



# Agenda

REGULAR MEETING OF  
THE GOVERNING BODY  
JANUARY 30, 2008  
CITY COUNCIL CHAMBERS

## AFTERNOON SESSION – 5:00 P.M.

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE

CITY CLERK'S OFFICE

DATE 1/25/08 TIME 3:50 pm

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

RECEIVED BY Hydominguez

3. INVOCATION

4. ROLL CALL

5. APPROVAL OF AGENDA

6. APPROVAL OF CONSENT CALENDAR

7. APPROVAL OF MINUTES: Reg. City Council Meeting January 9, 2008  
Study Session – January 14, 2008

8. PRESENTATIONS

- a) Muchas Gracias – E. J. Duran, ITT Project Leader. (5 minutes)
- b) Proclamation – St. Michael's Horsemen State Football Champions. (5 minutes)
- c) Proclamation – February 2008 Eagle Scout Month in Santa Fe. (Manuel Ortiz) (5 minutes)
- d) Muchas Gracias – Jim Bordegaray and Tracy Hogg.
- e) Proclamation – Southwest CARE Center Day – January 30, 2008. (Terrie Rodriguez)
- f) Tino Griego Business Plan. (Terrie Rodriguez and Kathy McCormick)

9. CONSENT CALENDAR

- a) Request for Approval of Procurement Under Federal Price Agreement – Flowmaster Series Water Valve Exerciser for Water Division; Vermeer Sales Southwest. (Shannon Jones)
- b) Request for Approval of Procurement Under State Price Agreement – Water Meters and Service Parts for Water Division; H.D. Supply Waterworks, Ltd. (Shannon Jones)

- 1) Request for Approval of Budget Increase – Water Enterprise Fund.





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- c) Request for Approval of Amendment No. 4 to Agreement Between Owner and Architect – Police Main Facility Renovations; Lloyd & Associates, Architects. (Chip Lilienthal)
  - 1) Request for Approval of Budget Increase – Project Fund.
- d) Request for Approval of Amendment No. 1 to Grant Agreement – 2007 General Fund Projects Appropriation for Zona Del Sol Youth Center; State of New Mexico Department of Finance and Administration, Local Government Division. (David Chapman)
  - 1) Request for Approval of Budget Increase – Grant Fund.
- e) Request for Approval of Professional Services Agreements – On Call Engineering Services (RFP #08/19/P). (Desirae Lujan)
  - 1) The Louis Berger Group, Inc.
  - 2) Gannett Fleming West, Inc.
  - 3) Wilson & Company, Inc.
- f) Request for Approval of Change Order No. 3 – Additional Items for Rodeo Road/Richards Avenue Intersection Improvement Project; A.S. Horner, Inc. (Peter Manzanares)
- g) Request for Approval of Sole Source Procurement and Professional Services Agreement – Plan, Design and Development of Botanical Garden on City Owned Land; The Santa Fe Botanical Garden. (Bob Siqueiros)
- h) Request for Approval of Project Agreement – Selective Traffic Enforcement Program (S.T.E.P.) for Police Department; New Mexico Department of Transportation, Traffic Safety Bureau. (Chief Eric Johnson)
  - 1) Request for Approval of Budget Increase from Grant Revenues – General Fund.
- i) Request for Approval of Budget Increase for Federal Forfeiture Sharing Fund for Police Department. (Chief Eric Johnson)
- j) Request for Approval of Agreement – Electric Vehicle Reporting on Vehicle's Energy Use; State of New Mexico Energy, Minerals and Natural Resources Department. (Nick Schiavo)
  - 1) Request for Approval of Budget Increase – Grant Fund.





# Agenda

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- k) Request for Approval of Professional Services Agreement – Northwest Quadrant Project Services; Design Workshop, Inc. (RFP #07/10P). (Kathy McCormick)
- l) Request for Approval of Amendment No. 1 to Lease Agreement – City Use of St. Francis School Playground for Public Parking; The Roman Catholic Church, Archdiocese of Santa Fe/St. Francis Cathedral Basilica Parish. (Walter Roybal)
- m) Request for Approval of Amendment No. 11 to Professional Services Agreement – North Railyard Infrastructure Improvements; Santa Fe Railyard Community Corporation. (Frank Romero)
  - 1) Request for Approval of Budget Increase – Project Fund.
- n) Request for Approval of Amendment No. 4 to Legal Services Agreement – City of Santa Fe Hospital Tank Rehabilitation Services for Water Division; Sheehan, Sheehan & Stelzner, P.A. (Frank Katz)
- o) Request for Approval of Contract – Advertising for Storm Water Management; Comcast Cable. (P.J. Doolittle)
- p) Request for Approval of Professional Services Agreement – Food Preparation and Distribution Services for City Community Services Agreement; Kitchen Angels, Inc. and the Food Depot. (William Tallman)
- q) CONSIDERATION OF RESOLUTION NO. 2008-\_\_\_\_\_. (Councilor Chavez)  
A Resolution to Obligate the City of Santa Fe to Lease 2,500 Acre Feet of the City's San Juan-Chama Project Water to the Bureau of Reclamation in Exchange for the Bureau of Reclamation Granting a Waiver to the City to the Carry-Over Storage Provision to Allow the City's 2007 San Juan-Chama Water to Remain in Heron Reservoir Through September 30, 2008. (Claudia Borchert)
- r) Request for Approval of Water Rights Purchase Agreement – Acquisition of Water Rights in Nambe-Pojoaque-Tesuque Basin; Jerry A. and Helen A. Shelburn. (Dale Lyons)
- s) CONSIDERATION OF RESOLUTION NO. 2008-\_\_\_\_\_.  
A Resolution Approving the Second Quarter Budget Adjustments for Fiscal Year 2007/2008. (Cal Probasco)





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- t) CONSIDERATION OF RESOLUTION NO. 2008-\_\_\_\_\_. (Councilor Heldmeyer, Councilor Chavez, Councilor Calvert, Councilor Bushee and Councilor Wurzburger)  
A Resolution Directing Staff to Study and Make Recommendations to the Governing Body Regarding an Incentive Program to Use State of the Art Water Conservation Technology in the Car Wash Industry. (Dan Ransom)
- u) CONSIDERATION OF RESOLUTION NO. 2008 - \_\_\_\_\_. (Councilor Chavez)  
A Resolution Supporting the Establishment of a Statewide Transit Fund to Assist Local Governments in Financing the Provision of Urban and Rural Transit Services Throughout New Mexico. (Jon Bulthuis)
- v) CONSIDERATION OF RESOLUTION NO. 2008 - \_\_\_\_\_. (Councilor Wurzburger)  
A Resolution Supporting "Incentives for Jobs" 2008 Legislative Agenda. (Fabian Trujillo)
- w) Request for Approval of Professional Services Agreement – Plan, Design and Improve Land and Facilities Located Adjacent to Proposed Train Stops Within the City of Santa Fe; Atkin Olshin, Schade Architects. (RFP No. 07/50/P) (Katherine Mortimer)
- x) Request for Approval to Publish Notice of Public Hearing on February 27, 2008:
  - 1) Bill No. 2008-5 – An Ordinance Amending Section 2-3.3 SFCC 1987 Regarding the Salary of the Municipal Judge. (Mayor Coss) (Galen Buller)
  - 2) Bill No. 2008-7 – An Ordinance Amending Table 14-7.1-1 and Section 14-7.1(B) SFCC 1987 Regarding the Calculation of Allowable Dwelling Units and Maximum Number of Dwelling Units. (Councilor Calvert and Councilor Bushee) (Jeanne Price)
  - 3) Bill No. 2008-8 – An Ordinance Amending Table 14-7.1-1 SFCC 1987 so that the Maximum Lot Coverage for RM Districts is Fifty Percent (50%) if Private Open Space is Provided. (Councilor Heldmeyer, Mayor Coss and Councilor Calvert) (Jeanne Price)
  - 4) Bill No. 2008-9 – An Ordinance Amending Section 14-5.6 SFCC 1987 the Escarpment Overlay District, Regarding Landscape Screening in Order to Better Coordinate with Fire Protection Purposes. (Councilor Calvert and Councilor Bushee) (Wendy Blackwell)







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- 5) Bill No. 2008-10 – An Ordinance Amending Section 7.2 of Exhibit A of Chapter 22 SFCC 1987 to Correct Waivers to the Wastewater Utility Expansion Fee For Affordable Housing. (Councilor Wurzburger) (Kathy McCormick)
- 6) Bill No. 2008-11 – An Ordinance Authorizing the Issuance of the City of Santa Fe, New Mexico Gross Receipts Tax Improvement Revenue Bonds, Series 2008, in the Principal Amount Not to Exceed \$34,000,000 for the Purpose of Defraying the Cost of Public Projects Related to Public Utilities, Public Works, Parks and Recreation, and Community Services; Providing that the Bonds Will be Payable and Collectible from the Gross Receipts Tax Revenues Distributed to the City; Providing for the Disposition of the Receipts Derived from the Gross Receipts Tax Revenues; Providing That Certain Terms and Details of the Bonds Will be Provided and Approved in a Subsequent Resolution of the City; Prescribing Other Details Concerning the Bonds and Gross Receipts Tax Revenues, Including But Not Limited to Covenants and Agreements in Connection With the Bonds and The Form and Manner of Execution of The Bonds; Ratifying Action Previously Taken in Connection With the Bonds; and Repealing all Ordinances in Conflict Herewith. (Kathryn Raveling)
- 7) Bill No. 2008-12 – An Ordinance Creating a New Section 14-5.10 SFCC 1987 Regarding Neighborhood Conservation Overlay Districts; and Making Such Other Changes as are Necessary. (Councilor Heldmeyer and Councilor Chavez) (Jeanne Price)
- y) Request for Approval of Resolutions to Support Funding for the Santa Fe Solid Waste Management Agency's Cell 4B Solid Waste Project at the Caja del Rio Landfill: (Randall Kippenbrock)
  - 1) CONSIDERATION OF RESOLUTION NO. 2008-\_\_\_\_.  
A Combined Resolution Authorizing and Approving Submission of a Completed Application for Financial Assistance and Project Approval to the New Mexico Finance Authority.
  - 2) CONSIDERATION OF RESOLUTION NO. 2008-\_\_\_\_.  
A Combined Resolution Authorizing and Approving Submission of a Completed Application for Financial Assistance and Project Approval to the New Mexico Environment Department.





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- 3) CONSIDERATION OF RESOLUTION NO. 2008-\_\_\_\_\_.  
A Combined Resolution Authorizing City of Santa Fe, County of Santa Fe and SFSWMA Representatives to Sign the Rural Infrastructure Loan Agreement to be Financed by the New Mexico Environment Department – Construction Programs Bureau for Cell 4B Solid Waste Project, and Authorizing the SFSWMA Executive Director to Act as the Loan Representative and Signatory Authority for Reimbursement Requests.
- z) Request for Approval of Lease Agreements: (Postponed at the December 12, 2007 City Council Meeting) (**Request to Postpone to February 27, 2008 City Council Meeting**)
  - 1) Airline Terminal Building Office; Counter and Floor Space at Santa Fe Municipal Airport; American Eagle Airlines. (Jim Montman)
  - 2) Airline Terminal Building Counter and Floor Space at Santa Fe Municipal Airport; Delta Air Lines. (Jim Montman)
10. Request for Approval of Sewer Service Only Under the Provisions of §22-6.2 SFCC by Scott Hoeft of Santa Fe Planning Group for the Proposed Village Plaza Project in Santa Fe County Near NM 599 and SFC 62. (Stan Holland)
11. CONSIDERATION OF RESOLUTION NO. 2008-\_\_\_\_\_. (Councilor Ortiz)  
A Resolution Recognizing and Awarding Public Service Tenure by Non-Bargaining Unit Employees With 23 or More Years of Public Safety Service With the Santa Fe Police or Fire Department or Non-Bargaining Unit Employees With 27 or More Years of Service With Other City of Santa Fe Departments; Providing an Accelerated Retirement Benefit for Public Safety Non-Bargaining Unit Employees That is Comparable With Police and Fire Collective Bargaining Agreements; and Creating a New Personnel Rule to be Consistent With This Resolution. (Kristine Kuebli) (**Postponed at the January 9, 2008 City Council Meeting**)
12. MATTERS FROM THE CITY MANAGER
13. MATTERS FROM THE CITY ATTORNEY
- EXECUTIVE SESSION:  
  
Discussion of Settlement Agreement with Santa Fe County on Annexations; Pursuant; Pursuant to §10-15-1 (H) (7) NMSA 1978.
14. Action Regarding Settlement Agreement with Santa Fe County on Annexations.





# Agenda

REGULAR MEETING OF  
THE GOVERNING BODY  
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15. MATTERS FROM THE CITY CLERK
16. COMMUNICATIONS FROM THE GOVERNING BODY

## EVENING SESSION – 7:00 P.M.

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE
- C. INVOCATION
- D. ROLL CALL
- E. PETITIONS FROM THE FLOOR
- F. APPOINTMENTS
- G. PUBLIC HEARINGS:
  - 1) CONSIDERATION OF BILL NO. 2007-55: ADOPTION OF ORDINANCE NO. 2008-\_\_\_\_\_. (Mayor Coss and Councilor Chavez)  
An Ordinance Amending Chapter 14 SFCC 1987 Land Development Laws and Section 18-11.3 SFCC 1987 Lodgers' Tax Regarding the Short Term Rental of Dwelling Units. (Jeanne Price) (**Postponed at January 9, 2008 City Council Meeting**)
  - 2) CONSIDERATION OF BILL NO. 2008-4: ADOPTION OF ORDINANCE NO. 2008-\_\_\_\_\_.  
**Case #ZA 2007-10. 1711 B West Alameda Rezoning.** Dolores Vigil, Agent for Maria Rose Sanz Seara, Requests Rezoning of 1.047± Acres of Land From R-1 (Residential – 1 Dwelling Unit Per Acre) to R-2 (Residential, 2 Dwelling Units Per Acre). The Property is Located at 1711B West Alameda. (Donna Wynant)
  - 3) CONSIDERATION OF BILL NO. 2008-65: ADOPTION OF ORDINANCE NO. 2008-\_\_\_\_\_. (Councilor Chavez, Councilor Bushee and Councilor Trujillo)  
An Ordinance Amending Section 25-4.2 SFCC 1987 Regarding Water Rate Adjustments. (Gary Martinez)





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- 4) CONSIDERATION OF BILL NO. 2008-66: ADOPTION OF ORDINANCE NO. 2008-\_\_\_\_\_. (Councilor Heldmeyer)  
An Ordinance Amending Chapter 14 SFCC 1987 Regarding the Powers and Duties of the Business Capital District Design Review Committee and the Planning Commission to Minimize Overlapping Jurisdiction in the Business Capital District and Making Such Other Related Changes as are Necessary. (Jeanne Price)
- 5) CONSIDERATION OF BILL NO. 2008-2: ADOPTION OF ORDINANCE NO. 2008-\_\_\_\_\_.  
An Ordinance Annexing City-Owned Airport Road Right-of-Way Extending From the Intersection with Cerrillos Road at the Eastern End to the Intersection with New Mexico Highway 599 at the Western End of Airport Road." (Richard Macpherson) **(Postponed at the January 9, 2008 City Council Meeting)**
- 6) CONSIDERATION OF BILL NO. 2008-3: ADOPTION OF ORDINANCE NO. 2008-\_\_\_\_\_.  
An Ordinance Annexing City-Owned Rufina Street Right-of-Way Extending From the Intersection of Richards Avenue on the Eastern End to the Intersection of South Meadows Road at the Western End of Rufina Street. (Richard Macpherson) **(Postponed at the January 9, 2008 City Council Meeting)**
- 7) CONSIDERATION OF BILL NO. 2007-56: ADOPTION OF ORDINANCE NO. 2007-\_\_\_\_\_. (Councilor Bushee)  
An Ordinance Amending Article 23-5.2 SFCC 1987 to Include "Pride on the Plaza" as an Additional Permitted Annual Major Commercial Event on the Plaza. (Sevastian Gurule and Barbara Lopez) (Postponed at the December 12, 2007 City Council Meeting) **(Withdrawn by Sponsor)**

## H. ADJOURN

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

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

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





**SUMMARY INDEX  
SANTA FE CITY COUNCIL MEETING  
January 30, 2008**

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<u>AFTERNOON SESSION</u>		
ROLL CALL	Quorum	1
APPROVAL OF AGENDA	Approved [amended]	1-3
APPROVAL OF CONSENT CALENDAR	Approved [amended]	3
CONSENT CALENDAR LISTING		3-8
APPROVAL OF MINUTES:		
Reg. City Council Meeting – January 9, 2008	Approved	8
Study Session – January 14, 2008	Approved	9
PRESENTATIONS		
MUCHAS GRACIAS – E.J. DURAN, ITT PROJECT LEADER.	Postponed	9
PROCLAMATION – ST. MICHAEL'S HORSEMEN STATE FOOTBALL CHAMPIONS		9
PROCLAMATION – FEBRUARY 2008 EAGLE SCOUT MONTH IN SANTA FE		9
MUCHAS GRACIAS – JIM BORDEGARAY AND TRACY HOGG		9-10
PROCLAMATION – SOUTHWEST CARE CENTER DAY – JANUARY 30, 2008		10
TINO GRIEGO BUSINESS PLAN	Removed from agenda	10
<u>CONSENT CALENDAR DISCUSSION</u>		
REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – NORTHWEST QUADRANT PROJECT SERVICES; DESIGN WORKSHOP, INC. (RFP #07/10P)	Approved	19-11

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
REQUEST FOR APPROVAL OF WATER RIGHTS PURCHASE AGREEMENT – ACQUISITION OF WATER RIGHTS IN NAMBE-POJOAQUE-TESUQUE BASIN; JERRY A. AND HELEN A. SHELURN	Approved	11-12
REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON FEBRUARY 27, 2008: BILL NO. 2008-12 – AN ORDINANCE CREATING A NEW SECTION 14-5.10 SFCC 1987, REGARDING NEIGHBORHOOD CONSERVATION OVERLAY DISTRICTS; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY	Approved	12-14
***** END OF CONSENT CALENDAR DISCUSSION *****		
REQUEST FOR APPROVAL OF SEWER SERVICE ONLY UNDER THE PROVISIONS OF §22-6.2 SFCC, BY SCOTT HOEFT OF SANTA FE PLANNING GROUP FOR THE PROPOSED VILLAGE PLAZA PROJECT IN SANTA FE COUNTY NEAR NM 599 AND SFC 62	Approved [amended]	14-19
CONSIDERATION OF RESOLUTION NO. 2008- 15. A RESOLUTION RECOGNIZING AND AWARDED PUBLIC SERVICE TENURE BY NON-BARGAINING UNIT EMPLOYEES WITH 23 OR MORE YEARS OF PUBLIC SAFETY SERVICE WITH THE SANTA FE POLICE OR FIRE DEPARTMENT, OR NON- BARGAINING UNIT EMPLOYEES WITH 27 OR MORE YEARS OF SERVICE WITH OTHER CITY OF SANTA FE DEPARTMENTS; PROVIDING AN ACCELERATED RETIREMENT BENEFIT FOR PUBLIC SAFETY NON-BARGAINING UNIT EMPLOYEES THAT IS COMPARABLE WITH POLICE AND FIRE COLLECTIVE BARGAINING AGREEMENTS; AND CREATING A NEW PERSONNEL RULE TO BE CONSISTENT WITH THIS RESOLUTION	Approved [amended]	19-23
<u>EVENING SESSION</u>		
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PETITIONS FROM THE FLOOR		15-26

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
<b><u>APPOINTMENTS</u></b>		
400 <sup>th</sup> Anniversary Committee	Approved	26
Santa Fe River Commission	Approved	27
Mayor's Youth Advisory Board	Approved	27
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<b><u>PUBLIC HEARINGS</u></b>		
CONSIDERATION OF BILL NO. 2007-55; ADOPTION OF ORDINANCE NO. 2008- 5. AN ORDINANCE AMENDING CHAPTER 14 SFCC 1987, LAND DEVELOPMENT LAWS AND SECTION 18-11.3 SFCC 1987 LODGERS' TAX REGARDING THE SHORT TERM RENTAL OF DWELLING UNITS	Adopted [amended]	28-55
CONSIDERATION OF BILL NO. 2008-4, ADOPTION OF ORDINANCE NO. 2008- 6. <u>CASE #ZA 2007-10</u> . 1711 B. WEST ALAMEDA REZONING. DOLORES VIGIL, AGENT FOR MARIA ROSE SANZ SEARA, REQUEST REZONING OF 1.047± ACRES OF LAND FROM R-1 (RESIDENTIAL – 1 DWELLING UNIT PER ACRE) TO R-2 (RESIDENTIAL, 2 DWELLING UNITS PER ACRE). THE PROPERTY IS LOCATED AT 1711 B WEST ALAMEDA	Adopted	55-59
CONSIDERATION OF BILL NO. 2008-65; ADOPTION OF ORDINANCE NO. 2008-7. AN ORDINANCE AMENDING SECTION 25-4.2 SFCC 1987, REGARDING WATER RATE ADJUSTMENTS	Adopted	59-60
CONSIDERATION OF BILL NO. 2008-2; ADOPTION OF ORDINANCE NO. 2008- 8. AN ORDINANCE ANNEXING CITY-OWNED AIRPORT ROAD RIGHT-OF-WAY EXTENDING FROM THE INTERSECTION WITH CERRILLOS ROAD AT THE EASTERN END TO THE INTERSECTION WITH NEW MEXICO HIGHWAY 599 AT THE WESTERN END OF AIRPORT ROAD	Adopted	61-64
CONSIDERATION OF BILL NO. 2008-3; ADOPTION OF ORDINANCE NO. 2008- 9. AN ORDINANCE ANNEXING CITY-OWNED RUFINA STREET RIGHT-OF-WAY EXTENDING FROM THE INTERSECTION OF RICHARDS AVENUE ON THE EASTERN END TO THE INTERSECTION OF SOUTH MEADOWS ROAD AT THE WESTERN END OF RUFINA STREET	Adopted [amended]	64-66

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

CONSIDERATION OF BILL NO. 2008-66; ADOPTION OF ORDINANCE NO. 2008 - 10. AN ORDINANCE AMENDING CHAPTER 14 SFCC 1987, REGARDING THE POWERS AND DUTIES OF THE BUSINESS CAPITAL DISTRICT DESIGN REVIEW COMMITTEE AND THE PLANNING COMMISSION TO MINIMIZE OVERLAPPING JURISDICTION IN THE BUSINESS CAPITAL DISTRICT AND MAKING SUCH OTHER RELATED CHANGES AS ARE NECESSARY

Approved

66

CONSIDERATION OF BILL NO. 2008-56; ADOPTION OF ORDINANCE NO. 2008- \_\_\_\_ . AN ORDINANCE AMENDING ARTICLE 23-5.2 SFCC 1987, TO INCLUDE "PRIDE ON THE PLAZA" AS AN ADDITIONAL PERMITTED ANNUAL MAJOR COMMERCIAL EVENT ON THE PLAZA

Withdrawn by Sponsor

66

MATTERS FROM THE CITY MANAGER

None

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MATTERS FROM THE CITY ATTORNEY  
EXECUTIVE SESSION

Postponed to 02/27/08

67

ACTION REGARDING SETTLEMENT AGREEMENT  
WITH SANTA FE COUNTY ON ANNEXATIONS

No action

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MATTERS FROM THE CITY CLERK

Informational

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COMMUNICATIONS FROM THE GOVERNING BODY

Information/discussion

67-69

ADJOURN

69

**MINUTES OF THE  
REGULAR MEETING OF THE  
GOVERNING BODY  
Santa Fe, New Mexico  
January 30, 2008**

**AFTERNOON SESSION**

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor David Coss, January 30, 2008, at approximately 5:00 p.m., in the City Hall Council Chambers. Following the Pledge of Allegiance and Invocation, roll call indicated the presence of a quorum, as follows:

**Members Present**

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

**Others Attending**

William Tallman, Assistant City Manager  
Frank Katz, City Attorney  
Yolanda Y. Vigil, City Clerk  
Melessia Helberg, Council Stenographer

**5. APPROVAL OF AGENDA**

Councilor Ortiz asked to remove Item #8(f), noting it was requested to come to the Public Works Committee, and he doesn't know that it is ready to be presented here without first being heard at the Public Works Committee.

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

**Discussion:** Mayor Coss said Item 8(f) is an informational presentation which goes to the School Board and then to Public Works for approval.

Councilor Ortiz would like to have it at Public Works Committee before it goes anywhere.

Councilor Bushee said the Resolution "asks that it be brought to the Committee. That's where it asked it to go."

Mayor Coss said he believes it goes to the School Board and then to the Public Works Committee.

Councilor Bushee said, "Terrie called saying that she was going to bring it to Committee and then it never showed up for any of the information that was needed. So, I was told that it was in the Resolution that it go back to Public Works."

Mayor Coss reiterated that it has to go through the School Board and then the Public Works Committee in order to come forward for approval, but this is just information. He said it was to be within 60 days, but there was no staff in place to do it now.

Yolanda Vigil said Item 9(u) needs to be removed from the Consent Calendar.

Mayor Coss would like to remove Item 8(a) from the agenda, because Mr. Duran can't attend the meeting this evening.

**Amendment of main motion: Councilor Ortiz said, with concurrence of the second, he would amend his motion to include removing Items 8(a), 8(f) and 9(u), and there were no objections from the other Councilors.**

Councilor Dominguez would like to remove items 9(x)(2) and (3) from the agenda, noting there were discussions at the Public Works Committee that they needed more data on these two items, and he isn't sure how, or even if, these will come out of the Public Works Committee.

Councilor Calvert said he understood the Public Works Committee agreed to continue with the Council schedule as it is, and bring these Items back to Public Works between the request for publication and the actual public hearing.

Councilor Trujillo understood these items were going back to the Planning Commission.

Councilor Calvert said they already have been to the Planning Commission.

Councilor Dominguez said the intent of the motion at Public Works on Monday, was to have these come back to Public Works Committee before publishing, because the Committee is unsure what, or if, it would recommend for publication. He said we don't know how it will come out of Committee is his concern.

Councilor Calvert said he specifically asked if these would stay on track on the same schedule, and thought he was assured that these would, because it could be brought back to Public Works in this time frame, noting it could be removed from a future agenda. He doesn't want to disrupt the time schedule if it isn't necessary.

Councilor Dominguez said if we can pull these off later, we will be disrupting the schedule anyway.

**Councilor Dominguez moved, seconded by Councilor Trujillo, to amend the motion to removed Items 9(x)(2) and (3) from the agenda.**

**Friendly amendment:** Councilor Ortiz said he would accept the request to amend as a friendly amendment and there would be no need for two motions. **The amendment was friendly to the maker and second.**

**Councilor Heldmeyer moved, seconded by Councilor Chavez, to keep Items 9(x)(2) and (3) on the agenda as requests to public notice for public hearing on February 27, 2008.**

**Discussion:** Councilor Heldmeyer said her understanding was the same as Councilor Calvert's from the discussion at the Public Works Committee – that although there were a lot of other issues which people wanted to discuss, they agreed to keep this on a Request to Publish tonight so that if the Committee wanted to continue with it, it would stay on the same schedule. She noted the minutes from the Monday Public Works Committee aren't ready yet.

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

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

**Against: Councilor Bushee, Councilor Dominguez, Councilor Ortiz, and Councilor Trujillo.**

**Absent: Councilor Wurzburger.**

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

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

**Against: Councilor Chavez, Councilor Heldmeyer and Councilor Calvert.**

**Absent: Councilor Wurzburger**

## **6. APPROVAL OF CONSENT CALENDAR**

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

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

**Against: None**

**Absent: Councilor Wurzburger.**

## **CONSENT CALENDAR**

- a) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER FEDERAL PRICE AGREEMENT – FLOWMASTER SERIES WATER VALVE EXERCISER FOR WATER DIVISION; VERMEER SALES SOUTHWEST. (SHANNON JONES)**
- b) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – WATER METERS AND SERVICE PARTS FOR WATER DIVISION; H.D. SUPPLY WATERWORKS, LTD. (SHANNON JONES)**
  - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – WATER ENTERPRISE FUND.**
- c) **REQUEST FOR APPROVAL OF AMENDMENT NO. 4 TO AGREEMENT BETWEEN OWNER AND ARCHITECT – POLICE MAIN FACILITY RENOVATIONS; LLOYD & ASSOCIATES, ARCHITECTS. (CHIP LILIENTHAL)**
  - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – PROJECT FUND.**
- d) **REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO GRANT AGREEMENT – 2007 GENERAL FUND PROJECTS APPROPRIATION FOR ZONA DEL SOL YOUTH CENTER; STATE OF NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION, LOCAL GOVERNMENT DIVISION. (DAVID CHAPMAN)**
  - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND.**
- e) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENTS – ON CALL ENGINEERING SERVICES (RFP #08/19/P). (DESIRAE LUJAN)**
  - 1) **THE LOUIS BERGER GROUP, INC.**
  - 2) **GANNETT FLEMING WEST, INC.**
  - 3) **WILSON & COMPANY, INC.**
- f) **REQUEST FOR APPROVAL OF CHANGE ORDER NO. 3 – ADDITIONAL ITEMS FOR RODEO ROAD/RICHARDS AVENUE INTERSECTION IMPROVEMENT PROJECT; A.S. HORNER, INC. (PETER MANZANARES)**
- g) **REQUEST FOR APPROVAL OF SOLE SOURCE PROCUREMENT AND PROFESSIONAL SERVICES AGREEMENT – PLAN, DESIGN AND DEVELOPMENT OF BOTANICAL GARDEN ON CITY OWNED LAND; THE SANTA FE BOTANICAL GARDEN. (BOB SIQUEIROS)**
- h) **REQUEST FOR APPROVAL OF PROJECT AGREEMENT – SELECTIVE TRAFFIC ENFORCEMENT PROGRAM (S.T.E.P.) FOR POLICE DEPARTMENT; NEW MEXICO DEPARTMENT OF TRANSPORTATION, TRAFFIC SAFETY BUREAU. (CHIEF ERIC JOHNSON)**
  - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE FROM GRANT REVENUES – GENERAL FUND.**



- i) REQUEST FOR APPROVAL OF BUDGET INCREASE FOR FEDERAL FORFEITURE SHARING FUND FOR POLICE DEPARTMENT. (CHIEF ERIC JOHNSON)
- j) REQUEST FOR APPROVAL OF AGREEMENT – ELECTRIC VEHICLE REPORTING ON VEHICLE'S ENERGY USE; STATE OF NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT. (NICK SCHIAVO)
  - 1) REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND.
- k) *[Removed for discussion by Councilor Bushee]*
- l) REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO LEASE AGREEMENT – CITY USE OF ST. FRANCIS SCHOOL PLAYGROUND FOR PUBLIC PARKING; THE ROMAN CATHOLIC CHURCH, ARCHDIOCESE OF SANTA FE/ST. FRANCIS CATHEDRAL BASILICA PARISH. (WALTER ROYBAL)
- m) REQUEST FOR APPROVAL OF AMENDMENT NO. 11 TO PROFESSIONAL SERVICES AGREEMENT – NORTH RAILYARD INFRASTRUCTURE IMPROVEMENTS; SANTA FE RAILYARD COMMUNITY CORPORATION. (FRANK ROMERO)
  - 1) REQUEST FOR APPROVAL OF BUDGET INCREASE – PROJECT FUND.
- n) REQUEST FOR APPROVAL OF AMENDMENT NO. 4 TO LEGAL SERVICES AGREEMENT – CITY OF SANTA FE HOSPITAL TANK REHABILITATION SERVICES FOR WATER DIVISION; SHEEHAN, SHEEHAN & STELZNER, P.A. (FRANK KATZ)
- o) REQUEST FOR APPROVAL OF CONTRACT – ADVERTISING FOR STORM WATER MANAGEMENT; COMCAST CABLE. (P.J. DOOLITTLE)
- p) REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – FOOD PREPARATION AND DISTRIBUTION SERVICES FOR CITY COMMUNITY SERVICES AGREEMENT; KITCHEN ANGELS, INC., AND THE FOOD DEPOT. (WILLIAM TALLMAN)
- q) CONSIDERATION OF RESOLUTION NO. 2008- 8 (COUNCILOR CHAVEZ). A RESOLUTION TO OBLIGATE THE CITY OF SANTA FE TO LEASE 2,500 ACRE FEET OF THE CITY'S SAN JUAN-CHAMA PROJECT WATER TO THE BUREAU OF RECLAMATION IN EXCHANGE FOR THE BUREAU OF RECLAMATION GRANTING A WAIVER TO THE CITY TO THE CARRY-OVER STORAGE PROVISION, TO ALLOW THE CITY'S 2007 SAN JUAN-CHAMA WATER TO REMAIN IN HERON RESERVOIR THROUGH SEPTEMBER 30, 2008. (CLAUDIA BORCHERT)

- r) *[Removed for discussion by Councilor Bushee]*
- s) **CONSIDERATION OF RESOLUTION NO. 2008-9. A RESOLUTION APPROVING THE SECOND QUARTER BUDGET ADJUSTMENTS FOR FISCAL YEAR 2007/2008. (CAL PROBASCO)**
- t) **CONSIDERATION OF RESOLUTION NO. 2008- 10 (COUNCILOR HELDMEYER, COUNCILOR CHAVEZ, COUNCILOR CALVERT, COUNCILOR BUSHEE AND COUNCILOR WURZBURGER). A RESOLUTION DIRECTING STAFF TO STUDY AND MAKE RECOMMENDATIONS TO THE GOVERNING BODY REGARDING AN INCENTIVE PROGRAM TO USE STATE OF THE ART WATER CONSERVATION TECHNOLOGY IN THE CAR WASH INDUSTRY. (DAN RANSOM)**
- u) **CONSIDERATION OF RESOLUTION NO. 2008- \_\_\_\_ (COUNCILOR CHAVEZ). A RESOLUTION SUPPORTING THE ESTABLISHMENT OF A STATEWIDE TRANSIT FUND TO ASSIST LOCAL GOVERNMENTS IN FINANCING THE PROVISION OF URBAN AND RURAL TRANSIT SERVICES THROUGHOUT NEW MEXICO. (JON BULTHUIS)**  
*[This item was removed from the agenda]*
- v) **CONSIDERATION OF RESOLUTION NO. 2008- 11 (COUNCILOR WURZBURGER). A RESOLUTION SUPPORTING "INCENTIVES FOR JOBS" 2008 LEGISLATIVE AGENDA. (FABIAN CHAVEZ)**
- w) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – PLAN, DESIGN AND IMPROVE LAND AND FACILITIES LOCATED ADJACENT TO PROPOSED TRAIN STOPS WITHIN THE CITY OF SANTA FE; ATKIN, OLSHIN, SCHADE ARCHITECTS. (RFP NO. 07/50/P). (KATHERINE MORTIMER.**
- x) **REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON FEBRUARY 27, 2008:**
  - 1) **BILL NO. 2008-5 – AN ORDINANCE AMENDING SECTION 2-3.3 SFCC 1987, REGARDING THE SALARY OF THE MUNICIPAL JUDGE (MAYOR COSS). (GALEN BULLER)**
  - 2) **BILL NO. 2008-7 – AN ORDINANCE AMENDING TABLE 14-7.1-1 AND SECTION 14-7.1(B) SFCC 1987, REGARDING THE CALCULATION OF ALLOWABLE DWELLING UNITS AND MAXIMUM NUMBER OF DWELLING UNITS (COUNCILOR CALVERT AND COUNCILOR BUSHEE). (JEANNE PRICE.**

*[This item was removed from the agenda]*

- 3) **BILL NO. 2008-8 – AN ORDINANCE AMENDING TABLE 14-7.1-1 SFCC 1987, SO THAT THE MAXIMUM LOT COVERAGE FOR RM DISTRICTS IS FIFTY PERCENT (50%) IF PRIVATE OPEN SPACE IS PROVIDED (COUNCILOR HELDMEYER, MAYOR COSS AND COUNCILOR CALVERT). (JEANNE PRICE)**

*[This item was removed from the agenda]*

- 4) **BILL NO. 2008-9 – AN ORDINANCE AMENDING SECTION 14-5.6 SFCC 1987, THE ESCARPMENT OVERLAY DISTRICT, REGARDING LANDSCAPE SCREENING IN ORDER TO BETTER COORDINATE WITH FIRE PROTECTION PURPOSES (COUNCILOR CALVERT AND COUNCILOR BUSHEE). (WENDY BLACKWELL)**
- 5) **BILL NO. 2008-10 – AN ORDINANCE AMENDING SECTION 7.2 OF EXHIBIT A OF CHAPTER 22 SFCC 1987, TO CORRECT WAIVERS TO THE WASTEWATER UTILITY EXPANSION FEE FOR AFFORDABLE HOUSING (COUNCILOR WURZBURGER). (KATHY McCORMICK)**
- 6) **BILL NO. 2008-11 – AN ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY OF SANTA FE, NEW MEXICO GROSS RECEIPTS TAX IMPROVEMENT REVENUE BONDS, SERIES 2008, IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$34,000,000 FOR THE PURPOSE OF DEFRAYING THE COST OF PUBLIC PROJECTS RELATED TO PUBLIC UTILITIES, PUBLIC WORKS, PARKS AND RECREATION, AND COMMUNITY SERVICES; PROVIDING THAT THE BONDS WILL BE PAYABLE AND COLLECTIBLE FROM THE GROSS RECEIPTS TAX REVENUES DISTRIBUTED TO THE CITY; PROVIDING FOR THE DISPOSITION OF THE RECEIPTS DERIVED FROM THE GROSS RECEIPTS TAX REVENUES; PROVIDING THAT CERTAIN TERMS AND DETAILS OF THE BONDS WILL BE PROVIDED AND APPROVED IN A SUBSEQUENT RESOLUTION OF THE CITY; PRESCRIBING OTHER DETAILS CONCERNING THE BONDS AND GROSS RECEIPTS TAX REVENUES, INCLUDING BUT NOT LIMITED TO COVENANTS AND AGREEMENTS IN CONNECTION WITH THE BONDS AND THE FORM AND MANNER OF EXECUTION OF THE BONDS; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION WITH THE BONDS; AND REPEALING ALL ORDINANCES IN CONFLICT HEREWITH. (KATHRYN RAVELING)**
- 7) ***[Removed for discussion by Councilor Ortiz]***

- y) **REQUEST FOR APPROVAL OF RESOLUTIONS TO SUPPORT FUNDING FOR THE SANTA FE SOLID WASTE MANAGEMENT AGENCY'S CELL 4B SOLID WASTE PROJECT AT THE CAJA DEL RIO LANDFILL. (RANDALL KIPPENBROCK)**
  - 1) **CONSIDERATION OF RESOLUTION NO. 2008- 12. A COMBINED RESOLUTION AUTHORIZING AND APPROVING SUBMISSION OF A COMPLETED APPLICATION FOR FINANCIAL ASSISTANCE AND PROJECT APPROVAL TO THE NEW MEXICO FINANCE AUTHORITY.**
  - 2) **CONSIDERATION OF RESOLUTION NO. 2008- 13. A COMBINED RESOLUTION AUTHORIZING AND APPROVING SUBMISSION OF A COMPLETED APPLICATION FOR FINANCIAL ASSISTANCE AND PROJECT APPROVAL TO THE NEW MEXICO ENVIRONMENT DEPARTMENT.**
  - 3) **CONSIDERATION OF RESOLUTION NO. 2008- 14. A COMBINED RESOLUTION AUTHORIZING CITY OF SANTA FE, COUNTY OF SANTA FE AND SFSWMA REPRESENTATIVES TO SIGN THE RURAL INFRASTRUCTURE LOAN AGREEMENT TO BE FINANCED BY THE NEW MEXICO ENVIRONMENT DEPARTMENT – CONSTRUCTION PROGRAMS BUREAU FOR CELL 4B SOLID WASTE PROJECT, AND AUTHORIZING THE SFSWMA EXECUTIVE DIRECTOR TO ACT AS THE LOAN REPRESENTATIVE AND SIGNATORY AUTHORITY FOR REIMBURSEMENT REQUESTS.**
- z) **REQUEST FOR APPROVAL OF LEASE AGREEMENTS: (POSTPONED AT THE DECEMBER 12, 2007 CITY COUNCIL MEETING). (REQUEST TO POSTPONE TO FEBRUARY 27, 2008 CITY COUNCIL MEETING)**
  - 1) **AIRLINE TERMINAL BUILDING OFFICE; COUNTER AND FLOOR SPACE AT SANTA FE MUNICIPAL AIRPORT; AMERICAN EAGLE AIRLINES. (JIM MONTMAN)**
  - 2) **AIRLINE TERMINAL BUILDING COUNTER AND FLOOR SPACE AT SANTA FE MUNICIPAL AIRPORT; DELTA AIR LINES. (JIM MONTMAN)**

**7. APPROVAL OF MINUTES: Reg. City Council Meeting – January 9, 2008.  
Study Session – January 14, 2008.**

**Councilor Trujillo moved, seconded by Councilor Ortiz, to approve the minutes of the Regular City Council Meeting of January 9, 2008, as presented. The motion was approved on a voice vote, with Councilors Calvert, Chavez, Dominguez, Heldmeyer, Ortiz and Trujillo voting for the motion, none against, Councilor Bushee abstaining and Councilor Wurzbarger absent.**

Councilor Calvert moved, seconded by Councilor Trujillo, to approve the minutes of the City Council Study Session of January 14, 2008, as presented. The motion was approved on a voice vote, with Councilors Calvert, Chavez, Dominguez, Heldmeyer and Trujillo voting for the motion, none against, Councilors Bushee and Ortiz abstaining, and Councilor Wurzbarger absent.

## **8. PRESENTATIONS**

### **a) MUCHAS GRACIAS – E.J. DURAN, ITT PROJECT LEADER.**

This item was removed from the agenda, to be rescheduled at a future date.

### **b) PROCLAMATION – ST. MICHAEL'S HORSEMEN STATE FOOTBALL CHAMPIONS**

Mayor Coss read the proclamation into the record.

Coach George Hernandez thanked the Mayor and Council for this honor, and congratulated the members of the team for their efforts which led to their State Championship.

Councilor Trujillo presented Coach Hernandez and the St. Michael's Horsemen with the "City Trophy," for this year's Championship.

Mayor Coss congratulated the team and Coach Hernandez for their successful year.

### **c) PROCLAMATION – FEBRUARY 2008 EAGLE SCOUT MONTH IN SANTA FE**

Councilor Ortiz read the Proclamation into the record. Mayor Coss presented each Eagle Scout with a copy of the Resolution.

Manny Ortiz said the Eagle Scouts are from different troops in town.

Councilor Heldmeyer said Mr. Ortiz was ringing the bell for the Salvation Army during Christmas and asked how much he raised. He said it was \$30,000 and 370 hours for the Salvation Army.

Councilor Ortiz said Ivan Duran is an exceptional young man, noting he participates in many other efforts, and he expects a lot from him as well as younger brother Ian,

### **d) MUCHAS GRACIAS – JIM BORDEGARAY AND TRACY HOGG.**

Mayor Coss, assisted by Councilor Bushee, presented Muchas Gracias Certificates to Jim Bordegary and Tracy Hogg for their courage and bravery in rescuing their neighbors from a burning house.

Councilor Bushee congratulated them both, saying these are two real heroes.

Fire Chief Rivera presented certificates to Mr. Bordegary and Ms. Hogg, and thanked them for their efforts as well as for the photograph which was in the newspaper.

Ms. Hogg said when Mr. Bordegary went into the house it was still exploding. She was very thankful to Mr. Bordegary and to see him come out of the house with the neighbor. Ms. Hogg said the neighbor did have a heart attack after the fire, she just got out of the Hospital and is doing well.

Mr. Bordegary said he is really embarrassed by the attention. He said most people would do what he did which is the right thing to do.

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

**e) PROCLAMATION – SOUTHWEST CARE CENTER DAY – JANUARY 30, 2008.  
(TERRIE RODRIGUEZ)**

Mayor Coss read the proclamation into the record.

Betty Ann Rose, Chair Human Services Committee said it is wonderful to watch what the Southwest Care Center does to bring health care to people who need it so desperately. She said after the Human Services Committee awarded it the first grant, Southwest Care Center advised that it no longer needed the grant and to give it to an organization which might need it more. She said this is the very first organization which the Committee has sponsored which has ever said anything like this to the Committee.

Jack Thomas, Executive Director of Southwest Care Center, said this is a wonderful group of people and thanked employees. He thanked the City and the Human Services Committee for its support.

Mayor Coss thanked Southwest Care Center for the services it provides, saying it is a good thing for all the Community and not only those dealing with HIV and AIDS.

**f) TINO GRIEGO BUSINESS PLAN. (TERRIE RODRIGUEZ AND KATHY  
McCORMICK)**

This item was removed from the agenda to be rescheduled at a future date.

**CONSENT CALENDAR DISCUSSION**

**9(k) REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT –  
NORTHWEST QUADRANT PROJECT SERVICES; DESIGN WORKSHOP,  
INC. (RFP #07/10P). (KATHY McCORMICK)**

Councilor Bushee said she pulled this item to vote against it. She said the City is giving \$51,500 to Design Workshop after the fact – the money has been spent and the work has been done. She doesn't approve of the way this moved forward.

**Councilor Bushee moved to deny this request. The motion died for lack of a second.**

**Councilor Ortiz moved, seconded by Councilor Calvert, to approve this request.**

**Discussion:** Councilor Ortiz said he agrees in concept with Councilor Bushee, and as a practice this is an RFP which should fail. However, in this case, because of the additional work which was done by this contractor because the City didn't have sufficient staff as well as the additional work which needed to happen because of the intense community involvement in this project since the beginning, he believes it is a valid request and he supports the efforts of Design Workshop on the Northwest Quadrant.

Councilor Heldmeyer said she also agrees with Councilor Ortiz. She doesn't like the idea of taking a small local business and doing them out of money for the work they've done. However, this says that the way we handle changes to contracts isn't being done correctly. She believes the City Manager needs to look into this as to how to deal with these kinds of situations in the future.

Councilor Wurzbarger agreed with Councilors Ortiz and Heldmeyer. She will be voting to approve paying for the work done. However, it is quite simple to do a change order. She said we need a policy which says if a change order is needed, if there is a crisis, staff has, for example, five days to get a handwritten change order to the City Manager.

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

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

**Against: None.**

**Explaining her vote:** Councilor Bushee said she made her point, and voted yes.

**9(r) REQUEST FOR APPROVAL OF WATER RIGHTS PURCHASE AGREEMENT – ACQUISITION OF WATER RIGHTS IN NAMBE-POJOAQUE-TESUQUE BASIN; JERRY A. AND HELEN A. SHELburn. (DALE LYONS)**

Councilor Bushee said she thought the City had received a letter from the local Acequia saying it approves of this transfer or sale, but it isn't in the packet.

Mr. Lyons said this is correct and the letter isn't in the packet, but he can provide that to the Councilors.

Councilor Bushee believes it is time for the City to develop a policy to either refer to, or defer to, the Acequia so it would have knowledge of these kinds of transfers or sales.

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

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

**Against: None.**

**9(x) REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON FEBRUARY 27, 2008:**

- (7) BILL NO. 2008-12 – AN ORDINANCE CREATING A NEW SECTION 14-5.10 SFCC 1987, REGARDING NEIGHBORHOOD CONSERVATION OVERLAY DISTRICTS; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY (COUNCILOR HELDMEYER AND COUNCILOR CHAVEZ). (JEANNE PRICE)**

Councilor Ortiz said this is another item which was specifically postponed by Public Works to come back to that Committee at the first meeting in February. He understood there is an amendment to this ordinance worked on by the Planning Commission subcommittee, and asked if this is the amendment in the packet.

Councilor Heldmeyer said the Planning Commission subcommittee worked on it more quickly than she expected. The bill in the packet is the consensus bill from the Planning Committee. She said the direction from the Planning Commission was that the subcommittee work on some of the details. She said there will be a report to the Planning Commission, but the Planning Commission approved this bill, and charged the subcommittee to work on it. She said because it moved through more quickly than expected because of the high degree of consensus, they are asking that it be published for a public hearing, and go to the Public Works and Finance Committees during this 30-day period so it can be heard by the Council at the last meeting in February.

Councilor Ortiz asked if the Planning Committee approved this version of the bill, the amended version, or if the Planning Commission gave conceptual approval to the first iteration, and gave authority to the subcommittee and that is what we have in the packet.

Councilor Heldmeyer said, "The second is exactly true."

Ms. Price said this is labeled the Planning Commission subcommittee's bill.

Councilor Ortiz asked if this will go back to the full Planning Commission.

Councilor Heldmeyer said it will go back for a report, but not a vote.



Councilor Ortiz asked if it is correct that the Planning Commission had substantive concerns, elected to have a subcommittee to look at this, which the subcommittee did, and it is before the Council, but the Planning Commission won't have the opportunity to look at what its own subcommittee did.

Ms. Price said just before the meeting, she received a Planning Commission agenda and it was included on that agenda, but she was unable to follow up to see what the minutes say. Responding to Councilor Ortiz, Ms. Price said the Planning Commission will meet on February 7, 2008, and that agenda lists this item for a report, and it will meet again on February 21, 2008, and it is on that agenda for discussion.

Responding to Councilor Ortiz, Ms. Price said the Public Works Committee could see the final version from the Planning Commission on February 25, 2008, and it could be heard by everyone prior to the Council meeting on February 27, 2008.

Councilor Ortiz said there are details which need to be resolved, as well as substantive parts which are a problem, and the reason Public Works asked that it come back. He asked if those issues have been resolved, and if the Planning Commission will have the opportunity to work on the second version of this bill.

Ms. Price reiterated that this would go to the Planning Commission on February 7, 2008 as a report, and as an agenda item on February 28, 2008. Responding to Councilor Ortiz, Ms. Price said it is too late to add it as a discussion item on February 7<sup>th</sup> because that agenda has been done, noting this was left to the discretion of the Chair. Responding to Councilor Ortiz, Ms. Price said this item will go to the Planning Commission for action on February 28, 2008, then to the Public Works on February 25, 2008, and to the City Council for a public hearing on February 27, 2008.

Councilor Ortiz recalled that he moved to have this bill come back to the Public Works Committee on February 11, 2008.

Ms. Price said that can be done as well.

**Councilor Heldmeyer moved, seconded by Councilor Chavez, to approve this request, and that it go back to Public Works once or twice at the discretion of Public Works.**

**Discussion:** Councilor Bushee said she was looking for information from other communities as well as the changes from the Planning Commission, and asked when that would be provided.

Ms. Price said she provided a packet of the research which was done in her office, and placed that in both Councilor Bushee and Councilor Calvert's Council boxes, and can provide that to other Councilors.

Councilor Bushee would like that provided to all of the members of the Public Works Committee.

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

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

**Against: None.**

**10. REQUEST FOR APPROVAL OF SEWER SERVICE ONLY UNDER THE PROVISIONS OF §22-6.2 SFCC, BY SCOTT HOEFT OF SANTA FE PLANNING GROUP FOR THE PROPOSED VILLAGE PLAZA PROJECT IN SANTA FE COUNTY NEAR NM 599 AND SFC 62. (STAN HOLLAND)**

A copy of the relevant portion of the minutes of the Public Utilities Committee of January 16, 2008, which was provided to the Councilors just prior to the Council meeting, is incorporated herewith to these minutes as Exhibit "1."

A copy of the Action Sheet from the Public Utilities Committee meeting of January 16, 2008, with attachments, is incorporated herewith to these minutes as Exhibit "2."

Councilor Heldmeyer noted that copies of the relevant portion of the minutes from the Public Utilities Committee meeting are on the Councilors' desks, which were not available to go out with the Council packet.

Stan Holland presented the staff report which is contained in Exhibit "2."

**Staff Recommendation:** The WWRT requests a review and consideration of the application by the property owner for City sewer service only with the following recommendations by the Wastewater Management Division, and if approved by the Public Utilities Committee, forwarding to the Governing Body for their consideration is also requested:

- An affordable housing mix consistent with the affordable housing task force report and the commitment of 5,000 square feet for either a nonprofit or a community organization dedicated to providing medical services.
- All commercial establishments shall be required to have individual water meters and shall be required to report water usage to the Wastewater Management Division Director.
- All Wastewater Utility Expansion Charges (UEC) shall be paid in advance of connection to the sewer system.
- All lots within the Development shall be subject to SFCC 1987 Chapter 22 now and hereinafter in effect.
- The Developer shall agree to annex into the City at the City's request and this condition shall be part of the plat for the project and the individual lots.
- The sewer design plan and platting conditions set shall be reviewed and approved by the City's Wastewater Management Division.
- The Wastewater Management Division shall be added to the plat and plan set for approval signature.

- The above conditions shall be noted on the plat for the development and the individual lots.

Councilor Chavez said he understands this is for wastewater, but the City's Utility Expansion Charges will apply to this project.

Mr. Holland said this is correct, and he estimates those fees will be \$36,000 to \$40,000 for this project, based on the proposal, excluding affordable homes.

Responding to Councilor Chavez, Mr. Holland said the project will be subject to the Santa Fe Homes Program, and they met with the County and the County has no problem with that. He said there will be 41 residential units and 12 affordable units. He said Chapter 22 contains the sewer design guidelines, so the project will have to go through the City's review for compliance with City design guidelines and will be built to City standards.

Responding to Councilor Chavez, Mr. Holland said under the new Ordinance No. 2006-60, the Developer will be required to sign a Wastewater Development Service Agreement, and part of it will state that in the future, if possible, the Developer will agree to annex at the City's request, and this condition will apply to all the properties in this development.

Councilor Chavez said there are other impact fees which the City usually charges, such as Fire, for developments within the City limits. He asked Mr. Katz how certain City ordinances and policies can be applied to this development, even though it is outside of our jurisdiction.

Mr. Katz said it really depends on the City Code. The Code expressly provides that the impact fees shall apply to all the territory within the City and that the "provisions of this section shall also apply to territory outside the corporate limits, provided that the City has entered into a joint powers agreement with the County for the collection of joint city-county impact fees within the unincorporated area." The Code allows that to happen, but there would have to be a joint powers agreement, and he doesn't believe we have a joint powers agreement for impact fees in place with the County.

Mr. Katz said one thing which is incorrect, is that this area is within the Resolution passed by the Council in February 2006 for annexation, and it is within Area 2, which the Council will be discussing later and could bear on this.

Councilor Chavez noted that the impact fees are to mitigate the impacts growth might have on the infrastructure. He said the families in the 41 homes will depend on other infrastructure to move around the City and such, and attend schools, so there is impact on the future growth of the schools. He said the new library in the area is another piece of infrastructure which the City is providing and on which this development will be depending as the area grows out. He said this is an area which is being considered for annexation, but the approval of the development is happening ahead of that larger, comprehensive development.

Mr. Hoeft demonstrated the subject site on the enlarged map.

Councilor Calvert asked if this development is the pie shaped area, saying he is concerned about the highway corridor and the existing or future setbacks in that highway corridor. He also is concerned because we are trying not to encourage a lot of development

along #599 for safety purposes because it is a designated WHIP route. He is concerned that this will be a trend for future development. He said access to CR 62 is an at grade crossings. He said by approving this, the City is aiding and abetting the process, noting he thought we were not encouraging development in proximity to #599 with access on at-grade crossings.

Councilor Bushee said she asked similar questions, but she believes this development will go forward without our sewer service and would have a septic system. She believes the City's Affordable Homes Program and the Wastewater UEC would apply.

Councilor Bushee said impact fees are controlled by the State, noting the City invited the County to join the City in setting impact fees, but it chose not to, and the County only has Fire impact fees. She understands we require them to follow our other ordinances, but doesn't believe the impact fees fall under the same category.

Mr. Katz said she is correct, but the County chose not to join us in impact fees and the City doesn't have the power to impose those.

Councilor Bushee said she wants to be sure this development is not within the highway corridor, noting it is set in a triangle between CR 62 and #599, with plenty of setback. She said the screening would come at a different point, and we aren't dealing with specifics, we are just granting sewer. She asked if this will go through the City's planning review process.

Mr. Holland said it would only go through the EZA.

Councilor Bushee asked if the City can impose a condition that the developer will provide the appropriate screening, and would the developer consider being more clear.

Mr. Hoeft said on the plan you can see the setbacks from the right-of-way. He said when the project was designed in 1999, it did take into consideration the highway corridor, so there is a 100 ft. setback from the right-of-way, and the area along the front has berming and landscaping as well. Responding to Councilor Bushee, he said 599 higher than the site by 18 feet, so it gradually slopes away from the highway.

Councilor Bushee asked what are the options if the City doesn't extend wastewater.

Mr. Hoeft said they would build an on-site treatment facility. He gave a brief history of the project, noting they have drilled a well. The development was approved by the EZC in November 2007. He said this is just to remove a condition of approval which stems back to the original approval in 1999 which says they must have City water and sewer service. He reiterated that the EZC asked them to go to Agua Fria, the cooperative and the association, and present information on the project, which was done. They asked them to approach the City for sewer service only because they didn't want a liquid waste plant on the site. The delay at the EZA was at the request of the Agua Fria Association.

Councilor Bushee asked if the City lines are close by.

Mr. Hoeft said they are right by the River.

Councilor Calvert said there is an existing highway noise corridor.

Councilor Bushee said she asked the developer if they would be willing to subject themselves to that, and Mr. Hoeft responded that it doesn't fall within the highway corridor.

Mr. Hoeft demonstrated the noise contour on the map, and said the highway corridor has been considered. The sewer trunk line in the Santa Fe River is less than 200 feet from the property.

Councilor Bushee said then you are within the noise corridor in the highway corridor setback and you have built beyond it.

Mr. Hoeft said this is correct.

Councilor Calvert asked if Councilor Bushee's proposed ordinance amends or changes any of the conditions.

Councilor Bushee said it just codifies it so it can be enforced.

Mr. Hoeft said the trunk line is within 200 feet of the subject site.

Councilor Heldmeyer said this is one of those kinds of "betwixt and between," projects where everyone wants them to have sewer. However, it is also a project in the County, from which the City will not benefit from any kinds of taxes, and we will have no real say over what happens here. She said amendments were made at the Public Utilities Committee to get at some of the tradeoffs between various things: it would be subject to the City's Santa Fe Homes Program, and the gas station won't have a car wash which was offered by the developer.

Councilor Heldmeyer said there was a question from two Councilors if it would be possible to impose a condition of approval that the gas station will not sell alcohol. She spoke with Mr. Katz who hadn't received the minutes, and he said he would look into this.

Mr. Katz said he does not believe there is any authority for the City to impose this on the developer. However, the Council could choose not to extend the sewer service. He said, "They want a special deal and if they didn't want to accept the condition, they would say, no thank you, we'll just do our package plan."

Councilor Heldmeyer said she has real concerns about this project. The reality is that it is 77,000 sq. ft. of commercial with a gas station which is clearly intended to pull people from 599. There is a grocery store which could sell alcohol. She asked Mr. Hoeft if he would agree to a condition of approval that the gas station only would not sell liquor.

Mr. Hoeft said he would agree to that.

**Councilor Heldmeyer moved, seconded by Councilor Chavez, to approve this request for sewer service only, with the conditions as recommended by staff from the Wastewater Division, with the following additional conditions of approval: That it abide by the Santa Fe Homes Program, that the service station will not add a car wash and it will not sell alcohol.**

**Discussion:** Councilor Chavez would like the City to work with the County to get a joint powers agreement on impact fees, and if the annexation happens, the City would get the GRTs from sales in the commercial businesses. He believes extending sewer is the right thing to do, noting many wells in the area already have high nitrate levels.

Mr. Holland said, for the record, staff would like to ensure that the conditions of approval as recommended by the Wastewater Division is also part of the motion.

Councilor Heldmeyer said they are.

Councilor Wurzbarger asked if there is a car wash off #599 which serves the people of the area. She doesn't understand "never adding a car wash," as long as we have the regulations we are considering as to how to manage car washes, noting she doesn't believe there is a car wash in the area, and it seems short sighted to say "never." She asked Mr. Kassisieh if there is capacity to manage a car wash.

Mr. Kassisieh said there is plenty of capacity to deal with the sewage. He said there are many regulations, including a sand trap, to protect the sewer lines.

Responding to Councilor Wurzbarger, Councilor Heldmeyer said the developer offered not to have a car wash in the original application, so it was made a condition of approval.

Mr. Hoeft said this is correct.

Mayor Coss said there is a car wash in his neighborhood, and neighbors always ask the City not to put car washes in the neighborhood because it is a major disruption.

Councilor Bushee said the developer could go back and construct an on-site sewer treatment facility, but she wants this project connected to City sewer. She asked if this condition of approval is legally binding if, in the future, the developer decides to put in a self-service car wash or sell liquor.

Mr. Katz said he understands this condition will be on the plat, but he can't promise that 25 years now it might not be challenged. He said if the developer is agreeable to the conditions, it will be developed that way, will be on the plat, and there is an argument to be made that they contractually agreed to it as part of the sewer service. He believes this is a good argument

Councilor Dominguez said he appreciates the applicant bringing the recommendation forward on the car wash offer. He understands Costy says the system will handle a car wash, with compliance, while Councilor Heldmeyer said the sewer system wouldn't handle a car wash.

Councilor Heldmeyer said she said it would impose a strain.

Councilor Dominguez asked how we determine what is a strain.

Councilor Heldmeyer reiterated that it was made a condition because the applicant had included that in the original application. She said as annexation moves forward, the City will

have stronger rules and laws at some point about car washes. She said if those come together, and they wanted to change the condition, they would have the legal right to do that. She believes if a developer is willing to impose conditions of approval on themselves, we should accept that.

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

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

**Against: None.**

- 11. CONSIDERATION OF RESOLUTION NO. 2008- 15 (COUNCILOR ORTIZ). A RESOLUTION RECOGNIZING AND AWARDED PUBLIC SERVICE TENURE BY NON-BARGAINING UNIT EMPLOYEES WITH 23 OR MORE YEARS OF PUBLIC SAFETY SERVICE WITH THE SANTA FE POLICE OR FIRE DEPARTMENT, OR NON-BARGAINING UNIT EMPLOYEES WITH 27 OR MORE YEARS OF SERVICE WITH OTHER CITY OF SANTA FE DEPARTMENTS; PROVIDING AN ACCELERATED RETIREMENT BENEFIT FOR PUBLIC SAFETY NON-BARGAINING UNIT EMPLOYEES THAT IS COMPARABLE WITH POLICE AND FIRE COLLECTIVE BARGAINING AGREEMENTS; AND CREATING A NEW PERSONNEL RULE TO BE CONSISTENT WITH THIS RESOLUTION. (KRISTINE KUEBLI) (Postponed at the January 9, 2008, City Council Meeting)**

Councilor Ortiz said this Resolution has gone through several iterations, several Committees and the large purpose was whittled down to what is before the Council this evening. He said this Resolution would grant the same rights and benefits to public safety employees, or employees of non-bargaining units, as those enjoyed by employees in bargaining units. He said this rewards employees who never miss a day of work. He believes we need to do this. He said the Union has these benefits, so these employees should have those same rights.

**Councilor Ortiz moved, seconded by Councilor Chavez, to adopt Resolution No. 2008-15.**

**Discussion:** Councilor Bushee asked why 23 years and 27 years were chosen .

Ms. Gage said public safety employees can retire at 20 years, and after 23 years (22 years and 11 months]. A public safety employee has already earned the maximum benefit they will earn at 23 years of services. For non-public safety employees, the maximum benefits is 26 years 8 months.

Councilor Ortiz said currently the City's policy is *ad hoc* on an employee-by-employee basis, based on the whim of the City Manager. The current City Manager didn't feel comfortable doing this.

Councilor Bushee asked a series of questions and Ms. Gage responded as follows:

- There is no buyout plan currently. There is a policy allowing employees to accelerate to retirement using ½ of their sick leave, but the policy has only been allowed up to the maximum benefit which would be 22/11 or 26/8. Anybody over those years who retires has no benefits, nor the opportunity to cash out sick leave.
- This policy would offer an incentive for the employees to stay.
- There is an FIR in the Council packet. She said this scenario, cashing out sick leave after 23 or 27 years, is based on the number of employees who are close to retiring and may make the decision to stay over the maximum. In the FIR narrative the cost for fy 07/08 is based on two employees, 08/09 on two employees; 09/10 on six employees; and for 10/11 on eleven employees. This is based on the *status quo*, and could change if this is passed if more employees decide to stay on longer.
- This policy should eliminate some of the double fill the City currently has to do because of the accelerated leave.

Councilor Bushee asked why did this took so long.

Councilor Ortiz said he takes responsibility for the lack of progress on this item.

Councilor Heldmeyer spoke about other factors which resulted in the delay of this bill. She asked when "bargaining unit employees" in Police & Fire reach their 23 years and retire, does the City do a one-to-one buyout of their sick leave.

Ms. Gauge said the contract for bargaining unit employees allows them to accelerate their retirement one-for-one for a certain number of the hours. The Resolution before the Council is one benefit with two choices: If you are going to retire before 23 years, the resolution proposes the same benefit as the Union contracts which allow for a certain number of hours to be paid at one-for-one with the remaining at two-for-one.

Councilor Heldmeyer said the question is whether police and fire bargaining employees with 23 years of service get their sick leave bought by the City.

Ms. Gage said they do not.

Councilor Heldmeyer said then it's not comparable.

Ms. Gage said the Resolution says, "to provide an accelerated retirement benefit that is comparable with police and fire collective bargaining units."

Councilor Heldmeyer said this has been a complicated Resolution to understand. She asked what makes this Resolution comparable to what the bargaining unit employees have.

Ms. Gage reiterated that this Resolution offers one benefit with two choices. There are



two pieces to the Resolution. An employee staying past maximum retirement will be able to cash out their sick leave at one-for-one.

Councilor Heldmeyer asked if this is comparable to what bargaining unit employees get.

Ms. Gage said no. However, she said the second piece would allow employees who want to retire after the maximum years to have the same benefits as the union contracts.

Councilor Heldmeyer said then half is comparable and half is not. Ms. Gage said this is correct.

Councilor Calvert said his primary concern is the price tag over a number of years at \$1.8 million, and it will continue to grow. He would be more comfortable of seeing this in the context of strategic planning and the budget process as to how this fits in terms of other policies which we are considering as a comprehensive resources policy. He is reluctant to do this piecemeal and be stuck with it at budget time.

Councilor Wurzburger asked if there is a one year review provision.

Ms. Gage said there is nothing in the resolution. She said, with regard to the FIR, this is a benefit which has two choices where an employee will choose one or another, and the way the FIR is drafted.

**Friendly amendment:** Councilor Wurzburger would like to amend the motion to add a report on, and review of, the Resolution after one year. **The amendment was friendly to the maker and second and there were no objections by the other Councilors.**

Councilor Bushee said she doesn't believe we can take this action by Resolution, noting we tried this before on the non-union review process. Then we had to "undo the ordinance." She said this is extraordinary, and we haven't heard whether staff is recommending this, nor has Ms. Raveling addressed this. She said what regulates personnel is an ordinance and is in the Code.

Mayor Coss said Councilor Bushee is speaking about Grievance Review Board which was expanded, but had to be put back together because of the Ordinance change.

Councilor Bushee asked if there is some urgency to this. She asked if the two employees would get the money by amending this Resolution.

Councilor Ortiz said he thought it was extraordinary when this issue came up 16 months ago, and he presented this to the City Manager. He thought it was extraordinary that this City Manager was not going to take the same actions which other City Managers have taken in similar situations, and this City Manager told me it needed to be passed by the Governing Body. Therefore, he introduced a Resolution, and placed it in the hands of the professionals in Human Resources and the City Attorney's Office, and this Resolution, in its third iteration, meets his objectives.

Councilor Bushee asked what would each of the two people get, in terms of sick leave buyout, if this Resolution were to be adopted.

Ms. Gage said that the fiscal impact for 2009/2010 would be \$78,000, if the accelerated leave rule were to be changed. This is the amount of money the Department would have to pay for a double fill for three employees.

Councilor Bushee asked Ms. Raveling if she calculated these numbers, commenting that she is genuinely concerned that we are doing this by Resolution, and she is concerned about the process, noting the City Manager isn't here this evening to explain his policy in the past or in the future.

Ms. Raveling said she worked with Human Resources to calculate these numbers, but as Ms. Gage said, these are estimates because we don't know how many employees will choose one option or the other. She said most of the police and fire will come out of the General Fund.

Councilor Bushee asked if the union members weighed-in on this Resolution.

Ms. Gage said not to her knowledge

Councilor Bushee asked if it would be possible to review this and do it in a different way.

Councilor Ortiz said there is a more expeditious way, but this City Manager has chosen not to pursue that, and this is the only option which was available, so he moved it forward.

Mayor Coss said, with regard to the City Manager's decision, the initial decision was made by Mike Lujan. The reason the City Manager wants the Council to vote on this is because it sets a precedent of at least \$70,000 annually and growing over the years. He believes that piece of it is appropriate. He pointed out that, regardless of a one year review, once you give a benefit it is difficult to take it back, and this has hundreds of thousands of dollars of impact in benefits to the General Fund, and it is worth thinking about whether this is worthwhile. He has no opinion as to whether it should be a Resolution or Ordinance, and asked Mr. Katz to comment.

Mr. Katz said the Personnel Rules are regulation. The grievance board was in statute, so it couldn't be changed by Resolution. The Rules can be changed by resolution and this is the appropriate way of changing the Personnel Rules.

Councilor Bushee asked if the City Manager currently has the administrative leeway to have this arbitrary policy.

Mayor Coss said previous City Manager claimed the administrative leeway to do that, but Mr. Lujan and then Mr. Buller chose not to follow that policy.

Councilor Wurzbarger said the issue for her is one of equity, and we are taking a position on the policy question of whether people have the same benefits, and she comes down on the side of they should.

Councilor Chavez said previously Councilor Ortiz said these employees were riding on the coattails of the union, and he doesn't agree. He said there is a fiscal impact to keep them employed, to provide benefits and pay increases. He said there always will be a fiscal impact,

and our decision is if we are going to invest in our employees or not, and are we going to treat them as equally as possible.

Mayor Coss said the issue of equity is difficult, and pointed out that Councilor Ortiz voted for the management pay raise last December which he appreciates. He said there always is that question of union/non-union. However, a leave buyout for someone at \$20 per hour and at \$40 per hour are two different things. This is a big step to take. He is very sympathetic to the issue of people maxing out for PERA, after which a person is working for 25% of their salary. This is a sacrifice that these employees working beyond their maximum retirement years are willing to make. He said he is comfortable with the comparable between the Police and Fire, and asked if AFSCME has this benefit.

Ms. Gage said the AFSCME contract currently allows accelerated leave up to 26 years and 8 months (26/8).

Mayor Coss asked if there is an FIR in the event AFSCME comes back for what the police and fire have.

Councilor Bushee said she is becoming more concerned, in that she hasn't heard from management nor the unions of either department, nor has she seen any strategic plans with anything like this built in.

Councilor Bushee asked Councilor Ortiz if he would wait to take action until the City Manager is in attendance.

Councilor Ortiz said, "No way."

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

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

**Against: Councilor Bushee, Councilor Calvert and Councilor Heldmeyer.**

Explaining her vote: Councilor Heldmeyer said if it was comparable across the board, she would be comfortable with this, but part of it is comparable, part isn't. She said the arguments about the non-comparable part haven't been made, and we have mostly been hearing about the comparable part, so, since it is a two-part thing, she votes no.

\*\*\*\*\*

**Councilor Ortiz moved, seconded by Councilor Wurzbarger, to amend the agenda to postpone Items #12 through #16 to the end of the evening agenda, and to approve the agenda as amended.**

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

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*There was a break from 7:01 p.m. to 7:26 p.m.*

**END OF AFTERNOON SESSION AT 7:26 P.M.**

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

## **EVENING SESSION**

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

The Evening Session was called to order by Mayor David Coss, at approximately 7:27 p.m. Roll Call indicated the presence of a quorum as follows:

#### **Members Present**

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

#### **Others Attending**

William Tallman, Assistant City Manager  
Frank Katz, City Attorney  
Yolanda Y. Vigil, City Clerk  
Melessia Helberg, Council Stenographer

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

Mayor Coss gave each person three minutes to present their petitions.

**Donato Coviello** said he will vote against a tax increase because he is afraid the City will commercialize all of the City Parks the way it was done with the Plaza Park and there will be vendors in every park. He said he is concerned about Public Access TV. He petitioned the Governing Body to reinstate the Communication Technology Advisory Committee (CTAC), which for a time oversaw both the public access television and the franchise agreement between the City and the Cable Company. It also served as a hearing board for the FCC to look at any complaints toward the cable company by the citizens of Santa Fe. He said the City has gone into a PSA with the Community College. He believes radio station KSFR is attempting to take over public access TV, and to become its managing agent. He doesn't want to see this happen. He said public access has had its budget cut by 1/3 and is now operating on \$125,000 annually to put on 20 hours of community programs 365 days per year, although he said the City is doing a great job with Government TV. He reiterated that he would like this Governing Body to bring back CTAC and revitalize a public asset which is public access tv.

**Colonel George R. Hawthorne** said he is a federal state and professional engineer and land surveyor. He said he has been here since World War II, noting he is a Manhattan Engineer, and he won his first Court case against City in 1960, has done that 20 times since. He has filed a complaint with the City Clerk, and asked the City Clerk if she has served the

Mayor with his document.

Mayor Coss instructed Colonel Hawthorne just to make his petition.

Colonel Hawthorne said his petition is that document. He said you are in the first phase of a New Mexico Supreme Court statute violation, a group of violations, and the last is called annexation. He said the City Attorney has made false claims that "you" own the U.S. Courthouse parking lot across from the Post Office. He said "you" took out 45 meters and "your" license expired and "you" aren't able to collect money for licenses, "your" license has expired, and "I have a complaint with the GSA in Fort Worth, and those documents are a part of my petition."

Colonel Hawthorne continued, "And I am at the document that says who I am and they responded. With respect to the others, you lost the case for putting a garage on...the [inaudible] point, I just had garage. You lost it. You do not know the difference between a plat and a map. The petition from the floor is here, you are supposed to be hearing a City initiated annexation of City owned roadways, and the City does not own any roadways. They're dedicated to public use. I brought these plats and tonight, the petition to you is if you don't own property on Airport Road, you can't even speak. You have no standing. You understand that Mayor, that I said, only the people who own property on Rufina Street or Airport Road can speak in this hearing. Most people, you... none of you, none of you own any property there. You can't speak. That's a federal law and a state law, property rights descend from the federal government. Heldmeyer you're the worst. I heard you say three minutes. This is an investigation from Colonel Hawthorne into your false claims, and you cannot limit it to just that. We'll take it up when you get to the other items."

Mayor Coss said Colonel Hawthorne will be allowed to speak at the public hearing on annexation, and thanked him.

Colonel Hawthorne said, "Except you have one more point. You have unfinished business. Where is it in your record. You forgot to put it in your court. You do not have unfinished...paragraph 1 is incorrect. It's unfinished business."

Mayor Coss thanked Colonel Hawthorne again.

## **F. APPOINTMENTS**

### **400<sup>th</sup> Anniversary Committee:**

Mayor Coss appointed the following individual to the 400<sup>th</sup> Anniversary Committee:

Joseph Aguilar.

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

**Santa Fe River Commission:**

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

Gerald Z. Jacobi – to fill unexpired term ending 2/2010.

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

**Mayor's Youth Advisory Board:**

Mayor Coss appointed the following individuals to the Mayor's Youth Advisory Board:

Maria Dominguez – term ending 12/09;  
Laura Lopez – reappointment – term ending 12/09;  
Israel Tercero – reappointment – term ending 12/09;  
Elizabeth Holmes – reappointment – term ending 12/09;  
Mary V. Apodaca – reappointment – term ending 12/09; and  
Alex Wirth – reappointment – term ending 12/08.

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

Councilor Heldmeyer said she would like to point out, for the future, that these appointees are students, and having the terms expire on the calendar year, rather than the academic year, has proven to be somewhat confusing, and suggested that could be fixed in the future.

**Ethics and Campaign Review Board:**

Mayor Coss appointed the following individual to the Ethics and Campaign Review Board:

Angelica K. Ruiz – to fill unexpired term ending 01/2009.

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

## **G. PUBLIC HEARINGS**

- 1) CONSIDERATION OF BILL NO. 2007-55; ADOPTION OF ORDINANCE NO. 2008- 5 (MAYOR COSS AND COUNCILOR CHAVEZ). AN ORDINANCE AMENDING CHAPTER 14 SFCC 1987, LAND DEVELOPMENT LAWS AND SECTION 18-11.3 SFCC 1987 LODGERS' TAX REGARDING THE SHORT TERM RENTAL OF DWELLING UNITS. (JEANNE PRICE) (POSTPONED AT THE JANUARY 9, 2008 CITY COUNCIL MEETING)**

A copy of the "Independent Accountants' Report On Applying Agreed Upon Procedures," from Barraclough & Associates, P.C., is incorporated herewith to these minutes as Exhibit "3."

A proposed amendment to Bill No. 2007-55, regarding resort facilities, submitted by staff for Councilor Wurzburger, is incorporated herewith to these minutes as Exhibit "4."

A proposed amendment to Bill No. 2007-55, submitted by Councilor Miguel Chavez, is incorporated herewith to these minutes as Exhibit "5."

A letter dated January 29, 2008, with attachments, to the Santa Fe City Council, from Thomas A. Simons, IV, regarding Supplemental Position Statement in Opposition to Bill No. 2007-55, concerning short term rentals, is incorporated herewith to these minutes as Exhibit "6."

A copy of the statement for the record by Baro Shalizi, President of the Santa Fe Association of Realtors, dated January 30, 2008, with attachments regarding a study which was done in Maui regarding the impact of short term rentals on the economy, is incorporated herewith to these minutes as Exhibit "7"

A packet of information, entered for the record by Bruce Kingley, is incorporated herewith to these minutes as Exhibit "8."

Jeanne Price summarized the amendments proposed by Councilor Wurzburger which are on page 4 of the Council packet. She noted that since the amendment sheet was drafted, staff determined the language in Amendment #4 needs to be revised, and she submitted the revised language [Exhibit "4"].

Councilor Chavez noted he distributed an amendment which is not included in Councilor Wurzburger's amendment [Exhibit "5"]. This amendment speaks to the neighborhood conservation overlay district as a possible tool to use in the future.

Responding to Councilor Chavez, Ms. Price said the Neighborhood Conservation District language, as currently proposed, but not adopted, addresses non-conforming uses. If there is a non-conforming use in a neighborhood, according to the Neighborhood Conservation District rules, the non-conforming use would have to meet the regular non-conforming use requirements in City code, which means it could continue to operate, provided it doesn't lapse or expand.



Councilor Chavez said then it would have to follow the features of the ordinance in conducting its normal business. Ms. Price said yes.

Councilor Wurzbarger quoted from the proposed amendment [Exhibit "5"] as follows: "A Neighborhood Conservation Overlay District may supercede the exceptions set forth in this paragraph (i) and prohibit short term rentals." She said to her this means if this ordinance is adopted with her proposed amendments, six months down the road something which had been grandfathered and an overlay district decided it didn't want it, it would "supercede" the exceptions and prohibit short term rentals. She asked if this is correct, it that it opens that door.

Mr. Katz said it would supercede the provisions of the ordinance which allows a certain number of short term rentals and certain other kinds of short term rentals, but it wouldn't supercede the statutes, the other ordinance, which permit a prior non-conforming use. He said this is a problem the neighborhood conservation districts would face in any greater restrictions that they would enact, because there would be properties with non-conforming uses and those non-conforming uses could continue both under the Neighborhood Conservation Ordinance as currently drafted, and under other ordinances on non-conforming use in 14-10.

Councilor Wurzbarger said, for purposes of clarification to the public who haven't seen this, this is something that the Council agreed to publish in the afternoon session, but it would go through the normal committee process so we could better understand what is being proposed.

### **Public Hearing**

Mayor Coss said the public hearing was held previously on the concept, so he would like people to limit their comments this evening to the amendments proposed by Councilor Wurzbarger, or Councilor Chavez's amendment as well, noting Councilor Bushee's amendments have been out for some time, and asked people to stay to the amendments and not repeat testimony from the last public hearing. He said each speaker will have three minutes to speak to this issue.

**Colonel Hawthorne** said, "I wish to talk about number five and six, and we can talk about them jointly because the same issues apply."

Mayor Coss said we are just talking about G(1), the Short Term Rental Ordinance.

Colonel Hawthorne said, "G(1). Yes, I marked that one. Short term rentals. I have told you about short term rentals and I'm going to tell you again. The Internal Revenue Service tells these people how to handle their property. And I'm a Colonel, and my title is.. on this document...states right this minute is that I am a full time litigation relater for the GSA, with this document. I am the same person that beat you in the Las Campanas case where I testified as a federal official, that you could not deliver that water. So, you lost that case and you're losing this one. Now, since I filed this November...December 30<sup>th</sup> document, you can't pursue on short term rentals. It's in that case. You're locked out. That's the issue on the short term rentals. You cannot discuss short term rentals because you do not have any property rights.

You are so unknowledgeable, you don't know what I'm talking about. The Federal government... This is educational and it is my duty as a Colonel to teach you this. And [inaudible] where you failed, and you're not going to interrupt me."

Mayor Coss said he would give him five minutes.

Colonel Hawthorne continued, "You cannot interrupt me, because I'm telling you, if you do, I've already served her, I'm going to serve you, if you do this. I am investigating for the United States government the false claims you're making before these public bodies, and my duty as a Colonel is to protect the public from your false claims. It is the duty of the District Attorney to determine if it's criminal. This is a civil issue, and your ordinances do not apply and your ten minutes do not apply. You have no authority over the United States government's man charging you. I'm gonna charge you with false claims. And your three minutes are not fair, and it doesn't apply. This is called common law. Is it correct you're claiming you have property rights, and I am here to educate you, first, that you don't have property rights. Now, listen carefully, especially the people who own property. I own four lots here. I own a motel here. And, I beat you in the state courts, the Joe Valdez system, and I've used that against you, when you come up with my December 31<sup>st</sup> document I have served on you. You didn't listen. No three minutes.

Mayor Coss advised Colonel Hawthorne his time is up.

Colonel Hawthorne said, "Those three minutes don't apply."

Mayor Coss said there are a lot of people behind him who would like to address this Council.

Colonel Hawthorne, "They can't talk about, you cannot talk about..."

Mayor Coss advised that we can talk about whatever we want, and this is a public hearing, and asked Colonel Hawthorne please to sit down and let the other people have their say.

After further protests, and admonitions from the Mayor to sit, Colonel Hawthorne continued, "Ask your City Attorney, you're going to listen for me to read what this says. You're going to listen to a Colonel, what the federal government says, you have no property rights."

Mayor Coss told Colonel Hawthorne he has heard his petition, and again asked him to sit.

Colonel Hawthorne said, "And that's all on that issue, and you'd better believe it because you're going to be individually charged and I'll be cross-examining you in the court, and I'll be questioning you, and I'll collect triple damages from you."

**Noel Bennett, 304 Magdalena**, said the proposed amendments as presented to the public have been sketchy, unclear and open to various interpretation. For example, one term

repeated in the ordinance is "seven day minimum stay," which means to her that you can't rent for "one, two, three, four, five or six days." However, she is told this is not interpreted that you can rent for less than seven days, but only once to one party in a seven-day period. She said the communication problem undercuts the public confidence in understanding the amendments, and she doesn't know what she's supposed to be addressing. She said the proposal by Councilor Bushee to create a short term rental overlay district where short term rentals, and presumed these wouldn't be subject to twelve or seventeen day limitations, but she can't find that kind of detail. She doesn't understand the presentation this evening about non-conforming use. She asked that the public be given clearly written proposals, and distributed to the public so their comments would make sense. She said at this point, from her point of view, it has been meaningless

**Tom Simons, 286 Los Pinos Road**, said he spoke previously, and will confine his comments to the three minutes, and submitted a letter with attachments for the record [Exhibit "6"]. Mr. Simons reviewed the information in his letter of January 29, 2008 [Exhibit "6"]. He said he has not seen all amendments, but he has seen Councilor Wurzbarger's amendments which were clearly stated and published, but doesn't believe the other amendments properly could be voted on this evening. He commented that the City charges Walmart \$35 for a permit, while charging each of these individuals \$1,000 or \$500 for the same kind of permit to do business. He said this discriminates against out-of-town owners, and said he has heard this is intentional, and that "what you people want is to have only owner occupants in our houses in Santa Fe." He doesn't believe this is what our town is about.

**Justine Vidlachsbacher** said she sent a letter to the Council yesterday and asked who read it, commenting that she spent a long time on that letter. She has lived in Santa Fe for 30 years, and this has done a lot of damage to wedding business and events here in Santa Fe. She calculated the City has lost \$50,000 on three weddings which went to other towns because they couldn't stay a whole week. She said people living in this town moved the weddings to the groom's hometown. She said this is affecting hotels, and her. She does event planning and catering. She said you are affecting Loretto Chapel, churches, etc., noting this is all in her letter. She said this is damaging for Santa Fe and people are getting upset and Santa Fe is getting a bad name and word gets around and it will catch up. She thinks it's terrible and harmful that you are doing this. She said she has never had a complaint or problem with a renter.

**Bob Glaser, 274 El Duane Court**, said he and his colleagues are against short term rentals and against indefinitely extending them. He said he lives in a 3-4 unit housing complex where two are short term rentals. He said if this ordinance passes, the permanent resident can't rent their house on a short term basis. If they want to sell, they have the albatross of short term rentals "hanging around their neck." He said you've locked the permanent residents out, and you should consider that.

**John Emerick, 215 Harkens Lane** said he is speaking for Councilor Wurzbarger's amendment. He said before he purchased his home, he, his wife and daughters would come to Santa Fe two times a year, and stay in short term rentals. It seemed to be a much better way

to experience Santa Fe as a visitor, and without that experience, he is unsure whether he would have purchased a home in Santa Fe. On the other hand, he previously lived in a resort community, and he is sensitive to some of the concerns which relate to parking, disturbance and other concerns. He would hate to see the loss of short term rental properties to visitors. However, he believes regulation and enforcement of short term rentals is appropriate. He believes Councilor Wurzbarger's amendment is very appropriate.

**Baro Shalizi, President of the Santa Fe Association of Realtors**, said the Association supports the permitting and regulating of short term rentals, including the requirement that the property owners pay a fee, however, they feel the fee is very very high. Mr. Shalizi entered his statement into the record as well as a study from Maui, Hawaii which was done on the impact of short term rentals on the economy [Exhibit "7"]. He said at the last meeting he heard all sorts of issues which were happening as the result of short term rentals. He doesn't believe this behavior is intrinsic to short term rentals, and believes it is human behavior. He said there are no short term rentals in his neighborhood, but they still have been parking and noise issues, and people drinking. He hopes the Council will pass an ordinance to deal with owners who do these things and stop them from living in their homes.

**Todd Davis, 510 Johnson Lane**, said with regard to the amendment, capping the short term rental units at 350, he believes this would have a negative impact on the local economy due to the hundreds of people who rely on this industry for their jobs and income. He asked the Council please to consider the hundreds of Santa Fe citizens who rely on this industry as a means to support themselves and their families. He believes the introduction of the Neighborhood Conservation District is "sneaky" politics to get around the proposed ordinance, especially if it can supercede the ordinance, after all the hard work the Governing Body and people in this room have put into it.

**Lynn Zeck, 316 Calle Loma Norte**, said she testified the first night and said she hoped we can all work together. She said she would like to know how and when the cap was established and how the cap was calculated. She hasn't seen those numbers, and she said people are asking about this. She thanked the Council for the work, and hopes we can reach a compromise.

**Steven Ovitski, 2756 Herradura, Executive Director of the Santa Fe Chamber Music Festival**, said every year more than eighty world-class musicians come to Santa Fe in the summer to participate in the Festival, and almost all stay in short term rentals. He hopes as the Council considers this ordinance, it will consider that the great artists who come here in the summer for the Festival and other musical organizations, rely on short term rentals as a way to spend a week in Santa Fe, performing for more than 14,000 people attending concerts. These people want to have a feel for the character of the City while they're here performing, and to do that at a reasonable price and bring their families with them.

**Dena Aqualina, 327 Sanchez**, thanked Councilors Wurzbarger and Heldmeyer for their work on this issue. She appreciates that people are required to have paid Lodgers' Tax in order to be grandfathered, commenting she is hopeful the two on her street haven't. She said, responding to Ms. Zeck, the 350 number came from the confidential survey done by Karen

Walker with some of the management companies. She appreciates that the fee of \$1,000 is going to enforcement. She hopes we are at the end of a very long road. She said, even if they are the most wonderful people in the world, and many of them are, having a different family across the street from you every three days is a drag and it was not her expectation when she moved to her neighborhood.

**Russell Betz, 329 Otero Street**, said he has counted more than 400 vacation rentals on the web, and he "stopped when he got tired," so the numbers aren't reliable. He said Mr. Simon said most vacation rental owners are out of towners. He is a citizen and a resident and he is in his 9<sup>th</sup> year in vacation rental. He works hard to help here, and has assisted with neighborhood beautification and in making Santa Fe a place to be proud of, and he is proud of his business. He said there are many local owners. He wants to pay his taxes, and many local owners are partners, and "you are destroying us." He said if you put these things in, most will go out of business because they work on a thin profit margin. He said you are putting us in an awkward situation – those of us who are citizens trying to do their best for you, and wishes he could do more. He said since the last meeting, it has been acknowledged nationally that we are going into a recession. He said the people who rent bring a lot of money into Santa Fe, but they won't come back. He said the taxes are a minor factor, the major thing is the amount of income they bring in and the support they provide to the tourist industry which the City needs and counts on. He said we need to think about the fact that right now we can't afford to lose this income to the City in this time of recession. He said the Council hasn't looked at the issue of positive, dynamic, forward thinking community development as a part of the equation of what we're trying to do here. He said they have had conversations with the McCune Foundation who is interested in helping with long term studies on economic development and community development in the context of things such as the overlay district which is a viable concept. This restrictive, repressive ordinance won't do it and we're going to be sorry.

**Marilyn Bane, 622 ½ B Canyon Road**, said we're almost there, and she is grateful for the work that has gone into this and she is and supportive of the ordinance with the amendments proposed by Councilor Wurzbarger. She is confused about and doesn't understand the ramifications of tying this into the Neighborhood Conservation District. She said the 350 number came from Karen Walker's numbers, which specifically were from management groups, excluding the County and anything other than residential areas. She believes it is more in the neighborhood of 350-400. She said she likes the cap on short term rentals. She asked for the support of the Council in adopting this ordinance.

**Bruce Kingley** said he operates vacation rentals in a BCD neighborhood. He submitted a packet of information for the record which contains a list of all the other vacation rental operators who are operating legally in the BCD, as well as a list of the rentals from one website "vacationrentalsbyowner.com" [Exhibit "8"]. He believes there are about 400 units operating legally. He said he and the others in the BCD are operating at less than 50%. He said he had to file Chapter 11 Bankruptcy in October because he lost \$200,000 per year for the past three years. He would like to see a beneficial system, some sort of priority system, where people who operate vacation rentals legally in the BCD zone and others operating legally, where, for example, he legal operators come up first on a website. He would like to see laws making it illegal to advertise a vacation rental if they are not permitted for vacation rentals.

**Chris Richter, 520 Johnson Lane**, said tourism is the largest industry in Santa Fe except during January/February. He said he is an artist that relies on people. He did a telephone poll of hotel rooms in the Plaza/downtown area, and there are more than 2,000 rooms, while there are more than 4,000 people visiting Santa Fe in the summer months, so they need a place to stay. He is a homeowner of a vacation rental. He is against the cap, believes it is discrimination, and is against the exemption for the development of resort properties. He is opposed to the high permit cost, especially since Walmart only pays \$35. Yesterday he was reading an advertisement in the Santa Fean Magazine, for the Santa Fe Indian Market, with a headline, "Imagine Santa Fe without the Indian Market."

**David Mansur, 222 McKenzie**, thanked the Mayor and Council for their work on this ordinance. He owns and operates a number of bed and breakfasts, noting he is two of the twelve Santa Fe Inns of Distinction which he is representing this evening. Together, these twelve B&Bs house about 40,000 room nights per year, noting Mr. Kingly is a neighbor and fellow inn owner. He said over time, as the illegal operators came on line, they began to see their occupancy rates drop, noting all of the Twelve are operating at 50% occupancy, while seven years ago they were at about 70% occupancy. He said their rates have had to be reduced to compete with the illegals. He said he pays about \$4,000 in parking, and pays commercial rates for sewer, refuse, gas, electric and water. They are being forced to pay more, while the illegal vacation rentals don't. He said they maintain their neighborhoods, and support the CVB. He said they are paying the additional corporate money and commercial rates while the illegals do not have to. Rates and revenues are decreasing, and he has experienced a loss for the past two years – 2006/\$2,000 and 2007/\$10,000. He said there is sufficient capacity in the legal businesses to take care of the demand. He said right now, we can't compete.

**Anita Tafoya Maestas Sweeney**, said her family has owned property in Santa Fe in the downtown area for more than 180 years, and they have been able to do what they want with their property because it is a free country. She is very opposed to what we are discussing. She is opposed to limiting short term rentals. She said she doesn't understand the amendments which were discussed this evening. She asked the Mayor and Councilors to let us use our personal property to our own benefit. She understands the issues with bed and breakfasts, but she has expenses, and she didn't inherit her property. She has mortgages and bills to pay, and she doesn't appreciate the City telling her what she can and cannot do with her property.

**Janet Regruslo, 444 Galisteo**, said she appreciates the work the governing body has done on this issue. She has been working on this for two years. She said during this time she feels she can't make "you" hear anything. She asked if "you" have ever asked a business person or a restaurant owner how they feel about short term rentals, or asked the people who have come to speak if they want to keep their jobs. This is very important, because they are able to purchase their own homes because they have well-paying jobs, and to some of them their job is everything. She said so few local people have spoken out against this, and they have incited a community which wasn't a huge matter to them. Everybody lived together in these neighborhoods. With regard to the amendments, she believes the short term rental industry needs regulation. She said the rhetoric is the same at every meeting and it is an emotional issue. She applauds Councilor Wurzbarger's endless effort to come up with a

compromise. However, the amendment introduced at the press conference needs to be reconsidered with regard to the cap. She said the data isn't in, and the auditor has just started. She said in 2007, the 140 short term rentals she manages paid \$92,000 Lodgers' Tax and \$94,000 GRTs. She said we need to think about it. She said Karen Walker's figures are being proved, although we don't know how many vacation rentals by owners are operating, and believes a study could determine that. She said we are going to lose properties in this process and the revenue. She would urge the cap be raised to at least 750. She quoted from a letter to the Editor from Joe Schepps, "If ever there was a need for compromise, this is an area where cool heads must prevail for everyone's benefit." She asked the Council please to consider this.

**Joyce Wells Fantasia, 604-B Sunset**, said perhaps she is the "enemy," and she had always loved Santa Fe, which always had been a warm, embracing, eclectic, accepting place. She said they recently bought a house, and spend part of the year here, rent legally and pay their Lodgers' Tax. She said they met with the neighbors and gave them the phone number of the property managers and their phone number and call asked them to call if there was a problem. She believes renters or vacationers don't have monopoly on bad behavior. She said over her life, she has had neighbors who behaved badly and inappropriately. She believes it is an issue of responding to complaints, but should have nothing to do with neighbors. She is concerned about the condition of the real estate market in the nation. She said Santa Fe has been "magically" immune to these fluctuations, but the market here is getting soft. She said the belief that this would only impact the people from out-of-state who have enough money to have a vacation home is wrong. She said this is a drop in the pond that will ripple out and be felt throughout the industry. She asked the Council to think about this. She hopes she can feel warm, fuzzy and welcome again in Santa Fe when this is all over.

**Brad Delmer, 165 Michelle Drive**, said he is speaking on behalf of the Santa Fe Tourist Homes Group which is a group of people that manage their own units. He said he believes the group can live with Councilor Wurzbarger's amendments, but they are worried about the cap, and would like the cap set at what it is currently. He said many of these people were told not to pay Lodgers' Tax by the City, although they tried to pay. They have been paying GRTs and that should be the proof.

**Wade Thompson, 503 Johnson Lane**, said this Council has heard everything that can be said pro and con from everybody, and finally this illegal industry will get recognition which he hopes will be beneficial to everybody – those who live in and cherish the old neighborhoods which are most susceptible to this onslaught of short term rentals. He said six of eighteen houses on Johnson Lane are short term rentals. He doubts the figure of 350. He implored the Council to please first consider those live permanently in the neighborhood and those who would be short term rentals in considering these amendments. He said we all want to preserve the neighborhoods to the extent that we can.

**Charlie Brewer, 319 E Coronado**, said a friend called and asked if he has had problems with short term rentals. He has lived in the South Capital neighborhood for a long time. He said many of his neighbors are elderly without dogs, but this is part of what Santa Fe is. He doesn't know where they are having these problems. He believes this is a perceived problem, and needs a lot more study. He said he is not seeing a problem in South Capital area.

He sleeps with the windows open in the summer, and it is a very quiet area most of the year. He hates to see the City regulate something just for the sake of regulation.

**Michael Kellem, 2817 Camino Bosque**, said he is new to Santa Fe and loves it, and it is unlike most places. He said he works for the Management Group and they have owners from everywhere. They are proud of their homes, and the people who come and live in these places are proud to come here. He said, with regard to problems with neighbors, the neighbors sometimes are just as bad. His company is on call 24 hours a day, and don't want to create problems in the neighborhoods. He feels bad for families with children where there are transient renters. He doesn't believe this is a new thing to Santa Fe. This is a tourism-based City, and he would hate to see this shut down. He said businesses are closing all over town, and it is depressing. He applauds the efforts, but he implored the Council to hear the public, because you represent us as well. He wants you to do the best thing for them as well. He doesn't want to lose this because of two complaints. His concern is the loss of jobs to people, and this is the larger issue.

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

Councilor Wurzbarger thanked everyone who has worked on this issue and those who have come to the table and moved toward compromise. The City has tried to address this and find something which meets what seemed to be opposite agendas and goals. She believes the Council, individually and collectively, has listened to the public and recognized this is not a simple issue.

Councilor Wurzbarger said the amendments she has proposed to this Ordinance were part of the original bill with one major change, which is that the previous bill would eliminate short term rentals after five years. She said the primary change to the ordinance was the addition of a compromise to provide a cap and that short term rentals would not end in five years unless the property is sold. She said people can demonstrate a previous short term rental use by GRTs or Income Tax as well as Lodgers' Tax. However, once sold, the use would no longer be extended, because the use would go with the other of the property. Councilor Wurzbarger said the other amendments were primarily the same as the original bill she presented, which were inadvertently eliminated as it went through the process.

Councilor Wurzbarger said she is personally committed in moving forward, but we don't really know the numbers, or the number of complaints, nor has the City had a mechanism of responding to the neighborhoods who have made complaints. She is very hopeful, if this ordinance is adopted, that in 18 months we will know how many complaints we have, and what properties have been difficult to manage, or been difficult for the neighborhood, as well as to know what has not. She said this isn't the perfect compromise, and she is very nervous about the number, but this is the compromise a number of the Councilors were able to reach. The number of 350 was based on original information we had from the management groups in an independent study done by Karen Walker, as well as the audit. She hopes this will result in sufficient revenue to hire proper staff for the City to be responsive to any problems.



**Councilor Wurzbarger moved, seconded by Councilor Chavez, to adopt Ordinance No. 2008-05, with her amendments which were read into the record earlier.**

**Discussion:** Councilor Wurzbarger said she believes Councilor Calvert will be proposing two amendments.

Councilor Chavez said he hopes Councilor Wurzbarger will consider his amendment on the Neighborhood Conservation District, which he believes would be a tool similar to the overlay district. He believes this would be a better method, and he would like to discuss this now. He said a member of the public made a statement with regard to "can you imagine what Santa Fe would be without short term rentals." He asked if you can imagine what Santa Fe would be without neighborhoods, single family homes and safe neighborhoods.

Councilor Chavez said the tourist industry thrives on Santa Fe because of the history and culture, and people want the Santa Fe experience. However, if the existing neighborhoods continue to change, the Santa Fe experience will change. He said the neighborhoods in which he grew up aren't here anymore, and we have to hold the experience sacred for the neighborhoods as well as those visiting Santa Fe.

Councilor Chavez said it is not true that the impact of short term rentals is only in Districts 1 and 2, pointing out that we can see that the Hickox and Onate neighborhoods along St. Francis would be attractive for short term rentals.

Councilor Chavez would like to get a handle on managing this industry and having safeguards for the neighborhoods, and would like consideration of the amendment on the Neighborhood Conservation District as a part of this discussion.

Responding to Councilor Bushee, Councilor Wurzbarger said she would like Councilor Calvert to present an amendment which would accommodate Councilor Chavez's desire to pursue the Neighborhood Conservation Districts.

Councilor Bushee said much of what she sees in the ordinance is unclear, and asked the following questions, which were addressed as follows:

- ◆ *There is a reference to "two rental periods," on page 2, line 10 of the ordinance. Where in the ordinance is there a definition of "two rental periods."* Mr. Katz said it is not defined and it would mean two rental periods. It would be one seven day period, it could be a month period, etc. It is two distinct rental periods, and doesn't believe it needs a special term.
- ◆ *How does one enforce "two rental periods?"* Mr. Katz said it could be difficult to enforce, because the person renting for two rental periods will not be getting a permit. This is for the person who wants to go away for Indian Market weekend and rent their house for that weekend, so there won't be a record of this with the City. He said it will depend largely on neighborhood observation and informing the City if someone seems to be renting a lot more than two times.

- ◆ *There is language on page 3, line 3, indicating the Land Use Department will be where people apply. On page 3, line 7, it provides that a person shall provide "evidence acceptable to the City." Where is "evidence acceptable" defined in the Ordinance?* Councilor Wurzburger said this is in her amendment and it would be proof of gross receipts tax, lodgers' tax or State income tax.
- ◆ *Does the ordinance need to be amended to provide "State" income tax?* Mr. Katz said if you own rental property and you rent it, you would be filing a form on your Federal return, you begin with your adjusted gross income from the Federal Income Tax Return, but you don't repeat putting everything on the State Income Tax Return which piggy-backs on the Federal Return.
- ◆ *There is language on page 3, line 11, "If the application for a permit is denied by the City," do you want to say "Land Use Department."* Mayor Coss said they are the same thing.
- ◆ *Is there an assumption that there will be an appeals process through the City Council?* Mr. Katz said there is an appeal process already in the Land Use Code and that would be the process which would be used.
- ◆ *Will the appeals process be set out in some administrative regulations which we will put together?* Mr. Katz said this is already in the ordinance.
- ◆ *There is language on page 3, line 17, "A. Each rental period shall not be for less than seven consecutive calendar days," and asked if it is felt this is clear.* Mr. Katz said yes, it says the rental period shall not be less than seven calendar days, that you don't have a two-day rental period, or three-day rental period.
- ◆ *Is this the intention of the sponsor?* Mayor Coss said yes. The intent is that it isn't rented more than once a week.

Councilor Calvert believes there is a difference between rental period and number of days rented.

Councilor Bushee said this is going to be a nightmare to enforce.

- ◆ *The rental period is not less than seven days?* Mr. Katz said the rental period is not less than seven days, but no one is going to tell the tenant they must spend 24 hours a day for seven days in the unit. If they want to rent it for seven days only stay for four, that is their decision, but the rental is for a seven day period.

Councilor Wurzburger said as we worked on this over the months, there was a very strong feeling not to have people "in and out and in and out." The idea was to have a seven day period where only one group of people would be in a unit, whether for one day or seven days. This is the concept. She asked Councilor Bushee if she has language she would like to add, and she would accept it. She said exactly what Mr. Katz said is what is prescribed.

- ◆ *There is a seven day period at a minimum and people have to pay for seven days?* Councilor Wurzburger said the point is not what they pay for, but the point is that during a seven day period there can't be more than one rental group, one rental event in a home.
- ◆ *Since so many of the Land Use Codes are Cited on page 11, Item G, beginning on line 8, do you want to cite the City noise ordinance, but this is just a comment?*
- ◆ *On page 4, line 18, it provides the owner/operator shall report to the Land Use Department on a monthly basis in a format provided by the City. So short term rental owners will check in with the City and say what? Mr. Katz said he would hope it would be electronic, and they would say, "We rented for this period, we went to two times, two rentals in this month for these periods."*
- ◆ *Is the intention to say that they had X seven-day periods or that they had violations, what are you asking them to report?* Mr. Katz said they are being asked to report the number of rentals in that period.
- ◆ *Do you want to add amendments that clarify this, or will this be an administrative process somewhere?* Mr. Katz said there are provisions for administrative procedures to be drafted and they will be, and this will be specified in those procedures.
- ◆ *Language on page 5, line 24, provides for a non-refundable fee of \$500 per unit, and then a non-refundable fee of \$1,000. The amendment says the \$1,000 fee shall be used for enforcement. What will the \$500 be used for?* Councilor Wurzburger said the \$500 fee is charged to the person who lives on the property on the premises with their rental, and it was an accommodation to local homeowners who are renting property where they live.
- ◆ *Do you want to insert the same amendment saying it is to be used only for the purposes of administrative enforcement?* Mr. Katz said that sentence refers to all three fees, and an amendment isn't needed.
- ◆ *Is the overall cap on short term rentals 350?* Mr. Katz said the amendment provides when the number of permits falls below 350, you can issue additional permits up to a cap of 350, so when it falls to, for example, 330, 30 more permits could be issued to the cap of 350. Councilor Bushee believes this isn't clearly stated.
- ◆ *With regard to the language on page 6, line 17, what is meant by, "violations committed by occupants shall not be counted toward revocation of the permit."* Councilor Wurzburger said if Councilor Calvert had been able to speak first, this would have been addressed

- ◆ *What are the penalties referred to in Amendment #8?* Mr. Katz said the penalties are a maximum of a \$500 fine or 90 days in jail.
- ◆ *Language on page 6, line 22, refers to "Agent," what is the definition of Agent.* Mr. Katz said Agent is a legal term which has a very specific legal meaning. In this context, it would mean one of the management companies is acting as the agent for the owner when they rent it. If the agent were to advertise an illegal short term rental, they would be in violation.
- ◆ *Why is there a mention of "private covenant" on page 7, line 3, since the City doesn't enforce private covenants?* Councilor Wurzbarger said there was a lot of discussion by the Planning Commission to include this language to give notice that this law cannot be in lieu of covenants which are already in place. Councilor Calvert said it is more for information, stating that private restrictive covenants can be more restrictive than the City ordinance, but it doesn't work the other way and be more permissive. This language does not say the City is enforcing covenants. Councilor Heldmeyer said the City does enforce private covenants in the Home Occupation Ordinance.
- ◆ *Should the seven-day rule be included on page 10, in the definition of Short Term Rental Unit?* Ms. Price said the general rule of constructing is an ordinance is that you don't put the regulation in the definition, you simply include the definition in the definition, and that just defines that a short term rental unit is a dwelling unit that is rented for less than thirty days per all of the provisions being written this evening.
- ◆ *What is "two rental periods" on page 2, line 10, and asked if this would be not longer than 30 days given that you have defined short term rental?* Ms. Price said those are rental periods less than 30 days. Councilor Bushee believes this should be clarified.
- ◆ *What was the basis for deciding the limitation to 17 rental periods per calendar year on page 3, line 20?* Councilor Wurzbarger said the rental period here is seven days, 17 times a year maximum. The 17 times per year came out of developing the legislation. The management company said the total is 25 rental periods per year, and to address the neighborhood concerns, a compromise of 17 rental periods was reached based on the fact that a summer season would be 16 and added a week for Thanksgiving and Christmas.
- ◆ *Does this apply only to agencies, or does it apply to the "mom and pop shops?"* Councilor Wurzbarger said it applies to everyone.

Councilor Bushee does not understand how we came up with the cap of 350. She believes where we are headed with some of the new twists and turns which have been added will just encourage people to go underground with this. She believes it will be difficult to enforce and collect taxes and enforce any of the above. She doesn't believe it makes anyone happy, because it proliferates and this is an impossible enforcement situation.

Councilor Bushee said, "Everybody doesn't know the long history to this, why we're having a hard enough time enforcing it in the first place. And the lawyers are the ones that get us to this point from where we start. We can't just go out and blindly enforce what exists on the books now. But, we have created a maze that I just.... And what it also doesn't do in my estimation is actually address where are rentals more important in the City. It doesn't have any kind of real correlation to land use. So, we keep going and we keep going and new twists and turns, and I just don't see how we arrive at that solution that offers people the.... you know, I have sections, this is my District that has quite a few. A lot of the folks that stood up were from my District. And, you know, there are sections of town that I can tell you that have gone pretty much short term rental, and there are sections where that's a bad thing for some of the folks that are really trying to hold on and clinging to what they thought was a neighborhood when they moved in 20 years ago. But, there are also sections of town where it has gone short term rentals because everybody bought at the same time, and the only other people that live...don't even live there, they don't live there full time, and people are grateful to have somebody there. It feels more secure. It feels more alive. I am just really am concerned... you all have seen what I offered as sort of just....what I hoped to be a zoning solution, and I see this as a zoning problem. I have said it many times before, but I just don't think we've improved upon the ability to enforce and I don't think we have necessarily, for either side, and I don't think we have necessarily addressed the problem as it fits into neighborhoods or not. So, I...you know I kept hoping we would come full circle. I know everybody said oh, it's a lose lose and that's all we can get, but I just...I don't know. I guess I'm done."

Councilor Calvert said there is a difference between some violations which are the responsibility of the owner of the unit such as registration, etc., and the violations which are attributed to the occupants. He said you can try your best to control your tenants, and you can't always screen for good tenants. He

**Friendly amendment:** Councilor Calvert proposed to add language to Amendment #8, as follows: "More than one violation committed by the occupant(s) of the short rental unit shall be counted toward revocation of the permit." **The amendment was friendly to the maker and second, and there were no objections by the other Councilors.**

Councilor Bushee asked if it would be the responsibility of the Land Use Department to find out when there is a violation and keep track, or is this going to be the Legal Department talking to the Land Use Department.

Ms. Wurzbarger said it would be the Land Use Department.

Councilor Bushee asked if the Land Use Department can track violations which come through the Municipal Court.

Mayor Coss said an enforcement would go through Municipal Court, but it starts with the Land Use Department.

Councilor Wurzbarger said the enforcement we're talking about doing with this bill, which hasn't been done in the history of this issue, is to have two full time staff to be able to

respond to the complaints and to set up the mechanism for tracking the use, the complaints, etc. This will be done by the staff for Land Use. She presumes once it goes to Court, it will be sent to the City Attorney, but that would come out of the administrative procedures.

**Friendly amendment:** Councilor Calvert would like to amend the ordinance on page 7, line 20, to add the following language: "... including but not limited to, Neighborhood Conservation Districts and overlay districts, alternative zoning...." **The amendment was friendly to the maker and second and there were no objections by the other Councilors.**

**Friendly amendment:** Councilor Calvert would like to amend the motion to add language on page 5, to require proper proof of insurance if deemed proper by the staff. **The amendment was friendly to the maker and second, as long as this is okay with the City Attorney, and there were no objections from the other Councilors. Frank Katz, City Attorney, said he would need to look into this.**

Councilor Calvert said he has had concerns from owners of town homes with a short term rental next door who wants to be sure there is adequate insurance coverage by the short term rental owner and that they are protected and don't get caught on the denial of an insurance claim.

Councilor Calvert said the Council has been presented with information that enforcing the current ordinance is not an option, and we didn't get there because the lawyers said something. We got there because of administrative decisions which were made by City Government, which were that there were insufficient funds and staff to enforce these ordinances. He said all of the lawyers have told us, lawyers representing owners of short term rentals as well as lawyers from neighborhood network, that enforcing the current ordinance isn't an option, and that it is a losing proposition all around.

Councilor Calvert said this ordinance is on short term rentals only, and it doesn't affect rentals of more than 30 days or rentals in the BCD. This is for short term rentals in residential areas and not in the commercial districts.

Councilor Calvert said he has been told this is an unreasonable fee because other businesses only pay \$35, and this is true. However, this isn't just like any other business, it is a commercial venture in a residential neighborhood, and the others aren't the same. Walmart isn't conducting business in a residential neighborhood.

Councilor Calvert has heard people talk about property rights, and he agrees people have certain property rights. He said those property rights end when you start infringing on other peoples rights to enjoy their property, so it is a two-way street.

Councilor Calvert said this has been a very polarizing experience. Unfortunately, he has heard people ask us to either enforce the existing ordinance or just leave them alone and let them do what they want, neither of which are viable options. He said, "We have worked to come up with a proper balance. I don't know if we've got there yet. This is a work in progress. That's why we have in here a review after eighteen months. And one of the reasons why we

want to do that is because we want better information. As Councilor Wurzbarger referred, we don't know exactly how many there are. We don't know exactly where they are. We don't know what the nature of all the violations are, where they are occurring. To the comment that there's no record of violations, all I can say to you that is because there has been nobody enforcing the rule. There's been nobody keeping track of those violations either. The other people that have been responding to these, in most part, have been the Police Department, and I know they haven't been keeping track of the calls they respond to because they're short term rentals. So, we are trying to gather better information and to perfect this process after we have time to gather information. And I will be voting for this ordinance."

Councilor Dominguez asked if the final numbers in the Barracrough Report are real time data, or based on an average throughout the year.

Gregg Closs, Barracrough, said he performed the audit. He met with representatives from the management groups and the number's they provided are the numbers at the end of that 2-month period, and it was not an average. He said the numbers fluctuate on a regular basis, so the number today may not be the number six months ago or three weeks from now.

Councilor Dominguez asked if this is the number of units on the books at that time.

Mr. Closs said this is the total number of units managed during the 12-month unit.

Councilor Dominguez asked if Barracrough just looked at property management companies, and asked if he looked at listings on the web, or people who want to rent properties that aren't part of a management group or don't list on the web.

Mr. Closs said he looked at the rental agencies, and attempted to verify numbers via alternative procedures, and he felt the best way to do that would be to do some research on the internet.

Councilor Dominguez said then anyone who didn't advertise on the internet isn't included in this count.

Mr. Closs asked what other way the advertising could be done.

Councilor Dominguez said in the newspaper or "word of mouth."

Mr. Closs asked how anybody could determine "word of mouth."

Councilor Dominguez asked the rationale on the cap. He said there are 309 units from agencies versus 343 units from alternative procedures would be more than 700.

Councilor Calvert explained that first, everyone who can qualify under the ordinance will be grandfathered, no matter how they advertise, and if there are 700, all would be grandfathered. The cap of 350 units only comes into play if some drop out and the number falls below 350. The cap doesn't mean that the short term rentals are being limited to 350 from the get go, reiterating that everybody will be grandfathered in who can prove they have been in this

business.

Mayor Coss noted that he and Councilor Chavez accepted the amendment proposed by Councilor Wurzbarger that the grandfathering doesn't end at five years if the property isn't sold. He said there is a lot of leeway in this.

Councilor Dominguez said what prompted this whole issue were the neighborhood complaints about the impact of short term rentals in the neighborhood. He asked how many complaints do we have on the books.

Mr. Hiatt said he has had less than 4-5 complaints over the past six to eight months. He said he doesn't think we can rely on the 343 units in the audit. He said he and Mr. Closs spoke at length about this, and one rental could appear on all five of the websites he looked at. He doesn't know what the number is.

Councilor Dominguez believes we will now start to collect some of the data to get a handle on short term rentals.

Responding to Councilor Bushee, Mr. Delmer said there are 75 members in the group, and some of the members have multiple units, but most have only one unit. He said there are other groups like his, but none as big. He estimates that his group is about 1/3 of the owners who advertise on the web site, independent owners. He doesn't know the numbers until everyone starts signing up.

Councilor Trujillo quoted the language on page 2, beginning on line 19, "Short term rental units owned by the property owner who resides on a contiguous lot and in compliance with §14-6.2(A)(6)(a) are permitted. The operation of the short term rental shall cease immediately upon sale of either or both properties or if the property owner no longer resides on the contiguous lot." He said he has a problem with this language, and asked what happens when the property is given to, or purchased by, a family member, and it's been used as a short term rental. He said many times people sell their property at a lower price to a family member. However, this language provides that the use ceases.

Mr. Katz said this particular provision allows anybody who purchases two houses/two lots together to rent one of the houses. This isn't within the limits of the grandfathering or the 350 cap. If it were transferred to a relative or a child, and the child still lived next door to the unit...

Councilor Trujillo said, for example, he lives on one side of town, and his parents deed him property on the other side of town which has been used as a short term rental, and asked if he still gets to use it as a short term rental.

Mr. Katz said then this is a situation which falls under (d) where it's not the exception that you live next door. He said the whole idea for the folks who live next door, or live on the property, is that the owner is there and will be doing the policing, and the enforcement burden won't be on the City.



Councilor Trujillo said he understands this. He said he is looking at what happens in the situation where mom and pop have owned property for 50-60, and when they die and a great-niece, or nephew, or grandson purchases this property and it has been used a short term rental – the property has stayed in the family. He understands what happens if someone else purchases the property. He wants to protect the property for the families.

Mr. Katz said under the ordinance as currently drafted, that would constitute a change of ownership, and they would lose the right to do short term rentals.

**Friendly amendment:** Councilor Wurzbarger would like, if possible, to amend the motion to provide for an exception for family transfers or purchases, whether by purchase or through a will.

**Discussion:** Mr. Katz said this is very possible.

**The amendment was friendly to the second, and there were no objections by the other Councilors.**

Councilor Trujillo would like to know the language and exactly where it would be inserted.

Mr. Katz said in State statute there is a provision that an assessment for residential can't be increased unless there is a change of ownership, and the State statute defines change of ownership to exclude a transfer through a trustee for the beneficial use of a spouse, which is an example of what Councilor Trujillo is thinking.

Councilor Trujillo pointed out that just includes spouse.

Mr. Katz agreed, but he said something of this nature is what can be done – insert a definition of change of ownership, but you would need to determine how far down the family it goes.

Councilor Trujillo would like to say “family” which would include spouse, children and grandchildren.

**Amended Friendly amendment:** Councilor Wurzbarger would like, if possible, to amend the motion to provide for an exception for family transfers or purchases, whether by purchase or through a will to include family to the grandchildren. She said this can be refined more later. **The amendment was friendly to the second, and there were no objections by the other Councilors.**

Councilor Trujillo said then the person must rent the property for seven days, although they can leave two days later, and asked if the person is being charged for the full seven days.

Mr. Katz said one of the reasons for the seven day period was the sense that if someone rents only for a weekend, they may be trying to jam too much vacation into too short

of a time, and that increases the likelihood of parties and such to make every minute count.

Councilor Trujillo asked if they have to pay for the full seven days.

Mr. Katz said the owner sets the fee.

Councilor Trujillo said then the owner probably is going to charge them for seven days so they don't lose money.

Mr. Katz said the owner will charge what he wants to charge.

Councilor Trujillo said in looking at Mr. Kingley's handout, it appears that there are 521 units, and Mr. Kingley said there are many more websites out there. He believes we need to look at the 350 cap, stressing that he understands that the total number which can comply will be grandfathered, but he doesn't know what the turnaround will be.

Councilor Calvert said he shows 343 which could be duplicates within the listing, so we don't know the number of independents.

Councilor Dominguez asked how the City will assess commercial use in a residential neighborhood.

Mr. Katz said this wouldn't be commercial use. The cases in recent years have told us that if you own a house in a residential neighborhood and you rent it long term, it is assessed as residential property, and will continue to be assessed as residential property.

Councilor Dominguez asked if this understood through all the layers of government from the local to the State level.

Mr. Katz said he can't promise that, but he believes this is the understanding at the County, which is the relevant assessment agency.

Responding to Councilor Bushee, Ms. Price reiterated that the language would be not for planning and developments, but for resorts which were approved through the special exception process years ago. She said resorts have multiple resort-type facilities like a golf course and swimming pool, or a restaurant.

Councilor Bushee asked if this is like Frontera.

Ms. Price said that is in the BCD, but this is something more like Quail Run.

Councilor Bushee said this was put in by somebody for a reason.

Ms. Price said this was included in the original Planning Commission version.

Councilor Bushee asked if anyone indicated it would apply to Quail Run, Fort Marcy and such.

Ms. Price said that is exactly what they said.

Councilor Bushee asked if there are any more.

Mayor Coss said there are no more right now, and we don't use that designation anymore.

Councilor Bushee said then these don't have to go through a permitting process.

Ms. Price said the logic was they are required to get a permit and pay fees, but they aren't restricted to the number of rentals and such because they are entities which are more self-regulating, they have built-in provisions. Everyone who lives in one of these knows what happens because it is part of the covenants and operational procedures. The manager is right there on site and they are contained with resort facilities for the tourists.

Councilor Bushee asked if the City is prepared to process and license at least 350 applications within the time frame.

Mr. Hiatt said he has been preparing for two months, the staff has been meeting and he is prepared to go forward. The preliminary application form has been designed and staff is walking through the process over and over again with Frank as well as others, including Ms. Price. He said they are ready. Responding to Councilor Bushee, Mr. Hiatt said those to be grandfathered have to come in and get a permit. He is sure there will be more than 350 units.

Councilor Calvert pointed out they will be grandfathered only if they apply and have proof they have been in existence, so this isn't done automatically and they have to go through the permitting process.

Councilor Bushee asked if Mr. Hiatt is prepared to deal with 700 applications over the 60-day period.

Councilor Wurzbarger said the idea was to establish a time limit for application.

Mr. Hiatt said there are three phases: Registration, inspection and enforcement. At the conclusion of those three, staff will be back to explain the status.

Councilor Bushee noted this ordinance will go into enforcement in 120 days.

Mr. Hiatt said the timeline started when the Council started to debate this seriously, and staff had to start planning, and they are ready.

Councilor Trujillo asked what happens if the "grandma and grandpa" people have been operating illegally and haven't been paying taxes, so they have no proof of operation. He asked, "So what do we tell them? Tough luck. You're out of luck. You can't do this no more. Instead of working with them to get them into compliance. Are we going to just say no, because, you know, there might be some out there that are doing this, and this may be their only form of income."

Councilor Calvert said there also may be people who started doing this recently over the internet who could use that same argument. He said, "We can't say, well we're going to let these people do it that haven't been complying and not let these people. I think you have to be consistent on that, you know. I understand what you're saying, but I think you have to be consistent on how you apply that."

Mayor Coss said, "I think if you've been violating federal and state tax laws you're not going to be able to document."

Councilor Trujillo asked what do we do, and asked Mr. Katz to comment on this.

Mr. Katz said, "They wouldn't be able to continue."

Councilor Trujillo said, "So, tough luck. You've gotta sell your house and move out of Santa Fe. Typical, typical, that's what happens."

Councilor Ortiz asked if Councilor Bushee is offering the amendments which are included in the packet.

Councilor Bushee said they have been incorporated to some degree, commenting she thought we would have a five-year period while we are phasing things out to provide specifics. She said her first ordinance a year ago provided a lot of specifics, but she thought the Planning Commission and Board of Adjustment would be the better bodies to provide that guidance. She would like to see the amendments incorporated, but she still has great concerns with the ordinance. She believes her amendments will improve the ordinance. She said she has always believed there are places where short term rentals are well suited, and this would allow a process to be developed. She said it doesn't sound as if the phasing-out is going to happen under this ordinance.

Councilor Ortiz, referring to the proposed amendments on pages 6-7, asked Councilor Bushee if she will be offering these.

Councilor Bushee said she would like to do so, but she believes this ordinance as already amended probably will pass.

Councilor Ortiz said we have a situation where many of the short term rentals have been operating legally and are entitled to grandfather status, and some are operating illegally, but all of them are operating in a residential neighborhood. He asked Councilor Bushee if her amendments were to be adopted, what status would either category of these units have.

Councilor Bushee said, "I have a hard time with the "legal/illegal," because the definitions the lawyers have given me are why we even had to pursue phasing out and grandfathering was because of the way we adopted the change, the 30-day rule, back in 2002, without really any due process. I...and then we accepted you know taxes."

Councilor Ortiz asked what happens to the units under Councilor Bushee's proposal; are they existing in some kind of limbo until the conservation district is imposed, are they

grandfathered in until...."

Councilor Bushee said, "What I was planning on doing, I mean, I don't think much of the language I am supplying, other than the creation of a planned overlay unit...I mean a short term overlay zone...they've incorporated it in a couple of places. But, then I'm uncomfortable with both that and the neighborhood conservation district because neither one exists."

Councilor Ortiz said he is looking at Paragraph 4, which provides, "Short term rental units located within a Short Term Rental Overlay District..." He asked what happens to those units prior to the adoption of a Short Term Rental Overlay District.

Councilor Bushee said the idea was to provide it in the ordinance so we could develop it over the five years of phasing out, but that isn't happening.

Councilor Ortiz said then Councilor Bushee's amendments were contingent on the elimination or phase out of all short term rental units within five years.

Councilor Bushee said the idea was to begin developing areas where it made sense to put them, and she still hopes we would do a little more of that.

Councilor Ortiz asked the definition to validate these rental units in neighborhoods – the date of the adoption of this ordinance, the date the procedurally flawed changes to the code were adopted. He noted on page 2 of the ordinance there is a blank on line 23 which says the date of adoption of this ordinance. He asked Councilor Wurzbarger if it is her understanding that all units which have been in existence which are being registered on the internet for compliance are going to be allowed to come in and be grandfathered.

Mayor Coss said it would be the date of the adoption of the ordinance, so if they can show they were paying taxes prior to January 30, 2008, they would be grandfathered for five years.

Councilor Ortiz said it is his understanding that if there are sufficient indicia that taxes were paid prior to today, that unit would be grandfathered.

Councilor Ortiz said, "In this debate, a debate I think could have been avoided, I agree with the lady, her and her husband have left, that we do live in a free country, we do have certain rights to do what we want with our own property. However, in this country, we have what's called Euclidian zoning, which means that when a municipality or local government, under the general health, safety and welfare provisions, or under State law, requires that certain zoning categories be affixed to certain areas within their boundaries, that that zoning and the uses that are required within that zoning are to be protected. And, just like people have an individual right to enjoy their own property, their neighbors have that same right. And residential neighborhoods, R zoning for lack of a better term, really compels residential uses, and residential uses would prohibit me, as a property owner, as a free American from doing what I want on the property. I can't open a restaurant in my neighborhood, I can't open a car wash in my neighborhood, I can't open a car dealership in my neighborhood, I can't open a hotel in my neighborhood, unless I do one of two things. Unless I go forward and ask for a

rezoning and get that rezoning passed, so that I have a commercial use my property. Or, if the law allows for a special exception. That is, the law allows for, like a home occupancy, a different kind of use, so long as it doesn't infringe upon the basic tenets of the residential zoning. And, in this case, short term rentals, that's how I see the issue."

Councilor Ortiz continued, "I can also say that I do not see, and I have not seen, any of the information. The hearings that we've had, the documents that I've received, the letters that I've received, the phone calls that I've received, the emails I've received, I haven't seen any evidence that there's any kind of status of a protected class for any of these property owners who operate a commercial activity within a neighborhood residence. I don't think they have a protected status, and therefore I can't see any kind of discriminatory effect from any of the regulations that were being considered here. I see a complete distinction between a commercial activity like Walmart or any other business that is operating in a commercial zone area. I even see a difference between a short term rental in a residential neighborhood as compared to in the Business Capital District [BCD] where there are residential neighborhoods, and yet they have a higher degree of requirements, they have a permitted commercial use. So, short term rentals can be regulated, they should have been regulated. They should not have been, as they were before 2002, allowed to exist without any regulatory authority. That was probably wrong."

Councilor Ortiz continued, "I can tell you that the way that we passed the amendments to the Code were also wrong. I see a distinction in my mind between units that have been used for short term rentals before 2002 and short term rentals after that fact. And, I think regulation of those units is appropriate. I don't think that we need to grandfather every single unit in the City. I don't think that it's appropriate that people have a right to conduct short term rentals in a residential neighborhood without at least giving notice to the neighbors and their neighborhoods and without at least conforming to the basic minimums that at least a home occupancy would be able to deal with. I think that's what we're talking about here. I'm sorry that none of these amendments come close to that. I'm sorry that this has been a polarizing and divisive issue. I'm sorry that it's taken up way too much of our time. I want to commend the leadership of Councilor Wurzbarger and Councilor Calvert, Councilor Chavez, for stepping into the breach essentially, for trying to come up with a compromise, trying to come up with a makeshift proposal to try and get at this problem."

Councilor Ortiz continued, "I don't think this is a perfect solution. I'm not in support of having an allowance for up to 700-800 units to be grandfathered in. That's just unacceptable in my mind. I thought the 350 unit cap was a hard cap. I thought it was a cap that dealt with the issue that we've got with units that have been in existence prior to 2002. I don't think that we need to grandfather in units that were post-2002. I think that for those units, for those people who have come forward and said, 'Well, when we bought our house, we went to the City and the City told us this or the City told us that, and so we haven't been paying the taxes, and we want to pay taxes. We want to be legal.' I find that argument hard to believe. I find the argument that short term rentals create all of these evils in neighborhoods hard to believe. I find a lot of the posturing that's happened on this issue, quite frankly, unbelievable. Both sides have gone to the fringes of their arguments and tried to persuade by going to extremes, rather than coming to a consensus in the middle, and I think that's unfortunate."

Councilor Ortiz continued, "I do think that what is going to be needed, is some reconsideration of the date that we're going to be considering for the units and also, when we come up with the administrative regulations, we need to be very clear that there is a distinction between those units which presumably have got a non-conforming use status because they were in operation before 2002, and any other unit created since then. And, I think there should be stricter regulations for those units that are coming in that are new, and I would look forward to whomever has come and appeared at these hearings, to work on those administrative regulations. "

Councilor Ortiz continued, "We have passed...it's easy to list the problems with the ordinance, it's easy, because they're numerous, because it's an attempt to try and accommodate both sides. What is harder, is coming up with solutions, and I think that the solutions that need to come.. Blanket grandfathering in of all units is unacceptable, and I won't support that.

**Friendly amendment:** Councilor Ortiz offered a friendly amendment, to the motion that the effect date will be the date the 2002 ordinance became effective, which he believes is May 1, 2002, instead of the date the ordinance is adopted.

**Discussion on the friendly amendment:** Councilor Wurzburger said it is her understanding that we can't do this, and asked Mr. Katz to advise whether this can be done, noting this was discussed earlier as an option.

Mr. Katz said the problem in using the 2002 date is that it depends on whether that was a legally enacted provision to the amendments then. He said the City Code and the State Constitution both allow the continuation of a legal, nonconforming use. He said if there had been no ordinance in 2002, it currently would be legal to be doing short term rentals, and it is perfectly within the authority of the Council to make them illegal. However, under City Code, the people who have been using their property for short term rentals have a prior, legal non-conforming use, and they could continue that for a certain period of time.

Mr. Katz said if we were to say 2002 is the date, then we'd have to show that the ordinance in 2002 was legal, and he believes there is a certain degree of doubt about that, and he would expect the City to have to litigate that. He said the Council could use this date, but it would be somewhat problematic, noting there are arguments that it is not a legally enacted ordinance, that it was amendment which was adopted without advertising at the last day of the consideration, after all the committees and such. This would be his concern about that.

Councilor Ortiz said then Mr. Katz is saying that based on his research, it is his opinion that we can't come up with a defensible plan that the ordinance we adopted in 2002 was valid, and therefore all units created after 2002 were on the books, and there is *prima facie* evidence that it was illegal, and that *prima facie* evidence is challengeable.

Mr. Katz said he would say it is challengeable, but he doesn't want to go further.

**Councilor Ortiz said, based on the advice of the City Attorney, he is withdrawing**

**his request for the friendly amendment.**

Councilor Ortiz said, "In the hypothetical that that law we passed in 2002 was *ultra virus*, it was without legal effect, and even if there was still a right for short term rentals to exist under the old Code, that doesn't preclude the City from regulating that particular industry. Is that correct Frank."

Mr. Katz said, "Mayor, Councilor Ortiz, that's absolutely correct."

Councilor Ortiz understands there would be due process issues if we were to take away a use which was formerly recognized under law. However the City Council, under its general powers of health, safety and welfare, and State law, has the authority to regulate a non-conforming use with the underlying zoning. He said we need to get this ordinance in place as a bridge and work diligently on the best regulatory scheme to equalize the rights of owners and of neighbors. He hopes we can get to this well in advance of eighteen months. He again commended the leadership of Councilors Wurzbarger, Calvert and Chavez in moving this ordinance forward.

Councilor Heldmeyer said not long ago there was the same sort of issue with the home occupation ordinance, and gave a history of the way that issue was resolved. She said people came to a consensus on that issue because the different groups got together and talked about the issues over a period of time, not through public hearings or meetings of subgroups. She noted that are many different groups involved in the short term rentals, and she believes this could have benefitted through that process.

Councilor Heldmeyer said, "What you have here is a compromise document, but you don't have a consensus document, and there is a difference between the two. A consensus document is one that...I don't say everybody in Santa Fe.. most people more or less can live with. A compromise document is, well this group wants this number and this group wants this number and we'll add them together and divide 'em in half and come up with this number, and we'll let this group in, but..."

Councilor Heldmeyer continued, "And, you know, I wish we weren't here, because eight years ago when I got on Council, some of the first complaints I got were about short term rentals. And those are what I call first level complaints, complaints about specific behaviors by renters that were not controlled and not corrected by the owners or the management agencies. I mean, I had one this week. I got a call from someone who had short term rentals in her neighborhood taken over by a new management company. She thought, well, that's good, maybe they'll do better...called 'em up, said I've got trash from these short term renters all over my neighborhood. She was told, you know, it's your neighborhood, pick them up."

Councilor Heldmeyer continued, "And we keep hearing that these are tourist amenities. You know, when I was saying the neighbors should be tourist amenities as well, because they should help out with all of these problems. So, eight years ago, I started bringing the complaints I was getting, and I was told short term rentals are illegal in Santa Fe. In neighborhoods you are only supposed to rent for thirty days. And then, we Clarion come in, they changed Chapter 14, and I was told, well we still think they're illegal, but we think the



language for screwed up. And, so in 2002, we changed the language on the advice of the then City Attorney, another position that's kind of rotated through over the years, and we did what we were told by our legal advisor to do. We were told it was the right thing to do and the intent of the Council was pretty clear, but over time, trying to get enforcement of that law, even after 2002, was very difficult. The excuse may have been, we may not have enough people to do it. The reality was there was some political pressure put on these various people rotating in and out not to do it. Neighborhoods were put in impossible positions to get enforcement. Dena Aqualina's neighborhood was told that they had to keep records of who was moving in and out of certain houses for a year before the City would even look at it. It was nuts."

Councilor Heldmeyer continued, "In that time, something happened. Because, if you go back far enough in time, as with home occupations, there have been sort term rentals, which, whether they were legal or whether they weren't, people put up with. And people put up with them because they were their neighbors doing them. They were doing them infrequently. They were being careful about who they were renting to, and whether it was legal or whether it wasn't, Santa Fe, unless provoked is a very laid back kind of town. And, just as the problem with home occupations got to the point where people couldn't stand it any more. As, the short term rentals increased in number, increased in intensity, were more and more being owned by absentee landlords who weren't part of the community, some of them have never have been part of the community, who were buying these places as real estate investments. The tenor of short term rentals changed and it got to be more and more of a problem. And that's the point at which, when things started to bubble over, that's the point at which we really should have tried to reach a consensus, and we didn't."

Councilor Heldmeyer continued, "And I appreciate that a lot of Councilors and the Mayor have worked to try to reach compromise. And I understand that sometimes politically that you feel it's the best you can do. But, I so regret the missed opportunity for consensus, for dealing with this in a civil and civilized way where everybody's point of view was taken into account, where people weren't put at each other's throats, where neighborhoods weren't told that they were responsible for gathering data. All of this started about two years ago. We could have done a lot in two years. Not that much was done, and I understand the reasons for it. I'm not happy about them, but I understand the reasons for it. But, I just look, with great regret, at missed opportunities, that it has come to this meeting tonight where we deal with a compromise document instead of a consensus document."

Councilor Bushee said she isn't questioning the intentions of any of the sponsors. However, she said she can't support the ordinance as written, and questions the numbers. Councilor Bushee then reiterated her problems with the ordinance. She said she did offer changes. She would hope this is a band-aid that won't hurt too much when it's ripped off. She is concerned about enforcement, and that we've created more of a problem.

Mr. Katz said, "There are, I think, some factual bases underlying this ordinance that need to be put on the record. One concerns the five-year amortization period. One of the concerns that was expressed by a number of people was that some of the purchasing of these homes and then their use as short term rentals was driving up the prices and people were asking for more money and people were spending more money on these houses because they could be used as short term rentals. And, yet time and time again, the industry spokespeople,

the management companies, have come in and said that is not true, that they are not bidding up the homes. These are people, and I think we've heard this a lot now, that have... they are out of towners in many cases for the management companies who bought these homes, they want to move to Santa Fe eventually, they come to Santa Fe for some of the year, and then they rent it out short term rental. So, I don't think there will be any loss of investment for those owners, because they weren't paying a premium to get a house that could be used as a short term rental.

Mr. Katz continued, "And I think the other aspect of a short term rental, as distinguished from a long term rental, is generally when you rent a house long term, you don't rent it furnished, and sometimes if you rent it short term you know, you fix it up pretty nice for that. And so maybe some people did buy some furniture for a short term rental, but the depreciation period for that under the IRS Code is a five-year period, and that is the amortization period that this ordinance has in it.

Mr. Katz continued, "Two other matters. One is the cap on the number of rentals. Well, you know, we have gotten consistent information. First from Karen Walker and then from the lawyers representing the management companies and then also from varikwell, all of whom say it is between 250 and 300. And, so to say that the cap is 350 is obviously not an unreasonable number. It may not be as high as some people would like, but there is certainly a very reasonable basis for it.

Mr. Katz continued, "And the one other thing is the 17 rental periods a year. At 17 short term rental periods a year, someone could rent it for June through September for weekly periods, and then they could rent it for monthly periods for the rest of the year. But the information that we received from Tom Simons, representing a number of these companies, is that the times the units were rented per year, less than 10, 204 of them, between 10 and 20, 45, and then more than that 10. So, the great great bulk of them are less than the 17 times, so making that as the limit does not seem to be...seems to be generous, compared to what the factual evidence that the Governing Body did receive on that score."

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

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

**Against: Councilor Bushee, Councilor Trujillo and Councilor Heldmeyer.**

**Explaining her vote:** Councilor Bushee said, "Making laws and making sausage are both not pretty, but this is chopped liver, I can't support this."

**Explaining his vote:** Councilor Trujillo said, "You know, I do have some problems with this. I believe we are going to be hurting some people that want to come into compliance with this. What I see is there's a few people out there that take advantage of the short term rentals and that's where the regulation has to come. Getting ahold of these bad renters. We're hurting the many for the few. So, I'm going to have to vote no."

Mayor Coss thanked the co-sponsor Councilor Chavez, Councilor Wurzbarger, Councilor Calvert, the City Attorney's Office, the Planning Staff for the good work.

*There was a break from 10:32 to 10:41 p.m.*

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**Councilor Chavez moved, seconded by Councilor Wurzbarger, to amend the agenda to hear Item #3 next, and to approve the agenda as amended.**

**Discussion:** Councilor Wurzbarger said she understood he was also going to move to postpone Items #5 and #6.

Councilor Chavez noted there are people in attendance for Item #6.

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

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

**Against: Councilor Dominguez, Councilor Heldmeyer, Councilor Ortiz, Councilor Trujillo, and Councilor Bushee.**

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- 2) **CONSIDERATION OF BILL NO. 2008-4, ADOPTION OF ORDINANCE NO. 2008- 6. CASE #ZA 2007-10 . 1711 B. WEST ALAMEDA REZONING. DOLORES VIGIL, AGENT FOR MARIA ROSE SANZ SEARA, REQUEST REZONING OF 1.047± ACRES OF LAND FROM R-1 (RESIDENTIAL – 1 DWELLING UNIT PER ACRE) TO R-2 (RESIDENTIAL, 2 DWELLING UNITS PER ACRE). THE PROPERTY IS LOCATED AT 1711 B WEST ALAMEDA. (DONNA WYNANT)**

A memorandum dated January 18, 2008, for the January 30, 2008 City Council meeting, with attachments, to the City Council, from Donna Wynant, is incorporated herewith to these minutes as Exhibit "9."

A copy of the "Replat of Survey for family transfer," is incorporated herewith to these minutes as Exhibit "10."

A copy of a color map of "1711-B West Alameda Rezoning," is incorporated herewith to these minutes as Exhibit "11."

The staff report was presented by Greg Smith which is contained in Exhibit "9."

### **Public Hearing**

**Dolores Vigil, 206 McKenzie, agent for the applicant, was sworn.** Ms. Vigil said she has looked at the application and the staff report, noting that her client could not be here this evening, but the client does concur with all of the conditions.

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

Councilor Calvert asked if there was a comment from the Water Division on this application, noting in this area the water pressure becomes an issue in moving up the hill.

Mr. Smith said the Water Division has not made a specific comment about the water pressure or other aspects in that neighborhood. He said the case is small enough that it does not trigger a water budget requirement.

Councilor Calvert said in some areas this is an issue with regard to what would be required going further up the hill. He believes this might need to be done.

Councilor Calvert asked about the drainage issues, and some of the topography of this unit, noting that in her report, Wendy's Blackwell said there are some deep cuts and slopes which could be problematic. He noted that report in E says, "The access alignment also serves as a drainage course to convey surface runoff from the northerly portion of the subject site downslope to the Alameda roadway." He said this is happening too often in that area and impacts Alameda, and becomes a repository for dirt, sand, silt, etc., and he believes we need to make that the responsibility of the property owners to start retaining some of that so that it doesn't just flow down the hill.

Councilor Calvert said another item mentioned is the access, and although it says 30 feet wide, it isn't 30 feet of usable width, because there are some pretty good gullies going down the right-hand side as you go uphill. He said we need to see better stormwater management for the area as well as this property.

Councilor Calvert said as the report points out, the density along West Alameda is gradually increasing to East to West. He said we can continue to do these piecemeal, but this area is crying out for a more comprehensive planning effort involving both the Land Use Department and the Long Range Planning Division, which will work better for all the property owners in the vicinity.

Councilor Heldmeyer asked Mr. Smith to talk about the road and access issue. She is having a hard time determining how many people will be using the access easement.

Mr. Smith distributed copies of a color map of the 1711-B West Alameda Rezoning. [Exhibit "11"].

Mr. Smith said the green rectangle center left which says "Seara property proposed to rezone to R-2 and split into 2 lots." The 30-foot common access driveway goes along the west side of the green rectangle and provides access, including the Seara property, to about seven acres of property which all currently is zoned R-1. There was a notation on the exhibit of the

property immediately to the left that shares that same drive way, identified as the Rowland Subdivision. There was a neighborhood notification meeting for a proposal to rezone that parcel to R-5, but no formal application has been filed on that property. He said staff concern is similar to Councilor Calvert's that the access to roughly seven acres relies on that existing 30-foot easement. Councilor Calvert has noted concerns about the feasibility of upgrading this to meet access and drainage standards. If all of the seven acres which share this private driveway had the same density of R-2 which is being requested for the Seara property, then the City standards for that intensity of development would upgrade to a 38-foot private road standard.

Councilor Heldmeyer asked if this is the only way people can get into the seven acres.

Mr. Smith said this is correct, and this is the result, in the relatively recent past, of a family transfer which created the 30-foot driveway, the Seara lot and the one identified as the Rowland lot.

Councilor Heldmeyer said there are one way in and out subdivisions along Alameda with 20 or fewer units so they don't trigger a traffic study. She has voted for some of those, but it always makes her uneasy.

Responding to Councilor Heldmeyer, Mr. Smith said there is no existing or proposed access other than the 30-foot private driveway.

Councilor Heldmeyer asked what rights, if any, would the people of 1711 and 1117 have in terms of the 30 ft. access easement, and how many people would be using it. She asked who would be responsible for upgrading that access among the people on the seven acres.

Mr. Smith said under subdivision standards, the City standards are clear that no more than 8 lots are to use a driveway which is less than 38 feet, unless the Planning Commission approves a variance. With regard to what rights they might have short of subdivision, and could they provide second or third units on the larger dwellings, the City standards are less clear in those scenarios.

Councilor Heldmeyer said we don't want to cause problems for the individual who owns this one lot. However, she wants to know what staff can do to make it a less unsafe situation, when and if whoever owns the seven acres comes forward to make it safe.

Mr. Smith said it is staff understanding that the land is platted so the ownership of this road is already divided between at least two property owners. So, any solution which would increase the access as far as Alameda would require the involvement of at least two property owners to cooperate. The other scenario is that the Planning Commission might or might not find that one or more of the properties meet the criteria for variance and might or might not allow development with the 30-foot road.

Responding to Councilor Heldmeyer, Mr. Smith said the two property owners are Rowland and Seara, and the private drive is on the Rowland property. The Seara property relies on a private road that is actually on the Rowland property. He understands some of the

Moya property to the south also uses that, but he isn't absolutely certain. He believes the Moya property is at 1709.

Ms. Vigil clarified that the question is what the access is to the property to the south of the Seara rezoning that would be off Alameda. She said those two lots are owned by the same person and they have easements coming off Alameda. She said they share a driveway, but not with the applicant, they have their own.

Councilor Bushee asked why this is an application for R-2, when the next door people are applying for R-5.

Ms. Vigil said her client is not a developer. She is a single mother, and needs a little extra cash and wants to sell a little of her property. She said the house she lives in now is one of the affordable units through Homewise. She doesn't want to have to work so much and spend more time with her son.

Councilor Bushee asked if we can build in the drainage concerns since it is a rezoning. She believes they will have to work out the access issues.

Mr. Smith said the immediate issue of safe access for emergency vehicles to the two lots which might be created on the property which is the subject of tonight's small rezoning, should be handled in the short term by the Summary Committee process when the lot is split.

Councilor Bushee said she is asking about drainage.

Mr. Smith said this is similar both with access and drainage. Responding to Councilor Bushee, Mr. Smith said it is absolutely not clear to staff that the drainage problem can be solved immediately by simply the paving and culvert which might be done with this first lot split. He is hopeful it can be, but he is certain it would be improved if not resolved, but it may not be possible to direct the drainage from the five acres to the west and the north. It may not be possible to completely resolve that problem all on Ms. Seara's property.

Responding to Councilor Bushee, Ms. Vigil said Charlie Gonzales went to the site and he had time to look at the issues which were raised this evening by Councilor Calvert. She said they would put a building envelope on the property to the south of the new lot split, and they would have to do some improvements and install culverts. She said when her client had her house built, she had to do extensive work just to build, so she understands what she would need to do, and would disclose that to whoever would buy the property.

**Councilor Bushee moved, seconded by Councilor Calvert, to adopt Ordinance No. 2008-06, approving Case #ZA 2007-10, with conditions as recommended by staff, with the understanding that the applicant will follow the Code in terms of drainage and work out the easement issues.**

**Discussion:** Councilor Bushee said it is new language to her, "Though these may be in compliance with the General Plan, potential impacts of higher densities and their social and

traffic considerations should be closely monitored in the years to come." She asked if this is someone's personal interjection.

[The response was inaudible]

Councilor Calvert asked about the final comment regarding the address and how that will get resolved, and believes this is a safety issue for a number of reasons, and asked if this needs to be a condition of approval.

Mr. Smith said the staff is already is working on that with the property owner, and would be resolved at the very latest at the time that the lot split plat is recorded.

**The motion was approved on the following Roll Call Vote:**

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

**Against: None.**

**3) CONSIDERATION OF BILL NO. 2008-65; ADOPTION OF ORDINANCE NO. 2008-7 (COUNCILOR CHAVEZ, COUNCILOR BUSHEE AND COUNCILOR TRUJILLO). AN ORDINANCE AMENDING SECTION 25-4.2 SFCC 1987, REGARDING WATER RATE ADJUSTMENTS. (GARY MARTINEZ)**

Gary Martinez presented information from his memorandum of January 18, 2008, which is in the Council packet, noting that Mayor Coss's Amendment No. 1 is also before the Council on this Ordinance.

Responding to Councilor Heldmeyer, Mr. Martinez said as amended the ordinance would apply to a restaurant, and it could apply to a bed and breakfast if it could satisfy the criteria.

Councilor Heldmeyer said this started out relating to a very small number of potential applicants, and this amendment seems to widen the pool of potential applicants. She asked how many water users would fall under the amended version.

Mr. Martinez said under either the amended ordinance or unamended portion of the ordinance, it would be 100 customers with 1 inch or less. The potential impacts would be \$60,000 for unamended and \$300,000 for the amended version if all 100 customers applied and all satisfied the criteria, there would be a revenue loss of \$300,000.

Councilor Bushee said she also is concerned about the amendment. She said there was a long debate about what this should apply to, and didn't want to open it up. She is concerned that this amendment is being inserted now. She said the staff was concerned about

the loss of revenue. She finds this amendment really changes the intent of the ordinance she was pursuing. She doesn't feel it is appropriate to amend the ordinance without it being considered in the Committees.

**Mayor Coss withdrew his amendment.** He said he has been contacted by other businesses in a different category and would like those to be considered.

**Public Hearing**

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

**The Public Hearing was closed**

**Councilor Bushee moved, seconded by Councilor Calvert, to adopt Ordinance No. 2008-7, without the Mayor's proposed amendment.**

**Discussion:** Responding to Councilor Wurzbarger, Mr. Martinez said he doesn't know the type of business, but they must prove that a substantial part of their business uses water in its business – such as Luna laundry, El Ice Plant.

Responding to Councilor Wurzbarger, Councilor Bushee said initially the Committee looked at a bigger pool along with Jason and staff. They built in a lot of control. This ordinance will apply to businesses which use water as a product. However, if we include service and restaurants, that goes against the conservation message we've been sending to commercial businesses. However, it isn't fair to penalize some businesses because water is their product.

Councilor Calvert noted that Luna Laundry did a lot of conservation and isn't selling as much product.

Councilor Bushee said the ordinance also encourages conservation.

**The motion was approved on the following Roll Call Vote:**

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

**Against: None.**

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**Councilor Chavez moved, seconded by Councilor Calvert, to amend the agenda to hear Items #5 and #6 next on the agenda, and to approve the agenda as amended.**

**The motion was approved on the following Roll Call Vote:**

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



Dominguez, Councilor Heldmeyer, Councilor Ortiz, Councilor Trujillo and Councilor Wurzbarger.

**Against: None.**

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- 5) **CONSIDERATION OF BILL NO. 2008-2; ADOPTION OF ORDINANCE NO. 2008- 8. AN ORDINANCE ANNEXING CITY-OWNED AIRPORT ROAD RIGHT-OF-WAY EXTENDING FROM THE INTERSECTION WITH CERRILLOS ROAD AT THE EASTERN END TO THE INTERSECTION WITH NEW MEXICO HIGHWAY 599 AT THE WESTERN END OF AIRPORT ROAD. (RICHARD MACPHERSON). (POSTPONED AT THE JANUARY 9, 2008 City Council Meeting)**

*Items #5 and #6 were combined for purposes of staff presentation, discussion and public hearing.*

A Memorandum dated January 14, 2008, for the January 30, 2008, City Council Meeting, with attachments, to the Mayor and City Council, from Richard Macpherson, Senior Planner, Long Range Planning Division, regarding Case M-2007-37 and Case M-2007-38, regarding the Airport Road and Rufina Street Annexations, is incorporated herewith to these minutes as Exhibit "12."

Richard Macpherson presented the staff report which is contained in Exhibit "12."

**Recommendation:** At the meeting of December 9, 2007, the Planning Commission recommended approval of the annexation cases listed above. Staff recommends approval of these proposed annexations.

### **Public Hearing**

Mayor Coss advised that all those speaking to the issue will be given three minutes.

**Colonel Hawthorne was sworn.** Colonel Hawthorne said, "I want to say that the City Clerk has assisted me and has not made a mistake so far, and I can't say that about you people. "I'm wearing three hats here. The first is federal. Are you aware when it says FAP what the F stands for with respect to money. It means federal. Are you are that according to the federal law, that gives me power to be the Trial Judge Advocate on these roads that have, or anything else that has, FAP on it or federal funds. Are you aware of that. If you aren't, I am now charging you, officially, as a Trial Judge Advocate. He has now been fired, but U.S. Attorney Iglesias's office has appointed me a Trial Judge Advocate. I am already the three time litigator relator, and this is the fourth case against you. You lost the first one, was the Las Campanas water case, where I was the Trial Judge Advocate for the government, and you lost the case, you were dismissed out of the case and you lost it. Galen and I was there as director, or the two that were there, and Galen was dismissed and left the room. Colonel Hawthorne did not remove the room, and he was the last person there with the Judge. And I went to.. and got

this paper and I have served you with GSA on the Post Office. The license which has expired for the parking and that you are trespassing on federal property, that that land over there is the concrete slab for the 1934, is a parking lot for the U.S. Courthouse. And I have in my hand the GSA attorney...the GSA director, administrator, responding to that, mailed to Colonel Hawthorne as three time litigator and relator, P.O. Box 1105, 87504-1105. In this, I've been tracking you since... everything that you're doing, and I have twenty complaints against you when we went to the Las Campanas issue. There are over thirty complaints against you, called false claims back to 1986. It is my duty to inform you that you are making false claims on this newspaper article here that's this man... on these ordinances this man just read. You are making false claims under that act, and as the relator, it's my duty to inform you that what they are, and the first one is this ad you put in the paper here that I'm holding, that called this meeting, has a little bitty piece of paper at the bottom, and it has false statements in it. City owned roadways. The City owned roadways is not a legal descriptions. I'm a professional engineer and land surveyor in the State of New Mexico, been here 62 years, you do not...you are unaware that you cannot annex a roadway, and you have falsely claimed ownership. And you do not own it."

Mayor Coss thanked Colonel Hawthorne.

Colonel Hawthorne said, "Just a minute I'm not through. I'm serving you.

Mayor Coss advised Colonel Hawthorne that his three minutes are up, and that "we get it. We're served."

Colonel Hawthorne said, "No, you have to let me put in my evidence."

Mayor Coss told Colonel Hawthorne he can submit the evidence to the City Clerk, and it will be in the record.

Colonel Hawthorne said, "Well, I'm not talking about that. I'm talking about you...you have 65 pages of evidence that I've picked up from you on this issue, and you cannot refuse to reply to those 65 pages. You cannot refuse. If you do, I'll charge you with interfering with the duties of a federal official. I will charge you with... if you don't hear... this one I hold in my hands signed by Sam Pick, an old Mayor, and that proves you're impossible...what you're doing. I will read you what it says."

Mayor Coss asked Colonel Hawthorne please just to submit it for the record, reminding him there are several more people to speak this evening.

Colonel Hawthorne said, "I don't care. Those people are in my way. I am protecting the public. I'm protecting anybody you have here. That's my duty as a Trial Judge Advocate.

Mayor Coss told Colonel Hawthorne he appreciates his long service and upholding his duty, but his three minutes are up.

Colonel Hawthorne said, "Stop prejudicing and be quiet and listen.

Mayor Coss again asked Colonel Hawthorne to sit down.

Colonel Hawthorne said, "Well, I'm going to read you this whether you like it or not, it says, you don't know either. It says, Airport Road, Municipal. [Inaudible] from the western city limits of the City is a FAP project loop to Cerrillos Road, is State Highway 284. Highway Engineer for the State involved in the forming of these roads. A bullet. I have the plans here and you're going to listen to it and you're going to see it. I'm gonna serve you with it. Now, sit down and be quiet Mayor."

Mayor Coss advised Colonel Hawthorne that the Governing Body is now in recess.

*There was a break from 11:28 to 11:38 p.m.*

*Councilor Bushee departed the meeting during the break*

**The public hearing was continued at 11:38 p.m.**

**Joe Vialpando, Rufina Street, was sworn.** He said he has lived in Santa Fe all his life, and on Rufina for seven years. He said he is a part of "no man's land," and has been wanting to get City water for seven years. He financed a 1½ acre lot and his house, and he was under the impression he could get City water when they were paving Rufina Street and cutting across Lopez Lane. He had already signed papers with the Bank when he found out that the City wasn't going to provide water, and he couldn't get out of the note. He talked to a water well driller who wanted to charge him \$23,000 to drill a well. He said it escalated from there, and he has been working vigorously with Dolores Vigil to try to get water for years. He said he knows the rules about contiguity to be annexed, but his property isn't contiguous, so that isn't going to happen. He said this proposed annexation the best opportunity he has to get City water once and for all. He said Steve, who came with him, is in the same situation where they're piggybacking on their neighbor's well, but he's going to sell his property, and they won't have water real soon. He said he spoke with Antonio Trujillo at Sangre de Cristo Water Company. He said he has sewer, gas, electricity. He is on City sewer which is charged according to the water used, so the City is "pro rating," his bill. He said it is 12 feet to a 12-inch water main where he could get water if Rufina Street is annexed and he would be contiguous to Rufina and it would be possible for him to get water. He has a family of five, and he's been waiting for water for a long time. He is hoping the City would come to a favorable decision on the Rufina annexation.

**Alfredo Garcia, 618 Garcia Street, was sworn.** He said he owns 25 acres in Agua Fria. He said Rufina has "split me in two," and he is supporting the Rufina annexation because he is in limbo, with the City limits to the east, the Shell station to the south, on the west is the old Packard property, and now with Rufina, he will be sandwiched in the middle, he is going to be a "donut" right in the middle. He is asking for the annexation of Rufina. He is also asking the Council to pass a new Resolution to annex his property into the City along with Rufina. He said for the past 20 years, he has been sent to a different study, the last one which was introduced by Councilor Bushee and Moore, which was the Southwest Sector Plan. He attended all of the meetings, but nothing ever happened which included his property in the

report, and he feels like he was left out. He asked the City Council please to consider his and Bill's situation. He said he has 2 afy of water on his Garcia Street property from his well which he can transfer to Agua Fria. He has problems with the homeless "out there," and when he calls the City he is told he is in the County, the Sheriff said it is a buffer zone.

**The Public Hearing was closed**

**Councilor Chavez moved, seconded by Councilor Wurzburger, to adopt Ordinance No. 2008-08, as recommended by staff.**

**Discussion:** Councilor Wurzburger asked staff how we can be responsive to the donut request by Mr. Garcia, and asked if there is a way to address that concern.

Councilor Chavez suggested a joint petition with the property owner, noting we have done that in the past.

Mr. Katz said we could do a petition, and doesn't believe that is a controversial or difficult process.

**The motion was approved on the following Roll Call Vote:**

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

**Against: None.**

**Absent: Councilor Bushee**

- 6) CONSIDERATION OF BILL NO. 2008-3; ADOPTION OF ORDINANCE NO. 2008- 9. AN ORDINANCE ANNEXING CITY-OWNED RUFINA STREET RIGHT-OF-WAY EXTENDING FROM THE INTERSECTION OF RICHARDS AVENUE ON THE EASTERN END TO THE INTERSECTION OF SOUTH MEADOWS ROAD AT THE WESTERN END OF RUFINA STREET. (RICHARD MACPHERSON). (POSTPONED AT THE JANUARY 9, 2008 CITY COUNCIL MEETING)**

**Councilor Chavez moved, seconded by Councilor Dominguez, to adopt Ordinance No. 2008-09, as recommended by staff.**

**Discussion:** Mayor Coss said he would like to point out for Mr. Garcia and everyone else, that the executive session is going to be postponed on an annexation agreement with the County. However, as that moves through, there will be a resolution to the situation of all of the properties which have been in "no man's land," for 20 years.

**Friendly amendment:** Councilor Ortiz would like to amend the motion to direct staff, in addition to the annexation of Richards, to contact all of the property owners on either side of the newly annexed Rufina Street to ask them if they would like to come into the City on a City initiated annexation plan, so we know the process is in the works. **The amendment was friendly to the maker and second, and there were no objections by the other Councilors.**

**Discussion:** Ms. Mortimer said the City could not initiate annexation if it's not the property owner's request.

Councilor Ortiz said he isn't asking the City to initiate it, he is asking that staff, as part of this annexation, to contact all of the property owners who now adjoin the newly annexed Rufina Street, as to whether they would like to petition the City for annexation, and the City commits itself to assisting them in that annexation.

Mayor Coss asked the fee to petition the City for annexation.

Ms. Mortimer doesn't know, but she believes it is based on the acreage. She said if people come together and do it at one time, they can split the fee, hold one ENN, notification can be done once. She said staff could help to organize a group of people to do this.

Councilor Ortiz said this is his intent.

Councilor Chavez said we have neighborhood comments from the first series of meetings conducted on the roadway, and believes it would be easy to build on that.

Councilor Calvert said he doesn't know the boundaries of the Historic Agua Fria Village.

Mayor Coss said we can't annex anything in the Historic Village.

Councilor Chavez said any annexation the City would propose, would not include the traditional village.

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

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

**Against: None.**

**Absent: Councilor Bushee.**

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**Councilor Chavez moved, seconded by Councilor Ortiz, to suspend the rules [to continue past 12:00 midnight]. The motion was approved unanimously on a voice vote with Councilors Calvert, Chavez, Dominguez, Heldmeyer, Ortiz, Trujillo and Wurzbarger**

voting in favor of the motion, none voting against, and Councilor Bushee absent.

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- 4) **CONSIDERATION OF BILL NO. 2008-66; ADOPTION OF ORDINANCE NO. 2008-10 (COUNCILOR HELDMEYER). AN ORDINANCE AMENDING CHAPTER 14 SFCC 1987, REGARDING THE POWERS AND DUTIES OF THE BUSINESS CAPITAL DISTRICT DESIGN REVIEW COMMITTEE AND THE PLANNING COMMISSION TO MINIMIZE OVERLAPPING JURISDICTION IN THE BUSINESS CAPITAL DISTRICT AND MAKING SUCH OTHER RELATED CHANGES AS ARE NECESSARY. (JEANNE PRICE)**

Jeanne Price presented information from her Memorandum of January 18, 2008.

**Public Hearing**

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

**The Public Hearing was closed**

Councilor Heldmeyer said this ordinance change originated with members of the BCDDRC who approved it. She said for people doing development within the BCD it will remove ones meeting they have to attend.

**Councilor Heldmeyer moved, seconded by Councilor Chavez, to adopt Ordinance #2008- 10.**

**The motion was approved on the following Roll Call Vote:**

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

**Against: None.**

**Absent: Councilor Bushee.**

- 7) **CONSIDERATION OF BILL NO. 2008-56; ADOPTION OF ORDINANCE NO. 2008- \_\_\_\_ (COUNCILOR BUSHEE). AN ORDINANCE AMENDING ARTICLE 23-5.2 SFCC 1987, TO INCLUDE "PRIDE ON THE PLAZA" AS AN ADDITIONAL PERMITTED ANNUAL MAJOR COMMERCIAL EVENT ON THE PLAZA. (SEVASTIAN GURULE AND BARBARA LOPEZ). (POSTPONED AT THE DECEMBER 12, 2007 CITY COUNCIL MEETING). (WITHDRAWN BY SPONSOR)**

**12. MATTERS FROM THE CITY MANAGER**

There were no matters from the City Manager.

**13. MATTERS FROM THE CITY ATTORNEY**

**EXECUTIVE SESSION**

**DISCUSSION OF SETTLEMENT AGREEMENT WITH §10-15-1(H)(7) NMSA 1978.**

The Executive Session was postponed to the Council Meeting of February 13, 2008.

**14. ACTION REGARDING SETTLEMENT AGREEMENT WITH SANTA FE COUNTY ON ANNEXATIONS.**

No action.

**15. MATTERS FROM THE CITY CLERK**

Yolanda Vigil, City Clerk, reminded the Council and the public that absentee voting by mail began yesterday, and in person absentee voting will begin on February 6, 2008. She said to call her office, 955-6520, with any questions. There is a listing on the City website of the candidates, questions and charter amendments which will be on the ballot.

**16. COMMUNICATIONS FROM THE GOVERNING BODY.**

**Councilor Dominguez**

Councilor Dominguez introduced an ordinance amendment to Chapter 14, requiring applicants to providing notice about their proposed projects to the Santa Fe Public Schools. A copy of the proposed ordinance is incorporated herewith to these minutes as Exhibit "13." He asked that it go to the Planning Commission, Public Works, Finance and then to the Council.

**Councilor Calvert**

Councilor Calvert had no communications.

**Councilor Trujillo**

Councilor Trujillo had no communications.

### **Councilor Wurzbarger**

Councilor Wurzbarger Introduced an ordinance change amending the articles related to the Business and Quality of Life Committee, and the Economic Development Review Committee, cosponsored by Councilor Trujillo. A copy of the proposed ordinance change is incorporated herewith to these minutes as Exhibit "14." She asked that it go to the Finance Committee and then to the Council.

Councilor Wurzbarger would like to be a cosponsor on the Visitors Bureau Resolution. Business and Finance.

### **Councilor Chavez**

Councilor Chavez introduced a Resolution authorizing staff to seek Section 595 funding from the U.S. Army Corps of Engineer for the City's Canyon Road Water Treatment Plant. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "15." He asked that it go to the Public Works, Public Utilities and Finance Committees.

Councilor Chavez introduced a Resolution establishing overall policies for use of City owned space for arts and crafts shows. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "16." He asked that it go to the Public Works and Finance Committees.

### **Councilor Ortiz**

Councilor Ortiz said he is introducing another Resolution objecting to the proposed nuclear weapons complex, transformation activities at LANL, which include expanded plutonium pit production, and directing the City Clerk to inform federal authorities, cosponsored by Councilors Wurzbarger and Calvert. He would like this Resolution to go directly to the City Council.

### **Councilor Heldmeyer**

Councilor Heldmeyer introduced four resolutions:

- 1) A Resolution, cosponsored by Councilors Chavez, Ortiz and Dominguez, establishing a Cavernous Angioma Awareness Week. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "17." She asked that it go to the Human Services and Finance Committees.
- 2) A Resolution supporting the designation of the U.S. Park Service's Old Santa Fe Trail Building as a national historic site. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "18." She asked that it go to the Historic Design Review Board and then to the Council because it has no fiscal impact.



- 3) A Resolution directing the City Manager to develop a policy pertaining to certain facilities which are used by nongovernmental organizations. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "19." She asked that it go to the Public Works and Finance Committees.
- 4) A Resolution directing the City Manager to expand the program for background checks for all new employees, and routine and periodic review of the driving record. She said the City Manager said he would feel more comfortable if there were a Resolution in this regard. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "20." She asked that it go to the Human Resources Advisory Committee and the Finance Committee.

**Mayor Coss**

Mayor Coss introduced a Resolution regarding Convention Center Rates. A copy of the proposed Resolution is incorporated herewith to these minutes as Exhibit "21." He asked that it go to the OTAB and Finance Committees.

Mayor Coss said he is introducing a Resolution on Mother's Day, bringing it back to its original intention to be a day for peace rallies. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "22."

Mayor Coss thanked the Councilors for their hard work this evening.

**H. ADJOURN**

There being no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 12:05 p.m.

**Approved by:**

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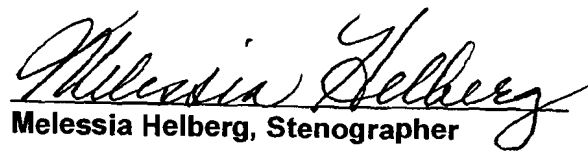
**Mayor David Coss**

**ATTESTED TO:**

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**Yolanda Y. Vigil, City Clerk**

Respectfully submitted:

  
Melessia Helberg, Stenographer