



# Agenda

REGULAR MEETING OF  
THE GOVERNING BODY  
AUGUST 8, 2007  
CITY COUNCIL CHAMBERS

## AFTERNOON SESSION – 5:00 P.M.

### CITY CLERK'S OFFICE

DATE 8-3-07 TIME 3:15pm

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

RECEIVED BY *Jydomungu*

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 – July 25, 2007
8. PRESENTATIONS
  - a) Employee of the Month for August, 2007 – Melissa Byers, Legislative Liaison Assistant; City Attorney's Office. (5 Minutes)
  - b) Introduction of Newly Hired Lateral Officers: Officer David Webb Jr., Officer Cipriano Varela, Officer Phil Fernandez, Officer Jason Hill and Officer Jimmie Montoya III. (Chief Eric Johnson) (5 Minutes)
  - c) Santa Fe Community College Bond Election. (Liz Gutierrez, SFCC Board Chair) (5 Minutes)
  - d) City of Santa Fe's New Certified Community Status. (Secretary Fred Mondragon, New Mexico Economic Development Department) (5 Minutes)
  - e) Haciendas – A Parade of Homes 2007; Santa Fe Area Home Builders. (Gary Ehlert) (5 Minutes)
9. CONSENT CALENDAR
  - a) Bid No. 07/59/B – Compost Screen for Wastewater Management Division; Ellen Equipment, LLC. (Nicholas Schiavo)



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- b) Request for Approval of Sole Source Procurement – Fuel and Oil Related Products to Santa Fe Municipal Airport and Other Departments in Area; Honstein Oil. (Robert Rodarte)
- c) Request for Approval of Procurement Under State Price Agreement – Street Sweeper for Streets and Drainage Division; Pete's Equipment. (Mike Vargas)
- d) Request for Approval of Procurement Under State Price Agreement – Two (2) Heavy Duty Trucks for Streets and Drainage Division; Bob Turner's Ford. (Mike Vargas)
- e) Request for Approval of Amendment No. 1 to Contract – City Wide Source of Supply Improvements Program; Alpha Southwest, Inc. (Michael Gonzales)
- f) Request for Approval of Procurement Under State and Federal Price Agreements – ITT Related Services and Equipment; Various Vendors. (Thomas Williams)
- g) Request for Approval of Procurement Under Federal Price Agreement – Golf Course Turf Equipment; Ellen Equipment Corporation. (Larry Lujan)
- h) Request for Approval of Amendment No. 1 to Agreement – Juvenile Services; State of New Mexico Children, Youth and Families Department. (Richard DeMella)
- i) Request for Approval of Amendment No. 3 to Legal Services Agreement – Legal Services for Buckman Direct Diversion Project; Hawkins Delafield & Wood, LLP. (Rick Carpenter)
- j) Request for Approval of Lease Agreement – Six (6) Buses for Transit Division; Creative Bus Sales, Inc. (Jon Bulthuis)
  - 1) Request for Approval of Budget Increase – ¼% Municipal GRT Fund.
- k) Request for Approval of Funding – Include Gonzales Road Trail Under City's Current List of Prioritized Trails. (Anne McLaughlin)



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- l) Request for Approval to Publish Notice of Public Hearing on August 27, 2007:

Bill No. 2007-42 – An Ordinance Authorizing the Execution and Delivery of a Water Project Fund Loan/Grant Agreement by and Among the New Mexico Water Trust Board and (The “Lenders/Grant/Grantors”), the City of Santa Fe, New Mexico (The “Borrower/Grantee”), and the Buckman Direct Diversion Board as Operator of the Project, in the Amount of \$2,000,000.00 Evidencing an Obligation of the Borrower/Grantee to Utilize the Loan/Grant Amount Solely for the Purpose of Financing the Costs of a Water Improvement Project to Finance Phase IV of the Buckman Surface Water Direct Diversion Project Involving Release of Stored San Juan-Chama Water From Upstream Reservoirs and Subsequent Diversion of the San Juan-Chama Water Native Rio Grande Water Supplies for Treatment and Conveyance to the Regional Storage and Distribution System and Solely in the Manner Described in the Loan/Grant Agreement; Providing for Payment of the Loan Amount Solely from Pledged Revenues; Certifying that the Loan/Grant Amount, Together with Other Funds Available to the Borrower/Grantee, is Sufficient to Complete the Project; Loan/Grant Agreement; Ratifying Actions Heretofore Taken; Repealing all Action Inconsistent with this Ordinance; and Authorizing the Taking of Other Actions in Connection with the Execution and Delivery of the Loan/Grant Agreement. (Rick Carpenter)

- m) Request for Approval to Publish Notice of Public Hearing on September 12, 2007:

- 1) Bill No. 2007-40 – An Ordinance Amending Section 24-2.6 SFCC 1987 to Restrict Truck, Truck Trailer and Other Large Vehicle Traffic on La Cieneguita, Calle Sotero, Calle Andelina and Gonzales Road, Between East Alameda and Hyde Park Road. (Councilor Chavez and Councilor Calvert) (Rick Devine)
- 2) Bill No. 2007-41 – An Ordinance Amending Section 1-3.2 SFCC 1987 to Include a Substance Abuse Fee and a Municipal Court Bench Warrant Fee; and Amending Section 1-3.3 SFCC to be Consistent with the Current Practice of the Municipal Court. (Councilor Heldmeyer) (Judge Ann Yalman)



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- n) CONSIDERATION OF RESOLUTION NO. 2007-\_\_\_\_\_. (Councilor Heldmeyer, Councilor Ortiz and Councilor Wurzbarger)  
A Resolution Directing City Staff to Develop a Pilot Project Utilizing Alternative Dispute Resolution in Certain Cases Within the Land Use Department. (Jack Hiatt)
  - 1) Request for Approval of Budget Increase – General Fund Cash Balances.
- o) CONSIDERATION OF RESOLUTION NO. 2007-\_\_\_\_\_. (Councilor Dominguez and Councilor Trujillo)  
A Joint Resolution Directing City and Public School Staff to Prepare Recommendations for the Governing Body and the Board of Education Regarding Housing on School Property for Police Officers. (Kathy McCormick)
- p) Amendments – Underground Parking Garage at Railyard: (Frank Romero)
  - 1) Request for Approval of Second Amendment to Parking Garage Development Agreement – Deductive Change Order and Substantial Completion Schedule Extension; Railyard Company LLC.
    - a) Request for Approval of Change Order No. 1.
  - 2) Request for Approval of Amendment No. 5 to Agreement – Additional Construction Administration Services for Underground Parking Structure Project; Lloyd & Associates Architects.
    - a) Request for Approval of Budget Increase – Parking Enterprise Fund.
- q) Request for Approval of License Agreement – Oracle Enterprise Software Upgrade for Human Resources and Payroll; AMX International. (Caryn Fiorina)
- r) Request for Approval of Professional Services Agreement – Support and Implementation of Self-Sufficiency Plan for Culture Portal; New Mexico Culturenet. (Scott Beckman)



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- s) Request for Approval of Interim Lease Agreement – Short Term Terminal Space at Santa Fe Municipal Airport; New Mexico Airlines, Inc. (Jim Montman)
  - t) Request for Approval for Water and Sewer Service Under Provisions of Section 22-6.2 and Section 25-1.11 SFCC 1987; Ida Vorum on Behalf of Southwestern College, Located North of Airport Road at 3960 ABC San Felipe Road. (Antonio Trujillo)
10. Consideration of Tino Griego Pool Resolutions:
- a) CONSIDERATION OF RESOLUTION NO. 2007-\_\_\_\_\_. (Councilor Bushee, Councilor Ortiz, Councilor Dominguez and Councilor Trujillo)  
A Resolution Directing Staff to Prepare a Proposal for the Remodeling and Operation of a Teen Center at the Tino Griego Pool (Rick Anaya)  
**(Postponed at the July 25, 2007 City Council Meeting)**
  - b) CONSIDERATION OF RESOLUTION NO. 2007-\_\_\_\_\_. (Mayor Coss, Councilor Wurzbarger and Councilor Calvert)  
A Joint Resolution Approving the Sub-Lease of the Tino Griego Pool as a Location for a Work Development Center for High School and College Students to Learn the Skills of the Film Industry. (Martin Valdez)  
**(Postponed at the July 25, 2007 City Council Meeting)**
  - c) CONSIDERATION OF RESOLUTION NO. 2007-\_\_\_\_\_. (Councilor Heldmeyer)  
A Resolution Directing Staff to Prepare a Proposal for the Remodeling and Operation of a Teen Center at the Tino Griego Pool. **(Postponed at the July 25, 2007 City Council Meeting)**
11. Scheduling for Consideration of Charter Amendments. (Frank Katz)
12. MATTERS FROM THE CITY MANAGER
- a) Employee Recognition Certificates.



# Agenda

REGULAR MEETING OF  
THE GOVERNING BODY  
AUGUST 8, 2007  
CITY COUNCIL CHAMBERS

13. MATTERS FROM THE CITY ATTORNEY

EXECUTIVE SESSION:

Potential Settlement of Annexation Litigation, Pursuant to §10-15-1 (H) (7) NMSA 1978.

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) Pursuant to §60-6B-10 NMSA 1978, a Request for a Waiver of the 300 Foot Location Restriction and Approval to Allow the Sale/Consumption of Alcoholic Beverages at the Parking Lot of the Burnett Foundation Building, 123 Grant Street, Which is Within 300 Feet of the First Presbyterian Church, 208 Grant Avenue. The Request is for the Following Event: (Yolanda Y. Vigil)
  - a) The Georgia O'Keeffe Museum's 10<sup>th</sup> Anniversary Celebration to be held on Saturday, August 25, 2007, from 5:00-11:00 p.m.



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- 2) CONSIDERATION OF BILL NO. 2007-25: ADOPTION OF ORDINANCE NO. 2007-\_\_\_\_\_. (Councilor Heldmeyer and Councilor Trujillo)  
An Ordinance Amending Section 16-13.6 SFCC 1987 Regarding Curfew for Parks and Recreation Areas. (Fabian Chavez) **(Postponed at the July 25, 2007 City Council Meeting)**
- 3) CONSIDERATION OF RESOLUTION NO. 2007-\_\_\_\_\_.  
**Case #M 2006-52. Homewise Old Las Vegas Highway General Plan Amendment.** Jennifer Jenkins, Agent for Homewise, Inc. Requests Approval of a General Plan Future Land Use Map Amendment to Change the Designation of 15.35± Acres of Land From Mountain/Corridor to Residential, Very Low Density. The Area is Generally Located East of Old Las Vegas Highway and South of Old Pecos Trail. (Greg Smith) **(Postponed at the July 11, 2007 City Council Meeting)**
- 4) CONSIDERATION OF BILL NO. 2007-33: ADOPTION OF ORDINANCE NO. 2007-\_\_\_\_\_.  
**Case # M 2006-53. Homewise Old Las Vegas Highway Annexation.** Jennifer Jenkins, Agent for Homewise, Inc. Requests Annexation of 15.35± Acres of Land. The Area is Generally Located East of Old Las Vegas Highway and South of Old Pecos Trail and Also Includes the Annexation of 8.37± Acres of the Adjoining Old Las Vegas Highway Right-of-Way. (Greg Smith) **(Postponed at the July 11, 2007 City Council Meeting)**
- 5) CONSIDERATION OF BILL NO. 2007-34: ADOPTION OF ORDINANCE NO. 2007-\_\_\_\_\_.  
**Case #ZA 2006-21. Homewise Old Las Vegas Highway Rezoning from R-1 to R-3.** Jennifer Jenkins, Agent for Homewise, Inc. Requests Rezoning of 15.35± Acres of Land From R-1 (Residential, One Dwelling Unit Per Acre) to R-3 (Residential, Three Dwelling Units Per Acre). The Property is Generally Located East of Old Las Vegas Highway and South of Old Pecos Trail. (Greg Smith) **(Postponed at the July 11, 2007 City Council Meeting)**



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- 6) **Case # H-07-10.** Appeal of the Historic Design Review Board's Decision on March 13, 2007 Concerning Remodeling Located at 359 Garcia Street in the Downtown & Eastside Historic District. Laurie M. Silver Requests that the Governing Body Rescind the Conditional Approval to Construct a 335 Square Foot Addition on a Guesthouse and to Increase a Yardwall Height by 2 Inches Up to the Maximum Allowable Height of 6 Feet. (David Rasch)
- 7) CONSIDERATION OF BILL NO. 2007-37: ADOPTION OF ORDINANCE NO. 2007-\_\_\_\_\_.  
**Case #ZA 2007-01. Agua Fria Compound Rezoning.** Jim Hays and Associates, Inc., Agent for Marc Bertram and Eric Enfield, Requests Rezoning of 4.12 Acres from R-2 (Residential, Two Units Per Acre) to MU (Mixed Use). The Applicant Includes a Master Plan Illustrating the Siting of 32 Units Utilizing the Guidelines of the Mixed Use District to Provide Live-Work Spaces, Retail Space and Affordable Housing. The Property is Located on the South Side of Agua Fria Road and West of Harrison Road. (Greg Smith)
- 8) CONSIDERATION OF RESOLUTION NO. 2007-\_\_\_\_\_.  
**Case #M 2007-13. Beaty South General Plan Amendment.** Jennifer Jenkins, Agent for Building Services of Santa Fe Requests Approval of a General Plan Future Land Use Map Amendment to Change the Designation of 96.73± Acres of Land From Low Density (3 – 7 Dwelling Units Per Acre), Medium Density, Public/Institutional, Open Space and Business Park to "Low Density (3-7 Dwelling Units Per Acre)." The Area is Generally Located West of Richards Avenue and South of Governor Miles Road. (Greg Smith)
- 9) CONSIDERATION OF BILL NO. 2007-38: ADOPTION OF ORDINANCE NO. 2007-\_\_\_\_\_.  
**Case #M 2007-14. Beaty South Annexation.** Jennifer Jenkins, Agent for Building Services of Santa Fe Requests Annexation of 96.73± acres of Land as Well as The Adjacent 2.55± Acres of Richards Avenue Right-Of-Way, for a Total of 99.28± acres. The Area is Generally Located West of Richards Avenue and South of Governor Miles Road. (Greg Smith)





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- 10) CONSIDERATION OF BILL NO. 2007-39: ADOPTION OF ORDINANCE NO. 2007-\_\_\_\_\_.

**Case #ZA 2007-03. Beaty South Rezoning from R-1 to R-5.** Jennifer Jenkins, Agent for Building Services of Santa Fe Requests Rezoning of 96.73± Acres of Land From R-1 (Residential – 1 Dwelling Unit Per Acre) to R-5 (Residential – 5 Dwelling Units Per Acre). The Property is Generally Located West of Richards Avenue and South of Governor Miles Road. (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.**

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  
August 8, 2007

The governing body of the City of Santa Fe met in an executive session duly called on August 8, 2007 beginning at 6:25 p.m.

**The following item was discussed:**

**1) Potential Settlement of Annexation Litigation, Pursuant to §10-15-1 (H)(7) NMSA 1978.**

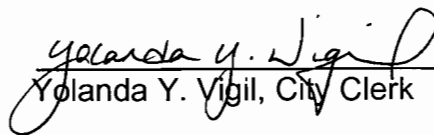
PRESENT

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

STAFF PRESENT

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

There being no further business to discuss, the executive session adjourned at 7:52 p.m.

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

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**August 8, 2007**

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CONSIDERATION OF BILL NO. 2007-33; ADOPTION OF ORDINANCE NO. 2007- 27. <u>CASE #M-2006-53.</u> HOMEWISE OLD LAS VEGAS HIGHWAY ANNEXATION. JENNIFER JENKINS, AGENT FOR HOMEWISE, INC., REQUEST ANNEXATION OF 15.35± ACRES OF LAND. THE AREA IS GENERALLY LOCATED EAST OF OLD LAS VEGAS HIGHWAY AND SOUTH OF OLD PECOS TRAIL AND ALSO INCLUDES THE ANNEXATION OF 8.37± ACRES OF THE ADJOINING OLD LAS VEGAS HIGHWAY RIGHT-OF-WAY	Approved [amended]	41-43
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<p>CONSIDERATION OF BILL NO. 2007-37; ADOPTION OF ORDINANCE NO. 2007- 29. <u>CASE #ZA-2007-01.</u> AGUA FRIA COMPOUND REZONING. JIM HAYS AND ASSOCIATES, INC., AGENT FOR MARC BERTRAM AND ERIC ENFIELD, REQUESTS REZONING OF 4.12 ACRES FROM R-2 (RESIDENTIAL, TWO UNITS PER ACRE) TO MU (MIXED USE). THE APPLICANT INCLUDES A MASTER PLAN ILLUSTRATING THE SITING OF 32 UNITS UTILIZING THE GUIDELINES OF THE MIXED USE DISTRICT TO PROVIDE LIVE-WORK SPACES, RETAIL SPACE AND AFFORDABLE HOUSING. THE PROPERTY IS LOCATED ON THE SOUTH SIDE OF AGUA FRIA ROAD AND WEST OF HARRISON ROAD</p>	Approved	55-59
<p>CONSIDERATION OF RESOLUTION NO. 2007- _____. <u>CASE #M-2007-13.</u> BEATTY SOUTH GENERAL PLAN AMENDMENT. JENNIFER JENKINS, AGENT FOR BUILDING SERVICES OF SANTA FE, REQUESTS APPROVAL OF A GENERAL PLAN FUTURE LAND USE MAP AMENDMENT TO CHANGE THE DESIGNATION OF 96.73± ACRES OF LAND FROM LOW DENSITY (3-7 DWELLING UNITS PER ACRE), MEDIUM DENSITY, PUBLIC/INSTITUTIONAL, OPEN SPACE AND BUSINESS PARK TO "LOW DENSITY (3-7 DWELLING UNITS PER ACRE)" THE AREA IS GENERALLY LOCATED WEST OF RICHARDS AVENUE AND SOUTH OF GOVERNOR MILES ROAD</p>	Postponed to next meeting	59-67
<p>CONSIDERATION OF BILL NO. 2007-38; ADOPTION OF ORDINANCE NO. 2007- _____. <u>CASE #M-2007-14.</u> BEATTY SOUTH ANNEXATION. JENNIFER JENKINS, AGENT FOR BUILDING SERVICES OF SANTA FE, REQUESTS ANNEXATION OF 96.73± ACRES OF LAND AS WELL AS THE ADJACENT 2.55± ACRES OF RICHARDS AVENUE RIGHT-OF-WAY, FOR A TOTAL OF 99.28± ACRES. THE AREA IS GENERALLY LOCATED WEST OF RICHARDS AVENUE AND SOUTH OF GOVERNOR MILES ROAD</p>	Postponed to next meeting	67

<b>ITEM</b>	<b>ACTION</b>	<b>PAGE #</b>
<p>CONSIDERATION OF BILL NO. 2007-39;  ADOPTION OF ORDINANCE NO. 2007- ____.</p> <p><u>CASE #ZA-2007-03. BEATTY SOUTH REZONING</u>  FROM R-1 TO R-5. JENNIFER JENKINS, AGENT  FOR BUILDING SERVICES OF SANTA FE,  REQUESTS REZONING OF 96.73± ACRES OF  LAND FROM R-1 (RESIDENTIAL – 1 DWELLING  UNIT PER ACRE) TO R-5 (RESIDENTIAL – 5  DWELLING UNITS PER ACRE). THE PROPERTY  IS GENERALLY LOCATED WEST OF RICHARDS  AVENUE AND SOUTH OF GOVERNOR MILES ROAD</p>	Postponed to next meeting	67
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**MINUTES OF THE  
REGULAR MEETING OF THE  
GOVERNING BODY  
Santa Fe, New Mexico  
August 8, 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 August 8, 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**

Councilor Trujillo said he would like to remove Item G(2) on the evening agenda.

**Councilor Trujillo moved, seconded by Councilor Bushee to approve the agenda as amended.**

**Discussion:** Councilor Trujillo said he is withdrawing Item G(2) dealing with the curfew in parks. He said based on input from the public, the sponsors have decided to remove it from the agenda and postpone it for four months. In the interim, a police blitz will be initiated to enforce the existing curfew law which states that all parks close at 10:00 p.m. He believes as we continue to hire more police officers, we can be more proactive to issues such as this one. The City has also ordered gates to close parking lots surrounding the parks after hours at Franklin Miles and Herb Martinez Parks. The sponsors, Councilor Trujillo, Councilor Heldmeyer and Councilor Ortiz, will be drafting a resolution calling for the City Manager and City Attorney to research whether a statute is needed. In the long term, we are looking at housing the City police or personnel on park grounds. He said the public has been heard and the request didn't fall on deaf ears, and assured residents around the parks that the problems will be resolved, and asked them to call the police and Councilors with any problems they may have.

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

**6. APPROVAL OF CONSENT CALENDAR**

Councilor Bushee asked to be added as a sponsor on Item 9(m)(1).

**Councilor Calvert moved, seconded by Councilor Chavez, to approve the following Consent Calendar, as amended. The motion was approved on the following Roll Call vote:**

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

**Against: None.**

**Absent: Councilor Wurzbarger.**

- a) **BID NO. 07/59/B – COMPOST SCREEN FOR WASTEWATER MANAGEMENT DIVISION; ELLEN EQUIPMENT, LLC. (NICHOLAS SCHIAVO)**
- b) **REQUEST FOR APPROVAL OF SOLE SOURCE PROCUREMENT – FUEL AND OIL RELATED PRODUCTS TO SANTA FE MUNICIPAL AIRPORT AND OTHER DEPARTMENTS IN AREA; HONSTEIN OIL. (ROBERT RODARTE)**
- c) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – STREET SWEEPER FOR STREETS AND DRAINAGE DIVISION; PETE’S EQUIPMENT. (MIKE VARGAS)**
- d) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – TWO (2) HEAVY DUTY TRUCKS FOR STREETS AND DRAINAGE DIVISION; BOB TURNER’S FORD. (MIKE VARGAS)**
- e) **REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO CONTRACT – CITY-WIDE SOURCE OF SUPPLY IMPROVEMENTS PROGRAM; ALPHA SOUTHWEST, INC. (MICHAEL GONZALES)**
- f) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE AND FEDERAL PRICE AGREEMENT – ITT RELATED SERVICES AND EQUIPMENT; VARIOUS VENDORS. (THOMAS WILLIAMS)**
- g) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – GOLF COURSE TURF EQUIPMENT; ELLEN EQUIPMENT CORPORATION. (LARRY LUJAN)**
- h) **REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO AGREEMENT – JUVENILE SERVICES; STATE OF NEW MEXICO, CHILDREN, YOUTH AND FAMILIES DEPARTMENT. (RICHARD DEMELLA)**

- i) **REQUEST FOR APPROVAL OF AMENDMENT NO. 3 TO LEGAL SERVICES AGREEMENT – LEGAL SERVICES FOR BUCKMAN DIRECT DIVERSION PROJECT; HAWKINS, DELAFIELD & WOOD, LLP. (RICK CARPENTER)**
- j) **REQUEST FOR APPROVAL OF LEASE AGREEMENT – SIX (6) BUSES FOR TRANSIT DIVISION; CREATIVE BUS SALES, INC. (JON BULTHUIS)**
  - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – 1/4% MUNICIPAL GRT FUND.**
- k) **REQUEST FOR APPROVAL OF FUNDING – INCLUDE GONZALES ROAD TRAIL UNDER CITY’S CURRENT LIST OF PRIORITIZED TRAILS. (ANNE MCLAUGHLIN)**
- l) **REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON AUGUST 27, 2007: BILL NO. 2007-42. AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A WATER PROJECT FUND LOAN/GRANT AGREEMENT BY AND AMONG THE NEW MEXICO WATER TRUST BOARD AND (THE “LENDERS/GRANT/GRANTORS”), THE CITY OF SANTA FE, NEW MEXICO (THE “BORROWER/GRANTEE”), AND THE BUCKMAN DIRECT DIVERSION BOARD AS OPERATOR OF THE PROJECT, IN THE AMOUNT OF \$2,000,000.00, EVIDENCING AN OBLIGATION OF THE BORROWER/GRANTEE TO UTILIZE THE LOAN/GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS OF A WATER IMPROVEMENT PROJECT TO FINANCE PHASE IV OF THE BUCKMAN SURFACE WATER DIRECT DIVERSION PROJECT INVOLVING RELEASE OF STORED SAN JUAN-CHAMA WATER FROM UPSTREAM RESERVOIRS AND SUBSEQUENT DIVERSION OF THE SAN JUAN-CHAMA WATER NATIVE RIO GRANDE WATER SUPPLIES FOR TREATMENT AND CONVEYANCE TO THE REGIONAL STORAGE AND DISTRIBUTION SYSTEM AND SOLELY IN THE MANNER DESCRIBED IN THE LOAN/GRANT AGREEMENT; PROVIDING FOR PAYMENT OF THE LOAN AMOUNT SOLELY FROM PLEDGED REVENUES; CERTIFYING THAT THE LOAN/GRANT AMOUNT, TOGETHER WITH OTHER FUNDS AVAILABLE TO THE BORROWER/GRANTEE, IS SUFFICIENT TO COMPLETE THE PROJECT; LOAN/GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN/GRANT AGREEMENT. (RICK CARPENTER)**
- m) **REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON SEPTEMBER 12, 2007:**
  - 1) **BILL NO. 2007-40 – AN ORDINANCE AMENDING SECTION 24-2.6 SFCC 1987, TO RESTRICT TRUCK, TRUCK TRAILER AND OTHER LARGE VEHICLE TRAFFIC ON LA CIENEGUITA, CALLE SOTERO, CALLE ANDELINA AND GONZALES ROAD, BETWEEN EAST ALAMEDA AND HYDE PARK ROAD (COUNCILOR CHAVEZ, COUNCILOR BUSHEE AND COUNCILOR CALVERT). (RICK DEVINE)**

- 2) **BILL NO. 2007-41 – AN ORDINANCE AMENDING SECTION 1-3.2 SFCC 1987, TO INCLUDE A SUBSTANCE ABUSE FEE AND A MUNICIPAL COURT BENCH WARRANT FEE; AND AMENDING SECTION 1-3.3 SFCC, TO BE CONSISTENT WITH THE CURRENT PRACTICE OF THE MUNICIPAL COURT (COUNCILOR HELDMEYER). (JUDGE ANN YALMAN)**
- n) **CONSIDERATION OF RESOLUTION NO. 2007- 70 (COUNCILOR HELDMEYER, COUNCILOR ORTIZ AND COUNCILOR WURZBURGER). A RESOLUTION DIRECTING CITY STAFF TO DEVELOP A PILOT PROJECT UTILIZING ALTERNATIVE DISPUTE RESOLUTION IN CERTAIN CASES WITHIN THE LAND USE DEPARTMENT. (JACK HIATT)**
    - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – GENERAL FUND CASH BALANCES.**
  - o) **CONSIDERATION OF RESOLUTION NO. 2007- 71 (COUNCILOR DOMINGUEZ AND COUNCILOR TRUJILLO). A JOINT RESOLUTION DIRECTING CITY AND PUBLIC SCHOOL STAFF TO PREPARE RECOMMENDATIONS FOR THE GOVERNING BODY AND THE BOARD OF EDUCATION REGARDING HOUSING ON SCHOOL PROPERTY FOR POLICE OFFICERS. (KATHY MCCORMICK)**
  - p) **AMENDMENTS – UNDERGROUND PARKING GARAGE AT RAILYARD: (FRANK ROMERO)**
    - 1) **REQUEST FOR APPROVAL OF SECOND AMENDMENT TO PARKING GARAGE DEVELOPMENT AGREEMENT – DEDUCTIVE CHANGE ORDER AND SUBSTANTIAL COMPLETION SCHEDULE EXTENSION; RAILYARD COMPANY, LLC.**
      - a) **REQUEST FOR APPROVAL OF CHANGE ORDER NO. 1.**
    - 2) **REQUEST FOR APPROVAL OF AMENDMENT NO. 5 TO AGREEMENT – ADDITIONAL CONSTRUCTION ADMINISTRATION SERVICES FOR UNDERGROUND PARKING STRUCTURE PROJECT; LLOYD & ASSOCIATES ARCHITECTS.**
      - a) **REQUEST FOR APPROVAL OF BUDGET INCREASE – PARKING ENTERPRISE FUND.**
  - q) ***[Removed for discussion by Councilor Calvert]***
  - r) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – SUPPORT AND IMPLEMENTATION OF SELF-SUFFICIENCY PLAN FOR CULTURE PORTAL; NEW MEXICO CULTURENET. (SCOTT BECKMAN)**
  - s) **REQUEST FOR APPROVAL OF INTERIM LEASE AGREEMENT – SHORT TERM TERMINAL SPACE AT SANTA FE MUNICIPAL AIRPORT; NEW MEXICO AIRLINES, INC. (JIM MONTMAN)**

t) *[Removed for discussion by Councilor Calvert]*

**7. APPROVAL OF MINUTES: Reg. City Council Meeting – July 25, 2007.**

Councilor Chavez moved, seconded by Councilor Calvert, to approve the minutes of the Regular City Council Meeting of July 25, 2007, as presented. The motion was approved on a voice vote, with Councilors Bushee, Calvert, Chavez, Dominguez, Heldmeyer, Ortiz and Trujillo voting for the motion, none against, and Councilor Wurzbarger absent for this action.

**8. PRESENTATIONS**

**a) EMPLOYEE OF THE MONTH FOR AUGUST 2007 – MELISSA BYERS, LEGISLATIVE LIAISON ASSISTANT, CITY ATTORNEY'S OFFICE.**

Mayor Coss introduced Melissa Byers, the employee of the month for August 2007, and read the nomination by Jeanne Price into the record. Mayor Coss presented Ms. Byers with a plaque and a check for \$200 from the Employees Benefit Fund.

Ms. Byers thanked the City for this honor, and Ms. Price for nominating her. She said she enjoys her work with the City, and gave special thanks to her supervisors Galen Buller, Frank Katz and Yolanda Vigil.

**b) INTRODUCTION OF NEWLY HIRED LATERAL OFFICERS: OFFICER DAVID WEBB, JR., OFFICER CIPRIANO VARELA, OFFICER PHIL FERNANDEZ, OFFICER JASON HILL AND OFFICER JIMMIE MONTOYA III. (CHIEF ERIC JOHNSON)**

Chief Johnson introduced the newly hired lateral officers and gave a brief bio on each officer.

Mayor Coss welcomed the new officers, and thanked Chief Johnson, Deputy Chief Montaña, Officer Paulk, Sergeant Alessio and the recruiting team for their efforts to fill vacancies in the Police Department.

Councilor Chavez welcomed the new officers and talked about the importance of community policing and park watch.

Responding to Councilor Bushee, Chief Johnson said the Department is now at 14 vacancies with several to be hired in the next two weeks, noting the vacancy rate is the lowest in many years. He said, although there are two retirements in the near future, the Police Department, if things go as planned, should have a waiting list for the first time in many, many years. He thanked Sergeant Alessio, Officer Paulk and the other members of the recruiting team for their outstanding efforts.

**c) SANTA FE COMMUNITY COLLEGE BOND ELECTION. (LIZ GUTIERREZ, SFCC BOARD CHAIR)**

A copy of a flyer on the upcoming Santa Fe Community College bond election is incorporated herewith to these minutes as Exhibit "1."

Linda Siegel, Vice-President of the SFCC Board, spoke about the \$25 million bond election, and how the funds would be spent, including the expansion of the health care and technical facilities so they can expand the training program for nurses and other occupational and technical programs to meet the work force needs and shortages predicted in the next five years. A short video was presented with regard to the proposed bond election.

Ms. Siegel introduced Mary D. Walters, Vice-President of Finance, Kris Swedin, Chief of Staff, and Kathy Abels, Chair of La Familia.

Kathy Abels, La Familia said La Familia is greatly in support of the bond issue, and will be assisting in the training. She said the removal of the dental clinic to the Community College will give more space at La Familia to provide needed services to the community. Ms. Abels introduced La Familia Board members in attendance.

**d) CITY OF SANTA FE'S NEW CERTIFIED COMMUNITY STATUS. (SECRETARY FRED MONDRAGON, NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT)**

Secretary Fred Mondragon thanked Mayor Coss, Craig Fiels, Scott Beckman, City staff and the City of Santa Fe for their efforts to make Santa Fe a certified city. He spoke about the requirements for certification and the accomplishments of the City. He noted that Santa Fe is the first City in the U.S. and the 3<sup>rd</sup> in the world to be designated an UNESCO City.

Secretary Mondragon presented a plaque to the City, and said this certification also brings an award of \$10,000 to Santa Fe.

Mayor Coss thanked Secretary Mondragon for the award, for the recognition, and the award of \$10,000 which will be put to good use for economic development.

**e) HACIENDAS – A PARADE OF HOMES 2007; SANTA FE AREA HOME BUILDERS. (GARY EHLERT)**

Mr. Ehlert spoke about this year's Parade of Homes 2007, noting that contributions from the proceeds are made to the High Schools, and invited all to participate. Mr. Ehlert, noting that Mayor Coss will be out of town next week, invited Mayor Pro-Tem Chavez and his wife to attend the Awards Ceremony at the La Fonda Hotel on Tuesday, August 14, 2007. He spoke about green building in Santa Fe and said the Green Code, when completed, will make Santa Fe a model for the nation.

**f) CITY MANAGER'S AWARDS**

*Mayor Coss added this item to the agenda with the consent of the Councilors.*

City Manager Galen Buller presented recognition awards for outstanding service in preparing Franklin Miles Park for the Little League Senior State Basketball Tournament to: Chris Romero, Ross, Greg Armijo, Joe Pena, Dave Lucero, Ray Apodaca, Robert Jimenez, Lawrence Aguilar, Leroy Leyba, Isaac Perea, Dave Archuleta, Donald Marquez, Lawrence Cordova, Leroy Apodaca, Barbara Lopez, Fabian Chavez, Chris Romero.

Mr. Buller thanked Laurie de Herrera for her assistance to a citizen curbside with refuse pickup, and presented her with a certificate.

Mayor Coss thanked the employees for their good work.

Councilor Chavez thanked the Parks crew for its work in keeping the parks clean and well maintained.

**CONSENT CALENDAR DISCUSSION**

**9. q) REQUEST FOR APPROVAL OF LICENSE AGREEMENT – ORACLE ENTERPRISE SOFTWARE UPGRADE FOR HUMAN RESOURCES AND PAYROLL; AMX INTERNATIONAL. (CARYN FIORINA)**

Councilor Calvert said at the Finance Committee meeting, the Committee asked for further information on the 250 licenses when this came to the Council, and it isn't in the packets.

Ms. Fiorina said she contacted AMX, and the 250 licenses are based on the City's operating budget. She introduced Aaron Webb and Scott Sears of AMX who are in attendance to explain the pricing and to answer any questions.

Mr. Webb said Oracle does its pricing in SMG [Small to Medium Government space], so the 250 represents the revenue tier under which the City is billed. He said it is an enterprise license, meaning unlimited access to the systems, so anyone in the City can access the software. He noted that the \$250 million metric is on the contract at the bottom of the page.

Councilor Calvert said then price has nothing to do with the licenses and this is the set price for our size of City.

Mr. Webb said this is correct.

**Councilor Calvert moved, seconded by Councilor Heldmeyer, to approve this request. The motion was approved on the following roll call vote:**

**For: Councilor Bushee, Councilor Calvert, Councilor Dominguez, Councilor Heldmeyer and Councilor Ortiz.**

**Against: None.**

**Absent: Councilor Chavez, Councilor Trujillo and Councilor Wurzbarger.**

- t) REQUEST FOR APPROVAL FOR WATER AND SEWER SERVICE UNDER PROVISIONS OF SECTION 22-6.2 AND SECTION 25-1.11 SFCC 1987; IDA VORUM ON BEHALF OF SOUTHWESTERN COLLEGE, LOCATED NORTH OF AIRPORT ROAD AT 3960 ABC SAN FELIPE ROAD. (ANTONIO TRUJILLO)**

Councilor Calvert said he found nothing in the packet with regard to the recommendation of the Public Utilities Committee [PUC], and asked PUC's recommendation.

Councilor Heldmeyer said this is a very strange case. The City previously had approved fire protection water for this group. The group has a septic system which it planned to improve and also have their own well. When the applicant appeared before the County, it sent them back to the City to ask for water and sewer, in spite of the fact that they already had water and sewer. The PUC recommended the applicant be offered sewer service, but not be offered water, and the applicant was perfectly happy with that recommendation. She noted the sewer is contingent on the applicant meeting City requirements, if not, they will have to go back to the County.

Responding to Councilor Calvert, Councilor Heldmeyer said the applicant would prefer to use its own well, noting that the applicant did what the County asked them to do. She noted the City has a policy to approve sewer connections within reach of the City's system, as well as that we do not want to approve water in the County frivolously. In this case, the Applicant already has the needed water, which strikes her as frivolous.

Councilor Calvert said previously in a similar issue, we requested a letter from the County indicating its willingness to renegotiate the agreement.

Councilor Heldmeyer said since PUC didn't recommend extending water service that didn't apply.

**Councilor Calvert moved, seconded by Councilor Heldmeyer, to approve the request for sewer service but not for water service.**

**Discussion:** Councilor Chavez indicated his support for the motion, and stated for the record that the way this was noticed is misleading because it reads "request for approval for water and sewer service," and we are clear that we are only approving sewer service. He said if the septic tank isn't properly maintained, it won't accommodate the growth of the area very far into the future. He said it is in the best interest of the environment to continue to approve sewer connections, which makes sense here.

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



**Against: None.**

**Absent: Councilor Wurzbarger.**

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**END OF CONSENT CALENDAR DISCUSSION**  
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**10. CONSIDERATION OF TINO GRIEGO POOL RESOLUTIONS:**

- a) **CONSIDERATION OF RESOLUTION NO. 2007 – \_\_\_\_ (COUNCILOR BUSHEE, COUNCILOR ORTIZ, COUNCILOR DOMINGUEZ AND COUNCILOR TRUJILLO). A RESOLUTION DIRECTING STAFF TO PREPARE A PROPOSAL FOR THE REMODELING AND OPERATION OF A TEEN CENTER AT THE TINO GRIEGO POOL. (RICK ANAYA) (Postponed at the July 25, 2007 City Council Meeting)**
- b) **CONSIDERATION OF RESOLUTION NO. 2007 – \_\_\_\_ (MAYOR COSS, COUNCILOR WURZBURGER AND COUNCILOR CALVERT). A RESOLUTION APPROVING THE SUB-LEASE OF THE TINO GRIEGO POOL AS A LOCATION FOR A WORK DEVELOPMENT CENTER FOR HIGH SCHOOL AND COLLEGE STUDENTS TO LEARN THE SKILLS OF THE FILM INDUSTRY. (MARTIN VALDEZ) (Postponed at the July 25, 2007 City Council Meeting)**
- c) **CONSIDERATION OF RESOLUTION NO. 2007- \_\_\_\_ (COUNCILOR HELDMEYER). A RESOLUTION DIRECTING STAFF TO PREPARE A PROPOSAL FOR THE REMODELING AND OPERATION OF A TEEN CENTER AT THE TINO GRIEGO POOL. (Postponed at the July 25, 2007 City Council Meeting)**

A copy of proposed Resolution 2007-72, introduced by Councilor Ortiz, cosponsored by Mayor Coss and Councilors Bushee, Trujillo, Dominguez, Wurzbarger, Heldmeyer and Calvert, is incorporated herewith to these minutes as Exhibit "2."

Councilor Ortiz said he distributed copies of a proposed substitute Resolution which he believes encapsulates all of the concerns which have been addressed at Committee, and the Resolution sponsored by Mayor Coss, and by Councilor Heldmeyer. He explained that the additions are underlined, and reviewed the amendments to the original Resolution.

**Councilor Ortiz would like to amend the Resolution page 3, line 15, as follows: "...the program costs and resources, and what..."**

Councilor Ortiz said this Resolution, he hopes, collapses the three resolutions into this substitute Resolution which sets out most of the major concerns with this facility and gets the ball rolling.

Councilor Chavez was added as a sponsor of the Resolution.

**Councilor Ortiz moved, seconded by Councilor Bushee, to adopt Resolution No. 2007-72, as amended.**

**Discussion:** Councilor Bushee suggested that this search for places to hold vocational and technical training not be limited to Tino Griego Pool.

**Friendly amendment:** Councilor Ortiz suggested amending the Resolution on page 3, line 14 as follows: "...as part of the Tino Griego remodeling and/or any other facility." **The amendment was friendly to the second and there were no objections from the other members of the Governing Body.**

*Councilor Wurzbarger arrived at the meeting at this time.*

Councilor Dominguez said we own the building and the School District owns the property.

**Friendly amendment:** Councilor Dominguez proposed adding a new Paragraph 3 on line 17 as follows: "Before the proposal is presented to the Public Works Committee, staff shall present the proposal to the School Board for their input. Staff shall keep the School Board informed regarding changes to the proposal, " and renumber #3 as #4. **The amendment was acceptable to the maker and second, and there were no objections from the other members of the Governing Body.**

**Discussion:** Councilor Chavez said what he finds interesting about the substitute resolution is that it is not either/or, a youth center or a training facility. He believes these two components are already there naturally, and all we need to do is to develop programs, so the facility can act as a youth center for activities which aren't as structured as some of the work force development language suggested. It would give the opportunity to look at different areas of interest in trades and opportunities which might otherwise not have existed. He said with the added language and effort, it is going in the right direction. If it works here, it can be used as a model for other learning institutions or to apply the technology we are learning and advancing to other buildings. He believes this would be putting this building to a good, mixed use, but with the understanding that we will expand this into other facilities and areas as the direction in which we want to go.

Councilor Trujillo thanked Councilor Ortiz and Councilor Heldmeyer for bringing this forward, and that we are doing something for the teens, especially in District 4.

Councilor Heldmeyer said we are talking about a retrofit situation, and the adaptive reuse of buildings is a green effort. If this focuses only on technology, we might be looking at a very expensive change to put in this technology when other things may be equally green, but less expensive.

**Friendly Amendment:** Councilor Heldmeyer proposed a friendly amendment on page 2, line 8, as follows: "...which utilizes green and/or solar building technology to the extent possible." **The amendment was acceptable to the maker and second, and there were no**

**objections by the other members of the Governing Body.**

Councilor Bushee said she wants to emphasize that she doesn't see this as a substitute for finding the funding and finishing Zona del Sol as a future teen center, and hopes that still remains a priority for the Council.

Councilor Ortiz thanked the Mayor for his consideration in thinking about this not an either/or situation, but as a combination approach, and this could be the model for other teen centers such as Zona del Sol and other potential sites. He thanked the Councilors for moving this forward.

Mayor Coss thanked everyone for their work on the Resolution, saying he loves to see Resolutions with nine sponsors.

Councilor Ortiz thanked Rick Anaya and staff for their work at Monica Roybal. This provides for a new facility for teens as well as expanding the capacity for the after-school program at Monica Roybal.

**The motion, as amended, was approved on 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.**

Councilor Bushee thanked Mr. Anaya and the youth who brought forward this concept to ensure that this is a teen center.

Councilor Chavez said it is a teen center and more.

**11. SCHEDULING FOR CONSIDERATION OF CHARTER AMENDMENTS. (FRANK KATZ)**

Mr. Katz said the Charter Commission has made its recommendations, and the Ethics and Rules Committee has heard those and made amendments to the proposed Charter Amendments. This is on the agenda today to determine the next steps – schedule a study session, refer to Committees or bring it directly to Council.

Mayor Coss suggested it should be brought straight to the Council for a public hearing and get it out to the public.

Councilor Bushee noted the Ethics and Rules Committee sent it forward to the Council.

Councilor Ortiz said the Committee sent the proposals forward, but what the Council needs to determine is the sequencing of when these particular items need to be before the Council for inclusion on the March 2008 ballot. He said some of the items need to go to

Finance, and we need a date to hear the actual language at Finance and then here at the Council.

Mr. Katz said this doesn't have to go to the Finance Committee if the Council doesn't want it to go, but it would be appropriate.

Councilor Ortiz said two have to go to Finance, the ranked choice voting and public financing of elections, both of which have a fiscal impact. He said the petition requirements, qualifications of the Municipal Judge and powers of the Mayor don't necessarily have a fiscal impact. Some of the problems and discussions on ranked choice and public finance at Ethics and Rules were specifically about financing. However, before that is done, we need to decide when we have to approve it here and whether to have this as a public hearing.

Ms. Vigil said the Governing Body would need to approve the proposed Charter and any other questions to go on the ballot by the first meeting in October, and then adopt the Election Resolution on November 14<sup>th</sup>. She said everything will need to be complete by the first of October – Committee process, public hearings, study sessions.

**Councilor Ortiz moved, seconded by Councilor Wurzbarger, to schedule a public hearing on the Evening Agenda at the first City Council meeting in October 2007.**

**Discussion:** Mr. Katz would like to move it a little closer, so there would be some flexibility if additional time is needed, perhaps at the last meeting in September.

Ms. Vigil said if the Council wants to hold a Study Session or a special meeting, August 22<sup>nd</sup> is an available date.

**Friendly amendment:** Councilor Ortiz would like to amend his motion to schedule a public hearing at the last meeting in September. **The amendment was friendly to the second, and there were no objections from the other members of the Governing Body.**

Mr. Buller said there have been three requests from staff or Governing Body members for study sessions. There has been discussion about study sessions on the space needs assessment and how it relates to property acquisition, the parks and the parks plan, and affordable housing as it relates to the real estate transfer tax. He asked direction about combining these into one session, or to have two or three separate sessions.

Councilor Heldmeyer said the Affordable Housing study session has been scheduled on August 23<sup>rd</sup>, but she doesn't think this date will work for most of the Council.

Councilor Heldmeyer said when this comes to the Council, the Council will vote item by item on these, and not as a package deal.

Mr. Katz said yes.

Councilor Heldmeyer asked if these will be presented as individual items on the ballot or as a "lump."

Mr. Katz said it is the intention of the Revision Commission to have them as five separate items.

Councilor Heldmeyer said when the Council considers this, she would like the Council to see a list of things which weren't accepted, but which were proposed, to or by the Charter Commission and/or the Election Review Committee.

Mr. Katz said this is in the report submitted by the Charter Revision to the Governing Body.

Councilor Heldmeyer said that was some time ago, and it would be nice to have a one page listing, as opposed to having to review the report and/or the minutes.

**The motion, as amended, was approved on a voice vote with Councilors Bushee, Calvert, Chavez, Dominguez, Heldmeyer, Ortiz, Trujillo and Councilor Wurzbarger voting for the motion and none against.**

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

### **a) EMPLOYEE RECOGNITION CERTIFICATES**

This item was done previously in the meeting under Presentations.

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

### **EXECUTIVE SESSION**

#### **Potential Settlement of Annexation Litigation, Pursuant to §10-15-1(H)(7) NMSA 1978**

**Councilor Chavez moved, seconded by Councilor Calvert, that the Council go into Executive Session for the purpose of the discussion of potential settlement of annexation litigation, pursuant to §10-15-1(H) (7). The motion was approved on a Roll Call vote as follows:**

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

**Against: None.**

**Absent: Councilor Bushee.**

**The Council went into Executive Session at 6:18 p.m.**

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

At 7:13 p.m., Councilor Chavez moved, seconded by Councilor Trujillo, that the City Council come out of Executive Session and stated that the only item which was discussed in executive session was the potential settlement of annexation litigation, and no action was taken.

The motion was approved unanimously on a voice vote with Councilors Calvert, Chavez, Dominguez, Ortiz, and Wurzburger voting for the motion, no one voting against, and Councilors Bushee, Heldmeyer and Trujillo absent for this action.

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

There were no matters from the City Clerk.

### **END OF AFTERNOON SESSION AT 7:14 P.M.**

*The Council moved directly into the Evening Session without a break*

## **EVENING SESSION**

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

The Evening Session was called to order by Mayor David Coss, at approximately 7:15 p.m. 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

### **E. PETITIONS FROM THE FLOOR**

A Memorandum dated July 31, 2007, to Galen Buller, City Manager, from Dave McQuarie, Chair, Mayor's Committee on Disability, regarding Sidewalks, Curb Ramp Obstructions, is incorporated herewith to these minutes as Exhibit "3."

Dave McQuarie referred to his Memorandum, Exhibit "3," saying that some members of the City staff do not respond to the general public for one reason or the other. He asked when the City is going to address the issue of the newspaper racks obstructing the sidewalks and curb ramps at San Francisco/Cathedral, Palace Avenue/Cathedral and San Francisco/Burro Alley.

Mayor Coss referred the issue to Mr. Buller.

**Stefanie Beninato, 604 Galisteo**, said she is here again regarding 610 Galisteo. She said two weeks ago "you" directed City staff to preserve the walls, and "you" suggested they get a structural engineer out there and take a bond. She said no bond was taken and no structural engineer went to the site. She said Mike Purdy, who has a certificate in adobe construction went to the site, and she was told tonight by Mr. Buller that Mr. Purdy has found the walls to be structurally sound. However, since Monday, the walls of the historic home have been taken down. She said she has passed out pictures which most people have seen. [Note: These photographs were not entered for the record.] She offered to show them to the Governing Body and the audience.

Ms. Beninato said Mr. Owen Nelson submitted an affidavit to the City Attorney, who thought that this was sufficient – that an owner/builder, non-engineer, non-architect, non-licensed contractor could just say this under oath and it would be fine.

Ms. Beninato quoted from Mr. Nelson's affidavit of July 12<sup>th</sup>: "At this time, I'm not aware

of any need to replace or remove any other historic material." She said he then proceeded to remove almost 30% of the walls of the walls in the casita, lowering them down. Further, "The existing footings will be reinforced with the addition of mortar." She said in the past two weeks, Mr. Nelson has constructed a block foundation, and showed photos she says are of the area. She said it is not poured mortar and he has probably removed the footings, saying he also said he wasn't going to have to remove any of the foundation, and that he was just going to pour around it per his permit.

Ms. Beninato said "he" has removed, on the main house the part that faces the street, 30% of the walls within the past three days. She said there has been a huge dumpster full of adobe since Monday. She said "he" has taken out more than 15 dumpsters full of adobe. She said he has to have a special exception to take down the exterior walls, and she said he does not have a special exception to take down any of the exterior walls. She said this building is being destroyed daily.

Ms. Beninato said she is asking that "you" direct Mr. Buller to have somebody go out there and red tag it at 8:30 a.m., without discussion, and that you send it back to H-Board for reconsideration. She said the Code is clear that any alteration has to be approved by the H-Boar, not by the City Attorney, not by Jack Hiatt, and you need approval to replace things. The idea is to preserve the historic structure and not to allow it to be replaced in kind. She said Mr. Hiatt tells her the City isn't going to do anything, and that "I" am the neighbor who has to enforce the Zoning Code.

Ms. Beninato said another problem is that "he" is too close to her lot line. She advised the City on Monday last week before he poured the foundation, but Mr. Hiatt said "proceeding at your own risk," for a developer means the City will do all of the inspections and that the next door neighbor will have to enforce the Zoning Ordinance. She has requested the bond he was supposed to produce so she can do that, but Mr. Hiatt now tells her he isn't going to talk to her at all, because at the bottom of her email she said, "You are giving me a lot of ammunition for a gender, race discrimination lawsuit." She said she didn't threaten a lawsuit, she simply said that "You are being really stupid, because what you're doing is giving me the basis for a lawsuit." She asked that "you" also direct to also talk to her, and asked what "your honor" is going to do.

**Sean Knight, 212 Tesuque St.**, said he is the Treasurer of the Santa Fe County Green Party. He is here to petition the Governing Body to, with haste, take the recommendations of the Charter Review Commission and place them on a ballot, so "we" can start to educate the public so they can make a decision, so we need to know when this is going to be on the ballot. He spoke about the process, and the input, saying the Commission did a very good job. He wants the Governing Body to move forward and not slow the process, and let the voters decide.

Mayor Coss said the Governing Body voted on this tonight, and it will be before the Council at the last meeting in September for action on the March 2008 ballot.

**Ms. Beninato** asked Mayor Coss what he is going to do about her request.

Mayor Coss said he will recommend, as usual, that the staff pay strict attention to this matter and ensure he is following the Historic Code and land use law at that site. He will not tell him to red tag it first thing in the morning, because he doesn't have the jurisdiction, knowledge or authority to do that.



## **F. APPOINTMENTS**

### **Children and Youth Commission**

Mayor Coss appointed the following individuals to the Children and Youth Commission:

Matthew Carrasco-Trujillo – to fill unexpired term ending 01/2008; and  
Ernestine B. Gallegos de Hagman – to fill unexpired term ending 01/2009.

**Councilor Bushee moved, seconded by Councilor Calvert, to approve these appointments.**

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

## **G. PUBLIC HEARINGS**

- 1) **PURSUANT TO §60-6B-10 NMSA 1978, A REQUEST FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE SALE/CONSUMPTION OF ALCOHOLIC BEVERAGES AT THE PARKING LOT OF THE BURNETT FOUNDATION BUILDING, 123 GRANT STREET, WHICH IS WITHIN 300 FEET OF THE FIRST PRESBYTERIAN CHURCH, 208 GRANT AVENUE. THE REQUEST IS FOR THE FOLLOWING EVENT:**
  - a) **THE GEORGIA O'KEEFFE MUSEUM'S 10<sup>TH</sup> ANNIVERSARY CELEBRATION TO BE HELD ON SATURDAY, AUGUST 25, 2007, FROM 5:00 - 11:00 P.M.**  
**(YOLANDA VIGIL)**

The staff report was given by Yolanda Vigil, who noted that there is a letter in the Council packet from the First Presbyterian Church stating that they do not object to this event.

### **Public Hearing**

**There was no one speaking for or against this request.**

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

**Councilor Bushee moved, seconded by Councilor Calvert, to grant the request for a waiver of the 300 foot location restriction and approval to allow the sale/consumption of alcoholic beverages as requested.**

**The motion was approved on 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.**

- 2) CONSIDERATION OF BILL NO. 2007-25; ADOPTION OF ORDINANCE NO. 2007- \_\_\_\_ (COUNCILOR HELDMEYER AND COUNCILOR TRUJILLO). AN ORDINANCE AMENDING SECTION 16-13.6 SFCC 1987, REGARDING CURFEW FOR PARKS AND RECREATION AREAS. (FABIAN CHAVEZ). (POSTPONED AT THE JULY 25, 2007 CITY COUNCIL MEETING)**

This item was removed from the agenda by the sponsors and postponed for four months.

- 3) CONSIDERATION OF RESOLUTION NO. 2007- 73. Case #M-2006-52. HOMEWISE OLD LAS VEGAS HIGHWAY GENERAL PLAN AMENDMENT. JENNIFER JENKINS, AGENT FOR HOMEWISE, INC., REQUESTS APPROVAL OF A GENERAL PLAN FUTURE LAND USE MAP AMENDMENT TO CHANGE THE DESIGNATION OF 15.35± ACRES OF LAND FROM MOUNTAIN/CORRIDOR TO RESIDENTIAL, VERY LOW DENSITY. THE AREA IS GENERALLY LOCATED EAST OF OLD LAS VEGAS HIGHWAY AND SOUTH OF OLD PECOS TRAIL. (GREG SMITH) (Postponed at July 11, 2007 City Council Meeting)**

*Items G(3), G(4) and G(5) were combined for purposes of presentation and discussion, but were voted upon separately.*

A Memorandum dated August 1 for August 8, 2007 City Council Meeting, with attachments, to the City Council, from Donna Wynant, Senior Planner, Current Planning Division, regarding Case #M 2006-52, Case #M 2006-53 and Case #ZA 2006-21, is incorporated herewith to these minutes as Exhibit "4."

A copy of "Old Las Vegas Hwy Annexation," with attached photographs, entered into the record by Jennifer Jenkins, is incorporated herewith to these minutes as Exhibit "5."

A copy of the City Planning Policy Commission Agenda and packet for the meeting of May 23, 2007, is incorporated herewith to these minutes as Exhibit "6."

The "City & County Resident's Petition Against the Annexation & Rezoning of County Land to Allow High Density Housing Development," entered into the record by Marla Thompson, is incorporated herewith to these minutes as Exhibit "7."

A copy of a letter dated August 7, 2007, to the Santa Fe City Council, regarding Old Las Vegas Highway Subdivision application for Annexation, General Plan Amendment, Rezoning – Violation of City Code, from Marilyn McGonagle, Quail Run HOA and Marla K. Thompson, Arroyo Chamiso and Sol y Lomas Neighborhood Association, is incorporated herewith to these minutes as Exhibit “8.”

A copy of a letter dated August 7, 2007, to the Santa Fe City Council, regarding Old Las Vegas Highway Subdivision application for Annexation, General Plan Amendment, Rezoning – Violation of City Code, from Marilyn McGonagle, Quail Run HOA, Marla K. Thompson, Arroyo Chamiso and Sol y Lomas Neighborhood Association, and signed by Evalyn Bemis, Arroyo Hondo Land Trust, is incorporated herewith to these minutes as Exhibit “9.”

A copy of the statement for the record, dated August 8, 2007, to Mayor David Coss and the Santa Fe City Council, submitted by Ann Lacy, is incorporated herewith to these minutes as Exhibit “10.”

A folder containing a packet of information, including emails against the annexation and rezoning of County land, submitted for the record by Marilyn Bane, is incorporated herewith to these minutes as Exhibit “11.”

Petition Signatures, “City & County Resident’s Petition against the Annexation & Rezoning of County Land to Allow High Density Housing Development, submitted for the record by Marilyn Bane, are incorporated herewith to these minutes as Exhibit “12.”

Petition Signatures “to Support Homewise’s Development on Old Las Vegas Highway,” submitted for the record by Signe Lindel, is incorporated herewith to these minutes as Exhibit “13.”

The staff report was presented by Greg Smith which is contained in Exhibit “4.”

#### **Staff Recommendation:**

The Planning Commission and staff recommend approval of each of the three applications based on approval criteria in corresponding Code Sections 14-3.2, 14-3.4 and 14-3.5, SFCC 2001.

The Planning Commission reviewed the applications on May 3, 2007, and recommended the applicant comply with requirements as provided by the following City Departments at the time of subdivision since the rezoning application does not include a development plan, the requirements of most of those memos will apply when an application for subdivision or other development is filed.

- 1) Engineering Division traffic review (memo attached)
- 2) Subdivision Engineer (memo attached)
- 3) Fire Department (memo attached)
- 4) Landscaping Requirements (memo attached)
- 5) Trails and Open space (memo attached)
- 6) Water Division (memo attached)
- 7) Wastewater Division (memo attached)
- 8) Solid Waste Division (memo attached)
- 9) Letter from Craig Watts, P.E., regarding traffic calculations (letter attached)

The City Planning and Policy Commission recommendation was made for denial (3-2) at their May 23, 2007 meeting.

## **Public Hearing**

### **Presentation by the Applicant**

*[all those speaking were sworn en masse]*

**Jennifer Jenkins, Jenkins-Gavin Design & Development, on behalf of Homewise, was sworn.** Ms. Jenkins said she would be presenting all three applications at the same time, and will be as concise as possible. She introduced her partner Coleen Gavin, Mike Lofton and Emily Ford of Homewise, and Craig Watts, Traffic Engineer for the project.

Ms. Jenkins presented information on the subject site using an enlarged drawing. They are requesting, in addition to annexation, a rezone to R-3 allowing 3 dwelling units per acre, noting Quail Run next to the property is zoned R-4. The project is located in a transitional area between urban and rural densities, and she believes R-3 is appropriate which would allow a total of 50 homes which are a combination of attached and detached dwelling units.

Ms. Jenkins said the applicant is required to get permission from DOT to annex the adjacent Old Las Vegas Highway right-of-way, and an official letter of request was submitted to the DOT over a month ago. Yesterday, Pat Oliver Wright in General Counsel's Office read the DOT's consent letter stating they are consenting to the annexation because it changes nothing in terms of ownership and maintenance of a State highway. The Old Las Vegas Highway will remain under the ownership of the DOT and it will continue to maintain it. She is confident she will have the letter in hand within two days. She advised the City Attorney, Greg Smith and Jack Hiatt, that if the application is approved, the applicant is asking for a condition of approval that the letter be provided to the City prior to annexation.

Ms. Jenkins said, in addition to complying with the 30% affordable housing requirement for the Santa Fe Homes Program, 50%, or 25 units, will be priced as low priced dwelling units per the City's definition, with the remaining units priced affordably to those not exceeding 120% of the area median income, so the maximum home price in the neighborhood will be about \$300,000.

**Colleen Gavin [previously sworn]**, reviewed the slope analysis using enlarged drawings. She said the site is approximately 15 acres, and approximately 11% of the site are 20% slopes or greater, 2.3% are 30% slopes or greater, and 89% is 0-20%. This is a very buildable area for the proposed development. She demonstrated the two minor drainage ways on the site on the enlarged drawing, noting this has been maintained as undisturbed open area.

Ms. Jenkins said a key design element is the quantity of open space, which is 5 acres which 3.5 times the minimum requirement, which is part of the effort to be sensitive to the surrounding area.

Ms. Gavin said they have tried to maintain the existing topography, maintaining the existing drainage ways and minimizing the disturbance to the natural terrain. They worked with the engineer to engineer the roadways so they work with the terrain, and access to the lots are in conjunction with the natural characteristics of the property. She said 11% of the site is being reserved as open space, with plenty of usable area to serve the community at large.

Ms. Gavin said there were numerous meetings with the neighbors to get their concerns and input. Initially, the project was all single-family lots, but the neighborhood would like to see some clustered housing. They are proposing some clustered housing with a cul de sac to serve individual garages, and on the southeastern side they are proposing patio homes attached with a central open space. They are trying to create variety on the site plan. She demonstrated the extension of the Old Las Vegas Highway right-of-way, so there is a setback from the pavement, and they are providing an additional minimum 50 ft. setback from the property line to the lot line. The Land Use Code provides that they need to provide 15 ft. rear yard setbacks, so there is a 50 ft. setback to the lot property line, and there would be an additional 15 ft. minimum setback to any structure on the lot. In essence, there is a minimum of 135 ft. to 150 ft. to any structure, noting they have tried to vary the setbacks, and demonstrated this on the drawing.

Ms. Jenkins said the applicant had a series of 7 meetings between 11/2006 and 05/2007, with various groups including the Quail Run Association, the ACSYL Neighborhood Association, the Old Las Vegas Highway Task Force and various interested neighbors in the area. One of the suggestions which was incorporated was cluster housing to increase the open space and to break up what is happening on the site.

Ms. Jenkins said two other issues of importance to the neighbors were in regard to visibility. The first is how do we impact the gateway, noting Old Pecos Trail is often described as the last unspoiled gateway into the City of Santa Fe. A visual study was done of the area and the property really isn't visible from Old Pecos Trail in terms of exiting from the Interstate to the signalized intersection at Old Pecos Trail and Old Las Vegas Highway, and not really part of the gateway in terms of this entrance into Santa Fe.

Ms. Jenkins said the other area of concern was the visual impact on the Old Las Vegas Highway, and what could be seen of the project driving to Arroyo Hondo. Ms. Jenkins distributed copies of pictures taken in this area [Exhibit "5"], and demonstrated what could be seen using the enlarged photos heading south. She said she isn't claiming that the project will be invisible, but she does not accept that well designed, well-built homes will have a huge negative impact on this visual corridor. She said single story homes will be built on the higher elevation lots, while possibly building two-story homes only on the lower elevation lots with minimal visibility. She said the vegetation will remain, and the project is quite a bit lower than Quail Run, and adequately screened with the significant setback from the edge of the roadway.

Ms. Jenkins said, with regard to the request for a General Plan Amendment, the general plan designates this property as mountain corridor, one dwelling unit per ten acres. However, there are inconsistencies in the General Plan with this designation. The General Plan provides that mountain properties with a mountain designation are designated because they have an elevation of 7,400 ft. or more, and this property is lower than that, so it doesn't meet the criteria

as a mountain designated property. The designation with respect to corridor is inconsistent with the City's Highway Corridor Protection Ordinance, within which this property falls. She said they are in full compliance with all of the current highway protection district regulations.

Ms. Jenkins quoted from Section 1.7.1 of the General Plan, "Opportunities are to be provided for housing for all income segments of the population in all areas of the city." She said this is a guiding policy of the General Plan which is supportive of the Applicant's request to amend the General Plan.

Ms. Jenkins said the property is in the urban area boundary, and quoted from the General Plan, "In order to achieve a compact urban form, the City should be prepared to annex land designated for growth within the urban area." Ms. Jenkins said the property is in Staging Area 1, which encompasses the highest priority for urban growth.

Ms. Jenkins said concern also was expressed about the status of the Old Las Vegas Highway as a portion of the old Route 66. She said they did research, and had numerous conversations with the National Park Service Route 66 Preservation Program, to understand the preservation effort. She said it is about preserving the original footprint of the road, and they spoke with the National Park Service and offered an opportunity to do an interpretive pull-out at the subdivision, and said the applicant is excited about this. She said they love the fact that this project can be part of the history of this very special roadway. However, nowhere in the documents they reviewed, was there discussion about the need to preserve open space surrounding the roadway. She said Route 66 was about life and movement, and quoted from the study done as part of the act to preserve Route 66, "The Act recognizes that Route 66 has become a symbol of the American people's heritage of travel and their legacy of seeking a better life." She said there is nothing more important in seeking a better life than home ownership for the families in our community.

**Craig Watts, Project Engineer, [previously sworn]**, said the intersection of Old Las Vegas Highway/Old Pecos Trail is the major intersection which could be impacted by this project. He said the conclusion from his traffic study is that this project basically will contribute approximately 1% of the traffic that is experienced at the intersection during the peak hours – a little less than 1% in the morning peak hour and a "hair" over 1% in the afternoon peak hour. Basically, the project generates very minor traffic at that intersection. He said the analysis revealed existing problems at the intersection, but the intersection overall works just fine during the peak hours. However, there are some movements which experience minor delays. He developed solutions for those problems, bearing in mind that this is an existing problem. He proposed the solutions in the study to the City and State DOT staff, both of which concurred that the solutions are feasible. He proposed two options, both dealing with reconstructing the right turn lane from the Old Las Vegas Highway onto Old Pecos Trail. He also proposed in the study, even though this is an existing problem, that the applicant contribute a fair share toward helping to fix the existing problem. He determined the fair share would be about 5% of the cost, based on the traffic generated which uses the appropriate movement. The developer agrees to contribute those funds above and beyond any impact fees which may be paid on the project.

**Emily Ford, Homewise [previously sworn]**, said traffic is an issue for the whole City.

She spoke about the impact of this development on the entire City traffic problem, saying they believe this development has the potential to reduce the City's traffic problems. She said Old Las Vegas Highway is conveniently situated near a lot of job centers – St. Michael's medical area, downtown, St. Francis retail and office buildings. They looked at alternative housing options for a hypothetical nurse at St. Vincent's Hospital who might live at Tierra Contenta, Rancho Viejo, Glorieta, Pecos, or Rio Rancho, to look at the impact of that commute compared to a commute from the Old Las Vegas Highway development. Ms. Ford demonstrated the area on the enlarged map. She said there is a larger effect on the City's traffic problems in commuting from Rancho Viejo, Tierra Contenta or Rio Rancho. She said you don't solve traffic problems by pushing housing farther and farther from the job centers. The way to tackle traffic is to improve the City's jobs housing balance by having housing in all areas of the City. They believe developments such as this one, can help the City's traffic situation, with an environmental benefit by reducing the carbon footprint of the City.

Ms. Ford said Homewise is committed to the concept of green building, energy efficiency, water efficiency and energy efficient appliances and fixtures, active solar water heating and such, which they will be doing at this development. She said green community means compact development, bicycle paths, stormwater harvesting and management and using native and low water using plants and landscaping. An added feature is healthy homes, using materials which don't off gas as much with proper ventilation to bring in fresh air and reduce mold, with carbon monoxide detectors and such. These are all items to which they are committed in this development.

Ms. Ford said, with regard to water, they can save more water than they anticipate using at this development. She demonstrated the water saved during two years of the water smart program in retrofitting existing homes for water saving features combined with the toilet retrofits they will do to offset the water usage. The water usage is estimated at 9 afy for the development, noting they have saved well over the 9 afy through the water smart program.

Ms. Ford said Homewise is known for affordability. She said half of the homes will be priced under \$200,000, with a combination of Santa Fe Homes Program units and low-priced dwelling units. The other half will all be priced under \$300,000. They are trying to achieve a good mix of incomes and households, with the lowest at \$24,000 to almost \$80,000 annually. They expect it to be a stable neighborhood. The homebuyers are required to be owner occupied and they don't sell to investors. There is also stability because there is a very low default rate due to the work with the buyer before the home is purchased, noting the default rate is 1.34% as compared to Fannie Mae at over 3% and the sub-prime industry is over 7%.

Ms. Ford said Homewise is excited about the possibility of having 50 homes on the east side of town. She said the median sales price in the SE sector is \$630,000, well above what a teacher or nurse can afford. She said the median home price in the SW sector is still above what a nurse, a police officer or a teacher can afford. She is concerned about the difference between the SW sector and the SE, NE and NW sectors. Ms. Ford said 92% of the new, affordable homes which have been created since 1994, are on the south side with only 7% on the northwest and northeast sides. She complimented the City for adopting the Santa Fe Homes Program with a policy statement saying that we want a City where everyone feels



included and there are economic diversity and affordable options throughout the City. This hasn't been achieved, and the City needs lots more than 50 homes to get a balance.

**Mike Lofton, Homewise [previously sworn]**, said over the last 20 years, Homewise has worked very hard to help people purchase their first home, and to help people owning a home to keep that home by making repairs and needed improvements. They are most proud of this effort to bring to bring 50 affordable homes to the east side. He said the conventional wisdom is that affordable housing isn't feasible on the east side because of the cost. He has even heard that people of modest means won't be comfortable living on the east side. He is proud to say that it is possible to make affordable housing a possibility in all parts of the City, including the east side. He said this is a very rare opportunity to triple the affordable housing on the east side.

Mr. Lofton understands the neighbors are concerned about the impact of this project, and Homewise takes these concerns very seriously, and will do its best to address these concerns. The long term goal, if this is approved, is that once the homes are built and families move in, the people who opposed the project will come to appreciate their new neighbors and will be glad that there are police, nurses and other service industry employees living in the neighborhood. He thanked the City for its commitment to affordable housing, and the people who have supported this project. He urged those who are having difficulty in buying a home in Santa Fe not to give up. He said until everyone has the opportunity to buy a home their work isn't done.

#### **Those speaking in opposition to the project**

Mayor Coss gave each person 4 minutes to speak, and asked that people not be repetitive in their remarks.

*[all those speaking were sworn en masse]*

**Ann Peterson, 116 Calle Enlace, in Sol y Lomas, and a Director of ACSYL Neighborhood Association, was sworn.** Ms. Peterson said the ACSYL is quite a mixed Association with single family homes, condos, apartments and commercial development. The Association is concerned about this development for several reasons. One, is the nature of the parcel of land on Old Las Vegas Highway, adjacent to the intersection at Old Pecos Trail, both of which are part of historic Route 66 which was designated by the U.S. Congress as a nationally significant highway worthy of legal protection. She said they stated in the proclamation that a historic highway is more than asphalt, and the visual features along the way make it significant. Together, these constitute the last unspoiled gateway to the City. She said in many policy documents, the City has promised to protect this corridor, and this roadway is the heritage of every citizen of Santa Fe.

Ms. Peterson said the proposed development at R-3, an effective density of R-5, with 50 dwellings on 10 acres is not in keeping with the preservation of the corridors, and will negate previous efforts, such as the purchase of the proposed Popps property in 2000, with \$600,000



of City, County and private funds to keep this entry way scenic and unspoiled. If approved, it will set a precedent for urbanization of the area and annexation and rezoning of County land.

Ms. Peterson said they feel the proposed density is too great, noting the current zoning is "mountain corridor" which she believes is "mountain/corridor," allowing one building per ten acres. The proposed annexation and rezoning would increase the density over 30 times. The 50 homes would add more than 100 car trips per day to an intersection which Ms. Jenkins admitted at several meetings had officially been designated as "failed" by the Department of Transportation – the Old Las Vegas Highway/Old Pecos Trail intersection. She noted that lessening of traffic congestion is the stated goal of the General Plan, and the proposed development would increase this on a roadway dangerously close to capacity. In addition, two points of egress from the development will, in their opinion, constitute a safety hazard on a road with heavy traffic in a stretch where people routinely exceed the speed limit.

Ms. Peterson said in a February 2, 2007 letter to the Mayor, County Roman Abeyta wrote, "Moving forward with the annexation of Old Las Vegas Highway Subdivision will jeopardize the integrity of the agreements being developed through the RPA, and will constitute a breach of the Fourth Amended and Restated Joint Powers Agreement and as amended from time to time. On behalf of Santa Fe County, I urge you to postpone any actions until such time as the RPA has completed development of an annexation plan and that plan has been adopted by both the City and the County."

Ms. Peterson said the Association is deeply concerned that the proposed annexation is development driven rather than policy driven. She said the City should follow its own procedures, and follow the RPA Regional Future Land Use & Growth Management Plan. She said we, as an Association, support affordable housing, but believe that no one issue should dominate the thinking of the Council. Once developed, the corridor is gone. For these reasons, "we" urge the City Council to follow the lead of the CPPC and not approve the General Plan Amendment, Annexation and Rezoning as proposed.

**Evelyn Bemis, President of the Arroyo Land Trust [previously sworn]**, submitted petitions containing 81 signatures from Arroyo Hondo out of 150 homes there [Exhibit "12"]. She said Homewise has done an excellent job in presenting its case for approval, and Homewise has addressed many of the key concerns, but the one which seems to her to be glaringly not addressed, is the impact on all of the surrounding properties in which County residents don't have a voice here. She understands the City Council was going to send this project back to the County for it to comment on the annexation, and "you" haven't even allowed that time to happen.

Ms. Bemis, using the Applicant's overall topography map showing Quail Run and this land, pointed out that there is quite a bit of land, all of which is constrained by the same two access points – Old Las Vegas Highway and Old Santa Fe Trail. She said she doesn't know how you approved this project and what criteria you follow for all of the other pieces that are there, in that you will be amending all your policies to allow this one project. She feels that is the wrong way to go about this, and there should have been much greater involvement. She doesn't believe Homewise was required to have an ENN for people in the County, or she never received notice of one. She requested the denial of these requests.

**David Dodge, 109 Calle Palomita, Board member of the Sol y Lomas Neighborhood Association and ACSYL [previously sworn].** Mr. Dodge said he doesn't believe this is about affordable housing. There is a plan that "you" set up and it's working to address the affordable housing. He said for your information, currently there are 275 homes for sale in the City limits priced under \$300,000, and 21% of those are located in the southeast quadrant, noting he got these numbers from MLS today. He said there are 62 homes for sale in the City under \$200,000. He said this issue is really about what you, or we, because you represent us, want the entrance to Santa Fe to be, and the safety of our citizens. He said a few years ago the City, the County and others contributed \$600,000 to purchase the Popp's property to prevent development right across the street from this development. Now a developer wants to annex 15 acres so they can use the City's water, and asked if we have excess water. Your job is to think about the future. He is concerned about the traffic around the failed intersection, noting currently traffic is backed up on the Interstate every morning. He said last year, the City approved a development closer to downtown from that intersection with real access problems, saying they have to do a U-turn at Zia. There are real safety concerns along this whole corridor. He thinks the Council can't forget everything else when affordable housing is offered, and the Council's job is to think about the future of Santa Fe and why we elected you. He said the last scenic corridor entry into Santa Fe is at risk, and once it is gone it is gone forever.

**Kurt Sommer [previously sworn],** said he is appearing on behalf of William Rogers, who is an adjacent property owner to the east of this property, and he objects to the annexation because he believes it is incremental planning and not good planning. He objects to this particular plan because it didn't take into account the impact on his [Rogers] property from the proposed density. He said Mr. Rogers is not against affordable housing, but the density, because it is affordable housing, has a tremendous impact on the adjacent property owners, and he is requesting that you deny the annexation in total and ask these people to go back to the County and get its approval for the annexation. Furthermore, he said Mr. Rogers asks that you seek and obtain a further broader plan of the adjacent property owners. He said Mr. Rogers requests that you deny the application.

**Jim Alley, a resident of Old Santa Fe Trail for the last 42 years [previously sworn].** Mr. Alley said he has a rural residence with chickens, and this is the kind of residence we have in the County. In the late 1960s, when Mr. Gonzales was the Mayor, Mr. Alley and a group of residents from both sides of the Old Pecos Trail, requested and obtained rural residential zoning for both sides of the Old Pecos Trail. The County didn't have jurisdiction, because the City had exclusive extraterritorial zoning and zoned it rural residential the whole way. After that, they formed the Old Pecos Trail HOA to protect the interests of Santa Fe and to protect the rural residential area from high density residential development. He said "we" have nothing against affordable housing, saying there is some of that in the rural residential area. He said they have no problem with Homewise doing affordable housing in the City, noting the City has plenty of land in the City to do more affordable housing, saying, "We just want you to stay in the City." He said you can't even provide water to your citizens in times of drought and now you want to extend the water and tell the developer to get water rights. He said water rights aren't necessarily water and you are extending sewerage utilities.

Mr. Alley said we just don't want this kind of high density development here, and it's not

that we have a problem with affordable housing. He said the existing zoning is one house per five acres, and they have no objection to that in the development. He doesn't want you to encroach on his existing County and rural residential living because they have different ways of living out here, and don't have the laws, the curfews and such, dog ordinances, and a lot of rules and regulations you have in the City.

Mr. Alley asked the Council not to throw out thirty five years of planning and zoning by doing spot zoning. He said it doesn't make sense to carve fifteen acres out and add it to the City limits, and annexation should be done on a rational basis. He said the people who live in the area should have a voice, commenting that they don't have a voice with the City. He said the County doesn't have the same opinion as the City does about the City taking over its land. He asked the Council not to extend its City limits out there. He said the New Mexico Courts have not recognized spot zoning in a favorable light, and recognize that people buy houses based on the existing zoning and rely on that. He asked the point of people going to planning meetings and working on zoning if it is going to be nullified by an annexation and extension of utilities. He asked the City to turn down Homewise's proposal.

**Teresa Seamster, Teacher School Administrator from Eldorado [previously sworn]**, said she is very pleased with some of the changes which Homewise has made, and the clustering and setbacks especially are very appreciated. She said a few people have mentioned a petition that the Old Las Vegas Highway Community Task Force put together, and was asked as a member of that Task Force to read it into the record [Exhibit "7"]. She said the petition has been signed by ten delegates from each of different homeowners' associations along the 285 corridor. Ms. Seamster read the heading of the petition into the record. Please see Exhibit "7" for the wording of this document. Ms. Seamster said the group wants to mention that they do support the Council listening to its staff, to its City Policy and Planning Commission which voted against this on some very specific criteria, and believe the rules should apply across the board, no matter what kind of development is seeking approval.

**Marla Thompson, 2101 Old Arroyo Chamisa [previously sworn]**. Ms. Thompson said she and her husband have been involved with ACSYL for more than 16 years. She is also the General Manager at Quail Run. She said she would like to make one correction to the developer's statement: Quail Run currently is built at 2.5 homes per acre as compared to 5 homes per acre proposed by this development, noting Quail Run can't be built further out. Ms. Thompson submitted, for the record, the signature petitions, the heading of which was just read by Ms. Seamster [Exhibit "7"].

Ms. Thompson said the City Council has adopted the General Plan and the City Code, and these documents set forth the rules and the policy which guide the future of this Community. She said you have the responsibility as elected officials to determine whether any application before you satisfies the applicable rules and policies, and to explain to us, as constituents, how it does or does not comply. Regardless of the merits, if it doesn't meet the mandatory requirements, it cannot be approved legally. She said letters have been distributed which have been signed by the ACSYL Neighborhood Association, Quail Run and by the Arroyo Hondo Land Trust [Exhibits "8" and "9"]. She said these letters identify a number of policies which they believe haven't been met.

Ms. Thompson said, according to the developer's traffic engineer, the intersection at Old Las Vegas Highway/Old Pecos Trail/Rodeo Road currently operates at an unacceptable service level which will only worsen if this project is built. She said the developer has offered to contribute funds, which is commendable, but the developer fails to explain the source of the other funds. It is not on the State DOT's 5-year plan to improve that intersection and they are concerned that this improvement won't be built.

Ms. Thompson said City Code requires that annexation ensure that adequate services are provided prior to project development. A decision to approve this annexation, without demonstrating how this policy is satisfied, would be contrary to law. The request to amend the general plan to increase the development allowed on this site from 1.5 homes to 50 homes, raises a host of other policies which must be addressed. She said these policies were presented at the Planning Commission and those have yet to be addressed. She said, "The General Plan is the constitution of our City and the City Code sets forth rules which we must all live by. It is your duty to ensure that all applications are consistent with both." She asked everyone in attendance who support the position of ACSYL, the Old Santa Fe Association, the Old Las Vegas Highway Community Task Force and Arroyo Hondo Land Trust to please stand or raise their hand. She said, "Councilors, under due process, each of these constituents could come to this podium and express the same concerns, but out of respect for your time, we ask that you take a minute and recognize these people as supporting the same position."

**Ann Lacy, 81 Old Agua Fria Road [previously sworn].** Ms. Lacy said she hopes the Council either denies this development this evening, or spends a little time studying all the data, because there are many ways to use data. She asked to respond to Homewise's presentation, saying it is hard to have a dialogue under these circumstances, and she believes we need more dialogue on this project.

Ms. Lacy said Ms. Jenkins said they met 7 times with the community, but what she didn't say was that over 95% of the people attending those 7 meetings were opposed to the development. She said Ms. Jenkins said these 50 homes would add additional open space to the area, but 50 houses on ten acres subtracts open space, especially because the density is 30 times more than what is there now. She said Ms. Jenkins said there would be no visibility with the 50 homes, but these are 50 homes in a rural area, which will be very elevated, many two story, and there will be a lot of concrete. The amount of land which is being moved around and the amount of concrete and structure which can be seen actually is quite visible.

Ms. Lacy said this area is not in the urban boundary, contrary to what has been said, but there have never been plans to urbanize the area. It is in the ETZ and in the mountain/corridor, noting this doesn't depend on altitude at all, but has to do with the criteria for this part of the County, and it is really a boundary between urban and rural which is important.

Ms. Lacy said Ms. Jenkins said they would pay 5% of the funding for new road work. She said we just completed a three-year project with DOT which is almost complete. She asked who would pay for the other 95% of the new road work, commenting that DOT will not do so.

Ms. Lacy said some of the vacant homes referred to by Mr. Dodge as being listed in the

MLS, are located all over town and not just in the southwest sector. She said "we" are totally for affordable housing, noting they submitted eight interesting options which corresponded with those of the Blue Ribbon Affordable Housing Committee and the big study which said given a choice, most people in Santa Fe would like to have subsidized mortgages for houses which are already built in already existing neighborhoods with transportation, near schools and near work places.

Ms. Lacy entered a letter into the record from her to the City Council dated August 8, 2007 [Exhibit "10"]. Ms. Lacy read several portions of the letter into the record as follows:

"Although Homewise was given the acreage, it has insisted that it needs to build 50 units. If you approve this development, we're wondering why, when we could subsidize 50 affordable houses in less than 6 months, for far less expense than Homewise's planned development." [Ms. Lacy said you can look at the MLS to see this. She said last year there were more than 700 houses on the market which cost less than \$300,000.]

"If you approve this development tonight, to better understand your decision, we are requesting complete transparency during the development process of the expenses related to taxpayers' dollars including the way that our federal, state, county and city finances and subsidized funds and expenses play a part in this development.

"If you choose a wiser option, maybe we can have the much needed funding for much needed ongoing city programs including the Southwest Library operating expenses."

Ms. Lacy said she likes Homewise and supported it when it came before the Council for the Affordable Housing Ordinance, and said, "This particular development is not a good one."

**Francesca Lovato, 42 Raven's Ridge Road, in the County [previously sworn],** said she is concerned that Homewise's plan doesn't meet the 9 criteria which are required to be met by the General Plan before approval. She said at the CPPC meeting, Ms. Walker and the Commissioners found that Homewise can meet only 4 of the 9 criteria required for approval. She said affordable housing is important for the community, but rural life also is an important value for the community. She said people living in the County desire, and have chosen, to live in the County. She said the County residents rely on City laws which established the City boundaries, and rely on the County for its borders and requirements for homes. They have relied on, and obeyed, the law currently written for their land and for the area owned by Homewise. She said affordable housing is important and Homewise can go to the County and request rezoning so it can build six homes on this property – one home per 2.5 acres – and there would be no opposition.

Ms. Lovato and her mother purchased their property in 1975. She said it certainly is an important value to have job diversity, and there is an interest in ethnic diversity for the northwest quadrant. She provides diversity, noting that her mother was a teacher making \$13,000 a year, and she was an attorney making \$12,000 a year when they bought the property, which is not rich. She said many of the residents probably would have been in the City and could have qualified for affordable housing, but chose to live in the County. She said there are policemen and nurses in the community, and agrees with Homewise that this is a value to the community. She said reiterated her desire to live in the County in a rural atmosphere and a safe community,

reiterating that Homewise can build affordable housing if it is willing to build only 6 units on the 15 acres. She urged that the Council deny approval of this project at this time, because the County has not had an opportunity to respond to the communication discussed at the previous Council meeting, and that the community be able to work out other solutions.

**Marilyn Bane, 622 ½B Canyon Road, President of Old Santa Fe Association [previously sworn]**, said she is speaking on behalf of the 20 member board, with a membership of over 300, and they are asking that the Council deny this inappropriate development request. She has been told this project is a "done deal," and that each Councilor will approve this development request for annexation and rezoning, and all of us being here tonight is a formality – going through the motions. She finds it very difficult to believe this. She has seen no indication that any Councilor, entrusted as a policymaker for this City, believe that the end justifies the means, but that is what approving this development means this evening. It would mean you are willing to put aside the City's General Plan regarding annexation, zoning and density and that you would be willing to accept a density of over 30 times higher than what is stipulated for this area. It would mean you are willing to disregard the Extraterritorial Zoning Ordinance and the EZ Plan which designates this site as being within a corridor protection area. It would mean that you are willing to disregard the important and established goals of the City, the concerns of the people here tonight and those who signed petitions opposing annexation.

Ms. Bane submitted a folder containing several pages of petitions in opposition to this development [Exhibit "11"]. She said the Council, in approving this development, would be going against and disregarding: the County Manager and the County Commission who have asked the City to forego this annexation, and the people of both the City and County who believe this land is unsuitable for this development. It would mean that you believe that the end justifies the means. She said it is a fact that affordable housing is a very important and necessary goal for the City, and that Homewise provides a good and valuable service to the City, but neither justifies approving this development.

Ms. Bane said the Old Santa Fe Association is passionate about its mission and caring for the City, but never in 80 years has it compromised what it believes in by conveniently overlooking the means it has chosen to take to get there. She has been before this Council many times and has heard the Council complain about the need for findings on fact on matters which have come before this Council, particularly with the Historic Design Review Board. She agrees that findings of fact are critical. She asked the Council to focus on findings of fact and to offer these in discussing this proposed development. She sent each of the members of the Governing Body her point of view about affordable housing which does not necessarily involve building, but incorporating homes currently on the market, where the infrastructure exists, where the existing neighborhoods exist and where people can have a life with the rest of us in every District of the City. She asked the Council to consider that, but tonight to consider land use issues.

**Rick Martinez, 725 Macias Road [previously sworn]**. Mr. Martinez said he isn't sure whether he is for or against this project, but his problem is that there is no public transportation at the project, and transportation ends at St. Vincent's Hospital. This would be a good opportunity for the developer to set aside property on the side for public transportation to bring



people from the area into the City. He said we are already losing our gateway from La Bajada with the Railrunner, and that gateway will be a concrete jungle, although it is being done for public transportation. We are now looking at the loss of another gateway into town. If this project is approved, he urged strong consideration by the developer for access to public transportation.

### **Those speaking in favor of the project**

Mayor Coss gave each person 2 minutes to speak, and asked that people not be repetitive in their remarks.

*[all those speaking were sworn en masse]*

**Jeff LaBello, 4712 Sundial Way [previously sworn]**, said he is in favor of this proposal to build a new neighborhood along the Old Las Vegas Highway. He considers the project of vital importance to Santa Fe's need to provide housing to those who make up the backbone of the community – law enforcement, City, County and State workers, small business owners and many other categories. He said when someone sees a Homewise client, you see much more than a home, you see the educational process the client had to go through to become a viable, financial member to own that home. That education will spread far beyond the ownership of the home. We are looking at multiple thousands of clients who will utilize it to buy a home and live in the community, and the main reason he believes this project should be approved.

**Mark Barnett, President, SF Police Officers Association [previously sworn]**, said he is in favor of this housing development. He said his stepson, who is from a 5<sup>th</sup> generation Santa Fe family, just became a police officer, and his stepson's grandfather lives in the home his father built on Camino Cerrito off Canyon Road, and is one of the last residents in that area who is a native Santa Fean. He said his stepson's housing options are very limited, but he wants to live in Santa Fe as do many other police officers. He said to have some of the residents from the east side to oppose this is a "slap in the face" to "many of us." He said a City is going to grow and won't stay small. He asked the Council to approve this development, not only for his son, but to keep our officers, our firefighters, our teachers and our nurses in the community they serve. He said you will always get a better return from someone who lives here and raises their children here and serves the citizens here, more than from someone who lives in Rio Rancho, noting that half of the Association membership lives in Rio Rancho.

**Molly Fisher, 13 Panther Peak, Rancho Viejo, a commuter down Rodeo Road [previously sworn]**, said she recently purchased a home through Homewise, and thanked Homewise for being encouraging and wonderful through the process. She said she is now one of the 42% who live outside the City but work in Santa Fe. She works for a nonprofit which advocates for abused and neglected children in Court, and actively serves the 1<sup>st</sup> Judicial District Court. She makes about \$30,000 a year, but works hard for the children of Santa Fe to have a safe, permanent and loving home. She sees her job as being critical to the health and well being of the community, and doesn't think she should be ostracized because of the size of

her pay. She is the single mother of a one-year-old son, noting her son's family is from Santa Fe and has lived in Northern New Mexico for centuries. At one time, his father's maternal family owned land in the area, but when property taxes became too high, they had to sell and move outside the City. She believes this is common among the native families of the City. By not providing native Santa Feans the opportunity to remain in the City where their parents and grandparents grew up, you risk losing a cultural heritage and integrity. She loves her new home, but would have liked to have the option to purchase a home close to her job and the rest of her family. Ms. Fisher said Santa Fe becomes more diverse as it continues to grow, and believes we should all have the opportunity to live here regardless of economic status. She was born here in Santa Fe. She thanked Homewise again for the opportunity to own her own home.

**Michael Lacey [previously sworn]**, said this is a well-thought out development. He grew up on Zia Road and his backyard was the City line. He used to play on the property where Quail Run is built. He is excited about this project which provides homes to people who make less money who want to stay in Santa Fe. He asked that the Council support this project, and doesn't think it "messes" with the appearance as we come into Santa Fe, and urged the Council to make this annexation possible.

**Anna Montoya, RN [previously sworn]**, asked those from the opposing side who are still here to stand, and asked how many are native to Santa Fe. She is a native and in search of real estate property, but is unable to purchase a house in the Santa Fe area on a nurse's salary, and must look in Albuquerque, Espanola and surrounding area. She asked the Council to consider how difficult it is for the natives to survive, live and work here, while commuting daily just to make a decent living. She asked that the Council approve this proposal.

**Marilyn Mason, 905 Calle Arco, and an owner at Quail Run [previously sworn]**. She said she probably would be against the development if it were an organization other than Homewise. She is speaking in support of Homewise, and as a new resident, she looks forward to them as neighbors. She said there is an increasing stratification in Santa Fe. She commented that she lives on the northeast side where there were nine burglaries last week, and wonders if it has anything to do with the stratification in Santa Fe. She said we really need to examine the gettoization which is creeping into Santa Fe. We can't ignore this. She is stunned to hear people compare this with what is on the market, which she believes is a false analogy. The people representing Homewise are talking about making housing affordable, and don't have outside realtors and are saving people money, educating people and growing citizens of Santa Fe. She can't think of a better organization than Homewise which she could support in America. She welcomes them heartily as neighbors because she trusts them, and commented that they are so concerned about the development of our community and the working people in this community. She would rather see Homewise here, rather than to have an out-of-state developer come in and try to run rampant over the area. She urged the Council to vote for Homewise in Santa Fe.

**Richard Friedman [previously sworn]**, said he is here to speak in favor of this project, noting he lives in District #2. He said there are people in District #2 who welcome affordable housing in the neighborhood.



**Raymond Montoya [previously sworn]**, said he is purchasing property in rural Santa Fe County, noting that he just moved back to the State. He said he has family and relatives who grew up in Santa Fe who had to move to Rio Rancho, Espanola and Pecos because they can't afford to live here. He is in favor of this proposal.

**Nate Downey, 1104 Don Gaspar [previously sworn]**, questioned the notion of preserving the gateway to Santa Fe, and believes this would be an improvement to the gateway of Santa Fe. He said what we have now for the gateway is a gated community and a golf course at Quail Run, which shouldn't be the first thing people see. He thinks the first thing people should see should be the Homewise development which will support the people in Santa Fe who need to stay here.

**Anne Cortes [previously sworn]**, said on Sunday she went through the big book of real estate in The New Mexican to see how many homes she could find which were advertised for sale under \$200,000. She said from June 18 to July 17, 2007, there were five homes under \$200,000 and 42 under \$300,000, and 30 of those homes were in the Southwest district of the City, and 11 in the Southwest County. She said there still is an enormous shortage of affordable homes on the market. This is a project designed and proposed by a reputable group of people who have served the community well for many years. We are talking about only 50 homes on 15 acres which will be sold only to people who must own and live in their houses. These will be community bound people who will participate and serve this community. She said two years ago, there were 50 policemen who could not afford to live here and we still need to fill vacancies in the Police Department. She is in favor of the project and urged the Council to approve it.

**Sam Baca, 503 Hillside Avenue [previously sworn]**, said he is a lifelong resident of Santa Fe. One of the recurring issues is historic preservation, He said he spent 15 years working for an organization called Cornerstones, which preserves historic buildings, particularly the adobe churches, as a way of building community and preserving the cultural values and traditions which those buildings represent. One of the most important things they learned from Cornerstones is that historic preservation isn't about buildings, or landscapes, it is about people and the cultural values and traditions of those people. He asked the Council to consider this as they deliberate this evening.

Mr. Baca said we should be concerned about preserving the ability of our young people to stay in the community where they have their roots and family. One of the most important cultural traditions in our community is family – grandparents being involved in the lives of their grandchildren. He and his wife were privileged to have this connection, which was a treasure in the lives of his children to have grandparents to be a part of their life. He is concerned his children won't be able to afford to live in this city and he may not have the privilege to have this relationship with his grandchildren. He asked the Governing Body to please consider the importance of preservation which is the fabric of our community, its heart and soul.

**Tony Gerlich, 2259 Camino Iris [previously sworn]**, said he lives in the East De Vargas Heights neighborhood off Old Pecos Trail. He is in support of the plan as proposed by Homewise for three reasons. He said as the founder and head learner of the Monte del Sol

Charter School they struggle to bring the best teachers to their school, noting he has lost two teachers in 8 years due to inaffordability of living here. They have lost families as well. It is critical that they find a place to live. Secondly, he resides on the east side, and his neighborhood is enriched why diversity of socioeconomic and cultural levels which makes a community richer, and far more livable. Third, two of his teachers have purchased homes through Homewise and Teacherwise, and Homewise is a first class organization. It is an organization, which is professional, artistic, sensitive and does its homework. He urged support of the Homewise Plan.

**Signe Lindel, 147 Gonzales Road, [previously sworn]**, entered a petition with 150 signatures into the record supporting the Homewise development on Old Las Vegas Highway [Exhibit "13"]. She said Homewise not for "sissies." She said people come to Homewise who have been turned away by the general real estate market in Santa Fe, and Homewise does a lot of heavy lifting to prepare them for home ownership and to give them hope. She trusts this Council to work out any problems because this is a fabulous opportunity and a wonderful project. She is a co-qualifying broker at Homewise. She said \$50,000 is a very good income to buy a home, which would allow that person to purchase a home at \$160,000. She said she looked in MLS today for a 3 bedroom, 2 bath home in Santa Fe for \$160,000, and there are none at that price. She said at a 40% debt ratio, that person could purchase a \$250,000 home, but there was not one listed in the northeast, northwest or southeast segments, but there were 27 listed in the Southwest sector. She said this project seems to have little risk to City, and the problems are overshadowed by the opportunity. She said if you want to purchase a house over \$1 million, there are 301 houses listed for that price in Santa Fe. She urged the Council to give this project its consideration.

**Frank Mathew, Homewise Board [previously sworn]**, said he has been associated with Homewise for about 15 years, and he is proud to serve on this Board. Homewise works because of the dedication and sacrifices of Mike Lofton and staff have made for people in this community. He said Homewise does not provide houses, it provides homes. The difference is that they do an education program, and have people on staff who ensure people are involved and there is pride and dignity with its clients. At Homewise, it is Important that each client is successful without foreclosures, and that we provide an opportunity to raise families in Santa Fe. This evening he has repeatedly heard "gateway," and he thinks it is correct in describing this development which is a gateway. It is a gateway for faith in this community, for hope of staying in this community and raising a family, and a gateway for opportunity for this community to prove to its people that it wants to help and be a community. It will be a gateway for the purpose of disposing of bias and bigotry which is associated with affordable housing, no matter where it is, because this will be a show place to the State with the ideal affordable housing neighborhood.

Mr. Mathew said last night, Councilor Ortiz spoke at the National Night Out to his current neighborhood off Yucca about the importance of community and community involvement. Homewise people do this, and you will see that these people will build community in that neighborhood. He lived off Old Santa Fe Trail for 10 years, and knew two neighbors, but this isn't the case with a Homewise community where everyone is involved and knows everyone else. He asked the Mayor and Council to support this project which this community needs.

**Gloria Mendoza, 2912 Pueblo [previously sworn]**, reminded the Councilors that during the campaign they said they support affordable housing in Santa Fe, and this is their chance to prove that. She said she has been a community activist for decades, and it is time for the east side to open its heart to the people of this town. She expressed disappointment with the excuses offered from those opposing this project. She said this project is badly needed for the people of Santa Fe.

**Ron Winters, 109 Calle Paula [previously sworn]**, said he is the archeologist who did the survey on this tract of land. He has worked with Homewise previously which is a fine organization. He believes in its mission and its integrity. He is disappointed that so many of those speaking against the project left before hearing the people who are speaking for the project. He said when they spoke about affordable housing and what is available, there was no mention of the location or condition of these houses. He is speaking on behalf of himself and his family who are residents of Sol y Lomas. He applauds and welcomes the integration of the socioeconomic backgrounds this project will bring to the area. Homewise has done a great job with the visual impact and sensitivity to the environment. He said he is sad to hear an unspoken, underlying current running through the evening which is "Not in My Backyard." He hopes the Council approves this project.

**Frank Montañño, 1655 Calle Sotero [previously sworn]**, said it has been a 27-year struggle to provide affordable housing for this community. In his opinion, it is pathetic that good people can sit and laugh that we have 300 homes for sale for \$1 million, while only a hand full at \$160,000. He said Ms. Mendoza has always understood the struggle of the average Santa Fean to stay in town, and to vocalize that to shame the people of this town. He said the people from Homewise have proven to the community that the impact on the corridor will be minimal, and the sky won't fall because of the construction of the 50 homes for 50 very lucky Santa Feans. He asked the Council not to throw away this opportunity to provide 50 homes for a teacher, a firefighter, a nurse, a policeman, especially when they can't afford to buy one of the 300 \$1 million homes of which we have an excess.

**Ed Rosenthal, Director of the New Mexico Office of Enterprise Community Partners [previously sworn]**, said he is an advocate for affordable and workforce housing, and the Foundation has invested in grants and low-cost finance for the past 25 years – \$60 million in New Mexico, producing 2,000 units, much of that in Santa Fe. He said this Council and prior Councils have consistently prioritized the need for affordable housing, and have been aggressive and innovative its policies in support of affordable housing. He said there appears to be a conflict between the need for affordable and workforce housing and certain land use issues. He sees no conflict in these needs. He agrees that good historic preservation starts with supporting people, and good land use policy starts with supporting those people who need to be in this community. He said this project is unique in the high percentage of work force housing to which Homewise has made a commitment. He works in Albuquerque twice a week, and about a year ago he noticed a number of Santa Fe Police cars racing up the highway, and learned they live in Rio Rancho and Albuquerque because they can't afford to live here. We need policies which promote their ability to live here.

**Phil Henson, Eldorado [previously sworn]**, said he is fortunate to be able to buy a

home in Eldorado because he couldn't find a house he could purchase in Santa Fe. He worked at Quail Run for almost four years managing maintenance and construction, and many of the people here tonight are his friends. He has spoken with other residents of Quail Run who feel there will be no impact on the people of Quail Run from this project. He has worked at Homewise since January, and it does a very good job. He said some of his friends from Quail Run have a problem with the traffic in turning onto Old Pecos Trail which is hazardous. He said this is the one issue which could be addressed which would put a lot of the opposition at ease. He said Quail Run is well managed and the property values won't decrease, but they are concerned about the traffic. He supports Homewise which is a good organization. It is good that people who work at Quail Run would have the opportunity to live nearby and not to commute so far.

**Gabriel de Pablo, 6419 Los Grandes, Tierra Contenta [previously sworn]**, said he came here this evening to listen to both sides, and liked Homewise's presentation, but not that of the opponents. He envies the Council because it has the opportunity to do what is right for the people of the City. He begged the Council to choose what's right.

**Andrea Serensky was sworn.** Ms. Serensky is an art teacher at Monte del Sol Charter School, and she is working with Homewise to buy a home, and would be interested in buying in this community. She said she believes it is important to diversify where affordable housing is offered, mostly because there is a socioeconomic stratification in Santa Fe and there is a need to diversity where teachers, policemen and firefighters live.

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

**Councilor Bushee moved, seconded by Councilor Chavez, to adopt Resolution No. 2007-73.**

**Discussion:** Councilor Bushee said she agrees with Sam Baca. Tonight she heard things about "preserving the gateway," into Santa Fe. She asked how we get the people back to Santa Fe and asked why we are preserving the gateway to Santa Fe when the police can't live in Santa Fe. She has voted against many bad projects by bad developers which have used affordable housing to get them approved. She was saddened to read some of the words by some of the folks in the handouts this evening saying this is a bad development and these are bad developers. She referred to a letter which says the person wants "transparency," and to see exactly how taxpayer dollars are being spent for this. She understands there is a stress between urban development and its creeping into the rural life. She doesn't want to worry about the chickens on Old Santa Fe Trail. She does want to worry about people who can't live here.

Councilor Bushee said this is a good development, these are good developers and 50 more Santa Feans will get to live here who already serve this community, and she wants them back. She feels there were "red herring" arguments about topography, access and various things. She said the City is trying to develop the Northwest Quadrant for affordable housing, noting it has topography issues beyond belief and it is also a gateway into the City. She said

there have been arguments against this development. The reality is we need affordable housing where we can get it, but we really need affordable housing on the east side.

Councilor Bushee said this is next to Quail Run, not next to Eldorado. She said with regard to subsidy, New Mexicans subsidize all sorts of sprawl. For example, we will pay for the transportation from Eldorado which we don't have yet. The proposed development is an urban development in a perfectly sensible area which should be considered urban, and naturally belongs to the City. It is right next to an urban development with a golf course.

Councilor Chavez said we know the urban area around the City center is changing, and is changing drastically in the Southwest sector. The County will admit that the land around the City in the urban area is urbanizing and the density is changing in the Southwest sector, but it won't admit that is happening here. He believes double standards are at play here to some extent. He said he lives in the City, but he is also a County resident. He said County residents depend on, and expect, services which are urban in nature – shopping, events and amenities the City provides – which is great, but you can't have it both ways. He said you don't have to live in the County to have chickens, saying he has chickens in the back yard, and he isn't the only one in the neighborhood. He said his neighborhood has maintained that rural character within the City limits, saying people have horses, emus, peacocks as well as chickens and such.

Councilor Chavez said we know what the housing market does and whom it takes care of – people with access to working capital and lending institutions. He said the working families and single people who qualify with Homewise can't go to the banks to get money to buy a home. His daughter qualified for a home in Tierra Contenta through Homewise. He said people buying through Homewise have invested in home ownership through the process of pre-qualification. They make sure you pre-qualify and that your income/debt ratio is within reason.

Councilor Chavez supports this project, not because his daughter qualified for a home, but because, without Homewise, many people couldn't qualify for home ownership. He said the good thing about this project is that we don't have to wait for the Northwest Quadrant development, and it takes the load off Tierra Contenta and spreads things around more. He said there are constraints and details which he believes can be resolved, and he hopes this moves forward.

Councilor Heldmeyer disclosed that she toured the land with Mike Lofton, because she went there and couldn't get in, so she had to call him to get into the property. She asked a lot of questions, mainly about orientation, but not about the development itself. She said, despite what has been said, most people on both sides are sincere. The people who talked about a gateway corridor have worked for years to preserve the corridor and to raise money to do that, and are genuinely sincere about that issue. She said people in this area have been let down a number of times in the past by developers. There have been promises made by developers about protection of the corridor and then the developers have ignored the law. She said City staff has done an exceedingly poor job in protecting the corridor, in looking at where things should be built, the amount of green setback, and such. Some of the people here are still fighting that battle about development in their neighborhood. She said if they are slightly skeptical of promises, they have good reasons.

Councilor Heldmeyer agreed that Homewise is not the average developer. She said this is a difficult piece of property and there are concerns. She will support this project, but will talk about conditions of approval in discussion of the Annexation and Rezoning – for traffic and for terrain which are issues, commenting that the terrain is creating problems for Homewise to develop on a piece of property with two large watersheds in it and how to design around it. She said it does result in more open space.

Councilor Heldmeyer said there are real concerns from the neighbors to the east, commenting that she is less concerned about Quail Run because its density is very close to that of this project. The neighbors to the east worry that they will be the next “domino” in the line when they’ve committed to a particular way of life and bought property for that way of life. However, that doesn’t mean this is a bad development. She assumes additional changes will be made, if needed, and to sweep them under the rug because it is affordable housing isn’t appropriate. There are issues which need to be addressed, and as Ann Lacy said, no one issue should dominate, but that doesn’t mean we don’t have to work on some of the associated problems during the planning process.

Councilor Heldmeyer reiterated she will be discussing conditions of approval when we discuss the annexation which she believes will make the difference between something which works and something which doesn’t. She said she then will hold Galen responsible for enforcing the conditions of approval.

Councilor Ortiz said he would like to put on the record that he finds:

- a) that there was sufficient evidence put forward by the developer that the transportation infrastructure, in particular the intersection at Old Pecos Trail/Rodeo Road as it goes into Old Las Vegas Highway will be impacted, but believes there is sufficient mitigation in place shown by this development which would mitigate any potential impact on this intersection;
- b) that, despite some of the information given by opponents, this proposed annexation is consistent with the City’s annexation strategy, and the property is, in fact, adjacent to Priority Area 2 which was adopted by the City Council as an annexation parcel 2-3 years ago;
- c) To the extent that this project is a part of the scenic corridor, he believes the evidence which was presented, which was the only evidence other than unsupported testimony from opponents of the project, was sufficient to him that whatever visual impacts could have been made on that particular highway were mitigated, and the developer took its best efforts to mitigate those particular impacts;

Councilor Ortiz said he personally doesn’t buy the argument that the Old Las Vegas Highway is some kind of a scenic corridor that is representative of some sort of special or protected status as part of the old Route 66.

- d)\_ that, because the density of this project is roughly the density of the adjacent



development, Quail Run, the excessive density argument by some of the opponents is also inconsistent with the evidence which was presented.

Councilor Ortiz said he has heard from some people that some of the things we're doing here – requiring developers to bring water rights, to set aside portions for affordable housing – are choking the market in Santa Fe, and housing is becoming more expensive. What we have here this evening is a concrete example that it is the policies which we have put in place which make the market more receptive to building the kinds of houses which working families, working Santa Feans, local Santa Feans will have the opportunity to purchase in Santa Fe where they work and in the place where they were born. This development on the east, expensive side of town is proof to him that some of the things which this Governing Body has done have worked. He leaves it to the market to tell him differently, or to propose different alternatives from what currently are on the books, and he believes that some of the ordinances we've adopted are beginning to make a difference.

Councilor Ortiz said for all of the aforementioned reasons, he is in support of this development.

Councilor Bushee said without the things which this Council passed and adopted, we would be here on a much different development. If there was no homes program this Council would be looking at, potentially, another Quail Run, or another gated community. It would be less dense, but it would be a much different kind of development.

Councilor Wurzbarger said this is difficult for her, because she finds herself balancing different interests as Councilor Heldmeyer has said. She said she also took a tour of the property yesterday with Mike because she couldn't get on the property. She went by today to walk the property. She said some of her constituents who live in that neighborhood have expressed their concerns about the visual impact from the highway or coming into the City. She said she had thought the property was much closer to Old Pecos Trail, and she could see no visual impact. She reviewed the plans, and said because of the three berms behind which one-story buildings are proposed, people can see perhaps 6-10 houses and they will be seeing the roofs in the distance. She said there was a very good effort to site the two-story buildings. She said, with regard to balancing, she believes this is a good compromise to try to meet the needs of affordable housing for which she has stood during her time on the Council, in balancing the visual impact of people driving in the community.

Councilor Wurzbarger said she too will hold Mr. Buller responsible for enforcement, and whomever else, and said she does trust Homewise to deliver the promised product, and she emphasized that she has a commitment to the Community to ensure this happens. She said the word "gateway" bothers her, and she wants to look at the language which we use with respect to what we're trying to protect or to build. She definitely supports this project, and looks forward to seeing it come to fruition.

**Friendly amendment:** Councilor Calvert said he is in favor of this project for many of the reasons previously stated. He proposed to amend the motion to include that it is based on the findings of fact by the staff and by Councilor Ortiz. **The amendment was friendly to the**

**maker and second, with the second's recommendation that what Councilor Ortiz spoke to were findings of fact and are to be included in the record. There were no objections by the other members of the Governing Body.**

Councilor Trujillo said, in speaking about the gateway into Santa Fe, anytime he exits from I-25 to Old Pecos Trail, the first thing he can see is Quail Run. He said Ms. Jenkins has demonstrated with the photographs that there is no impact, and you can't see the subdivision as you exit I-25 into Santa Fe. He said he is a native, and family is the most important thing to local Santa Feans. We want our children to live and grow up in Santa Fe and find jobs and live here. He considers himself fortunate that his mother is still here, and his wife's mother and grandmother, and they care for their children. He has friends who have moved here and have no family, and it is difficult for them. He wants to see the locals do good and have places to live.

Councilor Trujillo said he has heard some interesting things tonight, including about Route 66 which "blows his mind," because he doesn't believe the subdivision is going to be built on Route 66. He said Route 66 is an important part of history, but believes this is a lame excuse in opposition to this development. He said for the past 27 years the growth has been in Districts 3 and 4, and not in Districts 1 and 2, acknowledging that Santa Fe will continue to grow.

Councilor Trujillo said Councilor Ortiz has said many times that when subdivisions are being built in Districts 3 and 4, we don't have this kind of turnout, and he believes people just figure it's on the south side of town and the attitude is: go ahead and build it as long as it doesn't impact us, we don't care. He said, however, it does impact Districts 3 and 4, and this is where the locals live and he is very proud to live there. He supports Homewise, and hopes it is still around in 15-20 years when his children need to buy a home. This is a good project, and he hopes to see many more of these kinds of projects coming before this Council.

Councilor Dominguez said almost everything has been said most eloquently by his colleagues on the Council. However, he is quite disappointed in the people who left the hearing tonight before hearing from the other side, and thinks this shows their level of disrespect to the Governing Body as well as to those who feel this project, for the right reasons, is a good project. He thanked those in opposition who stayed. He thanked Homewise for bringing a responsible project, but more importantly, for preserving Santa Fe's culture through its people. It is through these efforts that he, and others with deep roots in the community, have the opportunity to live and work in this community. He is in support of this project. He is interested in further discussion on the other two action items relating to this case.

Councilor Bushee said another good reason to support affordable housing on the east side are the very crowded schools on the west side.

**The motion, as amended, with the findings of fact by staff and Councilor Ortiz, was adopted on 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.

- 4) **CONSIDERATION OF BILL NO. 2007-33; ADOPTION OF ORDINANCE NO. 2007- 27. CASE #M-2006-53. HOMEWISE OLD LAS VEGAS HIGHWAY ANNEXATION. JENNIFER JENKINS, AGENT FOR HOMEWISE, INC., REQUEST ANNEXATION OF 15.35± ACRES OF LAND. THE AREA IS GENERALLY LOCATED EAST OF OLD LAS VEGAS HIGHWAY AND SOUTH OF OLD PECOS TRAIL AND ALSO INCLUDES THE ANNEXATION OF 8.37± ACRES OF THE ADJOINING OLD LAS VEGAS HIGHWAY RIGHT-OF-WAY. (GREG SMITH) (Postponed at July 11, 2007 City Council Meeting)**

**Councilor Chavez moved, seconded by Councilor Bushee, to Adopt Ordinance 2007-27.**

**Friendly amendment:** Councilor Heldmeyer would like to amend the motion to include a condition that the depth of the green corridor that the applicant demonstrated to the Council this evening will continue to be the depth of the green corridor as it goes through the planning process.

**Discussion on the friendly amendment:** Councilor Chavez asked Councilor Heldmeyer if she would like to specify the exact depth.

Councilor Heldmeyer believes it went from 150 ft. to 175 ft.

Ms. Jenkins said the portion of the setback over which the applicant has control would be a minimum of 50 feet abutting the right of way. There is an additional portion of that which is part of the right-of-way. The applicant would agree to a condition of approval through the platting process to maintain a minimum of a 50 ft. setback from the property line abutting the right of way.

**Restatement of Friendly Amendment:** Councilor Heldmeyer would like to amend the motion to provide a condition of approval that through the platting process the applicant is required to maintain a minimum of a 50 ft. setback from the property line abutting the right of way. **The amendment was friendly to the maker and second and there were no objections from the other members of the Governing Body.**

**Friendly amendment:** Councilor Heldmeyer would like to amend the motion to provide a condition of approval that when the applicant goes to development plan approval, the applicant erect story poles at any location where two-story homes are being built, and that those story poles be available to the Planning Commission before it makes its decision on the development plan. **The amendment was friendly to the maker and second and there were no objections from the other members of the Governing Body.**

Greg Smith said the Council is now voting on the Annexation Case, and staff feels these conditions might better be attached to the Rezoning Case than to the Annexation.

Councilor Heldmeyer said the reason she is suggesting them here, is that in the past staff has said not to attach conditions to the rezoning and are unsure whether they would apply to the rezoning. She said the Annexation, in addition to being an ordinance, is a contract between the City and the developer and this where we've been told to put them in the past.

Mr. Smith said staff isn't quarreling with the basic argument, and the Council does have the authority to include these kinds of condition in the annexation.

Mr. Smith noted, with regard to the Annexation Agreement, that the paragraph which has been drafted and in the file since December, hasn't been fully reviewed by the Water Rights staff and may be misleading with regard to Paragraph 4.3, of the Annexation Agreement. As he understands the applicant's presentation in the discussion with the Council, the applicant isn't asking for, nor receiving, any special exceptions or treatment other than the Code requirements under the current Water Transfer Rights Regulations.

**Friendly amendment:** Councilor Heldmeyer said staff would like a condition of approval, which would be written into the Annexation Agreement, that discussion of water will be consistent with the current law.

**Discussion on the friendly amendment:** Mr. Smith said it could be construed as being at variance with the standard procedures, and if that is a condition of approval, the staff will work with the Applicant to correct Paragraph 4.3 of the Agreement.

**The amendment was friendly to the maker and second and there were no objections from the other members of the Governing Body.**

**Friendly amendment:** Councilor Heldmeyer would like to add a condition of approval with regard to the representation by Homewise that the most expensive homes in this subdivision would be available to people who are at 120% of median income.

**Discussion on the friendly amendment:** Councilor Ortiz would like information with regard to the condition capping the homes.

Mr. Lofton said Homewise has agreed to price all of the homes below \$300,000, which means people making up to 120% of the median income could afford that home, which for a family of four would be \$79,200. However, he would like flexibility, noting that some police officers earn a lot of overtime, but don't want to use the overtime to qualify for the mortgage because they don't know how long they will earn the overtime. The overtime could push them over the income limit, so they would like the flexibility on who can buy to be higher than that, but he said Homewise has no problem in committing that the price of those homes won't exceed \$300,000.

Councilor Ortiz asked Councilor Heldmeyer if she would be willing to amend her friendly amendment or restate the friendly amendment.

**Restatement of the Friendly Amendment.** Councilor Heldmeyer proposed a condition of approval that 50% of the homes in this development would be in the price range we consider affordable or low price, and none of the other 50% would exceed the price of \$300,000. **The amendment was friendly to the maker and second, and there were no objections from the other members of the Governing Body.**

**Friendly amendment:** Councilor Chavez said Ms. Jenkins said the Applicant is willing to pay 5% of the pro rata share for work at the intersection for the signal and right turning lane, in addition to any impact fees which would be due, and would like to amend the motion to make this a condition of approval.

**Discussion on the friendly amendment:** Ms. Jenkins said it is typical that any kind of financial contribution to off-site traffic improvements would be addressed in the annexation agreement, and she will work out the amount with staff.

Councilor Chavez reiterated that he would like this to be a condition of approval.

**The amendment was friendly to the second, and there were no objections from the other members of the Governing Body.**

**Friendly amendment:** Councilor Calvert said the Applicant offered a condition of approval that the letter from the DOT regarding the right-of-way must be received on annexation. **The amendment was friendly to the maker and second, and there were no objections from the other members of the Governing Body**

**The motion, as amended, was approved on 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.**

- 5) CONSIDERATION OF BILL NO. 2007-34; ADOPTION OF ORDINANCE NO. 2007- 28. CASE #ZA 2006-21. HOMEWISE OLD LAS VEGAS REZONING FROM R-1 TO R-3. JENNIFER JENKINS, AGENT FOR HOMEWISE, INC., REQUESTS REZONING OF 15.35± ACRES OF LAND FROM R-1 (RESIDENTIAL, ONE DWELLING UNIT PER ACRE) TO R-3 (RESIDENTIAL, THREE DWELLING UNITS PER ACRE). THE PROPERTY IS GENERALLY LOCATED EAST OF OLD LAS VEGAS HIGHWAY AND SOUTH OF OLD PECOS TRAIL. (GREG SMITH) (Postponed at July 11, 2007 City Council Meeting)**

**Councilor Chavez moved, seconded by Councilor Bushee, to adopt Ordinance 2007-28. The motion was approved on the following Roll Call Vote:**

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

**Against: None.**

**Explaining her vote:** Councilor Bushee said this is a vote to preserve the future of Santa Fe and she votes yes.

**Explaining her vote:** Councilor Heldmeyer votes yes with no unnecessary quotes.

**Explaining her vote:** Councilor Wurzburger said that was her quote, and she hopes it was done correctly.

*There was a break from 10:15 p.m. to 10:28 p.m.*

- 6) CASE #H-07-10. APPEAL OF HISTORIC DESIGN REVIEW BOARD'S DECISION ON MARCH 13, 2007, CONCERNING REMODELING LOCATED AT 359 GARCIA STREET IN THE DOWNTOWN & EASTSIDE HISTORIC DISTRICT. LAURIE M. SILVER REQUESTS THAT THE GOVERNING BODY RESCIND THE CONDITIONAL APPROVAL TO CONSTRUCT A 335 SQUARE FOOT ADDITION ON A GUESTHOUSE AND TO INCREASE A YARDWALL HEIGHT BY 2 INCHES UP TO THE MAXIMUM ALLOWABLE HEIGHT OF 6 FEET. (DAVID RASCH)**

A memorandum dated August 8, 2007, to Mayor David Coss and City Council Members, with attachments, from David Rasch, Acting Director, Historic Preservation Division, regarding Case #H-07-10, is incorporated herewith to these minutes as Exhibit "14."

A copy of a letter dated August 1, 2007, to "Dear Neighbors" from Bob and Jenny French, is incorporated herewith to these minutes as Exhibit "15."

A copy of a handwritten letter dated August 7, 2007, to the Governing Body of Santa Fe from Sylvia Kaufman, objecting to the construction of the yard wall at 359 Garcia Street, is incorporated herewith to these minutes as Exhibit "16."

The staff report was presented by David Rasch, which is contained in Exhibit "14."

**Staff Recommendation:** Staff recommends denial of this request in order to uphold the Historic Design Review Board approval unless the Governing Body has a positive finding of fact from submittals and public testimony to grant the appeal. The historic district land use

proposal complies with Section 14-5.2(C) Regulation of Contributing Structures and (E) Downtown and East Side Historic District Design Standards.

Councilor Heldmeyer asked that the record reflect that "this" letter appeared in her box, and she discussed it with staff. She said she was under the impression that this case was not going to be heard tonight and would be delayed. She was given two pieces of information by staff which she left as a phone message for the Appellant: (1) There is some discussion of the at-risk building permit, in point of fact, the building was not going on at this time; and (2) the permit for the fence/wall wasn't in existence at this time because of the determination that this was a fire regulation, rather than just a building code. Councilor Heldmeyer said as far as she knows this information still is correct. She said she had no discussion with the Appellant, and just left a telephone message for her.

### **Public Hearing**

#### **Appellant's presentation**

**David Mittle on behalf of Laurie Silver, was sworn.** Mr. Mittle said this case is very confusing. He said we come to such concepts as detrimental reliance, fundamental fairness and cumulative errors. He said he disagrees with staff's presentation. When he speaks about there being two permits, one for a studio and one for a wall, "it is terribly unfair and unjust to what the H-Board said." The H-Board said one was conditioned on the other. He said this studio building may not be built unless there is a six-foot wall within five feet of the property line. He sat through two presentations of the H-Board, and at that time it was believed the wall was a common wall. He said it has since been determined that the wall belongs to Ms. Silver and that isn't disputed. Therefore, if the building is conditioned on there being a six-foot wall and Ms. Silver is not going to permit that wall to be raised to six feet, then this matter should be over and we shouldn't be here tonight.

Mr. Mittle said on July 19, 2007, an administratively approved coyote fence was allowed, without notice to him or to the Appellant. He was in the Historic office yesterday and wasn't told such a permit had been applied for or approved, and said this is where we get into the issues of fundamental unfairness and asked where does it become fair to have a hearing which is predicated on a wall being six feet. He said if you look in your packets starting at page 6, there is a preliminary zoning review work sheet and it says there has to be a zero lot line affidavit, but that would not be required, provided a 6-8 foot wall is provided per Code. This was the first H-Board hearing and they said they weren't going to approve it, and that the applicant has to go back to zoning and is required to meet the six-foot requirement. Mr. Mittle said at that time the Frenchs knew they didn't meet the six requirement. Mr. Mittle said there is a note at the bottom of the page which says, "Plan was revised to be setback five feet with development of a six to eight-foot wall." Mr. Mittle said "they" told the H-Board "they" were going to raise the wall two inches to comply. He said this isn't going to happen because the wall is on Ms. Silver's property and this is clearly stated in this packet and isn't disputed and is admitted to by Ms. French.

Mr. Mittle said on page 53 of the packet, there is a letter from Mr. and Ms. French which states in the third paragraph, "When we made our original proposal to add two inches to the wall, we believed that the wall between our property and Ms. Silver was a common wall. We have since discovered that the wall is, in fact, on Ms. Silver's property." He asked why we are here if the building of this building within five feet of the property line is conditioned on a six-foot wall, and there is no chance that wall will be six feet.

Mr. Mittle said the ambiguity of why there needs to be a wall was made crystal clear yesterday morning when he came to pick up the record. At that time he spoke with Mr. Esquibel who told him, despite what is shown on page 3 of the packet from the zoning people that a six-foot wall is required, and despite the two hearings, that "you don't need the six-foot wall." Mr. Mittle said he filed an appeal of the building permit, because he was told by the permitting people that a permit had been issued for construction of the house and a wall. He filed an appeal because he has the right and 30 days to do it. He reiterated that, at that time, Mr. Esquibel told him "you don't need a six-foot wall."

Mr. Mittle said he has spent the last four months litigating a case predicated on this fact, ignoring other important issues, understanding that the six-foot wall will be determinative. He said, "Don't come here today and tell me that's it's all *de minimus*. Don't come in here today and tell me you can't see the house from the street and you didn't bring in enough neighbor's letters or anything else. At the end of the day this is pretty clear cut. The wall's not six feet and it's not going to be six feet." He said the case keeps getting uglier and uglier, and then Mr. Esquibel wants to argue with me about what is *de minimus*. Mr. Mittle said he told Mr. Esquibel he wasn't there to argue with City staff, he just wanted to file a petition.

Mr. Mittle said Mr. Esquibel goes through the file and finds out about the coyote fence. Mr. Mittle said he then went back to Mr. Rasch and asked why he didn't tell him about the coyote fence. He said Mr. Rasch responded that, "You didn't need to know." He asked why he didn't tell Ms. Silver. Mr. Rasch said, "She didn't need to know."

Mr. Mittle said we have this huge dispute before the City Council, and staff is issuing permits that conceivably, but for not it being a fire code issue which he just learned tonight, would supercede this Council without due process or fairness, and the Council would have been left "out in the cold," and as baffled as he is.

Mr. Mittle said today he received a call telling him that a six-foot wall is needed. If the Council has dispute about that, they should address it to the City Council. He said there is no six-foot wall, so how can a building be built within five feet of a property line. He doesn't know if there is a way around it, and we aren't going to be arguing about it tonight. If the appeal should be granted, and they want to bring another application before the H-Board, that is their prerogative. Nobody has said they can't do that. The letters in the file which say they have complied with all aspects of the law, and they told their neighbors how wonderful it is, are wrong.

Mr. Mittle said they don't have a six-foot wall. He feels like a broken machine, saying he has tried to get this understood for months: Ms. Silver owns the wall. Mr. Mittle said it is not the French's prerogative to raise the wall. Mr. Mittle said once you find this, then the rest of the

case goes away, and he doesn't want to waste time arguing the other points raised in the Silver's appeal, except for one. He said when we talk about the actual size of the building, for a point of fact and a point of reference, there is a picture of what it will look like from Ms. Silver's property on page 27 of the packet. You are looking at the top of the proposed east elevation, and it still shows a two-inch cap being put on the wall which isn't going to happen. To the left, is an existing guest house. He can stand on Ms. Silver's property and reach up and touch the parapet which is 7-8 feet. He said we are now talking about 11 ft. 6 in. across the back of her courtyard. He said the scale is missing here and doesn't believe you can understand the scale, and why there is a five-foot setback with a six to eight-foot wall which we don't have. Otherwise, they can build it, but it has to be 15 ft. away from the property line, and must comply with the H-Board. He said no one is saying they aren't entitled to the studio, or because a realtor told her she could do it, she can't do it. It's just that she has to comply with Code, and this is all that is being requested and why the appeal is here tonight. He asked the Council to allow Ms. Silver to address them.

**Laurie Silver, 365 ½ Garcia #3, was sworn.** Ms. Silver said she is here on behalf of all of the neighbors of the compound, and because of the intensity of the agenda, decided not to ask the neighbors to come, but she is speaking on behalf of everyone. She tried to get everyone together to try to settle this and to meet with the French's and their attorney without having to come here tonight. She said the French's had a guest from out of town and the attorney declined to meet on a Friday afternoon, so we are here tonight to discuss this.

Ms. Silver moved to Santa Fe a year ago, and has been in and out of the City because of work. She has experienced this process as having no integrity. She said there has been a tremendous surreptitious process here, the rules have changed "every half hour," including yesterday with the ability to have a coyote fence, to not have a fence, how tall it needs to be, what's on the record, what can and cannot be disclosed tonight. She said as a citizen there has been an incomplete process which feels very unethical.

Ms. Silver said neither she, nor anyone in their compound, want to keep the French's from having their studio. She said she didn't receive Councilor Heldmeyer's telephone call today, nor was she informed of the coyote fence, or when the neighbors found out that the wall belongs to her, commenting she believes they knew long before she did. She doesn't have the resources they have to work on this case to the extent they have, and every time she has "looked up," there has been a different letter maligning her intent and her wishes for this.

Ms. Silver said all she has ever wanted is to collaborate, as have her neighbors, with the Frenches to develop a project which meets everyone's needs, commenting that hasn't happened. She said Ms. French came to her house, but never showed her or the neighbors the plan, and Ms. French asked if she could build right up against Ms. Silver's wall in order to protect her apricot tree. Ms. Silver said the entire thing has felt very unneighborly. She said she learned that Ms. French's neighbors, who live in Minnesota, signed a form not knowing that something was being built to which all of the neighbors were so much opposed, and they were appalled. However, the form they signed doesn't expire until December of this year.

Ms. Silver said she feels that with every turn of the way, this has been dealt with in a very underhanded, unethical manner. She said whatever the resolution, as a new citizen, she



is very disappointed and disconcerted with the way the various agencies have worked and coordinated or not coordinated with each other. It all feels very backhanded, and it depends on whom you talked to last, and with whom you have the most contact and political connection. She finds that to be very discouraging as a new resident.

Ms. Silver asked the Council to send this back to the H-Board and require more dialogue between herself and all of her neighbors with the Frenches. She said we never sat together as a community to look at this and to try to create something which would work for everyone.

### **Presentation by the Applicant**

**Kenneth Cassutt on behalf of applicants, was sworn.** Mr. Cassutt said he wants to make it very clear that this project complies completely with City Code, and has been approved by the H-Board and by zoning. He said the issue regarding the setback isn't really that complex. It is a five-foot setback if there is a 6-foot wall or fence. Clearly, the wall is on Ms. Silver's property, and his clients don't have the right to add onto that wall. The existing wall is mostly over six feet, with a portion which is under six feet, and he doesn't know if this complies with Code. If not, his clients have a clear option to build their own wall or fence on their property. This Council can approve this subject to that condition which is completely acceptable to his clients, and if necessary, will do that. He believes the Council has an option to find that this wall, because most of it is over six feet, is what is required in order to gain the five-foot setback.

**Jenny French was sworn.** Ms. French said she has made serious efforts to deal with the neighbors, noting she has a number of letters of support from the neighbors on Garcia who see the building of a studio in keeping with the historic character of Garcia Street. She said when Ms. Silver refers to the neighbors, she thinks she is referring to the neighbors in the compound which surrounds her in a compound of five behind "us." Ms. French said she has written the neighbors in Ms. Silver's compound three times, each time trying to be honest and straightforward and explain the conditions, and each time has invited anyone to call her and to come and look at the plans. She wrote the neighbors again last week, inviting them to come and look at the plans and pictures in her home, and to do this in her home with no intrusion by her and her husband.

Ms. French said she has been painted as someone who is running around, undermining things and doing things in a backhanded way. She believes most of the letters to the neighbors are included in the Council packet. She made a real effort to resolve this. She wrote Ms. Silver after they were approved at the first Historic Design Review Board, and invited Ms. Silver to call her and to come and visit. She told Ms. Silver she would work with her on the windows which would face Ms. Silver, determine the style and placement of the windows, and even offered to give up the windows if it was important. She offered to keep the trees, plant ivy, and would make sure the windows were screened at night so no light would bother Ms. Silver. She never had any response from Ms. Silver or Mr. Mittle until the last 10 days to two weeks when she thinks something alerted them.



**Bonifacio Armijo, a building contractor, was sworn.** Mr. Armijo said he was hired by the Frenches to do the addition/remodel project. He said about 80% of the work he does is on the east side, so he is sensitive to the issues in this area. There is a very simple resolve to this issue. He said 30 ft. of the wall which sits on Ms. Silver's property meets the 6 ft. requirement. The part of the wall that drops 4 inches is on the parking edge where her wall stands, so it is just a matter of adding a 6 ft. wall on that six-foot section. He said Ms. French was allowed to build to 14 ft. 8 in., and for her drop to 11 ft. 6 in. shows him she is working with the neighbors. He said based on these conditions, he is requesting that the Council deny Ms. Silver's appeal.

**Steven Merdler was sworn.** He said when you build a wall between two properties, it cannot be infinitely thin. His knowledge of this project is that the wall is on the property line. Since the thickness cannot be infinitely thin, it happens to be on Ms. Silver's property, but it doesn't mean that wall is really totally hers. It means that it is a division between two properties and this makes it rather strange to be arguing whether you can or cannot do something to that wall, when it is a wall that separates two properties. He said the wall will be on one person's property or it is split. You can't argue that the wall belongs to one or to the other, it belongs to both properties. This makes a clarification as to what can be done to it. It is a stupid thing to be arguing and has no point.

### **Rebuttal**

Mr. Mittle said any testimony you have heard from David Rasch or from anybody else about the height of the wall should be excluded. It is not in the record and should not be considered in your decision tonight. If this is the issue, it should be remanded back to the Historic Board, because he hasn't had the opportunity to measure the wall, and to hire his person to go out and see what it is. He can't just show up here tonight and learn what somebody says is the height of the wall when he knows it isn't 6 ft. He said, with regard to the last speaker, the wall clearly is on Ms. Silver's property and isn't an issue any more and isn't debatable.

### **The Public Hearing was Closed**

Councilor Heldmeyer said in Ms. Silver's testimony she essentially said it was a very confusing process, and didn't know what could be said here tonight, what could be disclosed and what couldn't be disclosed. She asked if there is anything, from the point of view of the City, which can't be disclosed tonight, or if this all an open book.

Mr. Rasch said everything he knows is certainly something which can be told, and he hasn't hidden anything that he knows about.

Councilor Heldmeyer asked Mr. Rasch to summarize the issue here.

Mr. Rasch said the issue is this wall. He was asked by the City Attorney to have our inspector go and measure the wall today from the street facing elevation, which isn't the Appellant's side of the wall, it is from the owner's side of the wall. He said Gary Moquino went

out this morning before lunch and measured the wall, noting the owner was present. Mr. Moquino found that approximately 30 feet of the wall was "6 ft. with one inch," and 6 feet of the wall was to be 5 ft. 8 ½ in. high.

Councilor Heldmeyer said then the appeal is from the entire H-Board decision.

Mr. Rasch said this is correct.

Councilor Heldmeyer said the H-Board's decision was predicated on either that they would get their neighbors' approval, or an affidavit, for a lesser setback, or that there would be a six-foot wall.

Mr. Rasch said he believes, even though it wasn't stated, the H-Board probably doesn't care if the wall is five feet high, and it is the underlying zoning which is at issue here, not the Historic District's zoning.

Councilor Heldmeyer said she is reading the Board action on an undated piece of paper from Marisa which says, "This is to certify that the H-Board at their meeting on February 13, 2007, acted on the above referenced case. The decision of the Board was to postpone the application so that the applicant may obtain the required zoning affidavits from the neighbors or the addition is redesigned so as not to need the affidavits." She asked if either of the two conditions have been met.

Mr. Rasch said he is still unclear as to whether the existing wall allows the addition to be met or not, because in Code, the text is in opposition to the table.

Councilor Heldmeyer asked Mr. Katz if he is unclear.

Mr. Katz said he agrees with Mr. Rasch that the H-Board doesn't do zoning, but zoning does affect what it has to decide.

Councilor Heldmeyer said the Board can't approve something which is in opposition to the zoning.

Mr. Katz said if the zoning requires there to be a 6 ft. wall, and if there were not a 6 ft. wall and the applicant needed to make a 6 ft. wall so that the zoning would work, the H-Board would have to approve that wall, and he believes this is what was going on. He said the zoning requires a 6 ft. wall and he is comfortable with that, although there is a bit of ambiguity and doesn't think that's necessarily always how the zoning folks have interpreted it. He is very comfortable that in order to have a 5 ft. setback, you have to have a 6 ft. wall. He referred to the picture on page 29, where you can see what they're talking about – most of it is 6 ft., but there is the jog on the right which isn't 6 ft., which is 5 ft. 8½ in. The zoning requires that, and if it needs to be built, it has to be approved by the H-Board, and that's what the H-Board did. It wasn't a condition of their approval of the project, it was a zoning requirement, and if it needs to be done, they approved raising that wall. However, the wall cannot be raised by the applicant now, because it isn't the applicant's wall.

Councilor Heldmeyer asked Mr. Katz to summarize the issue before the Council, because she is now confused.

Mr. Katz said a number of issues were raised which haven't been argued – that it is or is not visible from the street, the density and that it's not harmonious. The focus is on the wall and he thinks the issue is whether that 6 ft., being only 5.8 ½ in., is *de minimus* as far as you're [the Council] concerned and the rest of the wall being 6 ft. makes it okay, or whether you [the Council] want to allow the Frenches to add, in front of the area that is only 5 ft. 8½ in., a wall on their side which goes up to 6 ft. there.

Councilor Heldmeyer asked Mr. Katz if he is going to give legal advice on what constitutes *de minimus*.

Mr. Katz said he doesn't think this is a legal issue, it is a factual issue.

Councilor Heldmeyer said the question is whether we are even talking about the wall, given that the wall hasn't been permitted and the building has been permitted with the assumption that a wall was either going to be there, or was there, and we are being asked to look at the H-Board's approval of the building, and does the wall enter into that discussion. Or, is this a separate case with a separate discussion.

Mr. Katz said he believes the wall does enter into it, because everybody agreed throughout the H-Board process that the zoning requires a 6 ft. wall, and if a 6 ft. wall needs to be built, then it needs to be approved by the H-Board that it is the appropriate style. He thinks the H-Board needs to hear about this.

Councilor Heldmeyer said in lack of direction about what constitutes *de minimus*, she will defer to someone else.

**Councilor Bushee moved, seconded by Councilor Calvert for purposes of discussion, that whatever the Frenchs need to do, in terms of planning and land use, that they go through staff, that they get what permits they plan on getting, and try to work things out the neighbors, and that this all goes back to the H-Board.**

**Discussion:** Councilor Bushee said there are too many "he says," and "she says," so far for her to deal with this. If the Frenches are planning on getting a wall, and to move forward, she wants them to inform the neighbors, be very transparent, and work with neighbors if possible. She thinks it should be worked out at the H-Board if possible, where it will go whatever is done.

**Friendly amendment:** Councilor Wurzbarger would like to amend the motion that this be remanded back to the H-Board solely for discussion of the wall, not items 1-3, so we aren't reopening the design of the building, the issue of windows and such.

**Discussion on the friendly amendment:** Councilor Wurzbarger said the way she reads the four reasons for the appeal, she has heard no evidence tonight that supports those

three bases for the appeal. She would like to restrict that discussion, rather than opening the whole process, and asked if this is possible.

Councilor Bushee would like to hear if this is satisfactory with the Appellant's attorney, because she did hear them say that nobody has an issue with the studio.

David Mittle said he briefly discussed the scale of the project and how it would affect Ms. Silver, noting that he also didn't discuss the other points which are in the appeal. He said the reason these weren't argued as vociferously is because there isn't a 6 ft. wall, because it was conditioned and predicated on a 6 ft. wall which there is not. He said now you are telling me that I've waived something which wasn't argued which is in the appeal, and which he did bring up tonight. He doesn't know what will happen when it goes back to the H-Board, because he doesn't know what the H-Board's thinking was.

**The amendment was not friendly to the maker of the motion.**

Councilor Calvert clarified that we are talking about a wall as opposed to a fence, we are talking about some sort of block wall as opposed to a coyote fence. We are talking about a fire wall as opposed to a fence such as a coyote fence. He asked if this is correct.

Mr. Katz said it is his understanding that the coyote fence won't work, and the desire was to have a block wall. He assumes what would happen is that the Frenches would design a block wall to go on that 6 ft. section. The Council acting on this appeal, would have the authority to approve that wall, but you don't even know what it looks like now, and he doesn't believe the Council really could approve it this evening.

M. Smith apologized on behalf of the Land Use Department for any confusion which was caused by the side trip references to coyote fences. He said wall is defined in the Code as, "A structure that has an artificially constructed barrier of masonry concrete or a frame with a stucco finish, erected for the purpose of enclosing or screening." He said it isn't the Department's understanding, necessarily, that the issue has to do with the flammability of the materials and the spread of flame. This isn't in the Fire Code, it is in the Zoning Code, and it appears to be with reference to durability in the appearance of the wall.

Councilor Calvert said then it has nothing to do with a fire wall or anything like that.

Mr. Smith said staff's current understanding, and best evaluation is that it's not related to the spread of flames, that it's related to the durability and the appearance of the structure.

Councilor Calvert said he has heard discussion about taking a section which isn't 6 ft. and putting a 6 ft. wall against it, or close to it. He said if this isn't a fire wall, then that's okay, unless there is something structurally that doesn't work here in terms of being a continuous six foot wall.

Mr. Smith said staff will evaluate it in this respect. It could be hypothesized that the Appellant who owns the 6 ft. wall would then apply for permits to lower the height of the wall for its entire length. There are other scenarios which can be hypothesized. However, the practice

of staff has been to accept an existing wall and add a property line, even though it might be off the property line.

Councilor Calvert asked how far the wall is off the property line.

Mr. Smith said he doesn't know, but staff understands it is very close to the property line, if not touching the property line. However, the testimony from the affected property owners is that the building permit applicant has testified that it is on the Appellant's side of the property line based on their research. Staff has no information contrary to that testimony.

**Clarification of the motion:** Mayor Coss said Councilor Bushee's motion is to remand this to the H-Board, in hopes that the neighbors could work this out and then take it back to the H-Board.

Councilor Bushee said the issue will involve a wall, either a new wall or the existing wall, and all the issues surrounding it.

Councilor Heldmeyer asked if Councilor Bushee is moving to uphold the H-Board on the issue of the building and remanding it back to the H-Board on the wall, or if she is remanding the whole thing to the H-Board.

Councilor Bushee said she would like to see the parties work it out between themselves and take it back to the H-Board to finalize that. She believes there are issues related to the building because it was predicated on a wall on the French's property which doesn't exist.

**Further clarification of the motion:** Mayor Coss said the motion then is to uphold the appeal.

Councilor Bushee said no, she just wants to remand it back to the H-Board.

Councilor Trujillo asked how far the wall is from Ms. Silver's property line.

Mr. Rasch said it is either on the property line, or within 1-2 inches.

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

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

**No: Councilor Dominguez, Councilor Heldmeyer, Councilor Ortiz, Councilor Trujillo, and Councilor Wurzbarger.**

**Explaining his vote:** Councilor Dominguez said he respects the motion, but he is going to vote no, because he believes this situation potentially could get worse.

**Explaining her vote:** Councilor Heldmeyer thinks we should only be talking about the wall, so she is voting no.

**Councilor Wurzbarger moved, seconded by Councilor Heldmeyer, to remand this back to the Historic Design Review Board for purposes of discussing only the wall.**

**Clarification of the Motion:** Councilor Wurzbarger said it is being remanded to the H-Board for the discussion of any wall – A wall, a wall somewhere on the property, The wall or a new wall.

**Clarification of the Motion:** Councilor Heldmeyer said then the motion is to deny the appeal on the building, but remand it back to the H-Board on the wall.

Councilor Wurzbarger said this is correct.

**Restatement of the Motion:** Councilor Wurzbarger moved, seconded by Councilor Heldmeyer to deny the appeal on the building in Case No. H-07-10, and to remand the case back to the Historic Design Review Board for purposes of discussing only the wall.

**Discuss:** Councilor Bushee said then they will discuss adding 2 inches to the wall.

Councilor Wurzbarger said no, they are going to discuss the wall options for the property – build another wall, build two new walls, do a fountain which is 3 ft. wide which covers the relevant hole, or something similar.

Councilor Bushee hopes those who are “big” on findings of fact for H-Board Decisions will throw some in here. She said it says, “Appeal of the H-Board’s decision on March 13, 2007, concerning rescinding the condition of approval to construct the addition to a guest house and to increase the yard wall by two inches.” She said the appeal isn’t about the existence of a wall.

Councilor Wurzbarger said the appeal had four reasons, and she thinks, parenthetically, that the H-Board did an excellent job of giving findings of fact with respect to “these” three, but not such a great job with respect to “four.” She accepts the findings of fact with respect to Items #1, #2 and #3.

Councilor Heldmeyer pointed out that the reason the H-Board was incorrect on the basis of its findings of fact on the wall issue is because they did not have the correct information about the wall when it considered this – either the ownership or the exact size which are the issues it needs to consider.

Councilor Bushee asked when we will consider the fence.

Councilor Wurzbarger said she sees nothing about a fence.

Councilor Bushee said on page 3, under 4, it says, “On July 19, H-Board Division staff administratively approved the construction of a 6 ft. 2 in. high coyote fence within the property boundary.”

Councilor Wurzbarger said the discussion tonight about a fence has been extremely confusing, and the Appellant has always stated that the wall is the issue, so let's discuss the wall. She commented that the fence seems like a "red herring," and she isn't so concerned about the fence.

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

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

**Against: Councilor Ortiz and Councilor Bushee.**

**Explaining her vote:** Councilor Bushee said she doesn't believe we are making a very well informed decision at this hour.

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**At 11:26 p.m., Councilor Chavez moved, seconded by Councilor Ortiz to suspend the rules and to continue past 12:00 midnight. The motion was approved on a voice vote with Councilors Bushee, Calvert, Chavez, Dominguez, Heldmeyer, Ortiz, Trujillo and Wurzbarger voting for the motion and none against.**

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- 7) CONSIDERATION OF BILL NO. 2007-37; ADOPTION OF ORDINANCE NO. 2007- 29. CASE #ZA-2007-01. AGUA FRIA COMPOUND REZONING. JIM HAYS AND ASSOCIATES, INC., AGENT FOR MARC BERTRAM AND ERIC ENFIELD, REQUESTS REZONING OF 4.12 ACRES FROM R-2 (RESIDENTIAL, TWO UNITS PER ACRE) TO MU (MIXED USE). THE APPLICANT INCLUDES A MASTER PLAN ILLUSTRATING THE SITING OF 32 UNITS UTILIZING THE GUIDELINES OF THE MIXED USE DISTRICT TO PROVIDE LIVE-WORK SPACES, RETAIL SPACE AND AFFORDABLE HOUSING. THE PROPERTY IS LOCATED ON THE SOUTH SIDE OF AGUA FRIA ROAD AND WEST OF HARRISON ROAD. (GREG SMITH)**

A memorandum dated August 1 for August 8, 2007 City Council Meeting with attachments, to City Council from Donna Wynant, Senior Planner, Current Planning Division, is incorporated herewith to these minutes as Exhibit "17."

The staff report was presented by Greg Smith which is contained in Exhibit "17."

**Staff Recommendation:**

The Planning Commission and staff recommend approval of the rezoning of this property from R-2 (Residential, two units per acre) to MU (Mixed Use) based on the approval criteria set forth in Section 14-3.5(C) SFCC 2001. The Master Plan, dated March 12, shows 50% of the space as residential and the

other half commercial in 32 units, utilizing the guidelines of the Mixed Use district to provide live-work spaces, retail space and affordable housing. Recommended conditions of approval for the rezoning (Case #ZA 2007-01) and associated Master Plan are listed below:

1. Comply with Memorandum from Engineering Division traffic review (Exhibit F)
2. Comply with Memorandum from Engineering Division subdivision engineer (Exhibit G)
3. Comply with Memorandum from Engineering Division landscaping comments (Exhibit H)
4. Comply with Memorandum from Solid Waste comments (Exhibit I)
5. Comply with Memorandum from Parks, Trails & Open Space comments (Exhibit J)
6. Comply with Memorandum from Office of Affordable Housing comments (Exhibit K)

## **Public Hearing**

### **Presentation by Applicant**

**Jim Hays, developer was sworn.** Mr. Hays, referring to the large drawing, said this plan is similar to what was approved one year ago by this Council. It has the same 32 units and built area, with a reconfigured entry based on recommendations of their traffic engineer, and relocation of some of the building and parking areas to comply with the setback requirements of the Mixed Use Ordinance. He said several of the Planning Commissioners were concerned about the traffic on Agua Fria, and the desirability of a deceleration lane. Therefore he designed, and amended the Master Plan, to include a deceleration lane and to add a bus stop, which he believes addresses the traffic concerns nicely, both for his development and on Agua Fria Road.

Mr. Hays said his engineer, Cliff Walbridge, architect Chris Purvis as well as Phil Crump who assisted with the process and ENNs, are in attendance. He said over several years and multiple ENNs and meetings with neighbors, he believes this project has the approval of all of the neighbors. There is some concern from the residents of Cook's Road about the possible future connection to Cook's Road. He said John Romero, City Engineer, has steadfastly wanted to keep it on his master plan, and understands it would also require the agreement of the people on Cook's Road and bringing this private road to City standards. He said this connection is unlikely to happen.

Mr. Hays said the middle drawing is the landscape site plan, with more information about how they will plant the area. He said there are some architectural elevation studies on the "left" drawing, noting that all drawings are conceptual at this point, and the "nitty gritty," and full design and the architecture is before "us" with the development plan. He said there have been a number of issues during the process of planning this project, particularly relating to traffic, and the last major issue was the deceleration lane, which has been resolved, and "we" are good to go with the technical needs to make a good development.

Mr. Hays said there is a lot of open space and it planned to configure a substantial portion of this into private open spaces which relate to the individual units. The buildings are fourplexes and the concept is to have commercial downstairs and 50% residential upstairs according to Code. The building backs up to Capital Scrap Metals, so those four units may be



fully commercial, and four others which will be fully residential, so he is looking for this kind of flexibility.

Mr. Hays said on the application, he inadvertently wrote 24 ft. on the height, and this was discussed at the Planning Commission where he requested 29 ft. He said Mr. Smith noted that the requirement really is not to exceed 35 ft. He said they are happy with the 29 ft., and he wants to be clear in any approval that he needs flexibility in the massing and citing of the buildings.

**Philip Crump, 2200 Ft Union Drive, mediator and facilitator, was sworn.** Mr. Crump said he is a mediator/facilitator in private practice and a facilitator with the City of Albuquerque, Land Use Facilitation Program. He said it has been a pleasure to work in this process. He thanked Councilor Heldmeyer for importing and supporting this process, as have other Councilors and City staff over a number of years. He said the program started as a City sponsored, facilitated infill pilot project, which was terminated. However, Mr. Hays and the team decided to continue with discussions with neighbors, and what has come about has been responsive, with unanimous support from the neighbors. He thanked the Council for its support and its unanimous passage of the Resolution sponsored by Heldmeyer, Ortiz and Wurzburger, budgeting the pilot program in appropriate dispute resolution for land use cases.

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

**Councilor Wurzburger moved, seconded by Councilor Chavez, to adopt Ordinance No. 2007-29, approving Case No. ZA 2007-01, with conditions as recommended by staff and the recommendation of the Planning Commission regarding the rezoning of this property.**

**Discussion:** Councilor Heldmeyer said there was a lot of discussion at the Planning Commission about density, and the Planning Commission was split. She isn't concerned about the density, but she is concerned that this is a one exit/one entrance development when there is going to be live/work. There is a certain amount of risk to homes from businesses which may include more industrial uses, and other such uses. She is concerned about the increased potential for fire when there is only one entrance and exit.

Mr. Hays said in looking at fire, health and safety, he met with Marshal Bolleter who checked the distances from the entry, and the turnaround, and such. Marshal Bolleter told him the fire concerns could be addressed by building either an emergency access from Cook's lane which would be gated with a chain which can be cut, or turnarounds could be provided for the fire trucks with 26 ft. wide roadways, which is what he chose to do. There was a lot of concern from the neighbors about opening Cook's road both ways, noting this is a very industrial area, and is residential the other way and people didn't want the commercial and industrial traffic coming through. He said Mixed Use doesn't permit industrial uses which have environmental side effects. He said they are looking for a lighter commercial use, such as artists, yoga studios, engineers, architects and such.

Councilor Heldmeyer said she is concerned about sculptors who may be using

acetylene torches, or people using various kinds of chemicals for their art, which isn't "Industrial" in the sense of industrial zoning. However, there are some things which have a greater potential for fire than straight retail and such. She said Marshal Bolleter is worried about getting fire trucks in, but she is worried about getting the people out.

Mr. Hays there is a lot of space for people to move around, noting there is a lot of open space and pathways. He said he will need to meet fire separation requirements, and he plans on building masonry common walls between the units, noting this is a cluster of four buildings.

Councilor Heldmeyer asked if there is a chance to get at least an emergency exit onto Cooks Lane/Road which would never be used unless it was for an emergency exit, noting this is something which he would need to negotiate with the owners of the private road.

Mr. Hays understands Mr. Cook owns the ground under the road, and it is a public utility easement and a private access easement to benefit property owners along Cook's Lane. He said this would mean really managing what is happening on the other side of any gate, and right now the business located there are using that space, noting the Witt family owns all of those lots. He said he is trying to "just let them be."

Responding to Councilor Heldmeyer, Mr. Hays said these buildings are required to be sprinkled.

Councilor Heldmeyer said this makes the situation quite different and she is glad to know the buildings will be sprinkled.

Councilor Chavez said Mr. Hays never gave up on this project and commended him for his tenacity in moving this project forward.

Councilor Chavez said the benefit is that this project is a buffer between the existing industrial area and the residential area – La Cieneguita. He said the beauty is that this project is live/work which is something which is needed in this community. He said this is one way to support artists & crafts in the community, as well as small businesses which need office/light industrial space at an affordable price. He said combining live/work is cost effective and will reduce some of the trips if people stay home working during the day.

Mr. Hays thanked Councilor Chavez for his comments.

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

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

**Against: None**

**Absent: Councilor Calvert.**

Councilor Heldmeyer thanked Mr. Hays for “hanging in there” on this project, and voted yes.

- 8) **CONSIDERATION OF RESOLUTION NO. 2007- \_\_\_\_ . CASE #M-2007-13. BEATTY SOUTH GENERAL PLAN AMENDMENT. JENNIFER JENKINS, AGENT FOR BUILDING SERVICES OF SANTA FE, REQUESTS APPROVAL OF A GENERAL PLAN FUTURE LAND USE MAP AMENDMENT TO CHANGE THE DESIGNATION OF 96.73± ACRES OF LAND FROM LOW DENSITY (3-7 DWELLING UNITS PER ACRE), MEDIUM DENSITY, PUBLIC/ INSTITUTIONAL, OPEN SPACE AND BUSINESS PARK TO “LOW DENSITY (3-7 DWELLING UNITS PER ACRE)” THE AREA IS GENERALLY LOCATED WEST OF RICHARDS AVENUE AND SOUTH OF GOVERNOR MILES ROAD. (GREG SMITH)**

*Items #8, #9 and #10 were combined for purposes of presentation, discussion and voting to postpone.*

A memorandum dated August 1 for August 8, 2007 City Council Meeting, with attachments, to the City Council, from Donna Wynant, Senior Planner, Current Planning Division, regarding Case #M 2007-13, Case #M 2007-14 and Case #ZA 2007-03, is incorporated herewith to these minutes as Exhibit “18.”

A copy of “K-8 School Fair Share Calculation, Beaty South,” entered for the record by Jennifer Jenkins, is incorporated herewith to these minutes as Exhibit “19.”

A copy of “Beaty, Summer of Trip Generation Calculation for 19 Acres of Business Park,” dated June 21, 2007, entered for the record by Jennifer Jenkins, is incorporated herewith to these minutes as Exhibit “20.”

A copy of the statement for the record by Richard Lange, Chairman, Nava Adé Homeowners Association Ad Hoc Committee on Las Soleras, is incorporated herewith to these minutes as Exhibit “21.”

The staff report was presented by Greg Smith which is contained in Exhibit “18.”

**Staff Recommendation:**

If the Council determines that it is appropriate to proceed with annexation with the conditional support of the County for annexing Richards Avenue, the Planning Commission and staff recommend approval of each of the three applications based on approval criteria in corresponding Code Sections 14-3.2, 14-3.4 and 14-3.5 SFCC 2001. The Planning Commission reviewed the applications on May 3, 2007 and recommended the applicant comply with requirements as provided by the following City Departments at the time of subdivision:

- 1) Engineering Division traffic review (memo attached)
- 2) Subdivision Engineer (memo attached)

- 3) Fire Department (memo attached)
- 4) Landscaping Requirements (memo attached)
- 5) Trails and Open Space (memo attached)
- 6) Water Division (memo attached)
- 7) Wastewater Division (memo attached)
- 8) Solid Waste Division (memo attached)
- 9) Letter from Craig Watts, P.E., regarding traffic calculations (letter attached)

A specific condition of approval for the annexation is recommended as noted in Exhibit D to the annexation bill:

An irrevocable offer to dedicate sufficient right-of-way to the approval of the City Public Works Director for widening of Richards Avenue, and for creation of Beckner Road, as shown on the Annexation Master Plan, shall be recorded concurrently with the annexation plat, with acceptance of the offer at the discretion of the Governing Body.

The City Planning and Policy Commission recommendation was made for denial (3-2) at their May 23, 2007 meeting.

Mr. Smith said the packet includes a recent letter from County Manager Roman Abeyta, indicating that the County assents to the annexation of Richards Avenue right-of-way which they maintain is County right-of-way, and assent to the annexation on the condition that the Council immediately quitclaim back to the County any title to the Richards Avenue right-of-way to be annexed. This is a relatively recent letter from the County, and a new area of law for the Land Use Staff and staff is not fully prepared to represent that every City department has had an opportunity to fully review the implications of that condition recommended by the County. He said it may be that the City Attorney would like to comment further on these issues.

## **Public Hearing**

### **Presentation by Applicant**

**Jennifer Jenkins, 130 Grant Avenue, Suite 101, representing the applicant was sworn.** Ms. Jenkins gave a brief overview of the history of this project, which resulted in Mr. Beaty's property being master planned into the Las Soleras development in 2003, without Mr. Beaty's permission. Ms. Jenkins demonstrated the subject site on the enlarged drawing. She said in the County, to be eligible for Village District zoning, a minimum of 450 acres is needed. She said Las Soleras only had 426 acres including Mr. Beaty's property, and received a variance for the other 24 acres. She said without Mr. Beaty's property, there was a deficit of 123 acres. She said it is Mr. Beaty's wish that his property be annexed into the City, and he is requesting some amendments to some things which were imposed on his property without his consent.

Ms. Jenkins demonstrated the proposal using enlarged drawings of those in the Committee packet. There will be approximately 500 dwelling units, and they are preserving significant open space, and exceeding the minimum open space requirement. Ms. Jenkins said in the current general plan, the open space is concentrated around the arroyo as well as along

Richards Avenue. They would like to redistribute the open space throughout the neighborhood to create something more livable and create more park land, and demonstrated the locations on the drawings. This is the first proposed general plan amendment.

Ms. Jenkins said in 1999, it was thought by the time this property was developed there would be an interchange or frontage road system at Richards Avenue and Richards Avenue would be four-lane, which hasn't happened. She said 19 acres of business park cannot be accommodated with the existing infrastructure – Beckner Road is not built, Richards Avenue still is only a two-lane road. There is a consensus that Richards Avenue does need to be four lane and they are contributing financially to that effort in money and right-of-way. Ms. Jenkins distributed copies of a summary of the traffic generated by a 19-acre business park as compared with the traffic generated by approximately 110 homes built on the 19 acres in lieu of a business park [Exhibit "20"]. Ms. Jenkins reviewed the information in Exhibit "20." She said because of what is happening with the existing infrastructure, they are asking to replace the business park designation with 110 residential homes as well as the additional 30 affordable units in compliance with the Santa Fe Homes program which would also be constructed there as well. This is the second proposed general plan amendment.

Ms. Jenkins said there was an ENN meeting process as well as interaction with the Nava Adé Homeowners Association. She said modifications were made to the plan to address some of their concerns, and indicated those on the drawings. The buffer area was increased to mirror what is happening across the road. She said this is sort of a gateway to the Nava Adé community. The open space area was increased for the opportunity of landscaping. They also agreed to a six-foot coyote fence for the backyards in Nava Adé which back on this development to increase privacy, noting there is an existing open space buffer in the area. One of the most significant things which they did, which wasn't requested, was to provide a point of access directly into the parking area of the Monte del Sol Charter School from the development as an alternative access. She spoke with Tony Gerlich, the director of the school, and he has agreed to require all of his bus traffic to use this access, and educate the families about the alternative route. She demonstrated the traffic flow from Governor Miles or Beckner Road on the drawings.

Ms. Jenkins said when Nava Adé was annexed by the City in 1995 a potential school site was designated which eventually was dedicated to Monte del Sol. As the area developed it was a good opportunity to get fair share contributions from various landowners to create a ten-acre school site in the location which she demonstrated on the drawings. She said in the City's 1999 General Plan, this concept was mirrored by showing the institutional triangle in the corner of Mr. Beaty's property. When Las Soleras presented its General Plan amendment to the City, the triangle became substantially larger – 2½ to 10 acres. There was more open space on Mr. Beaty's property in the City's 1999 General Plan, with which they are complying by reconfiguration. This is reflective of what they are requesting on their general plan.

Ms. Jenkins said, with respect to the school site, they believe it is important to take care of the schools and their needs in terms of student generation. She said they can provide what is appropriate and fair based on the potential impact of this project on the schools. Ms. Jenkins distributed a document regarding the K-8 school fair share calculation for Beaty South [Exhibit "19"].

Ms. Jenkins reviewed the information in Exhibit "19." She said the subdivision is estimated to generate 177 students, based on the surrounding neighborhoods, adding 19% on top of the rate to account for students in private or charter schools because of the potential that a student from those schools could move into the public school. The School District has stated it would prefer a K-8 school in this location which requires 15 acres.

Ms. Jenkins noted a letter from the School Board to the Governing Body which is in Exhibit "19," stating that the School, based on its calculations, is requesting a 4-acre school site. She said they would like to see the formula the School used to calculate the school site. She understands the Council didn't get that letter. She said the developer has no intention of shirking its responsibility to offset the development's impact on the schools, and is willing to contribute land and/or money. She said the school is in Phase 3 of the project, so they are happy to give the School Board additional time. She said, based on the data provided to them by the School District, their fair share is 2½ acres of land.

**Morrie Walker, Walker Engineering, was sworn.** Mr. Walker said they have looked at different options in the three phases. He said their Traffic Study [in Exhibit "19"] found that at Richards Avenue and Governor Miles, they will be installing a right turn line in the first or second phase, and in the third phase, will be adding two through lanes in both directions, and probably will include a traffic signal at the Beckner/Richards Avenue. He said basically they found out that Richards Avenue has to go to a four lane "somewhere between 2014 and 2030." He said they analyzed three different intersections and they all worked pretty well.

#### **Those speaking to the application**

*All those speaking were sworn en masse.*

Mayor Coss limited remarks to two minutes each.

**Carol Leibman, Nava Adé [previously sworn],** said she has attended several meetings leading to the master plan which was approved by the City for Nava Adé, Las Soleras and "all that." She is a little discouraged that we are back here again for more zoning. This 100 acres behind her house, and she believes 25 acres are unbuildable because it is difficult terrain, and only 75 acres are buildable, which means more than 5 houses per acre. She said the builder across the street wants this land, noting they "skinned" the land north of Governor Miles over a year ago, and the builder still hasn't resolved the drainage issue. When it rains, the mud and water come across and down Governor Miles. She doesn't have a lot of confidence about the drainage for the next 100 acres. She said north of Governor Miles "they" are building giant boxes, some with no windows on a whole wall, and they look like warehouses. She said it feels like the "slumification" of the southwest side is continuing and getting worse. She realizes affordable housing is an important issue, and the developers sound as if they are being altruistic about what they are doing, but it doesn't feel that way to her in her neighborhood which is being surrounded by big boxes that look like warehouses.

**Kathy Reyes, 4421 Autumn Leaf Lane [previously sworn]**, said she has lived in Nava Ade since 1999. She said keeping the road at two lanes was one of the criteria of the neighborhood. She has attended two meetings on the new development and was quite shocked to hear Ms. Jenkins just say that they would not be putting trees behind her house, and instead would be putting a coyote fence there. She said in the meeting, Ms. Jenkins indicated there would be 7-8 ft. trees behind her house.

Ms. Jenkins clarified that there will be trees as well.

Ms. Reyes said we develop a master plan constantly, and it seems to be constantly changing. She understands this is a rural development. She said the issue of water and water rights has never been resolved in her mind for this project. She thinks this needs to be resolved – where is the water coming from. She said her house is on a slant, and if they build a group of boxes behind her house without drainage, she will have water in her house. She has nothing against the City annexing this property, but it would be nice if the City annexed the property and kept it at R-1.

**Pamela Herrera, 4167 Rain Dance Lane in Nava Adé [previously sworn]**. Ms. Herrera said she supports the annexation and believes it is a great thing to have more affordable housing. She has no problem with the proposed access to Monte del Sol. She supports this project.

**Audrey Herrera, 4187 Big Sky Road in Nava Adé [previously sworn]**, said she supports this annexation. She strongly believes more affordable housing is beneficial to Santa Fe, and the last thing we need is another business park with more vacant space to be rented out.

**Ses Jordan, 1105 Calle de Sueños in Nava Adé [previously sworn]**. Ms. Jordan supports more affordable housing, saying it is really difficult to purchase a house in Santa Fe, especially on low or fixed income. She works at the Community College, and her daughter will attend Monte del Sol next year, and this would be an excellent place for her to live. She really doesn't want to see more traffic because it is really bad now driving to the Community College.

**Edward Madrid, 4187 Big Sky Road in Nava Adé [previously sworn]**. Mr. Madrid supports this annexation, more affordable housing and the alternate access to the school. He said without affordable housing, he probably wouldn't be living in Nava Adé.

**Agnes Herrera, 1167 Harrison Road [previously sworn]**, said she supports this proposal because her daughters live there, and it is a big issue with them and their children as to how to get to work and to school.

**Carrie Ann Blea, 4166 Rain Dance Lane in Nava Adé [previously sworn]** said she is in favor of the housing, especially affordable housing, and believes housing is more suitable than a business park which she believes would cause more traffic congestion in the area, noting there is already too much traffic in the area.



**Frank Montaño, President, Santa Fe School Board, 610 Alta Vista, representing School Board [previously sworn].** Mr. Montaño said the School District is very concerned about the two developments which are being proposed, one in the City, one in the County, in which it appears the right hand doesn't know what the left hand is doing, and this puts them in a very difficult position. The difficult position is that there is one group of people who have been given an approval by a City and a County entity, the EZA, which basically gave them a school site. There is a developer who has decided they were never a part of the process, and he has no reason to disbelieve that. Therefore, the school site is on this property.

Mr. Montaño said they have been having discussions with the Beaty people, and it has been very confusing, because the first thing they had to sift through was "what was what and who was who." When Beaty went to the Planning Commission, the schools originally requested that the Commission postpone the hearing on the annexation because the Schools needed to sift this stuff out. He said, upon learning from the Beaty group what they were proposing, we determined that they were not a part of Las Soleras, although this is still gray in his mind. Therefore, there is the question of the need for a fair share of the school site. Ideally, getting a fair share of the school site would also mean they would have to work with Las Soleras to ensure that they give the Schools its fair piece, which is the next step the School Board and district wish to accomplish. He said they are having to get in these kinds of situations, where in the past the School hasn't gotten into land use issues.

Mr. Montaño said "we" have hired an assets manager who is dealing with the various governmental entities in terms of the kinds of things which are being proposed this evening. He said after they sent the letter to the Planning Commission requesting postponement of the hearing, they rescinded that letter after hearing from the Beaty people and sent a second letter stating that we need to work out something with the Beaty Subdivision in terms of its fair share, and therefore were rescinding our request for postponement. He said the Planning Commission has, after deliberation, decided the Beaty people needed to come back and work with the School District to determine an equitable solution to the Schools' problem.

Mr. Montaño said they met with the Beaty people, noting there isn't much time between the meeting of the Planning Commission and the City Council hearing on this. He said School staff was working with them, although one of the staff members in charge was on vacation. Last Friday he met with the Beaty group, along with the Superintendent, to try to resolve this issue before this evening, and promised the Beaty group we would get the information to them which they would need as soon as possible, so they would understand our necessities, realizing the short time between the two meetings.

Mr. Montaño said Schools sent the ARC Report from the architectural firm in Albuquerque, who does the Schools' rezoning. He said the calculations, of which Ms. Jenkins spoke, are the calculations of the approximate number of students which would be generated by the subdivision. He said the Schools also had the assets manager working on the official position of what we felt would be the fair share, so we could get it to them as soon as possible. However, they were unable to get this to them until late Monday afternoon, or early Tuesday. He said sophisticated school districts these days understand that a school site not only a school site, but it is also a community building. He said schools in Santa Fe are used to educate



children, as well as being heavily used by recreational groups for basketball, cheerleading and a variety of things, and used by other groups in the community to teach English as a second language, after school programs funded by others, yet the Schools contribute the school building for these programs.

Mr. Montañño said sophisticated school districts also calculate into the necessities of a school district, the fact that there is community use of the school. They hand-delivered a letter to the City this afternoon, assuming it would be distributed to you, but it wasn't. The letter had a lot of information which would be pertinent to understand the School's position. The bottom line of the letter is that the Schools want to cooperate with the Beaty people, and to continue to meet with them, and we are not here to say we oppose this Subdivision. All the School is requesting is the consideration of its needs as a school district.

Mr. Montañño said the Schools calculated that it needs approximately 5½ acres of land for a school site, and ideally a school site would be 15 acres. He said Las Soleras has agreed to help the Schools and work with them to get a contiguous piece of land between these two developments to create a 15-acre school site. He said there is a dispute as to what the fair share is, and they did communicate to the Beaty group, through today's letter, that we felt that a 5½ acre site is suitable. However, if they wanted to go with a united front to the City Council and resolve this issue tonight, that the Schools would be willing to accept 4 acres. For whatever reason, the Beaty group has not accepted this proposal.

Mr. Montañño said it is the position of the Schools that we need 5½ acres from this Subdivision for a school site in combination with the other site. If that doesn't work, the Schools are willing to accept the market value for the land and at this point, are willing to compromise to 4 acres. This is the official position of the Santa Fe Public School District, based on the deliberation and a consensus among the School Board. He hopes the Council will consider this request.

**Robert L., 4405 Autumn Leaf Lane, in Nava Adé [previously sworn]**, read a letter into the record from Richard Lange, Chairman, Nava Adé Homeowners Association Ad Hoc Committee on Las Soleras, requesting that the "City Council either approve annexation of Beaty South based on the inclusion of a 150-foot setback along Governor Miles and reduction of home sites as specified herein, or that the proposed rezoning of the Business Park be denied." [Exhibit "21"] He noted that none of the issues in this letter are in opposition to affordable housing, because that argument is being used so often to oppose any development plan, and they are in favor of affordable housing as long as it is well integrated into the Community, and Nava Adé presents a perfect model of this.

Mr. Montañño said it is important to mention that, because of the short time frame between Friday and Tuesday, that the Schools expressed its calculation of the 5½ acres to Beaty people verbally, and they have not had the opportunity to see the actual calculation. He reiterated that the calculation is based on something that is reasonable.

#### **The Public Hearing was Closed**

**Councilor Ortiz moved, seconded by Councilor Wurzbarger, particularly in light of the discussion which was held by the School Board in terms of some of the other things which need to be worked through, that the public hearing is closed, to postpone this [Items #8, #9 and #10] to the next meeting of the Council, that we schedule this [Items #8, #9 and #10] as the first item for a public hearing at the next Council meeting on Monday, August 27, and further direct that the developer finalize whatever discussions which have begun with the School Board to ensure we have finality to that by the next meeting.**

**Discussion:** Councilor Chavez said it is still for a pro rata share for Beaty's share of that school site, and you are not expecting to provide the entire school site.

Councilor Ortiz said he isn't expecting them to do anything because the public hearing has been closed, and he wants them to work out whatever they need to work out with the School District so we have some answers as to what exactly is expected of us. He isn't going to make a judgment on this yet.

Councilor Chavez said part of this was explained earlier, because the school site has been identified already, and it was always understood that it would be shared by the adjoining property owners.

Councilor Ortiz said he is directing the developer to work with the School District, but he is not directing them with regard to what they should work on with the school district.

Councilor Chavez said he doesn't believe 4 acres will be enough for a school site, so they aren't providing all the property for a school site, and that is only a portion.

Councilor Ortiz understood that, and said he is fully prepared to render a decision if they can't reach a consensus or an agreement. However, it is his hope and request that the parties can arrive at some reasonable accommodation.

Councilor Bushee said she is willing to accept the General Plan amendment.

Responding to Councilor Bushee, Ms. Jenkins said if they build homes in the business park as proposed, it would be 30 additional affordable homes, and they are doing 30% affordable overall in compliance with the Santa Fe Homes Program.

Councilor Bushee is confused as to whether the people from Nava Adé want a business park.

Councilor Ortiz said what they want is a Siler Road industrial park, which is what the letter says.

Ms. Jenkins said they were expressing that it would provide some architectural relief by having different types of building and such, but for the reason expressed, the developer feels it isn't an appropriate use at this location at this time.

Responding to Councilor Bushee, Ms. Jenkins, referring to the drawings, said the setbacks were increased from the corner to 150 ft., and then it tapers down to 30 ft. going along "this way," which is greater than what is across the street. She said the fact that the land does slope downward is a benefit in terms of visual impact. She reiterated that landscaping will be placed in such a way as to offer a visual buffer for the homes constructed in this area.

**Clarification of the motion:** Councilor Ortiz, responding to Councilor Bushee, said his motion does not include negotiating with Las Soleras for part of the school land.

Councilor Dominguez thanked Chairman Montaño for attending this evening and making this statement, noting Board Member Lujan is also in attendance. He said he has concerns. He said Chairman Montaño said the district is now into understanding land development in the City, and because they haven't been able to do this leads to this point. He said Chairman Montaño also mentioned that sophisticated districts can calculate certain things. He sees two conflicting documents, one with sophisticated calculations and a definite fair share and the other is very vague and very basic. He questioned Ms. Pauley's calculation only because he knows that ARC has that statistical data and has for many years, and has provided that data for schools which are community schools. He will be respectful of the request to postpone, but he is ready to render a decision tonight, based on this information.

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

- 9) **CONSIDERATION OF BILL NO. 2007-38; ADOPTION OF ORDINANCE NO. 2007- \_\_\_\_ . CASE #M-2007-14. BEATTY SOUTH ANNEXATION. JENNIFER JENKINS, AGENT FOR BUILDING SERVICES OF SANTA FE, REQUESTS ANNEXATION OF 96.73± ACRES OF LAND AS WELL AS THE ADJACENT 2.55± ACRES OF RICHARDS AVENUE RIGHT-OF-WAY, FOR A TOTAL OF 99.28± ACRES. THE AREA IS GENERALLY LOCATED WEST OF RICHARDS AVENUE AND SOUTH OF GOVERNOR MILES ROAD. GREG SMITH)**

This item was postponed to the next meeting of the City Council.

- 10) **CONSIDERATION OF BILL NO. 2007-39; ADOPTION OF ORDINANCE NO. 2007- \_\_\_\_ . CASE #ZA-2007-03. BEATTY SOUTH REZONING FROM R-1 TO R-5. JENNIFER JENKINS, AGENT FOR BUILDING SERVICES OF SANTA FE, REQUESTS REZONING OF 96.73± ACRES OF LAND FROM R-1 (RESIDENTIAL – 1 DWELLING UNIT PER ACRE) TO R-5 (RESIDENTIAL – 5 DWELLING UNITS PER ACRE). THE PROPERTY IS GENERALLY LOCATED WEST OF RICHARDS AVENUE AND SOUTH OF GOVERNOR MILES ROAD. GREG SMITH)**

This item was postponed to the next meeting of the City Council.

## **15. COMMUNICATIONS FROM THE GOVERNING BODY**

### **Councilor Ortiz**

Councilor Ortiz said a Resolution has been introduced on the postponement of the curfew, co-sponsored by Mayor Coss and Councilors Trujillo, Heldmeyer, Bushee and Dominguez, discussing particular action items, some immediate and some which may take some time, and addresses safety in the parks and how we can make our parks safer. He hopes that there will be sponsorship by everyone on the Governing Body. He asked that it go to Public Safety, Public Works and Finance. He said this is on a tight time frame because of the four-month postponement, and it needs to be scheduled right away.

### **Councilor Calvert**

Councilor Calvert said he is reintroducing the same ordinance amendment with some changes which failed at the previous Council meeting, apologizing for not being prepared to answer the questions. He asked that it go to Public Works and Finance.

Councilor Calvert would like the City to address the issues outlined in Mr. McQuarie's memorandum. He said there seems to be a proliferation of these news racks, and he would like to address all of them, and not just those to which Mr. McQuarie referred in his memo.

### **Councilor Chavez**

Councilor Chavez introduced a Resolution for the annexation of Rufina Street, which is incorporated herewith to these minutes as Exhibit "22." He asked that it go to Public Works and Finance.

Councilor Chavez introduced an ordinance amending Section 24-4.2 regarding water rate adjustments, which is incorporated herewith to these minutes as Exhibit "23." He asked that it go to Public Utilities, Public Works and Finance.

### **Councilor Heldmeyer**

Councilor Heldmeyer introduced a Resolution, cosponsored by Councilors Wurzbarger and Bushee, allowing the City to get money from the State for Don Gaspar, which is incorporated herewith to these minutes as Exhibit "24."

Councilor Heldmeyer said two weeks ago, while they were redoing the Council chambers, she, Sebastian Gurule and Laura Banish looked at the ADA accessibility for the chambers, and how the changes being made would help or hurt. She said staff came up with an inexpensive plan to make it accessible to others, but this evening it was more difficult for Mr. McQuarie to get to and from the front of the room to speak. She said we really need to address this, and hopes it can be done on a fast track.

**Councilor Dominguez**

Councilor Dominguez had no communications.

**Councilor Trujillo**

Councilor Trujillo had no communications.


**Mayor Coss**

Mayor Coss had no communications.

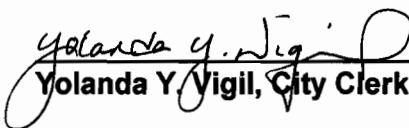
**H. ADJOURN**

There being no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 1:00 a.m.

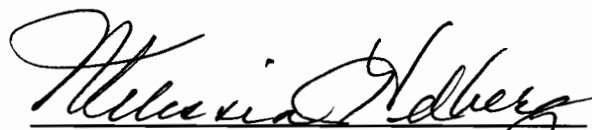
**Approved by:**

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

**ATTESTED TO:**

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

**Respectfully submitted:**

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