



Agenda REGULAR MEETING OF THE GOVERNING BODY SEPTEMBER 9, 2009 CITY COUNCIL CHAMBERS

AFTERNOON SESSION – 5:00 P.M.

CITY CLERK'S OFFICE

DATE 9-4-09 TIME 1:30 pm

SERVED BY _____

RECEIVED BY Jydominguez

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. SALUTE TO THE NEW MEXICO FLAG
4. INVOCATION
5. ROLL CALL
6. APPROVAL OF AGENDA
7. APPROVAL OF CONSENT CALENDAR
8. APPROVAL OF MINUTES: Regular City Council Meeting – August 26, 2009.
9. PRESENTATIONS
 - a) Employee of the Month for September 2009 – Rakky, Bomb Dog; Police Department. (5 minutes)
 - b) Proclamation – Erik Mason, Immigration Committee. (5 minutes)
(Postponed at August 26, 2009 City Council Meeting)
10. CONSENT CALENDAR
 - a) Bid No. 10/01/B – City Wide Water Utility Pavement Restoration Construction Agreement for Water Division; Advantage Asphalt & Seal Coating. (Bill Huey)
 - b) Bid No. 10/04/B – Rodeo Road Median Landscaping Project Construction Agreement for Engineering Division; Environmental Earthscapes, Inc. (Eric Martinez)
 - c) Request for Approval of Change Order No. 1 – Siler Road Extension Project – Additional Items to Contract; A.S. Horner, Inc. (Desirae Lujan)
 - d) Request for Approval of Budget Adjustment – Police DUI Lot and Fire Station No. 3. (Chip Lilienthal)



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- e) Request for Approval of Professional Services Agreement – Municipal Recreation Complex Advertising and Marketing Services (RFP #09/18/P) for Parks Division; Elevate Media. (Larry Lujan)
- f) Request for Approval of Amendment No. 4 to Memorandum of Agreement – Joint Regional Open Space and Trails Project; County of Santa Fe. (Robert Siqueiros)
 - a) Request for Approval of Amendment No. 4 to Cooperative Project Agreement – Santa Fe Railyard Bikeways and Walkways Project; New Mexico Department of Transportation. (Peter Greene)
- g) Request for Approval of Sole Source Procurement and Professional Services Agreement – Co-Facilitate the Santa Fe Coordinated Community Response Council and Other Services for Police Department; David River d/b/a River Consulting, LLC. (Chief Aric Wheeler)
- h) Request for Approval of Budget Increase – Work Authorization for Unobligated Federal Highway Administration Section 112 Planning Funds; New Mexico Department of Transportation. (Mark Tibbetts)
- i) Request for Approval of Amendment No. 1 to Professional Services Agreement – Services to Promote Public, Educational and Government Access to Cable Television Channel 16; Santa Fe Community College. (Joe Abeyta)
- j) Request for Approval of Professional Services Agreement – City of Santa Fe ADA 1992 Transition Plan Update (RFP #09/28/P); Sally Swanson Architects, Inc. (Joseph Lujan)
 - 1) Request for Approval of Budget Increase – ADA Improvements Fund.
- k) Request for Approval of Sole Source Procurement and Agreement – Software and Support Services for “Enterprise One” Enterprise Resource Planning System Upgrade; Leverage Consulting, LLC. (David Millican)
 - 1) Request for Approval of Budget Increase – Various Funds.



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- l) Request for Approval to Publish Notice of Public Hearing on October 14, 2009:
- 1) Bill No. 2009-44: An Ordinance Amending Section 14-6.3 (C)(1) SFCC 1987 Clarifying the Ownership of Accessory Dwelling Units and Requiring the Recording of Restrictive Covenants for Accessory Dwelling Units. (Councilor Chavez) (Jeanne Price)
 - 2) Bill No. 2009-45: An Ordinance Creating a New Section 14-5.2(M) SFCC 1987 Regarding the Applicability of Special Provisions and Standards of Historic District Requirements to State Capital Outlay Projects Involving New Structures. (Mayor Coss) (Frank Katz)
 - 3) Bill No. 2009-46: An Ordinance Creating a New Article 9-3 SFCC 1987 for the Purpose of Establishing a System of Voluntary Public Financing of Campaigns. (Councilor Ortiz, Mayor Coss, Councilor Wurzburger, Councilor Bushee, Councilor Calvert and Councilor Romero) (Frank Katz, Yolanda Vigil and David Millican)
 - 4) Bill No. 2009-47: An Ordinance Amending Certain Provisions of Article 6-16 SFCC 1987 Regarding the Ethics and Campaign Review Board as it Relates to the Public Finance Code. (Councilor Ortiz, Mayor Coss, Councilor Wurzburger, Councilor Bushee, Councilor Calvert and Councilor Romero) (Frank Katz and Yolanda Vigil)
 - 5) Bill No. 2009-48: An Ordinance Amending Rule 8 of Exhibit A, Chapter 22 SFCC 1987, to Increase the Monthly Sewer Service and Usage Fees by 30.1 Percent Effective January 1, 2010; Thereafter Effective October 1, 2012 the Monthly Sewer Service and Usage Fees Shall be Increased By 4.7 Percent Per Year for Three Years for Residential, Multi-Family and Commercial Customers of the City's Sewer System; and Amending Rule 12, of Exhibit A to Increase the Mass Based Cost of Providing Air to Remove the Chemical Oxygen Demand ("Cod") in Wastewater by 30.1 Percent Effective January 1, 2010; Thereafter Effective October 1, 2012 the Cost Shall be Increased by 4.7 Percent per Year for Three Years. (Councilor Wurzburger) (Bryan Romero)



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- m) Request for Approval of Budget Adjustment for College of Santa Fe Project. (David Millican)
- n) Request for Approval of Budget Adjustment for Parks Maintenance. (David Millican)
- o) CONSIDERATION OF RESOLUTION NO. 2009-_____. (Councilor Dominguez)
A Resolution Amending Table 37, Page 36 of The City of Santa Fe Impact Fees Capital Improvements Plan and Land Use Assumptions, 2007-2012 Regarding Planned Park Improvements Adding New Parks to be Eligible to Receive Impact Fee Funding. (Fabian Chavez)
- p) CONSIDERATION OF RESOLUTION NO. 2009-_____. (Councilor Romero)
Resolution Approving the Santa Fe Watershed Plan; and Authorizing the Implementation of the Santa Fe Watershed Plan. (Dale Lyons)
- q) CONSIDERATION OF RESOLUTION NO. 2009-_____. (Mayor Coss)
A Resolution in Support of Establishing a U.S. Department of Peace and Nonviolence and a New Mexico Office of Peace. (Jeanne Price)
- r) Request for Approval of Platting and Deed Utilized in Donation of Real Estate to National Cemetery Administration of the Department of Veterans Affairs. (Edward Vigil and Chris Ortega)
- s) Request for Approval to Establish Self-Insured Dental Benefit Plan. (Kristine Kuebli)
 - 1) Request for Approval of Administrative Services Agreement for City Of Santa Fe Employees – Third Party Administrative Services for Self-Insured Program; United Concordia Companies, Inc. (Kristine Kuebli)
- t) Request for Approval of Administrative Services Agreement – Third Party Administration Services and Excess Risk Insurance for City Employee Self-Funded Medical Insurance Program; United Healthcare Insurance Company. (Kristine Kuebli)



- u) Request for Approval of 2010 Employee Holiday Calendar. (Kristine Kuebli)
 - v) Request for Approval of 2009/2010 Employee Insurance Benefits Package. (Kristine Kueble) **(Postponed at the July 29, 2009 City Council Meeting)**
11. CONSIDERATION OF RESOLUTION NO. 2009-_____. (Mayor Coss, Commissioner Virginia Vigil and Commissioner Harry B. Montoya)
A Joint Resolution of the Board of County Commissioners of Santa Fe County and the Governing Body of the City of Santa Fe Recognizing Santa Fe's 400th Anniversary and Congratulating the Residents of Santa Fe and Expressing Gratitude to the Surrounding Pueblo Communities for the Commemoration of the Four Hundred-Year Establishment of Santa Fe as a Villa. (Darlene Griego)
 12. CONSIDERATION OF RESOLUTION NO. 2009-_____. (Councilor Bushee)
A Resolution Adopting an Infrastructure Capital Improvements Plan (ICIP). (Robert Romero)
 13. Request for Approval of Contract to Lease 2,500 Acre-Feet of the City's 2009 San Juan Chama Water and to Allow the City to Store its Remaining San Juan Chama Water in Heron Reservoir Through September 30, 2010; United States of America Department of the Interior Bureau of Reclamation. (Claudia Borchert)
 14. MATTERS FROM THE CITY MANAGER
 15. MATTERS FROM THE CITY ATTORNEY
 16. MATTERS FROM THE CITY CLERK

Request for Approval of Nominating Petition Timeline for March 2, 2010 Regular Municipal Election.
 17. COMMUNICATIONS FROM THE GOVERNING BODY

EVENING SESSION – 7:00 P.M.

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE



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- C. SALUTE TO THE NEW MEXICO FLAG
- D. INVOCATION
- E. ROLL CALL
- F. PETITIONS FROM THE FLOOR
- G. APPOINTMENTS
- H. PUBLIC HEARINGS:
 - 1) Request from Allsup's Convenience Stores, Inc., for a Transfer of Ownership and Location of Dispenser License #0844 from Arthur F. Silva and Diana L. Silva, dba Silva Lane, 1352 Rufina Circle, dba Allsup's Convenience Stores, Inc., dba Allsup's Store No. 296, 2640 Agua Fria. (Yolanda Y. Vigil)
 - 2) Request for Approval of Consolidated Annual Performance Evaluation Review (CAPER) Community Development Block Grant (CDBG) 2008/2009. (Melisa Dailey)
 - 3) CONSIDERATION OF BILL NO. 2009-38: ADOPTION OF ORDINANCE NO. 2009-_____. (Councilor Ortiz)
An Ordinance Amending Chapter 14 Land Development Laws and Chapter 26 Affordable Housing SFCC 1987 Relating To Appeals. (Greg Smith) **(Postponed at August 12, 2009 City Council Meeting)**
 - 4) CONSIDERATION OF RESOLUTION NO. 2009-_____.
Case #M 2009-11. Vista Bonitas Phase II General Plan Amendment. Linda Tigges, Agent for Dennis Branch, Requests Approval of a General Plan Future Land Use Map Amendment to Change the Designation of a Total of 2.149± Acres from High Density Residential to Medium Density Residential. The Property is Located on Vacated Access for Calle Griego, South of Rufina Street, North of Airport Road and Zepol Road, and East of Calle Nueva Vista. (Donna Wynant)



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- 5) CONSIDERATION OF BILL NO. 2009-43: ADOPTION OF ORDINANCE NO. 2009-_____.
Case #ZA 2009-03. Vista Bonitas Phase II Rezoning. Linda Tigges, Agent for Dennis Branch, Requests Rezoning of 2.149± Acres from MHP (Mobile Home Park) to R-7 (I) (Residential, Single Family Infill, 7 Dwelling Units Per Acre). The Property is Located on Vacated Access for Calle Griego, South of Rufina Street, North of Airport Road and Zepol Road, and East of Calle Nueva Vista. (Donna Wynant)

- 6) CONSIDERATION OF BILL NO. 2009-42: ADOPTION OF ORDINANCE NO. 2009-_____. (Councilor Romero, Mayor Coss and Councilor Calvert) An Ordinance Amending Section 9-2.9 SFCC 1987 Specifying What Campaign Contributions Shall Not be Used For; and Amending Section 9-2.14 SFCC 1987 Establishing Campaign Contribution Limits. (Yolanda Vigil) **(Postponed to October 14, 2009 City Council Meeting)**

I. ADJOURN

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

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

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

**SUMMARY INDEX
SANTA FE CITY COUNCIL MEETING
September 9, 2009**

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CONSIDERATION OF RESOLUTION NO. 2009-88 A RESOLUTION IN SUPPORT OF ESTABLISHING A U.S. DEPARTMENT OF PEACE AND NONVIOLENCE AND A NEW MEXICO OFFICE OF PEACE	Approved	7-8

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CONSIDERATION OF RESOLUTION NO. 2009- 89. A JOINT RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY AND THE GOVERNING BODY OF THE CITY OF SANTA FE, RECOGNIZING SANTA FE'S 400 TH ANNIVERSARY AND CONGRATULATING THE RESIDENTS OF SANTA FE AND EXPRESSING GRATITUDE TO THE SURROUNDING PUEBLO COMMUNITIES FOR THE COMMEMORATION OF THE FOUR HUNDRED YEAR ESTABLISHMENT OF SANTA FE AS A VILLA	Approved [amended]	9
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MATTERS FROM THE CITY ATTORNEY	None	12
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<u>EVENING SESSION</u>		
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<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
CONSIDERATION OF BILL NO. 2009-43; ADOPTION OF ORDINANCE NO. 2009- 39. <u>CASE #ZA 2009-04.</u> VISTAS BONITAS PHASE II REZONING. LINDA TIGGES, AGENT FOR DENNIS BRANCH, REQUESTS REZONING OF 2.149± ACRES FROM MHP (MOBILE HOME PARK) TO R-7(I) (RESIDENTIAL, SINGLE FAMILY INFILL, 7 DWELLING UNITS PER ACRE). THE PROPERTY IS LOCATED ON VACATED ACCESS FOR CALLE GRIEGO, SOUTH OF RUFINA STREET, NORTH OF AIRPORT ROAD AND ZEPOL ROAD, AND EAST OF CALLA NUEVA VISTA	Approval denied	37-38
CONSIDERATION OF BILL NO. 2009-42: ADOPTION OF ORDINANCE NO. 2009- ____ . AN ORDINANCE AMENDING SECTION 9-2.9 SFCC 1987, SPECIFYING WHAT CAMPAIGN CONTRIBUTIONS SHALL NOT BE USED FOR; AND AMENDING SECTION 9-2.14 SFCC 1987, ESTABLISHING CAMPAIGN CONTRIBUTION LIMITS	Postponed to 10/14/09	38
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**MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
September 9, 2009**

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 September 9, 2009, at approximately 5:00 p.m., in the City Hall Council Chambers. Following the Pledge of Allegiance, Salute to the New Mexico flag, and the Invocation, roll call indicated the presence of a quorum, as follows:

Members Present

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

Members Excused

Councilor Rosemary Romero

Others Attending

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

6. APPROVAL OF AGENDA

Councilor Ortiz asked to postpone Item H(3) on the evening agenda to the meeting of October 14, 2009, and send it back to Public Works to address concerns expressed by the Neighborhood Network and the Old Santa Fe Association.

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

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

7. APPROVAL OF CONSENT CALENDAR

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

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

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

Against: None.

- a) **BID NO. 10/01/B – CITY WIDE WATER UTILITY PAVEMENT RESTORATION CONSTRUCTION AGREEMENT FOR WATER DIVISION; ADVANTAGE ASPHALT & SEAL COATING. (BILL HUEY)**
- b) **BID NO. 10/04/B – RODEO ROAD MEDIAN LANDSCAPING PROJECT CONSTRUCTION AGREEMENT FOR ENGINEERING DIVISION; ENVIRONMENTAL EARTHSCAPES, INC. (ERIC MARTINEZ)**
- c) **REQUEST FOR APPROVAL OF CHANGE ORDER NO. 1 – SILER ROAD EXTENSION PROJECT – ADDITIONAL ITEMS TO CONTRACT; A.S. HORNER, INC. (DESIRAE LUJAN)**
- d) ***[Removed for discussion by Councilor Bushee]***
- e) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – MUNICIPAL RECREATION COMPLEX ADVERTISING AND MARKETING SERVICES (RFP #09/18/P) FOR PARKS DIVISION; ELEVATE MEDIA. (LARRY LUJAN)**
- f) **REQUEST FOR APPROVAL OF AMENDMENT NO. 4 TO MEMORANDUM OF AGREEMENT – JOINT REGIONAL OPEN SPACE AND TRAILS PROJECT; COUNTY OF SANTA FE. (ROBERT SIQUEIROS)**
 - a) **REQUEST FOR APPROVAL OF AMENDMENT NO. 4 TO COOPERATIVE PROJECT AGREEMENT – SANTA FE RAILYARD BIKEWAYS AND WALKWAYS PROJECT; NEW MEXICO DEPARTMENT OF TRANSPORTATION. (PETER GREENE)**

- g) **REQUEST FOR APPROVAL OF SOLE SOURCE PROCUREMENT AND PROFESSIONAL SERVICES AGREEMENT – CO-FACILITATE THE SANTA FE COORDINATED COMMUNITY RESPONSE COUNCIL AND OTHER SERVICES FOR POLICE DEPARTMENT; DAVID RIVER D/B/A RIVER CONSULTING, LLC. (CHIEF ARIC WHEELER)**
- h) **REQUEST FOR APPROVAL OF BUDGET INCREASE – WORK AUTHORIZATION FOR UNOBLIGATED FEDERAL HIGHWAY ADMINISTRATION SECTION 112 PLANNING FUNDS; NEW MEXICO DEPARTMENT OF TRANSPORTATION. (MARK TIBBETTS)**
- i) ***[Removed for discussion by Councilor Bushee]***
- j) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – CITY OF SANTA FE ADA 1992 TRANSITION PLAN UPDATE (RFP #09/28/P); SALLY SWANSON ARCHITECTS, INC. (JOSEPH LUJAN)**
 - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – ADA IMPROVEMENTS FUND.**
- k) **REQUEST FOR APPROVAL OF SOLE SOURCE PROCUREMENT AND AGREEMENT – SOFTWARE AND SUPPORT SERVICES FOR “ENTERPRISE ONE” ENTERPRISE RESOURCE PLANNING SYSTEM UPGRADE; LEVERAGE CONSULTING, LLC. (DAVID MILLICAN)**
 - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – VARIOUS FUNDS.**
- l) **REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON OCTOBER 14, 2009:**
 - 1) **BILL NO. 2009-55: AN ORDINANCE AMENDING SECTION 14-6.3(C)(1) SFCC 1987, CLARIFYING THE OWNERSHIP OF ACCESSORY DWELLING UNITS AND REQUIRING THE RECORDING OF RESTRICTIVE COVENANTS FOR ACCESSORY DWELLING UNITS (COUNCILOR CHAVEZ). (JEANNE PRICE)**
 - 2) **BILL NO. 2009-45: AN ORDINANCE CREATING A NEW SECTION 14-5.2(M) SFCC 1987, REGARDING THE APPLICABILITY OF SPECIAL PROVISIONS AND STANDARDS OF HISTORIC DISTRICT REQUIREMENTS TO STATE CAPITAL OUTLAY PROJECTS INVOLVING NEW STRUCTURES (MAYOR COSS). (FRANK KATZ)**
 - 3) **BILL NO. 2009-46: AN ORDINANCE CREATING A NEW ARTICLE 9-3 SFCC 1987, FOR THE PURPOSE OF ESTABLISHING A SYSTEM OF VOLUNTARY PUBLIC FINANCING OF CAMPAIGNS (COUNCILOR ORTIZ, MAYOR COSS, COUNCILOR WURZBURGER, COUNCILOR BUSHEE, COUNCILOR CALVERT AND COUNCILOR ROMERO). (FRANK KATZ, YOLANDA VIGIL AND DAVID MILLICAN)**

- 4) **BILL NO. 2009-47: AN ORDINANCE AMENDING CERTAIN PROVISIONS OF ARTICLE 6-16 SFCC 1987 REGARDING THE ETHICS AND CAMPAIGN REVIEW BOARD AS IT RELATES TO THE PUBLIC FINANCE CODE (COUNCILOR ORTIZ, MAYOR COSS, COUNCILOR WURZBURGER, COUNCILOR BUSHEE, COUNCILOR CALVERT AND COUNCILOR ROMERO). (FRANK KATZ, YOLANDA VIGIL AND DAVID MILLICAN)**
- 5) **BILL NO. 2009-48: AN ORDINANCE AMENDING RULE 8 OF EXHIBIT A, CHAPTER 22, SFCC 1987, TO INCREASE THE MONTHLY SEWER SERVICE AND USAGE FEES BY 30.1 PERCENT, EFFECTIVE JANUARY 1, 2010; THEREAFTER EFFECTIVE OCTOBER 1, 2012, THE MONTHLY SEWER SERVICE AND USAGE FEES SHALL BE INCREASED BY 4.7 PERCENT PER YEAR FOR THREE YEARS FOR RESIDENTIAL, MULTI-FAMILY AND COMMERCIAL CUSTOMERS OF THE CITY'S SEWER SYSTEM; AND AMENDING RULE 12 OF EXHIBIT A TO INCREASE THE MASS BASED COST OF PROVIDING AIR TO REMOVE THE CHEMICAL OXYGEN DEMAND ("COD") IN WASTEWATER BY 30.1 PERCENT EFFECTIVE JANUARY 1, 2010; THEREAFTER EFFECTIVE OCTOBER 1, 2012, THE COST SHALL BE INCREASED BY 4.7 PERCENT PER YEAR FOR THREE YEARS (COUNCILOR WURZBURGER). (BRYAN ROMERO)**
- m) **REQUEST FOR APPROVAL OF BUDGET ADJUSTMENT FOR COLLEGE OF SANTA FE PROJECT. (DAVID MILLICAN)**
- n) **REQUEST FOR APPROVAL OF BUDGET ADJUSTMENT FOR PARKS MAINTENANCE. (DAVID MILLICAN)**
- o) **CONSIDERATION OF RESOLUTION NO. 2009- 86(COUNCILOR DOMINGUEZ). A RESOLUTION AMENDING TABLE 37, PAGE 36 OF THE CITY OF SANTA FE IMPACT FEES CAPITAL IMPROVEMENTS PLAN AND LAND USE ASSUMPTIONS, 2007-2012. REGARDING PLANNED PARK IMPROVEMENTS ADDING NEW PARKS TO BE ELIGIBLE TO RECEIVE IMPACT FEE FUNDING. (FABIAN CHAVEZ)**
- p) **CONSIDERATION OF RESOLUTION NO. 2009-87 (COUNCILOR ROMERO). A RESOLUTION APPROVING THE SANTA FE WATERSHED PLAN; AND AUTHORIZING THE IMPLEMENTATION OF THE SANTA FE WATERSHED PLAN. (DALE LYONS)**
- q) ***[Removed for discussion by Councilor Chavez]***
- r) ***[Removed for discussion by Councilor Bushee]***

- s) **REQUEST FOR APPROVAL TO ESTABLISH SELF-INSURED DENTAL BENEFIT PLAN. (KRISTINE KUEBLI)**
 - 1) **REQUEST FOR APPROVAL OF ADMINISTRATIVE SERVICES AGREEMENT FOR CITY OF SANTA FE EMPLOYEES - THIRD PARTY ADMINISTRATIVE SERVICES FOR SELF-INSURED PROGRAM; UNITED CONCORDIA COMPANIES, INC. (KRISTINE KUEBLI)**
- t) **REQUEST FOR APPROVAL OF ADMINISTRATIVE SERVICES AGREEMENT – THIRD PARTY ADMINISTRATION SERVICES AND EXCESS RISK INSURANCE FOR CITY EMPLOYEE SELF-FUNDED MEDICAL INSURANCE PROGRAM; UNITED HEALTHCARE INSURANCE COMPANY. (KRISTINE KUEBLI)**
- u) **REQUEST FOR APPROVAL OF 2010 EMPLOYEE HOLIDAY CALENDAR. (KRISTINE KUEBLI)**
- v) **REQUEST FOR APPROVAL OF 2009/2010 EMPLOYEE INSURANCE BENEFITS PACKAGE. (KRISTINE KUEBLI) (POSTPONED AT THE JULY 29, 2009 CITY COUNCIL MEETING)**

8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – AUGUST 26, 2009

MOTION: Councilor Dominguez moved, seconded by Councilor Trujillo, to approve the minutes of the Regular City Council meeting of August 26, 2009, as presented.

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

9. PRESENTATIONS

- a) **EMPLOYEE OF THE MONTH FOR SEPTEMBER 2009 – RAKKY, BOMB DOG, POLICE DEPARTMENT.**

Mayor Coss read the letter of nomination into the record, and presented the Employee of the Month honors and a check for \$200 to Officer Brunk and Rakky, Bomb Dog, Officer Suzanne Brunk said Rakky is a 6 year old Belgian Malinois, and has been a Santa Fe Police for two years.

- b) **PROCLAMATION – ERIK MASON, IMMIGRATION COMMITTEE (Postponed at August 26, 2009 City Council Meeting)**

Mayor read proclamation into the record declaring September 9, 2009, as Erik Mason Day. He thanked Mr. Mason for his service on the Immigration Committee, noting Mr. Mason is leaving the Committee.

Mr. Mason thanked the Mayor and Council and said it is a pleasure to serve a really great City.

CONSENT CALENDAR DISCUSSION

10 (d) REQUEST FOR APPROVAL OF BUDGET ADJUSTMENT – POLICE DUI LOT AND FIRE STATION NO. 3. (CHIP LILIENTHAL)

Councilor Bushee said she pulled this item to thank the Mayor for finally getting to this and to let people know we already have had 5 seizures since last Friday.

MOTION: Councilor Bushee moved, seconded by Councilor Wurzbarger, to approve this request.

VOTE: 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 Wurzbarger.

Against: None.

10 (l) REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT – SERVICES TO PROMOTE PUBLIC, EDUCATIONAL AND GOVERNMENT ACCESS TO CABLE TELEVISION CHANNEL 16; SANTA FE COMMUNITY COLLEGE. (JOE ABEYTA)

Councilor Bushee said she is not on the Finance Committee, and asked, given that we have our own government station, if this is a reduced amount, if we will continue this and if this is something the College will be absorbing, given the City's budget situation.

Joe Abeyta noted the reduction of the contract is from \$105,000 to \$101,000, in keeping with the reduction of Channel 16 last year. He said because it is a pay channel with Comcast, he feels it is in the best interest of the City to stick with the government people running the government channel. He said if we were to take over the education aspect, it means that we would have to "take in any kind of producer who would bring in any kind of materials to play on our channels. He gave the example of the situation in Rio Rancho, where they had to play a parody of the City Council which was done with puppets because it is public access.

Councilor Bushee said she is questioning the need for the City to pay for this.

Mr. Abeyta said it is with Comcast and there is a franchise agreement where the City receives funds from Comcast.

Councilor Bushee would like to tweak the Comcast agreement in view of our financial situation and that we are talking about furloughs.

Mr. Abeyta said this is a two year contract and in two years we can renegotiate the franchise agreement, noting Albuquerque's station operates with \$3.1 million annually for the cable company to play its "stuff."

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

MOTION: Councilor Wurzbarger moved, seconded by Councilor Chavez, to approve the request for approval of Amendment No. 1 to the Professional Services Agreement in the amount of \$101,963.

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

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

Against: Councilor Bushee.

10 (q) CONSIDERATION OF RESOLUTION NO. 2009-88 (MAYOR COSS). A RESOLUTION IN SUPPORT OF ESTABLISHING A U.S. DEPARTMENT OF PEACE AND NONVIOLENCE AND A NEW MEXICO OFFICE OF PEACE. (JEANNE PRICE)

Councilor Chavez said he pulled this to be added as a sponsor, and gave a history of this effort in the nation and in New Mexico, citing the reference points which are the reasons for his willingness to support this Resolution.

MOTION: Councilor Chavez moved, seconded by Councilor Calvert, to adopt Resolution No. 2009-88.

DISCUSSION: Councilor Wurzbarger asked to be added as a co-sponsor, noting this Council previously adopted a similar resolution in which Mary Lou Cook was involved.

VOTE: 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 Wurzbarger.

Against: None.

Explaining her vote: Councilor Bushee voted yes, noting she would like to be a co-sponsor of the Resolution.

Explaining his vote: Councilor Calvert voted yes, saying he is supposed to be a co-sponsor.

10 (r) REQUEST FOR APPROVAL OF PLATTING AND DEED UTILIZED IN DONATION OF REAL ESTATE TO NATIONAL CEMETERY ADMINISTRATION OF THE DEPARTMENT OF VETERANS AFFAIRS. (EDWARD VIGIL AND CHRIS ORTEGA)

Councilor Bushee said she pulled this item to clarify that there will not be a dog park, noting Mr. Tafoya misinformed some members of the public in this regard.

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

VOTE: 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 Wurzbarger.

Against: None.

Explaining his vote: Councilor Trujillo voted yes, saying, although it is a different issue, he doesn't want the City to drop the issue of upright headstones, noting this is not being done – he doesn't want to lose this focus.

Clarification during roll call vote: Councilor Bushee understands residents of on one side of the highway lobbied Senator Domenici to make the change from the upright headstones, and the Department of Veterans Affairs is no longer lobbying for the upright headstones. Mr. Vigil said he was involved with the replatting and the drafting of the deed, and has no new news. Mayor Coss said it is a separate issue and the Department of Veterans Affairs is not allowed to lobby on this, and Congressional action is need to effect this change. Councilor Chavez asked that the Resolution be transmitted to the New Mexico Congressional Delegation which could be the point of contact to lobby for this change.

Explaining his vote: Councilor Chavez noted we inherited the previous decision, and we are now trying to reverse that decision and he doesn't know what is involved, and voted yes.

END OF CONSENT CALENDAR DISCUSSION

11. CONSIDERATION OF RESOLUTION NO. 2009- 89 (MAYOR COSS, COMMISSIONER VIRGINIA VIGIL AND COMMISSIONER HARRY B. MONTOYA). A JOINT RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY AND THE GOVERNING BODY OF THE CITY OF SANTA FE, RECOGNIZING SANTA FE'S 400TH ANNIVERSARY AND CONGRATULATING THE RESIDENTS OF SANTA FE AND EXPRESSING GRATITUDE TO THE SURROUNDING PUEBLO COMMUNITIES FOR THE COMMEMORATION OF THE FOUR HUNDRED YEAR ESTABLISHMENT OF SANTA FE AS A VILLA. (DARLENE GRIEGO)

A copy of a proposed Amendment to the Resolution proposed by staff, is incorporated herewith to these minutes as Exhibit "1."

Councilor Trujillo asked if his proposed amendment is included [Exhibit "1"], and Ms. Griego said the Resolution was drafted at the County and this is the version that came to the City.

Councilor Chavez proposed to amend the Resolution on page 3, line 13, as follows: "~~Indian-Hispano~~ Indio/Hispano..." which would more clearly represent the cultural history.

MOTION: Councilor Chavez moved, seconded by Councilor Trujillo, to approve Resolution No. 2009-89, as amended.

VOTE: 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 Wurzbarger.

Against: None.

Mayor Coss congratulated everyone involved for a great kickoff weekend for the 400th Anniversary celebration.

Councilor Chavez thanked the Parks staff and all staff of the City that assisted in this effort.

12. CONSIDERATION OF RESOLUTION NO. 2009- 90 (COUNCILOR BUSHEE). A RESOLUTION ADOPTING AN INFRASTRUCTURE CAPITAL IMPROVEMENTS PLAN (ICIP). (ROBERT ROMERO)

A Memorandum dated September 9, 2009, to the Governing Body, from Robert Romero, Public Works Director, regarding 2011-2015 Infrastructure Capital Improvements Plan (ICIP), is incorporated herewith to these minutes as Exhibit "2."

Responding to Councilor Bushee, Mr. Romero said he distributed a Memorandum [Exhibit "2"], which addresses the concerns of the Public Works Committee. He said he spoke to Kathy McCormick today and she said a facilities feasibility study was done, which hasn't come to the Council, but it has gone

to Business and Quality of Life and another Committee, and they are recommending removal of the \$97 million for the Santa Fe innovation park because it does not have Council approval. He said the same goes for the Digital Design Media Center on which work has been done at the staff level, but it has not come to the Council.

MOTION: Councilor Bushee moved, seconded by Councilor Calvert, to approve Resolution No. 2009-90, in accordance with the Staff Memorandum of September 9, 2009.

DISCUSSION: Councilor Chavez noted that in 2007 a high priority was the Arts Market, which evaporated. However, there could be a second "bite at that apple" in the design of the Railyard Multi-Modal Depot. His concern is that by removing the Indoor Arts Market completely, that we lose that component completely. He asked if a small part of that program might be incorporated into that facility, and Mr. Romero indicated that the Resolution does indicate that we're moving in that direction.

Mr. Romero said the Resolution does talk about accommodating local arts in the Railyard Multi-Modal Depot that, he believes it still could be covered.

Councilor Chavez would like to attach funding to that and program it into this new facility, that is something that can be done as they design that facility.

FRIENDLY AMENDMENT: Councilor Ortiz said since the main list is for the Legislature, he would like to add Rail Runner noise, sound and visual remediation at \$250,000 for each of next 3 years, under transit, commenting the category should be F-Grants and L-Funds, for a total of \$250,000. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER COUNCILORS.**

Councilor Wurzbarger asked if something is not on the list, such as innovation park which the Business and Quality of Life Committee is interested, if there is no chance for it to be considered until 2015, noting this is the 2011 to 2015. She asked if it can be added at mid-year, or would it have to wait until this Legislative session is over.

Mr. Romero this list is supposed to be all inclusive of any local funds, including grants. He said we only submit the list once a year, so it would have to be submitted in this list again next year, noting they only accept the list once a year, and it has to be done by City Resolution.

Councilor Wurzbarger said interest has been expressed about the idea of an innovation center at the College of Santa Fe. She said we can look at that over the next year, but she doesn't want to wait for 5 years.

Councilor Dominguez said on Consent there was an item dealing with Parks Impact Fees which was approved. He asked, once that process happens, and we want to build a regional park in another part of the Community, does that need to be on this list, noting at this time there isn't a price for that. He asked what opportunities we would have in the future for something like that.

Mr. Romero said it could be added now as a filler, and revise it later, or we could add it next year when we know more about the costs.

FRIENDLY AMENDMENT: Councilor Dominguez would like to add \$1 million for a regional park in Tierra Contenta to the list. Councilor Chavez asked Councilor Dominguez if the park would be in or around Tierra Contenta. Councilor Dominguez said it actually is an activity that is part of the Tierra Contenta Master Plan. Councilor Bushee said it would be friendly to ask staff to come up with something **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND THERE WERE OBJECTIONS BY THE OTHER COUNCILORS.**

FRIENDLY AMENDMENT: Councilor Chavez would like to amend the Railyard Multi-Modal Depot so it is Railyard Multi-Modal Depot/Arts Market. **THE AMENDMENT WAS NOT FRIENDLY TO THE MAKER WHO NOTED THAT WOULD NEED A SEPARATE RESOLUTION, ASKING THAT HE BRING THIS BACK AS A SEPARATE ITEM.**

Councilor Chavez asked if we are "pretty much" at the end of the Siler Road Project, and if additional funds would be needed.

Mr. Romero said it will be complete and open in November, but it may be necessary to come back and do some clean-up in the Spring. He said there are adequate funds to build the project, and for a contingency. He doesn't anticipate the need for additional funding.

Councilor Bushee asked Mr. Romero for a time frame which isn't so tight for next year, if possible.

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

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

Against: None.

13. **REQUEST FOR APPROVAL OF CONTRACT TO LEASE 2,500 AFY [ACRE FEET] OF THE CITY'S 2009 SAN JUAN CHAMA WATER AND TO ALLOW THE CITY TO STORE ITS REMAINING SAN JUAN CHAMA WATER IN HERON RESERVOIR THROUGH SEPTEMBER 30, 2010; UNITED STATES OF AMERICA, DEPARTMENT OF THE INTERIOR, BUREAU OF RECLAMATION. (CLAUDIA BORCHERT)**

A copy of a Draft Press Release regarding this matter is incorporated herewith to these minutes as Exhibit "3."

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

DISCUSSION: Ms. Borchert said she would like to be sure the Council saw the press release she placed on their desks prior to the meeting [Exhibit "3"], and if this item is approved, she will change it from the future to the past tense accordingly.

VOTE: 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.

14. MATTERS FROM THE CITY MANAGER

None

15. MATTERS FROM THE CITY ATTORNEY

None

16. MATTERS FROM THE CITY CLERK

REQUEST FOR APPROVAL OF NOMINATING PETITION TIMELINE FOR MARCH 2, 2010 REGULAR MUNICIPAL ELECTION.

Ms. Vigil noted the timeline for Nominating Petitions for the March 2nd Regular Election is in the packet. Ms. Vigil reviewed the timeline.

MOTION: Councilor Chavez moved, seconded by Councilor Trujillo, to approve the Nominating Petition Timeline for the March 2, 2010 Regular Municipal Election as presented.

VOTE: 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.

18. COMMUNICATIONS FROM THE GOVERNING BODY

A copy of "Bills and Resolutions scheduled for introduction by members of the Governing Body," for the Council meeting of September 9, 2009, is incorporated herewith to these minutes as Exhibit "4"

Councilor Calvert

Councilor Calvert introduced the following:

- A. A Resolution supporting Legislative efforts to amend the New Mexico Indian Arts and Crafts Sales Act in order to increase penalties for violations of the Act. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "5."
- B. An Ordinance amendment regarding development within a special flood hazard area and permitted uses within a floodway. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "6."

Councilor Calvert thanked the 400th Committee for its handling of the weekend festivities. He said he did not receive one complaint and he hopes that will continue through this weekend's festivities.

Councilor Dominguez

Councilor Dominguez said it is the start of the Fiesta season and urged the public to be merry, but to please be very safe and to be very careful in view of the children and other people who may be there who can't get around very well.

Councilor Wurzbarger

Councilor Wurzbarger agreed with Councilor Calvert, saying the 400th activities were wonderful saying she made a corn husk doll.

Councilor Trujillo

Councilor Trujillo agreed with Councilors Calvert and Wurzbarger, and thanked Maurice Bonal, Libby Dover and all the members of the 400th Anniversary committees and all of the City employees for their work. He said he heard only good things.

Councilor Ortiz

Councilor Ortiz introduced a Resolution commemorating St. Michael's 150 years of educating Santa Feans and New Mexicans and declaring October 9-12, 2009 as the celebration. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "7."

He wished everyone Happy Fiestas.

Councilor Ortiz said he supports the efforts the Mayor and Councilor Chavez are making to acknowledge Hispanic Heritage Month, which is mid-September to mid-October, and to build upon the success of the 400th Anniversary Celebration, and the success of the artist's and craftsmen's booths, and in celebration of the cultural heritage and tourism aspects, he would like to ask staff to come up with a plan to allow for the venues here at the Civic Center, outside and inside in the Community Gallery space, in the Plaza and here in the Courtyard, to come up with similar kinds of demonstrative exhibits by local artisans and craftsmen in celebration of Hispanic Heritage Month. He said it would be great if these spaces could be available during the time of the Balloon Fiesta as well. He asked for an FIR report in this regard by the next Finance Committee meeting.

Councilor Bushee

Councilor Bushee said she can speak for all of the Governing Body in saying that the celebration exceeded everyone's expectations. She said it was a really lovely celebration, particularly the cooking and crafts, noting that some of the artisans are the only one left who does a particular thing. She said the celebration was fantastic with good weather and music. She thanked all of the volunteers who worked on this celebration. She hopes this will morph into something we do more regularly.

She said the County Commissioners voted yesterday, among other priorities, to recommend funding of \$2.5 million to continue the River Trail from Frenchly's Park to 599.

Councilor Bushee introduced the following:

- A. An Ordinance change to the H-Ordinance which requires that all new curb and gutters in the City's historic districts shall be earth tone. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "8."

Councilor Wurzbarger asked to be listed a cosponsor of the Ordinance amendment regarding curb and gutter. She suggested there should be language that the sub-contractors are required to sign-off that they realize they have to do this. She knows of four instances this year where subcontractors learned after the fact that this is an issue in the Historic District.

Councilor Bushee said that would be fine. She met with the H-Board Chair and other community preservation people about a new form that City staff is going to complete,

recognizing that everything has to be run through Historic staff, in terms of City projects, so we don't have the same problems we've had in the past.

- B. A Resolution providing for an outreach and education program regarding the proper disposal of pharmaceuticals, and the feasibility of establishing City sponsored disposal options for the public. She asked that SWMA be added to the Tentative Committee Schedule. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "9."

Councilor Bushee wished everyone ¡Viva Fiesta!

Councilor Chavez

Councilor Chavez echoed those in speaking about the success of 400th Anniversary Celebration, saying they knew they could make it a success in the face of all the negative comments and the shoestring budget. He said they did a lot with a shoestring budget. He said kudos to everyone – the Committee, the staff, the volunteers and the public. He said we need to continue to do these things at every possible opportunity. He thanked Councilor Ortiz, Dominguez and Mayor Coss and others for National Hispanic Heritage Month.

Responding to Councilor Chavez, Ms. Vigil said the Resolution introduced on his behalf last week by the Mayor will now show up in committees.

Mayor Coss

Mayor Coss congratulated the 400th Committee, City Staff, volunteers and the community for being such a great place. He appreciated the Motley introduction which was the best introduction during the weekend.

Mayor Coss said, although the introduction list shows he is introducing an Ordinance, he is not ready to introduce the ordinance, and said he is looking for more co-sponsors, and was expecting this to be put forward at the Joint City/County meeting next week. He would rather see it discussed there before he introduces it and moves it through the process.

He wished Councilor Chavez a very Happy Birthday today, and said he is excused from the evening session.

END OF AFTERNOON SESSION AT 6:05 P.M.

EVENING SESSION

A. CALL TO ORDER AND ROLL CALL

The Evening Session was called to order by Mayor David Coss, at approximately 7:15 p.m. Following the Pledge of Allegiance, salute to the New Mexico Flag, and Invocation, Roll Call indicated the presence of a quorum as follows:

Members Present

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

Members Excused

Councilor Miguel Chavez,
Councilor Rosemary Romero

Others Attending

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

F. PETITIONS FROM THE FLOOR

Mayor Coss gave everyone two minutes to petition the Governing Body.

David McQuarie, 2997 Calle Serrada, said he was here to speak on transit but he is changing his petition, to petition the Council to make this Council Room accessible to people with disabilities. He said the Counter on the podium is for the disabled and not for an overhead project, noting he gave it an emblem. He said they should be treated like everyone else and have a regular microphone and they shouldn't have to use a hand held mike. He requested that the Council ask the City Attorney to investigate the Civil Rights laws about communication under the ADA.

Kathryn Lee thanked the Council for their willingness to take on public service and the work they do. She said the 400th Anniversary Celebration this weekend was wonderful and she has never had as much fun, and was glad it was free and has an emphasis for children. She said as a citizen, she believes it her responsibility to speak up when she sees problems. She understands the Council is responsible for bringing the City into fiscal responsibility. She said no one wants their corner to be cut. She said,

however, it is important that you understand that transit is an essential service as much as that of police, fire and solid waste. She said the City has spent the lion's share of the cost in buying the equipment, and running transit is minor in comparison to that cost. She asked that the cuts be made equitably in terms of the effect on the quality of life of the citizens. She said transit actually brings money into the community, in terms of getting people to their jobs, to the stores, and it is important environmentally as well. She uses paratransit which is really being cut in going from service 24/7 to 8-12 hours a day.

Martha Coolin said she echoes Kathryn's sentiments, and strenuously objects to cuts in the cuts in funding for public transportation as an essential service. She said in a time of economic crisis the need for public transit is critical for people to get to ever lowing paying jobs, as well as to their need to buy groceries, health maintenance. She said cuts to public transit at this time is unconscionable. She said, to reduce greenhouse gasses, it is also critical to have public transportation in our efforts to reduce our society's dependence on the individual automobile, and in her mind it is a serious moral and survival issue. She said the accessible buses on the fixed route system and paratransit allow the elderly and disabled persons to get to work and do other essential errands. These groups do not have another option. She said the reduction of services in public transit seems to her to be discrimination against the poor, the elderly and the disabled.

Mary McGinnis said she uses paratransit almost every day. She is glad the Transition Plan has been passed and honored by the Committee. She said the Mayor's Committee members have worked hard to get this done. She has been working with Santa Fe Ride and the Transit Advisory Committee in revising the handbook to make it clear. She said these cuts are very disturbing, and the most terrifying thing is Phase II, where there are situations where there is no transportation every other Friday. She believes it may impact many people. She hopes there will be another opportunity to consider some of the recommendations made by Transit, such as increasing fare, and to try for creative solutions. Her recommendation is to avoid Phase II. She hopes the Council will reconsider and come up with some better and creative solutions.

Nancy Peters said she attended the public hearing last week on proposed the proposed Transit cuts in service. She said you need to consider Transportation as a part of the transition plan to implement the ADA more thoroughly in Santa Fe. She said transportation is one of the means of access to the community, and the ADA is about equal access. She also is concerned about people who work who have disabilities if there is no transportation every other Friday. She said perhaps the City has employees with disabilities, and wonders how the City will work with those employees to find ways to get to work. She agrees with previous speakers that this is an essential service. She said many people who use public transit and paratransit are people who do not have a car, a van with a lift, or cannot afford a car or taxi and are using public transit as a way to get around. They may have an urgent doctor's appointment or need to get to the hospital, or to take their children somewhere. She said people with disabilities have the same needs and issues as the rest of the public, and have the right to get there, as we do. She said cutting transportation is not the best use of the City's efforts to save money. She would like the Council to consider utilizing the suggestions from the public meeting which the 50-60 people in attendance made.

She said people offered to pay higher fees. She said seniors, people with disabilities and the poor want to work with the City and understand that there are budget problems. She said one suggestion would be to assemble a small group of people with disabilities to find out how the City's proposed cuts will impact them. She doesn't believe the Council wants to make decisions which would cut off peoples' employment and health concerns. She said no major services on major holidays, will mean that people without transportation will spend Christmas and Thanksgiving alone at home.

Linda Gonzales said she doesn't use paratransit. She lives ½ mile out of the City, and owns her own vehicle with a lift. She is involved in transportation issues at the state and federal level. She was present when a previous Mayor's Committee tried to get funding for a voucher program for taxis, and later to get the fixed transit system up and running. She said she has returned to Santa Fe after 10 years and her friends got her involved in the squeaky wheels group. She said problems were identified even before the cuts were made. She said other government entities are experiencing issues with public transit and para transit. She said best results happen when you have the opportunity to listen to people who are using the system. She said other programs are funded by the FTA, including the new freedom program, with specific funding for people with disabilities, as well as programs for the elderly. She said there is a real thrust for coordination of effort, which might be too early now for Santa Fe, but there needs to be some coming together to see what resources are available for Santa Fe, the gaps which need to be filled and what funding is available. She said good suggestions were made at the meeting. She said you need to listen to the people who are using the system.

Martha Applegate said she is a retired State social worker, commenting she took her first bus ride last week, and this is her first Council meeting. She hasn't see the plan, only the agenda. She said she would suggested, based on her 25 years in State government, to look at the route usage, noting Cerrillos to downtown has heavy ridership. She said the bus driver said ridership is up because of the Rail Runner. She said this doesn't seem the time to cut public transportation. She suggested smaller buses might be appropriate, as well as condensing routes, with less runs and condensing stops.

Mark Gordon said he works with people with disabilities and said his stepson has a developmental disability and uses the paratransit and bus systems. He said the move in developmental disabilities is to be more included in the community, so his stepson attends the Community College and goes to his work. He commutes on the bus to the Community College and to his job, and that is one of the bus lines which is proposed to be cut back. He said transportation such important piece for people in becoming independent and being included in the community and in having a real life. He agrees with Kathryn, saying he can't see that this is something which should be cut. He said this means the people with whom he has worked, and everything he has taught them can't be used without public transportation. He said he understands cuts have to be made, but he is concerned that everybody doesn't understand what it takes for people to have the courage to become a part of mainstream society. He now learns there are City committees where he can go to be more educated about what is happening. He said people with developmental disabilities really want to have lives, and he wants to make sure people really understand that without public transportation, that will not be possible.

Carol Hempley, said she is the President of Stroke Survivors in Santa Fe. She encourages all members to get as normal a life as possible, and these cuts will make that even more difficult. She said she doesn't understand, in this economy, about doing things which make it more difficult for people to get to their jobs so they can make a living. She said once people leave public transportation, it will be extremely difficult to get them back. She said the City needs to develop an emergency plan for these people with health issues to get these services. She said one lawsuit could wipe out the savings from these cuts.

Linda Jobe said she uses the City bus more than paratransit service for economic reasons. She said she sees many people in wheelchairs and on scooters on the street trying to get to and from places, because they have missed the bus, or don't understand how the bus runs, or know that there are lifts on all the buses. She said they now really won't get it with these cuts and will be on a street coming waiting for a bus which won't come. She said she can't imagine how she would manage without public transportation. She extended an invitation to any member of the Governing Body to spend a day in the life of someone in a wheelchair or scooter. She said they will be given a free scooter or wheelchair for the day by the person who owns "Able To Scoot," on Cerrillos. She asked if someone will volunteer tonight, to follow her for a day or a few hours.

Nancy Gaman said she sent her message to the Governing Body via email, and read her message into the record with regard to her opposition to the budget cuts and the impact on people with disabilities of the cutback in fixed route services. She said the suggestions made by the ridership at the recent public hearing were thoughtful and there is broad support for an increase in fares.

G. APPOINTMENTS

City Business and Quality of Life Committee

Mayor Coss made the following appointment to the City Business and Quality of Life Committee:

Catherine E. Zacher – to fill unexpired term ending 03/2010.

MOTION: Councilor Wurzburger moved, seconded by Councilor Bushee, to approve the appointment.

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

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

Against: None.

Sustainable Santa Fe Commission

Mayor Coss made the following appointments to the Sustainable Santa Fe Commission:

Mariel Nanasi – to fill unexpired term ending 05/2012;
Bianca Sopoci-Belknap – to fill unexpired term ending 05/2012; and
Avree Fe Koffman – to fill unexpired term ending 05/2010.

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

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

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

Against: None.

Board of Adjustment

Mayor Coss made the following appointments to the Board of Adjustment:

James Brack – Reappointment – term ending 09/2012; and
Rachel L. Winston – Reappointment – term ending 09/2012.

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

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

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

Against: None.

H. PUBLIC HEARINGS

- 1) **REQUEST FROM ALLSUP'S CONVENIENCE STORES, INC., FOR A TRANSFER OF OWNERSHIP AND LOCATION OF DISPENSER LICENSE #0844, FROM ARTHUR F. SILVA AND DIANA L. SILVA, D/B/A SILVA LANE, 1352 RUFINA CIRCLE TO ALLSUP'S CONVENIENCE STORES, INC., D/B/A ALLSUP'S STORE NO. 296, 2640 AGUA FRIA. (YOLANDA Y. VIGIL)**

The staff report was presented by Yolanda Vigil, noting the business is not within 300 feet of a church or school, and requesting that the business be required to comply with all City ordinances. She said staff anticipates no traffic impacts due to the approval of this request.

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

MOTION: Councilor Wurzbarger moved, seconded by Councilor Bushee, to approve the request from Allsup's Convenience Stores, Inc., for a transfer of ownership and location of Dispenser License #0844, from Arthur F. Silva and Diana L. Silva, d/b/a Silva Lane, 1352 Rufina Circle, to Allsup's Convenience Stores, Inc., d/b/a Allsup's Store No. 296, 2640 Agua Fria.

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

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

Against: Councilor Ortiz and Councilor Calvert.

2) REQUEST FOR APPROVAL OF CONSOLIDATED ANNUAL PERFORMANCE EVALUATION REVIEW (CAPER) COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) 2008/2009. (MELISA DAILEY)

Melisa Dailey presented information regarding this matter from the materials in the Council packet.

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

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

DISCUSSION: Councilor Wurzbarger said she still is waiting for reports from Homewise and the Housing Trust with regard to all funds received and the possibility of duplication. She wants to see this report, and doesn't understand the reason it wasn't on the last agenda. She would like clarification from staff following the meeting.

Councilor Bushee would like an audit or analysis so we can be sure we are being as efficient as possible, and it gets more and more critical as to how these funds are disbursed.

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

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

Against: None.

Abstain: Councilor Bushee.

- 3) **CONSIDERATION OF BILL NO. 2009-38; ADOPTION OF ORDINANCE NO. 2009- ____ (COUNCILOR ORTIZ). AN ORDINANCE AMENDING CHAPTER 14 LAND DEVELOPMENT LAWS AND CHAPTER 26, AFFORDABLE HOUSING, SFCC 1987, RELATING TO APPEALS. (GREG SMITH). (Postponed at August 12, 2009 City Council Meeting)**

This item was postponed to the meeting of October 14, 2009

- 4) **CONSIDERATION OF RESOLUTION NO. 2009- 91. CASE #M 2009-11. VISTA BONITAS PHASE II GENERAL PLAN AMENDMENT. LINDA TIGGES, AGENT FOR DENNIS BRANCH, REQUESTS APPROVAL OF A GENERAL PLAN FUTURE LAND USE MAP AMENDMENT TO CHANGE THE DESIGNATION OF A TOTAL OF 2.149± ACRES FROM HIGH DENSITY RESIDENTIAL TO MEDIUM DENSITY RESIDENTIAL. THE PROPERTY IS LOCATED ON VACATED ACCESS FOR CALLE GRIEGO, SOUTH OF RUFINA STREET, NORTH OF AIRPORT ROAD AND ZEPOL ROAD, AND EAST OF CALLE NUEVA VISTA. (DONNA WYNANT)**

Items H(4) and H(5) were combined for purposes of presentation, public hearing and discussion, but were voted upon separately.

Memorandum dated August 27, 2009 for the City Council Meeting of September 9, 2009, with attachments, to the City Council from Donna Wynant, Senior Planner, Current Planning Division, is incorporated herewith to these minutes as Exhibit "10."

A copy of a letter dated September 9, 2009, to Mr. Dennis Branch, from Stan Holland, Engineer, Wastewater Management Division, with attached letter and Plan Set from Walker Engineering dated September 9, 2009, regarding Vistas Bonitas, Phase One, submitted for the record by Dennis Branch, is incorporated herewith to these minutes as Exhibit "11."

A Memorandum dated June 23, 2009, with attachments, to Morey Walker, Engineer, from Stan Holland, Engineer, Wastewater Management Division, regarding Vista Bonitas Phase One – Wastewater Division field inspection conducted on June 23, 2009, submitted for the record by Leroy Romero, is incorporated herewith to these minutes as Exhibit "12."

Discussion Prior to Staff Report and Public Hearing

Ms. Wynant said before presenting the staff report, she received a request from the applicant this evening for a possible postponement of tonight's hearing due to some recent concerns that have been raised from one of the City departments, and asked to defer to the applicant to further explain the request. She said the applicant is requesting additional time.

Councilor Bushee said she heard from constituents with regard to problems in Phase 1, and asked if this case was ready to be heard and she got no response. She went to the City Manager's Office, but she doesn't understand the reasons for a postponement. She noted the Council has heavy agendas through October.

Linda Tigges, Tigges Planning Consultants, was sworn.

Councilor Bushee said she would like to hear from the staff person who is seeking the postponement.

Ms. Wynant said this is something which just arose which has to do with bonding of sewers through the City department, relating to a conversation between Stan Holland and the applicant, and she didn't know about this until this evening. Responding to Councilor Bushee, Ms. Wynant said the postponement is being sought by the applicant

Councilor Dominguez said then staff didn't know about this until recently, and asked if the applicant knew about the condition previously. He said it seems as if this is something which should have been resolved long ago.

Ms. Wynant again asked to defer to the applicant for an explanation.

Ms. Tigges said she has been working for some time with Stan Holland to correct some of the problems with the sewer in Phase 1. She said what is before the Council this evening is regarding Phase 2, but the concerns about the sewer in Phase 1 came up in the neighborhood meetings. She said the applicant received a letter today from Mr. Holland with the conditions he wanted the applicant to follow. She said subsequently the issue arose of whether or not there is adequate bonding available for those improvements. She said, "What Stan referred to was that in fact, there was not adequate bonding for

those improvements. And rather than have a condition that would relate to that, that may not be acceptable to the Council, we would like to make sure that both the conditions regarding the sewer and the bonding are in order, and it takes a little while to sort out the bonding.”

Councilor Dominguez said these are the kinds of things that need to be addressed before it gets to this stage. He said the Council has heard this case previously with a different density and intent. He said there are members of the public in attendance who are ready to talk, and he believes it would be a disservice to them to postpone this until the next meeting. He said if we are going to base this case on its merits, then we should have that discussion tonight.

Dennis Branch, P.O. Box 4520, Santa Fe, NM 87502 was sworn. Mr. Branch said he really doesn't know if this is an issue. He said Stan Holland, Wastewater Division has been on site and in contact with him for the last 2-3 weeks. He said he received a letter from Mr. Holland about 4:00 p.m. today [Exhibit "11"], and doesn't know whether this is an issue. He said Mr. Holland indicated that he spoke with members of the public as well as to Councilor Dominguez with regard to the issue of the bond.

Mr. Branch said, “We didn't even realize that it was an issue, and it may not be. We talked, in our discussion with staff, and they said that can be worked out internally, but we don't really know that. So, it's really up to you guys if you think it's an issue. It seems like, prematurely, the sewer may have been approved when the bond was reduced. We're always going in for reductions through the Engineer on our bonds, as in any subdivision, and now there's a question because we're making changes in the sewer, whether we need the bond for that portion. I think the questions were brought up by Stan as well as some of our Councilors. So, really if we think that's not a big issue, and it doesn't affect Vistas Bonitas 2, then I think we can proceed forward. But, if it is, we can resolve it by not exactly... today we resolved exactly what Wastewater wanted and now we'll have bids on that in a week or two and be able to determine whether he approves that specific and then we bond up for the additional amount.”

Councilor Dominguez said, “I disagree that this is something new. It was actually articulated a little bit in the Planning Commission meeting minutes that there was a potential problem with the sewer infrastructure. And so, to try to pin this on staff I don't think is fair. Staff is responding and staff is reacting and rightfully so in the proper way. I think that this not a new issue, so I'm ready to hear the case tonight.”

Mayor Coss said he is hearing from the Council that the consensus among the Council is to go forward with the hearing this evening , and given that the public is here and our next few meetings will have crowded agendas, he believes we should proceed.

Staff Report

The staff report was presented by Donna Wynant which is contained in Exhibit "10."

Recommendation: The Planning Commission, on 7/2/09, recommended approval of the request for General Plan Amendment from High Density Residential to Medium Density Residential and Rezoning from MHP (Mobile Home Park) to R-7(I) Residential, Single Family Infill, 7 dwelling units per acre) based upon Approval Criteria in Sections 14-3.2 and 3.5 SFCC 2001, respectively, and in compliance with requirements as provided in the following City Department review Memos:

- Public Works Dept- Traffic Review Memo: 4/28/09 PC Staf Memo (Exhibit B) and 6/22/09 Staff Memo (Exhibit D)
- Fire Dept. Review Memo: 4/28/09 PC Staff Memo (Exhibit C)
- Technical Review Division – Engineer Review Memo 4/28/09 PC Staff Memo (Exhibit D)
- Wastewater Division Review Memo: 4/28/09 PC Staff Memo (Exhibit E)
- Public Works – Stormwater Division Review Memo: 4/28/09 PC Staff Memo (Exhibit F)
- Affordable Housing Review Memo: 4/28/09 PC Staff Memo (Exhibit G)

If the Council approves the request on both items, the applicant will submit for preliminary and final subdivision plat approval from the Planning Commission. Prior to submittal for final plat, the plan must comply with requirements as provided by the various City Departments. The project will include 17 lots ranging from 5,000 to 6,000 square feet in size.

Public Hearing

Presentation by the Applicant

Ms. Tigges said the Applicant was before the Council in November 2008, and the Council approved the increase from medium density to high density and to deny the application for the rezoning from Mobile Home Park to RM-21 which would have allowed 31 units per acre. She said they listened to the Council's concerns and revised the plan accordingly. They went to the Planning Commission, and the Planning Commission asked for additional neighborhood meetings which the applicant held. The Planning Commission then approved the application and the applicant is now coming back to the Council for approval.

Ms. Tigges demonstrated the subject site using enlarged drawings, noting it is a long, narrow piece of land which is the former access to the Roadrunner Mobile Home Park, and is located next to Phase One of the Vista Bonitas Subdivision.

Ms. Tigges said the situation is that the access to Roadrunner became unnecessary when Calle Griego came in from the North and Calle Nueva Vista from the South. The parcel was a private road which

had never been dedicated to the City because it didn't meet City standards. She said the situation for the Roadrunner Mobile Home Park was what to do with that piece of property that they no longer needed and how to keep it from becoming a problem to the neighborhood. It had been paved, but was private and not accepted by the City. It was also a problem for the developer of Vistas Bonitas [then Vegas de Bonitas], now Phase 1. The land had drainage problems, and even though it was blocked-off, people insisted on using it, and there was a huge pothole in it – it was a nuisance. One suggestion from the neighborhood was to leave it alone and do nothing. The problem is that people will use it, there are drainage problems, and the problems with any piece of property left alone with no use. She said leaving it alone doesn't seem to be adding to the quality of life in the area. Ms. Tigges said one of the things they heard loud and clear from the City Council was that it wanted the quality of life to be improved and you wanted additional open space to be considered.

Ms. Tigges said the next suggestion from the neighborhood was to return it to its use as a road. She said they met with John Romero and the neighborhood, and his comment was that it wasn't appropriate for a road and didn't meet City standards. She said, from a planning point of road, making it a road would be a problem. If it were turned into a road, some units in Phase 1 in Calle Nueva Vista would have double frontage which isn't an optimum situation and wouldn't improve the quality of life for those lots.

Ms. Tigges said another suggestion from the neighborhood is to make it into a park. She said it would be a difficult site because it is long and narrow. The asphalt would have to be removed by the City, the drainage problems would have to be fixed and the City really doesn't have the money. She said they are unsure what kind of park it would be, noting a dog park was suggested, but that would not improve the quality of life for the people who back on it.

Ms. Tigges said the fourth alternative, not suggested by the neighbors, is that it is zoned Mobile Home Park and could be used for mobile homes, but they are unsure that would improve the quality of life there.

Ms. Tigges said the developer of the adjacent property suggested changing the zoning from MHP to R-7, which would address the Council's concerns to have larger lots and more open space. She said this evening the applicant is not requesting a number of units, nor a subdivision. They are asking for something they believe will improve the quality of life for the people who live there, which is to reduce the density allowed under the general plan and to reduce the zoning from the original proposal from 21 units to R-7 which is the zoning allowed throughout the area.

Ms. Tigges said several things arose in the neighborhood meetings, noting they had one ENN without staff and one with staff, John Romero, to discuss the drainage problem. They met with a representative of the Sierra Vista Mobile Home Park and discussed the sewer problems from the very beginning with staff. She said they aren't suggesting that staff was a problem. She said they had lots of meetings with Stan Holland. She said the conditions are available – for traffic, sewer and conditions relating to the adjacent property, noting they believe these conditions contribute to the quality of life. Ms. Tigges said the one issue which was not resolved is the bonding, and the reason they brought it up.

Ms. Tigges said the application is for Phase 2, and they would like permission to go to the Planning Commission with R-7 zoning, saying she is sure the Planning Discussion will have a full discussion regarding the number of units and infrastructure.

Speaking to the request

Mayor Coss said each person will have 3 minutes to speak to the request.

Leroy Romero, 5316 Circita del Norte, Lot 55, was sworn. Mr. Romeo distributed copies of a document to the Governing Body [Exhibit "12"]. He said the developer and his agent will say that this memorandum I just passed out has nothing to do with this case. He said it has everything to do with this case, because it demonstrates the "deception of not willing to follow the rules and regulations set forth by the City." He said he is guilty of the same. He has lived in the City for 30 years and he erected a shed not knowing he needed a building permit, and he now has to go "through the hoops to do it right." He said he can claim ignorance of the rules one time, but the developer has been doing this for many years and knows the rules and regulations as stipulated by the memorandum.

Mr. Romero said some of his neighbors will speak about the deception. He said the Memorandum from Stan Holland is like opening a "whole box of pandoras." There is substandard electric and sewage on several lots which we will inherit.

Mr. Romero noted the minutes of the Council meeting of October 29, 2008, indicate Councilor Calvert asked about a temporary remedy of the problem with regard to the pond created by the drainage, and Mr. Branch said he probably could pump it onto some of his empty lots. Mr. Romero noted the color photographs in Exhibit "12," shows what that "lake" looks like today – full of water with mosquitos and commented that we will have the migrating ducks again.

Mr. Romero said in the same meeting, Councilor Romero asked about a park, and since then, the developer has graded the weeds from the area and now we have a mountain of weed debris in the proposed park, along with a new generation of six-foot weeds where his dog can get lost. He said although there have been complaints to the City, nothing has been done to resolve the issue.

Mr. Romero said this Governing Body "has a fiduciary duty to the constituents and the City in general, to protect it from the Pandora's box in front of you. A kiss and a promise from Mr. Branch will not suffice the obligation he has as the developer to do the right thing. Just because it is on paper, that doesn't mean it will happen. Just because there are conditions from Stan Holland, that does not mean it will happen." He asked the Council to look at the original development plan, saying Mr. Branch had full knowledge, but still continued with the same behavior of doing things substandard.

Mr. Romero said, "He [Mr. Branch] has established his own reputation of not wanting to follow the rules. You just go to the website and look at the journal archives. They're there and public and he's been doing it for years. This is another attempt to filibuster to postpone this." He asked the Council to do the right thing, what is right for the City, saying he doesn't want to inherit another mess.

Rose Block, lot 54 in Vista Bonitas. Ms. Block said she purchased a home one year ago with assurances, thinking that, "It's been inspected by the City. Everything should be fine. Then the sewer pump came forward right before closing and I had never heard of what a grinder pump was. I went to the developer and his representative and again, I got assurances that everything was going to be all right, so I proceeded to buy my home." She said less than a year later, the grinder pump went out for two weeks, leaving her without water and sewer facilities for two weeks. She said the pump was repaired. She later learned that her pump doesn't meet Code, that she shouldn't be sharing it with her neighbor, and that there are more serious problems with the sewer system in her development.

Ms. Block said her pump is working right now, but she wonders when it will fail again, noting she can't go back to the developer to get it repaired. She feels deceived and that Mr. Branch sold her a "bum house," and did it knowing what she was getting and she feels very betrayed.

Ms. Block said she is here to appeal to the Mayor and Council to make "this gentleman accountable. Don't approve any more of his finagling developments until he makes ours right. Till he goes back to the people he's already sold houses to, and satisfies us that we're not going to have essential services breaking." She is here to ask that "you hold him accountable, because he's done us a disservice."

Sandy Dawson said she has lived in Santa Fe for 48 years, and at age 52, she bought her first home, and never expected such problems with a new home. She said she was told about the grinder the week before closing, and was told the grinder pushes the sewer back up to the street to the City line. She said the grinder is on her land, Lot 50 and her neighbor's land, Lot 49. She was told that the deed would indicate that she and her neighbor would share expenses if anything happened to the grinder. She said she didn't like the idea, but was told it was too late to change lots, that it wouldn't be a problem and all the neighbors at the end of the street had them. She had already sold her trailer and felt she had no other choices. Ms. Dawson said she is now being told by Dennis Branch that the grinder serves only her house, but according to the City Engineer's letter this is not true. She feels Mr. Branch is leaving her liable for both houses. She said after the neighbor's pump broke, she finds that it is supposed to be a dual pump system, but it is only a single pump system, and the grinder is substandard.

Ms. Dawson presented photographs to the Council. *[NOTE: the photographs were not entered for the record]*. She said during the winter she noticed a "permanent icicle" coming down her roof which was bubbling off the stucco. She called the builder and she was told it was not a problem. She said, "The pitched roof was coming into here and it was accumulating right here, so come the spring rains.... Let me mention also that this room was full of stuff, like I had just moved in, so it was full top to bottom of stuff."

So, I come to start moving out some of my stuff, I kind of discover this whole wall is soaked, the floor is soaked. This whole inside wall had to be removed, had to be... the sheetrock had to come down. It had to be cleaned for mold... a brand new home cleaned for mold. It had to be reinsulated, re-sheetrocked, textured and repainted.

M. Dawson said another problem is her front door. She saw the original plans which Mr. Branch gave the Governing Body, had a tiny porch, but none of them have the porches. She said as a result the pitched roof dumps rain and snow right at the front door which is a hazard for anybody that comes to her house when it's snowing. She said there is no gutter system at all.

Ms. Dawson said, "And let me also just go back to this one for a minute. After this was fixed 2-3 month ago, the rain is still beating down the front, so it's not fixed still. This should be running off and running down into the driveway, and it's still not fixed. I myself, will be a year next month, and I can't even trust for them to come back and fix it, because it won't get fixed."

Ellen Klein, 5301 Circita del Sur was sworn. Ms. Klein said she was one of the first residents of the subdivision, and she is not here to oppose the change in zoning. She said she and others are here to talk about the subdivision problems and their concerns. She said one of hers is that they just built 5 new houses across the street, and she understands that two are built too close to the sewer easement. She was told that if there is a problem with the trunk line to which they are built too close, that the house may have to be destroyed in order to service it. This is obviously of concern to her. She said we are all here "for the reason that the subdivision is not built as it was portrayed to us, and that the services would be included and would be functioning, so we feel that going on with Phase 2 would be unwise, when Phase 1 has not been built properly, and there are problems with that that need to be addressed."

Rebuttal by the Applicant

Dennis Branch said the neighbors haven't seen the letter from Stan Holland and that we've been working on the sewer issue. He said he purchased the subdivision which he didn't develop, which originally had 35 grinder pumps. He said the adjoining subdivision, developed by Matt O'Reilly, had 20 grinder pumps. He said during the course of developing the property, "we" met with Wastewater trying to get rid of grinder pumps. He said everybody tries to get rid of them if possible, because they do have problems. At that time, they raised the level of both subdivisions to eliminate as many as possible. He said the City had failed to record some of its own easements, so they gave additional easements to Wastewater and we recorded the plat 6-12 months ago. He said at that time he had gotten to the point where they eliminated all but 8 grinder pumps from the original 60-70 grinder pumps, which made both Wastewater happy, as well as himself happy.

Mr. Branch said, "Any time you have a grinder pump, you always... the neighbor signs that they understand this is a grinder pump, this is what it does, this is how it works. The contractor that put in the

plumbing and the grinder pumps, which was inspected and approved by the City, put in a Zoeller pump, and almost all of the County has Zoeller pumps." He said the City Wastewater Division prefers the Environmental-One, which is a different pump. He said they realized that has to be done after the failure of one pump. He said at the time the pump failed for the two residences, it was difficult. He said they gave them the key to the model home to use every day. He said when they repaired it, they had to have a pump flown in. He said then they had the additional pump rebuilt so there is an additional pump available.

Mr. Branch said he and Mr. Holland have discussed in the past 2-3 weeks that he wants a certain, specific pump, because it's easy to remove and replace. He said 5-10 years in the future when we're not around, somebody has to repair these, and even though it's not Mr. Holland's problem, it becomes the problem of the City of Santa Fe. He said, "We agreed to that. You have a copy of the letter of agreement. So, we are going to take and replace the four Zoeller pumps with eight of the E-1 pumps the City prefers and has been asking developers to install for the last 4-5 years."

The Public Hearing was closed

Councilor Wurzbarger asked a clarification on the number of lots which will require a pump out of the 17 lots.

Mr. Branch said, "No lots."

Councilor Wurzbarger asked why we are talking about pumps. So, no lots, and this was only an explanation of what happened previously for the people who had a problem with that.

Mr. Branch said they understood it to be a problem when he purchased the subdivision, so he spent another \$150,000, lifting the lots as much as possible.

Councilor Wurzbarger said but they weren't all lifted up to the point of not having to have a pump and indeed they were offered the pump offered by the County which isn't acceptable to the City, but these 17 lots would have no pumps, and it's all direct line connection from each house to the sewer.

Mr. Branch said they would have no grinder pumps and it is all direct line connection from each house to the sewer.

Councilor Dominguez asked staff, regarding the sewer, if they are anticipating that this application will be independent of any sewer system, and it won't be connected to any part of Phase one whatsoever.

Ms. Wynant said they haven't gotten into the details of the preliminary and final subdivision plat review.

Councilor Dominguez said then there is a possibility that this project may not be independent in itself, in terms of the sewer system.

Greg Smith said we don't have the final details at this point, but he did work on previous phases when they were before the Council for annexation and rezoning. He said staff does not have specific sewer plans from the new phase at this point, so he can't state with certainty. He said it likely that they will tie into the same public sewer lines which were built and are in the process of being dedicated to the City on Phase 1.

Councilor Dominguez said then right now we have Phase 1 which potentially could tie into the public sewer and we have this application which could be tying into the same line.

Mr. Smith said Phase 1 has constructed public sewers which will be dedicated and accepted by the City for maintenance. He said the problems discussed in Phase 1, relate to the private sewers that were constructed for some of the sewer in Phase 1, but not to the public sewers.

Councilor Dominguez asked if we know, once the issues are resolved in Phase 1, how they will impact the public system into which it will be feeding.

Mr. Smith said staff anticipates no impacts, noting they do have a memorandum from Wastewater Engineer Stan Holland to the Planning Commission, dated March 20, 2009, indicating that he will work with the subdivision review process. He said the new phase will go back to the Planning Commission for preliminary and final subdivision plans. He said Mr. Holland's memorandum indicates that the details of the sewer can be resolved with the subdivision hearings at the Planning Commission.

Councilor Dominguez asked the reason why Mr. Holland is wanting to request that there be no further reductions in the financial guarantee.

Mr. Smith understands that Mr. Holland wants to be sure that the private sewer portion of Phase 1 is corrected before the financial guarantees for Phase 1 are released.

Councilor Dominguez asked if there are adequate funds in the financial guaranty to resolve that, and Mr. Smith said he can't say so with certainty.

Councilor Dominguez referred to page 10 of the packet, E discusses the ability of existing infrastructure to support infrastructure in the area as rezoned. He said there is a comment about that which says, based on the information found in the staff report, the Commission finds that the proposed rezoning will not have a significant impact on the infrastructure. However, in the Planning Commission packet, page 64, Item 4, there is a response by the applicant, but no response from staff. He said he is confused. He said either staff concurs or not.

Mr. Smith said staff concurs that the basic infrastructure has been found significant to handle the additional phase. He said Engineer Holland's Memorandum of March 20, 2009, which is in the packet is significant to handle the additional phase. He said Land Use staff has relied on that Memorandum and that opinion in recommending approval of this case.

Councilor Dominguez asked how a house can be built on a sewer easement, and how he can be assured that this won't happen again.

Mr. Smith said he is unsure we have the staff or technical expertise to address this question. He said he concurs with Mr. Branch's earlier statement that at the time of the annexation and rezoning and the subdivision hearings before the Planning Commission for Phase 1, a different contractor, a different property owner was involved other than Mr. Branch. He said Mr. Branch apparently purchased the Phase One subdivision while it was in process, and he can't provide the details of that, nor can he provide details of exactly the magnitude or the reason why there was a problem with locating sewer easement in Phase One. He said had staff anticipated these details would arise, staff would have made sure Mr. Holland or someone from Wastewater was at the hearing tonight.

Councilor Dominguez noted he is looking at the documents provided by the Applicant, and Item #2 talks about houses on lots 73, 74 and 75, and he has nothing to which he can correlate that.

Mr. Smith reiterated that staff didn't anticipate details of Phase one coming up at the meeting. He said Ms. Tigges has indicated she has an exhibit showing the location of the lots from Phase One, but there is nothing in the packet showing this. He apologized, saying staff didn't expect this level of detail on the Phase 1 problems.

Councilor Dominguez said he has experience in living in a development where it has been articulated that the developer will remedy issues. His experience is that it takes a lot to get those issues remedied. He said as a Councilor, it is incumbent on him to ensure that promises made are kept before he can support other opportunities.

Councilor Calvert quoted from page 51 of the packet, "The City has not yet fully accepted the Vista Bonitas Phase One project," and further, "Mr. Branch will have to build the subdivision to what the plan shows, before the City will fully accept the project." He asked if this is in direct reference to the sewer issues.

Mr. Smith said he believes it is a reference to the sewer issue in Phase 1, although he can't say with certainty.

Councilor Calvert asked if Mr. Holland was requested to attend tonight's meeting, since this seems to be the focal point of the discussion, that would have been nice.

Mr. Smith reiterated again that he didn't anticipate this level of detail would be sought by the Council. He said staff does make every effort to be sure the appropriate staff are available to answer questions. He said he was unaware that this issue was unresolved until he saw the letter this afternoon.

Councilor Calvert said these are all things which are proposed, but none have been done.

Mr. Smith said all he can say from Mr. Holland's letter is that these things are in the process of being resolved acceptably. He said he is relatively certain, given the testimony tonight, even without conditions of approval, that the Planning Commission will ensure that the issues on Phase 1 are resolved before it will approve a plat for Phase 2.

Councilor Calvert noted there is no comment from Solid Waste, noting at one of the ENN meetings there was a question as to whether some of the driveway configurations would be accessible to the automated pick up.

Mr. Smith said he would concur with response from staff at the ENN meeting, it is unlikely that there will be access up the private driveways. The configuration of units at the end of a private driveway that is not accessible is a configuration similar to those which have been approved in several Tierra Contenta subdivisions.

Councilor Calvert said then it will have to be wheeled out to the street and Mr. Smith said this is correct.

Councilor Calvert asked the location of the City-owned property referenced on packet page 41, and Ms. Tigges demonstrated the location on the plat.

Mr. Smith said this initially was a private access which connected to a very short section of public street along the south boundary at the south corner of the Roadrunner West Mobile Home Park. He said when Phase 1 was constructed, the emergency access across the property proposed to be rezoned tonight was abandoned and fell into disrepair, thus the "black hole" referenced in the Planning Commission testimony. That also involved, in addition to the private property, a 50 ft. wide ROW which had been dedicated to the public by the Mobile Home Park subdivision..

Responding to Councilor Calvert, Mr. Smith said the City, according to Section 14-8.14. Impact Fees, the City does not collect stormwater impact fees.

Councilor Calvert said we might want to think about doing that.

Councilor Calvert quoted from #11 on page 24, "2. Provide a Stormwater Management Plan demonstrating how stormwater pollutants will be reduced prior to stormwater entering the MS-4 and/or waters of the United States. Show the planned and existing storm drains on the SWMP." He asked if this also includes the construction phase.

Mr. Smith said yes, there are detailed City and federal regulations about stormwater pollution prevention plans during construction, and this is a relative standard provision.

Councilor Calvert said he wants to make sure that it is clear that it includes the construction phase as well.

Councilor Calvert referred to page 6 of the packet, where it cites the provisions which were used by the Planning Commission on which to base its decision. He quoted from 6(e) "Contribution to a coordinated, adjusted and harmonious development of the municipality which will, in accordance with existing and future needs, best promote health, safety, morals, order, convenience, prosperity or the general welfare as well as efficiency and economy in the process of development." He said they are saying that this development will actually improve the quality of life and clear up some problems. He wants to make sure that this will actually do that and it doesn't create other problems that would reduce the quality of life. We need to look at all of these if we are going to cite these justifications.

Councilor Ortiz referred to packet page 80, and asked if the depth of this subdivision is 50 feet. Ms. Tigges said this is correct. Councilor Ortiz asked the depth of the Vista Bonitas Phase 1, noting it looks to be at least three times as deep in Phase 2.

Councilor Ortiz asked the depth of Phase 1 as compared to Phase 2, saying it appears to be three times as deep. [Ms. Tigges' response here is inaudible, because she was not at the microphone.] Councilor Ortiz said it is three times, and could be four times as deep.

Councilor Ortiz said in looking at the surrounding properties as classified in the City's General Plan, this has a current zoning of Mobile Home Park, and you want to change it to moderate density.

Ms. Tigges said they are reverting back to the original density which is medium density.

Councilor Ortiz said the original density was Mobile Home Park, and right now there is a MHP density and Ms. Tigges said this is correct.

Councilor Ortiz said the zoning for some portions of Vista Bonitas Phase 1 are low density, and Ms. Tigges said yes.

Councilor Ortiz, referring to page 80, noted it is yellow on one side of the proposed Phase 2, and Mobile Home Park on the other, and asked Ms. Tigges the location of the medium to moderate density in this area – what is the justification for the requested zoning.

Ms. Tigges said the justification is that it would accommodate zoning, and there is no justification based on the adjacent property.

Councilor Ortiz said, based on that, he is opposed to the general plan amendment and thinks it would be more appropriate to have the general plan amendment to be in conformance with the surrounding property, which would be low density, 3-7 dwellings per acre, and on this basis, he will vote to deny this application, because that is not before the Council.

MOTION: Councilor Ortiz moved, seconded by Councilor Wurzburger, to deny the request for a General Plan Amendment based upon the inconsistency with the City's General Plan.

DISCUSSION: Councilor Bushee said there is nothing on drainage in the Staff Report.

Mr. Smith said the City's policy is to require on-site ponding for every phase of every subdivision. He said it would be feasible to employ that same strategy on Phase 2 of this development. He said the details of the drainage are anticipated to be worked out with the subdivision plan. He said there has been some schematic review by the Drainage and Subdivision staff, and he believes that the technical review staff has left the details of that system analysis until they have subdivision plat applications.

Councilor Bushee said her concern is due to the existing "lake" issue, and asked if that is something which staff would address up front with this parcel.

Mr. Smith said the testimony and the staff review of the ENNs is that staff has said the lake apparently is partly due to the failure to install and maintain drainage ponds on the adjoining mobile home park to the east. He believes staff would likely work out those details of making sure that those corrections by the neighboring owner are done, and it also could be addressed by staff at the subdivision level rather than at zoning.

Mr. Smith said, a point of order with regard to the motion, if the Council is more comfortable approving a lower designation, the City Attorney has advised in previous cases, is that if it is advertised for a higher density it may be approved at a lower density without readvertising the hearing. So, the procedural option, if Mr. Katz agreed, would be for the Council to approve a general plan amendment change to a lower density rather than a change to a medium density.

Councilor Bushee asked the plan for the City's property, and Mr. Smith said he doesn't know.

Councilor Bushee asked the issue with the black hole.

Mr. Smith said he is relying on the testimony by the applicant and staff at previous meetings. It appears that after the emergency access became disused, it was not maintained and the stormwater from this property and likely from the adjoining property to the east, created a pond in the middle of that emergency access easement. He said the emergency access was required by the City to be improved by a condition of approval for the Roadrunner West Mobile Home Park. It became unnecessary when Rufina Street was connected and when Phase 1 of the subdivision were completed – those obviated the need for an emergency access.

Responding to Councilor Bushee, Mr. Smith said it is his understanding that Mr. Branch had owned the property when it was used as an emergency access, but he believes Mr. Branch could testify more viably to the ownership.

Councilor Bushee said, as an easement, it was never required to be dedicated to the City as an access point.

Mr. Smith said it was recorded as an easement at the time the Roadrunner Mobile Home Park was created and dedicated. It was created as an emergency easement. He would have to research it to be certain. He said the staff and Planning Commission encouraged the two property owners to work together when Phase 1 was built. At the time of annexation and zoning at Phase 1, the owner of Phase 1 at the time testified that he had been unable to negotiate a consolidated development plan which included the 50 ft. strip of property which is now Phase 2.

Councilor Wurzbarger, referring to Mr. Holland's June 23rd memo, asked if the sanitary sewer for the subdivision has still not been accepted, and Mr. Smith said this is correct. She asked if any of the tests have been done. Mr. Smith said he is unaware to what level the testing has been done on the various portions, public and private.

Councilor Wurzbarger quoted from the Memorandum, "Further the manhole connection for the four properties indicates that only one pressure service line serves four lots. The single line was not build to City standards." She asked if changes have been made to bring this to City standards so it can be accepted, and Mr. Smith doesn't know the answer.

Councilor Wurzbarger asked if the issues in the June 23rd memorandum have been addressed.

Mr. Branch said Mr. Holland's memorandum of today discusses those issues, and he has spent quite a bit of time at the site doing dye tests and investigating what easements they really have. He said there is no sewer easement underneath Lots 73, 74 and 75. He said the City had an old easement it failed to record when this plat was recorded, long before he bought the property.

Councilor Wurzbarger said she wants to know if the City has a sewer line that will work for the project. She said this is a key question for her, and needs further clarification from the staff. She said she can't support this project at this point for this reason as well as the issue brought up by Councilor Ortiz.

Councilor Calvert said then the problem with the remediation of the ponding water has nothing to do with this project, and whether or not this project goes forward, the adjacent property owner will correct that.

Mr. Smith said the subdivision improvements proposed for Phase 2 will eliminate the pond at the current location, and the sink hole will be eliminated by the grading and the retaining walls which will be constructed with this phase. The detailed drainage plan for Phase 2 will identify, with certainty how much of the problem comes from on site water on Phase 2 and how much comes from the adjacent property to

the east. To the extent that the ponding is caused by inadequate drainage on the Mobile Home Park, the improvements proposed for the subdivision in Phase 2 likely will block that drainage and return it to its source. He said the final details of grading and drainage have not been reviewed in detail by staff for Phase 2 at this point.

Councilor Calvert said he thought we had an agreement with Sierra Vista to do certain things that they have undone on their property, but it that isn't the case, that's fine.

Mr. Smith said he was unaware of the June 22nd Memorandum from Sierra Vista, and they have agreed to remedy drainage problems which were identified on their property.

Councilor Calvert, quoting from page 49, "The neighbors were very concerned about drainage," and the paragraph ends with Mr. Branch suggesting that "if such concerns exist then perhaps the neighbors would get together and hire a professional engineer to solve the problem." He asked Mr. Branch if this is his recommendation.

Mr. Branch said he has an engineer, and works with the City Engineer. He said in some cases, neighborhoods do get together and hire their own because they don't believe what we're saying, so that was a suggestion he made. He said he will do whatever the City eventually tells him to do.

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

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

Against: None.

- 5) **CONSIDERATION OF BILL NO. 2009-43; ADOPTION OF ORDINANCE NO. 2009- 39. CASE #ZA 2009-04. VISTAS BONITAS PHASE II REZONING. LINDA TIGGES, AGENT FOR DENNIS BRANCH, REQUESTS REZONING OF 2.149± ACRES FROM MHP (MOBILE HOME PARK) TO R-7(I) (RESIDENTIAL, SINGLE FAMILY INFILL, 7 DWELLING UNITS PER ACRE). THE PROPERTY IS LOCATED ON VACATED ACCESS FOR CALLE GRIEGO, SOUTH OF RUFINA STREET, NORTH OF AIRPORT ROAD AND ZEPOL ROAD, AND EAST OF CALLE NUEVA VISTA. (DONNA WYNANT)**

MOTION: Councilor Ortiz moved, seconded by Councilor Wurzburger, to deny the rezoning request.

DISCUSSION: Councilor Ortiz said if this item comes back, in order to be consistent with the surrounding zoning, he will be looking to the depth of the lots. He said if the developer comes back with low density residential and asking for the same R-7, you are asking for the same R-7 at a time where the depth of your

lot is 1/3 of the size of the other surrounding lots. He wants the developer to know this will be a factor in his thinking when you come back to the Council on a request.

Mayor Coss asked if a motion to rezone is denied, if there is a time limitation to come back to the Council.

Mr. Smith said Section 14-3.5(5)(b)(6) provides, "Once a rezoning application has been denied by the governing body after a public hearing, a like or similar rezoning application for the same property shall not be filed within twelve months from the date of denial by the governing body, unless the applicant can establish before the Planning Commission that there has been a substantial change in conditions and circumstances surrounding the request which would warrant a reconsideration of the matter."

Councilor Wurzbarger said if this comes back for consideration, would be whether there is a capable sewer system as well as the issue of water and drainage. She understands that the City requires gutters and downspouts on buildings.

Councilor Dominguez said it would be wise for the developer to make sure that he delivers on the promises he has been made.

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

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

Against: None.

- 6) **CONSIDERATION OF BILL NO. 2009-42: ADOPTION OF ORDINANCE NO. 2009- ____ (COUNCILOR ROMERO, MAYOR COSS AND COUNCILOR CALVERT). AN ORDINANCE AMENDING SECTION 9-2.9 SFCC 1987, SPECIFYING WHAT CAMPAIGN CONTRIBUTIONS SHALL NOT BE USED FOR; AND AMENDING SECTION 9-2.14 SFCC 1987, ESTABLISHING CAMPAIGN CONTRIBUTION LIMITS. (YOLANDA VIGIL) (Postponed to October 14, 2009 City Council meeting)**

This item is postponed to the Council meeting of October 14, 2009.

I. ADJOURN

The was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 9:10 p.m.

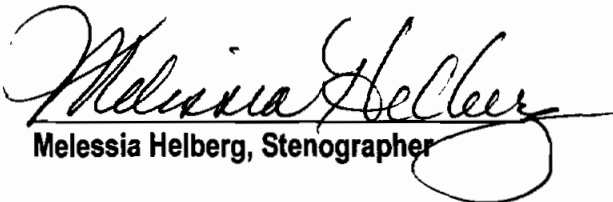
Approved by:

Mayor David Coss

ATTESTED TO:

Yolanda Y. Vigil, City Clerk

Respectfully submitted:


Melessia Helberg, Stenographer