



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
MAY 30, 2012
CITY COUNCIL CHAMBERS

AFTERNOON SESSION – 5:00 P.M.

CITY CLERK'S OFFICE

DATE 5-25-12 TIME 11:35 am

SERVED BY

RECEIVED BY

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. SALUTE TO THE NEW MEXICO FLAG
4. INVOCATION
5. ROLL CALL
6. APPROVAL OF AGENDA
7. APPROVAL OF CONSENT CALENDAR
8. APPROVAL OF MINUTES: Reg. City Council Meeting – May 9, 2012
9. PRESENTATIONS
 - a) Proclamation – Fabian Chavez, Parks Division Director.
 - b) Muchas Gracias -- St. Michael's Girls State Tennis Team Champions.
10. CONSENT CALENDAR
 - a) Request for Approval of Agreement – Implement and Support Automatic Vehicle Locator System for City of Santa Fe Fleet Vehicles; Radio Satellite Integrators, Inc. (Thomas Williams)
 - b) Request for Approval of State of New Mexico Audit Contract – Financial and Compliance Audit Services for Fiscal Year Ending June 30, 2012; Atkinson & Co. (Teresita Garcia)
 - c) Request for Approval of Professional Services Agreement – DeFouri St. Bridge Replacement Project (RFP #12/17/P); The Louis Berger Group, Inc. (Desirae Lujan)
 - d) Request for Approval of Sole Source Procurement and Professional Services Agreement – Santa Fe Municipal Drug Court and DUI Court Program Services; Millennium Treatment Services, Inc. (Antoinette Armijo and Judge Yalman)



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
MAY 30, .2012
CITY COUNCIL CHAMBERS

- e) Request for Approval of Funding Recommendations for Human Services Providers for Fiscal Year 2012/2013. (Isaac Pino and Terrie Rodriguez)
- f) Request for Approval of Funding Recommendations from Children and Youth Commission for Fiscal Year 2012/2013. (Isaac Pino and Terrie Rodriguez)
- g) Request for Approval of Procurement Under State Price Agreement – Specialized Street Bike Signs and Pavement Markings for Trail; 3M Company. (Randy Blake)
- h) Request for Approval of City of Santa Fe Investment Policy Revisions. (Helene Hausman)
- i) CONSIDERATION OF RESOLUTION NO. 2012-_____.
A Resolution Relating to a Request for Approval of Third Quarter Adjustments for Fiscal Year 2011/2012 for Quarter Ending March 31, 2012. (Cal Probasco)
- j) CONSIDERATION OF RESOLUTION NO. 2012-_____. (Councilor Bushee)
A Resolution Endorsing the North Central Regional Transit District's FY2013 Budget Proposal, Approving the FY2013 City of Santa Fe Regional Transit Plan and Directing Staff to Submit the City of Santa Fe Regional Transit Plan for FY2013 to the North Central Regional Transit District Board of Directors for Consideration and Approval. (Jon Bulthuis)
- k) Request for Approval of Findings of Fact and Conclusions of Law for Case #2012-034, Appeal of the March 13, 2012 Decision of the Historic Districts Review Board in Case #H-08-096 Designating the West Façade of the Manderfield Elementary School at 1150 Canyon Road in the Downtown and Eastside Historic District as a Primary Façade. (Kelley Brennan)
- l) Request for Approval of Amendment No. 1 to Professional Services Agreement – Security Services for Municipal Parking Facilities, Santa Fe Community Convention Center, Municipal Libraries and Municipal Court; Chavez Security, Inc. (P.J. Griego) (Postponed at May 9, 2012 City Council Meeting) **(Postponed to June 13, 2012 City Council Meeting)**



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
MAY 30, 2012
CITY COUNCIL CHAMBERS

11. Request for Approval of the City Manager's Recommended Operating Budget for Fiscal Year 2012/2013. (Robert Romero and Dr. Melville Morgan)
 - a) 2012/2013 Budget GAP.
 - b) 2012-2013 Organizational Chart.
 - c) Health Insurance Recommendations.
 - d) CONSIDERATION OF RESOLUTION NO. 2012-____. (Mayor Coss)
A Resolution Directing that the 2012/2013 Fiscal Year Budget include an Appropriation for Funding a Two Percent (2%) Salary Increase for Members of the Santa Fe Police Officers Association (POA), for Members of The Santa Fe Firefighters Association (FFA), Members of AFSCME, Local 3999 (AFSCME) and Non-Union Employees; and Providing Direction for Collective Bargaining Negotiations. (Mayor Coss) (Robert Romero)
 - e) CONSIDERATION OF RESOLUTION NO. 2012-____.
A Resolution Relating to the Adoption of the City of Santa Fe Fiscal Year 2012/2013 Annual Budget. (Dr. Melville Morgan)
12. Santa Fe Municipal Court Semi-Annual Report. (Judge Yalman)
13. Pursuant to Resolution #2011-56, Overview of New Mexico Open Meetings Act, Inspection of Public Records Act, City of Santa Fe Ethics Ordinance and New Mexico Governmental Conduct Act. (Geno Zamora)
14. Action Regarding the Status of Communications with New Mexico Consolidated Construction Services, LLC and New Mexico School for the Arts and Relating to Consideration of the Purchase, Acquisition or Disposal of Real Property at St. Catherine's School Campus. (Geno Zamora and Robert Romero) (Postponed at April 25, 2012 City Council Meeting) **(Postponed to June 27, 2012 City Council Meeting)**
15. MATTERS FROM THE CITY MANAGER
16. MATTERS FROM THE CITY ATTORNEY
17. MATTERS FROM THE CITY CLERK



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
MAY 30, 2012
CITY COUNCIL CHAMBERS

18. COMMUNICATIONS FROM THE GOVERNING BODY

EVENING SESSION – 7:00 P.M.

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE
- C. SALUTE TO THE NEW MEXICO FLAG
- D. INVOCATION
- E. ROLL CALL
- F. PETITIONS FROM THE FLOOR
- G. APPOINTMENTS
- H. PUBLIC HEARINGS:
 - 1) Request from John Bygott, Gallery Director, for a Waiver of the 300 Foot Location Restriction and Approval to Allow the Dispensing and Consumption of Beer and Wine at Manitou Galleries, 225 Canyon Road, Suite 11 which is Within 300 Feet of the Cathedral Basilica of Saint Francis of Assisi Property, 131 Cathedral Place and the New Mexico School for the Arts, 275 East Alameda Street. The Request is for Art Show Openings from 5:00 p.m. to 7:30 p.m. on June 22, July 27, August 17, September 28 and November 24, 2012. (Yolanda Y. Vigil)
 - 2) CONSIDERATION OF RESOLUTION NO. 2012-____. (Councilor Calvert, Councilor Rivera, Councilor Wurzbarger, Councilor Bushee and Councilor Ives)
A Resolution Proclaiming Severe or Extreme Drought Conditions in the City of Santa Fe and Restricting the Sale or Use of Fireworks Within the City of Santa Fe and Prohibiting Other Fire Hazard Activities. (Fire Marshal Gonzales and Alfred Walker)



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
MAY 30, 2012
CITY COUNCIL CHAMBERS

- 3) CONSIDERATION OF BILL NO. 2012-12: ADOPTION OF ORDINANCE NO. 2012-____. (Councilor Dominguez)
An Ordinance Amending Article 23-6 SFCC 1987 to Establish Regulations for Event Sponsors Who Have Been Authorized to Use a City Park when the Sale and Consumption of Alcohol is Permitted. (Alfred Walker)
(Postponed at May 9, 2012 City Council Meeting)
- 4) CONSIDERATION OF BILL NO. 2012-15: ADOPTION OF ORDINANCE NO. 2012-____. (Councilor Calvert, Councilor Wurzbarger, Councilor Ives and Councilor Bushee)
An Ordinance Creating a New Section 14-3.20 SFCC 1987 to Establish Residential Condominium Requirements; Amending Section 14-6.3(D)(1) SFCC 1987 to Require that a Restrictive Covenant that is Required to be in Compliance with 14-6.3(D) be Recorded Prior to the Issuance of a Construction Permit for an Accessory Dwelling Unit; Creating a New Section 14-10.6 to Permit Legally Nonconforming Residential Condominium Units; and Making Such Other Changes as are Necessary. (Matthew O'Reilly)

I. ADJOURN

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

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

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

SUMMARY INDEX
SANTA FE CITY COUNCIL MEETING
May 30, 2012

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
<u>AFTERNOON SESSION</u>		
CALL TO ORDER AND ROLL CALL	Quorum	1
APPROVAL OF AGENDA	Approved	1-2
APPROVAL OF CONSENT CALENDAR	Approved [amended]	2
CONSENT CALENDAR LISTING		2-3
APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – MAY 9, 2012	Approved	3
<u>PRESENTATIONS</u>		
PROCLAMATION – FABIAN CHAVEZ, PARKS DIVISION DIRECTOR		3-5
MUCHAS GRACIAS – ST. MICHAEL'S GIRLS STATE TENNIS TEAM CHAMPIONS		5
<u>CONSENT CALENDAR DISCUSSION</u>		
REQUEST FOR APPROVAL OF FUNDING RECOMMENDATIONS FOR HUMAN SERVICES PROVIDERS FOR FISCAL YEAR 2012/2013	Approved a/a	5-7
REQUEST FOR APPROVAL OF FUNDING RECOMMENDATIONS FROM CHILDREN AND YOUTH COMMISSION FOR FISCAL YEAR 2012/2013	Approved	7-9
REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – SPECIALIZED STREET BIKE SIGNS AND PAVEMENT MARKINGS FOR TRAIL; 3M COMPANY	Approved	9

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
CONSIDERATION OF RESOLUTION NO. 2012-56. A RESOLUTION ENDORSING THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT'S FY 2013 BUDGET PROPOSAL, APPROVING THE FY 2013 CITY OF SANTA FE REGIONAL TRANSIT PLAN AND DIRECTING STAFF TO SUBMIT THE CITY OF SANTA FE REGIONAL TRANSIT PLAN FOR FY 2013, TO THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT BOARD OF DIRECTORS FOR CONSIDERATION AND APPROVAL	Approved	9-11
***** END OF CONSENT CALENDAR DISCUSSION *****		
<u>REQUEST FOR APPROVAL OF THE CITY MANAGER'S RECOMMENDED OPERATING BUDGET FOR FISCAL YEAR 2012/2013</u>		
2012/2013 BUDGET GAP	Approved	11-12
2012/2013 ORGANIZATIONAL CHART	Approved	12
HEALTH INSURANCE RECOMMENDATIONS	Approved	13
CONSIDERATION OF RESOLUTION NO. 2012-57. A RESOLUTION DIRECTING THAT THE 2012/2013 FISCAL YEAR BUDGET INCLUDE AN APPROPRIATION FOR FUNDING A TWO PERCENT (2%) SALARY INCREASE FOR MEMBERS OF THE SANTA FE POLICE OFFICERS ASSOCIATION (POA), FOR MEMBERS OF THE SANTA FE FIREFIGHTERS ASSOCIATION (FFA), MEMBERS OF AFSCME, LOCAL 3999 (AFSCME) AND NON-UNION EMPLOYEES; AND PROVIDING DIRECTION FOR COLLECTIVE BARGAINING NEGOTIATIONS	Approved	13
CONSIDERATION OF RESOLUTION NO. 2012-58. A RESOLUTION RELATING TO THE ADOPTION OF THE CITY OF SANTA FE FISCAL YEAR 2012/2013 ANNUAL BUDGET	Approved	14-15
SANTA FE MUNICIPAL COURT SEMI ANNUAL REPORT	Information/discussion	15-18

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
PURSUANT TO RESOLUTION #2011-56, OVERVIEW OF NEW MEXICO OPEN MEETINGS ACT, INSPECTION OF PUBLIC RECORDS ACT, CITY OF SANTA FE ETHICS ORDINANCE AND NEW MEXICO GOVERNMENTAL CONDUCT ACT	Information/discussion	18-21
ACTION REGARDING THE STATUS OF COMMUNICATIONS WITH NEW MEXICO CONSOLIDATED CONSTRUCTION SERVICES, LLC AND NEW MEXICO SCHOOL FOR THE ARTS AND RELATING TO CONSIDERATION OF THE PURCHASE, ACQUISITION OR DISPOSAL OF REAL PROPERTY AT ST. CATHERINE'S SCHOOL CAMPUS	Postponed to 06/27/12	21
<u>EVENING SESSION</u>		
CALL TO ORDER AND ROLL CALL	Quorum	23
PETITIONS FROM THE FLOOR		23-24
<u>APPOINTMENTS</u>		
Mayor's Blue Ribbon Panel to End Homelessness	Approved	24-25
Planning Commission	Approved	25
Board of Adjustment	Approved	25-26
Historic District Review Board	Approved	26
Airport Advisory Board	Approved	26
<u>PUBLIC HEARINGS</u>		
REQUEST FROM JOHN BYGOTT, GALLERY DIRECTOR, FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING AND CONSUMPTION OF BEER AND WINE AT MANITOU GALLERIES, 225 CANYON ROAD, SUITE 11, WHICH IS WITHIN 300 FEET OF THE CATHEDRAL BASILICA OF SAINT FRANCIS OF ASSISI PROPERTY, 131 CATHEDRAL PLACE AND THE NEW MEXICO SCHOOL FOR THE ARTS, 275 EAST ALAMEDA STREET. THE REQUEST IS FOR ART SHOW OPENINGS FROM 5:00 P.M. TO 7:30 P.M. ON JUNE 22, JULY 27, AUGUST 17, SEPTEMBER 28 AND NOVEMBER 24, 2012	Approved	26-27

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
CONSIDERATION OF RESOLUTION NO. NO. 2012-59. A RESOLUTION PROCLAIMING SEVERE OR EXTREME DROUGHT CONDITIONS IN THE CITY OF SANTA FE AND RESTRICTING THE SAME OR USE OF FIREWORKS WITHIN THE CITY OF SANTA FE AND PROHIBITING OTHER FIRE HAZARD ACTIVITIES	Approved	27-28
CONSIDERATION OF BILL NO. 2012-12: ADOPTION OF ORDINANCE NO. 2012-20 . AN ORDINANCE AMENDING ARTICLE 23-6 SFCC 1987, TO ESTABLISH REGULATIONS FOR EVENT SPONSORS WHO HAVE BEEN AUTHORIZED TO USE A CITY PARK WHEN THE SALE AND CONSUMPTION OF ALCOHOL IS PERMITTED	Approved [amended]	28-32
CONSIDERATION OF BILL NO. 2012-15: ADOPTION OF ORDINANCE NO. 2012-21. AN ORDINANCE CREATING A NEW SECTION 14-3.20 SFCC 1987, TO ESTABLISH RESIDENTIAL CONDOMINIUM REQUIREMENTS; AMENDING SECTION 14-6.3(D)(1) SFCC 1987, TO REQUIRE THAT A RESTRICTIVE COVENANT THAT IS REQUIRED TO BE IN COMPLIANCE WITH 14-6.3(D) BE RECORDED PRIOR TO THE ISSUANCE OF A CONSTRUCTION PERMIT FOR AN ACCESSORY DWELLING UNIT; CREATING A NEW SECTION 14-10.6 TO PERMIT LEGALLY NONCONFORMING RESIDENTIAL CONDOMINIUM UNITS; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY	Approved	32-42
MATTERS FROM THE CITY MANAGER	Information	42
MATTERS FROM THE CITY ATTORNEY	Introduction of new staff	42
MATTERS FROM THE CITY CLERK	None	43
COMMUNICATIONS FROM THE GOVERNING BODY	Information/discussion	43-47
ADJOURN		47

**MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
May 30, 2012**

AFTERNOON SESSION

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor David Coss, on Wednesday, May 30, 2012, at approximately 5:00 p.m., in the City Hall Council Chambers. Following the Pledge of Allegiance, Salute to the New Mexico flag, and the Invocation, roll call indicated the presence of a quorum, as follows:

Members Present

Mayor David Coss
Councilor Rebecca Wurzbarger, Mayor Pro-Tem
Councilor Patti J. Bushee
Councilor Christopher Calvert
Councilor Bill Dimas
Councilor Carmichael A. Dominguez
Councilor Peter N. Ives
Councilor Christopher M. Rivera
Councilor Ronald S. Trujillo

Others Attending

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

6. APPROVAL OF AGENDA

Mr. Romero said, with regard to Item 10(e) the Human Services funding, staff was asked by the Finance Committee to look at ways to try fund Womens Health Services in the amount of \$50,000. He said staff has handed out a letter with some options, noting this item is on the Consent Calendar and it probably needs to be discussed.

Councilor Calvert said he will pull that item for discussion.

MOTION: Councilor Calvert moved, seconded by Councilor Dominguez, to approve the agenda as published.

VOTE: The motion was approved on a voice vote with Councilors Calvert, Dimas, Dominguez, Ives, Rivera, Trujillo and Wurzbarger voting for the motion, none voting against and Councilor Bushee absent for the vote.

7. APPROVAL OF CONSENT CALENDAR

MOTION: Councilor Calvert moved, seconded by Councilor Dimas, to approve the following Consent Calendar, as amended.

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

For: Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

Absent for the vote: Councilor Bushee.

A copy of an Action Sheet from the Public Works/CIP and Land Use Committee meeting of Tuesday, May 29, 2012, regarding Item 10(c) is incorporated herewith to these minutes as Exhibit "1."

- a) **REQUEST FOR APPROVAL OF AGREEMENT – IMPLEMENT AND SUPPORT AUTOMATIC VEHICLE LOCATOR SYSTEM FOR CITY OF SANTA FE FLEET VEHICLES; RADIO SATELLITE INTEGRATORS, INC. (THOMAS WILLIAMS)**
- b) **REQUEST FOR APPROVAL OF STATE OF NEW MEXICO AUDIT CONTRACT – FINANCIAL AND COMPLIANCE AUDIT SERVICES FOR FISCAL YEAR ENDING JUNE 30, 2012; ATKINSON & CO. (TERESITA GARCIA)**
- c) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – DEFOURI ST. BRIDGE REPLACEMENT PROJECT (RFP #12/17/P); THE LOUIS BERGER GROUP, INC. (DESIRAE LUJAN)**
- d) **REQUEST FOR APPROVAL OF SOLE SOURCE PROCUREMENT AND PROFESSIONAL SERVICES AGREEMENT – SANTA FE MUNICIPAL DRUG COURT AND DUI COURT PROGRAM SERVICES; MILLENNIUM TREATMENT SERVICES, INC. (ANTOINETTE ARMIJO AND JUDGE YALMAN)**
- e) *[Removed for discussion by Councilor Calvert]*
- f) *[Removed for discussion by Councilor Rivera]*

- g) *[Removed for discussion by Councilor Rivera]*
- h) REQUEST FOR APPROVAL OF CITY OF SANTA FE INVESTMENT POLICY REVISIONS. (HELENE HAUSMAN)
- i) CONSIDERATION OF RESOLUTION NO. 2012-55. A RESOLUTION RELATING TO A REQUEST FOR APPROVAL OF THIRD QUARTER ADJUSTMENTS FOR FISCAL YEAR 2011/2012 FOR QUARTER ENDING MARCH 31, 2012. (CAL PROBASCO)
- j) *[Removed for discussion by Councilor Calvert]*
- k) REQUEST FOR APPROVAL OF FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR CASE #2012-034, APPEAL OF THE MARCH 13, 2012 DECISION OF THE HISTORIC DISTRICTS REVIEW BOARD IN CASE #H-08-096, DESIGNATING THE WEST FAÇADE OF THE MANDERFIELD ELEMENTARY SCHOOL AT 1150 CANYON ROAD IN THE DOWNTOWN AND EASTSIDE HISTORIC DISTRICT AS A PRIMARY FAÇADE. (KELLEY BRENNAN)
- l) REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT – SECURITY SERVICES FOR MUNICIPAL PARKING FACILITIES, SANTA FE COMMUNITY CONVENTION CENTER, MUNICIPAL LIBRARIES AND MUNICIPAL COURT; CHAVEZ SECURITY, INC. (P.J. GRIEGO). (Postponed at May 9, 2012 City Council Meeting) (Postponed to June 13, 2012 City Council Meeting)

8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – MAY 9, 2012

MOTION: Councilor Dominguez moved, seconded by Councilor Trujillo, to approve the minutes of the Regular City Council meeting of May 9, 2012, as presented.

VOTE: The motion was approved on a voice vote with Councilors Calvert, Dimas, Dominguez, Ives, Rivera, Trujillo and Wurzbarger voting for the motion, none voting against, and Councilor Bushee absent for the vote.

Councilor Bushee arrived at the meeting

9. PRESENTATIONS

a) PROCLAMATION – FABIAN CHAVEZ, PARKS DIVISION DIRECTOR

Mayor Coss said Mr. Chavez has had a long career with the City and really made a huge difference in the City's parks. Mayor Coss read a Proclamation into the record declaring May 30, 2012, as Fabian Chavez III Day in Santa Fe, and presented Mr. Chavez with the Proclamation.

Mr. Chavez said the reason this happened is because the people decided to pass the bond to make the money available to make this possible, and the staff and workers at the Parks Division bought into the idea of transformational direction. He said they were the greatest staff with whom to work. He thanked Mayor Coss, Robert Romero, and the Governing Body for this honor and for this opportunity. Mr. Chavez introduced his wife and parents who were in attendance.

The Council unanimously congratulated Mr. Chavez on his retirement and wished him well, with special remarks by Councilors as follows:

- Councilor Wurzbarger said Mr. Chavez added a unique contribution and he is leaving his plan and strategic vision as a blueprint for the future.
- Councilor Trujillo said under Mr. Chavez's leadership, the parks look better than they ever have, commenting that even though the citizens approved the bond which provided funds to improve parks, much of what has been done is because of Mr. Chavez's leadership. He noted Mr. Chavez was instrumental in building four new parks, among which are MLK, Calle Sereno, Pueblos del Sol and Nava Adé.
- Councilor Bushee said Mr. Chavez started the tree list, the community orchards in Cerro Gordo and Armijo, and he and Bette Booth were instrumental in getting the pump track, commenting Mr. Chavez didn't live with the word "no," and took things and ran with them.
- Councilor Ives said before being elected to the Council, he worked with Mr. Chavez through the TPL when they were creating the Railyard Park. He said Mr. Chavez made it a pleasure to meet, work, and move forward, commenting Mr. Chavez has an attitude of sharing both the responsibility and the victories won, and this Proclamation is so well deserved.
- Councilor Dominguez said everyone has spoken very eloquently about Mr. Chavez's accomplishments with the City. He thanked Mr. Chavez for his service on behalf of the City, and thanked his family for lending him to the City through the years.
- Councilor Calvert said Fabian Chavez is the only Parks Director with whom he has worked since he's been on the Council, although he did work with him in another capacity prior to being elected. He said Mr. Chavez has "spoiled" us, because of his outstanding service and creativity which has resulted in great parks all around the City. He said Mr. Chavez really improved the department, made it more efficient and results oriented. He said Mr. Chavez has passed much of that to his staff, and he knows the City will be in good hands into the future.
- Councilor Rivera said he first worked with Mr. Chavez him when he [Rivera] was the Fire Chief, and now as a City Councilor. He said he finds Mr. Chavez to be very knowledgeable and he will miss him very much.
- Councilor Dimas said he has known Mr. Chavez and his entire family for many many many years, and over the years has noticed the steady improvement in the park thanks to Mr. Chavez's work,

noting he also did a good job as an educator in the Santa Fe Schools. He said he thinks Mr. Chavez won't stay retired for long before he finds something else to do, noting in the future there probably will be space for him to join the City Council.

b) MUCHAS GRACIAS – ST. MICHAEL'S GIRLS STATE TENNIS TEAM CHAMPIONS.

Mayor Coss welcomed the St. Michael's Girls State Tennis Champions, and presented the team members and Coaches Patrick Lucero and Assistant Coach Fernando Gomez with Muchas Gracias Certificates. He said this is the first Girls State Tennis Championship for St. Michael's in the history of the school.

Coach Patrick Lucero said not only is this the first Girls State Tennis Championship, it is only team in Santa Fe ever to win a Centennial State Girls Championship in the 100 year anniversary of the State. He said the girls didn't need to play doubles to win, they won on singles throughout the year, commenting they played magnificently throughout the competitions this year.

Councilor Bushee asked how many are graduating and going on to play tennis in College.

Coach Lucero said there is only one senior on the team.

CONSENT CALENDAR DISCUSSION

10 (e) REQUEST FOR APPROVAL OF FUNDING RECOMMENDATIONS FOR HUMAN SERVICES PROVIDERS FOR FISCAL YEAR 2012/2012. (ISAAC PINO AND TERRIE RODRIGUEZ)

A Memorandum dated May 23, 2012, to the City Council members and Mayor David Coss, from A. Terrie Rodriguez, Youth and Family Services Division Director, is incorporated herewith to these minutes as Exhibit "2."

Councilor Calvert noted staff has suggested two options for funding the Womens Health Service: use reserve funds or "take it out of everyone else's hide."

MOTION: Councilor Calvert moved, seconded by Councilor Dominguez, to approve the recommendation of City staff to use reserves to fund the \$50,000 to the Women's Health Services.

DISCUSSION: Councilor Dominguez said the Finance Committee opposed taking the funding from reserves. However, it appears doing this won't deplete the reserves as was initially thought.

Ms. Rodriguez said initially, the Finance Committee was opposed to taking funds from her budget. However, after the Finance Committee meeting, she met with Mr. Pino and Mr. Romero and they looked at the reserves. She said the Finance Department always holds back a certain percentage of the fund to

meet requirements in the event the GRT tanks during the year so we can meet our contract obligations. She said there are sufficient funds in the reserves to fund the additional \$50,000 for the Womens Health Services. She said this doesn't impact her budget.

Councilor Calvert asked Ms. Rodriguez if she still has the \$25,000 available in her budget, and Ms. Rodriguez said yes.

Councilor Bushee asked the amount of dollars in the reserve fund.

Ms. Rodriguez said there is approximately \$110,000, and after funding the Womens Health Services, there will be about \$60,000 in reserves in the fund.

Councilor Bushee asked if Ms. Rodriguez if she has had to use the reserve funds in the past.

Ms. Rodriguez said she didn't recall it, but Chair Betty Ann Rose, who has served as Chair since the Committee was created, said they had to use reserves about 7 years ago. She said they used \$25,000 for a YMCA project during the initiation of YMCA in Santa Fe.

Ms. Rodriguez said she also was asked if reserves have been used by the Children and Youth Commission. She said that Commission has used its reserves at other times as well.

Councilor Bushee asked, "Can I just have Dr. Morgan just give us the A-OK."

Mayor Coss said, "Let the record show that Dr. Morgan is nodding yes."

Councilor Bushee thanked the Committee and staff for finding funds for Womens Health Service. She thanked Womens Health Services for trying not to limit services, and said these funds will go directly to providing services to its population.

Councilor Rivera said 2 programs weren't funded – Womens Health and the Farm to Table/Food Policy Council, noting Womens Health is now funded. He asked why the Farm to Table/Food Policy Council wasn't funded.

Ms. Rodriguez said the Farm to Table is funded, but it isn't funded out of the Human Services Fund. It is funded from the amount she holds back for Community Crisis Response, because the Food Policy Council had requested funding of a partial salary to do the Farm to Table project. She said at the time this was done by the Council it was to relieve staff from the duties of liaison to that project. She said the City and County both contribute to the salary of a part-time employee for providing these services. Therefore they will be funded, but it is not paid from the Human Services Fund.

Councilor Wurzbarger said she is confused about the language in the cover Memorandum [Exhibit "2"], where it says, "The Human Services Committee met with every organization. The Chair of the Committee would like to keep the allocations as recommended." She assumes we are not to infer that means they are not in support of this funding. She asked the reason the Committee didn't come forward with a plan to

fund Womens Health Services. She said it sounds as if the Committee made a decision which didn't include Womens Health Services, and then somehow came up with a new process that solved the problem. Her question is what is the position of the Human Services Committee on funding Womens Health Services.

Ms. Rodriguez said the position of the Committee was that it was not recommending funding \$50,000 to Womens Health Services, because at the time they did the site visit, they were told that the organization was \$300,000 short of making its budget. She said two major funding sources decided not to provide funding – the huge allocation from the State was not to be funded, and the other funding source had been reduced. She said, additionally, there was not a sufficient recommendation from the representatives of Womens Health Services at the hearings held by the Committee for the Committee to feel confident to recommend them for funding. She said the previous recommendation not to fund was based on the decision that \$50,000 wouldn't be sufficient for the Womens Health Services to meet its obligations.

Ms. Rodriguez when the Committee recommendations came before the Finance Committee, a representative of Womens Health Services told the Finance Committee they were \$110,000 short. At that time, the Finance Committee determined that the \$50,000 would really make a difference in them being able to meet their needs, and recommended that Staff go back and find \$50,000 for them.

Responding to Councilor Wurzbarger, Ms. Rodriguez said the Human Services Committee met last night and discussed it at length, and this is their recommendation.

Councilor Wurzbarger said then it is the Human Services Committee which will be responsible for dealing with crisis situations, if any, with less money, and Ms. Rodriguez said this is correct.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

Explaining her vote: Councilor Bushee said, "Yes, and thanks to everybody for being flexible and open. Thank you."

10 (f) REQUEST FOR APPROVAL OF FUNDING RECOMMENDATIONS FROM CHILDREN AND YOUTH COMMISSION FOR FISCAL YEAR 2012/2013. (ISAAC PINO AND TERRIE RODRIGUEZ)

Councilor Rivera asked Ms. Rodriguez to explain the process of funding.

Ms. Rodriguez walked through the process of funding the providers, which includes:

- a) An RFP was issued for an open RFP process, noting in the next fiscal year only organizations funded in this fiscal year can apply for funding.
- b) There was an initial meeting by the Commission to decide which applicants to interview.
- c) The Commission reviewed new applicants requesting funding, organizations currently funded with financial difficulties, and organizations which wanted to make some changes.
- d) The Commission held hearings over a two day period with about 25 of the 38 organizations applying, spending 15-20 minutes with each, and then made preliminary recommendations.
- e) The Commission held a subsequent meeting and reviewed the recommendations.
- f) The Commission requested to meet with the Boys and Girls Club. The Chairman and Chief Operating Officer of Boys & Girls Club spoke to the Commission about its procedures and its plans, noting they had been very forthcoming about its financial difficulties through this year.
- g) The Commission then made final decisions on funding. Those balance of those not funded were asking for start-up money, and the Commission wants to fund organizations in operation for 3 years and have demonstrated community support. The Commission doesn't fund start-up organizations.

MOTION: Councilor Rivera moved, seconded by Councilor Bushee, to approve the funding recommendations from the Children and Youth Commission for Fiscal Year 2012/2013.

DISCUSSION: Councilor Bushee said she spoke about her concerns at the Finance Committee. She said the Santa Fe Complex is closing, and for her funding should be about organizational capacity, viability, sustainability, so she raised concerns with regard to two organizations: Warehouse 21 and the Boys & Girls Club. She asked Ms. Rodriguez if there was follow-up with these organizations with regard to concrete numbers.

Ms. Rodriguez said the Children and Youth Commission met on Tuesday and she presented the Council's concerns, and they asked her to send the minutes of the meeting prior to that one where the Boys and Girls Club Chair and Chief Operating Officer attended, noting she emailed those to both of Councilor Bushee's email addresses. She said she does have hard copies which she can provide to her as well.

Councilor Bushee said these are long standing non-profits which she wants to support. However, she wants to be sure the Governing Body is appraised when an organization is having problems and/or if the

City is its only source or primary source of funding. Her concern with Warehouse 21 is that there isn't enough programming happening, they aren't keeping the doors open, and they haven't advised the City of ways they can be more viable and sustainable. She looks forward to receiving those minutes.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

10 (g) REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – SPECIALIZED STREET BIKE SIGNS AND PAVEMENT MARKINGS FOR TRAIL; 3M COMPANY. (RANDY BLAKE)

Councilor Rivera asked the reason this purchase was made from a company in Minnesota and not the one from Albuquerque. He said the information from 3M is in the packet, but the pricing information from J & H Supply was not, so he was unable to look at the differences.

Robert Rodarte said Item #18 is available only through the 3M Company. He said this is a specialized piece, and the only bicycle related type of item that is on this price agreement. He said on Page 6, you can see Item #18, and on the right it says, "AA at \$10 per square foot." The letters "AA" represent the 3M Company. He said nobody else on this State Price Agreement offers this particular product, and this is a specialized piece for the streets.

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

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

10(j) CONSIDERATION OF RESOLUTION NO. 2012-56 (COUNCILOR BUSHEE). A RESOLUTION ENDORSING THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT'S FY 2013 BUDGET PROPOSAL, APPROVING THE FY 2013 CITY OF SANTA FE REGIONAL TRANSIT PLAN AND DIRECTING STAFF TO SUBMIT THE CITY OF SANTA FE REGIONAL TRANSIT PLAN FOR FY 2013, TO THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT BOARD OF DIRECTORS FOR CONSIDERATION AND APPROVAL. (JON BULTHUIS)

A copy of *City of Santa Fe, New Mexico, Proposed Amendment(s) to Resolution No. 2012-56*, regarding Approval of NCRTD FY 2013 Budget and the City Regional Transit Plan, as submitted by Councilor Calvert, is incorporated herewith to these minutes as Exhibit "3."

Councilor Calvert said he pulled this item to present the proposed amendments to the Resolution as set out in Exhibit "3."

Councilor Calvert said he also would like to urge, as mentioned at the Transit Advisory Meeting, prior to implementing this that we get the buy-in from people/entities such as the museums and the Childrens Museum to help to market this route so there is good ridership. He said the key to this is that everyone, the museums, the hotels and such, needs to support this, even it is contributing money to the marketing so they have a little "skin in the game."

MOTION: Councilor Calvert moved, seconded by Councilor Bushee, to adopt Resolution No. 2012-56, with the proposed amendments [Exhibit "3"].

DISCUSSION: Councilor Bushee asked how this changes what we have.

Councilor Calvert said this recommendation came from staff and the Transit Advisory Board, to state the purposes and what we are trying to accomplish.

Councilor Bushee said they are anxiously awaiting the additional routes, and asked how we get buy-in from the County – she wants "a thumbs up from them somehow," noting this is informal direction to staff.

Mayor Coss said he understands the County adopted a similar Resolution calling for a new route.

Councilor Bushee would like to see this reconciled before sending this to the NCRTD. She wants to know how the County's Resolution differs from ours.

Mr. Bulthuis said the County Commission passed a Resolution yesterday which is very similar to ours, which funds all existing services and puts a placeholder for a future route down New Mexico #14. He said the major change in this Resolution is that we are making the instruction, even if the additional route is included in the Resolution, that detailed service schedules and the route itself would come back to the City Council for approval. It also would need to be approved by the NCRTD Board as well before the service could be implemented. He said there is a budget issue as well, noting some new money is coming through the NCRTD, but potentially is not enough to fund the new addition perpetually – the expansion of the Santa Fe Pickup to Museum Hill. He said this is all the money we have available right now, so that would be something the Council would need to take under advisement.

Councilor Bushee asked Mr. Bulthuis if he is recommending the City also approve the new Highway #14 placeholder route, not knowing the ridership nor cost effectiveness, and not having the forum to debate that.

Mr. Bulthuis said this is a recommendation from the County Commission, but it isn't included in this Resolution. He said he would defer to Tony Mortillaro, the NCRTD Executive Director, noting it is something for the NCRTD Board to sort out.

Councilor Bushee said if the GRT continue to pick up, we're probably okay for a "little bit more time."

Councilor Wurzbarger said she is very concerned if the expanded services portion of the City Resolution isn't included in that of the County.

Mr. Bulthuis said all of the existing services or the specials that we operate currently are included, and this would be new service, which is shown in the Resolution under Amendment #2.

Councilor Wurzbarger said, "Then the special services, in particular the service for the Folk Art Market that is totally dependent on this service to be successful, that is in the current budget, therefore it is in the budget for the future."

Mr. Bulthuis said this is correct.

VOTE: The motion, with the amendments, was approved on the following Roll Call vote:

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

END OF CONSENT CALENDAR DISCUSSION

11. REQUEST FOR APPROVAL OF THE CITY MANAGER'S RECOMMENDED OPERATING BUDGET FOR FISCAL YEAR 2012/2013. (ROBERT ROMERO AND DR. MELVILLE MORGAN)

Mr. Romero said he will stand for questions, noting they are requesting the approval of 5 items, Items 11(a) through (e) beginning with the Budget Gap Sheet.

a) 2012/2013 BUDGET GAP

MOTION: Councilor Bushee moved, seconded by Councilor Calvert, to approve the 2012/2013 Budget Gap as proposed by staff and approved by the Finance Committee.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

b) 2012/2013 ORGANIZATIONAL CHART

MOTION: Councilor Dominguez moved, seconded by Councilor Rivera, to approve 2012/2013 Organizational Chart as presented by staff and approved by the Finance Committee.

DISCUSSION: Responding to Councilor Bushee, Mr. Romero said the Audit Committee has made recommendations regarding the Internal Auditor position and how to address that, and he will be bringing this forward through the process very soon, noting he will be meeting soon with the Audit Committee. He said it is okay to approve this as to form.

Councilor Bushee asked what are "Police Support Services."

Mr. Romero said the Police Department is broken into two areas – operations and support – noting they went through the entire organizational chart during the Committee hearings.

Councilor Bushee asked if we will be keeping the PSA's, and if so, will those fall under operations.

Mr. Romero said yes.

Councilor Bushee asked Mr. Romero if he is okay with Long Range Planning being under Community Development, and asked if "we are okay with things the way they're working. We never got reports on that. We were supposed to talk about how and whether or not that was functional, or how that's working out.

Mr. Romero said all of the specific department organizational charts were approved through the process, but if she would like, he can bring that back. He said their feeling is that Long Range Planning kind of works independently, and it's working the way it is. He said it also could work in another area, but at this point, he is not recommending moving it.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

c) HEALTH INSURANCE RECOMMENDATIONS

A Memorandum dated May 24, 2012, to the Governing Body, from Vicki Gage, Interim Director, Human Resources Department, is incorporated herewith to these minutes as Exhibit "4."

MOTION: Councilor Dominguez moved, seconded by Councilor Bushee, to approve the Health Insurance Recommendations as set out in the Memorandum dated May 24, 2012, to the Governing Body, from Vicki Gage, Interim Director, Human Resources Department [Exhibit "4"], with the amendments from the Finance Committee.

CLARIFICATION OF THE MOTION: Councilor Calvert said he would like to clarify that it is the recommendation in the May 24th Memo.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

d) CONSIDERATION OF RESOLUTION NO. 2012-57 (MAYOR COSS). A RESOLUTION DIRECTING THAT THE 2012/2013 FISCAL YEAR BUDGET INCLUDE AN APPROPRIATION FOR FUNDING A TWO PERCENT (2%) SALARY INCREASE FOR MEMBERS OF THE SANTA FE POLICE OFFICERS ASSOCIATION (POA), FOR MEMBERS OF THE SANTA FE FIREFIGHTERS ASSOCIATION (FFA), MEMBERS OF AFSCME, LOCAL 3999 (AFSCME) AND NON-UNION EMPLOYEES; AND PROVIDING DIRECTION FOR COLLECTIVE BARGAINING NEGOTIATIONS. (ROBERT ROMERO).

MOTION: Councilor Dominguez moved, seconded by Councilor Trujillo, to adopt Resolution No. 2012-57, with the amendments from the Finance Committee.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

Explaining her vote: Councilor Bushee said, "Yes, and just as an editorial note, I mean, I think a good number of this pay increase is going to actually be absorbed by new costs for health insurance, so I thank our employees for being so patient and continuing to take the hits, particularly around our health care increases."

e) **CONSIDERATION OF RESOLUTION NO. 2012-58. A RESOLUTION RELATING TO THE ADOPTION OF THE CITY OF SANTA FE FISCAL YEAR 2012/2013 ANNUAL BUDGET. (DR. MELVILLE MORGAN)**

MOTION: Councilor Dominguez moved, seconded by Councilor Trujillo, to adopt Resolution 2012-58, as presented by staff.

DISCUSSION: Councilor Wurzbarger complimented the Chair of Finance this year, Dr. Morgan, Robert Romero and staff, noting this was a difficult budget, but not as difficult as some in the past. She commended all of the Councilors who spent hours and hours, including some not on the Committee, in pulling together a very thoughtful budget. She thanked Councilor Dominguez for his leadership.

Councilor Dominguez thanked the Committee and staff for all of the work they have done throughout the whole budget hearing process. He said the tough and hard work was done in previous years, because of the really tough choices we've had to make in the past. He said although this year was somewhat easier, it was still a lot of work. He said we're still "not out of the woods," in looking at the financial picture, but he wants us to be optimistic. He said the health insurance gap issue is something we definitely need to continue to work on.

Councilor Dominguez said, "For the record, with regard to the process the Finance Committee has had in the past, I will no longer require the City Manager to bring positions to the Committee and the Governing Body for approval. So I just wanted to make that statement and get that on the record. And so, that's it."

Councilor Bushee said, "I'm actually not sure you can unilaterally do that. I think we took a vote and I think there's something there that would have to... I would ask that minutes be brought forward and take a look at that. If someone could please give me the past history on that."

Councilor Bushee thanked the Employee Benefit Committee for coming forward with a compromise and making it easier for us to make tough decisions."

Councilor Bushee said, "I also want to say my one disappointment, and I'm not sure how it's going to go forward, but the whole concept of trying to get our employees back to living in to Santa Fe, particularly around our Take-Home Vehicle Policy. I really hope that we're not done with that issue. And I see, Mayor, you have a Mayor's Blue Ribbon Panel to End Homelessness. Maybe we need something like that around those issues. So I just hope, even with the passage of this budget, that we are not going to forget to take care of that problem."

Mayor Coss thanked the Finance Committee Chair, Finance Committee members, Robert Romero and staff for all of their work. He said he is very pleased about two things in this budget: (1) We are starting to strengthen our reserves again, and putting money aside in case things start to go in the wrong direction again; and (2) he is pleased that the employees will be getting pay raises for the first time in many years. He thinks this will be good for the economy, the community and certainly the employees and their families.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

12. SANTA FE MUNICIPAL COURT SEMI ANNUAL REPORT (JUDGE YALMAN).

Judge Yalman presented information from her Memorandum of May 16, 2012, to Mayor Coss, City Councilors and City Manager Robert Romero, regarding Santa Fe Municipal Court Semi-Annual Report, which is in the Council packet. Please see this document for specifics of this presentation.

Judge Yalman thanked the Governing Body for approving the contract with Millennium Services, the provider for both the Drug Court and the DWI Court.

The Governing Body commented and asked questions as follows:

Councilor Dominguez thanked Judge Yalman for her work. He asked what kinds of things she is seeing going into, and coming out of, the Homeless Court – what resolutions are we seeing out of that.

Judge Yalman said the primary kinds of cases she sees in the Homeless Court are drinking in public, panhandling, solicitation on public and private property. She said there is an occasional shoplifting, and possession of marijuana, as well as disorderlies. She said these tend to be substance related charges and they are trying in the Homeless Court to not put them in jail. However, at some point she gives up and puts them in jail. She said she tries to get them involved with the Care Connection and Life Link 12-step programs, and to some extent, Santa Fe Recovery. She has no hard statistics, but she works to get them involved in treatment and to find work and housing to the extent possible.

Councilor Dominguez said it is obvious that the laws we write have an impact on her workload and what happens in the Courtroom. He asked how difficult it would be to get some of those numbers. He said she provides a quarterly report, but that sometimes seems to vague.

Judge Yalman said she can try, but there is no Homeless Court category in the computer program, and if it turns out their address is general delivery or St. Elizabeth's, she asks them if they would rather go to Homeless Court instead of Municipal Court. She said she will work to keep statistics on the Homeless Court for the future. She said she will try to get previous statistics, but doesn't know that effort will generate much information.

Councilor Dominguez said he believes it would be beneficial to have some kind of data, even vague data, which indicates to the Governing Body what is happening with the homeless population.

Councilor Bushee thanked Judge Yalman for continuing her good work. She asked how officers decide between Municipal Court and Drug Court, particularly for DWI.

Judge Yalman said she can't speak to the officers. However, when she was having meetings with the County and other involved entities, there was a push to have the first and second offenses filed in Municipal Court, with the third offense more likely to be filed in Magistrate Court. She said this had more to do with the jail budget, because on the third there is a mandatory jail sentence of 30 days for a simple third offense, and a mandatory 90 days in jail on an aggravated offense. She said because the Police always have been concerned about the jail expense, there was some feeling we shouldn't push third offenses in Municipal Court, simply for financial reasons. She said it may depend on the officer, reiterating she can't answer that question for each officer.

Councilor Bushee asked Judge Yalman her thoughts about how well the DWI Forfeiture Ordinance is being implemented.

Judge Yalman said she has nothing to do with forfeiture and she has taken a hands off position in regard, noting that is civil.

Councilor Bushee said Judge Yalman had great input in writing the DWI Forfeiture Ordinance, and asked her if anything comes to mind with regard to that Ordinance.

Ms. Yalman said it seems to be more clear that just because you have an interlock in your car doesn't mean you have the right to drive it, which always has been her concern – that people need an interlock to get the car out of the impound and then think they can drive. She said many people's drivers license have been revoked by the Motor Vehicle Division by the time the car gets out of impound, so there are a lot of contradictory laws. She said the first year it was in effect she got constant complaint in the Courts that people had been unable to get items out of their car and unable to contact the people in charge at the Police Department. She hasn't heard that complaint in over a year which she sees as a major improvement.

Responding to Councilor Bushee, Judge Yalman said she has used mediation for the occasional odd land use issues involving neighbors, as opposed to whether or not someone cut their weeds, and that has been successful. She said the current City prosecutor is making an effort to speed up code enforcement matters, but they don't get too many of those. She said they usually get complaints about barking dogs.

Councilor Ives thanked Judge Yalman for the report. He appreciates what she is doing in the Court in looking to solve various needs across the community. He believes the DWI Court and Homeless Court, and other efforts to target a particular population with ongoing needs and interaction with the Courts, is a good way for the City to respond and make the programs more readily available. He said special thanks for her increased efforts on the parking side, on behalf of all of those who put money in the meters and pay our parking tickets. He said the Council looks forward to doing whatever possible to make that a successful recovery operation.

Councilor Ives said, "Bravo on the imaging of Court files." He said he is impressed, knowing what a herculean effort that is. He asked if she has a sense of when that would be more up to date.

Judge Yalman said, "No."

Councilor Ives asked, with regard to software, that the Judge ensure that whatever system she chooses is capable of, or has sufficient fields to be, able to generate the kinds of statistical reports Councilor Dominguez referenced. He agrees with Councilor Dominguez that understanding homeless needs is important to the Governing Body as evidenced by the re-instituted Task Force on Homelessness.

Judge Yalman said she is trying to get a software system which would provide good reports, noting the Public Safety Committee wants more particular kinds of reports on DWIs than can be produced with the current system.

Councilor Dimas thanked Judge Yalman for her hard work, and said he doesn't know how she does all of her work alone. He applauds her for the professional and fair job she does.

Mayor Coss said Judge Yalman talked about seeing an uptick in heroin-related crime over the past 6 months. He said the City has seen an uptick in property times, especially during the first quarter. He said every officer with whom he has spoken, believes this is related to drug addiction and heroin. He would be interested in working with her more closely on what she's seeing and how the Courts – Municipal, Magistrate and District – can help with this. He asked Judge Yalman her sense of what can be done. He said our officers do not believe there are adequate programs, and asked her if Millennium is adequate or starting to be adequate or could become adequate.

Judge Yalman said there is treatment, but there's not enough of it and there's not enough money to go around. She said she has attended national conferences and she believes the Drug Court programs are very effective. She said Judge Vigil's Drug Court Program in District Court is quite effective, commenting the Magistrate Court is primarily DWI, and hopes her new Drug Court will be as effective. She said Drug Court is very difficult, needs a lot of monitoring, and needs a lot of input from people.

Judge Yalman said Santa Fe Recovery is a 30-day inpatient program which deals with both alcohol and drugs, commenting it is quite effective. She said the City just funded Womens Health Service and they have a physician on staff who handles Suboxone, which is a drug to help people with heroin addiction. She said LifeLink is good to handle alcohol abuse, and to some extent drug abuse. She said there are programs available, but there are many more people than programs. Also, she said people don't necessarily want to be in the program.

Judge Yalman said Brian Parkhill, Millennium Treatment, believes many of the young people started with prescription drugs, noting there has been a huge increase in the prescriptions written and prescription drug use, and when the prescription drugs get too expensive and they turn to heroin which is cheaper. She said it is a very scary scenario.

Mayor Coss said he heard that at Espanola Mayor Lucero's Drug Summit two months ago, but he

is concerned that Judge Yalman has noticed this in Santa Fe just in the past 6 months. It is here in Santa Fe now, and is impacting the property crime rate, and we really need to dig in and see how we make the services adequate, because we have to fix this problem.

Mayor Coss thanked Judge Yalman for her hard work and for the report.

13. PURSUANT TO RESOLUTION #2011-56, OVERVIEW OF NEW MEXICO OPEN MEETINGS ACT, INSPECTION OF PUBLIC RECORDS ACT, CITY OF SANTA FE ETHICS ORDINANCE AND NEW MEXICO GOVERNMENTAL CONDUCT ACT. (GENO ZAMORA)

A copy of Overview of Open Government and Ethics Laws presented by Santa Fe City Attorney's Office May 30, 2012, is incorporated herewith to these minutes as Exhibit "5."

Geno Zamora, City Attorney, said this overview is provided in accordance with Resolution 2011-56, which requires and overview and training of a Council immediately after the election, and not later than the end of May. He said there are 3 items in the packet: The Open Meetings Act Resolution adopted by the Governing Body annually; the City Ethics Ordinance; and a copy of the Governmental Conduct Act. In addition, he is providing a bound copy of the Open Meetings Act Compliance Guide, compliments of the State Attorney General, as well as the Inspection of Public Records Act Compliance Guide, which is used by governmental entities and its legal offices use as a guideline for complying with open government laws.

Mr. Zamora said a copy of his presentation this evening is on the Governing Body's desk [Exhibit "5"]. He said his presentation is an overview, a summary, which relates specifically to municipal issues, noting he has eliminated several issues which don't relate to municipalities, commenting there are some issues which require more in-depth review by Governing Body members on their own time with the resources he has provided.

Mr. Zamora presented the information in Exhibit "5." Please see Exhibit "5" for specifics of this presentation.

The Governing Body commented and asked questions as follows:

- Councilor Bushee asked the status of filling the public records keeper position.

Mr. Zamora said the Resolution passed at the last meeting, and the City Attorney's office is creating a structure for that person for that position, and he hopes to have the Public Records Custodian hired, in place in the City Attorney's Office by the beginning of the fiscal year.

- Councilor Bushee said Attorney-Client Privilege is exempt from IPRA, and asked the parameters when something is deemed to be Attorney-Client Privileged, or if this is just a "unilateral sort of subjective thing by the City Attorney's Office."

Mr. Zamora said, "That is covered by Supreme Court Rule as to what is attorney-client privilege, which, generally speaking, is the provision of legal advice to the Governing Body, and the requirement for waiving that would be an act of the majority of the Governing Body.

- Councilor Bushee asked, "Do we have that in writing somewhere."

Mr. Zamora said, "I can provide copies to you of two things. One, the Supreme Court Rule that defines that and, two, a Supreme Court Decision that reiterates the Open Meetings Act provision and recognizes the attorney-client privilege as exempt from IPRA."

- Councilor Bushee said, "No. No. I understand it's exempt from IPRA. It is... my question has more to do with the specificity of what you would deem, and you just said legal counsel, but that's very broad. You could decide anything was giving advice to the Council or to the Governing Body. So, is there some administrative manual or section of somewhere or something of our City's version or interpretation of what the definition of attorney client privilege is to start with."

Mr. Zamora said the attorney client privilege is defined by the New Mexico Supreme Court in the New Mexico Supreme Court Rules, and said he would provide a copy of that to Councilor Bushee.

- Councilor Bushee said, "Okay, so can we drill down and interpret and define, so that we don't just have a city attorney that says everything is attorney client privilege because you've asked a question and now I'm giving you some kind of response. I'm trying to narrow it down a little bit."

Mr. Zamora said okay.

- Councilor Bushee said, "So is there something or should there be something that does that."

Mr. Zamora said, "Of course, the members of the Governing Body always have the option of adopting an ordinance or a resolution that defines what an attorney-client privileged communication is. However, I think that would be difficult to do. One, because of the continually developing case law, and two, because that likely would be usurping the role of the New Mexico Supreme Court, but you have that option if you wish."

- Councilor Bushee asked, "Well, but do you understand my concern at all, somewhat like the concern that we had about designating everything as a draft status. It's just that it would be precluded from public inspection if it were deemed attorney-client privileged is my.... you, know it's not a hard and fast rule I'm looking for, it's really just practice. Parameters. Areas that we would say okay, you know, that's reasonably considered attorney-client privileged, this maybe not so much."

Mr. Zamora said, "The uniqueness and the difference especially, from a draft position or any other record position is that it inherently requires a communication with an attorney and with the City Attorney's office. So, the attorney-client privilege, for example, cannot be used by other departments, cannot be used without a communication directly with an attorney. So it's a much

narrower scope in its exemption, whereas draft can apply essentially to any Department in the City."

Councilor Bushee said, "Okay, I guess I'll just do my own research into that."

Councilor Ives said, in terms of attorney client privilege, he is curious about executive session, and if that is treated similarly in terms of discussion in executive session, because executive session can be entered into, not only for purpose of discussion matters relating to litigation, but presumably the whole host of exceptions defined in the Open Meetings Act. He asked about disclosure of executive session information.

Mr. Zamora said, "As noted, there are several exceptions in the Open Meetings Act that allows you to go into Executive Session. Only one specifically relates to attorney client communications. Now there may be attorney client communications that relate to personnel or property acquisition or other items. But generally speaking, let's hypothetically say there is an executive session regarding the disposal of real property and an attorney is not present, and an attorney is not providing legal advice. That information is exempt from disclosure by law and allows a dialogue to occur. Waiver of that..... it's the advice of the City Attorney's Office, that privileged communication in executive session is only waived by the body itself. So it would take a majority action of that body. And we saw that happen about a month and a half ago when the Governing Body said, look these discussions that we would normally be allowed to have in executive session, we're going to have in open session."

Mr. Zamora continued, "There's the ability to take that action. There's also the ability to come out of executive session and by action of the body say, by vote, we intend to disclose all discussions from that executive session. It is the recommendation of the City Attorney's Office that that takes an affirmative action by the body and can only happen by a majority [vote of the Governing Body]."

Councilor Ives said, in terms of consequence for improper disclosure, be it of executive session matters or attorney-client privileged matters, those are specifically covered only under the Ethics Committee [Ordinance?], in terms of misuse of confidential information or what other enforcement mechanism options are there.

Mr. Zamora said, "At this point, within the Ethics Ordinance... there is a gap in the Ethics Ordinance that does not provide penalties for a unilateral waiver of attorney-client privilege, or other privileges held by the Governing Body, such as the closed session communications in executive session. So there certainly is not a criminal penalty for waiver of either of those, but there is a penalty among the peers. First of all, in the Governing Body, if one violates that, you risk violating the trust of those peers. But additionally, the reason the law provides for those exemptions is to minimize the risk for a governing body in having those discussions be public. So, for example, if you were discussing the purchase price of a piece of property and a range is discussed in closed session, but a member comes out and says the upper end of the price is X and discloses that openly, it could cost the City additional funds and eliminate negotiations. [There are] risks by disclosing pending and threatened litigation strategies. There are also risks for disclosing collective bargaining strategies also that could harmfully affect the Governing Body of the City."

Councilor Ives said he is asking, in looking at the enforcement provisions, what type of penalties can be imposed for an abuse by any particular member of those privileges. He said all he sees under the Code of Ethics, is the Misuse of Confidential Information, which presumably leads to a potential penalty of reprimand, fines and a recommendation of removal or suspension. Or, does the City Council, as a body have the authority to put in place suspensions, or censures, those types of those things.

Mr. Zamora said, "With regard to that section, which is Section 1.77(D) Misuse of Confidential Information, it's actually even more narrowly written and it would be a policy consideration for this Governing Body to broaden that. The narrow writing is that they shall not use or disclose confidential information. And you are correct that those confidential discussions would fall into this, when he or she knows, or reasonably should know, that the use or disclosure will or may result in a financial gain, or the avoidance of a financial loss on the part of any person or entity other than the City. Actually, now that I read through that sentence I stand corrected. It is more broad. I had in my mind that it was financial gain for the individual body members, but no, this is where disclosure will result in a financial gain, or the avoidance of a financial loss of any person or entity, other than the City. So, you are correct that disclosure of those confidential communications could result in penalties or fines under the Ethics Code. Thank you for that clarification."

Councilor Ives said it seems to suggest that only if there is some sort of financial effect as opposed to protecting the privilege *per se*.

Mr. Zamora said that is correct, noting it talks about outside entities and it really doesn't include financial gain or loss by the City itself.

Councilor Ives said he would say beyond financial gain or loss. He said, "If you have the privilege, presumably you shouldn't disclose it without that the majority act you referenced. And as written, it seems to suggest that there may not be, in effect, any penalty whatsoever unless there is financial gain or loss involved, which seems somehow to viciate the privilege in the first instance."

Mr. Zamora said it is a policy decision by the Governing Body as to whether or not they would like to enlarge that prohibition.

Councilor Wurzbarger thanked Mr. Zamora for the clarification, and believes this is an area we could pursue so we could have that protection as a Council, but we can work on that later.

Mayor Coss thanked Mr. Zamora for the presentation.

14. **ACTION REGARDING THE STATUS OF COMMUNICATIONS WITH NEW MEXICO CONSOLIDATED CONSTRUCTION SERVICES, LLC AND NEW MEXICO SCHOOL FOR THE ARTS AND RELATING TO CONSIDERATION OF THE PURCHASE, ACQUISITION OR DISPOSAL OF REAL PROPERTY AT ST. CATHERINE'S SCHOOL CAMPUS. (GENO ZAMORA AND ROBERT ROMERO) (Postponed at April 25, 2012 City Council Meeting) (Postponed to June 27, 2012 City Council Meeting)**

MAYOR COSS MOVED ITEMS 15, 16, 17 AND 18 TO THE END OF THE EVENING AGENDA.

END OF AFTERNOON SESSION AT 7:15 P.M.

EVENING SESSION

A. CALL TO ORDER AND ROLL CALL

The Evening Session was called to order by Mayor David Coss, at approximately 7:15 p.m. Roll Call indicated the presence of a quorum as follows:

Members Present

Mayor David Coss
Councilor Rebecca Wurzbarger, Mayor Pro-Tem
Councilor Patti J. Bushee
Councilor Christopher Calvert
Councilor Dimas
Councilor Carmichael A. Dominguez
Councilor Ives
Councilor Rivera
Councilor Ronald S. Trujillo

Others Attending

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

F. PETITIONS FROM THE FLOOR

David McQuarie 2997 Calle Cerrado, said he wants to remind the Governing Body that just more than 20% of the Santa Fe County population are persons with disabilities. He asked why the staff is allowed to be not forthcoming and transparent on their activities involving persons for disability. For example, the staff is aware that the north Railyard and the new Convention Center have certain discrepancies for accessibility, but those have not been addressed, and it "looks like they never will be addressed. Why."

Mr. McQuarie said, a second thing is there are projects and programs appearing over and over which have not been brought before the Mayor's Committee for review, and asked the reason. He said the most current of which he is aware is the restriping of Siler Road, which will affect the overall alterations.

Mr. McQuarie said his last and biggest concern is the Northwest Trail System which was adopted approximately 4 years ago. The Engineering Division was advised and requested by [inaudible] to develop trail guidelines for review by the Mayor's Committee on Disability, but that has not been done. He said the proposed trail system, north of [inaudible] there are approximately a dozen trails and not one has a single accommodation for a person with disability. He said the City has spent all this money, and he believes it is nothing but pure discrimination to spend public money for everybody but the disabled, and

then say they have a general plan for the trails. He said a lot of it is based on pure violation of civil rights, because it says, for example, only certain people are permitted. He asked since when we operate on the Gestapo principle, and thinks Americans are allowed, they are not permitted.

Sagemaya Dandhi, 1492 Canyon Road, removed his hat and paid tribute to all the veterans who laid down their lives so that we can have a City Council and petition our government. He said he is petitioning the Governing Body for one of the finest athletes ever to come out of the City of Santa Fe. He said his name is Todd Gogulski. He said if you turn on the Tour de France, he is one of the color commentators. He said Todd graduated from Santa Fe High in 1982. He said in May 2013, it will be 30 years since Todd won his first race in El Paso, Texas against some of the finest athletes in the cycling community. He said he registered Todd's mother to vote. He said he is petitioning the Council to have a Todd Gogulski Day sometime in 2013, to coincide with the Santa Fe century which occurs in May. He reiterated that Todd may be the greatest athlete to come out of Santa Fe, and one of the finest bicyclists in the United States. He said Todd is very busy, noting Todd used cycling for his livelihood, raced for the Subaru Team, and it would be nice if the Council sees it is prudent to have a Todd Gogulski Day in May of next year.

G. APPOINTMENTS

Mayor's Blue Ribbon Panel to End Homelessness

Mayor Coss made the following appointments to the Mayor's Blue Ribbon Panel to end Homelessness:

Annie Granillo, Municipal Court
Barbara Salas, Santa Fe Fire Chief
Carol Luna-Anderson, Life Link
Cheryl Bartlett, Homeless Representative
Christa Coggins, Santa Fe Community Foundation
Deborah Tang, St. Elizabeth Shelter
Dodi Salazar, Santa Fe County Housing Authority
Erin Lynn, Thistle Art Project
Gaile Herling, Adelante Program, Santa Fe Public Schools
Hank Hughes, NM Coalition to End Homelessness
Holly Beaumont, Interfaith Worker Justice
Jackie Rivera, Salvation Army
Jon Singh, Municipal Court
Joyce Arellano, Santa Fe Community Housing Trust
Karen Rowell, Youth Shelters

Kathy Armijo Etre, Christus St. Vincent Hospital
Kim Shanahan, Santa Fe Area Homebuilders
Liz Reynolds, La Familia Health Care for the Homeless
Maryanne Mowen, SCORE Representative
Ray Masterson, Homeless Representative
Rev. Ken Semon, Holy Faith Episcopal
Suzanne Breslauer, Temple Beth Shalom
Ted Swisher, Santa Fe Habitat for Humanity

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

DISCUSSION: Councilor Bushee would like to add someone from the Police Department who has contact with this population regularly, a homeless youth and a neighborhood representative, and she had in mind Bo Keppel who lives in and around the Railyard area and works with that population directly. She asked to be notified when this group meets.

Mayor Coss said those are good suggestions. He said the first meeting is tomorrow morning at 10:00 a.m.

VOTE: The motion was approved unanimously on a voice vote with Councilors Bushee, Calvert, Dimas, Dominguez, Ives, Rivera, Trujillo and Wurzbarger voting in favor of the motion and none voting against.

Planning Commission

Mayor Coss made the following appointments to the Planning Commission:

Signe Lindell, Reappointment – term ending 06/2014;
Tom Spray, Reappointment – term ending 06/2014;
Lisa Bemis, Reappointment – term ending 06/2014; and
Dan Pava – term ending 06/2014.

MOTION: Councilor Calvert moved, seconded by Councilor Dominguez, to approve these appointments.

VOTE: The motion was approved unanimously on a voice vote with Councilors Bushee, Calvert, Dimas, Dominguez, Ives, Rivera, Trujillo and Wurzbarger voting in favor of the motion and none voting against.

Board of Adjustment

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

Alexandra Ladd, Reappointment – term ending 09/2014.

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

VOTE: The motion was approved unanimously on a voice vote with Councilors Bushee, Calvert, Dimas, Dominguez, Ives, Rivera, Trujillo and Wurzbarger voting in favor of the motion and none voting against.

Historic District Review Board

Mayor Coss made the following appointment to the Historic District Review Board:

Christine Mather, Reappointment – term ending 01/2014.

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

VOTE: The motion was approved unanimously on a voice vote with Councilors Bushee, Calvert, Dimas, Dominguez, Ives, Rivera, Trujillo and Wurzbarger voting in favor of the motion and none voting against.

Airport Advisory Board

Mayor Coss made the following appointment to the Airport Advisory Board:

Mark A. Miller – to fill unexpired term ending 02/2015.

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

VOTE: The motion was approved unanimously on a voice vote with Councilors Bushee, Calvert, Dimas, Dominguez, Ives, Rivera, Trujillo and Wurzbarger voting in favor of the motion and none voting against.

H. PUBLIC HEARINGS

- 1) **REQUEST FROM JOHN BYGOTT, GALLERY DIRECTOR, FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING AND CONSUMPTION OF BEER AND WINE AT MANITOU GALLERIES, 225 CANYON ROAD, SUITE 11, WHICH IS WITHIN 300 FEET OF THE CATHEDRAL BASILICA OF SAINT FRANCIS OF ASSISI PROPERTY, 131 CATHEDRAL PLACE AND THE NEW MEXICO SCHOOL FOR THE ARTS, 275 EAST ALAMEDA STREET. THE REQUEST IS FOR ART SHOW OPENINGS FROM 5:00 P.M. TO 7:30 P.M. ON JUNE 22, JULY 27, AUGUST 17, SEPTEMBER 28 AND NOVEMBER 24, 2012. (YOLANDA Y VIGIL)**

The staff report was given by Yolanda Y. Vigil, City Clerk, noting there are letters in the packet from Rev. Msgr. Jerome J. Martinez y Alire of the Cathedral Basilica of St. Francis of Assisi and Cindy Montoya, Principal, New Mexico School for the Arts, saying they are not opposed to this request.

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

MOTION: Councilor Wurzbarger moved, seconded by Councilor Trujillo, to grant the request for the waiver of the 300 foot location restriction and approve the dispensing and consumption of beer and wine at Manitou Galleries for Art Show openings, 5:00 p.m. to 7:30 p.m., on June 22, July 27, August 17, September 28 and November 24, 2012.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

- 2) **CONSIDERATION OF RESOLUTION NO. NO. 2012-59. (COUNCILOR CALVERT, COUNCILOR RIVERA, COUNCILOR WURZBURGER, COUNCILOR BUSHEE AND COUNCILOR IVES). A RESOLUTION PROCLAIMING SEVERE OR EXTREME DROUGHT CONDITIONS IN THE CITY OF SANTA FE AND RESTRICTING THE SAME OR USE OF FIREWORKS WITHIN THE CITY OF SANTA FE AND PROHIBITING OTHER FIRE HAZARD ACTIVITIES. (FIRE MARSHAL GONZALES AND ALFRED WALKER)**

Public Hearing

Speaking to the request

There was no one speaking for or against this request.

The Public Hearing was closed

MOTION: Councilor Calvert moved, seconded by Councilor Wurzbarger, to approve Resolution No. 2012-59 as presented.

DISCUSSION: Mayor Coss asked if this Resolution bans smoking in the parks as well, and Mr. Walker said it does.

Mayor Coss said then smoking on the Plaza or in Cathedral Park is prohibited right now, and Mr. Walker said this is correct. Mayor Coss said this could be interesting.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

Explaining his vote: Councilor Trujillo said, "Yes, and add me as a sponsor, please Yolanda."

Explaining her vote: Councilor Bushee said, "I've had constituents that want me to pass a law to that effect, but it will be interesting to see on a short term basis. Yes."

- 3) **CONSIDERATION OF BILL NO. 2012-12: ADOPTION OF ORDINANCE NO. 2012-20 (COUNCILOR DOMINGUEZ) . AN ORDINANCE AMENDING ARTICLE 23-6 SFCC 1987, TO ESTABLISH REGULATIONS FOR EVENT SPONSORS WHO HAVE BEEN AUTHORIZED TO USE A CITY PARK WHEN THE SALE AND CONSUMPTION OF ALCOHOL IS PERMITTED. (ALFRED WALKER) (Postponed at May 9, 2012 City Council Meeting)**

Alfred Walker said he would stand for questions.

Public Hearing

Speaking to the request

Mayor Coss gave each person 3 minutes to speak to this request.

Lisa Grace Giuffra, Santa Fe Underage Drinking Prevention Alliance, read a statement into the record thanking the City for its support of policies or best practices that address alcohol access at public events. She said putting protective mechanisms in place supports community member inclusion, noting events with alcohol regulations draw more families and other patrons that want to enjoy an event in a safe and free from alcohol environment, where problems such as traffic crashes, fighting, vandalism and other public nuisances are not issues. The proposed ordinance keeps us moving forward in a positive direction, impacting underage drinking reduction by limiting youth access directly or by allowing their friends over 21 to purchase alcohol for them. She said our youth lead the nation in early onset of drinking. The proposed ordinance to establish best practices sets a positive standard, strengthening our price in Santa Fe. The Alliance supports this ordinance and the Governing Body for its leadership.

Jessica Apodaca, Prevention Specialist, Santa Fe Public Schools, read a statement into the record, saying as adults we set examples for our youth, and by establishing best practices, we limit the negative impact alcohol has on our community in addition to limiting youth access and consumption. She

said in Santa Fe County, 34% of high school students report having drunk alcohol before the age of 13. She said by modeling low risk practices, we help encourage our youth in making good decisions around alcohol.

Rick Martinez said he likes the concept of the Ordinance, but he has a problem with the Railyard, commenting there are too many liquor establishments at the Railyard. He said the TPL is ready to hand over the Railyard Park to the Railyard Stewards and at that point they can change things so they can start having alcohol for public events, and he wants to delete language which would allow alcohol in the Railyard Park.

The Public Hearing was closed

MOTION: Councilor Dominguez moved, seconded by Councilor Trujillo, to adopt Ordinance No. 2012-20, with the amendments provided in the Council packet.

DISCUSSION: Councilor Bushee said, for the record, she would like to clarify that alcohol consumption is not allowed on City owned property in the Railyard – in the Railyard Park.

Mr. Zamora said, "There are certain provisions like the commercial sale. We own the entire Railyard so [inaudible]."

Councilor Bushee said, "And TPL or any of the Board or Richard Czoski's Board can't change that."

Mr. Walker said, "As long as the City has jurisdiction over the parks, these rules would apply."

Councilor Bushee said she applauds the efforts at best practices, but questions whether going from 2-3 alcoholic beverages is a best practice. She said the impact of alcohol has a great deal to do with the size and weight of the person consuming alcohol.

Mr. Walker said the two drink limit is based on the U.S. Department of Agriculture definition of moderate drinking which for men is two drinks per day, for women one drink per day. It has nothing to do with size or weight. It has to do with body chemistry differences between men and women. That is the basis of the standard which was proposed.

Councilor Bushee asked the genesis for going to three, and Mr. Walker said that is a policy decision.

Councilor Trujillo this is his decision and his proposal. He had the discussion when we approved the Fuego, and there have been no issues whatsoever with the beer garden like the ones which were brought up – that it would create a nuisance, people would be drink at the games. He said he is sure there have been people who have drunk three beers.

Councilor Bushee said her concern isn't so much fights at Fuego games, but people driving after Fuego games, given that this exemption is only for Ft. Marcy. She is concerned about the presence of DWI's in this part of town, so she probably will vote against this given this provision. However, she does applaud the other regulation. She doesn't see this as a best practice, and sees it as a legal encouragement to allow people to drink and then most likely to drive themselves home.

Councilor Trujillo said Councilor Bushee is entitled to her opinion, and he doesn't want to debate, but if we start doing this we will end up debating issues such drinking at the golf course where that could happen where people have an alcoholic beverage, and then drive a golf cart.

Councilor Bushee said she has a longer speech, but she doesn't want to create a debate.

Councilor Dominguez said as the main sponsor, the Resolution was brought forward as a way to recognize that we have made an exception for alcohol to be in a park, Ft. Marcy. He said in reaching out to others, they recognized there were best practices which were identified and established in other communities, and have been adopted by a lot of other municipalities, and researched by the Santa Fe Underage Drinking Prevention Alliance. He knows the Alliance would prefer a two-drink maximum. He wants to make sure this Ordinance comes back for review in a year, so we can do more research on maximum allowances on drinks. He said we can always change the size from 10 oz. to 12 oz, but he doesn't want to go there right now.

FRIENDLY AMENDMENT: Councilor Dominguez would like to amend the motion to provide that this Ordinance will come back to the Council for review in one year. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER COUNCILORS.**

Councilor Ives said he would note that under State law there are provisions for establishments serving liquor to ensure that people serving alcohol are at least 21 years old and licensed by the State. He said each server obtaining a license is required to undergo training in recognizing whether or not a person is intoxicated, and if intoxicated they shouldn't be served additional drinks. He said there are some safeguards built into this which comport and comply with State law on these issues, which he looked to in determining he believes it is good to proceed with this Ordinance.

Councilor Wurzbarger said she appreciates Councilor Ives commentary, saying she has difficulty with the number, because she can have half a glass of wine and she knows she can't drive. She supports the work of the Alliance and the establishment of best practices in limiting it by age. However, it gets back to the personal responsibility, and it is within the authority of those serving to help with the issue. She said, regardless how much people drink, it has an effect, and people who feel intoxicated shouldn't drive. She said this is the message we should be giving to our community, "rather than 3 beers are okay, because they are not okay."

Councilor Bushee said the Ordinance provides, "During a permitted event..." She asked if the limit of 3 alcoholic beverages is limited just to Ft. Marcy, or does it apply to the Golf Course, the Airport and the Convention Center as well. She asked Mr. Walker, as the author of the bill, to comment.

Mr. Walker said he didn't write the Ordinance. He said, "It is my understanding that this just applies, and Councilor Dominguez can correct me if I'm stating it incorrectly, but this just applies if the Council approves the use of a park for Fiesta or something."

Councilor Bushee asked Geno Zamora if there are any concerns that this increases the City's liability.

Mr. Zamora said, "Are you asking if the difference between two and three drinks increases liability. I'm just trying to understand the question."

Councilor Bushee said, "I guess so."

Mr. Zamora said, "In inquiring through risk, actually the addition of this did not increase the liability. And what happens with special use permits is that there's a requirement of a liability policy that names the City, so it does not increase the liability of the City."

Councilor Bushee asked, to be clear, if special use permits are allowed only at Ft. Marcy, or if there is a process for someone to bring forward such a request for another park.

Mr. Walker said, "What is currently happening is that there is a permit available for Ft. Marcy for the Fuego baseball games. If a group wants to use a park for a special event, they will need to get a Special Use Permit and come to the Governing Body to grand the Special Use Permit. If the Governing Body grants the permit, then these rules would apply."

Councilor Bushee asked again if someone can seek a special use permit for the Railyard Park and Railyard Plaza, noting some group asked her to do this, and she said, "The IMBA [International Mountain Bike Association] folks are looking to do something in the Railyard Park and Plaza area and I told them I think you have to go to like Second Street and ask them to do something and I don't know that."

Mr. Zamora said, "There is an ordinance that I am looking up, as we speak, right now which already governs. This Governing Body has already determined which parks that this is allowed in. And so this policy only applies to those areas where the Governing Body has already allowed alcohol. It does not provide any new rights with regard to the service of alcohol. It just provide for best practices. The matter we're considering right now is a policy on best practices."

Council Bushee asked in which parks we allow these special use permits.

Mr. Walker said, "It is under the Ordinance, as already written, and the amendments would make no change to that. Alcohol is prohibited in the Railyard Park, so there would not be the opportunity to use the Railyard Park at all."

Councilor Bushee asked in which parks alcohol would be permitted.

Mr. Walker said, "Currently alcohol is not permitted in any park, but if somebody wanted to use a park, other than the Railyard Park for a special event, then they could come to the Governing Body and request that. The Governing Body, at that point, would decide whether or not..."

Mayor Coss said it would require an ordinance amendment.

Mr. Walker said this is correct, and once the ordinance is amended, these best practices will apply, but currently it applies only to Ft. Marcy.

Councilor Calvert said he is now confused. He understood this Ordinance, before these amendments, set out where alcohol could and couldn't be served. He said the amendment, under 23-6.3, Regulations for the Sale and Consumption of Alcohol at City Parks, provides:

"A. When the governing body has authorized the sale and consumption of alcohol for an event or events at a City park, pursuant to an amendment to Section 23-6.2..."

He said it sounds as if the Governing Body can authorize another park, but it would have to come before the Governing Body to do that. He asked if that means it requires an amendment to this Ordinance to get a special use permit to serve alcohol in another park.

Mr. Walker said, "Yes, it would require an amendment to the Ordinance."

VOTE: The motion, as amended, with the amendments in the Council packet, was approved on the following Roll Call vote:

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzbarger.

Against: Councilor Bushee.

- 4) **CONSIDERATION OF BILL NO. 2012-15: ADOPTION OF ORDINANCE NO. 2012-21 (COUNCILOR CALVERT, COUNCILOR WURZBURGER, COUNCILOR IVES AND COUNCILOR BUSHEE). AN ORDINANCE CREATING A NEW SECTION 14-3.20 SFCC 1987, TO ESTABLISH RESIDENTIAL CONDOMINIUM REQUIREMENTS; AMENDING SECTION 14-6.3(D)(1) SFCC 1987, TO REQUIRE THAT A RESTRICTIVE COVENANT**

THAT IS REQUIRED TO BE IN COMPLIANCE WITH 14-6.3(D) BE RECORDED PRIOR TO THE ISSUANCE OF A CONSTRUCTION PERMIT FOR AN ACCESSORY DWELLING UNIT; CREATING A NEW SECTION 14-10.6 TO PERMIT LEGALLY NONCONFORMING RESIDENTIAL CONDOMINIUM UNITS; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY. (MATTHEW O'REILLY)

The staff report was presented by Matthew O'Reilly, Director, Land Use Department, from his Memorandum of April 11, 2012, with attachments, to Chair Hughes and Members of the Planning Commission, regarding the proposed Ordinance.

The Councilors commented and asked questions as follows:

- Councilor Bushee asked how the 4,309 units were calculated.

Mr. O'Reilly said through a long research process: Started with data from Santa Fe County which classifies condos separately, sorted these, and looked at the excess density information to see when the condos were created and compared condos with various overlay districts and this is how they got to the figure of 4,309. He thanked Property Manager Ed Vigil who did a lot of the research.

- Councilor Bushee asked where the association documents are filed.

Mr. O'Reilly said Condominium Declarations are recorded with the County Clerk.

- Councilor Bushee asked if there is any State regulation of condominiums.
- Mr. O'Reilly said the State controls to the extent it has statutes which a declarant must follow in creating a condo, and people have to follow State law.
- Councilor Bushee asked if this falls under CID or another State department.

Mr. O'Reilly said a condominium is a form of ownership. He said SB 10 added an additional requirement which is written confirmation from the City that the condominium complies with zoning density regulations. He said this Ordinance, if adopted, will do that, noting Santa Fe is the first municipality in the State to adopt an ordinance which takes advantage of that provision of State law.

- Councilor Ives said, on page 3 of the Memorandum, Table 2 is identified as Density-Non-Conforming Residential Condominiums, and Table 3 as Make-up of Density – Nonconforming Condominiums, and asked the difference between these two tables.

Mr. O'Reilly said the Table 2 title means those that have been created in excess of what is allowed by the underlying zoning density, noting there are 379, and 83 of those are non-conforming for density. He said Table 3 is the makeup of those 83 non-conforming associations. He said in the 83 non-conforming associations, there are a total of 324 condominium units. Of the 324 units, 316 have been constructed and 8 are in the form of reserve development rights where the unit hasn't been constructed.

- Councilor Ives how many of the 8 are in Associations.

Mr. O'Reilly said there actually are 9 reserve development rights in 6 associations, noting there are 315 units which have been constructed.

- Councilor Ives said there is a reference in the paragraph below the tables on page 3, with regard to the violation of maximum allowable zoning densities. He asked, given that zoning densities change over time, when is the measure taken, and "presumably that would also potentially be a distinction between units that were within the City or that are brought in by virtue of annexation."

Mr. O'Reilly said this could be a difficult question to answer. He said on packet page 24, Ordinance page 5, line 21, there is new material Nonconforming Residential Condominiums. He said, "What is being said here is that this section and unconstructed condominium units in the form of development rights, applies to those that were recorded prior to today's date, where the condominium does not now meet the zoning density requirements of the Land Development Code Chapter 14. But it also applies to those condominiums that did not meet the zoning density requirements of Chapter 14 when the most recent condominium declarations are recorded. So, what does that mean. It is trying to get at the fact that if a condominium was created at a time when the zoning allowed that density, then those are going to continue to be legal, even if the zoning is now changed, they will still be legal. They'll simply be legal and non-conforming, so it doesn't take away their legal status."

Mr. O'Reilly continued, "And in the case of a condominium that was created before the City took over land use jurisdiction in November 2009... I think there's some people here who created a condominium. Mr. Noble's condominium was created on July 3, 2007 on 2.29 acres, and his condominium created 8 units, 6 that exist on the ground and 2 reserve development rights. In that particular situation, because those units can be demonstrated to have been in existence prior to the County's Development Code being in existence.... the City would recognize those 6 constructed units as essentially grandfathered-in. They existed. We would recognize that. If they were created and existed at a time when the County's Ordinance did not allow them, then they were illegal when they were created in the County and they're still illegal in the City. So, in a situation like that, we would honor the status of those constructed condominiums, but the Ordinance would not allow any further condominiums to be created, meaning any other reserve development rights that were on the property would not be allowed to be constructed, because they currently do not comply with the zoning. If the zoning of that parcel was changed, and any

property owner came in and wanted to up-zone their property to allow more units and that was approved by the Governing Body, then additional units could be built.”

- Councilor Ives said clearly, when it comes to development rights, then that notion of having secured entitlements to develop property, those in many jurisdictions become potentially vested property rights. He wants to make sure what we are doing here would not divest any, presumably, already divested property rights so as to expose the City to litigations and those kinds of things. He said it sounds as if these issues have been considered in terms of developing the language of the Ordinance.

Mr. O'Reilly said the position of the Land Use Department is that a vested right which was created illegally isn't a vested right. And condominiums which were created illegally in excess of the underlying zoning aren't vested rights of what you might record, or state or put on a piece of paper.

Mr. O'Reilly said on packet page 25, in paragraphs C, D and E, these are the areas where three exceptions are created to what we are doing otherwise in granting legal, non-conforming status to the rest of the residential condos. He said unconstructed condo units in the form of reserve development rights in excess of the zoning density are not legal and may not be developed. The State law at the time, §47-7A-6 says, “No provision of the Condominium Act invalidates or modifies any provision of any zoning, subdivision building code or other real estate use law ordinance or regulation...” He said we have now closed the loophole by requiring written confirmation from the City. He said it was felt it was not necessary to go even further and grant legal nonconforming status to condos which haven't been constructed, particularly when created during a time they wouldn't have been legal anyway.

- Councilor Ives said he has had discussions with Mr. O'Reilly about circumstances in which there have been permitted City uses which turned out to be inappropriate. He said he is trying to make sure we aren't begging for any type of liability.

Mr. Zamora said, “The City Attorney's Office has been working with the Land Use Department quite intensively, and with every intent to minimize the risk toward the City and recognize properly vested rights, and sometimes accommodate those that aren't properly vested. But I think, as far as managing this on behalf of the City and minimizing the risk, that vetting has been done through the City Attorney's Office.”

- Councilor Wurzbarger said, “If I'm inferring correctly, they have illegal units. Right. And so also the perception of the land which they thought they had was also illegal in terms of that. So, I'm trying to track the policy suggestion that there is a difference between the two, other than the fact that you had something build. Because if you think of it as, this is what I had – I had it and now, maybe that's the whole legal term of vested rights and what, I'm a property owner. I did it under the law, or I didn't do it under the law at the time. We now are suggesting a policy that makes a distinction, primarily on the fact that it was built or not built. I don't know that I'd agree with it, but is

that correct. What was the normative basis on which the recommendation was made. It was that these two things are different and therefore, because it's not built, it can't be included. Actually, if you don't mind, Councilor Calvert, may I first year from Matt and then hear from you on that, just to hear yes or no on that question."

Mr. O'Reilly said, "Yes we have made a distinction between those two circumstances." He said on packet page 2 at the bottom of the Staff Report, he describes some of the problems that arise when two many principal dwellings are put onto a piece of property, including public health and safety problems, including excess noise, trash, lack of open space, over-parking, reduction of surrounding property values. He said zoning laws at their base are designed to protect property values.

Mr. O'Reilly said reserve development rights are imaginary in the sense that nothing's been built yet, so many of these construction units have been sold to unsuspecting buyers who live there and they weren't the ones who created this. This is the reason that we felt that the only fair and reasonable thing, and the only thing which was realistic legally without hundreds of lawsuits, would be to grant legal, non-conforming status to those condominiums and those unsuspecting owners without making the situation worse by allowing things to be built on reserve development rights which already are in excess of zoning.

- Councilor Calvert said the distinction we made was between the unconstructed and those owned by the original declarant. If we go beyond the original owner into some chain of ownership, we are going to get into a legal quagmire. He said we can't punish the current owner for the sins of the past owners, and this is the reason those are being grandfathered. He said the ones we're not grandfathering are the ones that are unconstructed, because those are still in an original state. He said we know who is responsible for those which are owned by the original declarant, and the ones we aren't grandfathering. He said if the development rights were obtained illegally they would be illegal under both the City and County ordinance, because the City basically adopted the County zoning when we annexed them. He said since they are not built and/or they are with the original declarant, we can prevent them from moving forward and making a bad situation worse. He said the others have gone beyond the first owner, and the City doesn't have the ability to punish the original owner.

Public Hearing

Speaking to the request

Melissa Pippin-Carson, Chair, Santa Fe Association of Realtors, Government Affairs Committee, read a statement into the record, in favor of the Ordinance. She is representing almost 800 Realtors and affiliated real estate organizations. The ordinance will provide consumer protection to owners of certain condominium units created under the New Mexico Condominium Act. She said decades ago, the City amended its zoning ordinance to permit rental of guest houses because the use was the same.

Some interpreted this to mean the main house and guest house could be sold under the condominium form of ownership. Unfortunately some of the condominiums created didn't comply with the underlying zoning and the State law at that time didn't require confirmation of zoning compliance as part of the condominium declaration units. Many of the units were sold to others over time, sometimes through several transactions. New State law requires confirmation of zoning as part of the declaration units, and future condominiums must meet the underlying zoning. The Ordinance protects buyers of earlier conversions. Existing residential condominiums which don't meet zoning density requirements, will become non-conforming, residential condominiums and can be reconstructed, if destroyed, as long as the unit complies with the other applicable provisions of City Code. There are exemptions. The Association commends City staff to find a workable remedy for this concerns. She urged passage of the Ordinance.

Tom Noble, Old Arroyo Chamiso Road, said he is one of the "poster children for some of the difficulties with this ordinance. He met with Matthew O'Reilly who was professional, courteous and did a good job of setting out the City's position. He said he lives on Old Arroyo Chamiso Road and owns a condominium up the road from his house which also is on Old Arroyo Chamiso Road. He said there are 6 units on 2.2729 acres. He lived at the condominium in 1969, which is the subject of his concern this evening, and knows a lot about the history of the property, which was part of the County until they were annexed in Phase 1 of the City's annexation process. He said they were the first parcel to be taken into the City under that annexation phase-in. He said they bought the property in 2006, created the condominium in 2007, but he is confident in saying the existing buildings were that way before 1981-1982 when the County ordinance took affect, and that they had vested rights. He wants to be sure it is clear that they were not an illegal condominium, noting this is an old old property. There were no subdivisions in this area originally, and these places were developed as compounds because the only water was with wells. The property was never part of any master plan zoning, and the problem over the years was that they never fit any zoning. They have 6 units clustered in a compound, with an enclosed center. He said they were sort of shoe-horned into the R-1 zoning.

Mr. Noble's remarks here are inaudible because he was away from the microphone.

Mr. Noble said, using an enlarged drawing, he is happy with the way the ordinance takes care of existing buildings. His concern is with the unbuilt which is "this" land "here." He said there is 2/3 acre here and they had 2 reserve development rights for units 7 and 8, noting they had 6 "here." He would like to be able to keep those rights. He said he doesn't fit the conventional zoning, and when they created the condominium, they were trying to protect the concept of clustered housing which never fit the zoning to begin with. He said he probably should have sold them, which would have protected him, noting they don't own all of the condominium units that are built, they still own the two development rights. He said the Ordinance doesn't use the term grandfather, but he wants these to be grandfathered.

Kathy Callander, 524 Onate Place, said she also is a poster child for the ordinance, noting she is one of four unsuspecting buyers. In 2007 a compound was developed on Onate Place, and at the time the declarant/developer added 3 additional units, and despite his seller's disclosure, he told us we were all considered legally non-conforming. She discovered this was inaccurate 2 years ago, and for the past two

years, she has been in a protracted legal morass. She said they also learned the declarant/developer didn't pull one building permit on these 4 units. Therefore, they can make no changes, improvements, and can't bring the units to Code, and until this Ordinance is passed, they have no way to move forward and there is a diminished market value to the units. She urged the Governing Body to adopt this Ordinance so they can move forward and rectifying the issues of the declarant. She said they are the first generation following the development of the compound.

Elise Noble, Old Arroyo Chamiso Road, said she hadn't planned to speak this evening. However, listening to the conversation and questions, she was stricken by the logic that original owners have less rights than subsequent owners. She said, as the original owner of the two reserve development rights, she wondered if there is fairness, logic and equity to having the original owner of a right to have less rights than the subsequent owners. She said they do pay taxes on the reserve development rights, which is secondary to the question of the handling of an original owner and a subsequent owner.

Richard Martinez, President of Neighborhood Network, said he strongly supports this Ordinance. He said the current practice creates havoc on neighborhoods, and he believes this Ordinance will make neighborhoods a lot better and will create a better environment for the neighborhoods. He recalled a situation in the Mayor's neighborhood where someone split a house and tried to sell it as two condominiums. He thanked the City staff for the work they did to get the Legislation passed and then this Ordinance. He said some of the condominiums were being built without fire walls, reiterating this is the "best thing that's come around and I'm really proud it's gone this far."

The Public Hearing was closed

Councilor Calvert disclosed that he had accepted an invitation by Mr. Noble to visit his property, to view it as a courtesy as the sponsor of this Ordinance.

Councilor Calvert said the distinction on Mr. Noble's property is that when he created the reserve development rights he was in violation of the County Zoning Ordinance.

Councilor Calvert said, "Even if, you know, he filed the paper work and the County, you know, through whatever process they had said yes, okay, so they approved those, they were still in violation of the County's zoning ordinance, and since we basically adopted the County's zoning ordinance when we

annexed them, they are in violation of ours as well. But I think the important fact is when he created those units, I can't remember if it was 2006 or 2007, they were in violation of the County zoning ordinance. So they weren't legal rights to begin with."

MOTION: Councilor Calvert moved, seconded by Councilor Dimas, to adopt Ordinance No. 2012-21.

DISCUSSION: Councilor Wurzbarger said when they received the development rights, they received them from the County, and they didn't "go off and just draw this up." So, we have a legal governing body give..."

Councilor Calvert said, "No governing body. The governing administration, but the County is an agent of the State and..."

Councilor Wurzbarger said, "Okay. We usually stand behind our staff. Anyway, I'm just trying to follow the track of what happened. The problem I have with this, first is the scope. I am totally in support of every single piece of this, and I'm a cosponsor, but I just hadn't followed the degree to which the issue of development rights which, if you're a person on the side of thinking you have rights, you think you have rights, and you don't think that in most cases. There are some people whom I think, think that that they made it up, but I'm having a real problem with this. If you go back to my earlier question of you, and you operationally defined that the difficulty has to do with excess noise, trash, lack of open space, open parking and the reduction of surrounding property values. Now I know this is only a case of one, and I'm using this as an example, not knowing at all what the other 7 are. But when you look at a plat that shows clearly if you had two more properties there, in my mind would that really include excess noise, trash, lack of open space. So, that's the part that I'm having a problem with. And if it were 5,000 or even 20, so we have basically 8 properties that are affected by this, and in each case one could argue that they believed that they had something, and now they don't."

Councilor Wurzbarger continued, "But they do get the part that we've agreed to give them, but we've agreed to give them on the basis of the principle that adding more, to go back to your definition here on page 2, that adding more would cause excess noise, trash, lack of open space, open parking, etc. and what I wonder is whether there is a compromise, and maybe there isn't, of looking at those on a case-by-case basis. If you come in here and you have a lot of what we have in District 2 and you already have more than you can put on a footprint, you could see a plat and say, yes, you put two more there, you're going to have even more trouble to get on Garcia Street, for example. But that's the trouble that I'm having with this, and I don't know if anybody is interested in that discussion or observation. I'm totally in support of this. It's been a long process. This is very important that this has come to us tonight, but I'm just concerned about this interpretation of the 8 units."

Councilor Bushee said, "So they have no remedy of coming forward and seeking a rezoning."

Mr. O'Reilly said they can request a rezoning.

Councilor Wurzbarger said that's good to know.

Mr. O'Reilly said they can request a rezoning and it would be like any rezoning. It is a decision that has policy and legal considerations that have to be heard and approved by the Planning Commission and by this body, but it is an option for someone who wants to increase the density on their property beyond what is allowed by the zoning law.

Councilor Dominguez said then that would be a rezoning after the fact, only if it's not constructed.

Mr. O'Reilly said, "Again, based on what we know about this particular property, and I hate to always use the Nobles' property as the example, but it looks like that's what we're doing tonight. The 6 constructed units are there. The City recognizes those as legal units because they were in place before even the County had a development code. The current zoning of the property allows 2 units. That is what the City's zoning allows. Two. That's it. R-1, 2.2 acres, you get 2 units. It's zoned R-1, but because these 6 were there back in the 1960's before the County or the City had jurisdiction here, the City accepts that and will honor those 6 units. It's the other two that are reserved and now built."

Councilor Bushee asked if they could lot split and have a different...

Mr. O'Reilly said, "No."

Councilor Bushee said there are 2.2 acres and that seems like a lot.

Councilor Dominguez said he has a lot of the same problems as Councilor Wurzbarger, and he is trying to understand what is the definition of a reserve development right, not necessarily just a development right, but a reserve development right. He said, "I'm under the impression that if there have already been monies spent, based on that approval, whether it was the City or the County that has given that, that makes the situation a little bit more difficult."

Mr. O'Reilly said, "The premise is wrong. There has been no approval. There has been no approval by the County. There has been no approval by the City, of any condominium, because condominiums are created by drawing up a set of papers and bringing them to the County Clerk and she records them. Bam. It's done. There has been no approval by the County of this condominium or any of the condominiums, not has the County allowed there to be these reserve development rights. They exist only on paper, because someone created a piece of paper and went and recorded it. There has been no approval. If, in 2007, the Nobles had gone to the County and said we would like to bring the number of units on our property from 6 to 8 and asked the County staff, the County staff would have said no, that's too dense for this piece of property in the County. If they had come to the City, the City staff would have told them the same thing."

Councilor Dominguez said he disagreed. He said if it is recorded, whether by a governing body, an administrator, land use director, then how is it you can that development right has been established unless something has been approved.

Mr. O'Reilly said we would say no development right has been established by this. That you can't simply create a development right by recording a condominium that is illegal and in excess of the allowable zoning density. That's not an approved development right. It's on a piece of paper that the County Clerk is forced to record, but the County Development Review Committee, the Board of County Commissioners, the City Planning Commission and the City Governing Body did not review this project and would not have approved them if they were asked.

Councilor Ives asked whose signatures are on the plat, whose stamps are on it, if you know.

Mr. O'Reilly said he doesn't know, he would have to look at it.

Mr. Noble said he doesn't have the recorded plat, he only has a copy.

Councilor Ives said if the statement Mr. Noble has just made that it conformed with State law for purposes of creating the condominium association and the plat was presumably appropriately filed pursuant to State law, then you [Mr. O'Reilly] are saying that does not create that entitlement in this instance.

Mr. O'Reilly said, "We would contend that it does not and did not comply with the State law, because again, the State law that has been on the books since the early 1980's, the Condominium Act, clearly says that no provision of the Condominium Act invalidates or modifies any provision of any zoning, subdivision, building code or other real estate use law, ordinance or regulation. And that's the real problem and the reason why we had to change the State law. Because part of the Condominium Act said that, and the other part of the Condominium Act where it listed all the things you had to put in the shopping bag to create a condominium didn't include any kind of local confirmation. So, we would contend that this overarching statement in §47-7A-6, specifically says that you can create a condominium, but it can't invalidate or modify any of these other zoning laws, and therefore, the simple act of them recording a condominium that, just because they recorded it, don't mean that it's legal. So, that's the contention of the City and the reason for the State law and this Ordinance, to correct this from this point forward."

Councilor Ives said, "But we are drawing the distinction then, between built versus unbuilt, regardless of the innocence of the landowner or the person acquiring from the original owner. Is that a fair statement."

Mr. O'Reilly said, "I believe that's a fair statement."

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Rivera, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

Abstain: Councilor Ives

Explaining her vote: Councilor Bushee said, "Yes, and I want to thank former Councilor Miguel Chavez for actually bringing this forward, and I inherited a couple of precincts that certainly these situations stood out. When I went door to door, I learned a lot of situations where, in particular, parking on streets that were very difficult ingress and egress and it was a real problem. So yes."

Explaining his vote: Councilor Calvert said, "Yes. And I would like to thank Director O'Reilly and his staff for their diligence on this sort of *deja vu* all over again, having to do it more than once to get the State law passed which was an effort in itself. And then following it up with a very thoughtful and fair, as fair can be, Ordinance to implement that State law that allows for this ordinance. So I want to thank you very much for that. And I want to thank all staff that were working on this."

Explaining his vote: Councilor Dominguez said, "I have to tell you this is somewhat of a difficult one for me, because I think that there are people who are going to be affected unintentionally negatively by this, but I vote yes."

Explaining his vote: Councilor Ives said I'm going to abstain and I'd like to just address my abstention after the vote.

Councilor Ives said, "And I'm just trying to follow our Governing Body Rules in terms of commenting after a vote is taken. I'm not sure I necessarily... I'll put it this way. I think on the whole, the Ordinance is fabulous, clearly accomplishes many purposes that are significant and heaven knows should have been adopted a lot time ago at the State level and locally to have prevented, presumably, the 316 existing constructed units which are violative of the density, non-conforming condominiums. My problem is making a distinction with the 9 remaining folks who presumably may have thought themselves entitled to these rights over periods of extended periods of time, who by the simple, to some degree simple, lack of having moved forward more quickly or otherwise not acted to construct something, are being potentially penalized. So know that I support wholeheartedly the primary purposes of the Ordinance, but abstain simply because I'm not convinced on that particular point. Thank you."

15. MATTERS FROM THE CITY MANAGER.

Mr. Romero said he wants to advise the Council that we are supposed to do the Plaza Safety Resolution tonight, but it's not quite ready, and we will be bringing it forward soon. He said staff is working on it, and they had 30 days, but it's taken a little more work than we thought. He clarified he is speaking about the Plaza Safety Resolution which was adopted asking staff to look at a variety of issues on the Plaza. He said we're getting close on a lot of the issues, so we'll be bringing it forward soon.

16. MATTERS FROM THE CITY ATTORNEY

Mr. Zamora said he was going to introduce Michael Matthews this evening, but Mr. Matthews had to leave to catch the Railrunner. He said we have an intern this year from the New England Law School, a New Mexico resident back for the summer. He said he is doing amazing work for the City Attorney's office, providing great support and the Council will meet him at the next Governing Body meeting.

17. MATTERS FROM THE CITY CLERK

There were no matters from the City Clerk.

Mayor Coss congratulated Sierra Vigil-Trujillo on graduating from high school.

Ms. Vigil said Sierra is at orientation tonight at the University of New Mexico.

18. COMMUNICATIONS FROM THE GOVERNING BODY

A copy of "Bills and Resolutions scheduled for introduction by members of the Governing Body," for the Council meeting of May 30, 2012, is incorporated herewith to these minutes as Exhibit "6."

Councilor Dimas

Councilor Dimas said a constituent, Lucy Casados, 2437 Avenida Estrellas, called him and told him that she has had her property "crashed into" four times, with the cars going into her yard. She is asking if the City can do something to protect her home from cars, because her bedrooms are right off the street and the next time they could go right through the house.

Councilor Dimas said he has had calls from constituents off Camino Chueco asking him to look into completing the traffic calming on that street. He said the City did half of the street and the other section was never completed, and there is a lot of traffic and speeders on that street.

Councilor Dimas said he had calls from softball constituents asking for maintenance of the softball fields at the MRC. He said they also asked if the City would look at putting up camouflage netting to keep the foul balls from injuring someone.

Councilor Dimas asked if there is a paving schedule, and Mr. Romero said yes. Councilor Dimas said one of the streets in Santa Fe that really needs to be paved is Calle Tajo in Las Acequias, commenting it probably is the worst street in Santa Fe, and noting it isn't in his District.

Mr. Romero said he believes Calle Tajo is on the schedule for repaving this summer, and he will verify that and get back to the Councilor.

Councilor Calvert

Councilor Calvert introduced the following:

1. An Ordinance amending Section 25-1.8 SFCC 1987, relating to the fluoride ion level in the City Water Supply.

He said he understands the EPA is on the verge of coming forth with a recommendation for a lower optimum level, and he is doing this in parallel, so as soon as this is done, we would be at the point with our Ordinance to insert that number.

Responding to the Mayor, Councilor Calvert said in certain cases, depending on the source, it might negate the need to add fluoride to the water.

2. An Ordinance amending Section 14-8.13(B)(3) SFCC 1987, to clarify how water usage of existing structures or uses may be applied to development water budgets for proposed structures and uses. He said he also would like to send this to Public Works at the request of Councilor Wurzbarger.

Councilor Calvert said he learned via email today that the Santa Fe Complex is closing, noting the email said the City had withdrawn its funding in March 2012. He said he didn't know this. He said if he hadn't received the email, the next clue would have been *The Reporter* asking him for a comment which it did. He said it was awkward and he is annoyed that the Councilors didn't have notice on this.

Mayor Coss asked Mr. Romero to address this.

Mr. Romero said the funding was not pulled. He said the Santa Fe Complex has a contract with the City and the Complex had to meet certain requirements, noting there was \$40,000 to \$75,000 left in the contract. He said in March, the Economic Development staff contacted them and told them there was money in the contract, but they had to meet certain criteria, and asked them to provide proof that they met the criteria. He said, "Instead, we were caught by surprise today also. They chose not to provide us the information. They chose to say they're shutting down and we pulled their funding. So the contract is still active. They just chose not to provide the information we need to be able to pay them."

Councilor Calvert said he appreciates the explanation. He said regardless of which version is correct, it would have been nice to know this was going on, in terms of something the City had been funding.

Councilor Rivera

Councilor Rivera said he has no communications. However, he would like to know what is the Santa Fe Complex.

Mr. Romero said the Santa Fe Complex is an economic development incubator that the City's Economic Development Fund has funded – paid their rent.

Councilor Wurzbarger said the Santa Fe Complex was developed at the institute. One of the practical applications early on, was they were able to develop a model which was used to analyze areas in the City which are most likely to have fires in the forest, and they worked on fire and evacuation routes.

Councilor Rivera said he has been working with some of the residents in the area around the park to look at raised crosswalks in the area of the park. He said if there is going to be paving, he would like to coordinate these efforts.

Councilor Ives

Councilor Ives had no communications.

Councilor Bushee

Councilor Bushee said she would like to Cosponsor both of the Mayor's introductions, and would like to designate a plaque or another way to memorialize Davie Lescht.

Councilor Bushee said she wanted to recognize the passing of Sherry Tippet, a former Assistant City Attorney and her dear friend.

Councilor Bushee thanked residents living near the West Alameda Sewer repair, noting the road is now open.

Councilor Bushee said she would like staff follow-up on the concerns expressed by Mr. McQuarie regarding the La Tierra trails, noting this is an award winning design. She would like some kind of response from staff – Joe Lujan or Robert Siqueiros or a combination. She wants to see that response to decide whether or not we need to have a discussion at BTAC about it.

Councilor Bushee would like staff to follow up on Sagemaya Dandhi's request to recognize Todd Gogulski. She said if he is a Tour de France caliber writer, and still exists in Santa Fe, he should be recognized.

Councilor Bushee was unable to attend the Memorial Day activities, and hopes those were well attended, and Mayor Coss said they were.

Councilor Trujillo

Councilor Trujillo said there is a little structure in Marc Brandt Park on Richards Avenue, which looks like a fire pit. He has been asked by a few constituents if we could put flowers in there instead of growing weeds.

Councilor Trujillo said improvements to the medians were done on Rodeo Road, and he would like to continue that on Zia Road.

Councilor Trujillo congratulated his son, Hunter, on passing to the 9th grade, and his daughter Krystianna on passing to the 5th grade. He congratulated all graduates throughout the City.

Councilor Dominguez

Councilor Dominguez said he would like to follow up on the email he sent to Mr. Romero regarding Las Acequias Park, noting Councilor Rivera was also copied. He wants to make sure the Police Department gets out there to enforce some of the traffic laws and other ordinances. He wants to extend it beyond public safety, and take an overall look at that park and the activity that is happening there.

Councilor Dominguez congratulated all of the graduates. He said his son will be coming home for the summer after his first year in College in California.

Councilor Dominguez said he saw a bumper sticker today that said "I Got Poor Real Fast."

Councilor Dominguez said his sister is an elementary school teacher, and invited him to meet with her class of first graders. She asked them if they knew what a City Councilor is, and one little girl asked, "Are they like the Oompa Loompas." .

Councilor Wurzbarger

Councilor Wurzbarger said her daughter Rianna just finished her first year of medical school at UNM where she made a 99% on her final exam, and is at the top of her class. She is now on holiday, but will be back doing her internship at La Familia this summer.

Councilor Wurzbarger introduced a Resolution directing the Office of Affordable Housing to educate City of Santa Fe employees by promoting the various housing opportunity programs available, including the down-payment assistance program so that more City employees can live where they work.

Councilor Trujillo, Councilor Dimas, Councilor Ives, and Mayor Coss would like to cosponsor the Resolution.

Councilor Wurzbarger said we've talked a lot about healthy living, and we have been moving toward that with Susan Perry's division. She said she just returned from a Creative Cities meeting, and in the Airport in Chicago there was a whole area devoted to really healthy food. She would like to do vending machines here with healthy food and would like to explore that with anyone who is interested.

Councilor Wurzbarger said *The Santa Fe New Mexican* ran a wonderful series on poverty among the children in our schools. She would like to explore talking to Economic Development Staff about the work on high end jobs, and getting people with graduate degrees to stay here. She thinks this issue needs attention from the City Council in terms of our economic development effort and said she would appreciate help from the other Councilors.

Councilor Ives said he would be happy to join her in this effort.

Mayor Coss

Mayor Coss introduced the following:

1. A Resolution endorsing efforts to maintain the Amtrak Southwest Chief passenger service through Lamy (Santa Fe), New Mexico.
2. A Resolution honoring David Lescht and requesting that the City of Santa Fe Arts Commission investigate, commission and install on or near the Plaza bandstand an appropriate commemorative sculpture or plaque in honor of David Lescht, for his contributions to Santa Fe.

I. ADJOURN

There was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 9:05 p.m.

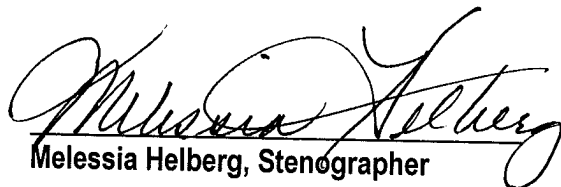
Approved by:

Mayor David Coss

ATTESTED TO:

Yolanda Y. Vigil, City Clerk

Respectfully submitted:



Melessia Helberg, Stenographer

**ACTION SHEET
ITEM FROM THE
PUBLIC WORKS/CIP AND LAND USE COMMITTEE MEETING
OF
TUESDAY, MAY 29, 2012**

ITEM 8

REQUEST FOR APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT – DEFOURI STREET BRIDGE REPLACEMENT PROJECT (RFP #12/17P) WITH THE LOUIS BERGER GROUP, INC. IN THE AMOUNT OF \$229,559.83 (DESIRAE LUJAN)

PUBLIC WORKS COMMITTEE ACTION: APPROVED ON CONSENT

SPECIAL CONDITIONS OR AMENDMENTS:

STAFF FOLLOW UP:

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON WURZBURGER			
COUNCILOR CALVERT	X		
COUNCILOR IVES	X		
COUNCILOR RIVERA	X		
COUNCILOR TRUJILLO	X		

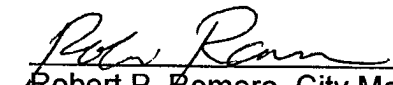
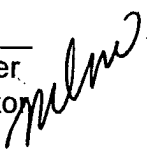
City of Santa Fe, New Mexico

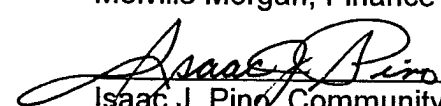
memo

DATE: May 23, 2012

TO: City Council Members
Mayor David Coss

VIA:


Robert P. Romero, City Manager
Melville Morgan, Finance Director 


Isaac J. Piro, Community Services Director

FROM: A. Terrie Rodriguez, Youth and Family Services Division Director 

ITEM AND ISSUE:

At the Finance Committee meeting of Monday, May 21, 2012 the Committee voted to change the recommendation and award \$50,000 to Women's Health Services. There are two options to achieve this objective: to reduce the recommendations to the remaining 15 organizations or allow the one time transfer of reserve funds to allocate to Women's Health Services.

The Human Services Committee met with every organization and the Chair of the Committee would like to keep the allocations as recommended. The funding to nonprofits is largely based on their adaptations to stabilize their economic position. The Human Services Fund has an amount held in reserves that is not budged for immediate use. The purpose of the reserve is to meet any unforeseen shortfall in the GRT during the contract year and although not specifically requested by the State of NM, the City prefers to hold out an amount that is at least 10% of the fund.

RECOMMENDED ACTION:

Respectfully request a budget increase of \$50,000 to comply with the Finance Committee's vote to accommodate the Women's Health Services. Their professional services contract will be processed and managed as part of the Human Services funding. Please approve a budget increase and transfer of \$50,000 into Human Services funding 22763.510400. Thank-you.

cc: Cal Probasco, Budget Director

Exhibit "2"

City of Santa Fe Human Services Committee FY-13 Human Services RFP Awards Recommended Amounts							Percent decrease 7.42%
	Human Services Provider	Funded 2011-12	Requested 2012-13	Recommended Amount 2012-13	Adjusted 2012-13		
1	Art Programs in Human Services	\$8,000	\$8,000	8,000.00	\$7,405.00		\$595.00
2	Casa Milagro	\$35,000	\$40,000	40,000.00	\$37,032.00		\$2,968.00
3	Catholic Charities of Santa Fe	\$25,000	\$47,645	25,000.00	\$23,145.00		\$1,855.00
4	Esperanza (Domestic Violence Shelter)	\$79,000	\$80,000	80,000.00	\$74,064.00		\$5,936.00
5	Interfaith Community Shelter Group	\$25,000	\$50,000	35,000.00	\$32,403.00		\$2,597.00
6	Life Link Santa Fe Clubhouse	\$5,000	\$5,000	5,000.00	\$4,629.00		\$371.00
7	Food Depot	\$55,000	\$55,000	55,000.00	\$50,919.00		\$4,081.00
8	Kitchen Angels	\$30,000	\$40,000	40,000.00	\$37,032.00		\$2,968.00
9	La Familia Medical Center	\$110,787	\$181,740	115,312.00	\$106,757.00		\$8,555.00
10	Literacy Volunteers	\$20,000	\$40,000	40,000.00	\$37,032.00		\$2,968.00
11	Solace Crisis Center	\$80,000	\$90,000	90,000.00	\$83,322.00		\$6,678.00
12	Santa Fe Recovery Center	\$50,000	\$60,000	50,000.00	\$46,290.00		\$3,710.00
13	Salvation Army	\$5,000	\$15,000	5,000.00	\$4,629.00		\$371.00
14	St. Elizabeth's Homeless Shelter	\$83,000	\$128,000	85,000.00	\$78,693.00		\$6,307.00
15	Women's Health Services	\$53,000	\$100,000		\$50,000.00		
	Recommendation Sub-Total:	\$662,787	\$940,385	673,312.00	\$673,352.00		\$49,960.00
16	Farm to Table: Food Policy Council	\$10,000	\$10,000		\$10,000.00		
	Recommendation Grand Total:	\$673,787	\$950,385	673,312.00	\$683,352.00		
	Amount Available for FY-13			673,312.00			

**CITY OF SANTA FE, NEW MEXICO
PROPOSED AMENDMENT(S) TO RESOLUTION NO. 2012-__**

(Approval of NCRTD FY2013 Budget and the City Regional Transit Plan)

Mayor and Members of the City Council:

I propose the following amendment(s) to Resolution No. 2012-__

1. On page 2, line 11, *insert* the following:

WHEREAS, the existing services provided by Santa Fe Trails have been deemed to meet the definition of regional services as adopted by the NCRTD Board and incorporated into its financial policies as amended on November 4, 2011 by Board Resolution No. 2011-10; and

2. On page 3, *delete* lines 1-8 and *substitute* the following in lieu thereof:

BE IT FURTHER RESOLVED that additional funding made available from the NCRTD to the City, in the FY2013 budget, be allocated to the Santa Fe Pick-Up toward operation of a new and direct seasonal connection between the final Rail Runner station at the Rail Yard and Museum Hill, service which will also serve the Santa Fe Children's Museum, the Center for Contemporary Arts and the Armory for the Arts on Old Pecos Trail, with implementation of said service expansion following approval of a defined service schedule and route by both the Governing Body and the NCRTD Board; and

BE IT FURTHER RESOLVED that direct seasonal service between the Rail Runner and the Santa Fe Ski area be included in the transit plan, for further investigation, feasibility assessment, and potential implementation, at such time that NCRTD funding for this service becomes available.

Respectfully submitted,

Chris Calvert, Councilor

ADOPTED: _____

NOT ADOPTED: _____

DATE: _____

Yolanda Y. Vigil, City Clerk

City of Santa Fe, New Mexico

memo

DATE: May 24, 2012

TO: Governing Body

FROM: Vicki Gage, Interim Director
Human Resources Department *VGage*

VIA: Robert Romero, City Manager *R*

SUBJECT: REVISED Recommendations from the Group Insurance Advisory Committee

The Group Insurance Advisory Committee met on Wednesday, May 16, 2012. Upon review of the analysis provided by AON Benefits Consulting, the Committee made the following recommendations.

1. Keep the existing 3 plans in place, (Premium Plan, Core Plan, and Value HRA Plan).
2. Raise city and employee contribution amounts (premiums) for the Premium Plan.
 - i. FY 2012/2013 City Contribution by \$1,000,000 / Employee Contribution by \$307,190
 - ii. FY 13/14 through FY 16/17 City Contribution by \$1,200,000 / Employee Contribution by \$368,627
3. Spread the collection of premiums to 26 pay periods from 24 pay periods to lessen the financial impact on employees' net pay.
4. Increase the co-pay for emergency room visits to \$125
5. Increase the co-pay for inpatient hospitalization to \$250
6. Increase the co-pay for outpatient hospitalization to \$75
7. Keep the office visit and prescription co-pays at the current amount.
8. Wellness program
 - i. Provide employees, and their family members who are covered dependents on the employee's City of Santa Fe health insurance plan, free access to the Genoveva Chavez Community Center and
 - ii. Wellness tied to health insurance premium costs.
9. Develop campaign to educate employees on utilization of the plan to contain costs.
10. Reimbursement to the Health Fund of the \$400,000 used in fiscal year 2011/2012 to balance budget.

REQUIRED ACTION:
For your information

Exhibit "4"

Overview of Open Government and Ethics Laws

Presented by

Santa Fe City Attorney's Office

May 30, 2012

Exhibit "5"

Laws To Be Reviewed

- An overview of the following will be provided, focusing on provisions applicable to municipalities:
 - New Mexico Open Meetings Act (OMA), § 10-15-1, et seq.
 - New Mexico Inspection of Public Records Act (IPRA), § 14-2-1, et seq.
 - City of Santa Fe Ethics Ordinance, SFCC § 1-7, et seq.
 - New Mexico Governmental Conduct Act, § 10-16-1, et seq.

Open Meetings Act

- General Rules (§10-15-1(A)):
 - A representative government is dependent upon an informed electorate
 - All persons are entitled to the greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them
 - The formulation of public policy or the conduct of business by vote shall not be conducted in closed meetings
 - All meetings of any public body shall be public meetings, all persons shall be permitted to attend and listen, reasonable efforts shall be made to accommodate use of audio and video devices

Open Meetings Act (cont.)

- Applicability (§10-15-1(D)):
 - All meetings by of a quorum of members of any board, commission, administrative adjudicatory body or other policymaking body of a municipality or political subdivision held for the purpose of formulating public policy
 - Any meetings at which the discussion or adoption of any proposed resolution, rule regulation or formal action occurs and at which a majority or quorum of the body is in attendance
 - Any closed meetings, shall be held only after reasonable notice to the public

Open Meetings Act (cont.)

- Meeting Notices (§10-15-1(D) and (F)):
 - Annual determination by the Body of reasonable notice to the public
 - Notice shall include broadcast stations and newspapers that have provided written request for such notice
 - Shall include an agenda containing a list of specific items of business to be discussed or transacted or information on how the public may obtain a copy of such an agenda
 - Agenda shall be available at least 24 hours before meeting (exceptions for emergencies)
- Minutes (§10-15-1(G)):
 - The policymaking body shall keep written minutes of all its meetings including:
 - Date, time and place of meeting
 - Names of members in attendance and absent
 - Substance of the proposals considered and a record of votes
 - Minutes shall be prepared within 10 days, shall be approved at the next meeting with a quorum and are not official until approved by the policymaking body

Open Meetings Act (cont.)

- Exceptions (§10-15-1(E)), with proper notice, the portions of meetings dedicated to the following topics may be conducted in closed session such as:
 - Licenses. Discussion of the issuance, suspension, renewal or revocation of a license, final action in public.
 - Personnel. Discussion of limited personnel matters (hiring, promotion, demotion, dismissal, assignment, resignation, or investigation), final action in public

Inspection of Public Records Act (IPRA)

- General Rules:
 - All persons entitled to greatest possible information regarding the affairs of Government and the official acts of public officers and employees (§ 14-2-5)
 - Providing persons with information is an essential function of a representative government (§ 14-2-5)
 - Every person has the right to inspect public records (§ 14-2-1(A))
 - City must designate at least one public records custodian (§ 14-2-17)

IPRA (cont.)

- Relevant statutory exemptions (§ 14-2-1(A):
 - Letters or memoranda which are matters of opinion in personnel files (including letters of reference)
 - Certain law enforcement records containing confidential sources, methods, information or individuals accused but not charged with a crime
 - Tactical response plans or procedures that could be used to facilitate the planning or execution of a terrorist attack
 - “As otherwise provided by law”
 - Includes federal, state and local laws and includes judicial decisions
 - Examples include attorney client communications, medical information, financial information, privacy laws, etc.

IPRA (cont.)

- Procedure for Requesting (§ 14-2-8):
 - Oral or written/mailed request (only written request requires response) to the public records custodian containing name address and phone number
 - Request shall identify the records sought with “reasonable particularity”
- Response Timelines (§ 14-2-8):
 - Immediately or as soon as practicable but not later than 15 days
 - Not required to create a record to respond to a request
 - Notice required if taking longer than 3 days
 - Longer deadlines for burdensome or broad requests (§ 14-2-10)
- Denials:
 - Any denials shall be in writing with a description of records sought, person making the denial and shall be delivered within 15 days of the request (§ 14-2-11)
- Enforcement:
 - An enforcement action may be brought by AG, DA or requestor (§ 14-2-12)
- Penalties:
 - Damages up to \$100 per day, costs and attorneys fees (§ 14-2-11)

Santa Fe Code of Ethics

- General Rules
 - Proper operation of City government requires (§ 1-7.1):
 - That public officials and employees be independent, impartial and responsible to the people
 - That decisions and policy be without conflicts of interest
 - That public office or employment not be used for personal gain
 - That the public has confidence in the integrity of its government
 - Purpose and intent (§ 1-7.2):
 - Ethics ordinance required by Charter
 - Standards of behavior for public officials and employees that ensure decisions are made without consideration of personal benefit
 - Provide clear guidance by clarifying acts allowed and prohibited
 - Adopt a code that suits the local concerns and needs

Code of Ethics

- Conflict of Interest
 - Definition (§ 1-7.5): a specific and identifiable prospect of pecuniary gain or loss (not shared with the public) from an official act of any public official or employee to:
 - Self or Family member
 - Business owned by self or household member
 - Employer, client or customer
 - Non-profit where public official, employee or household member is an officer or director
 - Contributor to council or mayoral race in last 2 years (if over \$1,000 for council, or if over \$3,500 for mayor)
 - Disclosure (§ 1-7.7(L))
 - Method
 - For member of governmental body, at a public meeting of that body
 - For the City Manager, City Attorney or City Clerk, to the Governing Body at a public meeting
 - For a City employee, to the City Manager
 - When there is a conflict, public official or employee shall not perform an official act or attempt to influence another person to perform an official act in a conflicted matter

Code of Ethics (cont.)

- Gifts (§ 1-7.7(A))
 - General rule: public officials shall not accept gifts or other financial benefits from persons or entities that have a prospect of pecuniary gain or loss from an official act (other than gains or losses shared with a substantial segment of the general public).
 - Exceptions:
 - Occasional meal or non-pecuniary gift less than \$50
 - » \$250 limit for Governing Body, City Manager, City Attorney and City Clerk if related to official duties, must report within 10 days and post on website
 - » \$250 limit for employees if related to official duties and prior approval by City Manager, must report immediately and post on website
 - Other: certain awards, campaign contributions, commercially reasonable loan, certain real property transactions

Code of Ethics (cont.)

- Honoraria (§ 1-7.7(j))
 - Public official shall not request or receive an honorarium for a speech or service rendered in the performance of his or her official duties
 - Reasonable reimbursement for meals, lodging or travel expenses are permissible
 - Reimbursements shall be reported within 10 days
- Annual Disclosures (§ 1-7.6)
 - Upon election/appointment and each July thereafter public officials and department heads shall disclose:
 - Name, address phone number
 - Employer if other than the City
 - Professional, occupational or business licenses
 - For-profit and non-profit board memberships
 - Businesses owned

Code of Ethics (cont.)

- Other Important provisions:
 - Quasi Judicial Proceedings
 - Transactions with the City
 - Representation of private interests
 - Misuse of confidential information
 - Misuse of City resources
 - Nepotism
 - Financial dealings with subordinates
 - Political activity
 - Whistleblower Protection
- Enforcement and Penalties:
 - Code of Ethics enforced by the ECRB (§ 1-7.9)
 - Penalties include public reprimand, fines, recommendation of removal or suspension, referral to the District Attorney (§ 6-16.7)

New Mexico Governmental Conduct Act

- General Rules for public officer or employee (§ 10-16-3):
 - Treat their position as public trust and use powers/resources only to advance the public interests, not obtain personal benefits or pursue private interests
 - Conduct themselves in a manner that justifies the confidence placed in them by the people
 - Full disclosure of real or potential conflicts of interest shall be a guiding principle for determining appropriate conduct
 - Make reasonable efforts to avoid undue influence and abuse of office

NMGCA (cont.)

- Political activities (§ 10-16-3.1):
 - No coercion to contribute, vote or participate in political activity, or to make threats
 - No use of governmental property for non-authorized purposes
- Official Acts for personal financial interest prohibited (§ 10-16-3.1):
 - Knowing and willful violation is a 4th degree felony
 - Public officer or employee is disqualified from engaging in any official act directly affecting their financial interest
- Prohibited employment: cannot be an employee of a City Contractor

NMGCA (cont.)

- Other important provisions:
 - Honoraria
 - Disclosure of outside employment
 - Confidential information
 - Contracts involving current or former officers or employees
 - Prohibited bidding
- Enforcement and penalties (§ 10-16-14, 17, 18):
 - Enforced by Attorney General or District Attorney
 - Penalties include discipline, dismissal, demotion or suspension
 - Criminal penalties include misdemeanor (unless otherwise specified) and up to \$1,000 fine
 - Civil penalties of \$250 per violation up to \$5,000



**CITY COUNCIL MEETING OF
MAY 30, 2012
BILLS AND RESOLUTIONS SCHEDULED FOR INTRODUCTION
BY MEMBERS OF THE GOVERNING BODY**

Mayor David Coss		
Co-Sponsors	Title	Tentative Committee Schedule
	A RESOLUTION ENDORISING EFFORTS TO MAINTAIN THE AMTRAK SOUTHWEST CHIEF PASSENGER SERVICE THROUGH LAMY (SANTA FE), NEW MEXICO.	Finance – 6/4/12 Public Works – 6/11/12 Council – 6/13/12
	A RESOLUTION HONORING DAVID LESCHT AND REQUESTING THAT THE CITY OF SANTA FE ARTS COMMISSION INVESTIGATE, COMMISSION AND INSTALL ON OR NEAR THE PLAZA BANDSTAND AN APPROPRIATE COMMEMORATIVE SCULPTURE OR PLAQUE IN HONOR OF DAVID LESCHT, FOR HIS CONTRIBUTIONS TO SANTA FE.	Arts Commission – 6/11/12 Public Works – 6/11/12 Finance – 6/18/12 Council – 6/27/12
Councilor Patti Bushee		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Chris Calvert		
Co-Sponsors	Title	Tentative Committee Schedule
	AN ORDINANCE AMENDING SECTION 25-1.8 SFCC 1987 RELATING TO THE FLUORIDE ION LEVEL IN THE CITY WATER SUPPLY.	Finance – 6/4/12 Public Utilities – 6/6/12 Council (request to publish) – 6/13/12 Council (public hearing) – 7/11/12
	AN ORDINANCE AMENDING SECTION 14-8.13(B)(3) SFCC 1987 TO CLARIFY HOW WATER USAGE OF EXISTING STRUCTURES OR USES MAY BE APPLIED TO DEVELOPMENT WATER BUDGETS FOR PROPOSED STRUCTURES AND USES.	Finance – 6/4/12 Public Utilities – 6/6/12 Planning Commission – 6/7/12 Water Conservation – 6/12/12 Council (request to publish) – 6/13/12 Council (public hearing) – 7/11/12

Councilor Bill Dimas		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Carmichael Dominguez		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Peter Ives		
Councilor Chris Rivera		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Ron Trujillo		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Wurzburger		
Co-Sponsors	Title	Tentative Committee Schedule
Dominguez Rivera	A RESOLUTION DIRECTING THE OFFICE OF AFFORDABLE HOUSING TO EDUCATE CITY OF SANTA FE EMPLOYEES BY PROMOTING THE VARIOUS HOUSING OPPORTUNITY PROGRAMS AVAILABLE, INCLUDING THE DOWN PAYMENT ASSISTANCE PROGRAM, SO THAT MORE CITY EMPLOYEES CAN LIVE WHERE THEY WORK.	Finance – 6/18/12 Council – 6/27/12

Introduced legislation will be posted on the City Attorney's website, under legislative services (<http://www.santafenm.gov/index.asp?nid=320>). If you would like to review the legislation prior to that time or you would like to be a co-sponsor, please contact Melissa Byers, (505)955-6518, mdbyers@santafenm.gov.

CITY OF SANTA FE, NEW MEIXO

RESOLUTION NO. 2012-__

INTRODUCED BY:

Mayor David Coss

A RESOLUTION

**ENDORISING EFFORTS TO MAINTAIN THE AMTRAK SOUTHWEST CHIEF
PASSENGER SERVICE THROUGH LAMY (SANTA FE), NEW MEXICO.**

WHEREAS, Amtrak's Southwest Chief serves northern New Mexico on its route
between Chicago and Los Angeles on the host railroad line of Burlington Northern Santa Fe; and

WHEREAS, the Southwest Chief and its famous predecessors (such as the Santa Fe
Railroad's fables Super Chief) have served this route since the late 1880's and

WHEREAS, the recent re-launch of the Amtrak Vacations program features Santa Fe as a
single-city rail getaway destination; and

WHEREAS, eastbound and westbound trains stop in Lamy daily and served more than
122,260 New Mexico passengers in 2011, including 12,579 Lamy- Santa Fe passengers; and

WHEREAS, Amtrak provides a transportation link to the residents of northern New Mexico
that is of growing importance and will likely become critical as rising energy prices curtail the
attractiveness of driving and flying; and

WHEREAS, the train is a key economic contributor to northern New Mexico, including the

1 city of Raton, Las Vegas, Santa Fe, Albuquerque and Gallup in; and

2 **WHEREAS**, railway freight traffic has declined, thereby reducing monies customarily set
3 aside for rail maintenance and consequently forcing travel at lower speeds; and

4 **WHEREAS**, it has been estimated that the rail traversed by the Southwest Chief is in
5 immediate need of more than \$100 million in rail repairs in three states, including New Mexico, in
6 order to resume normal speeds; and

7 **WHEREAS**, it has been further projected that rail repairs over the course of the entire rail
8 will total \$300 million over the next ten years; and

9 **WHEREAS**, Amtrak is unable to make said repairs given current budgetary and fiscal
10 conditions; and

11 **WHEREAS**, the route of the Southwest Chief through Raton, Las Vegas, Lamy (Santa Fe)
12 and Albuquerque is threatened by an alternative route under construction that would re-route the train
13 south from Newton, Kansas through the Texas Panhandle and through New Mexico south of
14 Albuquerque, bypassing Lamy (Santa Fe); and

15 **WHEREAS**, on May 8, 2012, the Santa Fe Board of County Commissioners adopted a
16 similar resolution endorsing efforts to maintain the Amtrak Southwest Chief passenger service
17 through Lamy (Santa Fe), New Mexico, following similar actions of other municipalities along the
18 line.

19 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
20 **CITY OF SANTA FE** that the Governing Body calls upon the governor of the State of New Mexico,
21 Santa Fe's New Mexico legislative delegation and New Mexico's congressional delegation to
22 strongly endorse continuation of Amtrak's current Southwest Chief route through northern New
23 Mexico.

24 **BE IT FURTHER RESOLVED** that the City Clerk is directed to forward a copy of this
25 resolution to the governor of the state of New Mexico; Santa Fe's New Mexico legislative delegation

1 and congressional delegation.

2 PASSED, APPROVED, and ADOPTED this ____ day of _____, 2012.

3

4

5

6

7

DAVID COSS, MAYOR

8 ATTEST:

9

10

YOLANDA Y. VIGIL, CITY CLERK

12

13 APPROVED AS TO FORM:

14

15

GENO ZAMORA, CITY ATTORNEY

17

18

19

20

21

22

23

24

25 *CAO/Melissa/Resolutions 2012/Amtrak_SWChief*

1 **CITY OF SANTA FE, NEW MEXICO**

2 **RESOLUTION NO. 2012- ____**

3 **INTRODUCED BY:**

4 Mayor David Coss

5 Councilor Patti Bushee

6 Councilor Rebecca Wurzbarger

7 Councilor Chris Calvert

8 Councilor Bill Dimas

9
10 **A RESOLUTION**

11 **HONORING DAVID LESCHT AND REQUESTING THAT THE CITY OF SANTA FE ARTS**
12 **COMMISSION INVESTIGATE, COMMISSION AND INSTALL ON OR NEAR THE PLAZA**
13 **BANDSTAND AN APPROPRIATE COMMEMORATIVE PLAQUE IN HONOR OF DAVID**
14 **LESCHT, FOR HIS CONTRIBUTIONS TO SANTA FE.**

15
16 **WHEREAS**, the community of Santa Fe was enriched by the contributions of David Lescht;
17 and

18 **WHEREAS**, David Lescht brought joy to countless Santa Feans and visitors with his tireless
19 work on the Santa Fe Bandstand musical performance series; and

20 **WHEREAS**, David Lescht passed away suddenly in the spring of 2012, shortly after
21 completing the bookings for the Santa Fe Summer Bandstand 2012; and

22 **WHEREAS**, David Lescht will always be associated in our hearts with our beautiful
23 bandstand on the Santa Fe Plaza.

24 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
25 **CITY OF SANTA FE** that the City of Santa Fe Arts Commission is requested to investigate,

1 commission and install on or near the Plaza bandstand an appropriate commemorative plaque in
2 honor of David Lescht, for his contributions to Santa Fe.

3 **BE IT FURTHER RESOLVED** that Arts Commission shall coordinate with the family of
4 David Lescht regarding the commemoration and placement of the plaque on the Plaza bandstand.

5 PASSED, APPROVED, and ADOPTED this _____ day of _____, 2012.

6
7 _____
8 DAVID COSS, MAYOR

9 ATTEST:

10
11 _____
12 YOLANDA Y. VIGIL, CITY CLERK

13
14 APPROVED AS TO FORM:

15
16 _____
17 GENO ZAMORA, CITY ATTORNEY

1 **CITY OF SANTA FE, NEW MEXICO**

2 **BILL NO. 2012-____**

3 **INTRODUCED BY:**

4 Councilor Chris Calvert

5
6
7
8
9
10 **AN ORDINANCE**

11 **AMENDING SECTION 25-1.8 SFCC 1987 RELATING TO THE FLUORIDE ION LEVEL IN**
12 **THE CITY WATER SUPPLY.**

13
14 **BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:**

15 Section 1. Section 25-1.8 SFCC 1987 (being Ord. #1955-4, §§1, 2, as amended) is
16 amended to read:

17 **25-1.8 Fluoridation of Water Supply.**

18 A. The water supply of the city shall be fluoridated by the addition of sufficient fluoride
19 ion to raise the concentration of fluoride ion reaching each customer to a level that conforms with the
20 most current optimal level recommended by the United States health and human services, centers for
21 disease control and prevention and the current maximum and secondary contaminant levels for
22 fluoride as prescribed by the United States environmental protection agency. [an optimal level on one
23 ~~(1) part per million parts of water. The fluoride ion level shall be maintained between a minimum of~~
24 ~~eight tenths (.8) part per million parts and a maximum of one and two tenths (1.2) parts per million~~
25 ~~parts of water.]~~

B. The city shall monitor fluoride ion levels in representative sample locations at least once per month.

APPROVED AS TO FORM:

GENO ZAMORA, CITY ATTORNEY

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2012-____

INTRODUCED BY:

Councilor Chris Calvert

AN ORDINANCE

AMENDING SECTION 14-8.13(B)(3) SFCC 1987 TO CLARIFY HOW WATER USAGE OF EXISTING STRUCTURES OR USES MAY BE APPLIED TO DEVELOPMENT WATER BUDGETS FOR PROPOSED STRUCTURES AND USES.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 1. Section 14-8.13(B)(3) SFCC 1987 (being Ord. No. 2011-37, §11) is amended to read:

- (3) When a proposed new *structure* or use replaces an existing *structure* or use, ~~[and that new *structure* or use is similar to the existing *structure* or use, and when the prior *structure* was occupied or the use active no less than twelve months prior to application for which a development water budget is required,]~~ the *development* water budget for the proposed new *structure* or use may be reduced ~~[to]~~ by an amount equal to the average annual consumption in the ~~[previous]~~ twenty-four months that the highest water use was active during the preceding ten years. ~~[, or some other time period]~~

1 approved by the ~~governing body for a specific development.~~] Consumption
2 shall be determined through city utility billing system records.

3 APPROVED AS TO FORM:

4

5

6 GENO ZAMORA, CITY ATTORNEY

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25 Cao/Melissa/Bills 2012/Development Water Budgets

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

1 released a report in April 2012 entitled *Now's the Time* ("Report") which delineates how the recent
2 housing crisis has created an unprecedented opportunity for working families to achieve financial
3 security; and

4 **WHEREAS**, according to the *Report*, "homeownership's financial benefits build on each
5 other to give ownership a significant advantage over renting;" and

6 **WHEREAS**, "home prices have dropped significantly from their peak and interest rates are
7 at a historic low" with the result being "that the income needed to purchase the median priced home
8 has dropped 50% in Santa Fe and 39% nationally since their respective peaks;" and

9 **WHEREAS**, recent statistics generated by the City finance department show that, except for
10 non-union employees, more employees reside outside the city limits of Santa Fe, then inside the city
11 limits:

Employee Category	Reside In City Limits	Reside in 15 Mile Buffer from City Limits	Combined In City and Within 15 miles
Police Union	31%	30%	61%
Fire Union	40%	18%	58%
AFSCME	48%	38%	86%
Non-union	56%	30%	86%

16
17 **WHEREAS**, estimated economic benefits for families buying homes in Santa Fe include:

- 18 • Direct annual cost savings of moving 59 miles closer to work (*Estimated at*
19 *\$15,045 annually/driver, \$1,080 for Park & Ride passengers; 80% will drive*
20 *and 20% will commute by bus*)
- 21 • Local spending captured by homeowners living in Santa Fe instead of
22 commuting in from outside Santa Fe County

23 **WHEREAS**, City employees should be educated about the City's various housing
24 opportunities, including, the down payment assistance funding program so that more City employees
25 can live where they work.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that the office of affordable housing is directed to establish an educational program for City employees regarding the various housing opportunities available and accessible to them, including the down payment assistance program, so that more City employees can live where they work.

PASSED, APPROVED and ADOPTED this _____ day of _____, 2012.

DAVID COSS, MAYOR

ATTEST:

YOLANDA VIGIL, CITY CLERK

APPROVED AS TO FORM:

GENO ZAMORA, CITY ATTORNEY