



Agenda

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**PUBLIC WORKS/CIP & LAND USE COMMITTEE
MEETING
CITY COUNCIL CHAMBERS
TUESDAY, NOVEMBER 13, 2007
5:15 P.M.**

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. APPROVAL OF CONSENT AGENDA
5. APPROVAL OF MINUTES FROM OCTOBER 22, 2007, PUBLIC WORKS COMMITTEE MEETING

PUBLIC HEARING

6. REQUEST FOR APPROVAL OF AN ORDINANCE AMENDING ARTICLE 23-5 SFCC 1987 REGARDING PLAZA VENDORS; REQUIREMENTS; SELECTION PROCESS; CONDITIONS OF OPERATIONS (COUNCILOR CHAVEZ) (SEVASTIAN GURULE)
 - REQUEST FOR APPROVAL OF A RESOLUTION ESTABLISHING AN APPLICATION FEE FOR ARTISTS/ARTISANS WHO APPLY FOR A LICENSE UNDER THE SANTA FE PLAZA PARK ARTIST/ARTISAN PROGRAM (COUNCILOR CHAVEZ) (SEVASTIAN GURULE)

CONSENT AGENDA

7. CIP PROJECT #832A – ARTS-IN-TRAFFIC CALMING DEMONSTRATION PROJECT
 - REQUEST FOR APPROVAL OF A CONTRACT WITH CLEMENS AND ASSOCIATES FOR THE INSTALLATION OF A STONE SCULPTURE IN THE AMOUNT OF \$73,160 PLUS APPLICABLE NMGR (LEROY PACHECO AND DEBRA GARCIA Y GRIEGO)
8. CIP PROJECT #810A – CERRILLOS ROAD RECONSTRUCTION
 - REQUEST FOR APPROVAL OF A MEMORANDUM OF AGREEMENT WITH THE NEW MEXICO FINANCE AUTHORITY REGARDING GRIP2 2007 LEGISLATIVE APPROPRIATIONS IN THE AMOUNT OF \$4,714,300 FOR THE CERRILLOS ROAD RECONSTRUCTION PROJECT (ERIC MARTINEZ)
9. REQUEST FOR APPROVAL OF A RESOLUTION REGARDING WAIVERS OR REDUCTION OF FEES FOR SPECIAL EVENTS OR FOR THE USE OF CITY FACILITIES (MAYOR COSS) (COUNCILOR CHAVEZ) (BILL TALLMAN)

10. REQUEST FOR APPROVAL OF A RESOLUTION DIRECTING STAFF TO SEEK FUNDING FROM THE NEW MEXICO DEPARTMENT OF TRANSPORTATION TO ASSIST THE CITY IN CONSTRUCTING AN UNDERGROUND CROSSING FOR THE ARROYO CHAMISO TRAIL AT ST. FRANCIS DRIVE **(COUNCILOR BUSHEE) (BOB SIQUEIROS)**
11. REQUEST FOR APPROVAL OF A RESOLUTION SUPPORTING A PARTNERSHIP BETWEEN THE CITY OF SANTA FE AND THE U.S. ENVIRONMENTAL PROTECTION AGENCY WATERSENSE PROGRAM **(COUNCILORS BUSHEE AND CALVERT) (DAN RANSOM)**

DISCUSSION AGENDA

12. REQUEST FOR APPROVAL OF A LEASE AGREEMENT BETWEEN THE CITY OF SANTA FE AND PACIFIC WINGS AIRLINES D/B/A NEW MEXICO AIRLINES FOR TERMINAL BUILDING COUNTER AND FLOOR SPACE AT THE SANTA FE MUNICIPAL AIRPORT **(JIM MONTMAN)**
13. REQUEST FOR APPROVAL OF FACILITIES NEEDS ASSESSMENT AND MASTER PLAN REPORT **(RICHARD FIELDER)**
14. REQUEST FOR APPROVAL ADOPTING THE IMPACT FEE CAPITAL IMPROVEMENTS PLAN AND LAND USE ASSUMPTIONS, 2007-2012 **(REED LIMING)**
15. REQUEST FOR APPROVAL OF AN ORDINANCE AMENDING SECTION 14-8.14 SFCC 1987 REGARDING IMPACT FEES AND ADDING A NEW IMPACT FEE SCHEDULE **(COUNCILOR CHAVEZ) (REED LIMING)**
16. REQUEST FOR APPROVAL OF A RESOLUTION DIRECTING STAFF TO WORK WITH THE SANTA FE PUBLIC SCHOOL DISTRICT STAFF TO DEVELOP A CITY PROCESS IN WHICH APPLICANTS FOR LAND DEVELOPMENT PROJECTS WOULD BE REQUIRED TO MEET WITH THE SANTA FE PUBLIC SCHOOLS TO ASSESS AND MITIGATE THE IMPACTS OF THE DEVELOPMENT PROJECT ON THE SANTA FE PUBLIC SCHOOLS **(COUNCILOR DOMINGUEZ) (JACK HIATT)**
17. REQUEST FOR APPROVAL OF AN ORDINANCE AMENDING SECTION 25-4.2 SFCC 1987 REGARDING WATER RATE ADJUSTMENTS **(COUNCILORS CHAVEZ AND BUSHEE) (GARY MARTINEZ)**
18. MATTERS FROM STAFF
19. MATTERS FROM THE COMMITTEE
20. NEXT MEETING: MONDAY, NOVEMBER 26, 2007
21. ADJOURN

**SUMMARY OF ACTION
CITY OF SANTA FE
PUBLIC WORKS/CIP & LAND USE COMMITTEE
Tuesday, November 13, 2007**

| ITEM | ACTION | PAGE |
|--|---------------------------|-------------|
| CALL TO ORDER | Quorum | 1 |
| APPROVAL OF AGENDA | Approved [amended] | 1 |
| APPROVAL OF CONSENT AGENDA | Approved | 2 |
| CONSENT AGENDA LISTING | | 2 |
| APPROVAL OF MINUTES OCTOBER 22, 2007, PUBLIC WORKS COMMITTEE MEETING | Approved | 2 |
| <u>PUBLIC HEARING</u> | | |
| REQUEST APPROVAL OF AN ORDINANCE AMENDING ARTICLE 23-5 SFCC 1987 REGARDING PLAZA VENDORS; REQUIREMENTS; SELECTION PROCESS; CONDITIONS OF OPERATIONS | Approved [amended] | 2-6 |
| REQUEST FOR APPROVAL OF A RESOLUTION ESTABLISHING AN APPLICATION FEE FOR ARTISTS/ ARTISANS WHO APPLY FOR A LICENSE UNDER THE SANTA FE PLAZA PARK ARTIST/ARTISAN PROGRAM | Not approved | 6-7 |
| <u>DISCUSSION AGENDA</u> | | |
| REQUEST FOR APPROVAL OF AN ORDINANCE AMENDING SECTION 25-4.2 SFCC 1987, REGARDING WATER RATE ADJUSTMENTS | Approved | 7-9 |
| REQUEST FOR APPROVAL OF A LEASE AGREEMENT BETWEEN THE CITY OF SANTA FE AND PACIFIC WINGS AIRLINES D/B/A NEW MEXICO AIRLINES FOR TERMINAL BUILDING COUNTER AND FLOOR SPACE AT THE SANTA FE MUNICIPAL AIRPORT | Approved | 9 |

| ITEM | ACTION | PAGE |
|--|-----------------------------------|--------------|
| REQUEST FOR APPROVAL OF FACILITIES NEEDS ASSESSMENT AND MASTER PLAN REPORT | Approved | 9-15 |
| REQUEST FOR APPROVAL ADOPTING THE IMPACT FEE CAPITAL IMPROVEMENTS PLAN AND LAND USE ASSUMPTIONS, 2007-2012 | To Finance without recomm. | 15-16 |
| REQUEST FOR APPROVAL OF AN ORDINANCE AMENDING SECTION 14-8.14 SFCC 1987, REGARDING IMPACT FEES AND ADDING A NEW IMPACT FEE SCHEDULE | To Finance without recomm. | 17-19 |
| REQUEST FOR APPROVAL OF A RESOLUTION DIRECTING STAFF TO WORK WITH THE SANTA FE PUBLIC SCHOOL DISTRICT STAFF TO DEVELOP A CITY PROCESS IN WHICH APPLICANTS FOR LAND DEVELOPMENT PROJECTS WOULD BE REQUIRED TO MEET WITH THE SANTA FE PUBLIC SCHOOLS TO ASSESS AND MITIGATE THE IMPACTS OF THE DEVELOPMENT PROJECT ON THE SANTA FE PUBLIC SCHOOLS | Postponed to 11/26/2007 | 19 |
| MATTERS FROM STAFF | None | 19 |
| MATTERS FROM THE COMMITTEE | None | 20 |
| NEXT MEETING: November 26, 2007 | | 20 |
| ADJOURN | | 20 |

**MINUTES OF THE
CITY OF SANTA FE
PUBLIC WORKS/CIP & LAND USE COMMITTEE
Tuesday, November 13, 2007**

1. CALL TO ORDER

A meeting of the Public Works/CIP & Land Use Committee was called to order by Councilor Patti J. Bushee, Chair, at approximately 5:15 p.m., on Tuesday, November 13, 2007, in the Council Chambers, City Hall, Santa Fe, New Mexico.

2. ROLL CALL

MEMBERS PRESENT:

Councilor Patti J. Bushee Chair
Councilor Christopher Calvert
Councilor Carmichael Dominguez
Councilor Matthew Ortiz
Councilor Ronald S. Trujillo

OTHERS ATTENDING:

Robert Romero, Public Works Director
Frank Katz, City Attorney
Bobbi Mossman, Public Works Department
Melessia Helberg, Stenographer

There was a quorum of the membership for conducting official business.

NOTE: All items in the Committee packet for all agenda items are incorporated herewith by reference. The original Committee packet is on file in the Public Works Department.

3. APPROVAL OF AGENDA

Mr. Romero said there is a request to postpone Item #16 to the meeting of November 26, 2007.

Chair Bushee would like to move Item #17 up to be heard immediately after Item #6.

MOTION: Councilor Ortiz moved, seconded by Councilor Dominguez, to approve the agenda as amended.

VOTE: The motion was approved unanimously on a voice vote.

4. APPROVAL OF CONSENT AGENDA

MOTION: Councilor Ortiz moved, seconded by Councilor Dominguez, to approve the following Consent Agenda.

VOTE: The motion was approved unanimously on a voice vote.

7. **CIP PROJECT #832A – ARTS-IN-TRAFFIC CALMING DEMONSTRATION PROJECT.**
 - **REQUEST FOR APPROVAL OF A CONTRACT WITH CLEMENS AND ASSOCIATES FOR THE INSTALLATION OF A STONE SCULPTURE IN THE AMOUNT OF \$73,160, PLUS APPLICABLE NMGR. (LEROY PACHECO AND DEBRA GARCIA Y GRIEGO)**
8. **CIP PROJECT #810A – CERRILLOS ROAD RECONSTRUCTION.**
 - **REQUEST FOR APPROVAL OF A MEMORANDUM OF AGREEMENT WITH THE NEW MEXICO FINANCE AUTHORITY REGARDING GRIP2 2007 LEGISLATIVE APPROPRIATIONS IN THE AMOUNT OF \$4,714,300 FOR THE CERRILLOS ROAD RECONSTRUCTION PROJECT. (ERIC MARTINEZ)**
9. **REQUEST APPROVAL OF A RESOLUTION REGARDING WAIVERS OR REDUCTION OF FEES FOR SPECIAL EVENTS OR FOR THE USE OF CITY FACILITIES. (MAYOR COSS)**
10. **REQUEST APPROVAL OF A RESOLUTION DIRECTING STAFF TO SEEK FUNDING FROM THE NEW MEXICO DEPARTMENT OF TRANSPORTATION TO ASSIST THE CITY IN CONSTRUCTING AN UNDERGROUND CROSSING FOR THE ARROYO CHAMISO TRAIL AT ST. FRANCIS DRIVE (COUNCILOR BUSHEE). (BOB SIQUEIROS)**
11. **REQUEST APPROVAL OF A RESOLUTION SUPPORTING A PARTNERSHIP BETWEEN THE CITY OF SANTA FE AND THE U.S. ENVIRONMENTAL PROTECTION AGENCY WATERSENSE PROGRAM (COUNCILORS BUSHEE AND CALVERT). (DAN RANSOM)**

5. APPROVAL OF MINUTES OCTOBER 22, 2007, PUBLIC WORKS COMMITTEE MEETING

MOTION: Councilor Ortiz moved, seconded by Councilor Trujillo, to approve the minutes of the meeting of October 22, 2007, as presented.

VOTE: The motion was approved unanimously on a voice vote.

PUBLIC HEARING

6. **REQUEST APPROVAL OF AN ORDINANCE AMENDING ARTICLE 23-5 SFCC 1987 REGARDING PLAZA VENDORS; REQUIREMENTS; SELECTION PROCESS; CONDITIONS OF OPERATIONS (COUNCILOR CHAVEZ). (SEVASTIAN GURULE)**

Sevastian Gurule presented information to the Committee. Mr. Gurule reviewed the proposed changes to the Ordinance. He said the main change is in the selection process which is done by a jury process. Applicants for an individual license category must have operated continually for five years prior to the application on an individual license, a rotating license or collective license.

Mr. Gurule said the Resolution establishes an application fee of \$50 to pay a stipend to the Committee doing the evaluation.

Chair Bushee asked why a stipend is being paid, noting this is something new.

Mr. Gurule said the last time, a stipend was given to assist artists participating on the selection committee because they were spending a lot of time in the process. He said prior to 2002 the selection was done by staff. However, it is thought that perhaps the people doing the selection needed experience in the arena. Responding to the Chair, Mr. Gurule said no one who is a Plaza vendor can serve on the committee.

Responding to the Chair, Mr. Gurule said the stipend was his idea. He said there were more than 50 applicants in the last process, and it took a lot of time to review the applicants, conduct the interviews as well as to attend any studio visits. He said the stipend was a way to help them with the amount of time they had to spend in the process. He said there will be recruitment of artisans to serve on the selection committee within New Mexico.

Chair Bushee said this unique, because the City doesn't pay others who participate in these kinds of selections, such as the peer panel review for the Arts Commission, and believes this sets a precedent.

Chair Bushee asked about the longevity of people selling on the Plaza.

Mr. Gurule said this is the last time the percentage bonus points will be added, reiterating that it is a prerequisite for an individual license that the vendor must have had a rotating or collective license continuously for the past five years. He said the change is being made to give new artists the opportunity to have this experience. In the selection process, the number of years a vendor has been licensed will be one of the evaluation criteria.

Chair Bushee asked if he feels the need to open the process because there are so many people who want to sell on the Plaza.

Mr. Gurule said yes. Over the past five years, he has had about 70 inquiries from artists/artisans asking how to sell on the Plaza. He tells them the existing Code, explains the process and that there currently there is no new selection process happening. He tells them, without any guarantees, that there is a new process beginning in 2008, and invites them to participate without guaranteeing a selection. In the last process, there were 51 applications, some of which were current vendors applying in several different categories.

Chair Bushee asked how many slots were open.

Mr. Gurule said there was a total of 16 spaces for 21 licenses, so 30 people didn't get licenses. The selection was based on the criteria in place at that time. He said there was one applicant who applied in three different categories.

Councilor Bushee asked for a list of the people who are proposed for the selection team.

Mr. Gurule said Ms. Pratt is assisting him with the names of people to submit to the City Manager for approval, noting there currently are two designated. He said we are scouting throughout the State to get a wide variety of artists/artisans which would like to participate. His concern if we just look locally, we might have some who are not so favorable with the program or with some of the artists/artisans.

Responding to Councilor Bushee, Mr. Gurule said he isn't soliciting vendors from across the State for the Plaza. He said the requirement under the Code is that they are residents of Santa Fe County.

Public Hearing

Diane Martinez, 715 Brott, Bosque Farms, New Mexico 87068. Ms. Martinez said she is a long time vendor and a Plaza Vendor representative. She said there are many applications, but nobody wants to perform and they only want to be there when the weather is good. She said today was a beautiful day, but there were only four of the long time, permanent vendors on the Plaza. She said people want to sell on the Plaza, but they only want to sell on weekends or good days, and not all the time. She said today may be the only day a person will visit Santa Fe. She said in the last jury process, 8-10 new vendors were selected, but most of those are gone, and didn't last. She said if the ordinance had been enforced, there would have been a lot more open spaces. She said when those who are selected don't show up, that leaves a vacancy for someone else to fill in.

Chair Bushee asked Ms. Martinez to speak to the Ordinance changes.

Ms. Martinez said "we" all worked really hard on the ordinance, and everybody had their say. The ordinance is well written, but she has a concern about lines 10-11 on page 12. She said the vendors would like the bonus points to continue, because they are the ones who are on the Plaza no matter what the weather. She said they have worked their way up, done their time, and paid their dues.

Ms. Martinez said the Plaza Vendors represent the City, and many times are the first people seen by visitors to Santa Fe. She said the Plaza Vendors are the City's goodwill ambassadors, and she believes they are all pleasant and knowledgeable about Santa Fe. She asked for the continued support of this Committee for the long time artists.

The Public Hearing was closed.

MOTION: Councilor Dominguez moved, seconded by Councilor Ortiz, for approval of this request.

FRIENDLY AMENDMENT: Councilor Ortiz would like to strike lines 10 and 11 on page 12, because he believes the additional points probably are useful. **The amendment was friendly to the maker, and**

there were no objections from the other members of the Committee.

Councilor Dominguez asked why this language was added to the Ordinance, what is the rationale.

Mr. Gurule said the reason it is proposed to remove the bonus points is because of a lawsuit filed against the City in the last selection process. He said the applicant sued based on the criteria not being fair. The hearing officer reviewed all of the testimony and evidence, and said, with regard to one criterion, there wasn't sufficient information to jury it properly. She recommended deleting that criteria score, recalculating the score and awarding the licenses, which was done.

Mr. Gurule said the City was then sued in District Court, with allegations of a First Amendment violation because the person was denied freedom of expression and the freedom to do so on public property. At the time, the City Attorney defended the City, arguing that this allegation was not brought up during the appeal process, and therefore should not be considered by the Court. The District Court agreed with that argument and dismissed the case.

Mr. Gurule said in conversations following that core proceeding, and in reviewing what could be done to strengthen the program, then City Attorney Bruce Thompson recommended elimination of the bonus points because those provide an edge to existing vendors over newcomers, essentially locking them out.

Councilor Dominguez asked the City Attorney to comment in this regard.

Frank Katz, City Attorney, said he has reviewed this case, and initially he had the same reaction as Mr. Thompson, that there are issues of due process, First Amendment and equal protection, and often due process and equal protection are founded on a basis of fairness. He said it strikes him that we have people who have a lock on this business, because they've been there for years, and they may not be the best. He said we do care about the quality because we go through the jurying procedure, but pretty much anyone new will be pushed aside by the folks who have been there, which strikes him as unfair.

Mr. Katz said he looked into the legality of this. He said he found a case from New Orleans, where the City had grandfathered in a pushcart vendor, and the Court of Appeals said they can't do this. However, he found that the Supreme Court reversed its decision and said this was okay on equal protection grounds. He said equal protection is based on a rational basis. If the City of New Orleans had a rational basis for gradually eliminating pushcart vendors, and allowing long time vendors to stay until they finished, this was sufficient for equal protection grounds.

Mr. Katz said, in this situation, it is that assertion in the District Court which happened the last time with the claim of the First Amendment which triggers a greater degree of scrutiny. The first issue is whether the items sold on the Plaza would be entitled to First Amendment protection. The most recent case out of the Second Circuit, deals with New York City, cites an earlier case which holds that painting and sculpture is clearly expressive and entitled to First Amendment. He said things such as silversmithing and jewelry and pottery – maybe yes and maybe no. There is an issue as to whether what is sold on the Plaza would be subject to First Amendment. And they said when you have something, for an example a piece of jewelry, which could be mass produced or specially made, one of the things you would look at to decide whether it

is expressive is whether the cost is higher than a regular item. In the New York case, they were talking about pieces of clothing which were decorated with graffiti. If you were charging \$50 for this T-shirt you normally would charge \$10, and there is something expressive going on.

Mr. Katz said, "My sense is that what is sold on the Plaza is of a high quality, it is juried, we have this reputation as an art center in Santa Fe. I would not like to bet the farm that the court would not find that this is protected by the First Amendment. Then you come to, well what standard did this Court look at, and the standard that the court is going to look at is whether the restrictions..you can have restrictions, it's what they call intermediate scrutiny. If we were discriminating based on the content of what was being expressed, yes, that's definitely a no no. But, if the restrictions are content neutral,, people are not restricted by the content of their expression, there is just so many that we can have. And, restrictions may limit the time, place and manner of expression, so long as the restrictions are reasonable, are narrowly tailored to serve a significant governmental interest, and leave open ample alternative channels for communication of the information. And, the New York Court found, New York limits the number of street vendors to some 852, they have a waiting list of 8,000. The reasons for limiting them are obvious, the same reasons why we don't just say anyone who wants to sell on the Plaza can sell, congestion, and the competition with the stores and all of that. And the Court, in the New York case, upheld those restrictions as legitimate, saying they could lobby the City for more numbers, they could get on the list, they could sell in alternative venues, such as galleries, etc."

Mr. Katz continued, "Ultimately where I came down is that I think that the bonus points, although perhaps seeming unfair to some people in keeping out mostly new folks, probably would meet Constitutional muster and I think that we would win a First Amendment challenge."

Councilor Dominguez said he agrees with Councilor Ortiz's remarks.

VOTE: The motion, as amended was approved unanimously on a voice vote.

- **REQUEST FOR APPROVAL OF A RESOLUTION ESTABLISHING AN APPLICATION FEE FOR ARTISTS/ARTISANS WHO APPLY FOR A LICENSE UNDER THE SANTA FE PLAZA PARK ARTIST/ARTISAN PROGRAM (COUNCILOR CHAVEZ). (SEVASTIAN GURULE)**

Councilor Ortiz said it would be different if this Resolution called for the application to pay for the normal costs of enforcement and other things which have to be done. He needs more information about paying stipends, commenting that this is unusual given the number of volunteers we have, and he isn't yet ready to support this Resolution.

Councilor Calvert said if Mr. Gurule is trying to get people outside the local community, they would have expenses to participate in the process. It is different from serving on a committee, because it will be a one-time intense effort, and then it will cease. It will have to be done over a number of days, and they may not live in Santa Fe. It differs from the normal circumstance in that you are asking people to give time

from their job, and asking them to come here from another community, which is asking for more than the normal.

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

DISCUSSION: Councilor Dominguez said sometimes people are put on the Planning Commission because they see a different light at the end of the tunnel, and this is a different program. He said typically you pay a stipend to get good quality judgments on some of these products, and this is acceptable to him.

Chair Bushee said she is not up for the idea.

VOTE: The motion was defeated on a voice vote, with Councilors Calvert and Councilor Dominguez voting in favor of the motion, Councilors Ortiz and Councilor Trujillo voting against the motion. The resulting vote was a tie, and Chair Bushee voted against the motion.

Councilor Bushee said she believes the desired objectivity and highly qualified artists/artisans to judge the vendors can be found within this community.

MOTION: Councilor Ortiz moved, seconded by Councilor Trujillo, to have staff retool this Resolution and provide some of the costs to enforce the program, and bring it back to this Committee at the next meeting.

DISCUSSION: Councilor Ortiz would like staff to work on the Resolution and costs of enforcement, and bring it back as a service charge, which he believes would be worthy of consideration.

VOTE: The motion was approved unanimously on a voice vote.

DISCUSSION AGENDA

17. REQUEST FOR APPROVAL OF AN ORDINANCE AMENDING SECTION 25-4.2 SFCC 1987, REGARDING WATER RATE ADJUSTMENTS (COUNCILORS CHAVEZ AND Chair Bushee). (GARY MARTINEZ)

Ms. Price said the bill was modeled on the Public Utilities Committee action, because it has always been a draft.

Councilor Ortiz asked if the Water Division Director still will have the authority to make changes at an administrative level.

Mr. Martinez said yes.

Councilor Ortiz asked the proposed fiscal impact.

Mr. Martinez said that will be done for the Finance Committee, and it is estimated to be about \$300,000 in lost revenue.

Responding to Councilor Ortiz, Mr. Martinez said staff is estimating 100 accounts, and probably only about one-fourth of those will be applying.

Councilor Ortiz asked if all were to apply, would the revenue loss be significantly higher.

Mr. Martinez said this is correct. He said the Ordinance criterion refines that language, so it would be very difficult for the entire 100 accounts to meet the criteria.

Chair Bushee believes Mr. Martinez's estimates are somewhat high as to how many businesses will apply, and asked who else deals just in water.

Mr. Martinez said staff is looking at the ice plant, the laundromats, and other businesses, noting these are the rough numbers provided by the consultants. He is expecting a finance report this week, and he will be presenting to the Finance Committee on Monday, so there will be an FIR at that meeting.

Councilor Ortiz said he is withholding his judgment until he sees the FIR. He asked if this has been introduced formally, and believes it came on its own to PUC.

Mr. Martinez said it was introduced at PUC.

Councilor Ortiz said it needs to be introduced at the Council, and then scheduled for notice of title and general summary and such.

Ms. Price said it hasn't gone to Finance Committee nor for a Request to Publish, and won't for a while.

Councilor Calvert said Mr. Martinez has done some analysis of this when the criteria weren't as set as they are as written, and at one time it was thought there would be a revenue loss of \$1.3 million.

Mr. Martinez said this is correct, because initially they were looking at 1½ inch meters and below, which was 390 accounts and a potential revenue loss of \$1.3.

Councilor Calvert said the criteria have been tightened, and there is some discretion about all the conservation measures to qualify. He said there are laundries, ice plants, purified water vendors, and there might be others. The ordinance limits the application period to 90 days.

Mr. Martinez said the applicant has to prove to the City that the conservation efforts have been done, and that they have done extensive work in the area. If they haven't done this, then the application would be denied.

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

DISCUSSION: Chair Bushee said she doesn't understand the hiring of the consultant. All we asked was for an administrative approval procedure for two businesses which just sell water as a product. She was told it can't be done administratively, but we are now back to being able to do it administratively. She believes we will only see the ice plant and a couple of others.

Councilor Ortiz said there are aspects about this which he likes. He understands the problem, and this is in another iteration than he remembers which could be because of the initial sponsor. He reiterated without the FIR and the accounts, he will abstain on this until the Finance Committee. He said this hasn't been introduced formally, and needs lots of work at Committee.

Chair Bushee said the criterion in the Ordinance gives the Director plenty of leeway to keep this to what we are trying to do.

Responding to Councilor Bushee, Mr. Martinez said it was never the intent to include restaurants, saying it is his understanding that the business had to have a substantial portion of its business involving water.

Councilor Ortiz, said the ordinance provides, "Only commercial customers with meters that are one inch or less may apply...and submit an application demonstrating unique circumstances regarding the type of business resulting in water delivered to the applicant being a substantial part of a finished product and/or service offered by the applicant at the service address in question." He said there are other provisions about where they are with regard to the surcharge, "and that the customer has made a reasonable attempt to mitigate water use and eliminate water waste." He said this is a lot of discretion we are giving to our staff.

VOTE: The motion was approved on a voice vote, with Councilors Dominguez, Trujillo and Calvert voting in favor of the motion, none against and Councilor Ortiz abstaining.

Councilor Trujillo asked to be added as a sponsor to this legislation.

12. REQUEST FOR APPROVAL OF A LEASE AGREEMENT BETWEEN THE CITY OF SANTA FE AND PACIFIC WINGS AIRLINES D/B/A NEW MEXICO AIRLINES FOR TERMINAL BUILDING COUNTER AND FLOOR SPACE AT THE SANTA FE MUNICIPAL AIRPORT. (JIM MONTMAN).

Mr. Montman presented information from his Memorandum of October 22, 2007, which is in the Committee packets.

MOTION: Councilor Ortiz moved, seconded by Councilor Trujillo, to approve this request.

VOTE: The motion was approved unanimously on a voice vote.

13. REQUEST FOR APPROVAL OF FACILITIES NEEDS ASSESSMENT AND MASTER PLAN REPORT. (RICHARD FIEDLER)

Richard Fiedler presented information regarding this matter from his Memorandum on the first page of the Facilities Needs Assessment and Master Plan.

Councilor Dominguez asked how far out does this plan look.

Mr. Fiedler said to 2027.

Councilor Calvert said we are being asked this evening to approve the assessment, and not so much where we are going with this information.

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

DISCUSSION: Councilor Ortiz said the Water Administration Building isn't included in the study, and asked why.

Mr. Fiedler said it is an enterprise fund building, and this basically focuses on Administrative General Fund facilities. The warehouse area of the San Mateo facility was incorporated because work is done at fleet maintenance area, and as far as yard storage, materials, supplies and vehicles it was included in this service.

Councilor Ortiz said it was included as far as supplies, but isn't listed as part of the inventory, in terms of potential uses for that site. The study made the assumption that because it was an Enterprise Fund, we wouldn't have the potential to use this site for any purpose.

Mr. Fiedler said the assumption didn't come from that direction. He said at the time the decision was made not to include certain facilities in the plan, we were negotiating fee proposals. One of the assumptions is that it is an Enterprise Fund and would have more capacity to meet its needs without the use of General Funding. He said that along with Fire having its own master plan, and the Police having its own master plan also were not included in the survey.

Councilor Ortiz said the new facility for public safety – Police and Fire – is included in the Legislative priority. So, Mr. Fiedler is saying that we didn't look at those sites as part of the inventory of potential sites because they will use their existing facilities.

Mr. Fiedler said Police and Fire already have plans. He said the format of this assessment and report was to address the needs of the existing government agencies which had no long term information regarding the number of people, population growth and facilities needed to accommodate that.

Councilor Ortiz said, in terms of facility needs and available resources at hand, the City could assume that if the Police move into a new station, free up the space at Camino Entrada that Camino Entrada could be used for some of the needs identified in the plan – we can make that decision.

Mr. Fiedler said yes.

Councilor Ortiz said if we build a new Fire facility Ashbaugh, and it moved out of its old facility, the old facility could be used for some of the needs identified in the plan.

Mr. Fiedler said this is correct.

Councilor Ortiz has heard that the Municipal Court believes it has outgrown its facility, and would like a new facility. If the Court moves out, the City could use that space.

Mr. Fiedler said this is correct. However, it was not part of the study because Police and Fire have their own plans, and those options were not available during the course of investigation of this document.

Councilor Ortiz said then it is estimated currently that there is a space shortfall of 90,000 sq. ft.

Mr. Fiedler said we know the square footage numbers which are needed, but not where those would be located.

Responding to Councilor Ortiz, Mr. Fiedler said the shortfall will be 152,000 by 2027.

Councilor Ortiz said currently there is a limitation in the downtown offices at 26,000 sq. ft., the majority of which are for Planning & Land Use and Administrative Services – Finance, noting Finance isn't on the list.

Mr. Fiedler said that was in the Administrative Service Department's needs a year ago, and Finance was in the Administrative Services Department at that time, as well as IT, Facilities Maintenance, Risk & Safety and Finance.

Chair Bushee asked if there is an FIR or a matrix for the costs for the Plan.

Mr. Fiedler said there is an estimate of construction costs to build the missing square footage which would be needed by 2027. It has a financial plan.

Chair Bushee asked if it still applies.

Mr. Fiedler said it will fluctuate with building costs. It was an estimate, and there is a disclaimer saying it shouldn't be used for budget. They detail the numbers which were used for what kind of square footage on page 49.

Responding to the Chair, Mr. Fiedler said there is a two-section plan for construction; one is an expansion of the south side of this facility, and construction of another building next to the footprint of the Civic Center on the northwest corner.

Chair Bushee this will be a whole separate building.

Mr. Fiedler said this is correct, reiterating that it deals with the options available at the time to keep certain groups in the downtown area, and eliminate the leased space. The square footage in the plan for the downtown area gets rid of the leased space and moves that to a City facility.

Chair Bushee asked why this wasn't considered during the process of the Civic Center.

Mr. Fiedler said preliminary investigations took place, and the project budget at that time did not allow that addition. He said there is a diagram showing the expansion of City Hall and the additional square footage on page 37 of the Report. Responding to the Chair, Mr. Fiedler said the question definitely was asked.

Chair Bushee said she never heard anything about this.

Chair Bushee said, with regard to the Siler Road yard, it starts with the premise of purchasing the available 14-acre parcel, but that decision hasn't been made. She doesn't know who drove this plan with regard to some of the decisions, including the additional building at the back of the Convention Center.

Councilor Ortiz recalled during the discussions of the proposed plans for the convention center, there was a proposal to add additional office space at the back side, and we had a fight about that, and because of financing it was removed.

Mr. Fiedler said there was discussion, stating that he was there when it was discussed.

Mr. Romero said there was a discussion about that, but it never went further than some preliminary plans, but the structural systems in the garage can facilitate building something at the top of the northwest corner if the City ever decides to do so.

Chair Bushee said she would want to go facility-by-facility, and have a reality check of what we're contemplating. She said this kind of stuff throws strategic planning out the window because it isn't built into anything else. This seems backward to her somehow, and doesn't follow the policies we have been following.

Mr. Fiedler said, having read the entire plan a few times, he believes it works with the strategic plan and the goals established by the Governing Body, in allowing the employees to facilitate progress toward the ultimate goals of the strategic plan. The suggestions in this document were the most visible opportunities which were presented during the development of the document.

Chair Bushee asked the total price tag for all of this expansion.

Mr. Fiedler said that would be approximately \$73 million by 2027, in today's dollars, noting there is a phasing on page 50.

Councilor Ortiz asked, in terms of the items at the Siler Road complex and the downtown area complex, if this report found that the Siringo complex was adequate to meet its needs.

Mr. Fiedler said the Siringo Complex was considered as a potential resource for sale after other phases were implemented and the employees at that site were moved to a central service center at Siler. The estimated value of the Siringo Site was \$3.5 to \$4.5.

Councilor Ortiz said then the Facility Plan said our best use of that property is to move everyone out to Siler, and to sell the property.

Mr. Fiedler said the study outlined the reasons it is impractical to expand the Siringo site further – it is in a neighborhood, next to a school – noting the reasons are detailed on page 38.

Councilor Ortiz asked if staff agrees with these reasons.

Mr. Fiedler said it seemed to make sense in reviewing the entire document because of the limited space, the need for additional parking and its location.

Councilor Ortiz noted there is no consideration about the City-owned property next to the Airport, and asked if this was purposely done as well.

Mr. Fiedler said the investigation of the Airport led to the feeling that it wasn't as cost effective.

Councilor Ortiz said he can't find where the Airport was analyzed as a portion of the plan.

Later in this discussion, after a search, Mr. Fiedler said this was included in the power point presentation.

Mr. Fiedler said in the section where it talks about the Airport, the limitations are listed on being able to expand the City Hall site.

Councilor Ortiz asked if they reached a conclusion that there would be limitations at the Airport property because of FAA requirements and changing the Airport Master Plan, noting this is the pitch made by staff in executive session.

Mr. Fiedler said it expressed those concerns, as well as the physical location. The Siler Yard was more centrally located over the life span of this document.

Councilor Ortiz said things such as service, maintenance, warehousing and vehicle placements aren't driven by centrality, location and such, noting it is not uncommon for any community to place these kinds of facilities at the edge of the town.

Councilor Calvert said the difference might be the cost of fuel in moving vehicles all across the City, because the fuel costs would increase significantly. If these are more centrally located, that won't be the case.

Councilor Ortiz said that might be the best argument he's heard for this.

Councilor Ortiz said the facilities inventory is clear that it stops at Siler Road and didn't consider anything after that.

Councilor Calvert said this is a facilities inventory, and Councilor Ortiz is asking for a land inventory and land use inventory more than for facilities. He said this addresses facility needs, what we have and what we need.

Mr. Fiedler pointed out that it now takes a half hour to get to the City Hall from the Siler Road facility.

Councilor Ortiz said he agrees with some of the assumptions, noting Santa Fe is growing toward the south and the west, and the population of Santa Fe is in the south and the west. He said it is a better use of our facilities and resources to have some stuff in the North, but to have the majority in the south.

Councilor Ortiz said there are some solid assumptions, but some of the assumptions are driving to a particular point. He said he can accept the plan for what it is, which is a finished project. However, he believes we need to have further discussions, for example, on whether we think it is in our best interest to sell Siringo Road, or not to look at reshuffling some other facilities which now are considered as Enterprise Fund, to see what is the bigger picture than just the General Fund needs for General Fund departments. This always has been his concern, this and the acquisition of the Siler Road property – are we looking at all of our available options. The option being presented as the only option doesn't seem to him to be the only option. Otherwise, he believes the plan can move forward.

Mr. Fiedler said he just found the discussion of the Airport in the power point presentation. He said at the study session, as part of the power point presentation, the airport was listed as a potential site, as well as Valdez Industrial Park, Northwest Quadrant, Siringo Road and the 14-acre parcel adjacent to the Siler Yard. All of these were considered in the potential corporate yard sites. The detriments to the Airport were listed as the fair market value lease and FAA approvals. They were trying to move away from splitting corporation sites among multiple locations. The Valdez site currently is leased to the State Police and it would split the corporate yard among multiple locations. The NW Quadrant site would split corporate yards among multiple locations as well. He said one of the strong focal points of this was trying to get things more centralized.

Mr. Fiedler said Siringo Road was listed as being too small for the long range plan, and that it is located adjacent to public schools and residential neighborhoods. The only advantages listed for the 14-acre parcel site are its current central location and that it is the only available property contiguous to the existing yard.

Councilor Ortiz said this is just a supporting argument to the first argument – we want it centralized, therefore this is the only contiguous parcel – it is a supporting argument, not a principal argument.

Mr. Fiedler said it fits with this consultant's view of what the City needs to do.

Councilor Ortiz said he presumes this is going to the Finance Committee.

VOTE: The motion was approved unanimously on a voice vote.

Councilor Calvert and Chair Bushee left the meeting at this time, and Councilor Ortiz assumed the duties of the Chair.

Councilor Ortiz said he has to leave at 7:00 p.m., because he has a community meeting.

14. REQUEST FOR APPROVAL ADOPTING THE IMPACT FEE CAPITAL IMPROVEMENTS PLAN AND LAND USE ASSUMPTIONS, 2007-2012. (REED LIMING)

Reed Liming presented information regarding this matter from his Memorandum of November 1, 2007, and the Capital Improvements Plan and Land Use Assumptions, 2007-2012, which is in the Committee packet.

Councilor Ortiz asked why we are changing only the Road Impact fees to a more narrow definition of roads which is arterial roads. Why are we refining or defining roads into a smaller category of roads which would just be arterial roads.

Mr. Liming said collectors and arterials are included, and this puts them into a category called Roads, which will include traffic signals as well. He said they are taking the existing six categories and collapsing those into four. He said Regional and Neighborhood Parks are being moved into a Parks category, and it does same thing with roads.

Councilor Ortiz disagreed, saying we are doing something different. Currently, the City collects a road impact fee and a traffic signal impact fee, and we are collapsing both into a category called Arterial Roads, saying this makes it more narrow.

Mr. Liming said it is called "Roads," which includes arterials, collectors and traffic signals, so the name is changed, but we are defining it more broadly to include traffic signals as well.

Mr. Romero said, as previously written, it was only arterial roads, and we are now adding collectors and signals. There were an Arterial Roads fee and a Signal Fee, and now it is just Roads, and it will be more general to include collectors and intersections.

Councilor Ortiz asked why we wouldn't want a separate fee for signals, noting we used a lot of the fees collected for signals for the synchronization studies and work being done on some of the streets.

Mr. Liming said staff decided to do it because it would add more flexibility. He said, as designed, the fees which are collected will stay in the traffic signal category. However, when new developments start paying, if there are new fees those developments will pay a combined road and signal fee. He said staff felt, going forward that the State law, in defining these items, anticipated a larger category which would contain all of these different things, and would move toward four instead of six categories.

Responding to Councilor Dominguez, Mr. Liming said the Development Fees Act is a State enabling act which allows city and county governments to adopt impact fees.

Responding to Councilor Dominguez, Mr. Liming said in imposing impact fees, we are trying to anticipate where the dollars are coming from. He said 1/4 of the increase is due to construction costs and materials, but 75% of the increase is due to the credits. He said four years ago, we over-estimated the state and federal funding for roads at \$10 million annually, but received only \$3.6 million.

Councilor Dominguez asked if the City does not consider the impact of an additional road on additional staff to maintain the road.

Mr. Liming said the City can't do that. The Development Fees Act is for capital projects, and not for operating. The fees collected go into an account, and payments are made out of that account for a specific capital project. He agrees there are additional costs, but those can't factor into an impact fee.

Councilor Dominguez asked if impact fees can be used for staff training in Planning & Land Use.

Mr. Liming reiterated that these fees are for capital projects – for planning, designing and construction of projects – as specified in the Act

Councilor Ortiz asked if there is a time issue to approve this.

Mr. Liming said no, it is the update which is required every five years at a minimum, but it can be done more often. The Ordinance would put the new fees in place as of July 2008.

Councilor Dominguez asked if consideration has been given to the current state of the real estate market, noting that the increased fees could impact that.

Mr. Liming said no, we don't look at the market. We do look at the impact of each new unit of growth. He said the studies done indicate that impact fees, when directly passed through, add about 1.1 to 1.2 % for each unit.

Councilor Dominguez asked if new units are produced "come July 1, 2008," if staff has analyzed whether this will have an impact on that.

Mr. Liming said it is generally assumed that impact fees are passed through – included in the price of the house. He believes that the larger market forces will have a greater impact than an impact fee.

MOTION: Councilor Dominguez moved, seconded by Councilor Trujillo to move this forward to the Finance Committee without recommendation, with a request that it come back to Public Works.

VOTE: The motion was approved on a voice vote [absent: Councilor Calvert and Chair Bushee].

15. REQUEST FOR APPROVAL OF AN ORDINANCE AMENDING SECTION 14-8.14 SFCC 1987, REGARDING IMPACT FEES AND ADDING A NEW IMPACT FEE SCHEDULE (COUNCILOR CHAVEZ). (REED LIMING)

Mr. Liming presented information regarding the proposed changes to the Ordinance, which are included in his Memorandum of November 1, 2007, which is in the Committee packet.

Responding to Councilor Ortiz, Mr. Liming said there weren't a huge number of new subdivisions when the new rates went into effect in 2004, but what happens this time will depend on the amount of the increase.

Councilor Ortiz asked if the County is going through a similar process to increase its fees.

Mr. Liming said the only impact fee the County charges is on Fire. He said when this process was started about seven years ago, there was a City/County effort, and the County decided to drop out – we were looking at impact fees in the City and in the five-mile EZ.

Mr. Liming said the proposed fees in the Ordinance are the fees which were recommended by the CIAC Committee which will result in a 20% increase in revenue to the City of \$2.4 million, which was 60% of what the consultant said were maximum new fees. The Planning Commission recommended the new fees at 80% of what the consultants said the City could enact. He noted the different fee schedules are in the packet.

Councilor Dominguez noted that there are no Planning Commission or CIAC minutes in the packet.

Mr. Liming said the vote to increase fees was approved on a 4-3 vote at Planning Commission, but the fees and changes in the ordinance are those recommended by CIAC.

Councilor Ortiz asked if it is possible not to increase residential, but to increase commercial.

Mr. Liming said the consultant suggests that is not a good approach, and setting all fee categories at a certain percentage of the maximum is best. He said this was the basis for the CIAC recommendation, because it saw the fees increasing more on the smaller homes in the new maximum fee schedule. The reason for that is because of the microdata from the census, which we didn't have in 2003, the impact to the smaller homes was proportionally greater than that of larger homes.

Councilor Ortiz said they are also increasing, because the consultant included all of the land in the Northwest Quadrant.

Mr. Liming said that was withdrawn. The CIAC recommended that the entire Northwest Quadrant not be considered open space, because there was some uncertainty about whether the City would choose to develop it in the future.

Councilor Ortiz said the Memo from the planner to Mr. Liming said this is the reason the Parks Impact Fee is increasing, because there has been an increase in the cost of the average single family household, and the first factor indicates, "An increase in total acres due to the inclusion of the Northwest Quadrant." So, you are saying the CAIC considered that, but it is not included, noting an increase in the Parks Impact Fee. If that was discounted, what other justification do we have for increasing the Parks Impact Fee.

Mr. Liming said it is because of the cost of land and materials. He said that Memo predated the CIAC's recommendation that it not be included. He said if we go back to the CIP we can check the inventory for the Northwest Quadrant.

Councilor Ortiz said there is a conundrum, since some of the Councilors are pushing the Parks Master Plan which would be a bond issue. He said to then raise the Impact Fees, would be a double hit.

Mr. Liming said if the bond issue were in place, it could have been credited against the impact fees, and would have had the effect of dropping the impact fee if a bond issue had been passed.

Councilor Ortiz asked why we wouldn't we want to consider this after the bond election has taken place.

Mr. Liming said you could do that.

Councilor Ortiz said we could then be in a position to drop the Parks Impact fee with that \$30 million infusion of funds.

Mr. Liming said you could do that.

Councilor Dominguez asked how a Parks Impact fee is established.

Mr. Liming said it is all based on residential. You are taking the total land area, valuing it and all of the improvements to those parks and dividing the value into the housing units.

Councilor Ortiz said that doesn't necessarily mean the same thing in what is going to the public. He said if the public passes the bond issue, it is a tax on property, and not just on residential property, so we would be collecting money from commercial properties.

Mr. Liming said he presumes it would be collected on all property.

Councilor Trujillo asked if we would be collecting more money with the bond.

Councilor Ortiz said yes, and it would have a potential impact on what is being proposed as it relates to the impact fee, because we would receive a credit on the amount of available resources we would have. He said these things can be fleshed out further when this goes to Finance Committee.

MOTION: Councilor Dominguez moved, seconded by Councilor Trujillo to move this forward to the Finance Committee without recommendation.

DISCUSSION: Councilor Ortiz asked if this has been introduced at Council, and noticed for title and general summary.

Mr. Liming said it has not been introduced at Council.

Councilor Ortiz questioned how this is on this agenda if it hasn't been introduced at Council. He understood the process is that no items will be on the agenda without having first been introduced at Council. It is then assigned to Committees by the City Clerk, and then it is put on the Council Agenda for notice of title and general summary.

Mr. Liming said he doesn't know how this came to be on the agenda, noting Councilor Chavez is sponsoring this bill.

VOTE: The motion was approved on a voice vote [absent: Councilor Calvert and Chair Bushee].

Councilor Ortiz would like a general summary of expenditures to date from CIP for Finance Committee.

Mr. Liming said that is in the packet behind the FIR. They included a sheet which lists all the impact fee money, and all projects on which it has been spent to date.

Councilor Ortiz said this just tells about the particular project, but doesn't tell how much has been collected, and he would like all of this information to be included on one sheet for the Finance Committee.

Mr. Liming said he will prepare the document as requested.

- 16. REQUEST FOR APPROVAL OF A RESOLUTION DIRECTING STAFF TO WORK WITH THE SANTA FE PUBLIC SCHOOL DISTRICT STAFF TO DEVELOP A CITY PROCESS IN WHICH APPLICANTS FOR LAND DEVELOPMENT PROJECTS WOULD BE REQUIRED TO MEET WITH THE SANTA FE PUBLIC SCHOOLS TO ASSESS AND MITIGATE THE IMPACTS OF THE DEVELOPMENT PROJECT ON THE SANTA FE PUBLIC SCHOOLS (COUNCILOR DOMINGUEZ). (JACK HIATT)**

This item was postponed to 11/26/2007.

- 18. MATTERS FROM STAFF**

None.

19. MATTERS FROM THE COMMITTEE

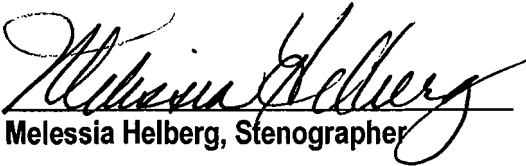
None.

23. NEXT MEETING: November 26, 2007.

21. ADJOURN

There being no further business to come before the Committee, and the Committee having completed its agenda, the meeting was adjourned at 7:00 p.m.

Patti J. Bushee, Chair



Melessia Helberg, Stenographer