Donohue to address the issue of lot split vs. no lot split with another home built.

Mr. Donohue said the main difference is money and sale-ability. He said it is generally not attractive to a lot owner to build a second principle residence on their property. He said in the case of the Ferber's the home was built for their son and daughter-in-law. According to the covenants they cannot condo the property.

Councilor Chavez asked if there is a minimum lot size required in this area.

Mr. Smith responded to this explaining that the zoning regulations in the R-1 district are based on the density. He said there could be lots as small as 4000 square feet so long as other lots were large enough to average out to 1 unit for 1.3 acres.

Councilor Chavez asked if the applicant would agree not to do any more units on the two lots if this is approved.

Ms. Jenkins asked for a moment to confer with her clients.

Mayor Coss questioned putting this condition on a denial of an appeal.

Councilor Calvert somewhat understood allowing the lesser standard on the road, but did not understand how fire sprinklers would help with a wildland fire or outside fire.

Mr. Bolleter said there is a Wildland Urban Interface Code which if adopted would go hand in hand with the Fire Code and this area would be an area to use it in. He said typically in rural areas they allow steeper grades and narrower roads. He would rather have the same roads consistently as it is easier to review based on one code.

Councilor Calvert would think they would want to respond as quickly as possible as fires in areas like this can get out of hand so easily.

Mr. Bolleter explained that in new developments they do require the standards be met, but this area existed this way. He said the biggest problems are existing pieces of property. He added that raw land is much easier as they can have wide fire lanes and everything set up the way they want.

Ms. Jenkins responded to Councilor Chavez's question. She said the Pakin's are happy to agree to the condition that neither lot can be further split from the proposed lot split and no additional units would be constructed on their lot and the new lot would only have a single family dwelling and permissible structures.

Councilor Ortiz clarified the grade allowed in the Fire Code.

Mr. Bolleter said the sprinkler exception allows you to go over the 10% grade and administratively they can go up to 15%. He said this does say the grade on this proposal is 18%, but when they looked at it originally it was even greater. He said the main problem is that this is an existing road.

Councilor Ortiz asked if a fire truck can make it up a road with a 15% grade.

Mr. Bolleter is unsure depending on the conditions.

Councilor Ortiz feels that is the main issue, the road is not equipped to handle emergency vehicles in the event of an emergency. He is confused as the condition was that the road must be brought up to standard.

Mr. Smith said there are two overlapping provisions of the code; city subdivision standards and lot split requirements.

Councilor Ortiz said with this evidence, he does not see what basis there is for a variance.

Councilor Wurzbarger did not want to approve something that is not safe, but it seems okay according to the code. She asked Mr. Donohue if he is opposed to the Pakin's building a second house without a lot split.

Mr. Donohue is opposed to increased density, but he is unsure he would grounds for objecting.

Councilor Wurzbarger expressed concern with what Mr. Donohue's true concern is because at one point he said it was that the lot would be for sale and then he said his concern was density.

Mr. Donohue feels a family living together in two houses is different than two complete family units.

Councilor Bushee commented that this seems like a close the barn door behind me kind of thing. She does not think there is much more that can go out in this area as far as density. She disagrees with the Pakin's being responsible for improving the entire road and does not see how this road could be brought up to standards. She is happy that Mr. Bolleter is happy with the result. She thinks requiring additional restrictions and making the Pakin's responsible for the road could be a hardship.

Councilor Calvert asked Mr. Katz if technically the time period expired on the action deeming the Planning Commission actions not valid.

Mr. Katz is unclear what the action was in 2001. He gathers the variance was more recent. He is not quite clear on the history.

Mr. Smith said the Planning Commission discussed that particular point. The staff report concludes that there may be one time extension to a subdivision. He said different City Attorneys have had different opinions regarding the number of postponements allowed.

Mr. Katz said one means one to him. He believes the variance was more recent.

Mr. Smith said the question of the extension would apply to the original lot split and would not apply to the variance which was done in late 2006.

Councilor Calvert thinks the time limit was up prior to seeking the variance as best as he could decipher from the convoluted history.

Mr. Katz asked what provision Mr. Smith is referring to.

Mr. Smith replied Chapter 14-1.8(b)(3).

Mr. Katz believes this even seems clearer that one extension for not more than a year is allowed. This case seems to be beyond what should be allowed.

Mr. Smith said this is the code section cited by the appellant in the appeal, but it is not the code section cited by staff which is 14-3.7(b)(6)(c). He read this code section.

Councilor Wurzbarger said the effort expended on the part of the applicant and the appellant make this really out of order. She said if someone wants to make a motion to investigate this she will support that.

Councilor Calvert asked if this could be reconsidered even though there is a motion on the floor. He would like to have a definitive legal opinion on this matter.

Mr. Katz stated that he has not researched this. The provision cited by Mr. Smith seems more pertinent as it talks about the Planning Commission approval. This does seem to be within what is allowed there. He presumes the extension was applied for in writing and there seems to be no time limit. He welcomes the opportunity to research this issue more thoroughly.

Councilor Bushee made a motion to amend her motion to hear no more public testimony, motion stands and the proceeding is continued to the next Council session at the first part of the evening session so legal staff can do further research on this issue.

Councilor Heldmeyer requested a chronology be presented as the road was a condition of approval for many years. She sees nothing on the record stating this was a hardship until the most recent Planning Commission meeting.

Councilor Ortiz agreed that he wants a better chronology from staff. He said there has been no other appeal, but does see four different Planning Commission meetings they attended.

Mr. Smith agreed to do this.

The motion passed by majority voice vote of 7 to 1.

For: Councilor Chavez, Councilor Calvert, Councilor Dominguez, Councilor Heldmeyer, Councilor Trujillo, Councilor Wurzburger, and Councilor Bushee.

Against: Councilor Ortiz.

14. MATTERS FROM THE CITY CLERK

None.

15. COMMUNICATIONS FROM THE GOVERNING BODY

Councilor Dominguez

Councilor Dominguez introduced an ordinance amendment dealing with storage units which is herewith incorporated to these minutes as Exhibit "7."

Councilor Calvert

Councilor Calvert emphasized the point that Planning Commission findings and fact need to be the basis of their decisions. He asked for staff to instruct the Planning Commission to give some basis for their decisions.

Councilor Trujillo

None.

Councilor Wurzburger

None.

Councilor Bushee

Councilor Bushee introduced three items. 1) An ordinance change that would allow the Farmer's Market to request economic assistance from the City which is incorporated herewith to these minutes as Exhibit "8." 2) An ordinance amending the smoke free ordinance which is incorporated herewith to these minutes as Exhibit "9." 3) A resolution creating the Parks Advisory Committee which is incorporated herewith to these minutes as Exhibit "10."

Councilor Bushee asked for potholes to be fixed on Pacheco Street.

Councilor Ortiz

Councilor Ortiz passed out the ordinance change on collective bargaining. He introduced an ordinance regarding Solid Waste Collection requirements and enforcement penalties which is incorporated herewith to these minutes as Exhibit "11." He said if the public is being asked to be responsible then staff should be responsible too. He feels the rebates gives compensation for their trash not being picked up and it also provides a tool to track where the problems are.

Councilor Chavez

Councilor Chavez introduced a resolution with Councilor Calvert that will support the state wide transit fund to assist local governments which is incorporated herewith to these minutes as Exhibit "12." He wanted this to go to Finance and Public Works. He also introduced an ordinance amending certain sections of the code regarding petition method annexations which is incorporated herewith to these minutes as Exhibit "13." He asked if the Cuatrocentenario Committee could make a brief presentation at the meeting two weeks from now.

Councilor Heldmeyer

None.

H. ADJOURN

There being 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:



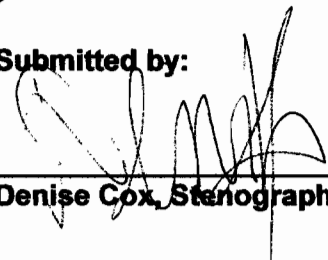
Mayor David Coss

ATTESTED TO:



Yolanda Y. Vigil, City Clerk

Submitted by:



Denise Cox, Stenographer