



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
FEBRUARY 13, 2008
CITY COUNCIL CHAMBERS

AFTERNOON SESSION – 5:00 P.M.

CITY CLERK'S OFFICE

DATE 2/8/08 TIME 4:00pm

SERVED BY _____

RECEIVED BY Hydomurgus

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. INVOCATION
4. ROLL CALL
5. APPROVAL OF AGENDA
6. APPROVAL OF CONSENT CALENDAR
7. APPROVAL OF MINUTES: City Council Study Session – January 29, 2008
Reg. City Council Meeting – January 30, 2008
8. PRESENTATIONS:
 - a) Employee of the Month for February 2008 – Sevastian Gurule, Constituent Services Manager and Carla Lopez, Public Information Liaison.
(5 minutes)
9. CONSENT CALENDAR
 - a) Bid No. 08/21/B – On Call Concrete Construction Services and Construction Agreement for Various Projects; Advantage Asphalt and Seal Coating, LLC. (Desirae Lujan)
 - b) Request for Approval of Vacation and Sale of City Owned Right-of-Way – Old Camino Apodaca Located West of 438 Apodaca Hill; Lee Lewin and Charles Williams. (Reyes Aragon)
 - c) Request for Approval of Professional Services Agreement – Project Manager Services for Additional Dance Studios; National Dance Institute, New Mexico, Inc. (David Chapman)
 - 1) Request for Approval of Budget Increase – Grant Fund.
 - d) Request for Approval to Proceed to Final Design Stage on Preferred Trail Alignment for the Santa Fe River Trail From Camino Alire to Frenchy's. (Rachel Friedman)



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- e) Request for Approval of Amendment No. 3 to Memorandum of Agreement – Joint Regional Trails and Open Space Santa Fe River Trail Project; Santa Fe County. (Rachel Friedman)
 - 1) Request for Approval of Budget Increase – Santa Fe Trails Fund.
- f) Request for Approval of Professional Services Agreement – Job Skills Training for Santa Fe's Youth Through Santa Fe River and Watershed Improvements (RFP #08/12/P); Youthworks. (Rachel Friedman and David Chapman)
- g) Request for Approval of Procurement Under State Price Agreement – Furniture for Fire Department; Contract Associates. (Assistant Chief Charlie Velarde)
 - 1) Request for Approval of Budget Increase – CIP Reallocation Fund.
- h) Request for Approval of Amendment No. 3 to Professional Services Agreement – Santa Fe Farmers' Market; Santa Fe Farmers' Market Institute. (Frank Romero)
- i) Request for Approval of Amendment No. 2 to Professional Services Agreement – Santa Fe Municipal Airport – Prairie Dogs; ECO Solutions. (Jackie Gonzales)
- j) Request for Approval of License Agreement – Use of On-Street Parking Spaces for Federal Courthouse; General Services Administration. (Walter Roybal)
- k) Request for Approval of Parking Area Services Agreement – Enforcement and Revenue Collection Services; Sanbusco Corp. (Walter Roybal)
- l) CONSIDERATION OF RESOLUTION NO. 2008-_____.
A Resolution Declaring Official Intent to Reimburse the City with the Proceeds of a Future Taxable or Tax-Exempt Borrowing for Certain Expenditures for the Trust for Public Lands and the Farmers' Market to be Undertaken by the City; Identifying the Capital Expenditures and the Funds to be Used for Such Payment; and Providing Certain Other Matters in Connection Therewith. (Kathryn Raveling)



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- m) Request for Approval to Publish Notice of Public Hearing on March 12, 2008:
Bill No. 2008-15 – An Ordinance Amending Section 11-2.1 SFCC 1987 Regarding Annual Budget Appropriations; Article 11-3 SFCC 1987 Regarding the Approved Budget; And Article 11-4 SFCC 1987 Regarding Budget Adjustments. (Kathryn Raveling)
 - n) CONSIDERATION OF RESOLUTION NO. 2008-_____. (Councilor Ortiz, Councilor Calvert and Councilor Wurzbarger)
A Resolution Objecting to Proposed Nuclear Weapons Complex "Transformation" Activities at the Los Alamos National Laboratory, Including Expanded Plutonium Pit Production, and Directing the City Clerk to Inform Federal Authorities of the Objections. (Jeanne Price)
 - o) CONSIDERATION OF RESOLUTION NO. 2008-_____. (Councilor Bushee, Councilor Wurzbarger, Mayor Coss and Councilor Chavez)
A Resolution Recognizing and Celebrating Mother's Day, This Year and Each Year Forward, as A Day of Peace in the City of Santa Fe. (Jeanne Price)
 - p) Request for Approval of Revised Appointments of Precinct Officials for the March 4, 2008 Regular Municipal Election. (Yolanda Y. Vigil)
- 10. MATTERS FROM THE CITY MANAGER
 - 11. 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.
- 12. Action Regarding Settlement Agreement with Santa Fe County on Annexations. (Frank Katz)
 - 13. MATTERS FROM THE CITY CLERK



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14. 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 RESOLUTION NO. 2008-_____.
Case #M 2007-31. 518, 520, 526 and 532 Agua Fria Street General Plan Amendment. Steve Rizika, Agent for the Property Owners Requests Approval of General Plan Future Land Use Map Amendment to Change to Designation of .669± Acres of Land to Community Commercial. The Area is Located on the South Side of Agua Fria and West of Montezuma Avenue. (Dan Esquibel) **(Postponed at November 28, 2007 City Council Meeting)**
- 2) CONSIDERATION OF BILL NO. 2007-62: ADOPTION OF ORDINANCE NO. 2008-_____.
Case #ZA 2007-07. 518, 520, 526 and 532 Agua Fria Street Rezoning. Steve Rizika, Agent for the Property Owners Requests Rezoning of 4 lots Totaling .669 ± Acres of Land From RM-1 (Residential – Multi-family, 21 Dwelling Unit Per Acre) to BCDWES (Business Capitol District, Westside Townscape Subdistrict). The Property is Located on the South Side of Agua Fria and West of Montezuma Avenue. (Dan Esquibel) **(Postponed at November 28, 2007 City Council Meeting)**



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- 3) CONSIDERATION OF RESOLUTION NO. 2008-_____.
Case #M 2007-28. Global Storage and Rodeo Lane Compound General Plan Amendment. Padilla & Associates Architects, Agent for Thakur Enterprises, LLC Requests Approval of a General Plan Future Land Use Map Amendment to Change the Designation of 2.12± Acres of Land to Community Commercial. The Area is Located at the Southeast Corner of Rodeo Road and Rodeo Lane. (Lou Baker)
- 4) CONSIDERATION OF BILL NO. 2008-13: ADOPTION OF ORDINANCE NO. 2008-_____.
Case #M 2007-29. Global Storage and Rodeo Lane Compound Annexation. Padilla & Associates Architects, Agent for Thakur Enterprises, LLC Requests Annexation of 4.91± Acres of Land Located at the Southeast Corner of Rodeo Road and Rodeo Lane. (Lou Baker)
- 5) CONSIDERATION OF BILL NO. 2008-14: ADOPTION OF ORDINANCE NO. 2008-_____.
Case #ZA 2007-09. Global Storage and Rodeo Lane Compound Rezoning. Padilla & Associates Architects, Agent for Thakur Enterprises, LLC Requests Rezoning for 2.12± Acres (Proposed Tract A) from R-1 (Residential, 1-Dwelling Unit Per Acre) to C-2 PUD (General Commercial-Planned Unit Development) and for 2.79± Acres (Proposed Tract B) From R-1 (Residential, 1 Dwelling Unit Per Acre) to R-4 (Residential, 4 Dwelling Units Per Acre). The Application Includes a Preliminary Development Plan for 5,600 Square Feet Office and 65,300 Square Feet of Storage Facilities. The Tracts are Located at the Southeast Corner of Rodeo Road and Rodeo Lane. (Lou Baker)
- 6) CONSIDERATION OF RESOLUTION NO. 2008-_____. (Councilor Ortiz and Councilor Wurzbarger)
A Resolution Amending Resolution No. 2003-106 the Annual Water Budget Administrative Regulations and Procedures Regarding the Designation of Water Rights for Low Priced Dwelling Units. (Kathy McCormick) (Postponed at December 12, 2007 City Council Meeting) **(Request to Postpone to April 9, 2008 City Council Meeting)**



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- 7) CONSIDERATION OF RESOLUTION NO. 2008-_____. (Councilor Ortiz and Councilor Wurzburger)
A Resolution Designating Water Rights for Low Priced Dwelling Units and Public Amenities in the Northwest Quadrant and for the Low Priced Dwelling Unit Credit Pool. (Kathy McCormick) (Postponed at December 12, 2007 City Council Meeting) **(Request to Postpone to April 9, 2008 City Council Meeting)**

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.

**MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
February 13, 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, on February 13, 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

Galen Buller, City Manager
Frank Katz, City Attorney
Yolanda Y. Vigil, City Clerk
Melessia Helberg, Council Stenographer

5. APPROVAL OF AGENDA

Mr. Buller asked to postpone Item #8(a) to the next meeting, because Carla Lopez isn't in available this evening.

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

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

6. APPROVAL OF CONSENT CALENDAR

Councilor Bushee asked to be added as a cosponsor of Item 9(n).

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

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

Against: None.

- a) **BID NO. 08/21/B – ON CALL CONCRETE CONSTRUCTION SERVICES AND CONSTRUCTION AGREEMENT FOR VARIOUS PROJECTS; ADVANTAGE ASPHALT AND SEAL COATING, LLC. (DESIRAE LUJAN)**
- b) **REQUEST FOR APPROVAL OF VACATION AND SALE OF CITY OWNED RIGHT-OF-WAY – OLD CAMINO APODACA LOCATED WEST OF 438 APODACA HILL; LEE LEWIN AND CHARLES WILLIAMS. (REYES ARAGON)**
- c) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – PROJECT MANAGER SERVICES FOR ADDITIONAL DANCE STUDIOS; NATIONAL DANCE INSTITUTE, NEW MEXICO, INC. (DAVID CHAPMAN)**
 - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND.**
- d) **REQUEST FOR APPROVAL TO PROCEED TO FINAL DESIGN STAGE ON PREFERRED TRAIL ALIGNMENT FOR THE SANTA FE RIVER TRAIL FROM CAMINO ALIRE TO FRENCHY'S. (RACHEL FRIEDMAN)**
- e) **REQUEST FOR APPROVAL OF AMENDMENT NO. 3 TO MEMORANDUM OF AGREEMENT – JOINT REGIONAL TRAILS AND OPEN SPACE, SANTA FE RIVER TRAIL PROJECT; SANTA FE COUNTY. (RACHEL FRIEDMAN)**
 - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – SANTA FE TRAILS FUND.**
- f) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – JOB SKILLS TRAINING FOR SANTA FE'S YOUTH THROUGH SANTA FE RIVER AND WATERSHED IMPROVEMENTS (RFP #08/12/P); YOUTHWORKS. (RACHEL FRIEDMAN AND DAVID CHAPMAN)**

- g) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – FURNITURE FOR FIRE DEPARTMENT; CONTRACT ASSOCIATES. (ASSISTANT CHIEF CHARLIE VELARDE)**
 - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – CIP REALLOCATION FUND.**
- h) **REQUEST FOR APPROVAL OF AMENDMENT NO. 3 TO PROFESSIONAL SERVICES AGREEMENT – SANTA FE FARMERS’ MARKET; SANTA FE FARMERS’ MARKET INSTITUTE. (FRANK ROMERO)**
- i) **REQUEST FOR APPROVAL OF AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT – SANTA FE MUNICIPAL AIRPORT – PRAIRIE DOGS; ECO SOLUTIONS. (JACKIE GONZALES)**
- j) **REQUEST FOR APPROVAL OF LICENSE AGREEMENT – USE OF ON-STREET PARKING SPACES FOR FEDERAL COURTHOUSE; GENERAL SERVICES ADMINISTRATION. (WALTER ROYBAL)**
- k) **REQUEST FOR APPROVAL OF PARKING AREA SERVICES AGREEMENT – ENFORCEMENT AND REVENUE COLLECTION SERVICES; SANBUSCO CORP. (WALTER ROYBAL)**
- l) **CONSIDERATION OF RESOLUTION NO. 2008- 16. A RESOLUTION DECLARING OFFICIAL INTENT TO REIMBURSE THE CITY WITH THE PROCEEDS OF A FUTURE TAXABLE OR TAX-EXEMPT BORROWING FOR CERTAIN EXPENDITURES FOR THE TRUST FOR PUBLIC LANDS AND THE FARMERS’ MARKET TO BE UNDERTAKEN BY THE CITY; IDENTIFYING THE CAPITAL EXPENDITURES AND THE FUNDS TO BE USED FOR SUCH PAYMENT; AND PROVIDING CERTAIN OTHER MATTERS IN CONNECTION THEREWITH. (KATHRYN RAVELING)**
- m) **REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON MARCH 12, 2008: BILL NO. 2008-15 – AN ORDINANCE AMENDING SECTION 11-2-1 SFCC 1987, REGARDING ANNUAL BUDGET APPROPRIATIONS; ARTICLE 11-3 SFCC 1987, REGARDING THE APPROVED BUDGET; AND ARTICLE 11-4 SFCC 1987, REGARDING BUDGET ADJUSTMENTS. (KATHRYN RAVELING)**
- n) *[Removed for discussion by Councilor Heldmeyer]*
- o) *[Removed for discussion by Councilor Calvert]*
- p) **REQUEST FOR APPROVAL OF REVISED APPOINTMENTS OF PRECINCT OFFICIALS FOR THE MARCH 4, 2008 REGULAR MUNICIPAL ELECTION. (YOLANDA Y. VIGIL)**

**7. APPROVAL OF MINUTES: City Council Study Session – January 29, 2008
Reg. City Council Meeting – January 30, 2008**

Councilor Calvert moved, seconded by Councilor Chavez, to approve the minutes of the Regular City Council Meeting of January 30, 2008, as presented. The motion was approved on a voice vote, with Councilors Bushee, Calvert, Chavez, Dominguez, Heldmeyer, Ortiz, Trujillo and Councilor Wurzburger voting for the motion and none against.

Mayor Coss said it isn't necessary to approve the minutes of the Study Session of January 29, 2008, because there wasn't a quorum and a majority of the Council couldn't vote to approve these minutes because they weren't in attendance..

8. PRESENTATIONS

- a) **EMPLOYEE OF THE MONTH FOR FEBRUARY 2008 – SEVASTIAN GURULE, CONSTITUENT SERVICES MANAGER AND CARLA LOPEZ, PUBLIC INFORMATION LIAISON.**

This item was postponed to the meeting of February 27, 2008.

CONSENT CALENDAR DISCUSSION

- 9(n) **CONSIDERATION OF RESOLUTION NO. 2008- 17 (COUNCILOR ORTIZ, COUNCILOR CALVERT AND COUNCILOR WURZBURGER). A RESOLUTION OBJECTING TO PROPOSED NUCLEAR WEAPONS COMPLEX "TRANSFORMATION ACTIVITIES AT THE LOS ALAMOS NATIONAL LABORATORY, INCLUDING EXPANDED PLUTONIUM PIT PRODUCTION, AND DIRECTING THE CITY CLERK TO INFORM FEDERAL AUTHORITIES OF THE OBJECTIONS. (JEANNE PRICES)**

Councilor Heldmeyer said according to the City's Ethic Policy she must recuse herself from this item.

Councilor Ortiz moved, seconded by Councilor Wurzburger, to adopt Resolution No. 2008-17.

Discussion: Councilor Chavez asked to be listed as a cosponsor. He said the City has been concerned about water quality, and this issue will be of concern as we move forward on the Buckman Diversion project.

Councilors Chavez and Bushee asked to be added as cosponsors.

Mayor Coss thanked the sponsors for bring this forward, commenting that he doesn't want LANL to go in this direction.

The motion was approved on the following roll call vote:

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

Against: None.

Recused: Councilor Heldmeyer.

Explaining his vote: Councilor Ortiz thanked Peggy Prince and Peace Action New Mexico, especially Jay and Nuclear Watch for drafting this Resolution.

9(o) CONSIDERATION OF RESOLUTION NO. 2008- 18 (COUNCILOR BUSHEE, COUNCILOR WURZBURGER, MAYOR COSS AND COUNCILOR CHAVEZ). A RESOLUTION RECOGNIZING AND CELEBRATING MOTHER'S DAY, THIS YEAR AND EACH YEAR FORWARD, AS A DAY OF PEACE IN THE CITY OF SANTA FE. (JEANNE PRICE)

Councilors Calvert, Trujillo, Ortiz and Dominguez asked to be added as cosponsors of the Resolution.

Councilor Bushee, seconded by Councilor Chavez, to adopt Resolution No. 2008-17.

Discussion: Councilor Bushee thanked Virginia Miller, Ann McLaughlin and others who were moving this Resolution forward. She said this Resolution calls for this day into the future to be celebrated as a day of peace.

Mayor Coss pointed out that this was the original intention for Mother's Day.

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.

10. MATTERS FROM THE CITY MANAGER

There were no matters from the City Manager.

11. MATTERS FROM THE CITY ATTORNEY

EXECUTIVE SESSION

- a) **DISCUSSION OF SETTLEMENT AGREEMENT WITH SANTA FE COUNTY ON ANNEXATIONS PURSUANT TO §10-15-1(H)(7) NMSA 1978.**

Councilor Wurzburger moved, seconded by Councilor Ortiz, that the Council go into Executive Session for the purpose of the discussion of the settlement agreement with Santa Fe County on Annexations, pursuant to §10-15-1(H) (7). The motion was approved on a Roll Call vote as follows:

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

Against: None.

The Council went into Executive Session at 5:20 p.m.

MOTION TO COME OUT OF EXECUTIVE SESSION

At 7:18 p.m., Councilor Wurzburger moved, seconded by Councilor Ortiz, that the City Council come out of Executive Session and stated that the only item which was discussed in executive session was the item which was on the agenda, and no action was taken.

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

12. ACTION REGARDING SETTLEMENT AGREEMENT WITH SANTA FE COUNTY ON ANNEXATIONS. (FRANK KATZ)

It was the consensus among the Council, as stated by Councilor Wurzburger, to direct City staff to come back to the next meeting with answers to the questions which the Council raised with respect to annexation.

Mayor Coss moved Items #13 and #14 to the end of the Evening Session.

END OF AFTERNOON SESSION AT 7:20 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 7:20 p.m. Roll Call indicated the presence of a quorum as follows:

Members Present

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

Others Attending

Galen Buller, City Manager
Frank Katz, City Attorney
Yolanda Y. Vigil, City Clerk
Melessia Helberg, Council Stenographer

E. PETITIONS FROM THE FLOOR

Fred Flatt said he believes the President's appointments to various boards and such are designed to tamp down information. He believes the City Ethics and Campaign Review Board is another such body, noting he sits on this Board. He asked if this Council supports full disclosure by candidates and if those who ran in 2006 would willingly support disclosing all of its banking information to that Board, stressing he isn't requesting this he is just mentioning this and it would be a good idea if they did. He quoted from a January 1, 2008, editorial in The Santa Fe New Mexican, Happy New Election Year, "...We resolve to tell you as much as we can about who is backing whom and with what expectations. It ain't easy. With every new disclosure rule, come clever attempts to get around them." He doesn't believe the last election was clean, and there are many outstanding issues left from that campaign which never have been addressed, although he has tried to get the Board to address those. He said that won't be done unless this Board leans on its appointees. He said the ethics board in the State of Washington is designed so that all contributions are made before the election, and would like the City to have the courage consider something like this. He said many contributions after the election are justified, but he questions the pattern of other contributions of big bucks after the election is over. He expressed displeasure with the three minute limitation on Petitions from the Floor which he believes is unfair. He asked the Governing Body to read the reports from the last election after the election was over.

Stephanie Beninato, 604½ Galisteo Street, requested that the Council direct the City Manager to direct the Historic Board to hear her appeal to that Board. She said she submitted

a petition signed by 28 people in her neighborhood requesting that 610 Galisteo Street be reconsidered by the H-Board. She said Frank Katz improperly said that the H-Board could not "take it back." She quoted from 14-2-7(A)(2) NMSA:

"Historic Design Review Board. 14-2-7(A)(2) Powers and Duties. The Board shall hear appeals of parties aggrieved by the City Planning and Land Use Department's approvals or denials."

She said "we" are aggrieved by the City Land Use Department staff's approval of the movement of a special exception granted by the H-Board. "We" are aggrieved by the City's allowance by staff of the removal of over 80% of these walls. She believes Mr. Hiatt lied to her and her neighbors when he said "they" were operating under their permit because all the destruction shown on a piece of paper was not amended until September. This is when they had so called staff permission to take the walls down after the fact, because the walls came down in May, June, July and August.

She said according to the statutory powers and duties of the H-Board:

"The Board shall review and approve or deny all applications for new construction, exterior alternation and demolition of structures except signs. Staff shall review signs."

Ms. Beninato said it doesn't say that staff shall allow for destructions of historic walls. She said "we" are aggrieved that the City staff has allowed this "non-owner" to change the size and placement of windows on three primary facades. "We" are aggrieved that the non-owner will have skylights which will be above the parapets which is a violation of the "Historic Board's condition."

Ms. Beninato said she would like to point out that the City has become aware, "as have I, that this permit was issued when there was no legal lot of record. It's required that you have a legal lot of record. The legal lot of record didn't occur until one month after the permit was issued. These people, Marty and Owen Nelson, came in as owner builders, but in fact, Modo Group, LLC owns the property. And, here, which is from the State Corporation Commission, and I'll just pass it around, but I would like it back, their names, Owen and Marty Nelson are not on here."

Mayor Coss asked Ms. Beninato to please leave that document with the Clerk.

Ms. Beninato continued, "I will finish up. I have asked the, and let me, if you don't mind, I'll pass it around. So again, what we have is fraud in the application. Owen and Marty Nelson are not the owners, Modo Group is. It was an owner builder permit. That means they don't have a licensed contractor running that job. They have admitted that they aren't even running the job, that some other unlicensed person is, and the City's not shutting it down. But, more importantly...."

Mayor Coss asked Ms. Beninato to please conclude.

Ms. Beninato continued, "I will finish. I have formally requested the City Manager to direct this back to the H-Board. It's not permissive. The Board shall hear these appeals if you're aggrieved. We are aggrieved. And now I hear from Mr. Buller that he and the head of the Land Use are discussing whether they should take it back to the Board. This isn't permissive. This isn't discretionary. There's no exception unless the Land Use Board..."

Mayor Coss advised Ms. Beninato that he doesn't want her to present the whole case, and the Governing Body has heard her petition.

Ms. Beninato continued, "I understand. So, what I'm asking you Mayor, is to direct your City Manager to send this petition and the whole case back to the H-Board as per City ordinance. Thank you, and I'd like to hear from you whether you're going to enforce the law as it's written, or whether you're going to continue to allow your staff to have unwritten practices that violate and contradict the law."

Mayor Coss said she would hear from the City very soon.

F. APPOINTMENTS

Board of Adjustment

____ Mayor Coss appointed the following individuals to the Board of Adjustment:

Charles Baldonado – reappointment – term ending 09/2008;
James Brack – reappointment – term ending 09/2009;
Gary Friedman – reappointment – term ending 09/2010; and
Peter Komis – reappointment – term ending 09/2010.

Councilor Bushee said before the Council votes on these appointments, she would like a report on the reasons for the lack of quorums on the Board. She said the Mayor is reappointing the same people, and there were several meetings where there were no quorums, which she finds outrageous. She said she isn't interested in appointing the same people if this is going to be an ongoing issue, and wants to know if it was a staffing issue, an attendance issue, or what.

Greg Smith said he is not familiar with the exact specifics, but does recall there were some meetings where there was no quorum, but he doesn't believe it was the same members each time. He said there are provisions in Chapter 14 calling for replacement of members who miss a certain number of meeting consecutively or within a twelve month period. He will report the details to the Mayor and Council after he researches this issue.

Councilor Bushee would like an attendance report for both the Board of Adjustment and the Planning Commission, and a report from the person staffing those boards. She said the same people have chaired for twenty years. She wants to know why people aren't attending.

Mayor Coss said he will bring these appointments to the Council at the next meeting.

Councilor Bushee moved, seconded by Councilor Chavez, to postpone these appointments to the meeting of February 27, 2008.

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.

Business Capitol District/Design Review Committee

____ Mayor Coss appointed the following individuals to the Business Capitol District/Design Review Committee:

Edward Archuleta (At-Large) – reappointment – term ending 12/2008;
Mark Hogan (Architect) – reappointment – term ending 12/2009;
Robert Lockwood (Contractor) – reappointment – term ending 12/2008;
Matthew O'Reilly (Civil Engineer) – reappointment – term ending 12/2009; and
Dolores Vigil (At-Large) – reappointment – term ending 12/2008.

Councilor Heldmeyer moved, seconded by Councilor Chavez, 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 Chavez left the meeting at this time

G. PUBLIC HEARINGS

- 1) CONSIDERATION OF RESOLUTION NO. 2008- _____. Case #M-2007-31. 518, 520, 526 AND 532 AGUA FRIA STREET, GENERAL PLAN AMENDMENT. STEVE RIZIKA, AGENT FOR THE PROPERTY OWNERS REQUESTS APPROVAL OF GENERAL PLAN FUTURE LAND USE MAP AMENDMENT TO CHANGE TO DESIGNATION OF .669± ACRES OF LAND TO COMMUNITY COMMERCIAL. THE AREA IS LOCATED ON THE SOUTH SIDE OF AGUA FRIA AND WEST OF MONTEZUMA AVENUE. (DAN ESQUIBEL) (Postponed at November 28, 2007 City Council Meeting)**

Items #1 and #2 were combined for purposes of staff presentation, public hearing and discussion.

A copy of the relevant portion of the Business Capital District/Design Review Committee minutes of January 10, 2008, are incorporated herewith to these minutes as Exhibit "1."

Memorandum dated February 6, 2008 for February 13, 2008 City Council meeting, to

the Governing Body, with attachments, from Daniel A. Esquibel, Land Use Planner Senior, is incorporated herewith to these minutes as Exhibit "2."

The staff report was presented by Greg Smith, which is contained in Exhibit "2."

Recommendation: The Governing Body at its regular meeting of 11/28/07, requested recommendations from the Business Capital District Development Committee (BCDDRC). Both the Planning Commission (meeting of October 4, 2007) and the Business Capital District Development Review Committee (meeting of January 10, 2008), recommended approval of the above cited cases. Staff did not support the request for reasons outlined in the Planning Commission memo and supporting material.

Public Hearing

Steve Rizika, 54 Encantado Road, Santa Fe, NM 87508, the agent for the property owners, was sworn. Mr. Rizika thanked the Planning Commission, the BCDDRC City staff for recommending approval of their case, and staff for taking their case seriously. Mr. Rizika said it is the applicants' intention to be treated, in terms of use, as everyone else on that side of the street from Guadalupe to Dunlap, commenting a very strange line is drawn. He said it is staff's contention it should be considered if it is a reasonable buffer between the BCD and RM-1 across the street. He said the applicants contend that four properties "a buffer do not make." He said he presumes, under the long term general plan, if the City undertakes a downzoning of the area, these four properties would be included in that downzoning.

Mr. Rizika said the applicants also contend that this is a four lot section of RM-1 land which is surrounded on three sides by BCD commercial zoning and uses. Mr. Rizika demonstrated the subject size using photographs of the area.

Mr. Rizika said the applicants contend that this "section of Agua Fria on that side of the street is highly commercial, not residential. The four property owners, the applicants, would like to be treated in terms of use exactly like their neighbors are on all three sides.

Mr. Rizika said all properties are highly built out already, and would have to undergo a lot of extra review if anyone were to change or develop anything else. At least three of the four buildings are designated significant historical and would be subject to a lot of regulation if anyone were to try to change or redevelop anything. These are four separate property owners which are cordial with each other who came together to make this application, and have no group plans, and this is about use and being treated the same as everyone else on three sides of them and correcting what he considers a poor zoning situation.

The Public Hearing was closed

Councilor Calvert asked what was the staff recommendation.

Mr. Smith said staff had expressed concern that the Planning Commission, and at the previous Council meeting, that the property, although in a "mixed bag" neighborhood, in staff's

judgment, it didn't seem to meet the general plan or rezoning criteria to change from multi-family residential to Business Capitol District. This was based in large on the determination of the Council in 1999 when it adopted the General Plan Future Land Use Map to provide a consistent pattern which favored moderate density residential wherever it was possible to maintain that pattern.

Councilor Calvert noted the changes of the neighbors were done over time, and historically grandfathered into the existing uses. He asked the applicant what purpose this serves, and what is his intention for the properties, other than what he thinks is clean-up on a map.

Mr. Rizika said the properties are owned by four separate owners, but he can't speak for the use for the future. He said there is no intent to band together to demolish anything because that can't be done, but it really is a matter of use.

Councilor Calvert asked what is it that "you want that they have that you can't do now." He said they can do something the applicants can't, but do they care.

Mr. Rizika said they do care, and this has been a long, arduous process since last Spring. They applicants do care "as to their mental status or state." He said many people like to have property which is put to the highest, best use, or has the most options or utility for the property if they would like to do so. He said it would be cleaner if there was a development plan in place and they were asking to develop something. However, it is a matter of a theoretical use. There are also certain set-back and other issues which the BCD westside townscape would allow them which isn't allowed under RM-1.

Councilor Calvert said it would allow them for what purpose.

Mr. Rizika said he can't speak for the property owners. He said the BCD westside townscape would allow uses such as a gallery or a bookstore, which couldn't be done under RM-1. The applicants would like to be treated just like everyone else on their side of the street as they are surrounded on all three sides.

Councilor Calvert said he wants to know the purpose or reason behind the request. He said a vague notion that they would like to have the same rights and privileges as people on each side doesn't meet the justification requirements for rezoning. There is a burden of proof on the applicants to show why this needs to happen, which he isn't hearing.

Mr. Rizika said he can give some theoretical examples. He said applicants find this to be an unfair and unwieldy zoning situation and would like to clean up that standard, and have that street be a continuous line of BCD westside townscape from Guadalupe to Dunlap. He said it puts an undue burden on the four properties to have to hold out as being a buffer of the residential. He said the BCD doesn't preclude any residential use.

Councilor Calvert said it also doesn't preclude short term rental as well. If the Council doesn't know the purpose, or have an idea as to why this is being requested, the Council can

only speculate what might happen there, one of which could be a short term rental, because in the BCD that is an allowed use.

Mr. Rizika said that is correct. Currently, one of the properties, 526, is for sale, and 532 was just purchased from a long time owner and they are going to be owner/users, 520 is a residence and an attorney's office, and 518 is a long term rental currently. He said they would like to be considered on the basis of a land use decision, and not on what they don't want to see or have happen on what the zoning rules allow and what they consider to be a "silly spot zone" situation.

Councilor Calvert said the point is that is that these properties aren't the only ones with the current designation when the zoning was set. The people down the road changed the use and were grandfathered when some of the rezoning was done, so it's not as if these four were singled out for an exception in that process.

Mr. Rizika said under the current situation, in looking at these with today's eyes, it appears that they were.

Councilor Bushee is not certain how this came about and what are the proposed uses. She said it is customary in a rezoning to understand the reasons for a rezoning, other than the one Mr. Rizika keeps repeating.

Mr. Rizika understands, and said he wishes he had an answer, such as to put in a flower shop, and 518 would like to be a short term rental. He said it is a matter of land use and what is allowable. He said, "Coming here with Chapter 14, what the regulations are for this procedure, is not specifying a particular type of use, but specifying a district and a subdistrict, being the west side, for approval. There is nothing I read in 14 saying to come forth that each property should have a particular use in mind. And it makes me somewhat nervous that some uses could be considered more acceptable than others as a BCD District. And there is a table of permitted uses, and I am assuming that all of those are acceptable uses within that district and that we wouldn't favor one use.. arbitrarily, capriciously favor one use over another."

Councilor Bushee said in this kind of block rezoning, you will see an impact that you don't see in terms of what has happened in use which has evolved over time. She said there used to be a lot more residential on Guadalupe and Agua Fria, and over time and with the Railyard development, it has gone more commercial. She asked if any of the applicants would like to address the Council.

Nancy Dominic, 526 Agua Fria, was sworn. Ms. Dominic owns 526 Agua Fria with a friend which they spent many months remodeling. It was a two family unit, split in two, noting they thought it was commercial when they purchased it, and were told it could be a lawyer's office, or shop and such. She said they have been unable to sell it. She said this is such a noisy road, it is difficult for anyone to want to live there as a residence. She thinks this is the reason it has changed. She feels the noise on the street is a deterrent for residential in the area. She was hoping to have another use for the house which is beautiful, into which they

have put a lot of money and effort, and it has been sitting vacant for a year because people don't want to live in a residence in that area for that kind of cost.

Councilor Bushee said then if there was a rezoning, they would sell and offer it under the zoning, or to put in a business.

Ms. Dominic said it would be more sellable because it would have more uses. She said one person wanted to put his law office there. She said they remodeled it so they would stay in the back and have the office in the front. She said they have tried five times to change the zoning, and feels it a waste that the property can't be used and isn't selling.

Jock Wise, was sworn. Mr. Wise said he just bought 532 Agua Fria in October, which is a brick building which was a five-plex. He said this all started before he purchased the property. He said he wants to keep the property residential, but in seeking this rezoning he is interested in the setbacks in the back so you can't see from the street. He said it will be a long process in going through the H-Board to ensure everything is resolved to fix up the front building. He said the back building is in bad shape and will have to be redone instead of demolishing and rebuilding.

Responding to Councilor Bushee, Mr. Wise said he is interested in rezoning because of the setbacks. He said the rear building is contributing, and they can add onto it. He said they aren't demolishing it, but they could add to it under the new zoning. However, there would be difficulty because of the setbacks, noting it is on the back wall of Sanbusco. He said they are trying to make the 900 sq. ft. into a more livable apartment because they can rent it. He said it is planned for a long term rental.

Councilor Heldmeyer said BCD zoning is expansive in terms of the number of uses, and also in terms of height, etc. She said there was discussion at the BCD as to why the four lots were being consolidated in a single request, because there was some idea these would be strung together as a single development in the future. This was a concern to the BCD. She asked Mr. Rizika to address that.

Mr. Rizika said he is sorry they are a "square peg in a round hole" situation. He said they aren't looking to consolidate, and the buildings can't be demolished nor torn down, and there is nothing afoot to change anything down there. He said it is no longer a residential area, and one of the burdens of proof in the Code is when there is a change.

Councilor Heldmeyer asked why the request isn't to C-1, for example.

Mr. Rizika said they felt that the office type building under BCD would be a more appropriate use because you could have residential. He said it does allow short term rental, but there are many other permitted uses in the table for that district. He said under C-1 it is necessary to be contiguous to the requested zoning, "and we're not necessarily contiguous to the C-1 without the Archuleta property joining.

Councilor Heldmeyer said Mr. Wise spoke at the BCDDRC and talked about how he needed more space behind the building to install modern heating and air conditioning. However, this evening he has said he wants to demolish the building, and then said he didn't really mean it. She asked if there is an assumption that, with the BCD zoning, these buildings would be easier to demolish, therefore leading to some kind of larger building going over these lots.

Mr. Rizika said, "I feel comfortable saying, absolutely not."

Councilor Heldmeyer asked if the applicants would accept a condition of approval that no building in this set of buildings would be demolished in whole or in part as a result of these changes.

Mr. Rizika said he would have to ask, but he believes this would be an acceptable condition.

Mr. Wise said he has no problem with that condition.

Councilor Heldmeyer asked Mr. Wise why he said he wanted to demolish the building.

Mr. Wise said in dealing with the architects they were saying this. He said half the building is more than 50 years old, and half isn't, so that makes the whole building contributing. He said he has no problem with a condition that it won't be demolished, but it will take major renovation to make it livable. For example, he said one of the apartments has a 6 foot ceiling. He said it will take major renovation to make it a modern apartment. He said he never had plans to demolish, and that was inaccurate. Mr. Wise said he wants to move the utilities to the back so it looks more modern.

Councilor Heldmeyer said the BCD was particularly concerned about his particular building because it is significant.

Mr. Wise said he wants to keep that building. He said there is a concrete apron which stands up three feet and he wants to put a railing on it to make it safe, noting that will be a problem with the H-Board. He said they want to work on anything which could be seen from the street.

Councilor Calvert asked if any of the units currently are rented.

Mr. Wise said No.

Councilor Calvert asked if the units might be characterized as affordable housing.

Mr. Wise said probably not. Previously, people were paying \$500 per month without heat or air conditioning for a 700 sq. ft. apartment, and one unit did not have hot water.

Responding to Councilor Calvert, Mr. Wise said there are four units in the front building for a total of 4,300 sq. ft. The back building had two units – one 350 sq. ft. and the other was 500 sq. ft.

Councilor Ortiz said it has not been his experience that people get rezonings on this kind of basis, and his experience with rezonings is that there is a proposed use, which sometimes is an intensification of use or a different proposed use, with a development plan to consider. He said this request seems to be to make these particular parcels better investment parcels – saleability of the units or to allow for more uses on the parcels. They have provided no proposed uses in the request. He said if there is a commercial use here it probably is grandfathered as a non-conforming use, and that can continue until there is a change in the use.

Mr. Smith said staff has not investigated any of the particular properties, and are unable to confirm whether there is or is not a legal non-conforming use on a particular, lot. He said in the absence of an identifiable for any of these parcels, he can't see a basis for approving this rezoning.

Councilor Ortiz moved, seconded by Councilor Calvert, to deny the requested rezoning.

Discussion: Councilor Bushee said she is not suggesting this is a bad use. She asked the process to come back to the Council with more detail, and asked how long they would have to wait

Mr. Smith said he believes there is a section which provides that rezoning cases, once denied, should not be brought if they are substantially similar to an application which was denied. He said the Planning Commission or Council could waive that rule. There would be a question, if a rezoning with a development plan would be substantially similar, and that is a judgment call staff would make with the City Attorney. He said since there are individually owned parcels, the rezoning process and the criteria for approving plan amendments and rezonings do not work well for individual parcels. He said if the Council intends that this is the best land use category for the tract of land, procedurally it would be easier to do it under the current consolidated application.

Councilor Bushee asked if would be wise to advise them to withdraw their application at this point, regroup and come back, rather than have a denial. She wants to ensure that the applicants have options.

Mr. Smith said they would have more options if there wasn't a formal denial of the application.

Councilor Bushee said then withdrawing the application would be best.

Mr. Smith said probably, but that doesn't happen often.

The Motion was withdrawn by the maker and second.

Mr. Rizika asked what information the Council would like, and what it would mean to postpone this.

Councilor Ortiz said information is needed with regard to what is the planned use for the parcels and to commit to a development plan for each of the parcels.

Mr. Rizika asked what happens if a property is vacant and for sale.

[Councilor Ortiz's response was inaudible here.]

Mr. Rizika asked if what is wanted, for example, is if the owner of 526 were to say she wanted to use the property for a bookstore.

Councilor Ortiz said yes, because he hasn't given any indication on the proposed uses for the properties. He said rezonings are typically based on what is going into a particular property. He asked Mr. Rizika if he needs more time to get this information from the four property owners.

Mr. Rizika asked, if the owner of the vacant property indicates they intend to have a bookstore there, is the condition of the zoning that it is not fully a BCD westside district, that it is a bookstore.

Councilor Ortiz doesn't know. He said he wants to deny the rezoning, but is willing to provide more time for the applicant to provide more information to the Council so it makes their decision easier.

Mr. Rizika said he can get this done this in two weeks.

Ms. Dominic said initially they were going to apply individually, but were told by the City that the four needed to apply together because these are the only four that are not zoned BCD. She said they have done this five times, and appeared before two committees, both of which approved the request. She asked why they need to go to two other committees before coming here, and why not come directly to the Council. She said the committees approved the request. They have spent a lot of money in advertising and signs. She asked why bothering with the other committees, when no one listens to what they say.

Councilor Ortiz said he has a motion to deny with a second which can be voted on now. However, he will consider postponing if she needs more time to get more information.

Ms. Dominic said she doesn't know how she will get more information when "I haven't sold to someone that's that what they're going to use it for. I'm going to have to buy it myself and open a flower shop?" She said her request is so someone can use this beautiful property. She said they did everything possible to make it perfect, but no one wants it the way it is for a house, because the street is too busy.

Councilor Heldmeyer said there are questions about what the uses of these properties will be. She said it isn't necessary to say it will be a certain attorney's office, but it is necessary to have an idea about the things you have in mind. This is an old, very narrow congested street which has parking and traffic issues which creates the noise which creates the problem for the building. She said this body wants a range of use and a range of what is going to happen to

these buildings, so we can consider those and decide if those are appropriate, and to see if a development plan may be needed in addition to a rezoning. She said there was a lot of discussion at the BCDDRC because they make recommendations on zoning, but had never been asked to make a recommendation on a general plan amendment, because that usually isn't its purview. It is that these were bundled together. The BCDDRC is a recommending body, as well as the Planning Commission, but the City Council makes the decision, and the reason it is necessary to go more than one place.

Ms. Dominic said it has been a long process, but she said she never thought of a short term rental for this place, and doesn't believe any of the others have either. She said it would be too big a mess for her. She wants someone to use this place, commenting that it is a beautiful spot, but it wouldn't be good for kids near the street because it's dangerous. It would be a wonderful site for an office or a small shop, or even a restaurant.

Councilor Heldmeyer said the Governing Body has the authority, even within a BCD west zoning category to accept all uses, permissive uses within that or to limit those uses, because a zoning is being requested, and a zoning is a discretionary decision by this body. She said people are worried about this area and these important historic buildings and want more information to know what is being approved is appropriate. This may mean limiting what a wide open BCD west zoning might offer.

Mr. Rizika asked if the Council is willing to approve the rezoning with certain conditions this evening, since the use is of concern. He asked what the Council would like to see in the application.

Mayor Coss said the Council doesn't want to develop the uses for the applicants.

Councilor Bushee said when the Council does a rezoning, it is looking at a general plan amendment and a rezoning. She said the Council needs need to know what is proposed for the property. This is a very important part of town which is in the historic district, near downtown and could be seen as being very desirable for high urban residential. She understands the concerns. She said each Board before which they appeared looks at different things, but this body ultimately is charged with ensuring that the new uses will be somewhat compatible and not cause more stress on an area which already is stressed from the buildout of the Railyard and the growing urban densities.

Councilor Ortiz said he is willing to be lenient, but he needs direction as to the length of time which is needed.

Mr. Rizika said two weeks would be fine.

Councilor Ortiz moved, seconded by Councilor Calvert, to postpone Items #9(1) and (2) to the meeting of February 27, 2008.

Discussion: Mr. Smith said the deadline for staff to prepare staff materials to go into the Council packets would be Tuesday of next week. He said staff is happy to allow the Council

to proceed with the input from the applicant, since it isn't likely that staff can provide a written analysis or feedback on those in that time frame.

Councilor Bushee would like something in writing prior to the next Council meeting.

Mr. Smith said the City Clerk's office poses the deadline, and packets are distributed on the Thursday or Friday before the next Council meeting.

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

- 2) **CONSIDERATION OF BILL NO. 2007-62; ADOPTION OF ORDINANCE NO. 2008- _____. CASE #M-2007-31. 518, 520, 526 AND 532 AGUA FRIA STREET REZONING. STEVE RIZIKA, AGENT FOR THE PROPERTY OWNERS, REQUESTS REZONING OF 4 LOTS TOTALING .669± ACRES OF LAND FROM RM-1 (RESIDENTIAL – MULTI-FAMILY, 21 DWELLING UNITS PER ACRE) TO BCDWES (BUSINESS CAPITOL DISTRICT, WESTSIDE TOWNSCAPE SUBDISTRICT). THE PROPERTY IS LOCATED ON THE SOUTH SIDE OF AGUA FRIA AND WEST OF MONTEZUMA AVENUE. (DAN ESQUIBEL) (Postponed at November 28, 2007 City Council Meeting)**

This item was postponed to the meeting of February 27, 2007.

- 3) **CONSIDERATION OF RESOLUTION NO. 2008- _____. CASE #M-2007-28. GLOBAL STORAGE AND RODEO LANE COMPOUND GENERAL PLAN AMENDMENT, PADILLA & ASSOCIATES ARCHITECTS, AGENT FOR THAKUR ENTERPRISES, LLC, REQUESTS APPROVAL OF A GENERAL PLAN FUTURE LAND USE MAP AMENDMENT TO CHANGE THE DESIGNATION OF 2.12± ACRES OF LAND TO COMMUNITY COMMERCIAL. THE AREA IS LOCATED AT THE SOUTHEAST CORNER OF RODEO ROAD AND RODEO LANE. (LOU BAKER)**

Items #3, #4 and #5 were combined for purposes of staff presentation, public hearing and discussion.

Memorandum dated February 5, 2008 for February 13, 2008 City Council meeting , with attachments, to the City of Santa Fe City Council, from Lou Baker, AICP, Senior Planner Development Review, is incorporated herewith to these minutes as Exhibit "3."

A copy of a letter To Whom It May Concern from Andrew M. Lucero, is incorporated herewith to these minutes as Exhibit "4."

A packet of information entered for the record by John A. Padilla, is incorporated herewith to these minutes as Exhibit "5."

A packet of information entered for the record by Suby Bowden, is incorporated herewith to these minutes as Exhibit "6."

The staff report was presented by Lou Baker, which is contained in Exhibit "3." Strike "something" from the recommendation.

Recommendation:

The Planning Commission recommends approval of all three applications, based on their findings that the approval criteria required by Section 14-3 SFCC 2001 are met. Conditions of approval for the annexation and rezoning are included in the attached annexation and rezoning bills; conditions of approval are not appropriate for the general plan amendment resolution.

Staff's report to the Commission supported the annexation, but did not support the General Plan or zoning map amendments. Analysis by staff determined that "Community Commercial" land use map designation and C-2 zoning may be too intense, and that land use and circulation planning for the transition from commercial to residential along Rodeo Road should not be done piecemeal. Staff recommended planning to include other developed and underdeveloped parcels in the vicinity.

Public Hearing

Presentation by Applicant

John Padilla, Principal, Padilla & Associates Architects, 1925 Aspen Drive, Suite 801-A, representing the Applicant, was sworn. Mr. Padilla said he is here to discuss the general plan amendment, annexation and rezoning, and repeated the Planning Commission's recommendation for approval.

Mr. Padilla said they are aware of this area being a rural area with very large lots, and is what Santa Fe used to be. He said over the years, Rodeo Road has become a commercial development along Rodeo Road with the residential hidden behind that. He said this proposal respects the rural nature of the property to the south of the subject site. He said Tract A is north of the arroyo, Tract B, the residential development of 13 lots, is to the south of the commercial development, the C2-PUD which he is presenting this evening. They wanted to respect the residential development by providing a transition, or buffer, between Rodeo Road onto Rodeo Lane to the residential development Rodeo Lane Compound, and in the transition to their neighbors.

Mr. Padilla said the C2-PUD zoning was selected because of the storage facility complex being proposed. It is a storage facility complex, not a storage unit complex. The

applicant proposes a two-story, indoor facility which will appear office building in nature. He is requesting that the Governing Body look at the recommendations from the Planning Commission in judging this case.

Mr. Padilla distributed additional information to the Governing Body [Exhibit "5"]. Mr. Padilla detailed the contents of the handout to the Governing Body:

- Scenario of the development along Rodeo Road which is very commercial, with the residential developments to the south of the proposed development.
- Larger map showing surrounding property owners which was a condition of the Planning Commission
- Certified letter dated December 20, 2007, sent to the neighbors inviting them to meet with us at their convenience. They didn't hear anything from the neighbors, so they sent out the second letter dated January 24, 2008, setting a time and date for a meeting inviting the same neighbors to meet with them.
- Sign-in sheet from the meeting held at the Flying Tortilla Restaurant, noting Bob Gaylor of Suby Bowden & Associates, representing the Nelsons.
- Three letters stating there is no opposition to the proposed development, from the Bowles, Brunks and Tolbys.
- The 11 x 17 drawings from the Council packets which shows the proposed use for Building A which is 5,600 sq. ft. of office space within approved C2 uses, and they are looking at professional office.
- Building B and Building C which are the storage facility buildings, with a description of the units. Projection Building A what could be seen from Rodeo Road, and at parking lot level.

Mr. Padilla said Building B is three stories, with one level above and one below grade. He said Building C is also one level below grade and one above, coming in the parking lot at grade.

Mr. Padilla said the Planning Commission asked the applicant in the development of the architecture of the building that it appear office building in nature. Mr. Padilla used the overhead projector to demonstrate the appearance of Buildings A, B and C, noting that Building A is the one which could be seen from Rodeo Road, and Buildings B and C as seen from the parking lot which appear as two story and office building in nature. He said there will be landscaping screening.

Suby Bowden, 333 Montezuma, Avenue representing the Sara Melton Family Limited Partnership, was sworn. Ms. Bowden said the Sara Melton family partnership property abuts the proposed site to the south. She said the Meltons have participated long

distance, and have asked her to speak on their behalf. She asked for nine minutes for her presentation, and Mayor Coss said this will be fine.

Ms. Bowden said there is no dispute on the proposed annexation by the Meltons, but they do dispute the proposed General Plan Future Land Use Map Amendment and the proposed rezoning.

Ms. Bowden said with regard to the General Plan, there have been two ENN meetings in October 2006 and March 2007. She said the Applicant was asking for an R-1 to R-3 density, and what the neighbors had heard in the property set back south of the arroyo. She said most of the neighbors were willing to go for that very low density. Since the official ENN meeting, the Applicant has changed the request to a R-4 density. She said it is only the neighbors who responded and attended the meeting on February 6, that know it is a greater density request in the residential area. She said eight people were in attendance, three of which were neighbors not connected to the development, and the other five were specifically there on behalf of the development. She said not many of the neighbors know about the proposed increased density. She said this is what the staff report currently says, so she is relying on the staff report. If there is additional information in this regard, she would be glad to take that to the Melton Family.

Ms. Bowden said City staff has recommended denial of the General Plan Amendment to commercial and the R-4. The RPA called for urban residential. She noted that a brand new Planning Commission reviewed and approved it, noting there is a big learning curve. She said the most significant issue on the amendment to the General Plan, is that on the same night this came before the Planning Commission, the Southwest Santa Fe Community Area Master Plan also came before the Planning Commission which approved office use, not storage facility use. She said the 1999 General Plan clearly called for community involvement, and from 2001 to 2008, this huge section of the Southwest Sector participated in defining what they want to have occur. She and the Meltons find it a major violation that on the same night the neighborhood and the Applicant requested office, suddenly there is a variance to change to a storage facility. It seems highly inappropriate and contentious in relation to the neighborhood's request.

Ms. Bowden said the Meltons ask that the Council reject the amendment to the General Plan, and it be maintained as office which was approved along Rodeo Road and the R-1 to R-3 south of the arroyo.

Ms. Bowden said, with regard to the rezoning issue on this particular development, City staff recommended denial of the rezoning, even though it was approved by the new Planning Commission. She said during the presentation on November 1, the Applicant stated that there was a desired use to have a storage facility next to someone's residential property, because there was a low traffic count. She said the Meltons feel strongly that this is exactly why they don't want a storage facility there, and would like someone who has a purposeful sense of ownership to be adjacent to that neighborhood who comes in and out and is concerned about who is on the property and keeps an eye on, and is concerned about, the neighborhood. The Meltons feel a storage facility doesn't have that sense of ownership,

Ms. Bowden said during the development of the Southwest Sector Plan, this particular area was called Area 12, and the neighbors approved eight additional units. This included the

Tolby, Melton and Wagner properties, noting the Wagners are now asking for thirteen, which doesn't count the additional units which were supposed to be on the Meltons and the Tolbys properties. She said this is an excessive increase of density compared to what the neighbors approved in 2000, which was approved by the City in 2008.

Ms. Bowden said the Meltons have never seen the site plan which is before the Council this evening. She acquired a staff report, but it wasn't included, commenting she believes this an error by staff. She will have to inform the Meltons tomorrow about that, and they are rejecting it anyway and asking for the R-1 currently in place to remain.

Ms. Bowden said the view from the south is a three-story building, although we are hearing there is landscaping adjacent to it, there is a parking lot between the building and it must be 40-50 feet before getting to the landscaping. As the neighbors drive in and out of the area – the Tolbys and the Meltons – they are driving past a three-story tall building which the applicant has said is adjacent to a rural property. The Meltons reject the approval of a three-story building facing the neighbors.

Ms. Bowden said there is a retention pond shown directly in the arroyo for the thirteen lots, and the other retention pond is within the 25 foot setback, both of which seem not to meet Code, commenting this may be why staff recommended denial.

Ms. Bowden said in summary, the Meltons encourage the City to annex the property, and reject the amendment to commercial and an increase to R-4 and request that it be kept at R-1 to R-3, and they reject the proposed development currently before the City.

Steve Martinez on behalf of Global, was sworn. Mr. Martinez lives in Albuquerque, across the street on the south side of another storage facility which the applicant owns. He said the applicant was very transparent and willing to allow his neighborhood association to participate, to see plans, to pick color schemes and such. The applicant has been very cooperative and supportive of his Encanto Village, and has encouraged barbecues and such. He said Mr. Thakur has demonstrated a sense of professionalism with which he was impressed as a homeowner living across the street from Global Storage in Albuquerque. He is very impressed with Mr. Thakur and his business dealing, and is completely open to hearing any criticisms. He answered his questions. He was surprised with low density of traffic at the Global Storage in Albuquerque. He supports Mr. Thakur's efforts to establish a Global Storage in Santa Fe 100%.

Loren Dunbar, was sworn. Mr. Dunbar said he lives right next door to the storage units being built in Albuquerque. He said there are 184 townhouse units, and he has not heard one complaint from them on the new construction happening immediately next door. He said Mr. Thakur worked very closely with them, and had a meeting with them before they broke ground, and everyone was invited. Mr. Thakur showed them what he wanted to do, and they gave comments, and he worked with them. He said the only problem was on the first day they poured concrete. The first day they poured concrete starting at 5:00 a.m., but after discussions with Mr. Thakur, the concrete work didn't start until 7:00 a.m. He said there won't be a lot of traffic, commenting the traffic would have been much heavier with apartment houses or a

restaurant. He said the neighbors think this development is ideal for their unit, and a great idea to have a storage unit and office building adjacent to it.

Lisa Martinez, 3618 Rodeo Lane, was sworn. Ms. Martinez said she lives in a residence directly across the road from the proposed housing subdivision and storage area. She has worked closely with Mr. Thakur in discussing the different options and possibilities for this property, and he has been very responsive in taking time to work with the neighbors, and to find out their interests and desires for the community. She said this is a very rural area, and has always been one of those last few areas in Santa Fe where you are immediately adjacent to the City, but you still feel you're living in the country. She wants to make sure that whatever happens here, that they retain as much of the rural community as possible. She said their lots are larger than typical city lots, and it is nice not to have all of the traffic. She said there has been a significantly higher amount of traffic since the office complex came in.

Ms. Martinez said she is especially concerned about the traffic in the area, noting it is very difficult to get in and out of the complex, especially during peak traffic hours, when there is traffic backup from the Target complex, Sam's Club all the way to Richards Avenue. She believes that will become a significant problem, and they don't want to increase it with a lot of added traffic in and out of the facility. She would be interested in having uses and businesses there which don't increase the traffic.

Ms. Martinez would like the Council to answer some questions with regard to exactly what annexation will mean to the neighborhood. She asked if they would have to cap their wells, give up their septic systems, and would have higher property taxes. She would like someone to speak to this later. She said she appreciates consideration of this request and would ask first and foremost for the Council to keep in mind the residential nature of this area. She is concerned about the proposed ponding areas, noting her house has been flooded once and she doesn't want that to happen again.

Andrew Lucero was sworn. Mr. Lucero said he owns property at 3614 Rodeo Lane, and he is also representing his parents, Max and Mary Lucero, property owners of 4004 Rodeo Lane and his sister Monica Henderson, property owner of 3610 Rodeo Lane. He said he doesn't live there because he is caring for his parents. He said the Chapmans built the offices which really impacted his family. He said there was no opposition because he couldn't attend because his grandfather had passed away. However, if they knew what was about to be developed, he would have been more involved. He said since December 2006, they have attended meeting after meeting, and it is time to stop all of the meetings without the pressure of being invaded by these storage units or any other commercial business. He said Mr. Thakur has changed his mind several times. On March 29 he decided to do C2-PUD in the front on Tract A, and R-3 on the back for Tract B, noting that was with Jennifer Jenkins. He changed again on October 4, and went to C2 and R4, which was very confusing to him.

Mr. Lucero said he attended the Planning Commission meeting in November 2007, but nothing was approved, and regarding the zoning, the lot split as far as he knew. At the time they were discussing draining ponds, paving, sidewalks, utilities and the arroyos. He said "enough is enough," and wants these meetings stopped, and asked the Council to vote this

down. He said you will hear this is the best business to be put there because of low traffic and low water use. He said there is a brand new storage place about 3/10 of a mile from this proposed project.

Mr. Lucero said his research in 2007 with the County revealed that one storage was already approved on Richards going toward the College, and another was to be approved behind Santa Fe Place. He said another property owner near the dinosaurs wants to open a storage. This will be five new storage facilities within a six-mile radius, not including all of those which exist already on Airport Road and on Cerrillos by the Sonic.

Mr. Lucero said what was proposed to the Wagners in the last meeting was to build only homes which would lock-out any businesses from coming into the area in the future. The City and County have zoned this area for low density, and the City staff does not recommend approval of this project. He said if this is approved, it would be an intrusion and an invasion of the neighborhood. He said we have to stop the piecemealing around the City. He said there are places for these kinds of activity, but this isn't one of them. He said the Wagners want to better themselves with what their parents left them.

Mr. Lucero asked that the Council keeping the zoning at R-1 to R-3, which is a fair compromise, and they can build houses on Tract A. He believes they will continue to have meetings to wear down the Council and the neighborhood. He said he still has hope for the "small man," who tries to work hard and to be able to live in the City he grew up in, and to protect the assets his parents left to his sister and him. He said we already have enough vacant office buildings, and there is a brand new storage facility within 3/10 of a mile.

Sujay Thakur, the Developer, 1006 Camino del Gusto, Santa Fe, was sworn. Mr. Thakur said initially he had the lot in front of Genoveva Chavez under contract with the Rodeo Association to develop storage. However, the City wanted to put a park there, and he eventually broke the contract with the Rodeo Association and stopped development on that land. He hopes this is the last iteration of his process to build a storage facility in his neighborhood on Rodeo Road.

Mr. Thakur said there has been some confusion about what they wanted with regard to R-3 and R-4, Commercial. This has been a dynamic event, fluid, and changing ever since they started listening to the needs and desires of the residents. He said initially it was appropriate to zone all of the 4.91 acres as commercial, with outdoor units, which was changed to include the front part of the arroyo to be commercial, and in the back to R-3. However, they decided for the front portion to be totally commercial which was refined to have a C2-PUD, so there would be one specific use to bring before the Council.

Mr. Thakur said the back portion wasn't R-4, because it doesn't fit that, and is actually somewhere between R-3 and R-4, noting three units will be low income housing, which leaves ten lots. He said they have come down a lot from the initially proposed heavy commercial, because of what the neighbors said they wanted. They didn't want commercial behind the arroyo, and the commercial was moved. He said it doesn't make sense to have residences right along Rodeo Road.

Mr. Thakur said he wants to stress is that we are talking about land use, and two things which are pertinent are impact and water usage. He lives in the area and there is a traffic problem in the area, and you can only make a right turn going out of Rodeo Lane and there is not a left turn onto the Lane. He said the Council needs to think about the traffic the office would generate and the water usage it would have. He said office uses parking and isn't specific to an office facility. He said with regard to esthetics, he will make it look like an office building and he is willing to work the neighbors throughout the development process "to ultimately come to what we want."

Mr. Thakur said the infrastructure problems left behind by the Chapmans are things with which Mr. Lucero is dealing, and "that is something that we contend that we are going to take care of with this development. So, it benefits the residents in more ways than one, aside from the traffic, the water usage and whatever else."

Mr. Thakur said it was said there isn't a purposeful ownership of land. He and his parents have lived in Santa Fe since 1990, and plan to move onto one of those lots and this could be a condition of approval. They will be directly behind the storage facility, and they will keep the storage facility and not sell it, so they do have a purposeful ownership of the land. He said throughout the process, his dealing with the neighbors has shown this.

The Public Hearing was closed

Chair Heldmeyer said she has heard that the original two ENNs really addressed different kinds of plans, which was confirmed by the Applicant who said this has been a fluid situation. She asked Mr. Smith to give a history of what zonings and uses were considered at the two ENN meetings which were held.

Mr. Smith said he doesn't have the level of detail to work from memory. The original ENN materials and some of the supplemental ones are attached in the Council packet, and he would have to back to those.

Councilor Heldmeyer said she sees that the two ENN meetings were held on December 6, 2006, and March 26, 2007. She said the first time the Applicant went to the Planning Commission and asked for a C2 zoning, the Planning Commission said it wasn't comfortable with the scope of development which would be allowed in a C2 district. Between the first and second Planning Commission hearings, the Applicant formally amended the Application to C2-PUD and include the preliminary development plan as part of the rezoning application.

Councilor Heldmeyer pointed out that March 29, 2007 is almost a year ago. She is hearing changes have occurred in the application in the ensuing year. She asked at what point do we say that the changes being made are so great that the Applicant has to hold another ENN.

Mr. Smith said there is not a specific rule in the ENN regulations, and staff follows two general rules on that. The first is that if the change to the application is directly in response to accommodate specific input from the neighbors, staff doesn't require a second ENN. The second is always to advise the Applicant they are wiser to err on the side of holding extra,

unrequired meetings, as opposed to not holding those. He said the Applicant testified they attempted to contact neighbors after the C2-PUD change, but he can't document that.

Councilor Heldmeyer said they had a meeting, but it wasn't an ENN. She asked if the request to a change in zoning from R-3 to R-4 would trigger a new ENN if this wasn't something specifically requested by the neighbors.

Mr. Smith said staff's opinion is that any change which increased the intensity over what had been covered by previous neighborhood meetings would trigger a new ENN.

Councilor Heldmeyer ask then why this is before the Council.

Mr. Smith said he isn't sure, but the Applicant said he believes that they did conduct a neighborhood meeting when he changed the residential density. Their view was that the change to the commercial was not to change the intensity. The plans which were presented at the ENN were substantially similar to the official plans which they amended formally into the application. The staff reviewed that, and since the applicant stated he could document that the plans had been presented at a neighborhood meeting, staff didn't require them to go back to the third official neighborhood meeting.

Lou Baker said staff's notes regarding the December 6, 2006 meeting at Genoveva Chavez are on page 155 of the packet, noting she wasn't with the City when the first ENN meeting was held on December 6, 2006. She said Katherine Mortimer was the staff person who attended the ENN. She said on page 157, it indicates that Jennifer Jenkins was the agent at that time. The caption states, "The proposed project, the self storage facility, including indoor climate controls, and traditional storage units to be constructed on 4.9 acre tract, located in the southeast corner of Rodeo Road and Rodeo Lane. The application is to be submitted to the City of Santa Fe for consideration, consisting of a request to annex the property into the City, rezone it to C2-PUD, and amend the General Plan Future Land Use Map to designate the property as community commercial." She said this is the information which was submitted that night to the people attending that ENN meeting.

Ms. Baker said on page 161 is the sign in sheet from the December 6, 2006 meeting, and there are four pages. She said continuing in the packet on page 169, there was a second ENN meeting, and Ms. Jenkins submits a new requirement, the eleven ENN notification guidelines.

Councilor Heldmeyer said then this was submitted at the second meeting, rather than being responsive to what we have in the packet from the first meeting.

Ms. Baker said she tried to give as much information as possible from the file.

Councilor Heldmeyer said then on page 173 is what was handed out at the second ENN – to rezone to R-3.

Ms. Baker said this is correct.

Councilor Heldmeyer said now they are before us with an R-4.

Ms. Baker said that was for Tract B. On October 4, Tract B was approved for a rezone from R-1 to R-4. The applicant initially requested rezone from R-1 to C-2, and the applicant was willing to return to the Planning Commission with a development plan for a C2-PUD. She said she and staff recommended denial based on the intensive use of a C-2 zone. The theory is that if the applicant had received the C-2 zone tonight, for example, they could sell it tomorrow and develop the property under the C-2 zoning.

Councilor Heldmeyer asked if there has ever been an ENN meeting on R-4 residential on Tract B.

Ms. Baker said no.

Councilor Heldmeyer again asked what are we doing here.

Ms. Baker said staff has discussed this, but the ENN requirements are not clear about what triggers an ENN. The applicant met with the community, and sent a letter to surrounding property owners.

Councilor Heldmeyer said what we have is the applicant saying they sent letters, and some of the neighbors met them at the Flying Tortilla, but that isn't the same as an ENN.

Ms. Baker said this is correct.

Mr. Padilla said the R-4 designation was noticed for the Planning Commission meeting on November 1, 2006. He said they were never directed by staff at any point to hold a new ENN meeting. They posted and sent certified mailings, notifications to neighbors and area homeowners association for that meeting. He said the Planning Commission was attended by a number of people who testified this evening. He is concerned that all of a sudden there is a new requirement to have an ENN for that change.

Councilor Heldmeyer said she isn't hearing this a new requirement, but she is hearing that when the intensity of a use increases, particularly when it is not at the request of the surrounding neighbors, that an ENN is needed. Councilor Heldmeyer said one option is to have them to go through the ENN process, but she is ready to vote this evening.

Councilor Ortiz asked what it would take to bring Rodeo Lane to City standards.

John Romero said with regard to curb, gutter, sidewalk, he is unsure, but what is proposed did meet Chapter 14 requirements for the road designation.

Councilor Ortiz has heard this is a private road, but he has also heard it is on the County maintenance scheduled, and asked if it is a County Road or a private driveway.

Mr. Romero said a portion is dedicated to the City, which he recalls was done during the Rodeo Business Park development. And when that developed, they got agreement from the

Tract A portion "of this property to give property." He said the residential lane is being accessed off a private road, so they are not improving that to City, public road standards, but staff is asking them to reserving enough right of way so it may do so, if the western properties choose to develop. He said Rodeo Lane up to the southern boundary of the Rodeo Business Park on the west side is a dedicated road, built to City standards or it is going to be.

Responding to Councilor Ortiz, Mr. Romero said it is now a dedicated road.

Councilor Ortiz asked if it is built to City standards. He recalled that the fight they had on Rodeo Park was whether or not there was legal authority to get the additional access, but not whether it would be built up. He said as far as he knows, the City only has the easement and permission to use it, but the road hasn't been improved.

Mr. Romero said this isn't his recollection. He said when Rodeo Business Park developed, Rodeo Lane from Rodeo Road to the Rodeo Business Park southern property line, they got an agreement with the opposite property which is this one, within that limit, where they both dedicated property to the City. At that time Rodeo Business Park constructed almost to a full typical section, with the exception of sidewalk on the eastern side which they are tasked to do.

Councilor Ortiz said the three buildings proposed have a parking area in the middle of the complex. He asked if there would ever be a point where the parking facility will be inadequate.

Mr. Smith said staff has analyzed the proposed preliminary development plan to document that "we" believe that it does comply with the minimum parking requirements of the Code for the types of uses proposed.

Councilor Ortiz asked if the roads on the proposed residential developments will be built to City standards.

Mr. Smith said the conditions of approval call for a proposal of dedications and offer to dedicate that would allow the residential subdivision proposed on the applicant's property to be served according to private road standards in the interim. If the other property across the private road was to be developed, it would allow to be improved up to City public road standards. Staff's analysis is emphasizing the Planning Commission report by the Land Use Department. While it seems to make sense, if we are looking at the 10 acres immediately served by Rodeo Lane, there is some question in staff's view that the land use patterns show about 40 acres of under developed and undeveloped land south of Rodeo Road. It is not at all clear how those roads might be interconnected with the rest of those 40 acre parcels, and whether that is something which is or is not desirable.

Councilor Ortiz asked what is more intense from the traffic standpoint – the proposed use by this applicant, or the office designation as contained in the Southwest Area Master Plan.

Mr. Smith said it is a technical point of clarification. He said he is unclear how the Southwest Area Master Plan, and he is unclear how that was developed.

Councilor Ortiz quoted from page 2 of the Staff Memorandum, "Staff recommends denial of Global Storage Unit for rezoning. Subject property is designated in the RPA Future Land Use Plan as urban residential, and the City of Santa Fe General Plan as low density residential. However, the Southwest Area Master Plan designation is office." He asked Mr. Smith what is the more intense use from a traffic perspective – these kinds of storage units or office designation as contained within the Southwest Area Master Plan.

Mr. Smith said the Southwest Area Master Plan doesn't actually designate this parcel, or the one directly across Rodeo Lane as office. It designates all parcels going east and west on Rodeo Road for office.

Councilor Ortiz said, "Then what I just read from the staff memo is incorrect then."

Mr. Smith said, "It is. It is stated correctly elsewhere in the report that that part of the report that you're reading is in area."

Councilor Ortiz said, "That's like the \$64,000 paragraph in the staff report. That's the paragraph where staff is recommending denial of this proposal. And you're telling me that the part of that paragraph is incorrect."

Mr. Smith said, "The basis for the report is not affected by that error, Councilor, because what the Southwest Area Plan does show is low density residential, rather than any type of commercial. If the Council would indulge me just a little bit. The Southwest Area Master Plan draft map was prepared in the period of 1999 to 2000 and one in 2002. The EZA has approved some more intense commercial development farther east on Rodeo in the meantime."

Councilor Ortiz asked how many units would this parcel, at 4.9 acres, be able to receive at R-3 zoning.

Mr. Smith said in the vicinity of 12-15, although that is a round estimate, depending on rounding up, terrain, restrictions, etc., as well as the ability to provide water and sewer systems, etc.

Councilor Trujillo said since he came on the Council, we're always talking about preserving neighborhoods, but it is always District 1 and District 2, and pointed out that there are two more Districts in Santa Fe – District 3 and District 4. He hears the people talk about wanting to keep their rural setting which is important in his opinion, especially in District 4 where all of the building is happening. He said if this project was proposed in District 1 or 2, the Chamber would be packed. He understands what the applicant wants to do with the storage units, but he has seen so many storage units being built in District 4. He asked how many more we need.

Councilor Trujillo moved, seconded by Councilor Bushee, to deny the request for rezoning.

Discussion: Councilor Wurzbarger said she wants to understand Mr. Smith's statement

in terms of clarifying the staff report. She worked on the RPA Plan, and it was her perception that the Southwest Area Plan and the RPA are consistent and that this would have been residential resident/office.

Mr. Smith said if she would look at the exhibit passed out by the Applicant, if you look on these designation, the Tracts identified as J, K, L, are shown on the Southwest Area Plan as Office. The tracts designated P,Q,R,S,U,V, W, are designated on the Southwest Area Plan as Office, and that is now formally adopted as part of the City's general plan land use map. The Tracts identified M,N,O Office Condos Global Storage site, for reasons he doesn't understand, were omitted from the Southwest Area Master Plan office designation in the RPA Plan is as staff stated in page 2 of the Staff Report. The City and County staff have tried to work together to get consistency between the three plans, but as staff discovered in researching this case in the last three weeks, we do not have full consistency.

Councilor Heldmeyer said she has been on the Council for eight years, and she is in favor of neighborhood preservation in all four Districts, and believes she voted against the office complex which is right next to this. She said this is a just "in your face," three-story massive building right across the arroyo from existing rural character neighborhoods and is just not appropriate.

The motion was approved on the following Roll Call Vote:

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

Against: None.

Absent: Councilor Chavez

- 4) CONSIDERATION OF BILL NO. 2008-____, ADOPTION OF ORDINANCE NO. 2008- 11. CASE #M-2007-29. GLOBAL STORAGE AND RODEO LANE COMPOUND ANNEXATION OF 4.91± ACRES OF LAND LOCATED AT THE SOUTHEAST CORNER OF RODEO ROAD AND RODEO LANE. (LOU BAKER)**

Councilor Bushee moved, seconded by Councilor Wurzburger, to approve the annexation.

Discussion: Councilor Bushee asked that staff get with the people who had questions about annexation and what that would mean to those in the surrounding area.

Mayor Coss said the applicant might want to withdraw the request.

Mr. Smith said if the Council does proceed with the annexation and does not approve a plan amendment and rezoning, then the property, under Chapter 14 rules, automatically would revert to an R-1 zone when the Plat was recorded.

Mr. Padilla said, after discussion with the property owners and the developer, at this time the Applicant would like to remove any request for annexation and any request for a general plan amendment. He said it is obvious to them that any type of commercial development will not be allowed in this District. He said it is unfortunate because it not a position of "have and have nots." He asked that the City withdraw consideration of the annexation and the general plan amendment at this time.

The maker and second withdrew the motion for approval.

- 5) **CONSIDERATION OF BILL NO. 2008- ____; ADOPTION OF ORDINANCE NO. 2008- 12. CASE #M-2007-09. GLOBAL STORAGE AND RODEO LANE COMPOUND REZONING. PADILLA & ASSOCIATES ARCHITECTS, AGENT FOR THAKUR ENTERPRISES, LLC, REQUESTS REZONING FOR 2.12± ACRES (PROPOSED TRACT A) FROM R-1 (RESIDENTIAL, 1-DWELLING UNIT PER ACRE) TO C-2 PUD (GENERAL COMMERCIAL-PLANNED UNIT DEVELOPMENT) AND FOR 2.79± ACRES (PROPOSED TRACT B) FROM R-1 (RESIDENTIAL, 1 DWELLING UNIT PER ACRE) TO R-4 (RESIDENTIAL, 4 DWELLING UNITS PER ACRE). THE APPLICATION INCLUDES A PRELIMINARY DEVELOPMENT PLAN FOR 5,600 SQUARE FEET OFFICE AND 65,300 SQUARE FEET OF STORAGE FACILITIES. THE TRACTS ARE IS LOCATED AT THE SOUTHEAST CORNER OF RODEO ROAD AND RODEO LANE. (LOU BAKER)**

See Item #4.

- 6) **CONSIDERATION OF RESOLUTION NO. 2008- ____ (COUNCILOR ORTIZ AND COUNCILOR WURZBURGER). A RESOLUTION AMENDING RESOLUTION NO. 2003-106, THE ANNUAL WATER BUDGET ADMINISTRATIVE REGULATIONS AND PROCEDURES, REGARDING THE DESIGNATION OF WATER RIGHTS FOR LOW PRICED DWELLING UNITS. (KATHY McCORMICK). (Postponed at December 12, 2007 City Council Meeting). (Request to Postpone to April 9, 2008 City Council Meeting)**

This item was postponed to the Council meeting of April 9, 2008.

- 7) **CONSIDERATION OF RESOLUTION NO. 2008- ____ (COUNCILOR ORTIZ AND COUNCILOR WURZBURGER). A RESOLUTION DESIGNATING WATER RIGHTS FOR LOW PRICED DWELLING UNITS AND PUBLIC AMENITIES IN THE NORTHWEST QUADRANT AND FOR THE LOW PRICED DWELLING UNIT CREDIT POOL. (KATHY McCORMICK). (Postponed at December 12, 2007 City Council Meeting). (Request to Postpone to April 9, 2008 City Council Meeting)**

This item was postponed to the Council meeting of April 9, 2008.

13. MATTERS FROM THE CITY CLERK

Yolanda Vigil, City Clerk, reminded the public that absentee voting is being conducted in the office of the City Clerk for the election of March 4, 2008, until Friday, February 29, 2008. Anyone with questions can call her office, 955-6520.

17. COMMUNICATIONS FROM THE GOVERNING BODY.

Councilor Calvert

Councilor Calvert introduced a Resolution declaring "Bike to Work Week" as an annual City sponsored event in conjunction with the Santa Fe MPO and the NM Bicycle Coalition. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "7." He asked that it go to BTAC and then the Finance Committee.

Councilor Calvert introduced an ordinance amendment which asks to restrict the maximum height in the RM-1 and RM-2 Districts located around the downtown area to 24 ft. A copy of the ordinance is incorporated herewith to these minutes as Exhibit "8." He asked that it go to the Planning Commission, Public Works and Finance. Councilor Bushee would like to cosponsor the ordinance.

Councilor Dominguez

Councilor Dominguez had no communications.

Councilor Wurzbarger

Councilor Wurzbarger attended a conference on Historic Preservation and Green Building recently, and will be writing a report to share with the Governing Body.

Councilor Trujillo

Councilor Trujillo had no communications, and wished everyone a Happy Valentine's Day.

Councilor Ortiz

Councilor Ortiz said there have been no proposed Living Wage Settlement discussions on the agenda, and he would like that to be placed on the agenda so they can discuss this in Executive Session and give direction to staff. He would like that on the next meeting agenda if possible. He said this is the Arby's Living Wage case.

Mr. Katz said what is happening is that the litigation is proceeding, and if there are settlement offers he will bring them to the Governing Body, but will put it on the agenda.

Councilor Ortiz said we do need closure, and he was charged by the Governing Body to meet [with them], and he has, and the Governing Body needs an update on closing that loop, and give direction to staff as to how we would like to proceed at the next meeting.

Councilor Ortiz said Ms. Beninato presented factual predicates which need to be explored further. He said if there are in fact instances where people applied for a building permit who are not the legal owners, then this needs to be investigated. If there are irregularities or discrepancies in this process, then the Governing Body needs to deal with this. He asked that the City Manager investigate and report back to the Governing Body.

Councilor Ortiz wished everyone Happy Valentine's Day.

Councilor Bushee

Councilor Bushee introduced a resolution recognizing and supporting the efforts of the Santa Fe Civic Housing Authority to construct and operate the Hopewell-Mann Multi-Purpose Community Center. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "9." She asked that the Resolution go to the Economic Development Advisory Committee, and the Finance and Public Works Committee.

Councilor Bushee wished everyone Happy Valentine's Day.

Councilor Heldmeyer

Councilor Heldmeyer said she has no resolutions or ordinances. She said the 610 Galisteo case is very complicated, and many people in her District are very concerned about it. She said the City is very open to people who are trying to do things for themselves, to make housing for themselves, and the reason for the owner/builder category. To hear that the owner/

builder may not be either an owner or a builder is upsetting to her. She said this aspect, in particular needs to be examined. She said there are other aspects of the case about which she has previously sent emails, without any response.

Councilor Heldmeyer thanked new staff who have started working on the transfer of ownership of the property at Gomez and Paseo to Habitat for Humanity, because this will provide an affordable housing unit in the downtown area.

Councilor Heldmeyer said she would like to see some action on the Issue in her neighborhood about home occupation and what constitutes a "real" and a "fake" one, and what kind of inspection and enforcement the City does to ensure someone claiming to have a home occupation really fits the letter of the law. She hopes to see some action on this in the next two weeks.

Mayor Coss

Mayor Coss wished everyone a Happy Snowy Valentines Day.

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 9:45 p.m.

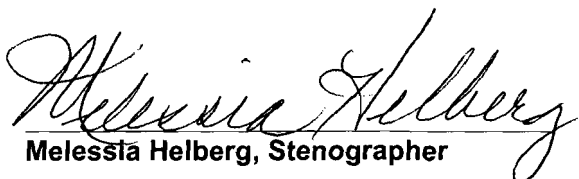
Approved by:

Mayor David Coss

ATTESTED TO:

Yolanda Y. Vigil, City Clerk

Respectfully submitted:


Melessia Helberg, Stenographer