



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
OCTOBER 29, 2007
CITY COUNCIL CHAMBERS

AFTERNOON SESSION – 5:00 P.M.

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. INVOCATION
4. ROLL CALL
5. APPROVAL OF AGENDA
6. APPROVAL OF CONSENT CALENDAR
7. APPROVAL OF MINUTES: City Council Study Session – September 21, 2007
City Council Study Session – October 1, 2007
Reg. City Council Meeting – October 10, 2007
8. PRESENTATIONS
 - a) Santa Fe Habitat for Humanity. (Maggie Monroe-Cassel) (5 minutes)
 - b) Police Officer Domestic Violence Advocate of the Year Award. (Carol Horwitz) (5 minutes)
 - c) Progress Report on Santa Fe Police Property Tax. (Chief Eric Johnson) (5 minutes)
9. CONSENT CALENDAR
 - a) Bid No. 08/09/B – Larragoite Park Renovations and Agreement Between Owner and Contractor; Sequoia Landscaping, Inc. (Ben Gurule)
 - 1) Request for Approval of Budget Increase – Project Fund.
 - b) Request for Approval of Procurement Under State Price Agreement – Truck and Equipment for Animal Services; Reliable Chevrolet. (Chief Eric Johnson)
 - 1) Request for Approval of Budget Increase – Animal Control Training Fund.

CITY CLERK'S OFFICE

DATE 10/26/07 TIME 2:50 pm

SERVED BY _____

RECEIVED BY tydominguez



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- c) Request for Approval of Budget Increase From Federal Forfeiture Fund for Costs Related to Donation of Bomb Dog to Police Department. (Chief Eric Johnson)
- d) Request for Approval of Donation for Mobile Trailer for Police Department; Dr. Simon Stertz. (Chief Eric Johnson)
 - 1) Request for Approval of Budget Increase – General Fund Police.
- e) Request for Approval of Grant Award – Technology Upgrades for Police Department Through Edward Byrne Memorial Justice Assistance Grant Program; Department of Justice, Bureau of Justice Assistance. (Chief Eric Johnson)
 - 1) Request for Approval of Budget Increase – Grant Fund.
- f) Request for Approval of Amendment No. 2 to Professional Services Agreement – Services to Support Implementation of the Buckman Direct Diversion Project; Norman Gaume, P.E. (Rick Carpenter)
- g) Santa Fe Municipal Airport: (Jim Montman)
 - 1) Request for Approval of Professional Services Agreement with American Eagle Airlines (AE) for Services Required to Implement Provisions of the City Council Approved AE Letter of Intent (LOI) to Provide Regional Jet Service to the Santa Fe Municipal Airport.
 - 2) Request for Approval of Professional Services Agreement with Delta Airlines (DL) for Services Required to Implement Provisions of the City Council Approved AE Letter of Intent to Provide Regional Jet Service to the Santa Fe Municipal Airport as Applied to Delta Airlines.
 - a) Request for Approval of Budget Increase – Airport Enterprise Fund – Internal Loan From ½% CIP GRT.
- h) Request for Approval of Memorandum of Agreement – FY 2007/2008 Appropriations for Temporary Assistance for Needy Families (TANF) for Transit Division; Mid-Region Council of Governments. (Donald Martinez)



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- i) Request for Approval of Amendment No. 2 to Professional Services Agreement – Old Pecos Trail Project; Gannett Fleming West, Inc. (John Romero)
- j) Request for Approval of Procurement Under State Price Agreement and Professional Services Agreement – Bridge Structural Engineering Services for Sandoval Street Bridge Deck Replacement Project; PB Americas, Inc. (Eric Martinez)
- k) Request for Approval of Memorandum of Agreement – Right-of-Way Acquisition Services for Siler Road Extension Project; New Mexico Department of Transportation. (Eric Martinez)
- l) Request for Approval of Procurement Under State Price Agreements – Furniture and Carpet for Finance Department Renovation; Creative Interiors, Inc. and Dimensions Flooring Services LLC. (Chip Lilienthal)
- m) Request for Approval of Change Order No. 2 – Improvements to Police Impound Yard; V.P. Construction. (Chip Lilienthal)
- n) Request for Approval of Conversion of Westside Parking Along Don Gaspar Avenue to a Bike Lane. (Robert Romero)
- o) Request for Approval of Amendment No. 2 to Professional Services Agreement – The Safe Ride for Women Program; Capital City Cab. (Sevastian Gurule)
 - 1) Request for Approval of Budget Increase – General Fund.
- p) CONSIDERATION OF RESOLUTION NO. 2007-_____. (Councilor Calvert)
A Resolution Directing Staff to Study the Existing High Density Zoning in Existing Neighborhoods and the Cumulative Impacts of the Changes in the City's Land Use Laws and Prepare a Report and Recommendations for the Governing Body's Consideration. (Kathy McCormick)
- q) Request for Approval of Ground Lease – Property Located at West Alameda; Santa Fe Civic Housing Authority. (Kathy McCormick)



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- r) Request for Approval of the 2008 Legislative Priorities. (Robert Romero)
- s) Request for Approval of Memorandum of Understanding with Santa Fe Indian School, Inc. Concerning the Trust Lands Known as the Santa Fe Indian School. (Galen Buller)
- t) Request for Approval to Publish Notice of Public Hearing on November 28, 2007:
 - 1) Bill No. 2007-52 – An Ordinance Amending Section 14-9.2(F)(1) SFCC 1987 Regarding the General Requirements for Sidewalks. (Councilor Heldmeyer) (Jack Hiatt)
 - a) CONSIDERATION OF RESOLUTION NO. 2007-_____. (Councilor Heldmeyer)
A Resolution Directing Staff to Prepare New City Street Standard Details for Adoption by the Governing Body.
 - 2) Bill No. 2007-53 – An Ordinance Amending Various Sections of the Santa Fe City Code to Reflect the Recently Adopted Reorganization of City Departments. (Mayor Coss) (Galen Buller)
 - 3) Bill No. 2007-54 – An Ordinance Amending Article 28-1 SFCC 1987 Regarding the Living Wage; Requiring All Businesses to Pay a Living Wage and Making Changes Regarding Future Increases. (Councilor Ortiz, Mayor Coss, Councilor Chavez, Councilor Dominguez, Councilor Calvert, Councilor Wurzburger and Councilor Trujillo) (Kathy McCormick)
 - 4) Bill No. 2007-55 – An Ordinance Amending Chapter 14 SFCC 1987 Land Development Laws and Section 18-11.3 SFCC 1987 Lodgers' Tax Regarding the Short Term Rental of Dwelling Units. (Mayor Coss, Councilor Chavez and Councilor Wurzburger) (Jeanne Price)
- u) Request for Conceptual and Final Approval of Construction/ Maintenance Easement – New Mexico Historic Marker at South Side of East Alameda and West of Old Santa Fe Trail; State of New Mexico Department of Transportation. (Bob Siqueiros)



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10. Bi-Annual Review of the Allocation Analysis - Water Budget Administrative Ordinance. (Claudia Borchert)
11. Request for Approval to Propose to the Voters in the March 2008 Municipal Election Issuance of General Obligation Bonds in the Amount of \$27,000,000 to be Repaid from Property Taxes, to Acquire Land for, and to Improve, Public Parks, Trails and Open Space for Recreational Purposes. (Fabian Chavez)
12. CONSIDERATION OF RESOLUTION NO. 2007-_____. (Councilor Ortiz)
A Resolution Amending the City of Santa Fe Personnel Rules and Regulations by Creating a New Rule 13.32 Regarding the Establishment of a Sick Leave Incentive Program for Non-Union Employees. (Kristine Kuebli)
13. Motion to Discharge a Committee and CONSIDERATION OF RESOLUTION NO. 2007-_____. (Councilor Chavez, Councilor Calvert, Mayor Coss, Councilor Wurzbarger and Councilor Heldmeyer)
A Resolution Designating up to \$300,000 of the City's 2008 Capital Improvements Program (CIP) Bond for a City Owned Permanent Indoor Arts Market at the Railyard. (Robert Romero)
14. MATTERS FROM THE CITY MANAGER
15. MATTERS FROM THE CITY ATTORNEY
- EXECUTIVE SESSION:
 - a) Discussion of Proposed Settlement Agreement in Davos Capital, LLC, vs. City of Santa Fe, State District Court No. D-0101-CV-2006-01539, Pursuant to §10-15-1 (H) (7) NMSA 1978.
 - b) Discussion of Siler Road/Agua Fria Property Acquisition, Pursuant to §10-15-1 (H) (8) NMSA 1978.
16. Action Regarding Proposed Settlement Agreement in Davos Capital, LLC, -vs- City of Santa Fe, State District Court No. D-0101-CV-2006-01539. (Maureen Reed and David Rasch)
17. Action Regarding Siler Road/Agua Fria Property Acquisition. (Bill Tallman)



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18. MATTERS FROM THE CITY CLERK
19. COMMUNICATIONS FROM THE GOVERNING BODY

EVENING SESSION – 7:00 P.M.

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE
- C. INVOCATION
- D. ROLL CALL
- E. PETITIONS FROM THE FLOOR
- F. APPOINTMENTS
- G. PUBLIC HEARINGS:
 - 1) Request from Suriya, Inc., for a Restaurant (Beer & Wine) Liquor License to be located at Dara Thai Restaurant, 1710 Cerrillos Road. (Yolanda Y. Vigil)
 - 2) Request from Tapia Enterprises, Inc., for a Restaurant (Beer & Wine) Liquor License to be located at Los Potrillos Restaurant, 1947 Cerrillos Road. (Yolanda Y. Vigil)
 - 3) Request from P & R Works, Inc., for a Restaurant (Beer & Wine) Liquor License to be located at Al Di La, 227 Galisteo Street. (Yolanda Y. Vigil)
 - 4) Request from Kaylou, LLC, for a Restaurant (Beer & Wine) Liquor License to be located at Café Café, 500 Sandoval Street. (Yolanda Y. Vigil)



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- 5) Pursuant to §60-6B-10 NMSA 1978, a Request for a Waiver of the 300 Foot Location Restriction and Approval to Allow the Sale/Consumption of Alcoholic Beverages at St. Michael's High School, 100 Siringo Road. The Request is for the Following Event: (Yolanda Y. Vigil)
 - a) 10th Annual Auction/Gala Event Reception to be held on Saturday, November 3, 2007, from 5:30-9:30 p.m.; Susan's Fine Wines and Spirit's.
- 6) **Case # H-07-15.** Appeal of the Historic Design Review Board's Decision on July 10, 2007 Concerning Remodeling of a Non-Contributing Property Located at 126 Quintana Street in the Westside-Guadalupe Historic District. Veronica Angriman Requests that the Governing Body Rescind the Denial to Alter a Previous Approval. (David Rasch) **(Postponed at the October 10, 2007 City Council Meeting – Public Hearing Closed)**
- 7) CONSIDERATION OF BILL NO. 2007-48: ADOPTION OF ORDINANCE NO. 2007-_____. (Councilor Wurzburger)
An Ordinance Amending Sections 6-4.3; Various Sections of Chapter 14; Renaming Chapter XXVI; Creating a New Article 26-2 SFCC 1987 All Related to Affordable Housing, the Santa Fe Homes Program and Low Priced Dwelling Units. (Kathy McCormick)
 - a) CONSIDERATION OF RESOLUTION NO. 2007-_____.
(Councilor Wurzburger)
A Resolution Amending the Administrative Procedures for Implementation of the Santa Fe Homes Program.
- 8) CONSIDERATION OF BILL NO. 2007-51: ADOPTION OF ORDINANCE NO. 2007-_____.
Case #ZA 2007-08. Villas de Sophia Rezoning from R-1 to R-7 PUD.
Monica Montoya, Agent for Ted Chagaris, Requests Rezoning of 1.00± Acre From R-1 (Residential, 1 Dwelling Unit Per Acre) to R-7 PUD (Residential, 7 Dwelling Units Per Acre, Planned Unit Development). The Application Includes a Preliminary Development Plan for 8 Residential Lots and a Variance to the Minimum Lot Size and Maximum Lot Coverage/Private Open Space Requirements of Article 14-7.1. The Property is Located on Siringo Road, South of the Intersection of Calle Contento and Siringo Road. (Donna Wynant)



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- 9) **Case #A 2007-03. 1003 Governor Dempsey Drive Variance Appeal.**
Karl Sommer, Agent for Susan Peck Massey, Appeals to the Governing Body of the City of Santa Fe the Planning Commission Decision to Approve a Variance to Allow Construction of a New House no Larger Than the Existing House on Property Within the Escarpment Ridgetop Subdistrict. The Property Consists of 2.408± Acres and is Zoned R-1 (Residential, 1 Dwelling Unit Per Acre). (Lou Baker)

H. ADJOURN

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

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

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

SANTA FE CITY COUNCIL MEETING
October 29, 2007

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
<u>AFTERNOON SESSION</u>		
ROLL CALL	Quorum	1
APPROVAL OF AGENDA	Approved	1
APPROVAL OF CONSENT CALENDAR	Approved [amended]	1-2
CONSENT CALENDAR LISTING		2-4
APPROVAL OF MINUTES:		
City Council Study Session – September 21, 2007	Approved	4
City Council Study Session – October 1, 2007	Approved	4
Reg. City Council Meeting – October 10, 2007	Approved	5
<u>PRESENTATIONS</u>		
SANTA FE HABITAT FOR HUMANITY		5
POLICE OFFICER DOMESTIC VIOLENCE ADVOCATE OF THE YEAR AWARD		5
PROGRESS REPORT ON SANTA FE POLICE PROPERTY TAX		5-10
<u>CONSENT CALENDAR DISCUSSION</u>		
BID NO. 08/09/B – LARRAGOITE PARK RENOVATIONS AND AGREEMENT BETWEEN OWNER AND CONTRACTOR; SEQUOIA LANDSCAPING, INC.		
REQUEST FOR APPROVAL OF BUDGET INCREASE – PROJECT FUND	Approved	10
SANTA FE MUNICIPAL AIRPORT:		
REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT WITH AMERICAN EAGLE AIRLINES (AE) FOR SERVICES REQUIRED TO IMPLEMENT PROVISIONS OF THE CITY COUNCIL APPROVED AE LETTER OF INTENT (LOI) TO PROVIDE REGIONAL JET SERVICE TO THE SANTA FE MUNICIPAL AIRPORT	Approved	10-13

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT WITH DELTA AIRLINES (DL) FOR SERVICES REQUIRED TO IMPLEMENT PROVISIONS OF THE CITY COUNCIL APPROVED AE LETTER OF INTENT TO PROVIDE REGIONAL JET SERVICE TO THE SANTA FE MUNICIPAL AIRPORT AS APPLIED TO DELTA AIRLINES	Approved	10-13
REQUEST FOR APPROVAL OF BUDGET INCREASE – AIRPORT ENTERPRISE FUND – INTERNAL LOAN FROM ½% CIP GRT	Approved	10-13
REQUEST FOR APPROVAL OF CONVERSION OF WESTSIDE PARKING ALONG DON GASPAR AVENUE TO A BIKE LANE	Approved [direction to staff]	13-15
CONSIDERATION OF RESOLUTION NO. 2007- 98 A RESOLUTION DIRECTING STAFF TO STUDY THE EXISTING HIGH DENSITY ZONING IN EXISTING NEIGHBORHOODS AND THE CUMULATIVE IMPACTS OF THE CHANGES IN THE CITY'S LAND USE LAWS AND PREPARE A REPORT AND RECOMMENDATIONS FOR THE GOVERNING BODY'S CONSIDERATION	Approved [amended]	16-18
REQUEST FOR APPROVAL OF THE 2008 LEGISLATIVE PRIORITIES	Approved	18-19
REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON NOVEMBER 28, 2007:		
BILL NO. 2007-55 – AN ORDINANCE AMENDING CHAPTER 14 SFCC 1987 LAND DEVELOPMENT LAWS AND SECTION 18-11.3 SFCC 1987 LODGERS' TAX, REGARDING THE SHORT TERM RENTAL OF DWELLING UNITS	Approved [amended to be heard 12/12/07]	19-20
***** END OF CONSENT CALENDAR DISCUSSION *****		
BIANNUAL REVIEW OF THE ALLOCATION ANALYSIS – WATER BUDGET ADMINISTRATIVE ORDINANCE	Postponed to 11/14/07	21

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
REQUEST FOR APPROVAL TO PROPOSE TO THE VOTERS IN THE MARCH 2008 MUNICIPAL ELECTION, ISSUANCE OF GENERAL OBLIGATION BONDS IN THE AMOUNT OF \$27,000,000 TO BE REPAYED FROM PROPERTY TAXES, TO ACQUIRE LAND FOR, AND TO IMPROVE, PUBLIC PARKS, TRAILS AND OPEN SPACE FOR RECREATIONAL PURPOSES	Approved [amended]	21-26
CONSIDERATION OF RESOLUTION NO. 2007- _____. A RESOLUTION AMENDING THE CITY OF SANTA FE PERSONNEL RULES AND REGULATIONS BY CREATING A NEW RULE 13-32, REGARDING THE ESTABLISHMENT OF A SICK LEAVE INCENTIVE PROGRAM FOR NON-UNION EMPLOYEES	Postponed to 11/14/07	26
<u>EVENING SESSION</u>		
CALL TO ORDER AND ROLL CALL	Quorum	27
PETITIONS FROM THE FLOOR		27-28
<u>APPOINTMENTS</u>		
Sister City Committee	Approved	28
Bicycle and Trail Advisory Committee	Approved	28-29
Capital Improvements Advisory Committee	Approved	29
400 th Anniversary Committee	Approved	29
Santa Fe River Commission	Approved	29
MATTERS FROM THE CITY ATTORNEY		
EXECUTIVE SESSION	Approved	30
MOTION TO COME OUT OF EXECUTIVE SESSION	Approved	30
ACTION REGARDING PROPOSED SETTLEMENT AGREEMENT IN <u>DAVOS CAPITAL, LLC VS. CITY OF SANTA FE</u> , STATE DISTRICT COURT NO. D-0101-CV-2006-01539	Approved	31
ACTION REGARDING SILER ROAD/AGUA FRIA PROPERTY ACQUISITION	No action	31

ITEM**ACTION****PAGE #**

MOTION TO DISCHARGE A COMMITTEE AND
CONSIDERATION OF RESOLUTION NO.
2007- ____ . A RESOLUTION DESIGNATING UP
TO \$300,000 OF THE CITY'S 2008 CAPITAL
IMPROVEMENTS PROGRAM (CIP) BOND FOR A
CITY OWNED PERMANENT INDOOR ARTS
MARKET AT THE RAILYARD

Postponed to 11/14/07

31-34

PUBLIC HEARINGS

REQUEST FROM SURIYA, INC., FOR A RESTAURANT
(BEER & WINE) LIQUOR LICENSE TO BE LOCATED
AT DARA THAI RESTAURANT, 1710 CERRILLOS ROAD

Approved

34-35

REQUEST FROM TAPIA ENTERPRISES, INC.,
FOR A RESTAURANT (BEER & WINE) LIQUOR
LICENSE TO BE LOCATED AT LOS POTRILLOS
RESTAURANT, 1947 CERRILLOS ROAD

Approved

35

REQUEST FROM P & R WORKS, INC., FOR A
RESTAURANT (BEER & WINE) LIQUOR LICENSE
TO BE LOCATED AT AL DI LA, 227 GALISTEO STREET

Approved

35-36

REQUEST FROM KAYLOU, LLC, FOR A RESTAURANT
(BEER & WINE) LIQUOR LICENSE TO BE LOCATED
AT CAFÉ CAFÉ, 500 SANDOVAL STREET

Approved

36-37

PURSUANT TO §60-6B-10 NMSA 1978, A REQUEST
FOR A WAIVER OF THE 300 FOOT LOCATION
RESTRICTION AND APPROVAL TO ALLOW THE
SALE/CONSUMPTION OF ALCOHOLIC BEVERAGES
AT ST. MICHAEL'S HIGH SCHOOL, 100 SIRINGO ROAD.
THE REQUEST IS FOR THE FOLLOWING EVENT:

10TH ANNUAL AUCTION/GALA EVENT
RECEPTION TO BE HELD ON SATURDAY,
NOVEMBER 3, 2007, FROM 5:30 TO 9:30 P.M.;
SUSAN'S FINE WINES AND SPIRITS

Approved

37

CASE #H-07-15. APPEAL OF THE HISTORIC DESIGN REVIEW BOARD'S DECISION ON JULY 10, 2007 CONCERNING REMODELING OF A NON-CONTRIBUTING PROPERTY LOCATED AT 126 QUINTANA STREET IN THE WESTSIDE-GUADALUPE HISTORIC DISTRICT. VERONICA ANGRIMAN REQUESTS THAT THE GOVERNING BODY RESCIND THE DENIAL TO ALTER A PREVIOUS APPROVAL

**Appeal upheld with
a portion denied 38**

**CONSIDERATION OF BILL NO. 2007-48:
ADOPTION OF ORDINANCE NO. 2007- 40. AN
ORDINANCE AMENDING SECTIONS 6-4-3;
VARIOUS SECTIONS OF CHAPTER 14;
RENAMING CHAPTER XXVI; CREATING A NEW
ARTICLE 26-2 SFCC 1987, ALL RELATED TO
AFFORDABLE HOUSING, THE SANTA FE HOMES
PROGRAM AND LOW PRICED DWELLING UNITS**

Adopted 38-41

**CONSIDERATION OF RESOLUTION NO.
2007- 99. A RESOLUTION AMENDING
THE ADMINISTRATIVE PROCEDURES
FOR IMPLEMENTATION OF THE SANTA
FE HOMES PROGRAM**

Adopted 38-41

**CONSIDERATION OF BILL NO. 2007-51: ADOPTION
OF ORDINANCE NO. 2007- 41. CASE #ZA-2007-08.
VILLAS DE SOPHIA REZONING FROM R-1 TO R-7 PUD.
MONICA MONTOYA, AGENT FOR TED CHAGARIS,
REQUESTS REZONING OF ± 1.00 ACRE FROM R-1
(RESIDENTIAL, 1 DWELLING UNIT PER ACRE) TO
R-7 PUD (RESIDENTIAL, 7 DWELLING UNITS PER
ACRE, PLANNED UNIT DEVELOPMENT). THE
APPLICATION INCLUDES A PRELIMINARY
DEVELOPMENT PLAN FOR 8 RESIDENTIAL LOTS
AND A VARIANCE TO THE MINIMUM LOT SIZE AND
MAXIMUM LOT COVERAGE/ PRIVATE OPEN SPACE
REQUIREMENTS OF ARTICLE 14-7.1. THE PROPERTY
IS LOCATED ON SIRINGO ROAD, SOUTH OF THE
INTERSECTION OF CALLE CONTENTO AND
SIRINGO ROAD**

Adopted [amended] 41-48

ITEM**ACTION****PAGE #**

**CASE #A-2007-03. 1003 GOVERNOR DEMPSEY
DRIVE VARIANCE APPEAL. KARL SOMMER,
AGENT FOR SUSAN PECK MASSEY, APPEALS
TO THE GOVERNING BODY OF THE CITY OF
SANTA FE, THE PLANNING COMMISSION DECISION
TO APPROVE A VARIANCE TO ALLOW
CONSTRUCTION OF A NEW HOUSE NO LARGER
THAN THE EXISTING HOUSE ON PROPERTY WITHIN
THE ESCARPMENT RIDGETOP SUBDISTRICT. THE
PROPERTY CONSISTS OF ± 2.408 ACRES AND IS
ZONED R-1 (RESIDENTIAL, 1 DWELLING UNIT PER ACRE)**

Appeal upheld [conditions]

48-55

MATTERS FROM THE CITY MANAGER

None

55

MATTERS FROM THE CITY CLERK

None

55

COMMUNICATIONS FROM THE GOVERNING BODY

Information/discussion

55-57

ADJOURN

57

**MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
October 29, 2007**

AFTERNOON SESSION

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor David Coss, on October 29, 2007, at approximately 5:00 p.m., in the City Hall Council Chambers. Following the Pledge of Allegiance and Invocation, roll call indicated the presence of a quorum, as follows:

Members Present

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

Others Attending

Galen Buller, City Attorney
Frank Katz, City Attorney
Yolanda Vigil, City Clerk
Melessia Helberg, City Stenographer

5. APPROVAL OF AGENDA

Councilor Chavez moved, seconded by Councilor Calvert, to approve the agenda as presented.

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

6. APPROVAL OF CONSENT CALENDAR

Councilor Bushee noted she would like to be added as a cosponsor of the Resolution under Item 9(p).

Councilor Bushee moved, seconded by Councilor Calvert, to approve the following Consent Calendar, as amended. The motion was approved on the following roll call vote:

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

Against: None.

- a) *[Removed for discussion by Councilor Chavez]*
- b) REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – TRUCK AND EQUIPMENT FOR ANIMAL SERVICES; RELIABLE CHEVROLET. (CHIEF ERIC JOHNSON)
 - 1) REQUEST FOR APPROVAL OF BUDGET INCREASE – ANIMAL CONTROL TRAINING FUND.
- c) REQUEST FOR APPROVAL OF BUDGET INCREASE FROM FEDERAL FORFEITURE FUND FOR COSTS RELATED TO DONATION OF BOMB DOG TO POLICE DEPARTMENT. (CHIEF ERIC JOHNSON)
- d) REQUEST FOR APPROVAL OF DONATION FOR MOBILE TRAILER FOR POLICE DEPARTMENT; DR. SIMON STERTZER. (CHIEF ERIC JOHNSON)
 - 1) REQUEST FOR APPROVAL OF BUDGET INCREASE – GENERAL FUND POLICE.
- e) REQUEST FOR APPROVAL OF GRANT AWARD – TECHNOLOGY UPGRADES FOR POLICE DEPARTMENT THROUGH EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM; DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE ASSISTANCE. (CHIEF ERIC JOHNSON)
- f) REQUEST FOR APPROVAL OF AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT – SERVICES TO SUPPORT IMPLEMENTATION OF THE BUCKMAN DIRECT DIVERSION PROJECT; NORMAN GAUME, P.E. (RICK CARPENTER)
- g) *[Removed for discussion by Councilor Ortiz]*
- h) REQUEST FOR APPROVAL OF MEMORANDUM OF AGREEMENT – FY 2007/2008 APPROPRIATIONS FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) FOR TRANSIT DIVISION; MID-REGION COUNCIL OF GOVERNMENTS. (DONALD MARTINEZ)

- i) **REQUEST FOR APPROVAL OF AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT – OLD PECOS TRAIL PROJECT; GANNETT FLEMING WEST, INC. (JOHN ROMERO)**
- j) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT AND PROFESSIONAL SERVICES AGREEMENT – BRIDGE STRUCTURAL ENGINEERING SERVICES FOR SANDOVAL STREET BRIDGE DECK REPLACEMENT PROJECT; PB AMERICAS, INC. (ERIC MARTINEZ)**
- k) **REQUEST FOR APPROVAL OF MEMORANDUM OF AGREEMENT – RIGHT-OF-WAY ACQUISITION SERVICES FOR SILER ROAD EXTENSION PROJECT; NEW MEXICO DEPARTMENT OF TRANSPORTATION. (ERIC MARTINEZ)**
- l) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENTS – FURNITURE AND CARPET FOR FINANCE DEPARTMENT RENOVATION; CREATIVE INTERIORS, INC., AND DIMENSIONS FLOORING SERVICES, LLC. (CHIP LILIENTHAL)**
- m) **REQUEST FOR APPROVAL OF CHANGE ORDER NO. 2 – IMPROVEMENTS TO POLICE IMPOUND YARD; V.P. CONSTRUCTION. (CHIP LILIENTHAL)**
- n) *[Removed for discussion by Councilor Heldmeyer]*
- o) **REQUEST FOR APPROVAL OF AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT – THE SAFE RIDE FOR WOMEN PROGRAM; CAPITAL CITY CAB. (SEVASTIAN GURULE)**
 - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – GENERAL FUND**
- p) *[Removed for discussion by Councilor Calvert]*
- q) **REQUEST FOR APPROVAL OF GROUND LEASE – PROPERTY LOCATED AT WEST ALAMEDA; SANTA FE CIVIC HOUSING AUTHORITY. (KATHY McCORMICK)**
- r) *[Removed for discussion by Councilor Chavez]*
- s) **REQUEST FOR APPROVAL OF MEMORANDUM OF UNDERSTANDING WITH SANTA FE INDIAN SCHOOL, INC., CONCERNING THE TRUST LANDS KNOWN AS THE SANTA FE INDIAN SCHOOL. (GALEN BULLER)**

- t) **REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON NOVEMBER 28, 2007:**
- 1) **BILL NO. 2007-52 – AN ORDINANCE AMENDING SECTION 14-9.2(F)(1) SFCC 1987, REGARDING THE GENERAL REQUIREMENTS FOR SIDEWALKS (COUNCILOR HELDMEYER). (JACK HIATT)**
 - a) **CONSIDERATION OF RESOLUTION NO. 2007-____ (COUNCILOR HELDMEYER. A RESOLUTION DIRECTING STAFF TO PREPARE NEW CITY STREET STANDARD DETAILS FOR ADOPTION BY THE GOVERNING BODY.**
 - 2) **BILL NO. 2007-53 – AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE SANTA FE CITY CODE TO REFLECT THE RECENTLY ADOPTED REORGANIZATION OF CITY DEPARTMENTS (MAYOR COSS). (GALEN BULLER)**
 - 3) **BILL NO. 2007-54 – AN ORDINANCE AMENDING ARTICLE 28-1 SFCC 1987, REGARDING THE LIVING WAGE; REQUIRING ALL BUSINESSES TO PAY A LIVING WAGE AND MAKING CHANGES REGARDING FUTURE INCREASES (COUNCILOR ORTIZ, MAYOR COSS, COUNCILOR CHAVEZ, COUNCILOR DOMINGUEZ, COUNCILOR CALVERT, COUNCILOR WURZBURGER AND COUNCILOR TRUJILLO). (KATHY McCORMICK)**
 - 4) ***[Removed for discussion by Councilor Heldmeyer]***
- u) **REQUEST FOR CONCEPTUAL AND FINAL APPROVAL OF CONSTRUCTION/MAINTENANCE EASEMENT – NEW MEXICO HISTORIC MARKER AT SOUTH SIDE OF EAST ALAMEDA AND WEST OF OLD SANTA FE TRAIL; STATE OF NEW MEXICO DEPARTMENT OF TRANSPORTATION. (BOB SIQUEIROS)**

**7. APPROVAL OF MINUTES: City Council Study Session – September 21, 2007
City Council Study Session – October 1, 2007
Reg. City Council Meeting – October 10, 2007**

Councilor Chavez moved, seconded by Councilor Calvert, to approve the minutes of the City Council Study Session of September 21, 2007, as presented. The motion was approved on a voice vote, with Councilors Bushee, Calvert, Chavez, Dominguez, Heldmeyer, Ortiz, Trujillo and Wurzbarger voting for the motion and none against.

Councilor Calvert moved, seconded by Councilor Dominguez, to approve the minutes of the City Council Study Session of October 1, 2007, as presented. The motion was approved on a voice vote, with Councilors Calvert, Chavez, Dominguez, Ortiz, Trujillo and Wurzbarger voting for the motion, none against, and Councilors Bushee and Heldmeyer abstaining.

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

8. PRESENTATIONS

a) SANTA FE HABITAT FOR HUMANITY. (MAGGIE MONROE-CASSEL)

Ms. Monroe-Cassel introduced Richard Miller, the new construction director for Habit for Humanity, Judy Henry, Board member, and Gary Wallace representing the Realtor's Association of New Mexico who helped to sponsor the miracle of a new home.

After presenting background information on Habitat for Humanity, Ms. Monroe-Cassel presented information via a power point on the home which was built in Santa Fe, shipped to Louisiana and is now owned by an individual in New Orleans who was displaced by Hurricane Katrina.

Ms. Monroe-Cassel recently traveled to New Orleans, and met the new owner of the home, noting this home helped the new owner and her children to have a secure future. She thanked the Governing Body for its role in this little miracle.

b) POLICE OFFICER DOMESTIC VIOLENCE ADVOCATE OF THE YEAR AWARD (CAROL HORWITZ).

Mayor Coss presented the Police Officer Domestic Violence Advocate of the Year Award to Shannon Brady. He noted that Carol Horowitz was successful in obtaining \$300,000 in grant funds for computer technology in the vehicles for City and County law enforcement. He presented Muchas Gracias Certificates to police officers, and various businesses which assisted in this year's effort.

Ms. Horwitz said Los Alamos Bank and Jillian Bartley were very generous in donating a \$1,000 cash award for the outstanding Domestic Violence Advocate of the Year. She introduced Jillian Bartley of Los Alamos National Bank.

Mayor Coss said the coordinated community response to domestic violence is something on which the Rape Crisis Center, Esperanza and Former Chief Lennon worked for quite a while. The Governing Body approved the position, and we hired Carol Horowitz this year and, with her help and that of the Police Chief and Police Officers, this is an issue which we will turn around in Santa Fe.

c) PROGRESS REPORT ON SANTA FE POLICE PROPERTY TAX. (CHIEF ERIC JOHNSON)

Chief Johnson presented information from his Memorandum dated October 9, 2007, to Galen Buller, City Manager, which is contained in the Council packet.

Councilor Wurzbarger asked Chief Johnson the timeline on the long range planning.

Chief Johnson said that will be done before we start the budget process, so all of the documentation will be complete. Responding to Councilor Wurzbarger, Chief Johnson said the consultant is Marlene Switz.

Chief Johnson noted there was an outdated security process which hadn't been operational for about seven years. It was critical to get this working because it tracks everything which happens in the evidence rooms. He said everything is now alarmed, cameras are in place, and the system can track who goes into certain evidence areas at specific times. It is a huge accomplishment to get this state of the art security system installed in the Police Department.

Chief Johnson said the first phase of the renovation of the Main Police Station will begin in January 2008.

Councilor Wurzbarger asked if the Police Department Strategic plan will include personnel issues and projections, as well as equipment and facilities needs.

Chief Johnson said it will. He noted that the new police station is down the road, although they will be updating existing facilities to make those more usable. He would like to make the substation on West Alameda a fully operational substation once the department is fully staffed. This will provide services to the residents on this side of town with regard to obtaining and filing police reports and things of that nature.

Councilor Wurzbarger asked if the policy regarding allowing police cars to leave Santa Fe has been revisited or reconsidered.

Chief Johnson said the officers who live out of Santa Fe are already established, so the focus now is to refer them to the affordable housing programs to establish them here in Santa Fe.

Councilor Wurzbarger asked if the policy is being changed with respect to new officers, so that the City doesn't offer this opportunity to them, or are we still offering the opportunity, depending on where they live.

Chief Johnson said the policy remains in effect, because some of the lateral hires are coming from the different communities, and since they are established in those communities, we are continuing to offer that program to attract them to Santa Fe. He said it would be difficult to bring officers back to Santa Fe, and the focus is on establishing new hires in our community and doing that through affordable housing.

Councilor Wurzbarger asked if there is an explicit understanding with new hires that they would not have the opportunity to decide to move to Albuquerque because it's less expensive, they could get more housing and they can take the car. She asked if this is being discussed.

Chief Johnson said, "That's what we're going to focus on. We're not going to do away with the policy just yet, until we see how the affordable housing aspect comes around."

Responding to Councilor Bushee, Chief Johnson said the "take home vehicles" is part of the current union agreement.

Councilor Bushee asked, for future reports, if the Chief would provide a spreadsheet with a timeline on what funds came in, what was expended and the 5-10 year plans.

Responding to Councilor Bushee, Chief Johnson said the City receives approximately \$1.2 million from the RECC and \$750,000 from the property tax, which is roughly \$1.92 million for both.

Councilor Bushee said the thrust of the original request for property was for personnel, and she wants to be sure this is adequate to fill positions as fast as the Chief can recruit them, observing he should look to other funds for capital expenditures. She hopes the new building isn't more than two years in the future, because the Council is trying to fund what wasn't received from the Legislature out of the next CIP bond cycle.

Chief Johnson said he is looking to complete the renovation of the Main Police Station which needs to be done badly. He said the architects are projecting that a new police facility will be needed by 2011, if the department continues to grow. He said the funds in the budget from CIP and from the Legislature are for the completion of the renovation of the Main Station. Eventually, as the City continues to grow, that station will become a substation at some point.

Councilor Bushee wants to be sure that there are other funds, grants, or CIP funds to be used for bricks and mortar, equipment and vehicles. She asked if the positions can be funded from the \$2 million annually – the 23 new positions.

Chief Johnson said it probably will be necessary to request funding in the future for additional positions.

Councilor Bushee said this should be in the strategic plan as part of the timeline. She said the police tax was for personnel, and asked if he has used it for incentives.

Chief Johnson said a lot of the funds were used to increase the current salaries to attract new officers.

Councilor Bushee said it appears that the majority of the funds were spent on vehicles and equipment.

Chief Johnson said not all of those funds were from the property tax, and funds from the current budget were used as well. He said this rolls together all of the accomplishments done over the past year.

Councilor Bushee would like a spreadsheet breakout which indicates property tax purchases, general fund purchases and such.

Chief Johnson has the breakout of the property tax expenditures and will provide that to Councilor Bushee and the other members of the Governing Body.

Chief Johnson said the Department has addressed a lot of the problems which the

Department has been experiencing over the past years, and he believes the Department is making progress and moving forward.

Chief Johnson reiterated that he is working on the strategic planning process.

Councilor Bushee would like an update on the housing issues.

Responding to Councilor Bushee, Chief Johnson said \$225,000 was allocated out of the property tax to outfit 60-70 vehicles with onboard computers. He said he is very hopeful that funds will be received from the State for this project. He said the most recent grant was received within the past week, and he has advised IT so we can move forward with this project.

Responding to Councilor Bushee, Chief Johnson said he was down to 10 vacancies, but he lost three officers during the past week. He said there was a testing on Saturday which wasn't attended as well as expected, noting 30 were scheduled, but only four people made it through the process. He said they are in the process of contacting all those no-shows to see what happened. He said there will be another testing next month, and the Department is aggressively recruiting and focusing on some of the lateral officers who are already trained. He said the plan is to fill the 13 vacancies prior to pursuing the new 23 positions, and hopefully to fill the 13 vacancies by February.

Councilor Chavez said this was much needed funding, and there was always a clear focus on recruitment and filling vacancies, which has been one of the high ticket items. He said is also important to have the equipment and tools to do the job, including the onboard computers.

Councilor Chavez spoke about the situation which has developed in the community over the past two years which are "problem" or "party" houses, saying someone was killed at a party house on Hopewell Mann. He asked with the new computer data base if there is a way to flag some of these houses to prevent these kinds of situations in the future where there is an established pattern with the application of the nuisance ordinance. He said to leave these to fester isn't good for the neighborhoods. He noted the neighbors are left to help the Department to build a case by calling dispatch with a specific address and provide information – keep a log on the activity – to assist the Police to do its jobs. He said the property owners feel threatened and are concerned about retaliation, commenting that many of our ordinances are complaint-driven. He asked if this is something which the new onboard computer data base can track.

Chief Johnson said as the program expands, he will be looking at a record management system where the officers can do reports on the onboard computer, and the efficiency will be better. With regard to responding to the problem places, if the officer sees something on the screen which is a potential problem, the officer can self-dispatch himself to the call, rather than waiting for it to go through dispatch. He said everything will be documented, noting there is the ability to flag a problem residence with regard to letting the officer know in responding to a call to a certain address they could be walking into a problem.

Council Chavez said Alfred Walker, Assistant City Attorney, has been working with different neighborhoods which have experienced these types of situations, trying to develop a protocol for the process of enforcement, and who is responsible for enforcement and issuing citations. He said some of these situations could be life threatening.

Chief Johnson said it is the responsibility of the officer dispatched for these complaints to provide the correct documentation which can be forwarded to the City Attorney's office.

Councilor Chavez said we need to support the neighborhood watch and let them know that their efforts aren't for nothing.

Chief Johnson said the onboard computers will greatly increase the efficiency and effectiveness of the officers on the street.

Councilor Chavez said there were a high number of incidents where the Police Department was dispatched to the same address repeatedly over 1 ½ years, and he believes we need to shorten the time frame.

Chief Johnson pointed out that some of the problems the Department experiences with the problem residences are that they are rental properties, and the same people don't live there and there is a great turnover. He said the nuisance ordinance is enforced against the property owner.

Councilor Chavez asked that the police assist the City by notifying the property owners and by enforcing the ordinance in Municipal Court.

Responding to Councilor Heldmeyer, Chief Johnson said comstat reports are generated monthly and are reviewed at monthly comstat meetings to look at problem areas.

Councilor Heldmeyer asked the Chief if he currently has funding for the existing 13 vacant positions.

Chief Johnson said yes. He said all vacancies are funded, and when fully staffed there are 155 people from the Chief on down.

Councilor Heldmeyer said there have requests from various committees about looking to see what the financial tradeoffs would be in not taking cars to Rio Rancho, and how much could be saved by not doing this, and if that could be applied to housing, for negotiation with the union.

Chief Johnson said he has looked at those numbers, and it is pretty much a wash. He said they are allowed 40 gallons of gasoline per week and they have to stick to that unless they do a lot of overtime or have a smaller vehicle. He said although there are more frequent oil changes, it is pretty much a wash.

Councilor Heldmeyer would like for him to look at those numbers again.

Chief Johnson said he will, noting he is working with Mike Lofton to fund homes in the Santa Fe area for the new officers.

Responding to Councilor Trujillo, Chief Johnson said of the 39 new vehicles, the majority will be for patrol with five used as unmarked units and five for DWI. He said there is a total of 90 patrol vehicles, and the national average is to use police units for 100,000 miles before

replacing them. He said the Santa Fe vehicles are well maintained, and they are running the units from 140,000 to 160,000 miles, noting some of the vehicles are close to 200,000 miles.

CONSENT CALENDAR DISCUSSION

- 9(a) BID NO. 08/09/B – LARRAGOITE PARK RENOVATIONS AND AGREEMENT BETWEEN OWNER AND CONTRACTOR; SEQUOIA LANDSCAPING, INC. (BEN GURULE)**
- 1) REQUEST FOR APPROVAL OF BUDGET INCREASE – PROJECT FUND.**

Councilor Chavez moved, seconded by Councilor Calvert, to approve this request.

Discussion: Councilor Chavez noted that this is part of the 5-year plan we have been working on, involving the neighborhood. He thanked Ben Gurule and Fabian Chavez for their work, as well as the support received from the Legislative, particularly Representative Varela. He said without the staff effort and the community effort, we wouldn't have current plans, noting this is not an easy process. He said the neighborhood seems satisfied with the phasing approach and the level of support from staff.

Mr. Gurule said there were two public input meetings, and a designer from Albuquerque was hired who assisted in gathering the information, and everything which is being done is based on neighborhood input. He said the planning took about two years, beginning in Fall 2007, and with this approval, they will break ground in November, with this phase being complete in February 2008.

The motion was approved on the following roll call vote:

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

Against: None.

- 9(g) SANTA FE MUNICIPAL AIRPORT (JIM MONTMAN)**

- 1) REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT WITH AMERICAN EAGLE AIRLINES (AE) FOR SERVICES REQUIRED TO IMPLEMENT PROVISIONS OF THE CITY COUNCIL APPROVED AE LETTER OF INTENT (LOI) TO PROVIDE REGIONAL JET SERVICE TO THE SANTA FE MUNICIPAL AIRPORT.**
- 2) REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT WITH DELTA AIRLINES (DL) FOR SERVICES REQUIRED TO IMPLEMENT PROVISIONS OF THE CITY COUNCIL APPROVED AE LETTER OF INTENT TO PROVIDE REGIONAL JET SERVICE TO THE SANTA FE MUNICIPAL AIRPORT AS APPLIED TO DELTA AIRLINES.**

a) **REQUEST FOR APPROVAL OF BUDGET INCREASE –
AIRPORT ENTERPRISE FUND – INTERNAL LOAN FROM ½%
CIP GRT.**

Councilor Ortiz said, with regard to this project, he believes we are giving a corporate handout, acknowledging that the State has contributed ½ of the funding needed to ease the burden. He has always been opposed to this project and he pulled it so he can vote against it. He said we have other needs, and both Delta and American Eagle are big corporations which don't need the kind of public giveaway we're doing on this.

Councilor Calvert moved, seconded by Councilor Chavez, to approve this request.

Discussion: Councilor Calvert said when you make an investment, it is necessary to spend money up front to get a lot of return, which he believes will happen with this.

Councilor Bushee said she has voted against this in Committee and will vote against this request this evening, although she believes Mr. Montman did a good job in working out a good deal. She said the newspaper today said all of the airlines have a larger margin of profit with less services than delivered. She doesn't feel the need for the City to do this.

Councilor Bushee asked if the \$200,000 loan will be repaid, noting there is no FIR saying how this works.

Mr. Montman said this is a loan which will be repaid and it will take about a year to repay.

Councilor Bushee asked Mr. Montman if he can negotiate with the airlines to keep fares reasonable as a part of this.

Mr. Montman said this is a very difficult question, noting American Eagle has 5 different fare categories and American Eagle has 3. He said we won't be able to negotiate fares, those are set by the market and the business people in those airlines.

Councilor Bushee asked, since this is considered as economic development for the City, if someone in his office will track the loan and giveaway.

Mr. Montman said he will track it and report to the Council, noting a requirement of the contract is a final report, and he will report to the Council.

Councilor Chavez asked if the on-site improvements will be City assets.

Mr. Montman said improvements are being done which are City things, such as fencing and new furniture, which aren't part of this agreement. The City retains title to all of the ground support equipment which is the large majority of what is being done. The ITT related wiring and such will stay in the terminal. The City will not have title to the proprietary stuff each airline is doing.

Councilor Chavez asked if we will have a clear understanding of what stays and what goes if one of the airlines were to leave.

Mr. Montman said yes, and the reason there is a provision in the agreement that the City retains title to the capital related equipment, and that will also be detailed in the records.

Councilor Heldmeyer said this agreement has gone through several iterations. At one point, the City would buy the equipment and it would be owned by the City, and there was a possibility of sharing between the two airlines if the schedule would permit. Now, we are talking about buying proprietary stuff, which differs from buying more generic things which would be used by a number of airlines.

Mr. Montman said nothing has changed from the original letter of intent, and apologized if there was a misunderstanding. He said he has always said that the ITT related equipment was not considered to be part of the ground support. We would assist them to set this up, and would assist them in purchasing some of the computers, but we would not retain title, and that was never part of this agreement. The ground support equipment – tow bars, baggage carts and things for which we would have a use in the future – are the things to which we would retain title. None of that has changed. He will not allow any duplication of equipment, and that has not changed. He said the airlines will have to pay for any equipment for any future needs. He said American Eagle estimates as of today that it will spend well over \$200,000 on its portion, and the City won't fund any of that.

Responding to Councilor Heldmeyer, Mr. Montman said \$400,000 is the total amount – \$200 for American Eagle and \$200,000 for Delta, which is funded through \$161,000 from the Airport Enterprise Fund, \$39,000 in existing grant matching funds and a \$200,000 State grant.

Councilor Heldmeyer asked what percentage of the \$400,000 is for proprietary things and what percentage is for more general things.

Mr. Montman said doesn't know yet, but the assumption has always been that it would be 50-50.

Councilor Heldmeyer asked what would happen if one of the airlines pulled out, and if they would take their \$100,000 worth of equipment with them.

Mr. Montman said if the equipment was viable for use at another station, he guesses they would, although he can't speak for the airline. All improvements which would be made to wiring, pulling cables and such, to the terminal building would remain.

Responding to Councilor Heldmeyer, Mr. Montman reiterated that the payback would be nine months to one year at this point, based on the lease agreements which are following this agreement through the Committee process. He estimates the first year revenue to be \$637,000 over the current amount the Airport is making now, a portion of which will go to firefighting costs as well as to repay this loan.

Councilor Heldmeyer said she isn't averse to the concept, but the focus of the presentations has been different each time she has heard it.

The motion was approved on the following Roll call vote:

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

Against: Councilor Bushee and Councilor Ortiz.

Explaining her vote: Councilor Heldmeyer said she is voting yes because the money will be a loan.

9(n) REQUEST FOR APPROVAL OF CONVERSION OF WESTSIDE PARKING ALONG DON GASPAR AVENUE TO A BIKE LANE. (ROBERT ROMERO)

Councilor Heldmeyer said she has not been happy with the way this has been done. This is a complicated issue with a lot of different interest groups, and she believes it could be a model of how to get the interest groups together and working together. This was made a lot more adversarial than it needed to be. She said the requests to do something less adversarial were basically ignored. She said the bicyclists knew clearly what they wanted, and they had a point for those who can and are able to ride bicycles. However, there wasn't a lot of consideration given to other peoples' points of view and what they needed, which is the reason this issue got as heated as it did.

Councilor Heldmeyer said there are people who are disabled who are going to be very discomfited by this conversion, noting at least two spoke at the meetings. She was struck at the callousness of some in the bicycle community in dismissing the problems these two women presented. One person said if we had better sidewalks in the neighborhood, she was sure the disabled people wouldn't mind walking a block to get to their parked car, which at the least she felt was uncharitable. She asked what the City is going to do to accommodate people who are disabled who are going to be inconvenienced by this particular change, and if we have something in place to help them.

Mr. Ortega said he wasn't a part of the Committee meetings which brought this Memo to the Council for consideration. He noted BTAC heard this twice, one of which was a public hearing. It went to the Public Works and Parking Advisory Committees, but doesn't know the extent to which those interests were voiced at those meetings. He said he doesn't believe anything is being done which goes against the ADA.

Councilor Heldmeyer said in this case, a change is being made to a street which will inconvenience a number of people, and to some it will be minor, but to those who are disabled, it may be more than a minor inconvenience. The question is, are they just out of luck because the City is creating a bicycle lane, or is there something the City can do to accommodate these women, who clearly stated the extent to which this would be a problem for them.

Mr. Hon said at the Parking Advisory Committee meeting, and at the Public Safety Committee meeting, he heard the same comments. However, the Parking Division didn't hear a remedy for these situations. He said one gentleman said he parks the vehicle in the driveway and pulls into the street so his wheelchair-bound wife can get into the automobile. He said

unfortunately it was beyond his purview because it was outside the Business Capital District.

Councilor Heldmeyer believes this can be resolved, and she believes the City should make an attempt to accommodate these two people. She asked if staff has seriously looked at things which could be done.

Mr. Ortega said that neighborhood was balloted, and there was no feedback on the loss of the ADA parking.

Councilor Heldmeyer said she doesn't know what came back on the ballot, but she does know what came out at the meetings, noting she was contacted by these two people. She said she asked the City Manager what could be done to help these people.

Mr. Hon said the only solution he can see would be if the area across the street from the affected area could be designated for disabled parking only for those residents, noting this is something which the City normally doesn't do in the downtown area – establish residential, disabled parking.

Councilor Heldmeyer moved to approve this request, with the proviso that the two women who have expressed concerns about their particular disability have to be accommodated in a way which is acceptable to them before we make all of the proposed changes for a bicycle lane. THE MOTION DIED FOR LACK OF A SECOND.

Councilor Bushee said she attended BTAC and Public Works and nobody came forward representing anyone other than business people who were afraid people would park in their parking lot. She does, however, remember minutes where accommodations were offered at one committee or another. She said at the last BTAC people asked, and they saw minutes which said something had been accommodated.

Mr. Hon said he did make recommendations for the 500-600 block area, but nothing above that, and that was in the minutes.

Dan Baker said it probably won't be in the minutes. After the Parking Committee meeting, he spoke at length with the disabled woman's husband, and after some discussion, "He expressed a willingness...he thought he was accommodated if, across from the house, if he knew he could park his van and load there, he said he was happy with that, but it probably won't be in the minutes."

Councilor Bushee asked about the second person.

Mr. Baker said she didn't attend and he hasn't spoken with her.

Councilor Heldmeyer said she is too disabled to come and that she sent a letter.

Councilor Bushee asked if that solution would work for her as well.

Mr. Baker said, "Probably, but both of the homes do have driveways. The problem with one driveway is that it is a shared driveway and it is pretty narrow and crowded, and so in kind of an after meeting discussion, the one family had felt that if they were guaranteed parking

directly across the street, that would be adequate, so that was the best solution we arrived at."

Councilor Bushee moved, seconded by Councilor Calvert, to approve this request and ask that staff continue to work with the two households which have special needs or requests, including designating parking across the street, and make a reasonable accommodation so this can move forward.

Discussion: Councilor Bushee said, with regard to the process, she feels badly for staff because they really didn't have a process. There was a request that this be examined, "They said, I think we could do this administratively, that's how we would normally handle this." She said this went to BTAC three times, twice to Parking, once to Public Safety and once or twice to Public Works, noting there was only a handful of people who spoke about problems in their parking lots. She would like there to be a process, and she asked staff to look for a way to do these kinds of things in the future. She hopes staff can come up with reasonable solutions.

Councilor Wurzburger said the bigger picture is having a place to park while people unload. She asked if this could be done.

Councilor Bushee said it is a safety issue, and believes they found an accommodation and we just need to formalize it.

Councilor Wurzburger said they found a solution for two people. However, we may discover in ten years, as people grow older in that neighborhood, that we are making a solution which isn't a long-term solution.

Councilor Heldmeyer agreed with Councilor Bushee that this issue went to an interminable number of meetings. However, if there was a process in the beginning, this probably wouldn't have been necessary, and things would have been worked out and it wouldn't have been as adversarial.

Councilor Chavez said in the past, things such as this have been done through a resolution. He said if it is in resolution form, we can direct staff to do a specific review within a specific time frame and to do certain things. He said direction to staff will be mentioned in the minutes of this meeting, but it would be necessary to research the minutes to determine the direction given to staff. He suggested this be done in resolution form in the future.

The motion was approved on the following roll call vote:

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

Against: None.

Explaining her vote: Councilor Heldmeyer said she will vote yes, but she will follow up on the accommodations.

Councilor Bushee said she will be following up on the accommodations as well.

**9(p) CONSIDERATION OF RESOLUTION NO. 2007- 98 (COUNCILOR CALVERT).
A RESOLUTION DIRECTING STAFF TO STUDY THE EXISTING HIGH
DENSITY ZONING IN EXISTING NEIGHBORHOODS AND THE CUMULATIVE
IMPACTS OF THE CHANGES IN THE CITY'S LAND USE LAWS AND
PREPARE A REPORT AND RECOMMENDATIONS FOR THE GOVERNING
BODY'S CONSIDERATION. (KATHY McCORMICK)**

Councilor Calvert said he pulled this item to draw attention to the amendment which was made at Public Works. He would like to make one change to that amendment, in (2) to strike the word "inappropriate" in the last line. He wants staff to come back with recommendations based on their findings.

Councilor Calvert moved, seconded by Councilor Wurzbarger, to adopt Resolution No. 2007-98, as amended.

Discussion: Councilor Heldmeyer asked what kind of criterion staff will use.

Ms. McCormick she is not yet sure, but they have been talking about looking where there is an historic overlay zone and what lies outside of that as the beginning place for this type of study. She said part of the issue is defining exactly which issues will be examined to see the impacts. She said staff is waiting for this Resolution to be passed before really digging into this.

Councilor Heldmeyer said staff can determine the districts by looking at a zoning map. She said this is an issue which has arisen several times. The General Plan provides that the neighborhoods which are over-zoned – residential neighborhoods zoned RM-1, the core downtown neighborhoods – which revert to their built densities and the built densities are roughly 9-12 units an acre, depending on the neighborhood. A lot of research was done along these lines earlier by Cyrus Samii and Dianne Quarles, but she doesn't know if it still exists or if it can be located.

Councilor Heldmeyer said a Resolution was adopted reaffirming what is in the general plan and asking that the Guadalupe area be the first area to be studied intensively about this because of the pressure which would occur from the Railyard development. Unfortunately, because nothing was done about the resolution, that neighborhood is suffering greatly and is over-built. This is one of the things which turns neighborhoods into non-neighborhoods. She asked other than just saying here is the density and what it is being built out as, what is staff going to do other than an existing conditions report.

Ms. McCormick said she and Rita have discussed looking at the underlying zoning, if there is an overlay zoning, such as historic, which might not allow it to build up to the full zoning potential. She said the other thing is to look to see how many areas have been rebuilt to the higher zoning than what is typically found in the neighborhood and begin making recommendations as to how to address that.

Councilor Heldmeyer said she will find, even in neighborhoods with a historic overlay, what happens is if there is an empty piece of land, people will latch onto it, and get everything possible on that piece of land. There may be limitations on height from the historic ordinance,

but, other than talking about general harmony, the historic ordinance doesn't address the issues of density per se. These are already dense neighborhoods, which have become more so since this Council passed a law which allowed rounding up to greater density and also allowed 70% lot coverage in an RM-1 district which is a real killer and has had the biggest effect. She believes they need to focus on the laws which have redefined what can be done with the zoning.

Councilor Bushee noted she is a cosponsor of this Resolution.

Councilor Bushee said we don't want just a survey report, but we want corollary zoning or policy recommendations. She wants to see the patterns which developed, particularly in some of the RM zoning categories. She said behind all of this was an attempt to do neighborhood plans which could be a policy recommendation from all of this, but there are issues of funding, staffing and getting those done. She wants to know in what year some of the zoning changes were adopted, and patterns which developed after that. She said if we see negative patterns arising, she wants some suggestions to stop that, noting the lawyers need to be involved if we retool the zoning map. She wants to know what we actually can do.

Councilor Bushee asked Ms. McCormick if she feels she has enough information to move forward.

Ms. McCormick said she has an idea what she is looking for, in terms of policy recommendations and a series of next steps, because a rezoning would be a big effort. Staff would come forward with options to consider, and a process to follow, and the Council can then provide direction to staff as to how to proceed at that point.

Responding to Councilor Bushee, Ms. McCormick said the last general plan amendments were in 1999.

Councilor Bushee suggested this effort can be the precursor to the review of the general plan which should be upcoming very soon.

Councilor Wurzbarger said she understands the original intention was that infill was to provide affordable housing. As part of this she would like to have a better understanding of the conditions under which an infill project resulted in affordable housing, and is there something to learn from that with respect to policy changes to promote that.

Councilor Calvert believes they also need to look at the future land use map. He said we need to look at the zoning as well as some of the laws which we have implemented in different areas to develop policy and guidance.

Councilor Heldmeyer said these changes to the law were sold as helping affordable housing – grandmother units, mother-in-law units and such. At the time, she said that might be true in some areas, but in the core downtown neighborhoods they would result in a million dollar casitas, which unfortunately proved to be all too true.

Councilor Bushee said this is the reason we are asking staff to go out and make an analysis. She would like other ancillary policies, such as to how to review and enforce condominium laws or covenants. The real impacts are to the quality of life – traffic, parking,

noise, light pollution and such. This has to be a comprehensive review of the development review process and how we're getting developments which we really don't want in neighborhoods which are inappropriate. She wants a thorough analysis, and said it might require a contract analysis, but this is a big job.

Ms. McCormick said she felt initially that the staff could do a preliminary assessment of what is happening. However, given some of the things which have been requested this evening, she doesn't believe she has the staff resources to do this alone. She would like to visit with the long range planners, look at the work plan, and then make a decision as to what needs to happen with some outside contractors. She said the scope of work, for her, just expanded this evening, and a different FIR will be needed.

Councilor Chavez said, with regard to the benefit/impact of infill on existing neighborhoods, infill will play out differently in different parts of the City. He said under the new Homes Program, these infill projects are required to meet certain guidelines and to do a certain number of affordable units. He said in many cases the 1 or 2 units are better than nothing. He asked, with regard to the payment of a fee in lieu of the affordable units, are we still doing this or not.

Ms. McCormick said a public hearing is scheduled later this evening to hear changes to the Santa Fe Homes Program. She said we haven't done a fee in lieu in the past, although we have done partial and fractional payment. The proposed changes to the ordinance would allow a fee in lieu for small projects for any development of 10 or fewer units only on approval of the Governing Body. She said direction can be given to staff after the public hearing.

The motion was approved on the following roll call vote:

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

Against: None.

**9(r) REQUEST FOR APPROVAL OF THE 2008 LEGISLATIVE PRIORITIES.
(ROBERT ROMERO)**

Councilor Chavez said he pulled this for clarification. He said we are approving the list now, but it really hasn't been finalized, and it is his understanding that there is still time for the Governing Body to add specific projects to that list.

Mr. Buller said Mr. Romero couldn't be here this evening, and he doesn't have the details and he hasn't spoken with Mr. Romero. However, he understands there are still opportunities to add items as long as it is done before we have the meeting with the Legislative group.

Councilor Heldmeyer said she and Councilor Wurzbarger both have the same individual request, which is for funds for sidewalks for the three blocks along Old Pecos Trail in front of the Armory for the Arts and that whole complex.

Councilor Chavez clarified that there is \$150,000 for each Councilor.

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

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

Against: None.

Mayor Coss noted that there is one more item on the Consent Agenda, followed by an Executive Session as well as four more items before moving to the Evening Session. He would like to finish Consent, and then hear a motion from the Council with regard to adjusting the agenda.

Councilor Chavez moved, seconded by Councilor Wurzbarger, to amend the agenda to hear the rest of the Afternoon Session Items, #10 through #17, in the Evening Session following the Public Hearings. The motion was approved on a voice vote with Councilors Bushee, Calvert, Chavez, Dominguez, Heldmeyer, Trujillo and Wurzbarger voting for the motion, and Councilor Ortiz voting against.

Councilor Bushee moved, seconded by Councilor Ortiz, to amend the agenda to postpone Item #10 to the next meeting of the Council, and to hear Item #11 immediately after Item #9(t)(4), and to hear the rest of the Afternoon Session Items, #12 through #17, in the Evening Session in that order, following the Public Hearings. The motion was approved on a voice vote with Councilors Bushee, Calvert, Chavez, Dominguez, Heldmeyer, Ortiz, Trujillo and Wurzbarger voting for the motion, and none voting against.

9(t)(4) REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON NOVEMBER 28, 2007: BILL NO. 2007-55 – AN ORDINANCE AMENDING CHAPTER 14 SFCC 1987 LAND DEVELOPMENT LAWS AND SECTION 18-11.3 SFCC 1987 LODGERS' TAX, REGARDING THE SHORT TERM RENTAL OF DWELLING UNIT (MAYOR COSS, COUNCILOR CHAVEZ AND COUNCILOR WURZBURGER). (JEANNE PRICE)

Councilor Heldmeyer said this is a request to publish notice for a public hearing on November 28, 2007. She said when this was discussed two months ago, it appeared the Living

Wage would be heard on November 14, 2007. Earlier this evening, the Council approved hearing the Living Wage at a public hearing on November 28, 2007. She said it is her experience when we have two big, controversial public hearings on the same night, that we get into issues. She said the Living Wage is more time sensitive, because if it doesn't pass, there are things which need to be done by ordinance by January 1, 2007.

Councilor Heldmeyer moved, seconded by Councilor Chavez, that the request to publish notice for the Short Term Rental be approved for a public hearing at the meeting of December 12, 2007.

Discussion: Councilor Wurzburger thanked Mayor Coss and Councilor Chavez for taking the time to do work to come up with a better bill. She said, as a co-sponsor, she wants to make it very clear publicly that she is supporting this so we can move it forward. She said she believes there is still one key issue which needs to be addressed collectively by the sponsors and the Council, which is including the termination of short term rentals in five years. She said the strength of the bill is a provision that it will be revisited after eighteen months. However, she is still very uncomfortable in including a definite end date, and hopes further work can be done on that.

The motion was approved on the following roll call vote:

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

Against: None.

Councilor Ortiz moved, seconded by Councilor Bushee, to amend the agenda to postpone Item #12 to the Council meeting of November 14, 2007.

Discussion: Councilor Ortiz said a substitute resolution was introduced by staff and it was put on our desks, and he would like to postpone this so we will have everything in the packet.

The motion was approved on the following roll call vote:

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

Against: None.

END OF CONSENT CALENDAR DISCUSSION

10. BIENNIAL REVIEW OF THE ALLOCATION ANALYSIS – WATER BUDGET ADMINISTRATIVE ORDINANCE. (CLAUDIA BORCHERT)

Postponed to next meeting.

11. REQUEST FOR APPROVAL TO PROPOSE TO THE VOTERS IN THE MARCH 2008 MUNICIPAL ELECTION, ISSUANCE OF GENERAL OBLIGATION BONDS IN THE AMOUNT OF \$27,000,000 TO BE REPAID FROM PROPERTY TAXES, TO ACQUIRE LAND FOR, AND TO IMPROVE, PUBLIC PARKS, TRAILS AND OPEN SPACE FOR RECREATIONAL PURPOSES. (FABIAN CHAVEZ)

A copy of Draft #3 of the "Parks Master Plan," is incorporated herewith to these minutes by reference. Copies of this document can be obtained from Fabian Chavez in the Parks Division.

Councilor Ortiz thanked the Parks and Recreation staff, in particularly Jackie, Ben and Fabian. He said this compilation has gone through extensive staff involvement and drafting, and the Parks Advisory did an excellent job in reviewing this document. He said the Parks Advisory Commission was asked to think about coming up with a measure for open space, in particular in response to the Chair's request, with regard to what kind of help could happen for the Northwest Quadrant. The grand total in Draft #3 is now \$27,032,000, which would cover all parks in all districts, plus the regional parks, plus paying off all of the Bicycle Trails Advisory Committee trails. There is an additional amount for Open Space and Trails which came at the request of the Chair of Public Works.

Councilor Ortiz said in the discussion on open space, there wasn't adequate time to come up with a program, and this is the best attempt by the Public Works Committee and the Parks Advisory Committee, to get some amount of money to increase the connectivity of the trails throughout the City. This amount, titled Northwest Quadrant Open Space Trails Request, is really about how to connect the trails and open space, and to acquire some of the open space.

Councilor Ortiz moved, seconded by Councilor Bushee, to approve this request for a total amount of approximately \$30 million.

Discussion: Councilor Ortiz said the Resolution language will be passed out, and the City Clerk and staff will need to tweak those numbers to ensure those are included in the final amount when the Election Resolution is adopted in November. He anticipates, if this is successful, there would be a process of editing to ensure we have all of the information. This is a public education process as well as a finance discussion. We need to be clear with the public that this is the amount which is being spent and where it will be spent. He said we need a review period after this Resolution is adopted prior to the final ballot measure, to have one more look-through by staff and by the Parks Advisory Committee to ensure the numbers jive.

Councilor Chavez said there is a list of parks in District #3, and Larragoite is listed at zeros, and he believes the contract previously approved is only for one phase of the project. He asked if it would be prudent to have a dollar amount for Larragoite Park.

Mr. Chavez said the dollar amount can be included if this is the request of the Council.

Councilor Chavez said a portion of that project is still unfunded, and asked how much is needed to complete the entire scope of services and improvements for Larragoite Park.

Mr. Chavez said to move it through completion of phase 2, it would be \$180,000 to \$200,000.

Councilor Chavez asked if there are CIP funds allocated for this phase.

Mr. Chavez said the money allocated in the next CIP cycle has already been designated for all of the other park improvement.

Councilor Chavez said then that would cover Larragoite Park.

Mr. Chavez indicated that it would.

Councilor Chavez asked why Las Acequias is listed twice.

Ben Gurule said there are two Las Acequias parks – the developed park which has irrigation, turf and trees and the adjacent Las Acequias which is just open space, basically an arroyo – so there are improvements to both.

Councilor Chavez asked if the open space will be developed, or will it remain open space.

Mr. Gurule said it probably will remain as open space at this point, with perhaps some trees and fencing.

Councilor Chavez spoke about the TPL survey, which was sent out based on a number of \$20 million which now is up to \$30 million. He said in the survey, in the level of support demonstrated by the public, it was clear that the improvements would be done by issuing GO bonds which would increase property taxes, and they seemed willing to support GO bonds for parks and infrastructure improvement. The third thing on the survey was the Transfer Tax, and in reading the summary, it seemed there was strong community support for all three of these initiatives. He said it was clear from the responses of the 300 which were surveyed, that they clearly understood what they were being asked and what the implications might be. This reinforced for him that we have a very well educated and engaged public which is following what we are doing.

Councilor Chavez said we have discussed the possibility of a circuit breaker or some sort of rebate which would give our senior population and those on fixed income some cushion. He said to some \$70 per year is a lot of money. He asked Mr. Buller the status of the circuit breaker or a rebate provision.

Mr. Buller said he spoke with the County about this, and are hopeful they will be agreeable to this.

Councilor Chavez asked if there is a timeline on when that would happen.

Mr. Buller said he doesn't know the timeline, they haven't discussed that.

Councilor Chavez asked that Mr. Buller and Mr. Katz move forward on this to ensure it is in place before it goes to the voters.

Councilor Bushee thanked the Parks Committee for its work, and the last minute addition of the Northwest Quadrant Trails area. She will be introducing a change to the Master Plan so that the space designated by resolution can be done by ordinance. She said the total for trails is close to \$12 million, and detailed the trails in District 1 and in the other Districts.

Councilor Heldmeyer expressed appreciation for all of the work the Committee and staff has done on this issue. She said there are some things which are recommended by the Parks Advisory Committee which have been presented to neighborhoods previously which the neighborhoods vehemently fought against. She asked if we wind up not doing something which is included because the public doesn't want it, if there are provisions as to what will happen with those funds.

Councilor Ortiz said this is what is being proposed, but he believes it still would have to through a neighborhood process where the neighbors are surveyed and they get input into the design and planning, with an opportunity to review it as it moves forward. He said if there are funds which aren't used, those funds could be used for other priorities in the district, and that the Parks Advisory Committee would continue to have a hand in reprioritizing and reallocating any additional funds.

Friendly amendment: Councilor Heldmeyer would like to amend the Resolution to include this process in the Resolution. **The amendment was friendly to the maker and second, and there were no objections from the other Councilors.**

Councilor Heldmeyer said she and Councilor Wurzbarger met to discuss changes. There is the possibility of a new park at the old power plant, or the water tank, or across the street from Cristo Rey, which she believes is very important for District #2. This is a piece of land which the City owns, and it won't be necessary to pay for acquisition, it will be a matter of developing it. Also in this area, there is a neighborhood which is interested in donating time, money, effort to developing this park. She said Amelia White and Entrada Parks in District #2 have followed that same process.

Friendly Amendment: Councilor Heldmeyer asked that the amount for the Power Plant be increased from \$531,000 to \$700,000 and make it a combination of the park and the restoration of the building, with \$430,000 designated for the park and the balance for the partial restoration of the building. She believes other funds can be found for the building because it is a significant historic structure. **The amendment was friendly to the maker and second, and there were no objections from the other Councilors.**

Friendly Amendment: Councilor Heldmeyer asked, so neighborhoods who have worked on their parks aren't penalized, for an additional \$100,000 for Amelia White Park in increments over the period of the bond. **The amendment was friendly to the maker and second, and there were no objections from the other Councilors, but they will need a sheet with more detail.**

Councilor Ortiz said in this process of finalizing the numbers, additional detail will be needed to lay out some of the parameters.

Councilor Heldmeyer said, "There is a master plan for that park, which you can take it right off the master plan."

Responding to Fabian Chavez, Councilor Heldmeyer said these are additional amounts which are being requested.

Councilor Heldmeyer noted, for Don Diego Park, there is an amount to reinstall irrigation system with PVC piping, and asked about this.

Mr. Chavez said the irrigation system works just fine. However, the very active neighborhood association continues to add plant materials, and \$6,000 is the estimate to increase the capacity of the system which works fine. He said it isn't PVC pipe, it will be soft plastic and it would require some modification to the main line, but very little.

Responding to Councilor Heldmeyer, Mr. Chavez said the most recent document indicates that cost at \$6,250, and this is what staff is recommending, not \$30,000 or replacement of any PVC.

Councilor Heldmeyer asked why the irrigation system needs to be reinstalled, and if there is something wrong with the current irrigation system which will cost \$30,000 to fix.

Mr. Chavez reiterated that there is nothing wrong with the current irrigation system.

Councilor Heldmeyer asked the reason the \$30,000 was included in the first place, commenting she understands this isn't the Committee recommendation.

Mr. Chavez said in the beginning they were working with old documents and data. He said if there is \$30,000 in the plan to reinstall the system, this is wrong, and this is an error.

Councilor Heldmeyer said all of this will be "putting in new, putting in new, putting in new," and at some point it will be handed to Mr. Chavez and he will have to deal with increased maintenance. She said this division is already stretched in terms of maintenance. She said as the size, amount and complexity of parks increases, the next discussion down the line will be where the money will come for maintenance. She said the good thing about sweat equity is that it can be the efforts of a neighborhood to take a park and manage it, and she doesn't want those neighborhoods which have made these efforts in the past to be penalized for this. She said this is a model which could be used for some of the other neighborhood parks.

Friendly amendment: Councilor Chavez would like to add language to the Resolution to direct staff to finalize the circuit breaker or rebate program. **Councilor Ortiz is friendly to language in the Resolution that we will fully push the County Commission to do this. The amendment was friendly to the maker and second, and there were no objections from the other Councilors.** Councilor Chavez said with the inclusion of this language, a copy of the Resolution can be transmitted to the County Commission.

Councilor Ortiz said he is also friendly to transmitting a copy of the final plan to the Santa Fe County Commissioners after it has been tweaked and reworked by staff and the Parks Advisory Committee, urging that the County adopt the circuit breaker language by the March 2008 election.

Councilor Chavez asked if the \$1.1 million for Frenchy's is a good number.

Mr. Chavez said this number might be a little high.

Councilor Chavez noted there are other small pocket parks in Tierra Contenta where homeowners are responsible for all the maintenance, and are being asked to pay an additional fee to the HOA, and asked how this will help them.

Mr. Chavez said he will contact Tierra Contenta, check this out, and report back to Councilor Chavez, noting Tierra Contenta will be paying for two parks entirely from its infrastructure fees.

Councilor Dominguez said he belonged to an HOA where he paid dues to maintain private open space, but the open space in the park was dedicated exclusively to the residents of that particular development – Tierra Madre.

Councilor Chavez suggested in Pueblo Alegre that Mr. Chavez contact Larry Ogan about that park, and he will get contact information for the pocket parks in Tierra Contenta about which he is hearing people are being asked to pay, through their dues, for development, maintenance and upkeep.

Mr. Chavez said, in Pueblo Alegre, the City takes care of all the graffiti removal and just finished reseeding that park. He said regarding individual parks which are held in common, it is entirely possible that people are being asked to pay through their dues to an HOA.

Councilor Bushee said a good portion of the infrastructure funded through the GO bond would be to improve the current watering systems in the park.

Mr. Chavez said this is correct, and will result in water savings, water efficiency, ADA compliance, safety and security in the parks, as well as restoring the vegetation and trees which were lost during the drought.

Councilor Ortiz said to be clear, because of the additions, the total amount which is being requested to go on the ballot is \$30,269,000.

Mayor Coss thanked Fabian Chavez, Ben Gurule, Anna and Betty, and the Committee for the tremendous amount of work on this Plan. This will be an amazing thing for Santa Fe. He likes that this is neighborhood centered, and will provide a lot of connectivity on our trail systems, and is glad the polls showed strong support for this. He believes this is an opportunity to do a lot just for the urban watershed in Santa Fe. This is a very significant investment, and he commends the Council for the work they did on this and for bringing this forward. He commented that the City has never passed a property tax bond issue. He supports this effort, and he believes this will be a great program for the City of Santa Fe. He said we still need to find money for housing and homeless, public safety, water supply, staff and transportation.

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

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

Against: None

- 12. CONSIDERATION OF RESOLUTION NO. 2007- ____ (COUNCILOR ORTIZ). A RESOLUTION AMENDING THE CITY OF SANTA FE PERSONNEL RULES AND REGULATIONS BY CREATING A NEW RULE 13-32, REGARDING THE ESTABLISHMENT OF A SICK LEAVE INCENTIVE PROGRAM FOR NON-UNION EMPLOYEES. (KRISTINE KUEBLI)**

This item was postponed to November 14, 2007.

END OF AFTERNOON SESSION AT 7:55 P.M.

The Council moved directly into the Evening Session without a break

EVENING SESSION

A. CALL TO ORDER AND ROLL CALL

The Evening Session was called to order by Mayor David Coss, at approximately 7:56 p.m. Roll Call indicated the presence of a quorum as follows:

Members Present

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

Others Attending

Galen Buller, City Attorney
Maureen Reed, Acting City Attorney
Yolanda Vigil, City Clerk
Melessia Helberg, City Stenographer

E. PETITIONS FROM THE FLOOR

David McQuarie, Chair of Mayor's Committee, spoke to the Committee, noting that October is Disability Awareness Month, recognizing the efforts of the City to adopt policies for an outstanding paratransit system and the Parking Division for its commitment to the ideals of the ADA as well as for being ambassadors of Santa Fe. A copy of Mr. McQuarie's remarks are incorporated herewith to these minutes as Exhibit "1."

Sagemaya Dandi petitioned the Council to examine the house at 1347 Upper Canyon Road. He said the owner has erected a coyote fence over an acequia and up against the roadway. He is frustrated in that every time he goes to one City division he gets a different answer, and he can't find anyone who knows where the property line is, or where the right-of-way is. He does know, with regard to 1435 Upper Canyon Road, the owners have erected flower boxes in the City right-of-way. He said from Camino Cabra to the Cerro Gordo intersection of Upper Canyon Road, a death trap has been created. The entire left hand side of the road going up is a solid wall of fences, driveway connections and culverts. He said he realized how dangerous it was during the past year. He is concerned where the show will be pushed along this stretch. He said new houses are being built right up to the roadway. He believes the Council should have the concerns of bicyclists and pedestrians on the forefront, and "you should not be creating what is now a shotgun, so that we can't travel the roadway." He petitioned the Council to ask staff to examine all of the houses which are being erected and "tell us how we travel Canyon Road."

Stephanie Beninato said she is in attendance for two reasons. She said the BOA meeting was canceled for lack of a quorum, noting she has an appeal before the BOA at that meeting. She would like a response from City with regard to the notices for that meeting, noting she sent certified notices which were expensive. She believes the City should be obliged to either resend those notices by certified mail, and/or send notice by regular mail by herself, the applicant, for the appeal. She asked for a decision on this, noting she won't be able to go forward on her appeal until December. She doesn't believe people who intended to be present at that meeting should have to pay for certified mail the second time. She asked the Council to get a response out in a reasonable time for her to benefit from that decision.

Ms. Beninato said she is more disturbed about 610 Galisteo. She said the files aren't being kept well, there are virtually no date stamps on anything in the permit, the plan hasn't been approved by the H-Board. She said staff apparently decided, because there wasn't enough parking, that they could just move the special exception granted by the H-Board which has created other problems. She believes there is an over building of what was approved after the fact. She said the staff knows there is a problem with the lot line and she is contesting "that he's too close." She said, "We're not getting the staff to do much action here. They keep allowing the man to go forward, even though the staff didn't certify that he was allowed to go forward. And I am being told now, something about maybe an unwritten practice somehow takes precedence over an adopted ordinance in the City of Santa Fe. And I really thought that years ago we tried to get away from that kind of practice, and that what was in writing was paramount. And that if it's simple and clear, then that's what should be being enforced, rather than trying to figure out ways not to enforce it. So, I'm just kind of bringing that to your attention, that there's a real problem with the record keeping, particularly on this particular project, that it might be even more widespread than that."

F. APPOINTMENTS

Sister City Committee

Mayor Coss appointed the following individual to the Sister City Committee:

Councilor Chavez moved, seconded by Councilor Heldmeyer, to approve the appointment. The motion was approved unanimously on a voice vote, with Councilors Bushee, Calvert, Chavez, Dominguez, Heldmeyer, Ortiz, Trujillo and Wurzbarger voting for the motion and none against.

Bicycle and Trail Advisory Committee

Mayor Coss appointed the following individual to the Bicycle and Trail Advisory Committee:

Jennifer Wellington – term ending 11/2009.

Councilor Chavez moved, seconded by Councilor Ortiz, to approve the appointment. The motion was approved unanimously on a voice vote, with Councilors Bushee, Calvert, Chavez, Dominguez, Heldmeyer, Ortiz, Trujillo and Wurzburger voting for the motion and none against.

Capital Improvements Advisory Committee

Mayor Coss appointed the following individual to the Capital Improvements Advisory Committee:

Neva Van Peski – reappointment – term ending 11/2009.

Councilor Bushee moved, seconded by Councilor Chavez, to approve the appointment. The motion was approved unanimously on a voice vote, with Councilors Bushee, Calvert, Chavez, Dominguez, Heldmeyer, Ortiz, Trujillo and Wurzburger voting for the motion and none against.

400th Anniversary Committee

Mayor Coss appointed the following individual to the 400th Anniversary Committee:

H.L. Lovato.

Councilor Chavez moved, seconded by Councilor Trujillo, to approve the appointment. The motion was approved unanimously on a voice vote, with Councilors Bushee, Calvert, Chavez, Dominguez, Heldmeyer, Ortiz, Trujillo and Wurzburger voting for the motion and none against.

Santa Fe River Commission

Mayor Coss appointed the following individual to the Santa Fe River Commission:

Peter Stacey, Ph.D. (Alternate Member) – to fill unexpired term ending 2/2010.

Councilor Chavez moved, seconded by Councilor Calvert, to approve the appointment. The motion was approved unanimously on a voice vote, with Councilors Bushee, Calvert, Chavez, Dominguez, Heldmeyer, Ortiz, Trujillo and Wurzburger voting for the motion and none against.

Councilor Ortiz moved, seconded by Councilor Calvert, to amend the agenda to hear Items #15, #16 and #17 next on the agenda, and to go into executive session for the purpose of discussion of proposed settlement agreement in Davos Capital, LLC vs. City of Santa Fe, State District Court No. D-0101-CV-2006-01539, pursuant to §10-15-1(H)(7), Siler Road/Agua Fria property acquisition pursuant to §10-15-1(H)(8).

The motion was approved on a Roll Call vote as follows:

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

Against: None.

Absent: Councilor Trujillo

15. MATTERS FROM THE CITY ATTORNEY

EXECUTIVE SESSION

- a) **DISCUSSION OF PROPOSED SETTLEMENT AGREEMENT IN DAVOS CAPITAL, LLC, VS. CITY OF SANTA FE, STATE DISTRICT COURT NO. D-0101-CV-2006-01539, PURSUANT to §10-15-1(H)(7), NMSA 1978.**
- b) **DISCUSSION OF SILER ROAD/AGUA FRIA PROPERTY ACQUISITION, PURSUANT TO §10-15-1(H)(8) NMSA 1978.**

The Council went into Executive Session at 8:02 p.m.

MOTION TO COME OUT OF EXECUTIVE SESSION

At 9:17p.m., Councilor Ortiz moved, seconded by Councilor Calvert, that the City Council come out of Executive Session and stated that the only items which were discussed in executive session were those items which were on the agenda, and no action was taken.

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

16. **ACTION REGARDING PROPOSED SETTLEMENT AGREEMENT IN DAVOS CAPITAL, LLC VS. CITY OF SANTA FE, STATE DISTRICT COURT NO. D-0101-CV-2006-01539. (MAUREEN REED AND DAVID RASCH)**

Councilor Ortiz moved, seconded by Councilor Calvert, to approve the settlement agreement as discussed in executive session.

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

Against: Councilor Heldmeyer.

17. **ACTION REGARDING SILER ROAD/AGUA FRIA PROPERTY ACQUISITION. (BILL TALLMAN)**

No action was taken on this Agenda item.

Councilor Chavez moved, seconded by Councilor Heldmeyer, to amend the agenda to hear Item #13 next on the agenda. The motion was approved unanimously on a voice vote with Councilors Bushee, Calvert, Chavez, Dominguez, Heldmeyer, Ortiz, Trujillo and Wurzbarger voting for the motion and no one voting against

13. **MOTION TO DISCHARGE A COMMITTEE AND CONSIDERATION OF RESOLUTION NO. 2007- ____ (COUNCILOR CHAVEZ, COUNCILOR CALVERT, MAYOR COSS, COUNCILOR WURZBURGER AND COUNCILOR HELDMEYER). A RESOLUTION DESIGNATING UP TO \$300,000 OF THE CITY'S 2008 CAPITAL IMPROVEMENTS PROGRAM (CIP) BOND FOR A CITY OWNED PERMANENT INDOOR ARTS MARKET AT THE RAILYARD. (ROBERT ROMERO)**

Councilor Chavez moved, seconded by Councilor Heldmeyer, to discharge any further consideration of this Resolution through the Committee process, and to have the discussion now on allocating the \$300,000.

Discussion: Councilor Ortiz said the Governing Body Rules specifically say that items can only be placed on the Agenda, "if a majority vote of any member of the Board of County Commissioners, or a majority vote of all members of any City Committee ask to have it on the agenda." He said this particular item has not received any of that approval. In Public Works, the motion was to deny, and at Finance it is specifically postponed to the meeting in mid-

November. He said, while he understands the nature of the motion, he does not believe the Governing Body Rules, which are clear and unambiguous, allow for this motion to take place, unless it receives a majority vote in one Committee, and then that Committee can ask the City Manager to place it on the agenda. In this case, he doesn't see the authority in the Governing Body Rules to take this item out of Committee. He believes the motion is improper, and this matter properly is still in Committee.

Responding to a question from several Councilors, Councilor Ortiz said he is quoting from page 2 of the Governing Body Procedural Rules, Section 4(A).

Mr. Katz said, "Councilors, I think what we have here are a majority of the members of this body that asked to put this on the agenda."

Councilor Ortiz said then perhaps it needs some amendment, such as the amendment to allow three members of the Governing Body by serving notice in writing to the City Clerk and the City Manager, to place an item on the Agenda.

Councilor Ortiz said, with regard to this matter specifically, in Finance Committee, two were in favor, one was against, to postpone, so that Committee has taken no action. It was disapproved on a three to one vote at Public Works. He doesn't know how this item got on the agenda, given that the Governing Body Procedural Rules are clear that the City Manager doesn't have the discretion to put items on the agenda, and the Mayor doesn't have that discretion under the rules. He said it is only when there is a majority vote of all members of any City Committee that an item can be placed on the agenda.

Mr. Katz said, "Again, I would reiterate, there is a majority of the members of this Committee of the whole, if you will, of this body that has asked that this be put on the agenda for a vote to bring it out of the committees."

Councilor Heldmeyer said, "Reading that same section, Agenda Preparation, it says the City Manager shall prepare an agenda, what the agenda...shall include items that require Council action, etc. On action items, the City Manager shall provide facts necessary for proper study and decision making. When appropriate, the City Manager can give a recommendation. Additionally, additionally, to that, the City Manager, not only, additionally, in addition to what the City Manager chooses to put on the agenda...additionally, the City Manager may place on agenda any matters so requested by a majority vote of all members of the County Commissioners or a majority vote of all members of any City Committee."

Councilor Heldmeyer said, independent of what this body does, the City Manager can put just about anything on the agenda.

Mr. Katz said majority of members have asked to put this on the agenda.

Councilor Ortiz said, "Again, Mayor, I'm reading the same paragraph, and I can tell you this is an action item, it's not on the consent calendar, hasn't gone through Committee, 'shall provide all facts necessary for proper study and decision making by the Governing Body.' This

is listed as an item coming from Robert Romero as the person making the presentation. Yes, there are people sponsoring it, but until just now, when Frank said that a majority of the committee of the whole decided to put this on the agenda, I wasn't aware how this item came on the agenda. I wasn't sure that we've got...if I made a request to the City Clerk, well show me the written language that shows at least three members asked for this to be placed on the agenda. I don't think we have written documentation. We just have the representation that a majority of them wanted this to get out of Committee. I am just raising the point. I can tell you that you're right, the City Manager has discretion to put this on the agenda, but when it is coming from a Councilor request, the rules are pretty clear. It's got to be a majority of the committee members in order to put it on the agenda. Yes, that's what it says. That's what our language says, and if we need to have that tightened, then we probably should, because this particular Resolution... again, we're just on having it skip the Committee process which is highly unusual. But, if we allow this practice to happen, again, because we didn't follow...there hasn't been a majority of the Committee who has acted on this. I think this is inappropriate."

Councilor Chavez said it is incorrect to say it has not gone through the Committee process. He said, "I tried to engage in that process, and I don't think I was allowed my due process during the CIP debate. I was accused of making an end run. I was accused of coming in the back door. "

Councilor Bushee said that was at Finance according to the newspaper.

Councilor Chavez said, "I remember what I remember, and this was Public Works, Councilor Bushee. "

Councilor Chavez said, "This received funding of \$150,000 from the last Legislative Session. We have a public/private partnership that is willing to enter into an agreement with the City if we are willing, so that we can support our local artists and craftsmen and implement part of our *economic development plan*. So, it has not gained any traction through the Committee process, and that is why I asked that it be on this agenda, this evening, so that maybe we can move on and not whittle away this public/private partnership that is offering this opportunity to the City."

Councilor Ortiz responded that this is a parliamentary matter. It would be different if the rules provided that any individual member of the governing body can, at any particular time, circumvent the Committee process and remove something because they don't like the way the Committee process is going.

Councilor Ortiz reiterated that the Mayor doesn't have the authority to put items on the agenda just because he wants to avoid going back to Committee, especially when a committee has ruled against a particular matter. He said the Committee process is in place for a reason, noting the Finance Committee voted to postpone this item specifically to allow Councilor Chavez to have his full say in defense of this item.

Councilor Ortiz said this is the first time this particular motion has been made to discharge a committee, and it is an unusual motion which he believes is contrary to the Governing Body procedural rules.

Councilor Bushee said, as she remembers it, she read in the newspaper that "somebody on Finance or somehow, it got accused of an end run because it went to Finance first. It went to Public Works twice. Councilor Chavez had plenty to say, but nobody really had positive things to say from the Committee. I think that's where, maybe, he feels slighted there. The questions really came from the owner of the corporation in a letter that she sent to the Committee, questioning the efficacy of the plan."

Councilor Bushee moved, seconded by Councilor Ortiz, to postpone this item to the next meeting of the Council meeting, after it has an opportunity to be heard again by the Finance Committee.

The motion was approved on the following roll call vote:

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

Against: Councilor Heldmeyer, Councilor Calvert and Councilor Chavez.

Explaining her vote: Councilor Wurzbarger said she is confused by Mr. Katz's response and so she has to say yes.

Mayor Coss said, "I would like to further work on that one Frank."

G. PUBLIC HEARINGS

- 1) REQUEST FROM SURIYA, INC., FOR A RESTAURANT (BEER & WINE) LIQUOR LICENSE TO BE LOCATED AT DARA THAI RESTAURANT, 1710 CERRILLOS ROAD. (YOLANDA Y. VIGIL)**

The staff report was given by Yolanda Vigil, City Clerk. Ms. Vigil said the location is not within 300 ft. of a church or school. Staff recommends that this business be required to comply with all City ordinances.

Public Hearing

There was no one speaking to this request

The Public Hearing was closed

Councilor Ortiz moved, seconded by Councilor Bushee, to grant the request for a

Restaurant License to be located at Dara Thai Restaurant, 1710 Cerrillos Road.

The motion was approved on the following Roll Call Vote:

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

Against: None.

Abstain: Councilor Chavez

- 2) REQUEST FROM TAPIA ENTERPRISES, INC., FOR A RESTAURANT (BEER & WINE) LIQUOR LICENSE TO BE LOCATED AT LOS POTRILLOS RESTAURANT, 1947 CERRILLOS ROAD. (YOLANDA Y. VIGIL)**

The staff report was given by Yolanda Vigil, City Clerk. Ms. Vigil said the location is not within 300 ft. of a church or school. Staff recommends that this business be required to comply with the City's Litter and Noise Ordinances and all other City ordinances.

Public Hearing

There was no one speaking to this request

The Public Hearing was closed

Councilor Ortiz moved, seconded by Councilor Bushee, to grant the request for a Restaurant License to be located at Los Potrillos Restaurant, 1947 Cerrillos Road.

The motion was approved on the following Roll Call Vote:

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

Against: None.

Abstain: Councilor Chavez.

- 3) REQUEST FROM P & R WORKS, INC., FOR A RESTAURANT (BEER & WINE) LIQUOR LICENSE TO BE LOCATED AT AL DI LA, 227 GALISTEO STREET. (YOLANDA Y. VIGIL)**

The staff report was given by Yolanda Vigil, City Clerk. Ms. Vigil said the location is not

within 300 ft. of a church or school. Staff recommends that this business be required to comply with all City ordinances

Public Hearing

There was no one speaking to this request

The Public Hearing was closed

Councilor Bushee moved, seconded by Councilor Ortiz, to grant the request for a Restaurant License to be located at Al Di La, 227 Galisteo Street.

The motion was approved on the following Roll Call Vote:

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

Against: None.

Abstain: Councilor Chavez.

Explaining her vote: Councilor Wurzburger congratulated the applicants, noting they have waited a year and a half for the license.

4) REQUEST FROM KAYLOU, LLC, FOR A RESTAURANT (BEER & WINE) LIQUOR LICENSE TO BE LOCATED AT CAFÉ CAFÉ, 500 SANDOVAL STREET. (YOLANDA Y. VIGIL)

The staff report was given by Yolanda Vigil. Ms. Vigil said the location is not within 300 ft. of a church or school. Staff recommends that this business be required to comply with all City ordinances

Public Hearing

There was no one speaking to this request

The Public Hearing was closed

Councilor Bushee moved, seconded by Councilor Trujillo, to grant the request for a Restaurant License to be located at Café Café, 500 Sandoval Street.

The motion was approved on the following Roll Call Vote:

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

Against: None.

Abstain: Councilor Chavez.

- 5) **PURSUANT TO §60-6B-10 NMSA 1978, A REQUEST FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE SALE/CONSUMPTION OF ALCOHOLIC BEVERAGES AT ST. MICHAEL'S HIGH SCHOOL, 100 SIRINGO ROAD. THE REQUEST IS FOR THE FOLLOWING EVENT:**
- a) **10TH ANNUAL AUCTION/GALA EVENT RECEPTION TO BE HELD ON SATURDAY, NOVEMBER 3, 2007, FROM 5:30 TO 9:30 P.M.; SUSAN'S FINE WINES AND SPIRITS.**
(YOLANDA Y. VIGIL)

The staff report was given by Yolanda Vigil.

Public Hearing

Mary Pat Butler, Director of Development, St. Michaels High School, was sworn. Ms. Butler said she is in charge of this event. She stressed that this is not for the sale of alcoholic beverages, they just want the opportunity to serve beer and wine with the pulled pork sandwiches. She said this is one of their big fundraisers of the year, and they aren't selling beer and wine for a fundraiser.

The Public Hearing was closed

Councilor Ortiz moved, seconded by Councilor Heldmeyer, to grant the request for a waiver of the 300-foot location restriction.

The motion was approved on the following Roll Call Vote:

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

Against: Councilor Chavez.

Explaining his vote: Councilor Chavez said he doesn't believe it is good to be promoting the consumption of alcohol at a school, even though it is a fundraising event. He noted that the agenda is clear that this is a request for approval to allow the sale and consumption of alcoholic beverages, so he votes no.

- 6) **CASE #H-07-15. APPEAL OF THE HISTORIC DESIGN REVIEW BOARD'S DECISION ON JULY 10, 2007 CONCERNING REMODELING OF A NON-CONTRIBUTING PROPERTY LOCATED AT 126 QUINTANA STREET IN THE WESTSIDE-GUADALUPE HISTORIC DISTRICT. VERONICA ANGRIMAN REQUESTS THAT THE GOVERNING BODY RESCIND THE DENIAL TO ALTER A PREVIOUS APPROVAL. (DAVID RASCH) (Postponed at the October 10, 2007 City Council Meeting – Public Hearing Closed.**

A memorandum dated October 10, 2007, with attachments, to Mayor David Coss and City Council Members, from David Rasch, Acting Director, Historic Preservation Division, regarding Case #H-07-15, is incorporated herewith to these minutes as Exhibit "2."

Mr. Rasch presented a brief overview of the case from Exhibit "2", noting that there was not a five-member majority vote of the Council its previous meeting to take action on the appeal. He said the last motion was to grant the appeal except for the window which did not pass by a five-member majority vote.

Councilor Calvert moved, seconded by Councilor Heldmeyer, to grant the appeal with the exception of the one window which was altered in contradiction to the Historic Design Review Board's instructions.

Discussion: He said this case isn't about style or taste, but it is about the process, and adhering to and enforcing and upholding the process. He said this person knew to go the H-Board, so they obviously knew there was a process they had to fulfill. However, the person chose, arbitrarily and on their own, to alter the conditions without going back to the H-Board. He said if we don't uphold part of this decision, he believes it will make the work of all of the Code enforcement people more difficult, because people will feel they have a "free ticket" to change things whenever they so choose. He believes there is an important consequence to our vote this evening.

The motion was approved on the following Roll Call vote:

For: Councilor Bushee, Councilor Calvert, Councilor Heldmeyer, Councilor Ortiz, and Councilor Wurzbarger.

Against: Councilor Chavez, Councilor Dominguez and Councilor Trujillo.

- 7) **CONSIDERATION OF BILL NO. 2007-48: ADOPTION OF ORDINANCE NO. 2007- 40 (COUNCILOR WURZBURGER). AN ORDINANCE AMENDING SECTIONS 6-4-3; VARIOUS SECTIONS OF CHAPTER 14; RENAMING CHAPTER XXVI; CREATING A NEW ARTICLE 26-2 SFCC 1987, ALL RELATED TO AFFORDABLE HOUSING, THE SANTA FE HOMES PROGRAM AND LOW PRICED DWELLING UNITS. (KATHY McCORMICK)**

a) **CONSIDERATION OF RESOLUTION NO. 2007- 99
(COUNCILOR WURZBURGER). A RESOLUTION AMENDING
THE ADMINISTRATIVE PROCEDURES FOR
IMPLEMENTATION OF THE SANTA FE HOMES PROGRAM.**

Information regarding this matter was presented to the Governing Body by Ron Pacheco from his memorandum dated September 12, 2007, noting when this was approved, staff was asked to come back with recommended changes to improve the ordinance.

Public Hearing

Rick Martinez. Mr. Martinez said this needs to be done, because we are experiencing development in the downtown and Guadalupe areas, but we aren't getting affordable housing from those. He said the goal was to bring affordable housing to the downtown area. He believes these changes will help to bring affordable housing to the downtown area and in traditional and existing neighborhoods, and help to spread affordable housing throughout Santa Fe. He asked for Council support for these changes.

Karl Sommer. Mr. Sommer said he supports the proposed changes. He said the affordable housing ordinance has been widely touted as well as criticized, and part of the process of an ordinance is to adjust it from time to time. He has discussed the cases with the individual Councilors which he has brought before the Council which deal with the issues addressed in these amendments. He believes this change allows the Council the flexibility which the original ordinance didn't allow, which is important for a proper administration of this ordinance.

The Public Hearing was closed

Councilor Wurzbarger thanked staff for their work. She believes the changes will result in an increase in the number of affordable homes in Santa Fe.

Councilor Wurzbarger moved, seconded by Councilor Bushee, to adopt Ordinance No. 2007- 40.

Discussion: Responding to Councilor Bushee, Mr. Pacheco said this is an alternative means of compliance which he believes will result in more affordable housing.

Councilor Bushee said the ordinance allows for a buyout which will change how we do business on the affordable housing issue. She said the idea is that we will get a fair amount of buyout and will be able to fund other projects, but it may not mean much affordable housing in the downtown.

Mr. Pacheco said this scenario is a possibility. He said this is a great opportunity to increase the capital in that fund.

Councilor Bushee said we really need to begin to tap into the fund, or help to create more money in the fund for green building for affordable homes which is going to be costly, commenting she believes we are going to move in this direction. She asked if additional language is needed to emphasize how we are helping with green building efforts in affordable homes.

Mr. Pacheco agreed, but he says he sees nothing in particular. He said the non-profits providing appliances are providing the energy saving appliances. He said developers are finding ways to bring monthly costs down, because it allows more buying power for buyers, although this isn't in the ordinance. He said staff would be willing to find language with regard to the green ordinance.

Councilor Calvert said he has had discussions with Ms. McCormick, and she is waiting for the group working on the green building code to finish its work. If the builder is willing to do a sufficient amount of what is in the Code, then Ms. McCormick will look at increasing the allowance on the prices for those units which are considered affordable, but have enhancements for the green building code.

Councilor Wurzbarger said it is important for the public to understand, that when we discuss "buyout," we are really talking about "tradeoffs" for affordable homes. She said this is a "win win" situation for the citizens of Santa Fe.

Councilor Heldmeyer there are things which have been changed in response to comments we have received over the past two years, such as how to calculate assets for seniors, and better warranties on the affordable units. She said she is still bothered that we are now offering this buyout, and it doesn't mean we are going to get homes. She believes we will see more developments of luxury homes paying this fee not to have an affordable home among their units. This will be at the discretion of the Governing Body. The original intent of the HOP program was to provide affordable housing, part of which was to provide inclusionary zoning to get back to the idea that in Santa Fe that people from different walks of life and levels of income can live together, near each other, in homes which can't be easily differentiated in terms of affordability. She said this is the part that is going away when this passes, but not for the large developments.

Mr. Pacheco said \$109,000 will have to be paid for every market rate unit, which for a 10-unit project is \$1.9 million to the City. He said we have to look at this as a trade off as pointed out by Councilor Wurzbarger. He said only this Governing Body will have the authority to make that choice, and it is a fairly high threshold, but he believes the Governing Body should have the opportunity to hear the proposal and make a choice.

Councilor Heldmeyer said she was speaking about the differential, while Mr. Pacheco was speaking of the ultimate cost.

Councilor Ortiz said the work to change the section on alternative means of compliance sold him on the changes. He had the same concerns as Councilor Heldmeyer, and yet he believes this will give the Governing Body the flexibility to accept or not accept the tradeoff, or to hold any developer to the responsibility it has in the inclusionary zoning portion of the Homes

evolved since it was first adopted, and he is proud to support these changes.

The motion to adopt Ordinance No. 2007-40, was approved on the following Roll Call Vote:

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

Against: Councilor Heldmeyer.

Absent: Councilor Chavez.

Councilor Wurzbarger moved, seconded by Councilor Ortiz, to adopt Resolution No. 2007-99.

The motion to adopt Resolution No. 2007-99, was approved on the following Roll Call Vote:

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

Against: None

Absent: Councilor Chavez and Councilor Dominguez.

- 8) CONSIDERATION OF BILL NO. 2007-51: ADOPTION OF ORDINANCE NO. 2007- 41. CASE #ZA-2007-08. VILLAS DE SOPHIA REZONING FROM R-1 TO R-7 PUD. MONICA MONTOYA, AGENT FOR TED CHAGARIS, REQUESTS REZONING OF ± 1.00 ACRE FROM R-1 (RESIDENTIAL, 1 DWELLING UNIT PER ACRE) TO R-7 PUD (RESIDENTIAL, 7 DWELLING UNITS PER ACRE, PLANNED UNIT DEVELOPMENT). THE APPLICATION INCLUDES A PRELIMINARY DEVELOPMENT PLAN FOR 8 RESIDENTIAL LOTS AND A VARIANCE TO THE MINIMUM LOT SIZE AND MAXIMUM LOT COVERAGE/ PRIVATE OPEN SPACE REQUIREMENTS OF ARTICLE 14-7.1. THE PROPERTY IS LOCATED ON SIRINGO ROAD, SOUTH OF THE INTERSECTION OF CALLE CONTENTO AND SIRINGO ROAD. (DONNA WYNANT)

A memorandum dated October 22 for October 29, 2007 City Council meeting, with attachments, to the City Council, from Donna Wynant, Senior Planner, Current Planning Division, regarding Case #ZA 2007-08, is incorporated herewith to these minutes as Exhibit "3.

Ms. Wynant presented information regarding this matter from Exhibit "3."

Division, regarding Case #ZA 2007-08, is incorporated herewith to these minutes as Exhibit "3.

Ms. Wynant presented information regarding this matter from Exhibit "3."

Staff Recommendation: The Planning Commission on 8/30/07 recommended approval of the application to rezone the subject property to R-7-PUD, including the preliminary development and variances. The Planning Commission recommended approval based on rezoning approval criteria in Section 14-3.5 SFCC 2001, and variance findings in 14-2.3(c)(3).

Variance Requests:

- Section 14-7.1-1 Note 5. Minimum lot size. Lot 2: From 3,000 sq. ft. to 2,010 sq. ft. Lot 7 from 3,000 sq. ft. to 2,026 sq. ft.; and
- Section 14-7.1 Maximum lot coverage/Private open space. Lot 1: 503 sq. ft. Private Open Space, Lot 2: 333 sq. ft. Private Open Space, Lot 7: 335 Private Open Space, Lot 8: 531 sq. ft. Private Open Space.

Conditions of Approval:

1. The applicant shall record an irrevocable offer to dedicate to the city for future use as a public road, 25 feet of right-of-way along the west boundary of the property. The City may accept the offer to dedicate at any time, or may vacate the offer to dedicate by resolution of the Governing Body.
2. The development for this rezoning application is hereby approved and shall be attached to the rezoning ordinance as an exhibit. A detailed development plan shall be prepared and filed prior to development of the property, and shall comply with the requirements of the following departments:
 - Engineering Division Review; and
 - Technical Review Division Landscape Review memo; and
 - Public Works Engineering Division Traffic Review memo; and
 - Solid Waste Division Review; and
 - Fire Department; and
 - Water Division; and
 - Parks, Open Space & Trails Review.
3. A minimum of 0.5 unassigned guest parking space shall be provided in the development plan.

At the 8/30/07 Planning Commission meeting, the Land Use Department staff supported the proposed R-7 density for the project site and surrounding area, but recommended that the case be postponed to provide on-site guest parking and to make appropriate provisions for a future east-west access linkage to serve existing and likely future development south and east of the Villas de Sophia.

The Land Use Department Staff also recommended that a contribution be provided for future road improvements, a condition that was not supported by the Commission.

Public Hearing

Presentation by the Applicant

Monica Montoya, agent for Applicant Ted Chagaris, was sworn. Ms. Montoya said she is here respectfully requesting support of this application for rezoning of a one acre parcel from R-1 to R-7 PUD. She said they have a development which they believe is supported by the minimum Code requirements in Chapter 14.

Ms. Montoya demonstrated the subject site on the aerial photograph, and the layout of the development on the enlarged drawings. She noted, at the request of the City, 25 ft. has been dedicated for potential future development south of the property, and the adjacent neighbor has also agreed to dedicate 25 ft. if and when the access is needed. She demonstrated the location of the 25 ft. which was dedicated by the applicant. Ms. Montoya said the applicant proposes to build "this" as a base course driveway which is permitted by Code and won't develop the back part of "this."

Ms. Montoya said the two center units will be dedicated to Santa Fe Habitat for Humanity. She said there is more than double the parking which is required.

Ms. Montoya demonstrated the appearance of the development on the enlarged drawing, commenting that it is in line with the Pueblo style architecture of the City. She demonstrated the relationship of this property to the surrounding property, noting she believes there are adequate access points to any future potential development of the site.

Ms. Montoya said the City has asked the applicant to contribute funds toward potential future construction of the road. She said the applicant is requesting that the Council support his position. The applicant feels he is contributing more than his fair share toward City goals: Dedication of two houses to Habitat for Humanity, giving up a 25 ft. easement on the west side of the property, and contributing \$20,000 to SF Homes Program to compensate for the density difference. She said the applicant is asking the Council to support his position to not make a contribution to the potential future construction of the road.

Ms. Montoya said the applicant agrees to all conditions as recommended by staff, and they have been working with each of the divisions listed in the Staff Memorandum to ensure they addressed any of the comments they received during the development review process. She said the applicant has addressed all of the Code requirements for a development, and respectfully requests Council approval.

Richard Miller, Habitat for Humanity, was sworn. Mr. Miller said he met with Ms. Montoya and Mr. Chagaris and discussed this project, and spoke with Maggie about the partnership. He said this project shows him that this community as well as the Governing Body

are interested in affordable housing. He asked the Governing Body to support this project.

There was no one speaking against the request.

The Public Hearing was closed

Councilor Chavez moved, seconded by Councilor Bushee, to adopt Ordinance No. 2007- 41, with conditions as recommended by staff.

Discussion: Councilor Calvert asked the applicant if he would be willing to add a condition that these homes would be built to minimum energy star requirements, and the applicant said he is agreeable.

Friendly Amendment: Councilor Calvert asked to amend the motion to add a condition of approval that these homes would be built to minimum energy star requirements. **The amendment was friendly to the maker and second, and there were no objections from the other members of the Council.**

Councilor Heldmeyer said, in her presentation, Ms. Montoya said this project is consistent with other densities around it. However, on the map in the packet, she sees R-4 and R-5, and asked Ms. Montoya to speak to this.

Ms. Montoya said, using the map in the packet, there is some RMLD PUD which is 12 units per acre to the north and east of the development on the north side of Siringo Road. Ms. Montoya said the north side of Siringo Road is R-5 density, to the west is R-5 density, and the immediate adjacent are R-1, although they are designated as R-7 by the General Plan.

Councilor Heldmeyer said most are R-4 and R-5, and asked why the applicant didn't come in for the level of the neighbors which is R-4 and R-5, and asked why the request is so dense.

Ms. Montoya said the applicant wanted to be able to develop the property within the limits of the Code and basically used the General Plan as the guide to develop the site. She said they don't want to go beyond what is allowed under the Future Land Use Plan.

Councilor Heldmeyer said the General Plan presumably says 3-7. The interpretation of that is that any of those densities are correct within that range if they fit what is happening in the general area, and reiterated why not seek R-4 and R-5.

Ms. Montoya said the decision was made by the owner of the property, primarily to put together a project which would be community-friendly. The decision also was based on the fact that two of the units would be dedicated to Habitat for Humanity, which wouldn't be possible with the density.

Councilor Heldmeyer said you always get the density bonus if you put in affordable housing, and in order to build at this density, you are having to request several variances in

terms of lot coverage and minimum lot size. She said in other neighborhoods, these have been the ones that have "driven people nuts," that create such a level of density. She noted this is right off Siringo Road which is a very busy road, and not far from two high schools.

Ms. Montoya said part of the reason for the need for variances also has to do with the dedication of the right-of-way to the west side of the property. If they didn't agree to dedicate that, there would have been more property to be able to develop some lots which would meet the minimum lot size requirements and the private space requirements.

Councilor Heldmeyer asked if it was always planned for the driveway to come off Siringo.

Ms. Montoya said the original proposal was to have a cul de sac off Siringo, and demonstrated this on the enlarged drawings. However, after meeting with City staff and discussing the need for a potential future access, they developed this design based on the available square footage after dedication of this area.

Councilor Heldmeyer asked who are the intended buyers.

Ms. Montoya said the price range of the homes is \$300,000 to \$400,000 which is medium income affordability. She said the two homes dedicated to Habit will be decided by Habit which is for people with less than 50% of the area medium income. The other four homes will be marketed to Santa Feans, and there is no specific target market.

Councilor Ortiz said he remembers the fight on the general plan for the property just south of this parcel. The General Plan listed it as Open Space and Recreational, and there was an extensive battle by the people in the Candelero Subdivision to have it remain as that, and we went to R-1. He said the property to the east of this property is for sale, and is a larger parcel than this one and it is at R-4. He said the question is do we want to set the precedent for having these "attached home site, Condo-looking residences along the southern border of Siringo Road," or do we want to have detached homes on lots with a little less density which is how he sees it.

Councilor Ortiz said there are four lots right in a row and this is the first one – this project, the neighboring project to the west and the R-4 property as well as the closest parcel to the corner where Pacheco comes in – and if we grant the approval for this, we will be setting the template for successive projects and setting this zoning. He said across Siringo Road there are large subdivisions, but these aren't large subdivisions and are small tracts. He is not persuaded that this is a precedent that we should be taking for this particular site.

Councilor Ortiz asked if the applicant would be responsible for paying all the impact fees, or is it limited because of the right-of-way or easement the applicant is providing for a road which will never be built, noting there is a steep incline on the other side of the property where the Rail line comes in.

Greg Smith said, with regard to questions about the feasibility of the grading of the eventual right-of-way, John Romero of Traffic Engineering could speak better to this. At this

point, the Planning Commission has not recommended a specific condition about applying impact fees to the future road. Responding to Councilor Ortiz, he said the applicant would pay impact fees.

Councilor Ortiz said if we set this precedent, we are giving the template for how the rest of Siringo Road will be developed – compact, condo-type development, with variances. He doesn't know this is consistent with the surrounding neighborhoods.

Councilor Trujillo said he has the same concerns as Councilor Ortiz, and we would be setting precedent for what will happen to the west of Siringo Road, commenting that no one knows what the Rail Runner will do, and what the prices would be.

Councilor Trujillo asked the square footage of Units #7 and #2.

Ms. Montoya said Unit #2 is a two bedroom and #7 is a three bedroom

Councilor Trujillo said we have always discussed making affordable housing the same and not being chintzy just because they are affordable homes.

Ms. Montoya said Mr. Chagaris has spent a lot of time with Ron Pacheco, and they believe this is an acceptable layout under the Santa Fe Housing Program.

Mr. Pacheco said these units meet the minimum square footage requirements for Santa Fe Homes. He said the affordable units on this project are two-story units, and the middle are two floors and Mr. Chagaris is meeting the minimum square footage requirements and he is working with Habitat. He said in their discussions, staff was a little concerned about the two-stories, but for them, the fact that he was working with Habit was overwhelming.

Councilor Trujillo said the only two-story house in the area is off Siringo.

Mr. Pacheco said there is a huge two-story house on the corner, but that is the only one he recalls there as well.

Councilor Bushee asked how many units the applicant could build if this was R-4 or R-5 zoning.

Ms. Montoya said they would be able to build five units, and one with the Santa Fe Housing Program, for a total of six.

Councilor Bushee asked if the applicant considered doing this.

Ted Chagaris, the applicant was sworn. Mr. Chagaris said, in terms of the overall picture, he looked at what he felt for the entire area would be the highest and best use of the property, noting there are several vacant lots. He understands the City's future plans do include the possibility of R-7. He said these lots do intersect between the railroad tracks and the Rail Trail, and it seemed to make sense to do a higher density there. He said these are not condos. These are fee simple owned homes. He said as a matter of economics, he is required

to build the affordable units, and the sheer cost of the project requires the sale of the number of market rate units proposed.

Responding to Councilor Bushee, Mr. Chagaris said with R-7, there would be six market price units and two affordable units.

Councilor Bushee said she has no problem with different styles of clustered housing, but the emphasis seems to be on single lot housing where he is planning to build.

Mr. Chagaris said there are two "different worlds" here – the existing developments across the street which are blocked by a wall, and there are all of these open lots with 1-2 houses scattered in the area. He said all of the other lots are open and vacant and have been for years, so he is taking the initiative to develop these, which he believes is in the highest and best good of the property.

Responding to Councilor Bushee, Mr. Chagaris said if he had the additional land for development, it would open the lots further, but the City requested that he dedicate that land and he is willing to do so.

Councilor Wurzbarger said, "If they didn't have to do the easement, which some of us are questioning with respect to its future utility, given the slope of the land, and you could have spread it out and done fewer lots on more space...I mean, part of your density is due to the fact that you gave up 25 ft., almost the size of a lot."

Mr. Chagaris said it is a good portion. He said, as mentioned by Ms. Montoya, initially they were looking at the possibility of doing a cul de sac into the center. However, the Engineer and Fire Marshal requested this access.

The motion, as amended, was approved on the following Roll Call Vote:

For: Councilor Bushee, Councilor Chavez, Councilor Dominguez, and Councilor Wurzbarger.

Against: Councilor Heldmeyer, Councilor Ortiz, Councilor Trujillo and Councilor Calvert ~~Councilor Wurzbarger~~.

[NOTE: Councilor Wurzbarger initially voted against the motion, but changed her vote in favor of the motion.]

The resulting vote was a tie, and the Mayor voted in favor of the motion.

Explaining her vote: Councilor Heldmeyer said she believes it is too dense and we will set a bad precedent.

Explaining her vote: Councilor Bushee said she thought this fit in, and she is now a little concerned that the people who represent that part of town have issues, and passed on the first vote.

Explaining his vote: Councilor Chavez said it seems this is a decent infill project. If we're talking about density, he doesn't see these densities any greater than in Tierra Contenta, Las Acequias or Pueblo Alegre. He said we have made the argument for infill for good reasons. One reason is that it would place housing [affordable] somewhere else than the Southwest sector and along Airport Road. He thinks, for these reasons, it's a well thought-out project, it's a good infill project and he supports it.

Explaining his vote: Councilor Dominguez said when he was on the Planning Commission he used to see lots of projects like this before the Commission from Tierra Contenta, and he doesn't believe there is any detriment to anyone's quality of life with a project like this, so he votes yes.

Further explaining her vote: Councilor Bushee said, in honesty, with the train coming, it will be developed, and it is a matter of how. She has no problem with the design or layout. Perhaps the density is an issue, but it will be either an R-5 or an R-7, and she votes yes.

Explaining changing her vote: Councilor Wurzbarger said she is changing her vote to yes, because she is concerned about the Rail Runner coming in, and people need to live in that area.

- 9) . **CASE #A-2007-03. 1003 GOVERNOR DEMPSEY DRIVE VARIANCE APPEAL. KARL SOMMER, AGENT FOR SUSAN PECK MASSEY, APPEALS TO THE GOVERNING BODY OF THE CITY OF SANTA FE, THE PLANNING COMMISSION DECISION TO APPROVE A VARIANCE TO ALLOW CONSTRUCTION OF A NEW HOUSE NO LARGER THAN THE EXISTING HOUSE ON PROPERTY WITHIN THE ESCARPMENT RIDGETOP SUBDISTRICT. THE PROPERTY CONSISTS OF ± 2.408 ACRES AND IS ZONED R-1 (RESIDENTIAL, 1 DWELLING UNIT PER ACRE). (LOU BAKER)**

A memorandum dated October 22, 2007 for October 29, 2007 City Council meeting, with attachments, to the City of Santa Fe City Council, from Lou Baker, AICP, Senior Planner, Development Review, regarding Case # 2007-03, is incorporated herewith to these minutes as Exhibit "4."

A copy of Section D, Location of Structures; Buildable Site, from Ordinance No. 2006-55, Section 6, entered for the record by Karl Sommer, is incorporated herewith to these minutes as Exhibit "5."

Ms. Baker presented information regarding this matter from Exhibit "4."

Staff Recommendation: Staff recommends the appeal be denied. Expansion of the amount of construction to be allowed in the location proposed by the appellant will not be consistent with the purpose and intent of the Escarpment Overlay District Ordinance, nor with the action taken by the Planning Commission.

Public Hearing

Karl Sommer, Agent for Applicant, was sworn. Mr. Sommer introduced his clients, Fred and Susan Massey, to tell you what they want to do.

Susan Massey 1003 Governor Miles, was sworn. Ms. Massey said she, and her husband Fred, purchased the home in October 2001, and made no changes to house at that time. Since that time, their family and friends have come to visit, commenting that everyone loves Santa Fe. She said as time went by, it became evident because of their family and friends they needed to make changes, and that remodeling wasn't what should happen. They hired Studio Architecture to develop a plan, which through her notations over time became very large. The Planning Commission advised that the proposed plan was not acceptable. She said, subsequently, they made major reductions in the plan, which have eliminated a studio and workshop and an overall condensed plan. She said they respect and support their neighborhood and community. She noted her son is marrying in Santa Fe on December 8th and a lot of family and friends will be here, and said she and her husband are very excited about making Santa Fe their home.

Fred Massey, 1003 Governor Miles was sworn. Mr. Massey said Susan has summed things up quite well. He said they are asking for an additional 500 sq. ft. of heated space, a portal to protect them from the ice and snow on the north side of the house and a garage. Otherwise, it basically is the same structure. He said currently there is a swimming pool in the residence, and they can't wait to get rid of it, mostly for environmental reasons. They don't feel a swimming pool fits in the City of Santa Fe. He said they are very much conservationists, and will continue to be so. They totally respect the City ordinances. He said you can't see their home until you are three-quarters up the driveway, and you will not be able to see what they plan on doing from the road if the request is granted.

Karl Sommer said this case is about one issue they would like the Governing Body to address. He said, after a long hearing and lots of evidence, the Planning Commission decided that a variance on this lot was appropriate, and placed a condition on the approval, "out of the blue" from their standpoint. They believed it was more appropriate to grant the variance, because without the variance a rebuilt development of this property would make the development a great deal more visual because you would have to move it out of the escarpment district. The one condition on which the Planning Commission focused was the size of the house. He said he is asking the Governing Body to look at that one condition. He said he believes the Planning Commission handled the overall visual impacts appropriately. However, they were caught off guard by that one question, and the reason they are in attendance this evening.

Mr. Sommer distributed copies of the Ordinance section which brings them here [Exhibit "5."], with the applicable language highlighted in yellow. He said this subsection (D)(1), regarding siting location, was changed one year ago. The ordinance was amended to capture lot line adjustments, resubdivisions of lots which occurred after 1992. The purpose of the ordinance amendment was in part to deal with developers or property owners who were amending or adjusting lot lines or dividing properties in the escarpment district for the purpose of trying to get the only buildable site inside the ridgetop.

Mr. Sommer said this lot is part of the old Santa Fe Estates deal between Governor Dempsey and the City, and has been in place since the late 1950s or early 1960s. In 1995, a driveway was granted by the owner of the property and this lot used to run up to "this," and there was a triangle over "here." The neighbor to the west of the property got a driveway from this person and they adjusted the lot line. It was that adjustment in the lot line that captures this case under the amended ordinance. If that hadn't been done, this case would fall under the old law as a pre-1992 lot and it would have been treated differently under the ordinance. He said this is what brings them here, and he does not believe this is the kind of case which the ordinance amendments were intended to capture.

Mr. Sommer said the Planning Commission granted permission to demolish the house and rebuild it in the same footprint. He is unsure what this means, but he thinks it was aimed at square footage. Mr. Sommer presented the plans for the proposed house using enlarged drawings and an overlay to demonstrate the existing and proposed. He said the heated square footage of the "red" figure is 4,030 sq. ft., and the proposed is 4,580 sq. ft., a difference of approximately 500 sq. ft. in heated square footage. The difference in the numbers are a garage, the portal and the heated square footage.

Mr. Sommer said he is providing numbers so the Council can get a comparison as to what the project really is about. He said the current roof square footage is 5,076 sq. ft. now, and they are proposing is 7,200 sq. ft., which is a difference of 2,100 sq. ft., which includes the garage which is not heated square footage, and the portal along the back of the residence which is about 1,200 sq. ft. on the north side. The roofed area existing within the ridgetop is 5,076 sq. ft., and the proposed is 6,926 sq. ft. In the ridgetop area there are 1,850 sq. ft. of additional roofed area under the proposal. He said, "In the middle of this is a column that tells you what we originally proposed, and that's what the Planning Commission reacted to in terms of size." They went back to the drawing board, removed things and got to the bare plan which will work for the Masseys which is before the Council tonight. He said the measurements are certified and stamped.

Mr. Sommer said the floor layout is in the Council packet, and demonstrated the layout using enlarged drawings showing the existing and the proposed, indicating the function of each room. He said there is a shed on the lot which is proposed to be demolished which is included in the roof square footage, but it isn't on the map.

Mr. Sommer noted the portal will be on the north elevation. He said the south elevation facing Governor Dempsey isn't visible from the roadway because of the nature of the terrain on the property.

Mr. Sommer said one important aspect of the application is the neighborhood context in which you find this, and demonstrated this context using an enlarged photograph. Mr. Sommer said this room is empty tonight "but for us." There are two reasons. One, there was a lot of outreach done to the neighbors so they understood what we were doing. Secondly, there were people below actively supporting this application, not opposing it. He said the neighbors to the east prefer the orientation of the house as it is proposed. The escarpment district ordinance talks about impacts of development in the neighborhood. He said this room might not be so empty if they hadn't cut back the square footage. He said if the proposal was going to do violence to the character of the neighborhood, the neighbors would be at the meeting.

Mr. Sommer presented information from a document from City GIS that tells about the context of their proposal using roofed area – these are residences are immediately adjacent and on the ridgetop and the average footprint is 8,087 sq. ft. The proposal is below the average significantly.

Mr. Sommer said he has had two other cases which went before the Planning Commission, one is on Hillcrest located just across Bishop's Lodge Road right on top of the ridgetop. He said the house there was torn down, and that case went before the Planning Commission and he did the same analysis he is using tonight – the context, visual impact and the scale. In that case, the Planning Commission decided the variance was appropriate because the visual impact would be greater outside the district than it is inside the district, and the design and scale of the project was in keeping with the character. In the Scanlon case, the original residence was 3,500 heated sq. ft., and the proposed home was 4,756 sq. ft., and the building footprint of the original home was 4,651 sq. ft. and of the new home was 5,716 sq. ft. The ratio applied by the Planning Commission was directly related to the scale of the project in the neighborhood. Mr. Sommer said that wasn't applied in this case, and they were taken off guard by it, and the reason they are here this evening.

Mr. Sommer said these are the basics of this case. The other important aspect of this case under the escarpment ordinance is what is the visual impact. He said this lot sits on a saddle, and demonstrated the site of the house using the large aerial photograph, noting the Prohasca house sits on a promontory and can be seen from everywhere. The Massey property is behind it, and sits in a saddle which dips down below and comes back up to the Thorn property. He said you can't see the Massey house, and he will demonstrate that. He said the importance of that is that in this particular location, if you move the house "out in this" direction, then you move it into the view shed of the Bishop's Lodge. He believes this was fundamentally the basis of the Planning Commission's decision.

Mr. Sommer said he did a drive-by, which he will play on screen and narrate where the videos are taken, noting Joseph Karnes of his office will describe the sites.

Joseph Karnes, 200 Marcy Street, was sworn. Using the video, Mr. Karnes demonstrated that the existing house isn't highly visible from Mansion Ridge, Governor Dempsey or Bishop's Lodge Road, but you might be able to momentarily see the proposed extension of the house going south on Mansion Ridge. He noted that most of the house occupies the same footprint as the existing house, and the proposed house would

extend further to the east. Mr. Karnes said the bottom line is that the existing house isn't highly visible from Governor Dempsey, Mansion Ridge or Bishop's Lodge Road, and what the video is intended to illustrate.

Mr. Sommer said the case has come down to one simple question. The variance, having being granted, is the condition of existing footprint versus what is now proposed something which this Council believes could be overturned under these circumstances, and impose this limitation on this property as we have proposed it. This case is really about 500 additional sq. ft., a portal and a garage, in addition to what is already there.

The Public Hearing was closed

Councilor Bushee asked if the area to right, where the story poles are, is a new part of the footprint which is more visible.

Mr. Sommer said that portion of the footprint is the master bedroom, and demonstrated the site on the drawings, and said this is the only portion of the property from any viewpoint which is really visible, and it is the top 5 feet of the structure.

Responding to Councilor Bushee, Mr. Sommer said the house was built in 1981.

Councilor Bushee asked if the Planning Commission was concerned that the house had stretched in its footprint, and a portion was more visible.

Wendy Blackwell said she doesn't remember that aspect being of concern. The Planning Commission was concerned that it is much larger than the current house, but there was no comment about orientation or "change the shape so that it fits in this box."

Councilor Bushee asked, under the escarpment ordinance, wouldn't the primary concern be the visual impact.

Ms. Blackwell said one of the primary intents of the escarpment ordinance is to limit the visual impact of development. However, since staff was unable to compare two sites within the escarpment overlay district, we were looking at the proposed site which is in the ridgetop subdistrict, and the other buildable site which is outside of the escarpment. She said even if it isn't mapped as foothills, it actually is more visible to the public.

Ms. Blackwell said staff didn't conduct a visual impact analysis because the administrative procedures adopted by this Council require that we compare the same design in two different locations, and the second location is outside of the escarpment overlay district.

Councilor Bushee said the 2,000 sq. ft. of new roof area really doesn't bother her as much as if we create a new visual impact where there was none. It seems that is limited. She is concerned about adding visual impact where there was none. Councilor Bushee asked if the owner will do some screening.

Mr. Sommer said they will do screening, noting the escarpment ordinance has a strict screening requirement related to facades. He believes it is necessary to screen 50% of each facade and there is a spacing limit for the trees, and it is necessary to do a landscaping plan.

Ms. Blackwell it is the height from the highest parapet to the grade, and as you look at each facade of the structure, you have to cover 50% of the height with the approved trees, generally to be spaced every 15 ft. around the perimeter.

Mr. Sommer said they would do the additional screening in this area if staff feels it is appropriate, because they have the same concerns. They don't want to be the "king of the hill," nor create that impression.

Councilor Bushee asked, since the footprint has grown so much, if there are plans to do any water harvesting or reuse, rooftop catchment, and could you do that.

Mr. Sommer said the answer is yes, but staff would need to be specific.

Councilor Bushee said she isn't asking for this as a condition.

Mr. Sommer said they are interested, but he wants them to know what that means in Santa Fe. It isn't a pond where water gathers and then dissipates, it is using it in an active way, and they are indicating yes.

Ms. Massey said currently she has rain barrels.

Councilor Bushee said with the additional trees, it might be wise to consider a fair amount of rooftop catchment.

Responding to Councilor Dominguez, Mr. Sommer said "that" line is the ridgetop district, and outside of that you can go to 24 ft., this is actually 14 feet, and inside is the ridgetop. It is the same line that is shown "right there."

Councilor Dominguez asked the percentage in the ridgetop district.

Mr. Sommer said he would guess it is probably 93-97%. The alternative is to move it all out "over here."

Councilor Calvert said the Masseys mentioned that they would be willing to do the water harvesting with cisterns. They also said they are willing to remove the existing swimming pool. He asked if the new house would require them to do that by virtue of its location, or would it allow the existing swimming pool to remain.

Mr. Sommer said it could remain its current location, demonstrating the pool area on the drawings.

Additional condition of approval: Responding to Councilor Calvert, Mr. Sommer said they would accept removing the swimming pool as a condition of approval. Councilor Calvert

asked, as a condition of approval, the use as a swimming pool be removed, commenting that it could be used for water harvesting. **The condition was acceptable to the applicant.**

Councilor Calvert said it says the rooftop units on the existing house which exceeds 14 ft. in height will be removed, and the new house will not have rooftop equipment. He noted in a previous paragraph, they said the design provides for passive solar heating and accommodates active solar features, including hot water heating.

Mr. Sommer said there will be no solar panels on the roof, and the passive refers to the orientation of the house and the glazing on the south side of the house.

Ms. Massey said this is correct.

Harry Perez was sworn. Mr. Perez said, in terms of any mechanical equipment, there would be high efficient boilers in the mechanical room which is within the garage area. He said they would not do any equipment on the roof.

Councilor Calvert asked what accommodates "active solar features."

Mr. Perez said they have not gotten to that level of design development to be able to answer this question specifically.

Mr. Sommer said that was in the original materials and it is in error, and he is unsure where this reference came from.

Councilor Calvert said he will be introducing an amendment to the escarpment overlay district ordinance, because there is a conflict between the screening procedures in the escarpment and the fire prevention guidelines in that area as well.

Additional condition of approval. Councilor Calvert recommended as a condition of approval that the City allow the Masseys to follow the new guidelines which were developed with staff and the Fire Department, so he has screening, but things aren't so close to the house that they become a hazard. **The condition was acceptable to the applicant.**

Mr. Sommer said as a legal matter, the screening requirement is what we do at the end, and this house will take some time to build, so if they can comply with it at the end, he doesn't think there will be a legal issue.

Ms. Blackwell said, with regard to the landscape screening requirement, Section 5.6(G), staff doesn't ask for compliance until they come in for a building permit, and they are required to have a landscape plan. At that time, if the modifications have been adopted by Council, then those are the rules by which they will have to abide – the date of building permit. If not, they can always add more trees, they just have to meet the minimum of the current requirement. Or, they could put them at a distance, based on Fire Department recommendations. Ms. Blackwell said staff would have the discretion to do that modification.

Councilor Bushee moved, seconded by Councilor Calvert, to uphold the appeal with the findings of fact and conclusions of law which were put together by staff, without the recommendation of the Planning Committee on the footprint, and with the additional conditions of approval as agreed to by the Appellants.

Discussion: Councilor Heldmeyer said the Planning Commission looked at this case very carefully, and in terms of their reading, limiting the size of the house to the size of the house which was already there was what would allow something to be built in the ridgetop district because it is a pre-1992 lot, and it also would protect the view shed on the ridge line. She said the whole concept is that we don't want people building on a ridgetop. She said over time, staff had interpreted the previous law as giving staff a great deal more discretion than the original authors of the original bill felt staff should have. She said there were a number of public meetings where people looked at how this law should be drafted, and she believes almost everyone agreed with the bill. However, it isn't just visual, it is that we don't want building on the ridgetop, but we will make exceptions for people who have pre-1992 lots, but they can't just build anything. They have to follow the dictates of what was done pre-1992 as well.

Councilor Heldmeyer reiterated that the Planning Commission put a lot of work in this case, and she agrees with the Planning Commission position.

The motion was approved on the following Roll Call Vote:

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

Against: Councilor Heldmeyer.

Absent: Councilor Ortiz.

14. MATTERS FROM THE CITY MANAGER

There were no matters from the City Manager

18. MATTERS FROM THE CITY CLERK

There were no matters from the City Clerk.

19. COMMUNICATIONS FROM THE GOVERNING BODY.

Councilor Chavez

Councilor Chavez congratulated Micklo's Coffee Shop which opened today in the Plaza Contenta commercial development. This will be run by a husband and wife, and it is the first business in the new development.

Councilor Chavez said he and Councilor Bushee contributed \$10 each toward the purchase of a fruit basket to be delivered to former Councilor Frank Montañó, and asked that the rest of the Governing Body contribute to this as well.

Councilor Chavez introduced a Resolution establishing an application fee for the artists and artisans who apply for a license under the Santa Fe Plaza Vendor Ordinance. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "6". He asked that it go to the Finance Committee and then back to the full Council.

Councilor Heldmeyer

Councilor Heldmeyer had no communications.

Councilor Calvert

Councilor Calvert introduced an ordinance amendment to the Escarpment Overlay District Ordinance, to resolve some of the conflict between the screening and fire prevention guidelines. He said staff has additional changes which they believe will make it work better and add to the interpretation, but they will speak to those. A copy of the ordinance is incorporated herewith to these minutes as Exhibit "7". He asked that it go to the Planning Commission first and then to Public Works.

Councilor Bushee

Councilor Bushee introduced a Resolution from BTAC directing staff to seek funding from the New Mexico Department of Transportation to assist the City in constructing an underground crossing for the Arroyo Chamiso Trail at St. Francis Drive. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "8."

Councilor Bushee would like to initiate two additional policies, and she will provide the information to Mr. Buller, with regard to the Northwest Quadrant.

Councilor Bushee said Santa Barbara, California, has adopted an ordinance to initiate the 20/30 program, rather than passing a Resolution. She would like to, if it is feasible, to develop a similar ordinance with the State, and get that through the process to the Green Building Committee, the Planning Commission and various City Committees.

Councilor Trujillo

Councilor Trujillo introduced a Resolution for Councilor Ortiz, calling for a special election to approve the issuance of a General Obligation Recreational Purpose Bond. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "9." He asked that it go straight to the Council at the next meeting.

Councilors Bushee and Trujillo and Mayor Coss asked to cosponsor this Resolution.

Councilor Dominguez

Councilor Dominguez said he will be introducing two resolutions at tomorrow's meeting. One which would direct staff to begin the process of implementing into our process, a way for developers to address and potentially mitigate some of the impacts their projects might have on the School District. The second is to find out if there is a way that we can move beyond just talking about getting cops in our schools, and to direct staff to move in that direction.

Mayor Coss said Congress appropriated funds for the first time in many years for the Cops Program, which is what we formerly used to keep police officers at the schools, so the timing may be good on that if the President doesn't veto the budget.

Mayor Coss

Mayor Coss introduced a Resolution calling for the Regular March 2008 Election and the ballot questions on the Charter Amendments. A copy of the resolution is incorporated herewith to these minutes as Exhibit "10."

Mayor Coss said he also distributed another policy change on waiving fees which Councilor Chavez wants to cosponsor with him. He asked that it go to Public Works and Finance Committees.

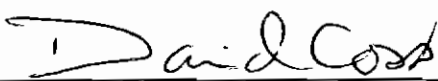
Mayor Coss reminded the Councilors of the meeting tomorrow with the School Board at 4:30 p.m. here in the Chambers.

He said there will be a great Veterans Day Parade on November 11, 2007, at 9:00 a.m., beginning at the Scottish Rite Temple. He hopes a lot of Santa Feans come out to honor the veterans.

H. ADJOURN

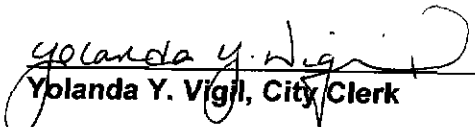
There being no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 11:48 p.m.

Approved by:

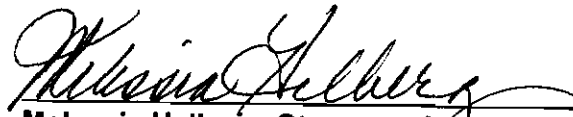


Mayor David Coss

ATTESTED TO:


Yolanda Y. Vigil, City Clerk

Respectfully submitted:


Melessia Helberg, Stenographer