



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
SEPTEMBER 24, 2012
CITY COUNCIL CHAMBERS

AFTERNOON SESSION – 5:00 P.M.

CITY CLERK'S OFFICE

DATE 9-21-12 TIME 3:50

SERVED BY [Signature]

RECEIVED BY [Signature]

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. SALUTE TO THE NEW MEXICO FLAG
4. INVOCATION
5. ROLL CALL
6. APPROVAL OF AGENDA
7. APPROVAL OF CONSENT CALENDAR
8. APPROVAL OF MINUTES: Reg. City Council Meeting – September 12, 2012
Joint City Council/County Commission Meeting – August 15, 2012
9. PRESENTATIONS
 - a) Proclamation – Sisters of Loretto Day in Santa Fe – September 26, 2012. (5 minutes)
 - b) Proclamation – October 1, 2012 – Domestic Violence Awareness Month in Santa Fe. (Peggy Luplow, Esperanza Shelter for Battered Families, Inc.) (5 minutes)
 - c) Muchas Gracias – Mara D. Lujan and Lorenzo Sandoval – Domestic Violence Offender Compliance Program. (5 minutes)
 - d) Muchas Gracias – Century Banks 125th Birthday – August 27, 2012 (Councilor Wurzburger) (5 minutes)
 - e) Proclamation – Institute of American Indian Art's (IAIA) 50th Anniversary – October 13, 2012. (5 minutes)
10. CONSENT CALENDAR
 - a) Request for Approval of Professional Services Agreement – Forensic Audit of Parking Division; Atkinson & Co. LTD. (Dr. Melville Morgan)



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- b) Request for Approval of Procurement Under Federal Price Agreement – One (1) Digger Derrick Aerial Crane for Traffic Signal Shop; Altec Industries, Inc. (John Romero)
- c) Request for Approval of Amendment No. 2 to Professional Services Agreement – Bus Shelters for Santa Fe Trails Bus System; Autotroph, Inc. (Mary MacDonald)
- d) Request for Approval of Amendment No. 1 to Professional Services Agreement and Grant Award – Construct, Renovate, Furnish and Equip a City-Owned Multipurpose Center Including Commercial Kitchen and Outdoor Patio for Homeless Shelter; Interfaith Community Shelter Group. (Chip Lilienthal)
 - 1) Request for Approval of Budget Increase – Grant Fund.
- e) Request for Approval of Amendment No. 3 to Professional Services Agreement – Construction Services at Santa Fe Depot and Railyard Development; Santa Fe Railyard Community Corporation. (Robert Siqueiros)
 - 1) Request for Approval of Budget Increase – Project Fund.
- f) Request for Approval of Grant Application and Agreement – Consumable Items and Materials to Maintain the Santa Fe Municipal Airport; New Mexico Department of Transportation Aviation Division. (Jim Montman)
- g) Request for Approval of Five (5) 2012 Severance Tax Bond Capital Appropriation Project Agreements; State of New Mexico Department of Finance and Administration. (David Chapman)
 - 1) Request for Approval of Budget Increase – Grant Fund.
- h) Request for Approval of Professional Services Agreement – Repair and Maintenance Services for HVAC Units at Santa Fe Community Convention Center; Yearout Service, LLC. (James Luttjohann)
 - 1) Request for Approval of Budget Adjustment – Convention Center Fund.



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- i) Request for Approval of Change Order No. 1 to Agreement Between Owner and Contractor – FY 2011/2012 Sanitary Sewer Line Rehabilitation Project for Wastewater Management Division; Samcon, Inc. (Stan Holland)
 - 1) Request for Approval of Budget Increase – Project Fund.
- j) Request for Approval of Amendment No. 1 to Capital Improvement Program Agreement Between Owner and Contractor – FY 2012/2013 Wastewater Division Publicly Owned Treatment Works Repair, Replacement and Extension Contract; TLC, Inc. d/b/a TLC Plumbing and Utility. (Stan Holland)
- k) Request for Approval of Procurement – Structural Firefighting Personnel Protective Clothing for Cadet Academy Class for Fire Department; L.N. Curtis and Sons. (Assistant Fire Chief Jan Snyder)
- l) Request for Approval of Procurement Under State and Federal Price Agreements – City-Wide Equipment, Services and Support on Behalf of ITT Division; Various Vendors. (Thomas Williams)
- m) Request for Approval of Professional Services Agreement – Energy Partnership Loan Program for Housing and Economic Development Department; Homewise. (Nick Schiavo)
- n) Request to Publish Notice of Public Hearing on Tuesday, October 30, 2012:
 - 1) BILL NO. 2012-30: An Ordinance Relating to the Land Development Code, Chapter 14 SFCC 1987 and Article 18-5.1 SFCC 1987 Regarding Distress Merchandise Sales Signs and Licenses; Amending Section 14-8.10(B)(8) SFCC 1987 Regarding Violations of Sign Regulations to Include Distress Merchandise Sale Signs in the H Districts; Creating a New Section 14-8.10(H)(28)(f) SFCC 1987 Regarding the Regulation of Distress Merchandise Sale Signs in the H Districts; Amending Section 18-5.1 SFCC 1987 Regarding the Grounds for Denial of a Distress Merchandise Sale License and the Revocation of a Distress Merchandise Sale License; and Making Such Other Stylistic and Grammatical Changes as Are Necessary. (Councilor Calvert and Councilor Bushee) (Matthew O'Reilly)



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- 2) BILL NO. 2012-31: An Ordinance Relating to the Establishment of the City of Santa Fe Internal Audit Department; Creating a New Article 2-22 SFCC 1987. (Mayor Coss, Councilor Wurzbarger and Councilor Bushee) (Dr. Melville Morgan and Judith Amer)
- 3) BILL NO. 2012-32: An Ordinance Relating to the Land Development Code, Chapter 14 SFCC 1987 Regarding Legal Nonconforming Uses; Amending Section 14-10.2(C) to Increase the Period of Time Before a Legal Nonconforming Use May Not Be Resumed and Providing That Uses of Governmental Property May Be Resumed at Any Time Under Certain Conditions; and Making Such Other Stylistic or Grammatical Changes That Are Necessary. (Councilor Dominguez and Mayor Coss) (Matthew O'Reilly)
11. MATTERS FROM THE CITY MANAGER
12. MATTERS FROM THE CITY ATTORNEY
13. MATTERS FROM THE CITY CLERK
14. COMMUNICATIONS FROM THE GOVERNING BODY

EVENING SESSION – 7:00 P.M.

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE
- C. SALUTE TO THE NEW MEXICO FLAG
- D. INVOCATION
- E. ROLL CALL
- F. PETITIONS FROM THE FLOOR
- G. APPOINTMENTS
 - Transit Advisory Board
 - Sustainable Santa Fe Commission
 - Santa Fe Regional Juvenile Justice Board
 - Law Enforcement Assisted Diversion Task Force ("LEAD")



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REGULAR MEETING OF
THE GOVERNING BODY
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H. PUBLIC HEARINGS:

- 1) Request from Apple New Mexico, LLC for a Transfer of Ownership of Dispenser License #2743 from AmRest, LLC, to Apple New Mexico, LLC. This License Will Remain at Applebee's Neighborhood Grill & Bar #2, 4246 Cerrillos Road. (Yolanda Y. Vigil)
- 2) Request from Vino Del Corazon Wine Room, LLC for a Change of Floor Plan / Expansion of Liquor License Premise for Master Winegrower Liquor License #6149 (Expansion of More Than 25% of the Current Licensed Premise). The Expansion is for Vino del Corazon Wine Room, 235 Don Gaspar, Suite 6. (Yolanda Y. Vigil)
- 3) Request from Christus St. Vincent Regional Medical Center for a Waiver of the 300 Foot Location Restriction to Allow the Dispensing and Consumption of Beer and Wine at Christus St. Vincent Cancer Center, 490A W. Zia Road, Which is Within 300 Feet of Capshaw Middle School, 351 W. Zia Road. The Request is for a Chamber of Commerce "Business After Hours" Event to be Held from 5:00 p.m. to 8:00 p.m. on Thursday, September 27, 2012. (Yolanda Y. Vigil)
- 4) CONSIDERATION OF BILL NO. 2012-28: ADOPTION OF ORDINANCE NO. 2012-____. (Councilor Trujillo, Councilor Bushee, Councilor Dimas and Councilor Rivera)
An Ordinance Related to Panhandling on Public Property; Amending Section 20-2.2 SFCC 1987 to Amend the Definition of Panhandling to Include Non-Vocal Solicitations; and Amending Section 20-2.3 SFCC 1987 to Amend the Regulations for Panhandling on Public Property. (Alfred Walker)
- 5) CONSIDERATION OF BILL NO. 2012-29: ADOPTION OF ORDINANCE NO. 2012-____. (Mayor Coss)
An Ordinance Relating to Telecommunications Facilities Authorized in the Public Rights-of-Way, Article 27-2 SFCC 1987; Amending Section 27-2.3 SFCC 1987 to Amend the Definitions of *Applicant*, *Gross Revenue*, *Provider* and *Telecommunications Services*; Amending Section 27-2.5 SFCC 1987 to Include that the Telecommunications Facilities in the Public Rights of Way Ordinance Applies to Providers with Telecommunications Networks in the Public Right-of-Way that Do Not Provide Services Within the City Limits; Amending Section 27-2.13 SFCC 1987 to Correct a Citation; and Making Such Other Stylistic or Grammatical Changes that are Necessary. (Kelley Brennan)



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THE GOVERNING BODY
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- 6) CONSIDERATION OF RESOLUTION NO. 2012-____. (Councilor Ives and Councilor Wurzburger)
A Resolution Directing City Traffic Engineering Staff to Implement, on a One-Year Trial Basis, One-Way Traffic on Canyon Road Eastbound from Paseo de Peralta to Delgado Street. (John Romero) (Postponed at July 11, 2012 City Council Meeting) **(Referred to Public Works Committee)**
- 7) Request from Vivac Winery, L.P. for a Winegrower Off-Site License (On-Premise Consumption and Package Sales) to be Located at Vivac Winery, 1607 Paseo de Peralta, Suite A. (Yolanda Y. Vigil) (Postponed at September 12, 2012 City Council Meeting) **(Postponed to October 10, 2012 City Council Meeting)**

I. ADJOURN

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

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

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

**SUMMARY INDEX
SANTA FE CITY COUNCIL MEETING
September 24, 2012**

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| <u>AFTERNOON SESSION</u> | | |
| CALL TO ORDER AND ROLL CALL | Quorum | 1 |
| APPROVAL OF AGENDA | Approved | 1 |
| APPROVAL OF CONSENT CALENDAR | Approved [amended] | 2 |
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| <u>APPROVAL OF MINUTES:</u> | | |
| REGULAR CITY COUNCIL MEETING – SEPTEMBER 12, 2012 | Approved | 4 |
| JOINT CITY COUNCIL/COUNTY COMMISSION MEETING – AUGUST 15, 2012 | Approved | 4 |
| <u>PRESENTATIONS</u> | | |
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| MUCHAS GRACIAS – CENTURY BANK 125 TH BIRTHDAY – AUGUST 27, 2012 | | 5-6 |
| PROCLAMATION – INSTITUTE OF AMERICAN INDIAN ARTS (IAIA) 50 TH ANNIVERSARY – OCTOBER , 2012 | | 6 |
| <u>CONSENT CALENDAR DISCUSSION</u> | | |
| REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – FORENSIC AUDIT OF PARKING DIVISION; ATKINSON & CO., LTD. | Referred to staff | 6-7 |

| <u>ITEM</u> | <u>ACTION</u> | <u>PAGE #</u> |
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| REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT AND GRANT AWARD – CONSTRUCT, RENOVATE, FURNISH AND EQUIP A CITY-OWNED MULTIPURPOSE CENTER, INCLUDING COMMERCIAL KITCHEN AND OUTDOOR PATIO FOR HOMELESS SHELTER; INTERFAITH COMMUNITY SHELTER GROUP | Approved | 7-8 |
| REQUEST FOR APPROVAL OF BUDGET INCREASE – PROJECT FUND | Approved | 7-8 |
| REQUEST FOR APPROVAL OF AMENDMENT NO. 3 TO PROFESSIONAL SERVICES AGREEMENT – CONSTRUCTION SERVICES AT SANTA FE DEPOT AND RAILYARD DEVELOPMENT; SANTA FE RAILYARD COMMUNITY CORPORATION | Approved | 8 |
| REQUEST FOR APPROVAL OF BUDGET INCREASE – PROJECT FUND | Approved | 8 |
| ***** END OF CONSENT CALENDAR DISCUSSION ***** | | |
| MATTERS FROM THE CITY MANAGER | None | 8 |
| MATTERS FROM THE CITY ATTORNEY | None | 8 |
| MATTERS FROM THE CITY CLERK | None | 8 |
| COMMUNICATIONS FROM THE GOVERNING BODY | Information/discussion | 8-13 |
| <u>EVENING SESSION</u> | | |
| CALL TO ORDER AND ROLL CALL | Quorum | 14 |
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| <u>APPOINTMENTS</u> | | |
| Transit Advisory Board | Approved | 17 |
| Sustainable Santa Fe Commission | Approved | 18 |
| Santa Fe Regional Juvenile Justice Board | Approved | 18 |
| Law Enforcement Assisted Diversion Task Force ("LEAD") | Approved | 18-19 |

ITEM**ACTION****PAGE #****PUBLIC HEARINGS**

REQUEST FROM APPLE NEW MEXICO, LLC, FOR A TRANSFER OF OWNERSHIP OF DISPENSER LICENSE #2743 FROM AMREST, LLC, TO APPLE NEW MEXICO, LLC. THIS LICENSE WILL REMAIN AT APPLEBEE'S NEIGHBORHOOD GRILL & BAR #2, 4246 CERRILLOS ROAD

Approved

19-20

REQUEST FROM VINO DEL CORAZON WINE ROOM, LLC, FOR A CHANGE OF FLOOR PLAN/EXPANSION OF LIQUOR LICENSE PREMISE FOR MASTER WINEGROWER LIQUOR LICENSE #6149 (EXPANSION OF MORE THAN 25% OF THE CURRENT LICENSED PREMISE). THE EXPANSION IS FOR VINO DEL CORAZON WINE ROOM, 235 DON GASPAR, SUITE 6

Approved w/additional conditions 20-21

REQUEST FROM CHRISTUS ST. VINCENT REGIONAL MEDICAL CENTER FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION TO ALLOW THE DISPENSING AND CONSUMPTION OF BEER AND WINE AT CHRISTUS ST. VINCENT CANCER CENTER, 490A WEST ZIA ROAD, WHICH IS WITHIN 300 FEET OF CAPSHAW MIDDLE SCHOOL, 351 W. ZIA ROAD. THE REQUEST IS FOR A CHAMBER OF COMMERCE "BUSINESS AFTER HOURS" EVENT TO BE HELD FROM 5:00 P.M. TO 8:00 P.M. ON THURSDAY, SEPTEMBER 27, 2012

Withdrawn by Applicant

21

CONSIDERATION OF BILL NO. 2012-28: ADOPTION OF ORDINANCE NO. 2012-29. AN ORDINANCE RELATED TO PANHANDLING ON PUBLIC PROPERTY; AMENDING SECTION 20-2.2 SFCC 1987, TO AMEND THE DEFINITION OF PANHANDLING TO INCLUDE NON-VOCAL SOLICITATIONS; AND AMENDING SECTION 20-2.3 SFCC 1987, TO AMEND THE REGULATIONS FOR PANHANDLING ON PUBLIC PROPERTY

Approved [amended]

21-23

| <u>ITEM</u> | <u>ACTION</u> | <u>PAGE #</u> |
|--|---|----------------------|
| <p>CONSIDERATION OF BILL NO. 2012-29: ADOPTION OF ORDINANCE NO. 2012-30. AN ORDINANCE RELATING TO TELECOMMUNICATIONS FACILITIES AUTHORIZED IN THE PUBLIC RIGHTS- OF-WAY, ARTICLE 27-2 SFCC 1987; AMENDING SECTION 27-2.3 SFCC 1987, TO AMEND THE DEFINITIONS OF <i>APPLICANT</i>, <i>GROSS REVENUE</i>, <i>PROVIDER AND TELECOMMUNICATIONS SERVICES</i>; AMENDING SECTION 27-2.5 SFCC 1987, TO INCLUDE THAT THE TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY ORDINANCE APPLIES TO PROVIDERS WITH TELECOMMUNICATIONS NETWORKS IN THE PUBLIC RIGHT-OF-WAY THAT DO NOT PROVIDE SERVICES WITHIN THE CITY LIMITS; AMENDING SECTION 27-2.13 SFCC 1987 TO CORRECT A CITATION; AND MAKING SUCH OTHER STYLISTIC OR GRAMMATICAL CHANGES THAT ARE NECESSARY</p> | Approved | 23-24 |
| <p>CONSIDERATION OF RESOLUTION NO. 2012- ____ . A RESOLUTION DIRECTING CITY TRAFFIC ENGINEERING STAFF TO IMPLEMENT, ON A ONE- YEAR TRIAL BASIS, ONE-WAY TRAFFIC ON CANYON ROAD EASTBOUND FROM PASEO DE PERALTA TO DELGADO STREET</p> | Referred to the Public Works Committee | 25 |
| <p>REQUEST FROM VIVAC WINERY, L.P., FOR A WINEGROWER OFF-SITE LICENSE (ON PREMISE CONSUMPTION AND PACKAGE SALES), TO BE LOCATED AT VIVAC WINERY, 1607 PASEO DE PERALTA, SUITE A</p> | Postponed to 10/10/2012 | 25 |
| ADJOURN | | 25 |

**MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
September 24, 2012**

AFTERNOON SESSION

1. CALL TO ORDER

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor David Coss, on Wednesday, September 24, 2012, at approximately 5:00 p.m., in the City Hall Council Chambers. Following the Pledge of Allegiance, Salute to the New Mexico flag, and the Invocation, roll call indicated the presence of a quorum, as follows:

Members Present

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

Others Attending

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

6. APPROVAL OF AGENDA

MOTION: Councilor Bushee moved, seconded by Councilor Dominguez, to approve the agenda as presented.

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

7. APPROVAL OF CONSENT CALENDAR

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

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

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

Against: None.

- a) *[Removed for discussion by Councilor Dimas]*
- b) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER FEDERAL PRICE AGREEMENT – ONE (1) DIGGER DERRICK AERIAL CRANE FOR TRAFFIC SIGNAL SHOP; ALTEC INDUSTRIES, INC. (JOHN ROMERO)**
- c) **REQUEST FOR APPROVAL OF AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT – BUS SHELTERS FOR SANTA FE TRAILS BUS SYSTEM; AUTOTROPH, INC. (MARY MacDONALD)**
- d) *[Removed for discussion by Councilor Trujillo]*
- e) *[Removed for discussion by Councilor Ives]*
- f) **REQUEST FOR APPROVAL OF GRANT APPLICATION AND AGREEMENT – CONSUMABLE ITEMS AND MATERIALS TO MAINTAIN THE SANTA FE MUNICIPAL AIRPORT; NEW MEXICO DEPARTMENT OF TRANSPORTATION AVIATION DIVISION. (JIM MONTMAN)**
- g) **REQUEST FOR APPROVAL OF FIVE (5) 2012 SEVERANCE TAX BOND CAPITAL APPROPRIATION PROJECT AGREEMENTS; STATE OF NEW MEXICO, DEPARTMENT OF FINANCE AND ADMINISTRATION. (DAVID CHAPMAN)**
 - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND**
- h) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – REPAIR AND MAINTENANCE SERVICES FOR HVAC UNITS AT SANTA FE COMMUNITY CONVENTION CENTER; YEAROUT SERVICE, LLC. (JAMES LUTTJOHANN)**
 - 1) **REQUEST FOR APPROVAL OF BUDGET ADJUSTMENT – CONVENTION CENTER FUND.**

- i) **REQUEST FOR APPROVAL OF CHANGE ORDER NO. 1 TO AGREEMENT BETWEEN OWNER AND CONTRACTOR – FY 2011/2012 SANITARY SEWER LINE REHABILITATION PROJECT FOR WASTEWATER MANAGEMENT DIVISION; SAMCON, INC. (STAN HOLLAND)**
 - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – PROJECT FUND.**
- j) **REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO CAPITAL IMPROVEMENT PROGRAM AGREEMENT BETWEEN OWNER AND CONTRACTOR – FY 2012/2013 WASTEWATER DIVISION PUBLICLY OWNED TREATMENT WORKS REPAIR, REPLACEMENT AND EXTENSION CONTRACT; TLC, INC. D/B/A LC PLUMBING AND UTILITY. (STAN HOLLAND)**
- k) **REQUEST FOR APPROVAL OF PROCUREMENT – STRUCTURAL FIREFIGHTING PERSONNEL PROTECTIVE CLOTHING FOR CADET ACADEMY CLASS FOR FIRE DEPARTMENT; L.N. CURTIS AND SONS. (ASSISTANT FIRE CHIEF JAN SNYDER)**
- l) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE AND FEDERAL PRICE AGREEMENTS – CITY-WIDE EQUIPMENT, SERVICES AND SUPPORT ON BEHALF OF ITT DIVISION; VARIOUS VENDORS. (THOMAS WILLIAMS)**
- m) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – ENERGY PARTNERSHIP LOAN PROGRAM FOR HOUSING AND ECONOMIC DEVELOPMENT DEPARTMENT; HOMEWISE. (NICK SCHIAVO)**
- n) **REQUEST TO PUBLISH NOTICE OF PUBLIC HEARING ON TUESDAY, OCTOBER 30, 2012:**
 - 1) **BILL NO. 2012-30: AN ORDINANCE RELATING TO THE LAND DEVELOPMENT CODE, CHAPTER 14 SFCC 1987, AND ARTICLE 18-5.1 SFCC 198. REGARDING DISTRESS MERCHANDISE SALES SIGNS AND LICENSES; AMENDING SECTION 14-8.10(B)(8) SFCC 1987, REGARDING VIOLATIONS OF SIGN REGULATIONS TO INCLUDE DISTRESS MERCHANDISE SALE SIGNS IN THE H DISTRICTS; CREATING A NEW SECTION 14-8.10(H)(28)(f) SFCC 1987, REGARDING THE REGULATION OF DISTRESS MERCHANDISE SALE SIGNS IN THE H-DISTRICTS; AMENDING SECTION 18-5.1 SFCC 1987, REGARDING THE GROUNDS FOR DENIAL OF A DISTRESS MERCHANDISE SALE LICENSE AND THE REVOCATION OF A DISTRESS MERCHANDISE SALE LICENSE; AND MAKING SUCH OTHER SUCH STYLISTIC AND GRAMMATICAL CHANGES AS ARE NECESSARY. (COUNCILOR CALVERT AND COUNCILOR BUSHEE). (MATTHEW O'REILLY**

- 2) **BILL NO. 2012-31: AN ORDINANCE RELATING TO THE ESTABLISHMENT OF THE CITY OF SANTA FE INTERNAL AUDIT DEPARTMENT; CREATING A NEW ARTICLE 2-22 SFCC 1987 (MAYOR COSS, COUNCILOR WURZBURGER AND COUNCILOR BUSHEE). (DR. MELVILLE MORGAN AND JUDITH AMER)**
- 3) **BILL NO. 2012-32: AN ORDINANCE RELATING TO THE LAND DEVELOPMENT CODE, CHAPTER 14 SFCC 1987, REGARDING LEGAL NONCONFORMING USES; AMENDING SECTION 14-10.2(C) TO INCREASE THE PERIOD OF TIME BEFORE A LEGAL NONCONFORMING USE MAY NOT BE RESUMED AND PROVIDING THAT USES OF GOVERNMENTAL PROPERTY MAY BE RESUMED AT ANY TIME UNDER CERTAIN CONDITIONS; AND MAKING SUCH OTHER STYLISTIC OR GRAMMATICAL CHANGES THAT ARE NECESSARY (COUNCILOR DOMINGUEZ AND MAYOR COSS). (MATTHEW O'REILLY)**

8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – SEPTEMBER 12, 2012 AND JOINT CITY COUNCIL/COUNTY COMMISSION MEETING – AUGUST 15, 2012

MOTION: Councilor Bushee moved, seconded by Councilor Calvert, to approve the minutes of the Regular City Council meeting of September 12, 2012, as presented.

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

MOTION: Councilor Wurzbürger moved, seconded by Councilor Trujillo, to approve the minutes of the Joint City Council/County Commission meeting of August 15, 2012, as presented.

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

Councilor Dominguez asked the next meeting is scheduled with the County Commission.

Mayor Coss said Mr. Romero is working with the County Manager to find a date in October.

Councilor Bushee asked that the meeting not be scheduled on the same day as the BTAC.

9. PRESENTATIONS

a) PROCLAMATION - SISTERS OF LORETTO DAY IN SANTA FE

Mayor Coss read a proclamation into the record declaring September 26, 2012, as Sisters of Loretto Day in Santa Fe.

The Proclamation was accepted by Mara Taub on behalf of the Loretto community. Ms. Taub said the activities for the day will include a Mass at 10:00 a.m., to celebrate the 200 years since the founding of the Order, and the 160 years of service in Santa Fe..

b) PROCLAMATION – OCTOBER , 2012 – DOMESTIC VIOLENCE AWARENESS MONTH IN SANTA FE. (PEGGY LUPLOW, ESPERANZA SHELTER FOR BATTERED FAMILIES, INC.

Mayor Coss read a proclamation into the record, declaring October 2012 as Domestic Violence Awareness Month in Santa Fe and presented the Proclamation to Peggy Luplow, Esperanza Shelter for battered families.

Ms. Luplow thanked the Governing Body for this honor and for its recognition that this is something which need to be addressed, and reminded people to take a purple ribbon from the back of the room and to put it on their door and/or on their mailbox to show support for this effort.

c) MUCHAS GRACIAS – MARA D. LUJAN AND LORENZO SANDOVAL – DOMESTIC VIOLENCE OFFENDER COMPLIANCE PROGRAM.

Mayor Coss presented Muchas Gracias Certificates to Mara D. Lujan and Lorenzo Sandoval for their outstanding work in the Domestic Violence Offender Compliance Program.

Ms. Luplow said Ms. Lujan and Mr. Sandoval were hired under a three-year grant from the Office Against Violence Against Women, and they created and staffed a Domestic Violence Offender Compliance Program, with such grace and beauty. She said they got the Court personnel on board, noting the grant wasn't renewed, but they will reapply again next year. She thanked them for their service.

d) MUCHAS GRACIAS – CENTURY BANK 125TH BIRTHDAY – AUGUST 27, 2012 (COUNCILOR WURZBURGER)

Councilor Wurzbarger, accompanied by Mayor Coss and Councilor Rivera who is a member of the Business and Quality of Life Committee, presented a Muchas Gracias to Century Bank on the occasion of its 125th Birthday in Santa Fe.

Jeff Szabat accepted the Muchas Gracias Certificate on behalf of Century Bank, commenting that Century Bank is happy to be part of this community and still be a local bank. He thanked the Governing Body for its support and for this recognition.

e) PROCLAMATION – INSTITUTE OF AMERICAN INDIAN ARTS (IAIA) 50TH ANNIVERSARY – OCTOBER , 2012.

Mayor Coss read a proclamation into the record declaring October 13, 2012, as IAIA Museum of Contemporary Native Arts day in Santa Fe.

Dr. Robert Martin (Cherokee Nation), President, IAIA, accepted the Proclamation on behalf of the IAIA, expressing appreciation for this honor. He invited the Governing Body to join them for a celebration on the campus which will be a combination of symposium and open house. He said there will be a keynote address, panel discussions in all of their program areas, talking about the ways in which IAIA has contributed their art and the field of contemporary Native art, along with demonstrations by the faculty, staff and students. He said the Contemporary Native Art Collection will be available and accessible to the public. He said there will be a lunch, noting they will finish the day with a Birthday toast to the Institute of American Indian Arts and Tony Abeita, their award-winning alumnus will be doing that toast.

CONSENT CALENDAR DISCUSSION

10 (a) REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – FORENSIC AUDIT OF PARKING DIVISION; ATKINSON & CO., LTD. (DR. MELVILLE MORGAN)

Councilor Dimas noted this was covered at the Finance Committee, but he has more questions. He said as he was going through the contract and reading the letter from Atkinson, it listed the periods to be tested as 2010-2011-2012. He said he has a problem with that, because the meat of the problems that started happening regarding the Parking Divisions about thefts and such, started in 2005. He believes that investigation should include 2005 through 2012.

Mayor Coss ask if that would increase the cost.

Dr. Morgan said it will, but he doesn't know by how much. He said if we're doubling the scope, and this probably will double the amount.

Councilor Dimas said he thinks it's important to include those years, because it includes the period of time when things actually were starting to happen in that Division, and believes it has to include those years.

Mayor Coss asked if he would like to find out how much it would cost before it is approved by the Council.

Councilor Dimas said yes. He said we already have a contract with Atkinson to do these kinds of audits. He asked the reason we don't do an RFP, commenting there are a number of companies which do those kinds of investigations. He said he was contacted last week by a company that charges \$75 per hour to do this kind of investigation, so we might be able to get it at a better rate through a different company that does exactly the same thing.

Dr. Morgan said, as he explained at the Finance Committee, he thought the Council wanted to do this quickly. He said we have Atkinson under contract which has a forensic auditor on staff. He said he will be happy to do an RFP, but it will take longer.

Councilor Dimas said it would be up to the Governing Body at that point to make that decision.

Councilor Bushee asked how much longer, saying time wasn't the most significant factor for her, but what kind of audit and how it is conducted.

Dr. Morgan said generally an RFP takes about 30 days following the Procurement Manual, and in his experience it could take 30-60 more days.

Councilor Bushee said she would be open to that, and Councilor Dimas said he would as well.

MOTION: Councilor Dimas moved, seconded by Councilor Bushee, to refer this back to staff, with direction to the staff to increase the scope of work by 5 years, and issue an RFP.

DISCUSSION: Councilor Wurzbarger said she isn't opposed to the extension to include the 5 years, but thinks we've had enough public concern about this issue, so she would like, in this case, to have it done sooner, rather than later, so she will be voting no for that reason.

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

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

Against: Councilor Wurzbarger.

**10 (d) REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT AND GRANT AWARD – CONSTRUCT, RENOVATE, FURNISH AND EQUIP A CITY-OWNED MULTIPURPOSE CENTER, INCLUDING COMMERCIAL KITCHEN AND OUTDOOR PATIO FOR HOMELESS SHELTER; INTERFAITH COMMUNITY SHELTER GROUP. (CHIP LILIENTHAL)
REQUEST FOR APPROVAL OF BUDGET INCREASE – PROJECT FUND.**

Councilor Trujillo said he removed this item to disclose that his wife serves on the Board of the Interfaith Shelter Group, so he will be abstaining on this item.

MOTION: Councilor Dominguez moved, seconded by Councilor Dimas, to approve this request.

DISCUSSION: Councilor Wurzbarger said this was approved as an action item by the Finance Committee. She said the amount of the grant is \$111,000, but there also is language on the Action Sheet which says, "...including commercial kitchen and outdoor patio for Homeless Shelter with Interfaith Community Shelter Group in the amount of \$111,000, not to exceed \$385,000." She asked where are the remaining funds coming from, and if it is in the existing budget – the difference between \$111,000 and \$385,000.

Mr. Lilienthal said the \$385,000 is the accumulation of all the money that they have accumulated since 2010. There is \$1 million to purchase the facility with a balance of \$250,000. He said currently there is \$111,000 to spend, minus 1% for the arts, so it's actually \$109,000, and that's all the money available to spend on this renovation.

Councilor Wurzbarger ask the rationale for having the words "not to exceed \$385,000."

Mr. Lilienthal said that rationale came from the City Attorney's Office.

Councilor Wurzbarger reiterated her question to Judith Amer, Assistant City Attorney.

Ms. Amer asked if this is an amendment, and staff said no.

Ms. Amer said, "So that would mean that that would be the total amount paid under the entire contract."

Councilor Wurzbarger said then that is money in the past that has been spent, so this is being added to that money which has been collected from a variety of places, and this is not implying "that we're coming back for more money to the Council for that at this point in time."

Ms. Amer said that is correct, and normally amendments total all the money that's been given, and then say a final amount, not to exceed, which includes the original amount plus the amended amount.

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

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

Against: None.

Recused: Councilor Trujillo.

10 (e) REQUEST FOR APPROVAL OF AMENDMENT NO. 3 TO PROFESSIONAL SERVICES AGREEMENT – CONSTRUCTION SERVICES AT SANTA FE DEPOT AND RAILYARD DEVELOPMENT; SANTA FE RAILYARD COMMUNITY CORPORATION. (ROBERT SIQUEIROS)

1) REQUEST FOR APPROVAL OF BUDGET INCREASE – PROJECT FUND.

Councilor Ives said he pulled this item to recuse himself, given the Trust for Public Lands participation in the conservation easement.

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

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

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

Against: None.

Recused: Councilor Ives,

END OF CONSENT CALENDAR DISCUSSION

11. MATTERS FROM THE CITY MANAGER.

There were no matters from the City Manager.

12. MATTERS FROM THE CITY ATTORNEY

There were no matters from the City Attorney.

13. MATTERS FROM THE CITY CLERK

There were no matters from the City Clerk.

14. COMMUNICATIONS FROM THE GOVERNING BODY

A copy of "Bills and Resolutions scheduled for introduction by members of the Governing Body," for the Council meeting of September 24, 2012, is incorporated herewith to these minutes as Exhibit "1."

Councilor Dimas

Councilor Dimas said, "We will be presenting a new resolution, myself and Councilor Bushee, Dominguez, and Councilor Trujillo, an ordinance. This is one of the original ordinances that Councilor Calvert had and withdrew and we're resurrecting that one, that will run concurrently with the one that Councilor Calvert is also presenting on the fluoride, reducing the level of fluoride in the City Water supply by ceasing the supplementation of fluoride in the City water supply and ensuring that the natural fluoride levels in the City water supply are below the current maximum and secondary contaminant levels recommended by the United States Environmental Protection Agency." A copy of the proposed Ordinance is incorporated herewith to these minutes as Exhibit "2."

Councilor Dimas said he and his wife Candy, celebrated their 30th Anniversary on Saturday, and "I just want to tell her that I love her, and she's still the love of my life."

Councilor Calvert

Councilor Calvert commended the Streets Division for the excellent work on streets downtown, in cooperation with the business community. He said he received an email from one of the downtown merchants exemplifying that says, "The crew has done a fabulous job and has been fast, efficient and courteous. Thanks so much."

Councilor Rivera

Councilor Rivera congratulated Jim Montman who was named as the 2012 Airport Manager of the year, noting he had the pleasure of working with Jim Montman for several years, and he is more than deserving of this award.

Councilor Rivera introduced a Resolution directing the City Manager to provide a plan and projected construction cost for renovation of the City Council Chambers to include, at a minimum, that the Governing Body seating area be reconfigured so that all members of the Governing Body have direct visibility and interaction with the public. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "3."

Councilor Dimas said he would be happy to cosponsor the Resolution.

Councilor Ives

Councilor Ives said he has no communications.

Councilor Bushee

Councilor Bushee requested to hear both Resolutions on fluoride at the next Buckman Direct Diversion Board meeting, before proceeding to the Council level, noting the Resolutions need to be approved by that Board first.

Councilor Bushee congratulated her parents who will achieve 58 years of wedded bliss on October 2, 2012, and Mayor Coss added his congratulations.

Councilor Bushee said she will communicate any additional matters to the City Manager.

Councilor Trujillo

Councilor Trujillo said he attended the Revitalized St. Michael's Drive meeting on Sunday, saying it's good to know that we are looking at the future of that corridor and what it may look like.

Councilor Trujillo said the Demons and Horsemen are playing this week – Go Demons!

Councilor Dominguez

Councilor Dominguez said he attended the Chamber of Commerce grand opening on St. Michaels Drive, and said it's exciting to see the Chamber of Commerce more centralized in the City.

Councilor Dominguez said the SWAN Park won an award in innovation and planning with the New Mexico American Planning Association, noting this is the new park being built in Tierra Contenta on the south side.

Councilor Dominguez said the New Mexico American Planning Association also awarded its Student Project Award to the group from UNM for their work on the Airport Road Initiative.

Councilor Dominguez said he has had calls from constituents that liquor continues to be sold at the Western Refineries location on Airport Road. He asked the City Manager to provide an update to him so he can get that information out to the constituents.

Councilor Dominguez said at the next meeting, he will introduce an Ordinance amendment which regulates the fees for the Youth Leagues.

Councilor Dominguez said tomorrow is Councilor Dimas's birthday.

Councilor Wurzburger

Councilor Wurzburger thanked everyone for attending the Re-Mike event, noting it was a heroic effort by a team of people headed by Kate Noble. She said they also have some UNM students, so one of the deliverables will be to have them do a form based project for us, hopefully by the end of year.

Councilor Wurzburger introduced a Resolution relating to the New Mexico *Development Fees Act*, §§5-8-1 to 5-8-43, NMSA 1978; considering a determination that no changes of land use assumptions, capital improvements plan or impact fees are needed; and authorizing the publication of such proposed determination. A copy of the proposed Resolution is incorporated herewith to these minutes as Exhibit "4."

Mayor Coss

Mayor thanked Councilor Wurzburger, Kate Noble and everybody that worked on Re-Mike which was a meaningful and fun event for the community.

Mayor Coss congratulated Jim Montman for winning Airport Manager of the year, again, saying this is the second time he has won that award.

Mayor Coss congratulated Gina Sandoval, Spine Solutions, who won the Outstanding Physical Therapist for New Mexico award this last winter.

Mayor Coss thanked the Mexican Consul and City staff, especially Police, Fire, Parking, noting the El Grito Diez de Sies has become a wonderful community event in Santa Fe, and encourages everyone in Santa Fe to see that next year.

Mayor Coss asked people to participate in Veterans day this year, noting a lot of veterans are coming home from Iraq and Afghanistan, and our staff, the VFW and the State and all the groups do a great parade and ceremony.

Mayor Coss introduced the following:

1. An Ordinance relating to water rate adjustments; amending Section 25-4.2 SFCC 1987, to allow commercial water customers who have water meters that are 1½" or less to apply for a water rate adjustment within 30 days of the effective date of this Ordinance. A copy of the proposed Resolution is incorporated herewith to these minutes as Exhibit "5."
2. A Resolution declaring the intent of the City of Santa Fe to issue industrial revenue bonds in a principal amount up to \$30,000,000, to finance and refinance improvements, construction, acquisition and/or equipping of an adult residential retirement facility, memory support facility and nursing and assisted living facility located at 250 East Alameda Street and 239 East De Vargas Street in Santa Fe, New Mexico, for the purpose of inducing El Castillo Retirement Residences or its successors or assigns to undertake

the improvement, acquisition, construction and equipping of such project, and authorizing the giving and publication of Notices in connection with such bonds. A copy of the proposed Resolution is incorporated herewith to these minutes as Exhibit "6."

3. Request for approval of an Ordinance of the City of Santa Fe, New Mexico, authorizing and providing for the issuance and sale of its industrial revenue bonds (El Castillo Retirement Residences) Series 2012 in an aggregate principal amount not to exceed \$30,000,000 for the purpose of financing and refinancing improvement, construction, acquisition and/or equipping of an adult residential retirement facility, memory support facility and nursing and assisted living facility located at 250 East Alameda Street and 239 East De Vargas Street in Santa Fe, New Mexico, authorizing the execution and delivery of an installment sale agreement between the City and El Castillo Retirement Residences, an indenture of trust securing said bonds, a bond purchase agreement, closing documents and such bonds in connection therewith; providing for the terms of the Series 2012 bonds and making determinations as to the sufficiency of the installment sale payments and other matters related to the project; authorizing the sale of said bonds and any ancillary agreements in connection therewith; and authorizing other matters pertaining to the issuance of said bonds. A copy of the proposed Resolution is incorporated herewith to these minutes as Exhibit "7."

Mayor Coss said he will be absent for the Evening Session, because he has a speaking engagement at 7:00 p.m., so Councilor Wurzbarger will be presiding at the meeting.

END OF AFTERNOON SESSION AT 5:45 P.M.

EVENING SESSION

A. CALL TO ORDER AND ROLL CALL

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

Members Present

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

Members Excused

Mayor David Coss

Others Attending

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

MOTION: Councilor Bushee moved, seconded by Councilor Dominguez, to reconsider the previous action to approve the Agenda, so we can note that the order of the Roll Call was amended, to remove Item H(3) from the evening agenda because it has been withdrawn by the Applicant, and to approve the agenda as amended.

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

F. PETITIONS FROM THE FLOOR

Mayor Pro-Tem Wurzburger gave each person 2 minutes to petition the Governing Body.

Roxanne Rivera-Weist, Associated Builders & Contractors of New Mexico, read from Section 1.1.1, of the Santa Fe Procurement Policy Manual, as follows: *"Purchasing Duties and Functions. ...The purpose of the Purchasing Division, is to – provide fair and equitable treatment of all persons involved in public procurement; – maximize the purchasing value of public funds; and – provide safeguards for maintaining a procurement system of quality and integrity...."*

Ms. Rivera-Weist then read from Section 1.1.3(b) and (c), of the Santa Fe Procurement Policy Manual, as follows: *"The duties, functions and responsibilities of the Purchasing Director and the Division personnel are to: b. encourage competitive procurement at all times; c. conduct the Purchasing Division in such a way that vendors will (a) be aware of the fairness of the awards, (b) be encouraged to continue bidding and (c) furnish competition to assure the City the highest quality materials at the lowest possible cost..."*

Ms. Rivera-Weist said she wanted to bring this to the attention of the Governing Body because the CWA is in direct conflict with the procurement policy of the City of Santa Fe.

Burr Dickinson, 6429 Criswell Road, Albuquerque, said he is an employee of TLC Plumbing & Utility, and is opposed to the project labor agreements. He said when he was in his teens, before starting college, he worked 4 years for a construction company which was partially unionized. He said after working for the company for 4 years, he decided to leave because he didn't like the violence and threat of violence in that workplace, although he could have stayed. He said the first time since the 1970's he had run into project union agreements was the building of the Bill Richardson Pavilion at UNM. He said TLC was a low bidder on that job for the utility portion of that project for a \$650,000 contract, and they chose not to sign the agreement, and therefore didn't perform that work. He said, "That's history. Thank you."

Kari Biernacki said, "At the last Council meeting on September 12, 2012, on behalf of AUI, Inc., a New Mexico owned and heavy civil contractor with a work force of 200 plus individuals, I spoke in opposition to implementation of the Community Work Force Agreement. I'd like to restate our opposition to the CWA. Binding public works projects to the provisions of the CWA will ultimately result in fewer bidders on taxpayer funded projects, thus compromising the constraints inherent in a normal competitive bid environment. Few bidders and higher costs of construction, in exchange for what. Our non-union contractors already provide highly trained and skilled workforces that are not at risk for striking. We employ local Santa Fe residents, and our non-union contractors provide safe and fair work conditions for our workforce. I ask that you give this matter fair and unbiased consideration before putting the forces in motion. And on a personal note, for the record, my opinion, Kari Biernacki, is not the opinion of my employer, but Kari Biernacki, a U.S. citizen blessed with the ability to think freely and living in a great country where I can speak freely, I have to say that I'm disappointed with how this whole CWA came to be at this point. I'm frustrated and disappointed that more consideration or input was [not?] solicited from the construction industry that represents 97% of the workforce that will be affected by this. Thank you."

Buzz Biernacki said he is the husband of Kari. He said, "Fortunately she held back. She wasn't really upset, so. We have a small construction company that's not AUI. We're a specialty contractor. And I just want to say that I find it real frustrating that typically we have a workforce of less than 5. We do sole source stuff, which means nobody else really does what we do. And to be told now that if I want to act as a subcontractor for one of these projects that myself and my people have to figure out... I've asked several times different union people how much it would cost me to become a union member, what I had to do to comply with the union rules, and I get the runaround and frustration. And I appreciate the fact that the City is trying to get more City workers working, but the reality of it is, if I have to hire somebody to comply with union specifications or union guidelines, my costs which, to quote one of the Santa Fe people that we gave a bid to the other day was, oh my God your product costs an arm and a leg, but we need it. My cost is definitely going to go up. The value that you, as a Santa Fe resident gets out of my product is not going to go up any more. The cost is. There's no way for me to fight that. I don't particularly want to raise the cost, but by being a union person, I would be forced to."

Bob Lockwood, 7317 Old Santa Fe Trail, said his family has owned a business in Santa Fe for 65 years, and they do a lot of City work. He said, "My real problem with this is, there was no industry input into it. I'm not going to go either way on the pros and cons of it, except whoever wrote it, I have to administer it. And, to me, it's so poorly written you can't administer it. I don't think I could put it into place. I've talked to my people that do the payroll, other things. The cost of administering it and meeting the goals are not doable, as far as I'm concerned. How can I have 50% of the people there from the union, when I don't know, one day I may have 12 people there, the next day I may have 35 people, so how do I do something like that. So, you're putting an administrative burden to this which is, to me, quite frankly unworkable."

Jane Jernigen, 779 Valley Meadows, Rio Rancho, said she represents the National Utility Contractors Association of New Mexico, and has been representing union and non-union utility contractors and related businesses since 1980. We're against the implementation and use of the CWA on public works jobs, for reasons that I previously pointed out at the last Council meeting a couple weeks ago. She said, "I'd like to point out a few things in light of recent comments and articles. Our contractors, both union and non-union, enjoy retirement, 401K, health insurance, vacations, pride in our work and loyalty with our employers. We both adhere to high standards and safety, and training, and we both must comply with oversight by government agencies such as OHSA, MSHA, EPA, CID, PRC, New Mexico One Call, etc. Basically, the decision for a company to be union or non-union is a business decision and so it should be for this Council, on the decision and the use of CWA. Even your own Economic Development Department cites that this will cost the City an additional \$5 million over next 3-5 years. This is not a real solution to increase economic activity or to put Santa Feans back to work. Estimated costs could be as high as 20% more than what you're paying now. As a business, why would you pay more for the same. \$100 million expenditure would mean \$20 million that could be used for other projects, building schools, bridges, roads, storm drains in the neighborhood to prevent flooding. Please consider this a business decision, as you are

the stewards of the peoples' money. We ask that you take another look at this agreement and consider repeal or at least postpone and ask for public input. As a majority of businesses bidding are non-union companies, I should not be forced into unionization, even if temporary. Thank you very much."

Bill Greenhall said he works for a local construction company, and has been in business in Santa Fe for about 65 years. He said, "I am a project manager and a chief estimator. This program you're considering implementing is going to be extremely costly to the City, probably 15-25% as a minimum, plus you have the problems of when you mix union and non-union aspects of it. You're looking for labor relation problems, in one union not working to a non-union member, regardless of the guidelines you've set up to work back and forth between the unions and our company. I've been a member of the Teamster's Union... I've been a member of 3 different unions, 1 worker's union, the Teamster's Union and the AFL/CIO. In my experience, and this is over the last 30 years, I've worked all over the 7 major western states, and I have yet to see an operation that was both union and non-union be able to get along without some kind of a wildcat strike, or stop work orders. And beyond that, just the cost to the City will be unbelievable and the implementation and the enforcement and the recordkeeping caused by this program is almost impossible. And I have to agree with Bob Lockwood in how this thing was put forward. This Ordinance or whatever was way down the road before any of the people, the construction people, local construction people ever heard a word about it. I think it's just a bad plan. We do an awful lot of work for the City, and we all do good jobs, or we wouldn't be in business this long if we didn't do good jobs. Thank you very much."

G. APPOINTMENTS

Transit Advisory Board

Mayor Pro-Tem Wurzbarger, on behalf of Mayor Coss, presented the following appointments to the Transit Advisory Board:

Jim Luttjohan, Convention and Visitors Bureau Director – to fill unexpired term ending 03/2014;
and

Stan Cooper (At-Large Representative) – to fill unexpired term ending 03/2014.

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

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

Sustainable Santa Fe Commission

Mayor Pro-Tem Wurzbarger, on behalf of Mayor Coss, presented the following appointment to the Sustainable Santa Fe Commission:

Isaac Raphael Garcia – to fill unexpired term ending 05/2013.

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

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

Santa Fe Regional Juvenile Justice Board

Mayor Pro-Tem Wurzbarger, on behalf of Mayor Coss, presented the following appointments to the Santa Fe Regional Juvenile Justice Board:

Judge Mary Marlowe Sommer – to fill unexpired term ending 10/2013;
Jennifer N. Romero – term ending 10/2014; and
Mark H. Dickson – term ending 10/2014.

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

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

Law Enforcement Assisted Diversion Task Force (LEAD Task Force)

Mayor Pro-Tem Wurzbarger, on behalf of Mayor Coss, presented the following appointments to the Law Enforcement Assisted Diversion Task Force (LEAD Task Force):

Emily Katlenbach, Chair, Executive Director, Drug Policy Alliance;
Steven G. Kopelman, Risk Management Director & General Counsel, NM Association of Counties;
Angela R. "Spence" Pacheco, District Attorney, First Judicial District;
Maj. Ken Johnson, Santa Fe County Sheriff's Department;
Sgt. Michael Delgado, Alternate, Santa Fe County Sheriff's Department;
Chief Raye Byford, Tesuque Tribal Police Department;
Lieutenant Alfred Perez, Alternate, Tesuque Tribal Police Department;
Pablo Sedillo, III, Santa Fe County Public Safety Director;
Raymond M. Chavez, Executive Director of Interfaith-LEAP, Inc.;

Katherine "Kate" Ferlic, JD;
Jessica Dimas;
Councilor Patti J. Bushee;
Bennett J. Baur, Deputy Chief Public Defender;
Thom Allena, Innovations in Justice Consulting;
Jayde Archuleta, Youth Works;
Milagro A. Castillo, Youth Works;
Sheila Lewis, Esq., NM Women's Justice Project;
Rachel O'Connor, Health, Santa Fe County Health & Human Services Director;
Kathy Armijo Etre, Ph.D, VP Community Health, Christus St. Vincent;
Deputy Chief William Johnson, Santa Fe Police Department; and
Captain George Ortiz, Patrol Commander, Santa Fe Police Department

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

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

H. PUBLIC HEARINGS

- 1) **REQUEST FROM APPLE NEW MEXICO, LLC, FOR A TRANSFER OF OWNERSHIP OF DISPENSER LICENSE #2743 FROM AMREST, LLC, TO APPLE NEW MEXICO, LLC. THIS LICENSE WILL REMAIN AT APPLEBEE'S NEIGHBORHOOD GRILL & BAR #2, 4246 CERRILLOS ROAD. (YOLANDA Y. VIGIL)**

The staff report was presented by Yolanda Y. Vigil, City Clerk, noting the business is not within 300 feet of a church or school. Ms. Vigil said Dispenser License #2743 allows on-premise consumption only, noting there are staff reports in the packet regarding litter noise and traffic. She said staff recommends this business be required to comply with all of the City's Ordinances.

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

Councilor Dominguez said then there already is a license there.

Ms. Vigil said this is correct, noting it is Applebee's by the Santa Fe Place Mall, noting it is just a transfer of ownership from one owner to another.

MOTION: Councilor Dominguez moved, seconded by Councilor Dimas, to approve the request by Apple New Mexico, LLC, for a transfer of ownership of Dispenser License #2743 from AmRest, LLC, to Apple, New Mexico, LLC, with the license to remain at Applebee's Neighborhood Grill & Bar #2, 4246 Cerrillos Road.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo and Mayor Pro-Tem Wurzbarger.

Against: None.

- 2) **REQUEST FROM VINO DEL CORAZON WINE ROOM, LLC, FOR A CHANGE OF FLOOR PLAN/EXPANSION OF LIQUOR LICENSE PREMISE FOR MASTER WINEGROWER LIQUOR LICENSE #6149 (EXPANSION OF MORE THAN 25% OF THE CURRENT LICENSED PREMISE). THE EXPANSION IS FOR VINO DEL CORAZON WINE ROOM, 235 DON GASPAR, SUITE 6. (YOLANDA Y. VIGIL)**

The staff report was presented by Yolanda Y. Vigil, City Clerk, noting this is a request for a change of floor plan for an expansion of Master Winegrower Liquor License #6149. The request is before the Council because it is for more than 25% of the current licensed premise. The existing licensed premise is 685 sq. ft., and the proposed addition is 297 sq. ft. If approved, the new licensed premise will be 982 sq. ft. She said the expansion is for an outdoor patio seating area which will be located at Vino del Corazon Wine Room, 235 Don Gaspar, Suite 6. If approved, she requested an additional condition of approval that the Applicant be required to install fencing to enclose the proposed licensed premise, and to install swinging gates to allow pedestrian traffic to adjacent businesses. The location is not within 300 feet of a church of school and there are staff reports in the packet regarding little noise and traffic. Staff recommends the business be required to comply with all City Ordinances.

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

MOTION: Councilor Dimas moved, seconded by Councilor Calvert, to approve the request from Vino del Corazon Wine Room, LLC, for a change of floor plan/expansion of liquor license premise for Master Winegrower liquor License #6149, expansion of more than 25% of the current licensed premises, for the Vino del Corazon Wine Room, 235 Don Gaspar, Suite 6, with additional conditions of approval that: (1) the Applicant shall be required to install fencing to enclosed the proposed licensed premise, and (2) the Applicant shall be required to install swinging gates to allow pedestrian traffic to adjacent businesses.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo and Mayor Pro-Tem Wurzbarger.

Against: None.

- 3) **REQUEST FROM CHRISTUS ST. VINCENT REGIONAL MEDICAL CENTER FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION TO ALLOW THE DISPENSING AND CONSUMPTION OF BEER AND WINE AT CHRISTUS ST. VINCENT CANCER CENTER, 490A WEST ZIA ROAD, WHICH IS WITHIN 300 FEET OF CAPSHAW MIDDLE SCHOOL, 351 W. ZIA ROAD. THE REQUEST IS FOR A CHAMBER OF COMMERCE "BUSINESS AFTER HOURS" EVENT TO BE HELD FROM 5:00 P.M. TO 8:00 P.M. ON THURSDAY, SEPTEMBER 27, 2012. (YOLANDA Y. VIGIL)**

This item was withdrawn by the applicant.

- 4) **CONSIDERATION OF BILL NO. 2012-28: ADOPTION OF ORDINANCE NO. 2012-29 (COUNCILOR TRUJILLO, COUNCILOR BUSHEE, COUNCILOR DIMAS AND COUNCILOR RIVERA). AN ORDINANCE RELATED TO PANHANDLING ON PUBLIC PROPERTY; AMENDING SECTION 20-2.2 SFCC 1987, TO AMEND THE DEFINITION OF PANHANDLING TO INCLUDE NON-VOCAL SOLICITATIONS; AND AMENDING SECTION 20-2.3 SFCC 1987, TO AMEND THE REGULATIONS FOR PANHANDLING ON PUBLIC PROPERTY. (ALFRED WALKER)**

The staff report was presented by Alfred Walker. He said the Ordinance permits panhandling, and the amendments permit panhandling, and the changes are to make no distinction between active panhandling and passive panhandling as well as minor amendments regarding the location of panhandling.

Councilor Ives said the Newspaper Vendors are subject to an alternate Ordinance. One of the questions which arose at the previous meeting was in terms of the waivers which are required under the Ordinances, and it specifically states the newspaper. However, he said he understands from the staff report and the inquiry conducted, that those waivers are actually from the vendors themselves. He asked if he is stating this correctly.

Mr. Walker said, "I believe you are saying that correctly."

Councilor Ives said it then begs the question of whether we need to look at doing anything to bring the newspapers into compliance, commenting he imagines they treat their vendors as independent contractors, although he is not sure about that. He asked if we need that waiver from the newspapers.

Mr. Walker said, "That's what I believe to be the clear language of the ordinance that we need the waivers from the newspapers."

Councilor Ives asked the status of a vendor who is selling newspapers if the City didn't have the waiver from the newspaper.

Mr. Walker said, "People who sell newspapers are vendors. They're covered under this particular ordinance. I suppose if that Ordinance were not in effect, they would need to get some sort of license from the City."

Councilor Ives said, "The way I read it, it says we can't prohibit if they comply with those provisions, but presumably if they don't comply, then there might be prohibitions."

Councilor Ives, referring to the section on newspapers, said there is a star as if some subtextual note was at some point contained in the statute, and said he doesn't know to what the star/asterisk refers.

Melissa Byers said the asterisk means this is something the City has enacted on its own and isn't from the State Statutes.

Councilor Ives said this clearly is an item that needs further attention, because liabilities might break down if vendors caused accidents, for instance. He would ask that issue be considered by the City Attorney and any appropriate action be taken.

Councilor Dimas proposed an amendment on page 3, line 24, as follows: "...panhandler shall stay a minimum of one hundred and fifty feet (150')..."

Mr. Walker said he is correct, it is a typographical error which needs to be corrected.

Public Hearing

Speaking to the request

There was no one speaking for or against this request.

The Public Hearing was closed

MOTION: Councilor Trujillo moved, seconded by Councilor Rivera, to adopt Ordinance No. 2012-29, with Councilor Dimas' proposed amendment.

DISCUSSION: Councilor Dominguez asked said the Ordinance provides that panhandling is prohibited on School property, and asked if there is any harm in establishing a specific distance from School property.

Mr. Walker said, "I think as long as the regulations do not effectively prohibit panhandling everywhere, there can be some reasonable space or extension beyond the school property."

FRIENDLY AMENDMENT: Councilor Dominguez asked to amend the Ordinance to provide there will be no panhandling within 150 feet of School property. Councilor Trujillo said he first wants to ask Mr. Zamora if this amendment is okay. Mr. Zamora said, "Yes, we briefly communicated telepathically." **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

FRIENDLY AMENDMENT: Councilor Calvert would like, for the ease of administration and enforcement to make all 20 feet, and would like to amend the Ordinance on page 2, line 20, as follows: "(2) Within ~~fifteen~~ (15) twenty (20)' of any entrance or exit of a public transportation facility. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo and Mayor Pro-Tem Wurzbarger.

Against: None.

- 5) **CONSIDERATION OF BILL NO. 2012-29: ADOPTION OF ORDINANCE NO. 2012-30 (MAYOR COSS). AN ORDINANCE RELATING TO TELECOMMUNICATIONS FACILITIES AUTHORIZED IN THE PUBLIC RIGHTS-OF-WAY, ARTICLE 27-2 SFCC 1987; AMENDING SECTION 27-2.3 SFCC 1987, TO AMEND THE DEFINITIONS OF APPLICANT, GROSS REVENUE, PROVIDER AND TELECOMMUNICATIONS SERVICES; AMENDING SECTION 27-2.5 SFCC 1987, TO INCLUDE THAT THE TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY ORDINANCE APPLIES TO PROVIDERS WITH TELECOMMUNICATIONS NETWORKS IN THE PUBLIC RIGHT-OF-WAY THAT DO NOT PROVIDE SERVICES WITHIN THE CITY LIMITS; AMENDING SECTION 27-2.13 SFCC 1987 TO CORRECT A CITATION; AND MAKING SUCH OTHER STYLISTIC OR GRAMMATICAL CHANGES THAT ARE NECESSARY. (KELLEY BRENNAN)**

Councilor Ives recused himself from participation on this item given his wife's work on behalf of the City in this regard.

The staff report was presented by Kelley Brennan, Assistant City Attorney. Ms. Brennan said this amendment adjusts a conflict within the Ordinance and not much else. She said, "As it stands, one provision requires telecommunications providers with facilities in the rights-of-way to obtain a franchise from the City. And the definition of providers, however, excludes people who have facilities in the rights-of-way merely transit and don't have customers in the City. This makes everyone with facilities in the rights-of-way have a franchise."

Mayor Pro-Tem Wurzbarger said it was her understanding that this was a clarification of the language of the Ordinance.

Public Hearing

Speaking to the request

Arthur Firstenberg said, "My name is Arthur Firstenberg. Instead of amending Chapter 27, the Council should repeal it. I can only assume that part of the purpose of these amendments is to facilitate the settlement of the lawsuit by Qwest, so that Chapter 27 can be finally implemented. But Chapter 27 was a mistake. On Saturday, just two days ago, a new cell tower was activated at the Church on Old Pecos Trail and Cordova. The radiation in the neighborhood is so bad that a woman who lives 1/3 of a mile from the Church had to leave her home on Saturday and is sleeping in my extra bedroom. She's looking for another place to live. If Chapter 27 is implemented, and antennas and towers are built every 1/4 to 1/2 mile here in Santa Fe, where is she going to live. Or doesn't she count. Isn't she a citizen of Santa Fe too. Where in the heck is she going to go. I can't stay for the discussion because of the radiation in this room from the wi-fi that is here. So if any of you want to help me find a solution, you know how to reach me. My phone number is 471-0129. Thank you."

The Public Hearing was closed

MOTION: Councilor Calvert moved, seconded by Councilor Trujillo, to adopt Ordinance 2012-30 with all amendments.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Rivera, Councilor Trujillo and Mayor Pro-Tem Wurzbarger.

Against: None.

Recused: Councilor Ives.

6. **CONSIDERATION OF RESOLUTION NO. 2012- ____ (COUNCILOR IVES AND COUNCILOR WURZBURGER. A RESOLUTION DIRECTING CITY TRAFFIC ENGINEERING STAFF TO IMPLEMENT, ON A ONE-YEAR TRIAL BASIS, ONE-WAY TRAFFIC ON CANYON ROAD EASTBOUND FROM PASEO DE PERALTA TO DELGADO STREET. (JOHN ROMERO). (Postponed at July 11, 2012 City Council Meeting). (Referred to Public Works Committee)**

This item was referred to the Public Works Committee.

7. **REQUEST FROM VIVAC WINERY, L.P., FOR A WINEGROWER OFF-SITE LICENSE (ON PREMISE CONSUMPTION AND PACKAGE SALES), TO BE LOCATED AT VIVAC WINERY, 1607 PASEO DE PERALTA, SUITE A. (YOLANDA Y. VIGIL) (Postponed at September 12, 2012 City Council Meeting) (Postponed to October 10, 2012 City Council Meeting)**

This item is postponed to the City Council Meeting of October 10, 2012.

I. ADJOURN

The was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 7:45 p.m.

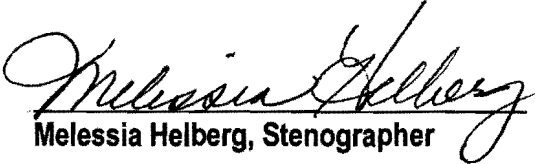
Approved by:

Mayor David Coss

ATTESTED TO:

Yolanda Y. Vigil, City Clerk

Respectfully submitted:


Melessia Helberg, Stenographer



**CITY COUNCIL MEETING OF
SEPTEMBER 24, 2012
BILLS AND RESOLUTIONS SCHEDULED FOR INTRODUCTION
BY MEMBERS OF THE GOVERNING BODY**

Mayor David Coss

| Co-Sponsors | Title | Tentative Committee Schedule |
|--------------------|--|---|
| | <p style="text-align: center;">An Ordinance</p> <p>Relating To Water Rate Adjustments; Amending Section 25-4.2 Sfcc 1987 To Allow Commercial Water Customers Who Have Water Meters That Are 1½" Or Less To Apply For A Water Rate Adjustment Within 30 Days Of The Effective Date Of This Ordinance.</p> | <p>Water Conservation Committee – 10/9/12 Public Utilities Committee – 11/7/12 Finance Committee 11/19/12 Council (request to publish) – 11/28/12 Council (public hearing) – 1/9/13</p> |
| | <p style="text-align: center;">A Resolution</p> <p>Declaring The Intent Of The City Of Santa Fe To Issue Industrial Revenue Bonds In A Principal Amount Up To \$30,000,000 To Finance And Refinance Improvements, Construction, Acquisition And/Or Equipping Of An Adult Residential Retirement Facility, Memory Support Facility And Nursing And Assisted Living Facility Located At 250 East Alameda Street And 239 East De Vargas Street In Santa Fe, New Mexico, For The Purpose Of Inducing El Castillo Retirement Residences Or Its Successors Or Assigns To Undertake The Improvement, Acquisition, Construction And Equipping Of Such Project, And Authorizing The Giving And Publication Of Notices In Connection With Such Bonds.</p> | <p>Finance Committee – 10/1/12 Council – 10/10/12</p> |
| | <p style="text-align: center;">An Ordinance</p> <p>Of The City Of Santa Fe, New Mexico Authorizing And Providing For The Issuance And Sale Of Its Industrial Revenue Bonds (El Castillo Retirement Residences) Series 2012 In An Aggregate Principal Amount Not To Exceed \$30,000,000 For The Purpose Of Financing And Refinancing Improvement, Construction, Acquisition And/Or Equipping Of An Adult Residential Retirement Facility, Memory Support Facility And Nursing And Assisted Living Facility Located At 250 East Alameda Street And 239 East De Vargas Street In Santa Fe, New Mexico, Authorizing The Execution And Delivery Of An Installment Sale Agreement Between The City And El Castillo Retirement Residences, An Indenture Of Trust Securing Said Bonds, A Bond Purchase Agreement, Closing Documents And Such Bonds In Connection Therewith; Providing For The Terms Of The Series 2012 Bonds And Making Determinations As To The Sufficiency Of The Installment Sale Payments And Other Matters Related To The Project; Authorizing The Sale Of Said Bonds And Any Ancillary Agreements In Connection Therewith; And Authorizing Other Matters Pertaining To The Issuance Of Said Bonds.</p> | |

Exhibit "I"

| Councilor Patti Bushee | | |
|---|--|--|
| Co-Sponsors | Title | Tentative Committee Schedule |
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| | | |
| Councilor Chris Calvert | | |
| Co-Sponsors | Title | Tentative Committee Schedule |
| | | |
| Councilor Bill Dimas | | |
| Co-Sponsors | Title | Tentative Committee Schedule |
| Bushee Dominguez Rivera Trujillo | AN ORDINANCE AMENDING SECTION 25-1.8 SFCC 1987; REDUCING THE LEVEL OF FLUORIDE IN THE CITY WATER SUPPLY BY CEASING THE SUPPLEMENTATION OF FLUORIDE IN THE CITY WATER SUPPLY AND ENSURING THAT THE NATURAL FLUORIDE LEVELS IN THE CITY WATER SUPPLY ARE BELOW THE CURRENT MAXIMUM AND SECONDARY CONTAMINANT LEVELS RECOMMENDED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. | Public Utilities Committee – 10/3/12 Finance Committee – 10/22/12 Council (request to publish) – 10/30/12 Council (public hearing) – 11/28/12 |
| Councilor Carmichael Dominguez | | |
| Co-Sponsors | Title | Tentative Committee Schedule |
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| Councilor Peter Ives | | |
| | | |
| Councilor Chris Rivera | | |
| Co-Sponsors | Title | Tentative Committee Schedule |
| | A RESOLUTION DIRECTING THE CITY MANAGER TO PROVIDE A PLAN AND PROJECTED CONSTRUCTION COST FOR RENOVATION OF THE CITY COUNCIL CHAMBERS TO INCLUDE, AT A MINIMUM, THAT THE GOVERNING BODY SEATING AREA BE RECONFIGURED SO THAT ALL MEMBERS OF THE GOVERNING BODY HAVE DIRECT VISIBILITY AND INTERACTION WITH THE PUBLIC. | Finance Committee – 10/22/12 Public Works Committee – 10/29/12 Council – 10/30/12 |
| Councilor Ron Trujillo | | |
| Co-Sponsors | Title | Tentative Committee Schedule |
| | | |

| Councilor Wurzbarger | | |
|----------------------|--|--|
| Co-Sponsors | Title | Tentative Committee Schedule |
| | <p>A RESOLUTION RELATING TO THE NEW MEXICO <i>DEVELOPMENT FEES ACT</i>, §§5-8-1 TO 5-8-43 NMSA 1978; CONSIDERING A DETERMINATION THAT NO CHANGES OF LAND USE ASSUMPTIONS, CAPITAL IMPROVEMENTS PLAN OR IMPACT FEES ARE NEEDED; AND AUTHORIZING THE PUBLICATION OF SUCH PROPOSED DETERMINATION.</p> | <p>Capital Improvements Advisory Committee – 9/13/12 Public Works – 10/2/12 Council – 10/10/12</p> |

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

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

2 **BILL NO. 2012-__**

3 **INTRODUCED BY:**

4 Councilor Bill Dimas

5 Councilor Patti Bushee

6 Councilor Carmichael Dominguez

7 Councilor Chris Rivera

8 Councilor Ron Trujillo

9
10 **AN ORDINANCE**

11 **AMENDING SECTION 25-1.8 SFCC 1987; REDUCING THE LEVEL OF FLUORIDE IN**
12 **THE CITY WATER SUPPLY; CEASING THE SUPPLEMENTATION OF FLUORIDE IN**
13 **THE CITY WATER SUPPLY AND ENSURING THAT THE NATURAL FLUORIDE**
14 **LEVELS IN THE CITY WATER SUPPLY ARE BELOW THE CURRENT MAXIMUM AND**
15 **SECONDARY CONTAMINANT LEVELS RECOMMENDED BY THE UNITED STATES**
16 **ENVIRONMENTAL PROTECTION AGENCY.**

17
18 **BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:**

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

21 **25-1.8 Fluoridation of Water Supply.**

22 **A. The city water supply shall not be supplemented with additional fluoride. [The water**
23 **supply of the city shall be fluoridated by the addition of sufficient fluoride ion to raise the**
24 **concentration of fluoride ion reaching each customer to an optimal level on one (1) part per million**
25 **parts of water. The fluoride ion level shall be maintained between a minimum of eight tenths (.8) part**

1 ~~per million parts and a maximum of one and two tenths (1.2) parts per million parts of water.]~~

2 B. The city shall monitor fluoride ~~[ion levels in]~~ concentrations at representative sample
3 locations at least once per month to ensure that the fluoride levels in the city water supply are below
4 the limits of the current maximum and secondary contaminant levels for fluoride as prescribed by the
5 United States environmental protection agency.

6 APPROVED AS TO FORM:

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9 GENO ZAMORA, CITY ATTORNEY
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CAO/Melissa/Bills 2012/Fluoride (cease)

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2012-____

INTRODUCED BY:

Councilor Chris Rivera

A RESOLUTION

**DIRECTING THE CITY MANAGER TO PROVIDE A PLAN AND PROJECTED
CONSTRUCTION COST FOR RENOVATION OF THE CITY COUNCIL CHAMBERS TO
INCLUDE, AT A MINIMUM, THAT THE GOVERNING BODY SEATING AREA BE
RECONFIGURED SO THAT ALL MEMBERS OF THE GOVERNING BODY HAVE
DIRECT VISIBILITY AND INTERACTION WITH THE PUBLIC.**

WHEREAS, the current configuration of the City Council Chambers and Governing Body
seating area has been in place since the late 1980's; and

WHEREAS, because of the current configuration of the Governing Body seating area, some
members of the Governing Body lack direct visibility and interaction with the public; and

WHEREAS, a representative government requires that elected officials have a full
understanding of the issues before it and have the ability to be open and accessible with the public
during Governing Body meetings; and

WHEREAS, direct visibility and interaction with the public contributes to such a
relationship; and

1 **WHEREAS**, reconfiguration of Governing Body seating area will be a benefit to both the
2 Governing Body and the public because such reconfiguration will allow for direct visibility and
3 interaction.

4 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
5 **CITY OF SANTA FE** that in an effort to establish a more direct relationship with the public, the
6 City Manager is directed to provide a plan and projected construction cost for renovation of the City
7 Chambers to include, at a minimum, that the Governing Body seating area be reconfigured so that all
8 members of the Governing Body have direct visibility and interaction with the public.

9 **BE IT FURTHER RESOLVED** that such plan and projected cost shall be presented to the
10 Governing Body within 60 days of adoption of this resolution.

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

12
13 _____
14 DAVID COSS, MAYOR
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16 ATTEST:
17
18 _____

19 YOLANDA Y. VIGIL, CITY CLERK

20 APPROVED AS TO FORM:
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22 _____

23 GENO ZAMORA, CITY ATTORNEY
24
25

M/Melissa/Resolutions 2012/Council Chamber Remodel

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2012 - _____

INTRODUCED BY:

Councilor Rebecca Wurzbarger

A RESOLUTION

RELATING TO THE NEW MEXICO *DEVELOPMENT FEES ACT*, §§5-8-1 TO 5-8-43 NMSA 1978; CONSIDERING A DETERMINATION THAT NO CHANGES OF LAND USE ASSUMPTIONS, CAPITAL IMPROVEMENTS PLAN OR IMPACT FEES ARE NEEDED; AND AUTHORIZING THE PUBLICATION OF SUCH PROPOSED DETERMINATION.

WHEREAS, the State of New Mexico established the *Development Fees Act*, §§ 5-8-1 to 5-8-43, NMSA 1978 (the "Act") to enable local governments to adopt local development impact fees; and

WHEREAS, the Act requires periodic updates of the impact fee land use assumptions and capital improvement plan at least every five years, §5-8-30 NMSA 1978; and

WHEREAS, at the end of a five-year period, the Act allows the Governing Body to make a determination "that no changes to the land use assumptions, capital improvements plan or impact fees are needed," §5-8-36, NMSA 1978; and

WHEREAS, on January 9, 2008, the Governing Body adopted the "*Impact Fee Capital Improvements Plan And Land Use Assumptions, 2007-2012 for Roads, Parks, Fire and Police*"

1 through Resolution No. 2008-07; and amended the Impact Fees Ordinance, Ordinance No. 2008-02,
2 all in accordance with the Act; and

3 **WHEREAS**, on January 11, 2012, the Impact Fees Ordinance was amended to reduce the
4 assessment and collection of impact fees on new residential construction by 100% for a term of two
5 years, Ordinance 2012-02; and

6 **WHEREAS**, the national economic recession has reduced new growth in Santa Fe to such a
7 degree that an update of the impact fees would show little change in "levels of service" of
8 the various city facilities, and as a result, little change in actual impact fees charged; and

9 **WHEREAS**, City staff has recommended that it would be of little value, at this point in time,
10 to engage in costly new updates of land use assumptions, capital improvements plan or impact fees.

11 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
12 **CITY OF SANTA FE that** in accordance with §5-8-36 of the Act:

13 1. The Governing Body is considering a determination "that no changes to the land use
14 assumptions, capital improvements plan or impact fees are needed" ("Determination").

15 2. A notice of the proposed Determination shall be published informing the public of
16 such consideration by the Governing Body.

17 3. The final Determination by the Governing Body shall occur at least 60 days after
18 publication of the notice.

19 PASSED, APPROVED and ADOPTED this ____ day of _____, 2012.
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22 _____
23 DAVID COSS, MAYOR
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ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

GENO ZAMORA, CITY ATTORNEY

M/Melissa/Resolutions 2012/Impact Fees (no update)

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2012-____

INTRODUCED BY:

Mayor David Coss

AN ORDINANCE

RELATING TO WATER RATE ADJUSTMENTS; AMENDING SECTION 25-4.2 SFCC 1987
TO ALLOW COMMERCIAL WATER CUSTOMERS WHO HAVE WATER METERS
THAT ARE 1½" OR LESS TO APPLY FOR A WATER RATE ADJUSTMENT WITHIN 30
DAYS OF THE EFFECTIVE DATE OF THIS ORDINANCE.

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

Section 1. Section 25-4.2 SFCC 1987 (being Ord. #1995-19, §1 as amended) is
amended to read:

25-4.2 Rates and Charges Adopted.

A. Rates and charges related to water service by the Santa Fe municipal water system
are hereby adopted by reference and incorporated as part of this chapter as Exhibit B.

B. The water division director may approve an adjustment to the rate schedule set forth
in Exhibit B, located at the end of this chapter, as follows:

(1) Only commercial customers with meters that are [~~one (1") inch~~] one and one-
half inches (1½") or less may apply.

1 (2) The customer shall submit an application by [~~May 12, 2010~~] _____,
2 2012, (thirty (30) days from the effective date of this amended subsection), to the water
3 division demonstrating:

4 (a) That there are unique circumstances regarding the type of business
5 resulting in water delivered to the applicant from the city's water distribution system
6 being a substantial part of the finished product and/or service offered by the applicant
7 at the service address in question.

8 (b) That the customer's previous water use exceeded the established Tier
9 I allotment for the applicant's meter size by at least ten percent (10%) in each of the
10 preceding twelve (12) months; and

11 (c) That the customer has made a reasonable attempt to minimize water
12 use and eliminate water waste.

13 (3) Upon receipt of an application staff shall:

14 (a) Review the application;

15 (b) Conduct an inspection of the customer's service address to evaluate
16 the extent of the customer's conservation efforts and to verify the efforts claimed by
17 the customer in the customer's application. Staff shall evaluate customer's water
18 conservation efforts based on the following criteria:

19 (i) The customer has installed certified low-flow fixtures,
20 appliances, equipment, and devices such that eighty percent (80%) of all
21 fixtures, appliances, equipment, and devices at the service address are low-
22 flow, consistent with Uniform Plumbing Code and industry standards.

23 (ii) Customer fixtures as well as primary service connection at
24 the meter are free of leaks.

25 (iii) Any irrigation equipment located at the service address is

1 equipped with rain-gauge cut offs, smart controllers, or other similar
2 technology to prevent irrigation when such irrigation is unnecessary due to
3 favorable weather conditions.

4 (iv) Water processing equipment or processes at the customer's
5 service address are free of leaks, including water lost to evaporation.

6 (c) Review the customer's previous twelve (12) month water use history
7 and costs to determine if usage has exceeded the Tier I allotment by ten percent
8 (10%) or more for the entire previous twelve (12) months.

9 (d) Compare the customer's water demand with the water division's
10 engineering criteria to determine if a larger size meter is appropriate.

11 (e) Present a written recommendation to the water division director
12 regarding the options set forth in paragraph (4) below.

13 (4) The water division director may decide one of the following options:

14 (a) A change in the actual meter is not warranted, but rather a rate
15 adjustment is appropriate establishing a commercial water rate eliminating the high
16 water use charge; or

17 (b) A change in the meter is warranted and the corresponding rate
18 change with all applicable fees shall be paid; or

19 (c) A change in the meter is warranted with all applicable fees paid with
20 a rate adjustment eliminating the high water use charge; or

21 (d) No rate adjustment is warranted because:

22 (i) The customer has not met the criteria provided for in
23 paragraph (3)(b) to minimize water use and eliminate water waste; or

24 (ii) The customer's usage does not exceed the established Tier I
25 allotment by ten percent (10%) or more for each of the previous twelve (12)

months.

(e) No meter change is warranted because the customer's water demand does not exceed the water division's engineering criteria.

(5) If a rate adjustment is approved, staff shall monitor the customer's water use and water conservation efforts and if the water use is not consistent with the initial application, recommend to the water division director revocation of the adjusted rate.

(6) Appeals of decisions of the water division director may be heard by the public utilities committee as per Rule 22. Customer Complaint Procedures of Exhibit A located at the end of this chapter.

APPROVED AS TO FORM:

GENO ZAMORA, CITY ATTORNEY

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

2 **RESOLUTION NO. 2012-____**

3 **INTRODUCED BY:**

4 Mayor David Coss

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10 **A RESOLUTION**

11 **DECLARING THE INTENT OF THE CITY OF SANTA FE TO ISSUE INDUSTRIAL REVENUE**
12 **BONDS IN A PRINCIPAL AMOUNT UP TO \$30,000,000 TO FINANCE AND REFINANCE**
13 **IMPROVEMENTS, CONSTRUCTION, ACQUISITION AND/OR EQUIPPING OF AN ADULT**
14 **RESIDENTIAL RETIREMENT FACILITY, MEMORY SUPPORT FACILITY AND NURSING**
15 **AND ASSISTED LIVING FACILITY LOCATED AT 250 EAST ALAMEDA STREET AND 239**
16 **EAST DE VARGAS STREET IN SANTA FE, NEW MEXICO, FOR THE PURPOSE OF**
17 **INDUCING EL CASTILLO RETIREMENT RESIDENCES OR ITS SUCCESSORS OR ASSIGNS**
18 **TO UNDERTAKE THE IMPROVEMENT, ACQUISITION, CONSTRUCTION AND**
19 **EQUIPPING OF SUCH PROJECT, AND AUTHORIZING THE GIVING AND PUBLICATION**
20 **OF NOTICES IN CONNECTION WITH SUCH BONDS.**

21
22 **WHEREAS**, the Industrial Revenue Bond Act, Sections 3-32-1 through 3-32-16 NMSA 1978, as
23 amended (the "Act"), authorizes the City of Santa Fe, New Mexico (the "City") to issue industrial revenue
24 bonds (the "Bonds"), to refinance 501(c)(3) corporation "projects" and to improve, construct, acquire and
25 equip 501(c)(3) corporation "projects" as defined in the Act; and

1 **WHEREAS**, the City desires to promote industry and develop trade or other economic activity to
2 secure and maintain a balanced and stable economy in the City and to promote public health, welfare,
3 safety, convenience and prosperity; and

4 **WHEREAS**, El Castillo Retirement Residences, a New Mexico nonprofit corporation and an
5 organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 ("El Castillo"), proposes
6 to improve, acquire, construct and equip improvements to an adult residential retirement facility, memory
7 support facility and nursing and assisted living facility in Santa Fe, New Mexico (the "Project"), which
8 constitutes a 501(c)(3) corporation "project" as defined in the Act; and

9 **WHEREAS**, the Project has been considered by the Governing Body and the Governing Body has
10 concluded that the Project will promote the local health, general welfare, safety, convenience and
11 prosperity of the inhabitants of the City, and the Governing Body desires to indicate its intent to proceed
12 with the issuance of the Bond for the financing and refinancing of the Project; and

13 **WHEREAS**, the issuance of the Bonds by the City to finance and refinance the Project will
14 constitute one of the inducements for El Castillo to proceed with the Project; and

15 **WHEREAS**, concurrently with the issuance of the Bonds, El Castillo will enter into an
16 installment sale or other financing agreement with the City providing for the payment of installment sale
17 payments or other payments on the Project sufficient to pay the debt service on the Bonds, subject to the
18 prior approval of the Governing Body; and

19 **WHEREAS**, the Governing Body intends to consider an ordinance (the "Bond Ordinance")
20 approving the issuance of Bonds to finance and refinance the Project at its regular meeting on November
21 14, 2012; and

22 **WHEREAS**, pursuant to Section 3-17-3 NMSA 1978, the City is required to publish notice of the
23 title and subject matter of any ordinance proposed for adoption by the Governing Body not less than two
24 weeks before consideration by the Governing Body of final action thereon; and

1 **WHEREAS**, pursuant to Section 3-32-6.1 of the Act, before adopting an ordinance issuing a
2 Bond, the City is required to give notice to the Board of County Commissioners and the Santa Fe County
3 Assessor of its intent to consider the matter, which notice is to be given at least thirty days prior to the
4 meeting at which final action is to be taken.

5 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY**
6 **OF SANTA FE:**

7 **Section 1.** All action (not inconsistent with the provisions of this resolution) heretofore taken
8 by the Governing Body and the officers and employees of the City, related to the acquisition, construction
9 and equipping of the Project, and the sale and issuance of the Bonds therefore, be and the same hereby is
10 ratified, approved and confirmed.

11 **Section 2.** The Governing Body finds that:

12 A. The Project will involve the improvement, acquisition, construction and equipping of an
13 adult residential retirement facility, memory support facility and nursing and assisted living facility.

14 B. The maximum aggregate face amount of obligations to be issued with respect to the
15 Project is \$30,000,000.

16 C. The initial developer and operator of the Project will be El Castillo or its assignee or
17 assignees.

18 D. The location of the Project is 250 East Alameda Street and 239 East De Vargas Street in
19 Santa Fe, New Mexico.

20 **Section 3.** In order to promote the local health and general welfare, safety, convenience and
21 prosperity of the inhabitants of the City, it is the Governing Body's intent to take all necessary and
22 advisable steps to effect the issuance of Bonds in a principal amount up to \$30,000,000 in order to defray
23 part or all of the costs of the Project, provided that this expression of intent is conditioned upon the
24 issuance of such Bonds on or before one year from the date of the adoption of this resolution.

1 **Section 4.** The City understands that El Castillo does not intend that the Bonds be a
2 "qualified private activity bond" (other than a "qualified 501(c)(3) bond") as that term is defined in the
3 Internal Revenue Code of 1986, as amended.

4 **Section 5.** The Bonds will be payable from the revenues of the Project and by El Castillo and
5 will not constitute a debt or indebtedness of the City within the meaning of any provision or limitation of
6 the Constitution or statutes of the State of New Mexico. Nothing contained in this resolution or in any
7 other instrument will be considered as obligating the City to any pecuniary liability or a charge upon the
8 general credit of the City or against its taxing power, it being understood that no costs are to be borne by
9 the City and that all costs incurred by the City in connection with the Bonds are to be promptly reimbursed
10 by El Castillo.

11 **Section 6.** El Castillo agrees to make payments in lieu of taxes, as specifically set forth in its
12 application for industrial revenue bonds and Project Plan to the extent that the Project would otherwise be
13 subject to property taxes under New Mexico law if the Project was not the subject of financing and
14 refinancing with the proceeds of the Bonds. In addition, if the Bonds are issued, El Castillo shall
15 indemnify and hold harmless the City, the Governing Body and their respective officers, employees,
16 designated representatives and agents (collectively, the "Indemnified Persons") from and against any
17 liability to El Castillo, or to any third parties that may be asserted against the City with respect to the City's
18 ownership of or leasehold interest in the Project or the issuance of the Bonds. The City's adoption of this
19 resolution shall not be deemed a conclusion or expression of approval by the City or by any Indemnified
20 Person of El Castillo or the Project.

21 **Section 7.** El Castillo as agent for the City and consistent with Taxation and Revenue
22 Department Regulation 3.2.212.22 NMAC Renumbered, will acquire the Project. The City will,
23 consistent with New Mexico State Law, deliver to El Castillo Type 9 Nontaxable Transaction Certificates
24 ("Certificates") that have been issued to the City by the Taxation and Revenue Department. El Castillo
25 will deliver a Certificate to each person selling tangible personal property to the City (or El Castillo on

1 behalf of the City) for the Project as applicable under the New Mexico Gross Receipts Tax and
2 Compensating Tax Act. For this purpose, by adoption of this Resolution, the City authorizes El Castillo to
3 act as agent for the City. El Castillo shall not use the Certificates other than for the purpose of capital
4 equipment and other tangible personal property, nor shall El Castillo use such Certificates after completion
5 of the Project. Prior to the use of such Certificates by El Castillo, as agent for the City, the City Manager
6 and El Castillo will agree to certain procedures regarding the use of the Certificates and protection of the
7 City from any unfunded tax liability.

8 **Section 8.** The Governing Body directs that the following notice be published one time in
9 the Santa Fe New Mexican, a newspaper of general circulation in the City, as soon as is practicable
10 following the adoption of this resolution and, in any event, not later October 25, 2012.

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1 (Form of Notice to be Published)

2 NOTICE OF CONSIDERATION OF ORDINANCE

3 CITY OF SANTA FE, NEW MEXICO

4 NOTICE IS GIVEN that the Governing Body of the City of Santa Fe, New Mexico (the "City"),
5 will consider the adoption of an ordinance (the "Ordinance") authorizing the issuance of industrial revenue
6 bonds in a principal amount not to exceed \$30,000,000 (the "Bonds") to finance and refinance the
7 acquisition, construction and equipping of improvements to an adult residential retirement facility, memory
8 support facility and nursing and assisted living facility to be owned and operated by El Castillo Retirement
9 Residences (the "Project"), and all costs incidental to the foregoing and the issuance of the Bonds, and
10 otherwise relating to the Project, at a regular meeting of the Governing Body on November 14, 2012 at
11 7:00 p.m. or as soon thereafter as the matter may be heard, in the City Hall Council Chambers, City Hall,
12 200 Lincoln Avenue, Santa Fe, New Mexico, in the City, being the regular meeting place of the
13 Governing Body. The title and subject matter of the Ordinance are as follows:

14 AN ORDINANCE OF THE CITY OF SANTA FE, NEW MEXICO
15 AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND SALE OF ITS
16 INDUSTRIAL REVENUE BONDS (EL CASTILLO RETIREMENT
17 RESIDENCES) SERIES 2012 IN AN AGGREGATE PRINCIPAL AMOUNT NOT
18 TO EXCEED \$30,000,000 FOR THE PURPOSE OF FINANCING AND
19 REFINANCING IMPROVEMENT, CONSTRUCTION, ACQUISITION AND/OR
20 EQUIPPING OF AN ADULT RESIDENTIAL RETIREMENT FACILITY,
21 MEMORY SUPPORT FACILITY AND NURSING AND ASSISTED LIVING
22 FACILITY LOCATED AT 250 EAST ALAMEDA STREET AND 239 EAST DE
23 VARGAS STREET IN SANTA FE, NEW MEXICO, AUTHORIZING THE
24 EXECUTION AND DELIVERY OF AN INSTALLMENT SALE AGREEMENT
25 BETWEEN THE CITY AND EL CASTILLO RETIREMENT RESIDENCES, AN

INDENTURE OF TRUST SECURING SAID BONDS, A BOND PURCHASE AGREEMENT, CLOSING DOCUMENTS AND SUCH BONDS IN CONNECTION THEREWITH; PROVIDING FOR THE TERMS OF THE SERIES 2012 BONDS AND MAKING DETERMINATIONS AS TO THE SUFFICIENCY OF THE INSTALLMENT SALE PAYMENTS AND OTHER MATTERS RELATED TO THE PROJECT; AUTHORIZING THE SALE OF SAID BONDS AND ANY ANCILLARY AGREEMENTS IN CONNECTION THEREWITH; AND AUTHORIZING OTHER MATTERS PERTAINING TO THE ISSUANCE OF SAID BONDS.

The principal of, interest on and redemption price, if any, of the Bonds will never constitute an indebtedness of the City within the meaning of the provision or limitation of the Constitution or laws of the State of New Mexico. The Bonds will never constitute nor give rise to pecuniary liability of the City or a charge against its general credit or taxing powers. The Bonds will mature, bear interest and be subject to prior redemption all in accordance with the Ordinance. A copy of the Ordinance is on file and available for inspection during normal business hours at the office of the City Clerk at City Hall, 200 E. Lincoln Avenue, Santa Fe, New Mexico.

Dated: _____.

Yolanda Y. Vigil

City Clerk

City of Santa Fe, New Mexico

(End of Form of Notice to be Published)

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1 **Section 9.** The Governing Body directs that the following notice be mailed by registered or
2 certified mail, return receipt requested, to the Santa Fe County Commission and the Santa Fe County
3 Assessor, as soon as is practicable following the adoption of this resolution and, in any event, not later than
4 October 14, 2012:

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1 (Form of Notice to be Mailed)

2 [CITY OF SANTA FE LETTERHEAD]

3
4 _____ DATE

5 REGISTERED MAIL

6 RETURN RECEIPT REQUESTED

7
8 Board of County Commissioners

9 Santa Fe County

10 c/o _____, County Manager

11 102 Grant Avenue

12 Santa Fe, New Mexico 87504

13
14 _____
15 Santa Fe County Assessor

16 102 Grant Avenue

17 Santa Fe, New Mexico 87504

18
19 Ladies and Gentlemen:

20 Pursuant to Section 3-32-6.1 NMSA 1978, we write to give you notice that the City of Santa Fe,
21 New Mexico (the "City") intends to consider the issuance of industrial revenue bonds in a principal
22 amount not to exceed \$30,000,000 (the "Bonds") to defray the cost of acquiring, constructing and
23 equipping of improvements to an adult residential facility, memory support facility and nursing and
24 assisted living facility at 250 East Alameda Street and 239 East De Vargas Street in Santa Fe, New Mexico
25 (the "Project"), for use by El Castillo Retirement Residences. The ordinance under which the Bonds

1 would be issued will be considered by the Governing Body of the City on or after November 14, 2012,
2 which is at least thirty days after the date of this letter. You may forward your comments and concerns
3 with respect to the Bonds or the Project to the Governing Body, but no approval of the Bonds is required
4 from you and you do not have a veto over the proposed issuance of the Bonds.

5
6 Very truly yours,

7
8 CITY OF SANTA FE, NEW MEXICO
9

10
11 By _____

12 Robert Romero

13 City Manager
14

15 **(End of Form of Notice to be Mailed)**
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1 **Section 10.** The City hereby authorizes El Castillo and any purchaser of the Bonds to
2 distribute an offering document with respect to the public offering of the Bonds, provided that the City
3 takes no responsibility for such offering document other than the description of the City therein.

4 **Section 11.** The Mayor and the City Manager or Acting City Manager are each authorized and
5 empowered to take such steps and to do such things as may be necessary to achieve the purposes of this
6 resolution; provided, however, the issuance of the Bonds and the execution and delivery of any documents
7 to which the City is a party in connection therewith are subject to the approval and authorization by
8 ordinance of the Governing Body.

9 **Section 12.** If any section, paragraph, clause or provision of this resolution is for any reason
10 be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause
11 or provision will not affect any of the remaining provisions of this resolution.

12 **Section 13.** All resolutions, or parts thereof, in conflict with this resolution, are repealed; this
13 repealer is not to be construed to revive any order, resolution or part thereof, heretofore repealed.

14 PASSED, APPROVED AND ADOPTED this ____ day of ____.

15
16 _____
17 DAVID COSS, MAYOR
18

19 ATTEST:
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21 _____
22 YOLANDA Y. VIGIL, CITY CLERK
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APPROVED AS TO FORM:

GENO ZAMORA, CITY ATTORNEY

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2012-_____

INTRODUCED BY:

Mayor David Coss

AN ORDINANCE

**OF THE CITY OF SANTA FE, NEW MEXICO AUTHORIZING AND PROVIDING FOR THE
ISSUANCE AND SALE OF ITS INDUSTRIAL REVENUE BONDS (EL CASTILLO
RETIREMENT RESIDENCES) SERIES 2012 IN AN AGGREGATE PRINCIPAL AMOUNT
NOT TO EXCEED \$30,000,000 FOR THE PURPOSE OF FINANCING AND REFINANCING
IMPROVEMENT, CONSTRUCTION, ACQUISITION AND/OR EQUIPPING OF AN ADULT
RESIDENTIAL RETIREMENT FACILITY, MEMORY SUPPORT FACILITY AND NURSING
AND ASSISTED LIVING FACILITY LOCATED AT 250 EAST ALAMEDA STREET AND 239
EAST DE VARGAS STREET IN SANTA FE, NEW MEXICO, AUTHORIZING THE
EXECUTION AND DELIVERY OF AN INSTALLMENT SALE AGREEMENT BETWEEN THE
CITY AND EL CASTILLO RETIREMENT RESIDENCES, AN INDENTURE OF TRUST
SECURING SAID BONDS, A BOND PURCHASE AGREEMENT, CLOSING DOCUMENTS
AND SUCH BONDS IN CONNECTION THEREWITH; PROVIDING FOR THE TERMS OF
THE SERIES 2012 BONDS AND MAKING DETERMINATIONS AS TO THE SUFFICIENCY
OF THE INSTALLMENT SALE PAYMENTS AND OTHER MATTERS RELATED TO THE
PROJECT; AUTHORIZING THE SALE OF SAID BONDS AND ANY ANCILLARY**

1 **AGREEMENTS IN CONNECTION THEREWITH; AND AUTHORIZING OTHER MATTERS**
2 **PERTAINING TO THE ISSUANCE OF SAID BONDS.**

3
4 **WHEREAS**, the City of Santa Fe, New Mexico (the "City") is authorized by Sections 3-32-1
5 through 3-32-16 NMSA 1978, as amended (the "Act") to issue industrial revenue bonds for the purposes
6 set forth in the Act and to permit the expenditure of the proceeds thereof to defray, among other things, the
7 cost of acquisition, construction and installation of certain facilities constituting a 501(c)(3) project (as
8 defined under the Act) and for the purposes of refinancing in accordance with Section 3-32-6 NMSA
9 1978; and

10 **WHEREAS**, pursuant to Section 3-32-3 NMSA 1978, of the Industrial Bond Act, "project" also
11 means any land and building or other improvements thereon and all real and personal property deemed
12 necessary in connection therewith whether or not now in existence which shall be within the meaning of
13 the Section; and

14 **WHEREAS**, the City's procedures set forth in Resolution 2012-4 which adopted the City of
15 Santa Fe Industrial Revenue Bond Policy will be substantially complied with.

16 **WHEREAS**, El Castillo Retirement Residences, a New Mexico nonprofit corporation and an
17 organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 ("El Castillo"), has
18 requested the City to issue a series of its bonds in an amount sufficient, together with other moneys
19 available therefor, to refinance certain obligations of El Castillo and to finance certain capital costs,
20 including improving, constructing, acquiring and/or equipping the following: (i) existing facilities at the
21 adult residential retirement facility and nursing and assisted living facility; (ii) new facilities at the adult
22 residential retirement facility and nursing and assisted living facility; and (iii) a new memory support
23 facility owned and operated by El Castillo located within the City (the "Project") at the following
24 addresses: 250 E. Alameda Street and 239 East De Vargas Street, Santa Fe, New Mexico, to establish a
25 debt service reserve fund and to pay for certain costs of issuance of such bonds.

1 **WHEREAS**, in furtherance of the purposes set forth in the Act, the City agrees to finance and
2 refinance the Project by the sale and issuance of a series of its industrial revenue bonds and intends to
3 authorize such actions as might be required to implement the financing and refinancing of the Project;

4 **WHEREAS**, pursuant to and in accordance with the provisions of the Act, the Project is suitable
5 for use by El Castillo and will be sold by the City to El Castillo pursuant to an Installment Sale Agreement
6 dated as of November 1, 2012 (the "Agreement"); and

7 **WHEREAS**, the City proposes to fund the improvement, construction, acquisition and/or
8 equipping of the Project as an authorized project under the Act and to finance and refinance the cost
9 thereof by the issuance of a series of industrial revenue bonds of the City under an Indenture of Trust dated
10 as of November 1, 2012 (the "Indenture") from the City to The Bank of New York Mellon Trust Company,
11 National Association, as trustee; and

12 **WHEREAS**, pursuant to and in accordance with provisions of the Act, the City is now prepared
13 to proceed with financing and refinancing the costs of the Project by the issuance and sale of its industrial
14 revenue bonds entitled Retirement Facility Revenue Bonds (El Castillo Retirement Residences Project)
15 Series 2012 (the "Bonds"), such Bonds to be secured by the Indenture; and

16 **WHEREAS**, B.C. Ziegler and Company (the "Purchaser") has offered to purchase the Bonds on
17 the terms set forth in the Indenture and pursuant to a Bond Purchase Agreement among the City, El
18 Castillo and the Purchaser (the "Bond Purchase Agreement"); and

19 **WHEREAS**, the Purchaser intends to distribute a preliminary official statement (the "Preliminary
20 Official Statement") and an official statement (the "Official Statement") in connection with the public
21 offering and sale of the Bonds; and

22 **WHEREAS**, there has been presented to the City Council at such meeting: (1) the proposed form
23 of Agreement; (2) the proposed form of Indenture; (3) the proposed form of a Bond Purchase Agreement;
24 and (4) the proposed form of the Official Statement.

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

2 **Section 1.** The words and terms used in this Ordinance shall have the meanings set forth in
3 the recitals of this Ordinance unless the context clearly indicates another or different meaning or intent.

4 **Section 2.** All action (not inconsistent with the provisions of this Ordinance) heretofore
5 taken by the City Council and the officials of the City directed toward the Project and the sale and issuance
6 of industrial revenue bonds therefor be and the same is hereby ratified, approved and confirmed.

7 **Section 3.** Pursuant to the Act, the City Council does hereby authorize the financing and
8 refinancing of the Project in accordance with the terms of the Agreement and does hereby determine it is in
9 furtherance of the public purposes set forth in the Act; that the Project promotes the local economy, creates
10 and maintains jobs and improves local health and the general welfare by inducing adult residential
11 retirement facilities and skilled nursing facilities to locate and expand in the City; and that, therefore,
12 providing financing and refinancing for the Project through the issuance and sale of the Bonds is in the
13 public interest. The City Council further determines that no property tax revenues are being lost by the
14 City and no other public moneys are being expended by virtue of the financing and that assistance to El
15 Castillo as a New Mexico nonprofit and 501(c)(3) corporation is recognized by the Act to further a public
16 purpose. The City Council further determines that the procedures set forth in Resolution 2012-4,
17 Industrial Revenue Bond Policy have been substantially complied.

18 **Section 4.** To finance and refinance the costs of the Project, to establish a debt service
19 reserve fund and to pay certain costs of issuance of the Bonds, the City does hereby authorize the issuance
20 of industrial revenue bonds of the City under the Act, to be designated as set forth in the recitals of this
21 Ordinance, in an aggregate principal amount not to exceed \$30,000,000. The Bonds shall bear interest at a
22 rate not to exceed the maximum rate permitted by law and shall have a final stated maturity of not more
23 than 30 years.

24 The Bonds shall be dated and numbered and shall be in the form as provided in the Indenture and
25 shall be otherwise subject to redemption prior to maturity upon the terms and conditions set forth in the

1 Indenture. The Bonds shall be sold to the Purchaser at the purchase price specified in the Bond Purchase
2 Agreement. Interest on the Bonds shall be payable at the times specified in Article II of the Indenture.

3 **Section 5.** The City Council does hereby find, declare and determine that (i) other than the
4 debt service reserve fund as provided by the Indenture, it is not deemed advisable to establish any reserve
5 funds in connection with the retirement of the Bonds or the maintenance of the Project, (ii) pursuant to the
6 Agreement, El Castillo is obligated to maintain the Project and to carry all proper insurance with respect to
7 the Project, and (iii) pursuant to the Agreement, El Castillo is obligated to pay installment sale payments
8 sufficient to pay the principal of and interest on the Bonds in each year the Bonds are outstanding and to
9 fund any deficiencies in the debt service reserve fund provided in the Indenture.

10 In connection with the issuance of the Bonds, the following determinations and findings are
11 hereby made pursuant to Section 3-32-7 of the Act:

12 It is hereby determined and found that the maximum amount that may be necessary in each year to
13 pay the principal of and interest on the Bonds, assuming no Event of Default occurs or is continuing, is as
14 follows:

| Period | Maximum Principal | Maximum Interest | Maximum Annual |
|-----------------------------|----------------------------|-------------------------------|----------------------------|
| <u>Ending May 15</u> | <u>Debt Service</u> | <u>for such Period</u> | <u>Debt Service</u> |
| 2013 | \$ 170,000 | \$1,012,500 | \$1,182,500 |
| 2014 | 355,000 | 2,013,525 | 2,368,525 |
| 2015 | 380,000 | 1,989,562 | 2,369,562 |
| 2016 | 405,000 | 1,963,912 | 2,368,912 |
| 2017 | 435,000 | 1,936,575 | 2,371,575 |
| 2018 | 465,000 | 1,907,212 | 2,372,212 |
| 2019 | 495,000 | 1,875,825 | 2,370,825 |
| 2020 | 530,000 | 1,842,412 | 2,372,412 |

| Period | Maximum Principal | Maximum Interest | Maximum Annual |
|-----------------------------|----------------------------|-------------------------------|----------------------------|
| <u>Ending May 15</u> | <u>Debt Service</u> | <u>for such Period</u> | <u>Debt Service</u> |
| 2021 | 565,000 | 1,806,637 | 2,371,637 |
| 2022 | 600,000 | 1,768,500 | 2,368,500 |
| 2023 | 640,000 | 1,728,000 | 2,368,000 |
| 2024 | 685,000 | 1,684,800 | 2,369,800 |
| 2025 | 730,000 | 1,638,562 | 2,368,562 |
| 2026 | 780,000 | 1,589,287 | 2,369,287 |
| 2027 | 835,000 | 1,536,637 | 2,371,637 |
| 2028 | 890,000 | 1,480,275 | 2,370,275 |
| 2029 | 950,000 | 1,420,200 | 2,370,200 |
| 2030 | 1,015,000 | 1,356,075 | 2,371,075 |
| 2031 | 1,080,000 | 1,287,562 | 2,367,562 |
| 2032 | 1,155,000 | 1,214,662 | 2,369,662 |
| 2033 | 1,235,000 | 1,136,700 | 2,371,700 |
| 2034 | 1,315,000 | 1,053,337 | 2,368,337 |
| 2035 | 1,405,000 | 964,575 | 2,369,575 |
| 2036 | 1,500,000 | 869,737 | 2,369,737 |
| 2037 | 1,600,000 | 768,487 | 2,368,487 |
| 2038 | 1,710,000 | 660,487 | 2,370,487 |
| 2039 | 1,825,000 | 545,062 | 2,370,062 |
| 2040 | 1,950,000 | 421,875 | 2,371,875 |
| 2041 | 2,080,000 | 290,250 | 2,370,250 |
| 2042 | 2,220,000 | 149,850 | 2,369,850 |

1 It is hereby determined that the Reserve Fund created under the Indenture is required to be funded
2 in the amount of the Reserve Fund Requirement (as defined in the Indenture).

3 **Section 6.** The Bonds shall be executed on behalf of the City with the manual or facsimile
4 signature of the Mayor of the City. The Bonds shall be countersigned by the manual or facsimile signature
5 of the Treasurer of the City, and shall be attested by the manual or facsimile signature of the City Clerk
6 and shall have impressed or imprinted thereon the official seal of the City. If any of the officers who shall
7 have signed or sealed any of said Bonds shall cease to be such officer of the City before the Bonds so
8 signed and sealed shall have been actually authenticated by the Trustee or delivered by the City, such
9 Bonds nevertheless may be authenticated, issued and delivered with the same force and effect as though
10 the person or persons who signed or sealed such Bonds had not ceased to be such officer or officers of the
11 City; and also any such Bonds may be signed and sealed on behalf of the City by those persons who, on
12 the actual date of the execution of such Bonds, shall be the proper officers of the City, although at the
13 nominal date of such Bonds any such person shall not have been such officer of the City.

14 **Section 7.** The Bonds shall be limited obligations of the City and, except to the extent
15 payable from Bond proceeds or moneys from the investment thereof, shall be payable solely from the
16 revenues received by or on behalf of the City pursuant to the Agreement and otherwise as provided therein
17 and in the Indenture. The Bonds and interest thereon shall never constitute an indebtedness of the City
18 within the meaning of any constitutional or statutory limitation and shall never constitute nor give rise to a
19 pecuniary liability of the City or a charge against its general credit or taxing powers, and such fact shall be
20 plainly stated on the face of each Bond. The City shall have no obligation with respect to the Project, and
21 all costs, expenses, taxes, governmental charges and fees and charges with respect to the Project shall be
22 paid by El Castillo.

23 **Section 8.** The Bank of New York Mellon Trust Company, National Association is
24 designated as trustee, paying agent and registrar for the Bonds under the Indenture.

25 **Section 9.** The Indenture is hereby approved in substantially the form submitted to this

1 meeting, and the Mayor of the City (or in the event of his unavailability, the Mayor Pro Tem) is hereby
2 authorized and directed to execute, acknowledge and deliver the Indenture with such changes therein as
3 shall be approved by the Mayor (or in the event of his unavailability, the Mayor Pro Tem), including
4 establishment of the final principal amount and interest rate for the Bonds, not to exceed the maximums set
5 forth in this Ordinance. The execution of such document by the Mayor (or, in the event of his
6 unavailability, the Mayor Pro Tem) shall constitute conclusive evidence of such approval, and the City
7 Clerk is hereby authorized and directed to attest to the Indenture and to affix to the Indenture the official
8 seal of the City.

9 **Section 10.** The Agreement between the City and El Castillo is hereby approved in
10 substantially the form submitted to this meeting, and the Mayor of the City (or, in the event of his
11 unavailability, the Mayor Pro Tem) is hereby authorized and directed to execute, acknowledge and deliver
12 the Agreement with such changes therein as shall be approved by the Mayor (or, in the event of his
13 unavailability, the Mayor Pro Tem), the execution of such document by the Mayor (or, in the event of his
14 unavailability, the Mayor Pro Tem) to constitute conclusive evidence of such approval, and the City Clerk
15 is hereby authorized and directed to attest to the Agreement and to affix to such document the official seal
16 of the City.

17 **Section 11.** The Bond Purchase Agreement is hereby approved in substantially the form
18 submitted to this meeting, and the Mayor of the City (or in the event of his unavailability, the Mayor Pro
19 Tem) is hereby authorized to complete such Bond Purchase Agreement and to execute and deliver said
20 Bond Purchase Agreement on behalf of the City in substantially the form presented to this meeting with
21 such changes therein as shall be approved by the Mayor (or, in the event of his unavailability, the Mayor
22 Pro Tem), the execution of such document by the Mayor (or, in the event of his unavailability, the Mayor
23 Pro Tem) to constitute conclusive evidence of such approval.

24 **Section 12.** The distribution of the Preliminary Official Statement and the Official Statement
25 are hereby authorized, provided that the City takes no responsibility for the Preliminary Official Statement

1 or the Official Statement other than the information under the caption "The Issuer".

2 **Section 13.** Each of the Mayor (or, in the event of his unavailability, the Mayor Pro Tem), the
3 City Clerk and the Treasurer of the City are hereby empowered and directed to execute and deliver the
4 Bonds and all documents, tax agreements and certificates and other instruments which may be required
5 under the terms of the Indenture, the Agreement, the Bond Purchase Agreement and this Ordinance.

6 **Section 14.** The Bonds are hereby approved for the purpose of Section 147(f) of the Internal
7 Revenue Code of 1986, as amended.

8 **Section 15.** The provisions of this Ordinance are hereby declared to be separable, and if any
9 section, phrase or provision shall for any reason be declared to be invalid, such declaration shall not affect
10 the validity of the remainder of the sections, phrases and provisions.

11 **Section 16.** All ordinances, orders, resolutions and parts thereof in conflict herewith are
12 hereby repealed to the extent of such conflict.

13 **Section 17.** Immediately after its final passage and approval, this Ordinance shall be signed
14 and authenticated by the signatures of the Mayor and City Clerk, the seal of the City shall be affixed
15 hereto, and this Ordinance shall be published by title and summary in the Albuquerque Journal, a
16 newspaper which maintains an office in, and is of general circulation in the City. This Ordinance shall
17 become effective five days after such publication and shall be recorded in a book kept for that purpose.

18 APPROVED AS TO FORM:

19
20 _____
21 GENO ZAMORA, CITY ATTORNEY
22
23
24

25 *M/Melissa/Bills 2012-El Castillo Bonds*