



Agenda REGULAR MEETING OF THE GOVERNING BODY JANUARY 9, 2008 CITY COUNCIL CHAMBERS

AFTERNOON SESSION – 5:00 P.M.

CITY CLERK'S OFFICE
DATE 1/4/08 TIME 4:50pm
SERVED BY _____
RECEIVED BY Hydominguez

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. INVOCATION
4. ROLL CALL
5. APPROVAL OF AGENDA
6. APPROVAL OF CONSENT CALENDAR
7. APPROVAL OF MINUTES: Reg. City Council Meeting December 12, 2007
8. PRESENTATIONS
 - a) Employee of the Month for January 2008 – Nick Dominguez, Maintenance Worker and Eric Romero, Equipment Operator – Solid Waste. (5 minutes)
 - b) Introduction of Economic Development Director and Housing Staff. (Kathy McCormick) (5 minutes)
 - c) Proclamation – St. Michael's Horsemen State Football Champions. (5 minutes)
 - d) Presentation on Health Security Act. (Mary Feldblum, Ph. D., Executive Director, The Health Security for New Mexicans Campaign) (10 minutes)
9. CONSENT CALENDAR
 - a) CONSIDERATION OF RESOLUTION NO. 2008-_____. (Mayor Coss)
A Resolution Repealing Resolution No. 2007-1 Relating to the Open Meetings Act; Adopting the State of New Mexico Open Meetings Act by Reference; and Adopting Notice Requirements. (Yolanda Y. Vigil)
 - b) Bid No. 08/08/B – Frenchy's Park Renovation; Sequoia Landscaping, Inc. (Ben Gurule)
 - 1) Request for Approval of Budget Increase – Project Fund.



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- c) Bid No. 08/13/B – Police Department Renovation; Samcon, Inc. (Chip Lilienthal)
- d) Bid No. 08/14/B – Franklin Miles Park Concession Building; Weil Construction, Inc. (Mary MacDonald)
 - 1) Request for Approval of Budget Increase – Project Fund.
- e) Request for Approval of Amendment No. 2 to Professional Services Agreement – Rugby Fields Phase II Design Services; Morris Surveying Engineering, LLC. (Mary MacDonald)
 - 1) Request for Approval of Budget Increase – Project Fund.
- f) Request for Approval of Change Order No. 2 – Transit Facility Expansion; ESA Construction, Inc. (Mary MacDonald)
- g) Request for Approval of Archaeological Funding to Archive Artifacts From Plaza During the Building of Bandstand/Gazebo; Museum of New Mexico. (Chip Lilienthal)
- h) Request for Approval of Memorandum of Agreement – Annual Household Hazardous Waste Drop-Off Day; Santa Fe County, City of Santa Fe and Santa Fe Solid Waste Management Agency. (William DeGrande)
- i) Request for Approval of Amendment No. 4 to Professional Services Agreement – Recycling Services for Household Hazardous Waste Day; EnviroSolve, LLC. (William DeGrande)
- j) Request for Approval of Change Order No. 2 to Construction Contract – El Rio Road Trail Improvement Project; Concrete Rose Construction. (David Chapman)
- k) Request for Approval of Change Order No. 1 – Installation of Fare Validation Systems for Transit Buses; Arizona Bus Sales Corporation. (Jon Bulthuis)
 - 1) Request for Approval of Budget Adjustment – Grant Fund.



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- l) Request for Approval of Professional Services Agreement – Affordable Housing Homebuyer Assistance Services (RFP #08/03/P). (Kathy McCormick)
 - 1) Homewise, Inc.
 - 2) Santa Fe Community Housing Trust.
- m) Request for Approval of Professional Services Agreement – March 2008 Municipal Election Services; Melessia Helberg. (Rosalie Cardenas)
- n) Request for Approval of Capital Cooperative Agreement – Road Improvements on Airport Road from Cerrillos Road to NM 599 and Road Improvements at Intersection of Zia Road and Rodeo Road; 2007 Legislative Appropriations; New Mexico Department of Transportation. (Desirae Lujan)
 - 1) CONSIDERATION OF RESOLUTION NO. 2008-_____.
A Resolution in Support of a Capital Cooperative Agreement with the New Mexico Department of Transportation 2007 Legislative Appropriations for Transportation Projects within the City of Santa Fe.
 - 2) Request for Approval of Budget Increase – Project Fund.
- o) Request for Approval of Professional Services Agreement – Housing Innovation Programs; Santa Fe Community Housing Trust (RFP #08/03/P). (Kathy McCormick)
- p) Request for Approval of Memorandum of Understanding – International Conference on Creative Tourism; New Mexico Tourism Department. (Tom Maguire)
 - 1) Request for Approval of Budget Increase – Grant Fund.
- q) Request for Approval of Professional Services Agreement – Meeting Planner Services for International Conference on Creative Tourism (RFP #08/16/P); Recursos de Santa Fe. (Tom Maguire)
- r) Request for Approval of Joint Powers Agreement – Day Reporting Program for Juveniles; Santa Fe County. (Richard DeMella)
- s) Request for Approval of Professional Services Agreement – Juvenile Justice Services; Youthworks. (Richard DeMella)



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- t) Request for Approval of Amendment No. 4 to Professional Services Agreement – Santa Fe Civic Center; Museum of New Mexico, Office of Archaeological Studies. (Martin Valdez)
- u) Request for Approval of Professional Services Agreement – EPCR System for Electronic Data Collection for Ambulance Runs for Fire Department (RFP #08/14/P); ESO Solutions. (Brian Caldwell)
- v) Request for Approval of Professional Services Agreement – Ambulance Billing Services (RFP #08/15/P); ESO Solutions. (Brian Caldwell)
- w) Request for Approval of Amendment No. 1 to Professional Services Agreement – Rail Line Upgrade and Realignment; Santa Fe Southern Railway, Inc. (Frank Romero)
- x) Request for Approval of Economic Development Project Participation Agreement – Santa Fe Farmers’ Market Institute. (Frank Romero)
- y) Request for Approval of Amendment No. 2 to Cooperative Project Agreement – Santa Fe Railyard Bikeways and Walkways Project; New Mexico Department of Transportation. (Frank Romero)
- z) CONSIDERATION OF RESOLUTION NO. 2008-_____. (Councilor Trujillo, Councilor Chavez, Councilor Dominguez and Councilor Calvert)
A Resolution Establishing a Restricted Cash Account and Related Liability Account for the Santa Fe Wastewater Management Closure and Post-Closure Fund to Provide Funds for Future Closure, Post Closure, Phase I and Phase II, and/or Corrective Action Costs. (Bryan Romero)
- aa) CONSIDERATION OF RESOLUTION NO. 2008-_____. (Councilor Dominguez and Councilor Trujillo)
A Joint Resolution Directing City and Public School Staff to Prepare Recommendations for the Governing Body and the Board of Education Regarding Housing on School Property for Police Officers; and to Direct Staff to Examine and Make Recommendations for the Placement of a Police Officer on Each of Our High School Campuses. (Kathy McCormick and Chief Eric Johnson)
- bb) Request for Approval of 2008 CIP Bond Issue Projects. (Robert Romero)



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- cc) Request for Approval of Appointment of Precinct Officials for the March 4, 2008 Regular Municipal Election. (Yolanda Y. Vigil)
 - 1) Request for Approval to Extend City Clerk's Hours on February 26, 2008 from 5:00 p.m. to 9:00 p.m. to Allow Precinct Officials to Vote Absentee for the March 4, 2008 Regular Municipal Election.

- dd) Request for Approval of Lease Agreement – Airline Terminal Building Counter and Floor Space at Santa Fe Municipal Airport; Pacific Wings Airlines d/b/a New Mexico Airlines. (Jim Montman) **(Postponed at the November 28, 2007 City Council Meeting)**

- ee) Request for Approval of Change Order No. 4 – Police Impound Yard Improvements; V.P. Construction. (Chip Lilienthal)

- ff) CONSIDERATION OF RESOLUTION NO. 2008-_____. (Mayor Coss)
A Joint Resolution Establishing a Food Policy for the City of Santa Fe and Santa Fe County; and Creating the City of Santa Fe and County Advisory Council on Food Policy. (Bill Tallman and Terrie Rodriguez)

- 10. CONSIDERATION OF RESOLUTION NO. 2008-_____. (Councilor Ortiz)
A Resolution Recognizing and Awarding Public Service Tenure by Non-Bargaining Unit Employees With 23 or More Years of Public Safety Service With the Santa Fe Police or Fire Department or Non-Bargaining Unit Employees With 27 or More Years of Service With Other City of Santa Fe Departments; Providing an Accelerated Retirement Benefit for Public Safety Non-Bargaining Unit Employees That is Comparable With Police and Fire Collective Bargaining Agreements; and Creating a New Personnel Rule to be Consistent With This Resolution. (Kristine Kuebli) **(Postponed at the December 12, 2007 City Council Meeting)**

- 11. Status of The Crossing Master Plan and the Governor Miles Business Park Master Plan. (Jack Hiatt)

- 12. MATTERS FROM THE CITY MANAGER

- 13. MATTERS FROM THE CITY ATTORNEY

- EXECUTIVE SESSION:
 - a) Proposed Settlement of the City of Santa Fe vs. Laubo Corp.; Pursuant to §10-15-1 (H) (7) NMSA 1978.



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14. Action Regarding the Settlement of the City of Santa Fe vs. Laubo Corp. (Alfred R. Walker)
15. MATTERS FROM THE CITY CLERK
16. COMMUNICATIONS FROM THE GOVERNING BODY

EVENING SESSION – 7:00 P.M.

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE
- C. INVOCATION
- D. ROLL CALL
- E. PETITIONS FROM THE FLOOR
- F. APPOINTMENTS
- G. PUBLIC HEARINGS:
 - 1) Request from Dinky, Inc., for a Restaurant (Beer & Wine) Liquor License to be located at Celebrations at Village West, 1620 St. Michaels Drive. (Yolanda Y. Vigil)
 - 2) Request from Commonwealth Loretto Operating, Inc., for a Transfer of Ownership of Dispenser License #661 from Loretto Associates, LLC to Commonwealth Loretto Operating, Inc. The License will Remain at the Inn and Spa at Loretto, 211 Old Santa Fe Trail. (Yolanda Y. Vigil)
 - 3) Request from The Inn of the Five Graces, LLC for a Restaurant (Beer & Wine) Liquor License to be Located at The Inn of the Five Graces, 152 East De Vargas Street. (Yolanda Y. Vigil)
 - 4) Request from Mauka, Inc., for a Restaurant (Beer & Wine) Liquor License to be located at Mauka, 544-B Agua Fria. (Yolanda Y. Vigil)



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- 5) CONSIDERATION OF BILL NO. 2007-55: ADOPTION OF ORDINANCE NO. 2008-_____. (Mayor Coss and Councilor Chavez)
An Ordinance Amending Chapter 14 SFCC 1987 Land Development Laws and Section 18-11.3 SFCC 1987 Lodgers' Tax Regarding the Short Term Rental of Dwelling Units. (Jeanne Price) **(Postponed at December 12, 2007 City Council Meeting)**

- 6) CONSIDERATION OF BILL NO. 2007-58: ADOPTION OF ORDINANCE NO. 2008-_____. (Councilor Calvert, Councilor Wurzburger and Councilor Bushee)
An Ordinance Amending Chapter 7 Regarding Building and Related Codes; Adopting the 2006 International Building Code, The 2007 International Residential Building Code, The 2006 International Existing Building Code, The 2006 Uniform Mechanical Code, The 2006 Uniform Plumbing Code, The 2008 National Electric Code and Other Related Codes as Amended by the State of New Mexico and City of Santa Fe (Jack Hiatt)
 - a) CONSIDERATION OF RESOLUTION NO. 2008-_____. (Councilor Calvert and Councilor Wurzburger)
A Resolution Readopting Fee Schedules for Building Permits, Electrical Permits, Mechanical/Gas/Plumbing Permits, Sewer and Sign Permits. (Jack Hiatt)

 - b) Request for Approval of Budget Increase – General Fund.

- 7) CONSIDERATION OF RESOLUTION NO. 2008-_____. (Councilor Chavez)
A Resolution Adopting the "Impact Fee Capital Improvements Plan and Land Use Assumptions, 2007-2012" to Meet the State Required Impact Fee Program 5-Year Update as Called for in the State Development Fees Act (§5-8-30 NMSA 1978). (Reed Liming)

- 8) CONSIDERATION OF BILL NO. 2007-64: ADOPTION OF ORDINANCE NO. 2008-_____. (Councilor Chavez)
An Ordinance Amending Section 14-8.14 1987 Regarding Impact Fees and Adding a New Impact Fee Schedule. (Reed Liming)

- 9) CONSIDERATION OF BILL NO. 2007-63: ADOPTION OF ORDINANCE NO. 2008-_____. (Councilor Calvert and Councilor Bushee)
An Ordinance Creating a New Rate Schedule 10 of Exhibit B, Chapter 25 SFCC 1987 Establishing a Special Charge for all Water Service Customers in Order to Fund Water Conservation Programs. (Dan Ransom)



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- 10) CONSIDERATION OF BILL NO. 2007-25: ADOPTION OF ORDINANCE NO. 2008-_____. (Councilor Heldmeyer and Councilor Trujillo)
An Ordinance Amending Section 16-13.6 SFCC 1987 Regarding Curfew for Parks and Recreation Areas. (Fabian Chavez) (**Postponed at December 12, 2007 City Council Meeting**)
- 11) CONSIDERATION OF BILL NO. 2008-1: ADOPTION OF ORDINANCE NO. 2008-_____. (Councilor Ortiz)
An Emergency Ordinance Establishing a Night Time Outdoor Construction Moratorium in Industrial Zoned Areas. (Jack Hiatt)
- 12) CONSIDERATION OF BILL NO. 2008-2: ADOPTION OF ORDINANCE NO. 2008-_____.
An Ordinance Annexing City-Owned Airport Road Right-of-Way Extending From the Intersection with Cerrillos Road at the Eastern End to the Intersection with New Mexico Highway 599 at the Western End of Airport Road." (Richard Macpherson) (**Postponed to January 30, 2008 City Council Meeting**)
- 13) CONSIDERATION OF BILL NO. 2008-3: ADOPTION OF ORDINANCE NO. 2008-_____.
An Ordinance Annexing City-Owned Rufina Street Right-of-Way Extending From the Intersection of Richards Avenue on the Eastern End to the Intersection of South Meadows Road at the Western End of Rufina Street. (Richard Macpherson) (**Postponed to January 30, 2008 City Council Meeting**)

H. ADJOURN

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

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

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

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 SANTA FE CITY COUNCIL MEETING
 January 9, 2008

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
<u>AFTERNOON SESSION</u>		
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APPROVAL OF AGENDA	Approved [amended]	1
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CONSENT CALENDAR LISTING		2-5
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REQUEST FOR APPROVAL OF CHANGE ORDER NO. 4 – POLICE IMPOUND YARD IMPROVEMENTS; V.P. CONSTRUCTION	Approved	9-10

END OF CONSENT CALENDAR DISCUSSION		

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<u>EVENING SESSION</u>		
CALL TO ORDER AND ROLL CALL	Quorum	13
PETITIONS FROM THE FLOOR	None	13
CONSIDERATION OF RESOLUTION NO. 2008- _____ A RESOLUTION RECOGNIZING AND AWARDED PUBLIC SERVICE TENURE BY NON-BARGAINING UNIT EMPLOYEES WITH 23 OR MORE YEARS OF PUBLIC SAFETY SERVICE WITH THE SANTA FE POLICE OF FIRE DEPARTMENT, OR NON- BARGAINING UNIT EMPLOYEES WITH 27 OR MORE YEARS OF SERVICE WITH OTHER CITY OF SANTA FE DEPARTMENTS; PROVIDING AN ACCELERATED RETIREMENT BENEFIT FOR PUBLIC SAFETY NON-BARGAINING UNIT EMPLOYEES THAT IS COMPARABLE WITH POLICE AND FIRE COLLECTIVE BARGAINING AGREEMENTS; AND CREATING A NEW PERSONNEL RULE TO BE CONSISTENT WITH THIS RESOLUTION	Postponed to 01/30/2008	13
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400 th Anniversary Committee	One appointee approved	15
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REQUEST FROM DINKY, INC., FOR A RESTAURANT (BEER & WINE) LIQUOR LICENSE TO BE LOCATED AT CELEBRATIONS AT VILLAGE WEST, 1620 ST. MICHAELS DRIVE	Approved	16-17

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REQUEST FROM COMMONWEALTH LORETTO OPERATING, INC., FOR A TRANSFER OF OWNERSHIP OF DISPENSER LICENSE #661 FROM LORETTO ASSOCIATES, LLC, TO COMMONWEALTH LORETTO OPERATING, INC. THE LICENSE WILL REMAIN AT THE INN AND SPA AT LORETTO, 211 OLD SANTA FE TRAIL

Approved

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REQUEST FROM THE INN OF THE FIVE GRACES, LLC., FOR A RESTAURANT (BEER & WINE) LIQUOR LICENSE TO BE LOCATED AT THE INN OF THE FIVE GRACES, 152 EAST DE VARGAS STREET

Approved

17-18

REQUEST FROM MAKUA, INC., FOR A RESTAURANT (BEER & WINE) LIQUOR LICENSE TO BE LOCATED AT MAUKA, 544-B AGUA FRIA

Approved

18-19

CONSIDERATION OF BILL NO. 2007-55; ADOPTION OF ORDINANCE NO. 2008- ____ . AN ORDINANCE AMENDING CHAPTER 14 SFCC 1987, LAND DEVELOPMENT LAWS AND SECTION 18-11.3 SFCC 1987 LODGERS' TAX REGARDING THE SHORT TERM RENTAL OF DWELLING UNITS

Postponed to 01/30/2008

19-40

CONSIDERATION OF BILL NO. 2007-58; ADOPTION OF ORDINANCE NO. 2008- 1. AN ORDINANCE AMENDING CHAPTER 7 REGARDING BUILDING AND RELATED CODES; ADOPTING THE 1006 INTERNATIONAL BUILDING CODE, THE 2007 INTERNATIONAL RESIDENTIAL BUILDING CODE, THE 2006 INTERNATIONAL EXISTING BUILDING CODE, THE 2006 UNIFORM MECHANICAL CODE, THE 2006 UNIFORM PLUMBING CODE, THE 2008 NATIONAL ELECTRIC CODE AND OTHER RELATED CODES AS AMENDED BY THE STATE OF NEW MEXICO AND CITY OF SANTA FE

Adopted

40-43

CONSIDERATION OF RESOLUTION NO. 2008- 6. A RESOLUTION READOPTING FEE SCHEDULES FOR BUILDING PERMITS, ELECTRICAL PERMITS, MECHANICAL/GAS/PLUMBING PERMITS, SEWER AND SIGN PERMITS

Adopted

43-44

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
REQUEST FOR APPROVAL OF BUDGET INCREASE – GENERAL FUND	No action necessary	44
CONSIDERATION OF RESOLUTION NO. 2008- 7. A RESOLUTION ADOPTING THE "IMPACT FEE CAPITAL IMPROVEMENTS PLAN AND LAND USE ASSUMPTIONS, 2007-2012" TO MEET THE STATE REQUIRED IMPACT FEE PROGRAM 5-7YEAR UPDATE AS CALLED FOR IN THE STATE DEVELOPMENT FEES ACT (§5-8-30 NMSA 1978)	Adopted	44-45
CONSIDERATION OF BILL NO. 2007-64; ADOPTION OF ORDINANCE NO. 2008- 2. AN ORDINANCE AMENDING SECTION 14-8.14 1987, REGARDING IMPACT FEES AND ADDING A NEW IMPACT FEE SCHEDULE	Adopted [amended]	45-51
CONSIDERATION OF BILL NO. 2007-63; ADOPTION OF ORDINANCE NO. 2008- 3. AN ORDINANCE CREATING A NEW RATE SCHEDULE 10 OF EXHIBIT B, CHAPTER 25 SFCC 1987, ESTABLISHING A SPECIAL CHARGE FOR ALL WATER SERVICE CUSTOMERS IN ORDER TO FUND WATER CONSERVATION PROGRAMS	Adopted [amended]	51-52
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CONSIDERATION OF BILL NO. 2008-2; ADOPTION OF ORDINANCE NO. 2008- ____ . AN ORDINANCE ANNEXING CITY-OWNED AIRPORT ROAD RIGHT-OF-WAY EXTENDING FROM THE INTERSECTION WITH CERRILLOS ROAD AT THE EASTERN END TO THE INTERSECTION WITH NEW MEXICO HIGHWAY 599 AT THE WESTERN END OF AIRPORT ROAD."	Postponed to 01/30/2008	53

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CONSIDERATION OF BILL NO. 2008-3; ADOPTION OF ORDINANCE NO. 2008-____. AN ORDINANCE ANNEXING CITY-OWNED RUFINA STREET RIGHT-OF-WAY EXTENDING FROM THE INTERSECTION OF RICHARDS AVENUE ON THE EASTERN END TO THE INTERSECTION OF SOUTH MEADOWS ROAD AT THE WESTERN END OF RUFINA STREET

Postponed to 01/30/2008

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MATTERS FROM THE CITY MANAGER

Informational

54

MATTERS FROM THE CITY CLERK

None

54

COMMUNICATIONS FROM THE GOVERNING BODY

Information/discussion

54-56

ADJOURN

56

**MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
January 9, 2008**

AFTERNOON SESSION

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor David Coss, on January 9, 2008, at approximately 5:00 p.m., in the City Hall Council Chambers. Following the Pledge of Allegiance and Invocation, roll call indicated the presence of a quorum, as follows:

Members Present

Mayor David Coss
Councilor Christopher Calvert
Councilor Carmichael A. Dominguez
Councilor Karen Heldmeyer
Councilor Matthew E. Ortiz
Councilor Ronald S. Trujillo
Councilor Rebecca Wurzburger

Members Absent

Councilor Miguel Chavez, Mayor Pro-Tem
Councilor Patti J. Bushee

5. APPROVAL OF AGENDA

Mr. Buller said staff has asked to postpone Item (G)10 from the evening agenda to the meeting of February 13, 2008.

Councilor Ortiz would like to move Item 10 on the afternoon agenda to the evening agenda.

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

The motion was approved on a voice vote with Councilors Dominguez, Heldmeyer, Ortiz, Trujillo and Wurzburger voting for the motion, none against, and Councilor Calvert absent.

6. APPROVAL OF CONSENT CALENDAR

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

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

Against: None.

Absent: Councilor Calvert.

- a) **CONSIDERATION OF RESOLUTION NO. 2008-1 (MAYOR COSS). A RESOLUTION REPEALING RESOLUTION REPEALING RESOLUTION NO. 2007-1, RELATING TO THE OPEN MEETINGS ACT; ADOPTING THE STATE OF NEW MEXICO OPEN MEETINGS ACT BY REFERENCE; AND ADOPTING NOTICE REQUIREMENTS. (YOLANDA Y. VIGIL)**
- b) **BID NO. 08/08/B – FRENCHY’S PARK RENOVATION; SEQUOIA LANDSCAPING, INC. (BEN GURULE)**
 - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – PROJECT FUND.**
- c) **BID NO. 08/13/B – POLICE DEPARTMENT RENOVATION; SAMCON, INC. (CHIP LILIENTHAL)**
- d) **BID NO. 08/14/B – FRANKLIN MILES PARK CONCESSION BUILDING; WEIL CONSTRUCTION, INC. (MARY MacDONALD)**
 - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – PROJECT FUND.**
- e) **REQUEST FOR APPROVAL OF AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT – RUGBY FIELDS PHASE II DESIGN SERVICES; MORRIS SURVEYING ENGINEERING, LLC. (MARY MacDONALD)**
 - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – PROJECT FUND.**
- f) **REQUEST FOR APPROVAL OF CHANGE ORDER NO. 2 – TRANSIT FACILITY EXPANSION; ESA CONSTRUCTION, INC. (MARY MacDONALD)**
- g) **REQUEST FOR APPROVAL OF ARCHAEOLOGICAL FUNDING TO ARCHIVE ARTIFACTS FROM PLAZA DURING THE BUILDING OF BANDSTAND/GAZEBO; MUSEUM OF NEW MEXICO. (CHIP LILIENTHAL)**

- h) **REQUEST FOR APPROVAL OF MEMORANDUM OF AGREEMENT – ANNUAL HOUSEHOLD HAZARDOUS WASTE DROP-OFF DAY, SANTA FE COUNTY; CITY OF SANTA FE AND SANTA FE SOLID WASTE MANAGEMENT AGENCY. (WILLIAM DeGRANDE)**
- i) **REQUEST FOR APPROVAL OF AMENDMENT NO. 4 TO PROFESSIONAL SERVICES AGREEMENT – RECYCLING SERVICES FOR HOUSEHOLD HAZARDOUS WASTE DAY; ENVIROSOLVE, LLC. (WILLIAM DeGRANDE)**
- j) **REQUEST FOR APPROVAL OF CHANGE ORDER NO. 2 TO CONSTRUCTION CONTRACT – EL RIO ROAD TRAIL IMPROVEMENT PROJECT; CONCRETE ROSE CONSTRUCTION. (DAVID CHAPMAN)**
- k) **REQUEST FOR APPROVAL OF CHANGE ORDER NO. 1 – INSTALLATION OF FARE VALIDATION SYSTEMS FOR TRANSIT BUSES; ARIZONA BUS SALES CORPORATION. (JON BULTHUIS)**
 - 1) **REQUEST FOR APPROVAL OF BUDGET ADJUSTMENT – GRANT FUND.**
- l) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – AFFORDABLE HOUSING HOMEBUYER ASSISTANCE SERVICES (RFP #08/03/P). (KATHY McCORMICK)**
 - 1) **HOMEWISE, INC.**
 - 2) **SANTA FE COMMUNITY HOUSING TRUST.**
- m) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – MARCH 2008 MUNICIPAL ELECTION SERVICES; MELESSIA HELBERG. (ROSALIE CARDENAS)**
- n) **REQUEST FOR APPROVAL OF CAPITAL COOPERATIVE AGREEMENT – ROAD IMPROVEMENTS ON AIRPORT ROAD FROM CERRILLOS ROAD TO NM 599 AND ROAD IMPROVEMENTS AT INTERSECTION OF ZIA ROAD AND RODEO ROAD; 2007 LEGISLATIVE APPROPRIATIONS; NEW MEXICO DEPARTMENT OF TRANSPORTATION. (DESIRAE LUJAN)**
 - 1) **CONSIDERATION OF RESOLUTION NO. 2008- 2. A RESOLUTION IN SUPPORT OF A CAPITAL COOPERATIVE AGREEMENT WITH THE NEW MEXICO DEPARTMENT OF TRANSPORTATION, 2007 LEGISLATIVE APPROPRIATIONS FOR TRANSPORTATION PROJECTS WITHIN THE CITY OF SANTA FE.**
 - 2) **REQUEST FOR APPROVAL OF BUDGET INCREASE – PROJECT FUND.**
- o) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – HOUSING INNOVATION PROGRAMS; SANTA FE COMMUNITY HOUSING TRUST (RFP #08/03/P). (KATHY McCORMICK)**

- p) **REQUEST FOR APPROVAL OF MEMORANDUM OF UNDERSTANDING – INTERNATIONAL CONFERENCE ON CREATIVE TOURISM; NEW MEXICO TOURISM DEPARTMENT. (TOM MAGUIRE)**
 - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND.**
- q) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – MEETING PLANNER SERVICES FOR INTERNATIONAL CONFERENCE ON CREATIVE TOURISM (RFP #08/16/P); RECURSOS DE SANTA FE. (TOM MAGUIRE)**
- r) **REQUEST FOR APPROVAL OF JOINT POWERS AGREEMENT – DAY REPORTING PROGRAM FOR JUVENILES; SANTA FE COUNTY. (RICHARD DeMELLA)**
- s) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – JUVENILE JUSTICE SERVICES; YOUTHWORKS. (RICHARD DeMELLA)**
- t) **REQUEST FOR APPROVAL OF AMENDMENT NO. 4 TO PROFESSIONAL SERVICES AGREEMENT – SANTA FE CIVIC CENTER; MUSEUM OF NEW MEXICO, OFFICE OF ARCHAEOLOGICAL STUDIES. (MARTIN VALDEZ)**
- u) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – EPCR SYSTEM FOR ELECTRONIC DATA COLLECTION FOR AMBULANCE RUNS FOR FIRE DEPARTMENT (RFP #08/14P); ESO SOLUTIONS. (BRIAN CALDWELL)**
- v) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – AMBULANCE BILLING SERVICES (RFP #08/15/P); ESO SOLUTIONS. (BRIAN CALDWELL)**
- w) **REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT – RAIL LINE UPGRADE AND REALIGNMENT; SANTA FE SOUTHERN RAILWAY, INC. (FRANK ROMERO)**
- x) **REQUEST FOR APPROVAL OF ECONOMIC DEVELOPMENT PROJECT PARTICIPATION AGREEMENT – SANTA FE FARMERS’ MARKET INSTITUTE. (FRANK ROMERO)**
- y) **REQUEST FOR APPROVAL OF AMENDMENT NO. 2 TO COOPERATIVE PROJECT AGREEMENT – SANTA FE RAILYARD BIKEWAYS AND WALKWAYS PROJECT; NEW MEXICO DEPARTMENT OF TRANSPORTATION. (FRANK ROMERO)**
- z) **CONSIDERATION OF RESOLUTION NO. 2008- 3 (COUNCILOR TRUJILLO, COUNCILOR CHAVEZ, COUNCILOR DOMINGUEZ AND COUNCILOR CALVERT). A RESOLUTION ESTABLISHING A RESTRICTED CASH ACCOUNT AND RELATED LIABILITY ACCOUNT FOR THE SANTA FE**

WASTEWATER MANAGEMENT CLOSURE AND POST-CLOSURE FUND TO PROVIDE FUNDS FOR FUTURE CLOSURE, POST CLOSURE, PHASE I AND PHASE ii, AND/OR CORRECTIVE ACTION COSTS. (BRYAN ROMERO)

- aa) **CONSIDERATION OF RESOLUTION NO. 2008 - 4 (COUNCILOR DOMINGUEZ AND COUNCILOR TRUJILLO). A JOINT RESOLUTION DIRECTING CITY AND PUBLIC SCHOOL STAFF TO PREPARE RECOMMENDATIONS FOR THE GOVERNING BODY AND THE BOARD OF EDUCATION REGARDING HOUSING ON SCHOOL PROPERTY FOR POLICE OFFICERS; AND TO DIRECT STAFF TO EXAMINE AND MAKE RECOMMENDATIONS FOR THE PLACEMENT OF A POLICE OFFICER ON EACH OF OUR HIGH SCHOOL CAMPUSES. (KATHY McCORMICK AND CHIEF ERIC JOHNSON).**
- bb) *[Removed for discussion by Councilor Heldmeyer]*
- cc) **REQUEST FOR APPROVAL OF PRECINCT OFFICIALS FOR THE MARCH 4, 2008 REGULAR MUNICIPAL ELECTION. (YOLANDA Y. VIGIL)**
 - 1) **REQUEST FOR APPROVAL TO EXTEND CITY CLERK'S HOURS ON FEBRUARY 26, 2008 FROM 5:00 P.M. TO 9:00 P.M., TO ALLOW PRECINCT OFFICIALS TO VOTE ABSENTEE FOR THE MARCH 4, 2008, REGULAR MUNICIPAL ELECTION.**
- dd) **REQUEST FOR APPROVAL OF LEASE AGREEMENT – AIRLINE TERMINAL BUILDING COUNTER AND FLOOR SPACE AT SANTA FE MUNICIPAL AIRPORT; PACIFIC WINGS AIRLINES D/B/A NEW MEXICO AIRLINES. (JIM MONTMAN) (Postponed at the November 28, 2007 City Council Meeting)**
- ee) *[Removed for discussion by Councilor Heldmeyer]*
- ff) **CONSIDERATION OF RESOLUTION NO. 2008- 5 (MAYOR COSS). A JOINT RESOLUTION ESTABLISHING A FOOD POLICY FOR THE CITY OF SANTA FE AND SANTA FE COUNTY; AND CREATING THE CITY OF SANTA FE AND COUNTY ADVISORY COUNCIL ON FOOD POLICY. (BILL TALLMAN AND TERRIE RODRIGUEZ)**

7. APPROVAL OF MINUTES: Reg. City Council Meeting – December 12, 2007.

Councilor Wurzburger moved, seconded by Councilor Ortiz, to approve the minutes of the Regular City Council Meeting of December 12, 2007, as presented. The motion was approved on a voice vote, with Councilor Dominguez, Councilor Heldmeyer, Councilor Ortiz, Councilor Trujillo and Councilor Wurzburger voting for the motion, none against, and Councilor Calvert absent.

8. PRESENTATIONS

- a) **EMPLOYEE OF THE MONTH FOR JANUARY 2008 – NICK DOMINGUEZ, MAINTENANCE WORKER AND ERIC ROMERO, EQUIPMENT OPERATOR – SOLID WASTE.**

Mayor Coss read the nominations into the record for Mr. Dominguez and Mr. Romero, and presented each with a plaque, and a Check for \$100 from the Employee Assistance Fund.

Councilor Ortiz thanked them for their commitment and work on behalf of the City.

- b) **INTRODUCTION OF ECONOMIC DEVELOPMENT DIRECTOR AND HOUSING STAFF. (KATHY McCORMICK)**

Kathy McCormick introduced the new staff, Lee DePietro, Housing, Special Projects Manager, Kate Noble, Economic Development Specialist, and Fabian Trujillo, Economic Development Director.

Councilor Heldmeyer would like the contact information for the new employees, phone numbers and emails.

- c) **PROCLAMATION – ST. MICHAEL'S HORSEMEN, STATE FOOTBALL CHAMPIONS.**

Mayor Coss said the St. Michael's Horsemen are unable to be here this evening, and would like to postpone this presentation to the meeting of January 30, 3008.

- d) **PRESENTATION ON HEALTH SECURITY ACT. (MARY FELDBLUM, Ph.D., EXECUTIVE DIRECTOR, THE HEALTH SECURITY FOR NEW MEXICANS CAMPAIGN).**

Dr. Mary Feldblum said she is the Executive Director of Health Security for New Mexicans, which is the largest coalition in the nation, with 135 organizations, which is working on solutions to the health care package. She said New MexiCare has matured into a comprehensive health care package, which is funded by using existing public dollars, with premiums based on income, for both the employee and employer on a sliding scale with a cap. This integrates our scarce dollars which will benefit the City and State

Dr. Feldblum said the proposed legislation is called the Health Security Act. In 2006, Governor Richardson commissioned a study to look at three different health care reform models, and the Health Security Act was selected, and it was the one which saves money. The other two are based on private insurance systems. She said if it is found that it is affordable for New Mexico, then the next phase will be a two-year development process of how this will work for Doctors, hospitals, patients, rural New Mexico, and working out the problems before the plan is up and running.

Dr. Feldblum said the Governor committed to a model which is more kin to Massachusetts, where everybody must purchase or enroll in a public program, with penalties if they fail to do so. The recent study analysis shows that the proposed Health Security Act is the most effective and saves money.

Dr. Feldblum said there is a comparison of the Health Security Act and the Governor's Healthy Solutions proposal in the Council packet. She said the Governor's proposal relies on private insurance and networks, so you can't select the doctor of choice, noting we still don't know what the benefit packages will be, what is considered affordable health care, the exact penalties and so forth. She said there are serious questions in the Legislature about that plan, and she doesn't know what will happen with healthcare in the upcoming session which will be a hot topic.

Dr. Feldblum said they are seeking input from cities and counties in New Mexico, and would like Santa Fe to consider endorsing the legislation.

Councilor Heldmeyer said an article in the newspaper implied that those enrolled in the plan would lose State and federal money because of its design.

Dr. Feldblum said Larry Martinez expressed that concern, and she explained that any health care model proposed is assuming maximizing federal dollars. She said there are serious problems with Congress, with sole community provider funds, a whole complex thing with S-CHIP monies, and whether Congress will continue to support states with medicaid dollars in the manner that it has been doing, which is a very serious problem. She said this makes it more compelling for us to look at a model which is more efficient and economical. She said the Health Security Act clearly assumes maximizing all federal dollars, and would not jeopardize those dollars, commenting that we only need to worry about the U.S. Congress.

Councilor Heldmeyer observed that we really have to worry about both.

Councilor Wurzbarger requested a copy of the proposed legislation.

Dr. Feldblum said she will provide that to the City Manager along with the table of contents and the index, which will help greatly in understanding the bill.

Mayor Coss thanked Dr. Feldblum for the report.

Dr. Feldblum said the cities and counties of New Mexico have to take a stand on this very important issue. She said once the Governing Body has had an opportunity to thoroughly study the materials, she would be very happy to come back and answer questions.

CONSENT CALENDAR DISCUSSION

9(bb) REQUEST FOR APPROVAL OF 2008 CIP BOND ISSUE PROJECTS. (ROBERT ROMERO)

Councilor Heldmeyer said she removed this item so she can vote against it.

Councilor Ortiz moved, seconded by Councilor Dominguez, to approve this request.

Discussion: Councilor Wurzburger asked Mr. Romero if there are any reallocation monies available for the new Creative Center at the Railyard this Council is discussing. Although it hasn't come back to the Finance Committee, there was a clear direction from the Council the other night that the Creative Center is something which we want to pursue. She said knowing what is going to be happening to the economy, she is concerned that if we wait two years, we can't do it at all. She would like guidance on available funding before voting on the motion.

Robert Romero said on page 6 of the packet there is a list which shows a balance of \$415,000 in the Reallocation Fund, after subtracting the \$325,000 for the Municipal Court.

Councilor Calvert arrived at the meeting this time

The motion was approved on the following roll call vote:

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

Against: Councilor Heldmeyer.

Explaining her vote: Councilor Heldmeyer said this CIP budget has a lot of money for nonprofits, and although we have given small amounts of money to non-profits in the past, this seems to be setting a new precedent. She said if this had grown out of a discussion as to where we wanted to set a certain percentage that would be different. She said various groups approached various Councilors requesting funds, the first of which was Warehouse 21 for which she voted. She regrets voting for that one because it opened the floodgates for other nonprofits to seek funds. She said all of these are good projects. She said the question is whether the City should be using its limited CIP funds to pay for these projects, particularly in the case of non-profits which have not lived up to their promises about what they were going to do in terms of fundraising. She knows times are hard and everybody is "strapped," including the City. However, we are going to change radically the purposes of the CIP budget, commenting that she has heard from many different divisions within the City that, "I could have used that money. I could have used that money for Parks, for building upkeep, for streets, for sidewalks, for ADA, which was cut by 2/3s, for Traffic Calming which was cut out entirely." She said this isn't an appropriate use of the City's money. She said when this came to Finance, it was followed by another group which said all they need is \$2 million and a 90% reduction in rent in order to another nonprofit with another building. She said this is just too much and she can't vote for this request.

Explaining his vote: Councilor Ortiz said of the total \$21 million budget, only \$2.9 million will go to the nonprofits, which represents 13% of the total CIP budget. He said of the \$2.9 million, \$1 million is going to TPL to finish and build the Railyard Park, a community "gem" which will benefit the whole City, noting it is on City property. He said \$200,000 is going to the Farmers Market, also on City property, which will represent the community. He said \$1 million will go to Warehouse 21 on the Railyard, to benefit City property, so that the youth of Santa Fe

can benefit from a new building. The other \$750,000 is going to Zona del Sol, an area of the City which is under-served, under-utilized, so those kids, on City property, can benefit from programs. He believes the return on this 13% investment is important for the Santa Fe youth. He thanked the Public Works Committee for coming up with this budget, the nonprofits which the City will be funding in this cycle, and City staff for their hard work, and voted yes.

Explaining his vote: Councilor Dominguez said he has many of the same sentiments as Councilor Ortiz. He is happy to support this proposal because there are funds going to Zona del Sol, which really is a part of the community where we have a large number of children which are underserved, particularly the children. This is another service which will help with our social challenges. He sees these kinds of projects as part of our social infrastructure. He said there is a particular Councilor who is absent this evening, to help bring some of these services to the community, and it would be interesting to see how that Councilor would vote, and he votes yes.

9(ee) REQUEST FOR APPROVAL OF CHANGE ORDER NO. 4 – POLICE IMPOUND YARD IMPROVEMENTS; V.P. CONSTRUCTION. (CHIP LILIENTHAL)

Councilor Heldmeyer said she pulled this item to clear up the confusion about Police impound yards, and asked which one of the police impound yards is this one.

Mr. Romero said it is the yard at the Police & Fire Training Center at the Airport, on the Airport property.

Councilor Heldmeyer asked the function of this impound yard.

Chip Lilienthal said this impound yard is serving the Santa Fe Police Department for its forensic laboratory and study of the vehicles, buses, trucks, etc., which are taken from traffic accidents or wherever a car is impounded, but it has nothing to do with DWI.

Councilor Heldmeyer said we are being told by Police that we cannot put the DWI ordinance into effect because the proper impound yard for confiscation of vehicles for DWI isn't available. She asked if we are working on that, if funds are available, and if so, when will the impound yard be ready.

Chief Johnson said Deputy Chief Montano called the Sheriff's Department this week to see if they are still willing to go forward with the City to do a joint venture on the DWI, and he is still waiting for an answer.

Councilor Heldmeyer said she attended a presentation given by the DWI person from the County where they said they thought it unlikely that these ordinances would be in effect by the end of the fiscal year, and in fact it might be another calendar year before these ordinances were in effect.

Chief Johnson said he spoke with Lt. Anthony Robin this morning, who has been working on this with Alfred Walker, and he said there are still legal issues.

Frank Katz said he doesn't know that there are legal issues, but there may be contractual issues. The plan was to contract with a private entity to do the managing of the

project – put the boots on and arrange for the interlocks. However, he hasn't seen that contract, and doesn't know what is happening, reiterating that he doesn't know that there is a legal issue, although there may be an issue on payment. He was parsing the ordinance and he sees no legal problem with implementation. He said the two things delaying the implementation of the ordinance are the contract with these people and the impound lot.

Councilor Heldmeyer said she is in favor of booting rather than impound, and asked who is responsible for pursuing those things.

Mr. Buller said Chief Johnson, and, "to the extent there's the Legal Division."

Chief Johnson said he has been working with the company, Sanctions & Solutions, which gave us a list of 16 questions and concerns, on which Lt. Robin is working with Alfred Walker. He said many of those are on contract issues. Lt. Robin told him this morning that Mr. Walker felt there was an issue with the ordinance itself. He will be happy to get with them to get the answers.

Councilor Heldmeyer moved, seconded by Councilor Ortiz, to approve this request.

Discussion: Councilor Heldmeyer said it is pushing to get it on the Public Safety Committee agenda for January, but she would like it on the Public Safety agenda for February. She doesn't like passing laws which aren't enforced, saying we do this much too often.

Councilor Wurzburger would like this to come back to the Council immediately after Public Safety.

Councilor Heldmeyer said it could go to the Finance Committee in two weeks at the next meeting, rather than to Public Safety.

The motion was approved on the following roll call vote:

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

Against: None.

END OF CONSENT CALENDAR DISCUSSION

11. STATUS OF THE CROSSING MASTER PLAN AND THE GOVERNOR MILES BUSINESS PARK MASTER PLAN. (JACK HIATT)

Jack Hiatt presented information regarding this matter to the Governing Body, noting these are the commercial portions of the Las Soleras development, one of which was approved by the EZA on September 27, 2007. He demonstrated the Las Soleras project on the enlarged drawings, along with the business park which is at the north portion as well as the crossing at

the south portion. He said it is subject to approval by the EZA, and now is being reviewed by Land Use staff for consistency between the Plans about to be recorded, as well as the EZA approval and conditions. If staff deems these are consistent, the City would sign the plans which presumably would be recorded by the owner.

Mr. Hiatt said last month Presbyterian told the Council it intends to enter into an arrangement with the owner by which it would purchase 40 acres of the crossing property, in anticipation of building a hospital in the future.

Mr. Hiatt said concurrent with this review of the EZA approval, are the meetings with the owner in which Greg Smith has been involved in reviewing the general plan and the approvals which were given at the EZA, and trying to identify what is consistent between them, and trying to move forward to an amendment to the general plan which will come before the Council, he hopes, relatively soon, saying this means a few months.

Mr. Hiatt said the commercial aspects of Las Soleras, in general, have increased, and also the regional park appears not to be there, and there is more diversified open space. He said Mr. Smith is available to answer specific questions. He said this is an informational update, and as things progress, he will be happy to come back to the Council to keep it apprised.

13. MATTERS FROM THE CITY ATTORNEY

EXECUTIVE SESSION

- a) **PROPOSED SETTLEMENT OF THE CITY OF SANTA FE VS. LAUBO CORP., PURSUANT TO §10-15-1(H)(7) NMSA 1978.**

Councilor Wurzbarger moved, seconded by Councilor Trujillo, that the Council go into Executive Session for the purpose of the discussion of the proposed settlement of The City of Santa Fe vs. Laubo Corp., pursuant to §10-15-1(H) (7). The motion was approved on a Roll Call vote as follows:

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

Against: None.

Absent: Councilor Calvert.

The Council went into Executive Session at 5:52 p.m.

MOTION TO COME OUT OF EXECUTIVE SESSION

At 6:58 p.m., Councilor Heldmeyer moved, seconded by Councilor Ortiz, that the City Council come out of Executive Session and stated that the only item which was

discussed in executive session was the item which was on the agenda, and no action was taken.

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

14. **ACTION REGARDING THE SETTLEMENT OF THE CITY OF SANTA FE VS. LAUBO CORP. (ALFRED R. WALKER)**

Mayor Coss said no action will be taken on this item.

Mayor Coss moved the balance of the items left on the Afternoon Session to the end of the agenda.

END OF AFTERNOON SESSION AT 6:59 P.M.

The Council moved directly into the Evening Session without a break

EVENING SESSION

A. CALL TO ORDER AND ROLL CALL

The Evening Session was called to order by Mayor David Coss, at approximately 6:59 p.m. Roll Call indicated the presence of a quorum as follows:

Members Present

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

Members Excused

Councilor Patti J. Bushee

E. PETITIONS FROM THE FLOOR

There were no petitions from the floor.

10. **CONSIDERATION OF RESOLUTION NO. 2008- ____ (COUNCILOR ORTIZ). A RESOLUTION RECOGNIZING AND AWARDED PUBLIC SERVICE TENURE BY NON-BARGAINING UNIT EMPLOYEES WITH 23 OR MORE YEARS OF PUBLIC SAFETY SERVICE WITH THE SANTA FE POLICE OF FIRE DEPARTMENT, OR NON-BARGAINING UNIT EMPLOYEES WITH 27 OR MORE YEARS OF SERVICE WITH OTHER CITY OF SANTA FE DEPARTMENTS; PROVIDING AN ACCELERATED RETIREMENT BENEFIT FOR PUBLIC SAFETY NON-BARGAINING UNIT EMPLOYEES THAT IS COMPARABLE WITH POLICE AND FIRE COLLECTIVE BARGAINING AGREEMENTS; AND CREATING A NEW PERSONNEL RULE TO BE CONSISTENT WITH THIS RESOLUTION. (KRISTINE KUEBLI) (Postponed at the December 12, 2007 City Council Meeting)**

Councilor Ortiz said this was moved to the evening session, but there isn't a full body in attendance, so he would like to postpone this item to the next City Council meeting, January 30, 2007.

Councilor Ortiz moved, seconded by Councilor Wurzburger, to postpone this item to the meeting of January 30, 2007. The motion was approved on the following voice vote, with Councilors Calvert, Dominguez, Heldmeyer, Ortiz, Trujillo and Wurzburger voting in favor of the motion, none voting against, and Councilor Chavez absent.

F. APPOINTMENTS

Historic Design Review Board

Mayor Coss appointed the following individual to the Historic Design Review Board:

Dan Featheringill (Architect) – to fill unexpired term ending 1/09.

Councilor Wurzburger moved, seconded by Councilor Trujillo, to approve the appointment.

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

Arts Commission

Mayor Coss appointed the following individuals to the Arts Commission:

Justin Bransford – term ending 10/09;
Michael Namingha – term ending 10/09;
Peter A. Pacheco – term ending 10/09;
Kerri Segell – term ending 10/09;
Kirk Ellis – to fill unexpired term ending 10/08;
Andrea Poole – Reappointment – term ending 10/09; and
Cynthia Graves – Appointment as Chair – term ending 10/08.

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

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

Immigration Committee

Mayor Coss appointed the following individual to the Immigration Committee:

Chester Craig Topple – term ending 2/09.

Councilor Ortiz moved, seconded by Councilor Calvert, to approve the appointment.

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

Senior Services Advisory Board

Mayor Coss appointed the following individuals to the Senior Services Advisory Board:

Bernardo C de Baca – term ending 12/31/09; and
Elaina K. Gonzalez – term ending 12/31/09.

Councilor Ortiz moved, seconded by Councilor Trujillo, to approve these appointments.

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

400th Anniversary Committee

Mayor Coss appointed the following individuals to the 400th Anniversary Committee:

Jon Hendry; and
Charles M. Carrillo, Ph.D.

Councilor Ortiz moved, seconded by Councilor Heldmeyer, to approve the appointment of Charles M. Carrillo, Ph.D.

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

Mayor Coss asked for a motion approving Jon Hendry's appointment, noting he is volunteering his services and has been with working with the Chairman on fundraising. **There was no motion for approval.**

Bicycle and Trails Advisory Committee

Mayor Coss appointed the following individuals to the Bicycle and Trails Advisory Committee:

Brian Drypolcher – Reappointment – term ending 11/09;
Abraham Franklin – Reappointment – term ending 11/09;
James Harrington – Reappointment – term ending 11/09;
Frank Herdman – Reappointment – term ending 11/09;
Nina Mastrangelo – Reappointment – term ending 11/09; and
Shelly Robinson – Reappointment – term ending 11/09.

Councilor Calvert moved, seconded by Councilor Trujillo, to approve these appointments.

Discussion: Councilor Ortiz said he had asked the Mayor to appoint one of his constituents to this Committee.

Mayor Coss said that individual already has been appointed.

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

G. PUBLIC HEARINGS

- 1) REQUEST FROM DINKY, INC., FOR A RESTAURANT (BEER & WINE) LIQUOR LICENSE TO BE LOCATED AT CELEBRATIONS AT VILLAGE WEST, 1620 ST. MICHAELS DRIVE. (YOLANDA Y. VIGIL)**

The staff report was given by Yolanda Vigil, noting that the business is within 300 feet of the College of Santa Fe. However, on November 28, 2007, this Governing Body approved a waiver for that location. She said staff is recommending that this business be required to comply with all City Ordinances.

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

Councilor Heldmeyer moved, seconded by Councilor Wurzburger, to grant the request for a Restaurant License, to be located at Celebrations at Village West, 1620 St. Michaels Drive, with staff recommendations.

The motion was approved on the following Roll Call Vote:

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

Against: None.

Absent: Councilor Chavez.

Explaining her vote: Councilor Heldmeyer said this has been a long time coming, and she votes yes. She said some of the delays have been because of things which have gone

wrong at Alcohol & Gaming, but some of the delays were due to mistakes at City Hall, and she hopes procedures are now in place so this doesn't happen to anybody again.

- 2) **REQUEST FROM COMMONWEALTH LORETTO OPERATING, INC., FOR A TRANSFER OF OWNERSHIP OF DISPENSER LICENSE #661 FROM LORETTO ASSOCIATES, LLC, TO COMMONWEALTH LORETTO OPERATING, INC. THE LICENSE WILL REMAIN AT THE INN AND SPA AT LORETTO, 211 OLD SANTA FE TRAIL. (YOLANDA Y. VIGIL)**

The staff report was given by Yolanda Vigil, noting there are reports in the packet regarding litter, noise and traffic, and said staff recommends that this business be required to comply with all City ordinances.

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

Councilor Wurzbarger moved, seconded by Councilor Ortiz, to grant the request for the transfer of ownership of Dispenser License #661 from Loretto Associates, LLC, to Commonwealth Loretto Operating, Inc., with staff recommendations.

The motion was approved on the following Roll Call Vote:

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

Against: None.

Absent: Councilor Chavez and Councilor Heldmeyer.

- 3) **REQUEST FROM THE INN OF THE FIVE GRACES, LLC, FOR A RESTAURANT (BEER & WINE) LIQUOR LICENSE TO BE LOCATED AT THE INN OF THE FIVE GRACES, 152 EAST DE VARGAS STREET. (YOLANDA Y. VIGIL)**

The staff report was given by Yolanda Vigil. Ms. Vigil said, although the business is within 300 feet of the San Miguel Mission, a waiver is not required because the church has been designated as a historical site by the Cultural Properties Review Committee, and also because it does not have a regular congregation. Ms. Vigil noted there are reports in the packet regarding litter, noise and traffic, and said staff recommends that this business be required to comply with all City ordinances.

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

Councilor Wurzbarger moved, seconded by Councilor Calvert, to grant the request for a Restaurant License, to be located at the Inn of the Five Graces, 152 East DeVargas Street, with staff recommendations.

The motion was approved on the following Roll Call Vote:

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

Against: None

Absent: Councilor Chavez and Councilor Heldmeyer.

- 4) REQUEST FROM MAKUA, INC., FOR A RESTAURANT (BEER & WINE) LIQUOR LICENSE TO BE LOCATED AT MAUKA, 544-B AGUA FRIA. (YOLANDA Y. VIGIL)**

The staff report was given by Yolanda Vigil. Ms. Vigil said the business is not within 300 feet of a church or school, noting there are reports in the packet regarding litter, noise and traffic, and said staff recommends that this business be required to comply with all City ordinances.

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

Councilor Calvert moved, seconded by Councilor Trujillo, to grant the request for a Restaurant License, to be located at Mauka, 544-B, Agua Fria, with recommendations by staff.

The motion was approved on the following Roll Call Vote:

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

Against: None.

Absent: Councilor Chavez and Councilor Heldmeyer.

- 5) **CONSIDERATION OF BILL NO. 2007-55; ADOPTION OF ORDINANCE NO. 2008- ___ (MAYOR COSS AND COUNCILOR CHAVEZ). AN ORDINANCE AMENDING CHAPTER 14 SFCC 1987, LAND DEVELOPMENT LAWS AND SECTION 18-11.3 SFCC 1987 LODGERS' TAX REGARDING THE SHORT TERM RENTAL OF DWELLING UNITS. (JEANNE PRICE). (Postponed at December 12, 2007 City Council Meeting)**

A copy of the presentation by Baro Shalizi, President of the Santa Fe Association of Realtors, "City of Santa Fe Short Term Rental Ordinance, Public Hearing, dated January 9, 2007 [2008], entered for the record by Mr. Shalizi, is incorporated herewith to these minutes as Exhibit "1."

A copy of an email message, dated January 9, 2008, to Mayor; Patti J. Bushee, Chris Calvert, Carmichael A. Dominguez, Matthew E. Ortiz and Ronald S. Trujillo, with copies to Frank D. Katz and Bill Waters, from William J. Salman, regarding Short Term Rentals, is incorporated herewith to these minutes as Exhibit "2."

A copy of a letter dated January 9, 2008 to Mayor Coss and Councilors, from John Buchser and Linda Buchser, regarding Short-term rental deliberations, is incorporated herewith to these minutes as Exhibit "3."

A copy of a letter dated January 9, 2008, to the Santa Fe City Council from Thomas A. Simons, IV, Simons & Slattery, L.L.P., regarding Position Statement in Opposition to Bill No. 2007-55, concerning short term rentals, is incorporated herewith to these minutes as Exhibit "4."

A copy of a proposed "Additional exception" to the proposed Ordinance, submitted by Karl Sommer, is incorporated herewith to these minutes as Exhibit "5."

Jeanne Price, Legislative Liaison, presented information from her Memorandum of November 30, 2007, prepared for the meeting of December 12, 2007, to the Mayor and City Council. Ms. Price's Memorandum is contained in the Council packet.

Ms. Price noted she received an email from William J. Salman which he asked to be entered into the record, and which she provided to the Governing Body prior to the meeting. [Exhibit "2"]

Mayor Coss thanked Ms. Price for all of her work on this Ordinance.

Public Hearing

Mayor Coss limited the speakers to three minutes each. He asked that everyone hold their applause until the end of the Public Hearing, at which time the audience will be allowed to give a round of applause for all speakers.

Councilor Chavez arrived at the meeting at this time

Those speaking to this request

Shirl Abbey, 323 Magdalena Road, Treasurer of the Tano Pueblo Residents Association, said she moved here 20 years ago from Wisconsin, where he was a City Manager. He understands that some people feel short term rentals have been a hindrance, but this hasn't been his experience. He said short term rental units are better maintained and more orderly than many units which are owned by vacation home owners who live elsewhere and rarely come here, and leave their units empty and in some instances, poorly maintained. He feels short term rentals have been an asset for their Association, noting he and his neighbors have used the short term rentals as an overflow for their visiting guests. He said no objectionable events have occurred, nor nothing untoward. All have their own parking, are orderly, and it is nice to have the units occupied rather than being empty. He said there are two timeshare communities in the neighborhood which are short term rentals, because people share ownership of these units, and frequently are unable to enjoy the property and give authority to the management company to rent them to defray costs of ownership. He said nobody in his Association objects to them, they have been there for years, and he knows the renters and owners. He said there are many complications in the proposed Ordinance, many of which will have unintended consequences. He is concerned about this and believes that bridging anybody's right of ownership is a very negative thing.

Dorothy Rogers, Dorothy Rogers Fine Art, said we all know the tourist industry is our biggest industry here. Not everyone can afford the beautiful hotels here, and short term rentals provide a nice, lower base for people and families. It would be bad to cut into that, and perhaps cut into tourism. If people can't find an affordable place to stay, they won't come to Santa Fe.

Wayne Nichols said he has lived here for 36 years. He said his parents have used their home for occasional short term rentals, and they donate those rental funds to a variety of organizations in Santa Fe. He said their short term rental use has become a valuable asset to the community, which also is a very good tax strategy. He feels strongly that this [ordinance] may be a strategic mistake of vast proportion. This market serves a market segment which is not satisfied by the hotels or B&Bs. It is also a market segment which is extremely valuable to the community by serving people who want such a place to stay while in Santa Fe. He said to eliminate this will seriously damage the economic prospects of the community, and over the long term the City will greatly regret this decision. He said, "When others are sitting in your chairs, this ordinance, if passed, will be repealed."

Baro Shalizi, President of the Santa Fe Association of Realtors, read his statement into the record. Please see Exhibit "1" for Mr. Shalizi's statement. Mr. Shalizi said the Association supports the permitting and regulation of short term rentals, including the requirement that owners pay Lodger's Taxes and GRTs, opposes the proposed Ordinance as written, and he submitted a list of amendments to the Ordinance which are proposed and supported by the Santa Fe Association of Realtors, which, if adopted, would allow their support of this Ordinance.

Carlos Duno, local business person, said he owns short term rentals, pays taxes, does a lot of volunteer work, is not somebody who is collecting rent while living in Iowa or Ohio, and is a local person. He said, as a business person, he is confounded by the proposal under consideration, and it sounds like "don't bother me with the facts." He asked if the Mayor and Council have assessed the potential consequences of the proposal. He believes it is based on fear and emotion, although he does understand some people don't like short term rentals. He asked if the Council has considered that there will be a lot of jobs lost. He said the proposal of a maximum of 17 days for a short term rental annually will lead in his opinion, to foreclosures of homes, along with the forecasted recession in the future. He doesn't believe anyone has ever sat and really considered the consequences. He said there are not enough rooms to deal with the conventions already booked in our new Convention Center. He said short term rentals will provide a very good avenue to meet the need, but if banned, there won't be enough room to handle everyone. He said by the time the Council reevaluates this, some of the people will be out of business. He said short term rentals complement their income, and he hopes all of the legal ramifications have been considered.

Barbara Duno, short term rental owner, said when they decided to do a short term rental, she came to the City to apply for a business license. She said no one told her short terms were illegal. She presumed it was legal because large companies such as Kokopelli were operating openly doing this. She was told by the City that her unit was exempt because she only had two bedrooms. She said there are two types of people running short term rentals. People like her who are renting one to two homes, and then the large management companies. She doubts this ordinance will stop the large management companies which have vast inventories of short term rentals. She said the large companies don't rent them frequently, but with a large inventory, they can rent each 2-3 times a year and stay in business "like mad." She tried to use these companies, but it didn't work, because they make money by charging owners a large fee. She said she will go out of business, but they won't. She believes the vast majority of short term rentals will stay in business under the new law. She said she and her husband probably will have to put their unit up for sale in an already depressed market. She said their visitors enjoy visiting Santa Fe, and they've never had a complaint from the neighbors, and believes her neighborhood is very much in favor of short term rentals.

Bonner Blagdon, 324 E. Marcy, said she is a 22-year-old native. She has lived on the east side and near north side of Santa Fe, and she never realized short term rentals were such a polarized issue. She said there are short term rentals in the neighborhoods where she has lived, but she has never had, nor heard of, a negative encounter with any owner or guest of a short term rental. Her grandmother lived on Garcia Street and never once spoke ill of vacation rentals. She loves that she was able to move back to Santa Fe and find employment. She loves this City, but her livelihood and that of so many people she has come to know since June is being threatened. She asked the Governing Body not to outlaw vacation rentals in Santa Fe, because the economic benefits of this industry far outweigh the counter arguments which she has heard from the community.

Susan Stevens, 808 Allendale, said she applauds the Council efforts to control some of the short term rentals, noting there are several in her neighborhood which are quite problematic in terms of excess parties, trash, litter, beer cans, parking and such. She said

people are doing really well with short term rentals. It is a problem, and there need to be controls, and the sooner the better.

Russell Betz, 3289 Otero Street, said he is a professional at the global level in resource utilization, sustainable development, and ecotourism, and came to Santa Fe to be a part of this business in Santa Fe, which is now threatened. He does not believe the Council has come up with an adequate proposal to meet the needs of the city, the tourism industry, small businesses and the neighbors – we're missing all points at the moment. He believes any decisions now would be premature, and will embroil the Council in a situation which will be impossible to monitor, will invite lengthy and multitudinous difficulties, and would open 2-3 big "cans of worms." One of those is that this proposal will kill this industry. He has seven vacation rentals, and to establish a seven-day minimum won't work, saying most have never had more than six one-week rentals a year. He said 60% of the business is 3-5 night rentals, and to stop this is to kill the business. He said there are consequences in the tourism sector. He asked the Governing Body to think carefully about this. He likes the idea of the overlay district which, he believes, has profound and very positive possibilities for the City. [Note: Mr. Betz presented an enlarged drawing of the area which he says shows what has happened to this neighborhood. However, he was away from the microphone and his remarks are inaudible]. He spoke about Ft. Marcy which seems to be exempted. To do this now is premature, would be impossible to monitor, and invites difficulties to the City. He said the proposals on the table will kill the industry.

Miguel Gallegos, 2401 Calle Loma Bonita, said he is a lifetime resident of Santa Fe, and the maintenance supervisor for Kokopelli Management. He said the company has an emergency telephone for 24 hours for all properties, and he is on call 24/7. He said they have had lots of issues lately, and they inspect, check and maintain all of their properties. He said with the vacant homes, the City has had issues lately with freezing and bursting meters, and he has been dealing with those and the issue of properties without water. He said if the City bans short term rentals his vendors will lose jobs, noting there are several in attendance. He reiterated that Kokopelli has a 24-hour telephone line where tenants and neighbors can call with any complaints. He said he will address issues, and, if necessary send the police.

Chuck Simco, owner of New Mexico Pest Control in Santa Fe, which has been in Santa Fe since 1945, said he does business with short term rentals for the various management companies and individual companies. He said the Council needs to think about this from a business point of view. He said Santa Fe is one of the most popular vacation places in the U.S., and to reduce the short term rentals will reduce the number of people coming into the City, the revenues and the GRTs. He said about 5% of his business is to short term rentals, and if this is banned, he will have to layoff one employee

Clarice Coffey, owner of a local tour company, said she has seen an uptick of movie related business, and the number of films being shot here is amazing. This has created lots of new jobs, and the #1 place to film in New Mexico is Santa Fe, and if we lose the opportunity for A-list stars to be able to rent private homes during their stay for filming, it would have an adverse impact on the movie industry in Santa Fe. She would not like to see this happen.

Mike Garcia, contractor, a lifelong resident of Santa Fe, said a large amount of his business is through Kokopelli. He said, "Don't take my livelihood away from me." He said he has a lot of employees who do maintenance for Kokopelli, and he would appreciate if the Council would vote yes for short term rentals.

Rita Padilla-Hoffman, said she is a lifelong resident of Santa Fe, attending Santa Fe High School, and returned to Santa Fe to teach for 26 years. She said when she moved back, there were several buildings in need of repair, maintenance and cleanup. She said over the years people purchased or inherited these properties and refurbished and rebuilt these structures. Some lived there full time, some part time, and some eventually became short term rentals. There are a number of short term rentals in her neighborhood. She said for a number of years she rented a small guest house to the same opera orchestra person, and her experience was positive. She has seen, through short term rentals, that the properties were improved, noting that without these rentals the homes would have been vacant and falling apart to the detriment of the neighborhood. She said the owners made these homes beautiful and the neighborhood was made beautiful. She has never heard a complaint from a neighbor about any of the short term rentals – the trash is picked up, the parking is off street, and the people walk where they want to go. She said as a lifelong resident, she urges the Council to vote against any restriction of short term rentals. She wants to be able to give her property to her children and grandchildren.

Joseph Gabaldon, plumbing contractor, said he does a lot of work for companies managing short term rentals and employs 4 people. He asked the Council to look at everything, including him, and those he employs. He said a lot of the short term rentals are in remarkable shape and are up to code. He said his inspectors check the houses. He said many people, including himself would be losing income all. He is originally from New Mexico, and has lived in Santa Fe 5 years, and a veteran. His business pays thousands of dollars of GRTs per month, do a lot of volunteer work, and he asked that the Council reconsider and don't close all of the short term rentals.

Marilyn Bane, 622½ B Canyon Road, said there is an inequity in presentations this evening and she's not heard many people talk about the need for control and restriction of short term rentals, both of which need to be done. She said there is a lot of money in the offing in this room tonight, and she believes there need to be a balance. She said the reason this is such a difficult topic is because our quality of life is at stake. She understands employment and opportunity is at stake. Although she is against this particular ordinance, because she doesn't want all short term rentals eliminated, she believes they should be restricted, there should be fewer, should be permitted and controlled. She would like the Council and this audience to acknowledge and to know that this industry does impact neighborhoods and people, and sometimes there is more to life than jobs and money. She believes there should be a limited number of short term rentals which should be monitored very carefully.

David Floyd said he lives in the "east," and Santa Fe is his second home, having owned his home for almost 20 years, with the plan to retire in Santa Fe in 5-6 years. His family has been coming to Santa Fe for Christmas reunions for twenty years and love it here. He said the house provides them with a wonderful way to enjoy a wonderful City. He believes the short

term rental market allows that love to be extended to other families. He said short term rentals don't compete with the B&Bs and the major hotels, and offer housing to families for vacations. He said his typical rental is one month in the Summer, and in the Fall he has rented to a faculty family from Colgate University who runs a semester of sociology and political science studies in Santa Fe and they love it, sending their daughters to the local schools. He said if he is unable to do modest short term rentals, he will be unable to keep his home, and his entire retirement plan goes "down the tubes." He has heard that there are problems with short term rentals, and it is easy to imagine. However, we should realize that there are problems with people living everywhere. He said the worst problem for him was a resident who parked a large van on his cul de sac and periodically blocked him. He said quality of life issues should be addressed by regulation and enforcement of ordinances. He said the amendments as proposed by the Real Estate would result in a regulated industry. He said the idea of a \$1,000 licence is scary and verges on the punitive. He suggested regulation and appropriate control be the Council's objective rather than trying to shut down the industry.

Roxanne Connan, said she and her husband own an adobe compound in the Guadalupe District, with three one-bedroom units, one which is rented to a long term tenant and two for vacation rentals. She said when they purchased the property, they called the City and explained their plan. They were not told that this was illegal, and they were told they were exempt from paying the taxes, and they have always had it on their taxes. They have a one-week minimum rental. They have never had a problem in the six years they have owned the property, and many of their short term renters wouldn't be able to come to Santa Fe if there weren't short term rentals. Ms. Connan read excerpts from a letter she received as follows:

"This letter expresses a preference to allowing Santa Fe residents to own and manage vacation rentals. I have lived in Santa Fe for 15 years and am an artists and a wait person. All of the people who come here spend money supporting the local economy. I have no objection to the renting on my street. My neighbor keeps the property clean and safe. The activity is a good thing. Please allow my neighbor to continue her business of giving out of town guests a place to stay and enjoy our wonderful City of Santa Fe."

She said they have two one bedroom units and can't live on the property since they have children as well as pets. She said even if these are made illegal in 2013, places such as Quail Run and El Corazon and other locations will continue. She said individuals should have the same use of their property as a large development. She said most people don't object to, or are in favor of, short term rentals. She said those opposed are a small but vocal minority. She said some people have legitimate concerns and badly managed properties should be dealt with on an individual basis. She doesn't believe short term rentals hurts anybody, and brings money to Santa Fe and improves, not detracts from, the neighborhood. She asked that the Council not penalize them for the irresponsibility of a few. She requested an exemption for people who live here locally and manage their short term rentals. She is concerned about the \$1,000 fee, but believes it is reasonable to collect Lodger's Tax and GRTs, and to review this in 18 months.

Kurt Hughes said he has lived in Santa Fe for 20 years, and has a small installation business. If this Ordinance is passed, he will have to lay off 3-4 employees, which will have to come back to the City for assistance.

Dinah Reddick spoke about her personal experiences in living next door to a short term rental. She spoke about her experiences which were lewd acts in her parking lot, drug overdose in the parking lot, cleaning crews at odd hours, problems with dogs running off leashes and pet wastes, loud parties, parking RV's which block emergency exits, all of which required calling City emergency services. She believes these things wouldn't have happened if the City had enforced the 30-day regulation on short term rentals outside the central business district. She the short term rental owners believe that those of her who live here permanently and regularly should just call them and/or the management company, which in her experience doesn't work well. Also, she doesn't believe it is her obligation to police short term rentals for the owners. She said some of the rental companies are somewhat responsive, but she usually is told that "our clients are very nice, wonderful and such." She said many don't use management companies and lease directly over the internet. She asked how the City can collect Lodger's Tax in these situations.

Kevin Fisher said he lives in Los Angeles, owns a second home on Canyon Road, and someday hopes to retire here. His home is a short term rental. He said the issue is fairness. He said whether you live in Los Angeles or Santa Fe, you can't choose your neighbors, and cannot dictate how they behave. He said he has spent more money on his Santa Fe home than on his home in Los Angeles. He has no problem with some regulation of the business, but it seems the proposals do not treat people fairly across the Board. He said the Real Estate Association's proposal is fair, and treats everyone the same, which usually works and what this country is about. He said if the ordinance is adopted, he won't leave Santa Fe, although it would affect him. He asked that the Council treat him fairly and equally with the other businesses in Santa Fe.

Stefanie Beninato said she has a short term rental, and she supports control of vacation rentals. She said there are many vacant buildings in her neighborhood part of the year when tourists don't come here. There are people camping out in the yards, and using the property for drug activity among other things. She said many people build vacation rentals and put in a lot of chimneys which creates air pollution, and do not have adequate parking which causes problems. She said people are parking on vacation rental properties in her area, but no one is there. She said some of the exceptions should be for people who want to rent their own homes once a month. She said accountability is important, and she likes the idea of the owner living on or next to the property. There are also people who live in town doing their own property management and perhaps there should be an exception for them, as long as they prominently post how to get in touch with them. She believes vacation rentals greatly change a neighborhood – lack of cohesion, lots of vacancy and problems that causes. She supports control, and this is a good start, but there could be more work on the proposal.

Tom Simons said he is here representing several management companies and individuals who own short term rentals. He submitted the exhibits to his position statement of January 9, 2008 [Exhibit "4"]. Mr. Simons presented information from Exhibit "4." Please see

Exhibit "4" for specifics of this presentation. Mr. Simons pointed out that one of the issues here is the lack of verifiable information. He understood the City was supposed to hire Barraclough & Associates to do a study of short term rentals as a prerequisite in order to make the determinations which are part of this very important ordinance. He understands that study is not done and this is premature. Mr. Simons presented facts and myths about Santa Fe short term rentals from his position paper [Exhibit "4"]. Mr. Simons requested that the City Council do not pass this ordinance.

Councilor Trujillo said he understood Mr. Simons to say that 40% of the houses in Santa Fe are rentals.

Mr. Simons said this is correct.

Bruce Kingsley said he has vacation rentals, each of which is legally zoned. He said the first myth is that there are 250 vacation rentals, and he can find 500 on the internet right now. His friend who works for the City utilities, has tracked vacation rentals so they can be billed a commercial rate, and his friend says there are 800 short term rentals in Santa Fe. He said on the websites listing vacation rentals, there are 20 new ones in the last week, noting there have been 50-60 added to the website over the past year. Mr. Kingsley quoted from the BLOG of VRBO.com, the leading vacation rental website, "With the demand for vacation homes so strong, especially in what used to be sleepy little towns, the prices are driving out the locals. The locals can no longer afford to live in these areas. Rich out of town people come into the best parts of town, buy houses, live in them 5-6 weeks a year and use management companies and the internet to rent them out the rest of the year. Without the ability to rent their homes out as vacation rentals, many out of town buyers would not be able to afford to have their second home and many more native Santa Feans would be still living in the hills to our east." He said there are hundreds of legal vacation rentals in the BCD zone, most of which are operating at less than 50%. There are hundreds of places for tourists to stay, and hundreds of square feet in downtown Santa Fe which are available to be converted to short term rentals. He said the notion that the property management companies will go out of business is a myth. He said the management companies don't own the properties they manage and can move into the BCD. The jobs that they say will be lost, will follow them into the BCD. He said no jobs will be lost and no tourists will be turned away. He asked each of the City Councilors if they would like a vacation rental next to their house and spoke of all of the issues which those will bring.

Anna Valenzuela said she owns a small house cleaning company, and works for the Management Group. She said when she started working with the Management Group, it was a great opportunity for her company to improve the quality of service in this business. She said it is an opportunity to hire people with families and it is an opportunity to create new things. She said people come here over and over again because we have a great town and we have a great service.

Chris Benton, one of the owners of High Mountain Mechanical, is a heating and air-conditioning contractor which employs six people, but all of these people depend on their company doing well. He said they work closely with many of the management companies – 8-10% of their business. He said there is a negative, trickle down effect. He said his business is

seasonal when it is really hot or cold. He said working with the short term rentals helps to balance this and keep their employees busy year-round. He said they are just trying to feed their families, and they are not trying to get rich. He said he and the employees interact with many of the tenants. He said the visitors can experience the charm of Santa Fe. He said he wouldn't be able to live in Santa Fe without the income from tourists. He doesn't understand why the City Council would take away something which is so important to the City.

Rick Martinez said he is here to say don't encourage short term rentals. He said the short term rentals are changing available space, and kicking out the people who want to live, bike and work in Santa Fe. He wants to protect the town and the workers in Santa Fe, and make a living, sustainable town where people can come to live and work. He has a friend living on Canyon Road who was kicked out so his space could be converted to a short term rental.

Troy Beal, owner of B & D Electric, said he was called here by his employees to let the Council know that they want to keep their jobs. It took ten years to establish his business here, with 15 employees, five of which work full-time, on-call 24/7 to provide short term rental maintenance. This maintenance provides their employment, and they are worried, and thought if he came to the Council, you would listen to me. He said the short term rental companies hire professionals, which are his employees. He asked the City Council to please not pass this proposal.

Judy Dewey, said she and her husband have lived here for 30 years, and she ran a short term rental for a short time. During that time they did rent to clients from their gallery, and they had no complaints. She believes the bad experience previously detailed is a very bad exception to the rule. She said this has become a huge business in Santa Fe which employs a lot of people. She said these people, in addition to spending a lot of money, also volunteer in Santa Fe, and come to Santa Fe for the Indian Market, Indian Market and Spanish Market to volunteer to these organizations. We need to consider these people are also coming here to help, and not just to take away. She believes there needs to be a mediation arm where you can reach someone and have a response. There should be stricter regulations on these short term rentals where bad problems can be resolved. She encouraged the Council to consider the incredible amount of business which comes to Santa Fe because of short term rentals.

Pen LaFarge, 647 Old Santa Fe Trail, said he has lived at this address all of his life. He noted that most of those who have spoken have addressed the self interest of profit and loss. He wants to speak of the interest of the neighborhood and the City altogether, and to give the perspective that what we are trying to do is to maintain a healthy, whole, vital city. The fabric of our life and neighborhoods is determined by the people who live in them, not by the people who rent and come in and out, but by the people who live there, care, stay and participate and vote. The short term rentals tear apart the fabric of our neighborhoods and of the City, so do nonresident owners. He said we are interested in the fabric of our lives. He said a previous speaker cited a statistic of 40% rentals which sounds dubious for him. If this is true, everyone in this room, watching on tv, or living here should be terrified. If true, our City already has fallen apart. He hopes this is wrong. He isn't speaking against individual families who rent, who have made a good case, and have good reasons to rent. He isn't speaking about them. He is speaking about the rental agencies who care about nothing but profit and loss, and they

are bad citizens who have broken the law for years, knowingly, laughed at the City and are now asking you to be rewarded for this. He said you should tell them, "Piffle." He said they encourage realtors to sell property by telling them they'll rent the property and then the owners can afford to make the payments. He said that encourages them toward short term rentals and encourages the buyers toward illegal behavior. He spoke about attending a meeting where testimony was taken about this ordinance. One of the realtors said the people we don't like, the people who ruin the town, are people who own their own houses because if they're bad neighbors, you can't get rid of them. This means that everyone of us who own our own homes are the problem as far as they're concerned.

Chad Hester said this is all about approach. Some people have had bad short term rentals experiences, others good. He is an Albuquerque native, and his partner is from Santa Fe. He said when he approached a short term rental to help supplement the mortgage, he first spoke with all of his neighbors, asked if they would be okay with it, and then gave them his cell phone number and the property manager's number. He participates in the community, and put farolitos on Garcia Street with his neighbors. He spent four months here renovating his property. He said if there are bad owners and renters, the City needs to deal with these on a case-by-case basis. He has no problem in controlling parking and occupancy rates, noting he wouldn't want 20 people staying in his two bedroom adobe. He thinks the City needs to take a case by case approach, rather than an all out ban. He said if it is as out of control as people are saying it is, there will then be 800 homes on the market, and all of a sudden we will need more hotel rooms. This could affect the historic downtown status. He believes we need to have a more open situation where we could come to a resolution to regulate the industry, keep it fluid, without punishing anyone. He said the City has been taking GRTs and Lodger's Tax from the short term management companies, which made him think this was legal when he started.

Wade Thompson, 503 Johnson Lane said he has seen great changes in Santa Fe over the past 30 years. He said this is one of the most important issues, pro or con, the Council has faced in many years. He said there is only one Hispano on his street out of 18 homes, with out-of-town owners surrounding him, so we have seen a tremendous gentrification which he believes is sad. He said out of the 18 homes, six are used as short term rentals, which are not always occupied. He quoted from a letter to the editor in September 2007, as follows:

"Bravo to Mayor David Coss for insisting that the short term rental situation be resolved. The existing ordinance, no rentals in residential neighborhoods for less than 30 days should be enforced. Passed years ago by the City Council, the ordinance was extremely far sighted. The old east side neighborhoods are now 'transienthoods' not neighborhoods, of the rental lobby, speculators and profiteers, most of whom live, reside outside of Santa Fe. They are interested only in fattening their own wallets. Short term rentals should be allowed only in commercially zoned areas of the city. Short term renters are not neighbors, they are transients. Enforce the existing ordinance. The City Council should be protecting the unique character of Santa Fe, not destroying it."

Mr. Thompson believes the fabric of the neighborhood is greatly affected by transients.

Marilyn Proctor, 2839 Don Quixote, said she works for Kokopelli Property Management, and has lived here for almost 35 years, and her children were born and raised in Santa Fe. She has been in the vacation rental business for the past 28 years, and contrary to what was said, they are not bad citizens. She said in 2002, your predecessors changed the law on short term rentals without notifying their industry. Since that time, they have been paying and the City has been accepting their Lodger's Tax. She said they are ambassadors and love the City, provide a good service to the City, and other businesses in the City. They do not rent homes to bad people, but rent to people who love and respect Santa Fe. Their average clients are in their 60s and come here, spend money and anxiously await their next visit. She asked for guidelines and regulations to keep their industry viable for many years to come, and don't let a few neighbors in this City of 70,000 have you make a political statement which could harm the economics of this community. She said she counted only seven people this evening who are against short term rentals. She doesn't believe the quality of life for anyone in this room is being affected by short term rentals.

Clint Deman said he would be benefitted by this ordinance, because he lives on the property where he has a short term rental which he believes is exempted. He said the short term renters are people or families often coming together as a reunion, and don't want to stay in separate hotel rooms, want a sense of a Santa Fe home, and this offers them the real character of Santa Fe. He said with regard to transients, over the course of its history, Santa Fe has always been a transient place where groups of different cultures have come together, and this gives the character to Santa Fe, which is unique and makes it an enjoyable destination. He believes the industry should be regulated, but there is a real benefit to have families come together in a home.

Ouida MacGregor, 2319 Calle Camarico, said it seems those speaking this evening are heavily real estate, management groups. She noted the statement that 40% of the homes in Santa Fe are rented, and commented that if you keep this going long enough we won't have neighbors, and it will be an easy decision. She said Mr. Nichols said when others are sitting in your chair they will repeal this law. She said in 1980, she and her husband purchased property to open a B&B, and the City didn't know what that was, but they told them it was okay as long as it was in the downtown CDB because it was illegal to have any short term rentals elsewhere. She said they ran the property for 23 years, and it is still in operation. She spoke about a situation when she was on the City Council, where the South Capital District people wanted to build guest houses which they called "mother-in-law" apartments so grannie could move there. The neighbors came and protested in huge numbers, saying don't let these turn into short term rentals. At that time, the City Council passed an ordinance providing there would be no rentals for less than 30 days. The problem this evening is because previous administrations haven't enforced the rules which have been on the books for years. She believes, as part of the adoption of this ordinance, the City will have to hire staff for enforcement. She said otherwise, there will be new Councilors, new City Managers, new staff and no one will remember what is in the City Code. She said keep it as simple as possible, with restrictions, and people should prove they have been paying Lodger's Tax to get licenses until the phase out date chosen.

Jerry Milstel, Eldorado, said he is a short term renter. Once a year he and six other people, in the Spring rent a house, Thursday to Sunday, to gather and talk about their lives. He

said they are not rowdy, and this is an opportunity talk about their issues, about their lives. If you adopt this ordinance, they can't do that.

Karl Sommer said he is here for two reasons. One is a specific amendment regarding Quail Run, which has been in existence, has been approved, and has unique zoning approvals and specific facilities which do not, and are not implicated by the complaints which have been raised by the neighborhoods which are affected by short term rentals. He said Quail Run is a PUD which has resort facilities which have been cast into this very, very, very wide net, but should not affect this neighborhood in this area. Quail Run has a golf course, a restaurant, spa facilities, and other amenities, and it has had short term rentals. People have been investing in that, and this ordinance will capture something it is not intended to capture.

Mr. Sommer distributed copies of a proposed amendment to the Mayor and Council [Exhibit "5."].

Mr. Sommer said the draft ordinance exempts six categories, and this is one category which was left out. He said this came before the Planning Commission and there were no objections from anyone to the language of the amendment which provides that PUD which has a development plan approved, has particular kinds of facilities, and has been arranged a certain way, should not be captured within the ambit of this particular ordinance. He believes this fits with the policy being discussed on every level, and no neighborhoods are impacted because this development was arranged that way.

Mr. Sommer said secondly, the amendment was approved at the Planning Commission without objection, but was dropped in the transition to this particular ordinance. He said he gave the language to staff and believes it meets with staff approval in some ways. He requested that the Council consider this amendment.

Councilor Chavez said then you're saying that these conditions were part of the original ordinance as approved by the Planning Commission.

Mr. Sommer said the ordinance which came before the Planning Commission was amended to include this language, but when that ordinance was not carried forward, it was left out. He said there is no other area of town which meets the criteria of the language of the amendment.

Mr. Sommer said this Council is faced with a decision which affects peoples economic lives versus their quality of life, and he doesn't think there is a distinction between the two. He said there are people who have lived here for a long long time and have *de facto*, by virtue of the City's spoken and unspoken policy, enjoyed a quality of life. There is a whole class of people with an economic investment in that. There are people in neighborhoods who are affected by that particular use and have an economic investment as well as a quality of life investment. He believes the distinction this Council is being asked to draw here this evening about economics versus quality of life is artificial, and he believes these are one and the same. The people who spoke for and against this ordinance are talking about the same thing, and you are called on to draw a balance between those two. It is a difficult decision.

Jane Terry said she wants to remind everyone that the revision to the ordinance was not initiated by full time residents, nor residential neighborhoods, nor homeowners associations in any specific neighborhoods, nor by those who are requesting the legalization of short term rentals in their neighborhoods. She said none of these entities have come to this Council requesting legalization of short term rentals in their neighborhoods. She said the short term rentals amendments have been initiated by special interest groups who could financially benefit without regard to the overwhelming impact such changes will have in our residential neighborhoods. She said, "If residential neighborhoods want short term rentals, then let them be the ones that come to the Council and ask for legalization of short term rentals in their neighborhood." She said if short term rentals were beneficial to neighborhoods, there would no reason for zoning codes to protect the citizens from commercial businesses, nor to have a short term rental ordinance. She would like the City to retain the existing short term rental policy, establish a controlling system, and assure all homeowners that the ordinance will be enforced to the letter of the law.

Art Roth, 1481 Upper Canyon Road, said he comes as the Treasurer of the Canyon Neighborhood Association as well as an individual, noting the Association's position has been submitted to the Governing Body. He said it is interesting to hear and watch what is happening tonight. He said we have an ordinance which was never enforced, so the reality is we are lawless and in chaos. He said Councilors Wurzbarger and Councilor Heldmeyer led a campaign to bring order to chaos, but have not said anything about shutting down short term rentals, instead saying let's police it. He said currently management companies and individuals are controlling our destiny, our neighborhoods and our image of Santa Fe. The good management companies and individuals on the internet probably do a good job, but there are those who don't. He applauds this Council for the courage to stand up and take definitive action. This isn't about downtown Santa Fe, it is about Santa Fe. He said those that aren't impacted now can just wait, because short term rentals will get there. He said we aren't putting people out of business, but saying, "Let's go forward in a disciplined format, and get those people out of the system who don't comply and they'll be replaced by more hospitality." He said they'll build another hotel, and it doesn't have to be eight stories high. He said, let's get together and solve the problem for Santa Fe and quit polarizing the City again. He wants a unified approach to resolve a common problem. He wants this Council to decide what is in the best interest of Santa Fe, and not for District 1, 2, 3 or 4.

Susan Harris said she is a realtor, and has resided here for 20 years at 507 Weber in District 2. She said over the past 20 years, it has been her experience that what is offered in short term rentals is a unique experience where they can feel as if they live here when they visit. She said these people are making contributions other than economic, and often share themselves with Santa and with the neighborhoods. She said it is difficult to take an ordinance from years ago and make it effective. She would like us to look at the long term implication of this proposed ordinance. She said made a plea for the Council to look at this, and not place egregious restrictions on this activity. She said there is law enforcement to enforce Code violations. It would be useful for the contact information to be posted on the premises of short term rentals.

Gordy [no last name given], said he is involved in short term rentals in the City and County, and is concerned about those in the City. He just spent \$800,000 to renovate and restore eight units, and he couldn't do that without the short term rental business. He encourages monthly rentals, and hire all local people. He said a lot of people will be affected. He said he has never, ever had a problem with short term rentals in five years. He hopes you can see that there are a lot of people who want to make this a good thing, and comply and work together. He believes the answer is in the middle.

The Public Hearing was closed

There was a recess from 9:02 to 9:20 p.m

Mayor Coss thanked everyone for coming out this evening to speak to the Council tonight, and there was good testimony and good information for the Council to weigh.

Councilor Dominguez asked, in the spirit of open government, dialogue and conversation, why this particular bill didn't go before the Planning Commission like the original bill did.

Mayor Coss said primarily because he didn't send it there.

Councilor Dominguez asked the reason.

Mayor Coss said his main reason is because the Planning Commission had approved Councilor Wurzburger's bill, and he thought it needed a grandfathering clause as well. He said it isn't a zoning change and doesn't require going to Planning Commission. When we started this two years ago, we were in a hurry, and he would like to get this resolved.

Councilor Dominguez said it is such an important issue, the more dialogue we have, the better the outcome.

Councilor Dominguez said there was a 2002 ordinance originally banning all transient rentals in residential districts. He looked for a response in the minutes about this, and the outcome, but he could find nothing in the packet, and asked Mr. Katz to comment.

Mr. Katz said an ordinance was passed in 2002, as part of what was called a housekeeping amendment. He said the year before, Chapter 14 was recodified, and when it was recodified a bunch of things were left out unintentionally.

Councilor Dominguez said the issue was regarding notification, and he doesn't remember the specifics in the dialogue we had previous to that particular issue in terms of notification.

Mr. Katz asked if he is asking if there was proper notification for that ordinance.

Councilor Dominguez said yes.

Mr. Katz said the housekeeping bill went through all of the committees, the Planning Commission and then it came to Council. He said an amendment was offered to include this specific ban on short term rentals by a Councilor who thought that had been the law, so it was included in the bill before the amendment was passed, and it was included in the ordinance which passed in 2002. The issue is whether there was sufficient notification that the housekeeping bill, which was intended to be just cleanup, was proper to include what everybody feels was a substantive change in the law. Although many believed that there was a ban when bed and breakfast was banned, subsequently the case law has shown that does not ban short term rentals.

Councilor Dominguez asked if any of the case law was in the packet on that particular issue.

Mr. Katz said he did not include that in the packet.

Councilor Dominguez said he remembers at the last hearing we had, somebody from the public brought up the idea to do an audit by Barraclough, and asked Mayor Coss the result of that audit.

Mayor Coss asked Jack Hiatt to speak to this, commenting that he doesn't believe it has a lot of bearing on tonight's ordinance. He said they made a lot of representations about their finances and said they would turn them over, and Jack has those.

Mr. Hiatt said the Barraclough contract was executed, but they haven't yet performed the audit, and he believes the management companies will cooperate. He said, for example, if there is no vote tonight, and this is postponed, he believes he could have the audit by the next Council meeting. He said Barraclough is verifying the numbers which were brought to the Council by Karen Walker, and the only purpose of the audit.

Councilor Dominguez said he contends that decisions which are based on data which we have are better decisions, especially when we are dealing with potential economic significance, and he would like to see the data.

Councilor Heldmeyer said she has been told by staff, other than Mr. Hiatt, that the purpose of the Barraclough & Associates audit was to check to see how many short term rentals are paying Lodger's Tax, and it is something which was being done jointly by Finance and by CVB, and that Keith Toler and Kathryn Raveling were involved.

Mr. Hiatt said there are two phases and Barraclough is doing both. He said the City has a contract from Land Use which is verifying the Karen Walker numbers, and Finance is verifying Lodger's tax, but these are two different audits.

Councilor Heldmeyer said she understood what we passed at the December meeting was for the Lodger's Tax audit.

Councilor Chavez said both of these audits or assessments are important, because we've been given different sets of numbers. We were told earlier in the evening that there

could be as many as 800 as units and as few as 350 units. He asked when we are going to do an audit on the impact to the neighborhood in that aspect. He said there are two equations to this. He was willing to cosponsor the Ordinance because of the time which had elapsed. He said the longer we put anything off, it gets harder to do the task. If we continue to postpone, in the meantime we encourage this, reward those for negative behavior, noting some are managing properties correctly, but some are not. He said if we don't get a handle on this and manage it in a better way, time will get the best of us. He said the "horse is out of the barn," and we are now trying to "rein it back in," which isn't an easy task.

Councilor Chavez said his reason for cosponsoring this ordinance was to bring closure and to find some sense of security for the neighborhoods as well as those involved in the industry. He said we heard earlier about the fabric of the neighborhood, and the reasons people like to come to Santa Fe, and those are varied. He said this ordinance isn't to take anything away from them, but to give stronger safeguards to those living in the neighborhoods, and to maintain the true fabric of the City. He hopes we can move forward with this in some fashion tonight, instead of waiting again for another two weeks or two months or another year.

Councilor Ortiz said he is pleased to hear that Councilor Chavez believes that we need to take action on this, and not to remain in this holding pattern. He quoted from the City Council minutes of August 27, 2007, on page 22 of the packet, as follows:

"Councilor Chavez said that perhaps we could expand short term rentals into some areas or discuss a grandfathering clause, but that opens up another layer of enforcement and discussion and debate, which he doesn't think should happen right now. He doesn't think this is ready right now. He notes that the season is over and the activity has happened." Councilor Chavez then said that, "We knew two years ago we weren't enforcing this ordinance and we were trying to compensate by compromising, but that hasn't gotten us anywhere, and he doesn't think that spending more time on this will hurt, especially since this year's season is behind us for the most part."

Councilor Ortiz said at the time he disagreed with Councilor Chavez and thought we could have decided on this four months ago, and thought we had a bill before us four months ago which could have been worked on. In the end, he was on the unsuccessful side of a motion to delay this, and so here we are. We are here because some of the Councilors who wanted to have this particular version of this particular bill in front of us wanted the delay. He is glad Councilor Chavez has now changed his mind and opinion about this bill.

Councilor Ortiz said he told the realtors today in his candidate forum, in a process in which we are facing a "lose lose" situation, if we do anything tonight we will make everyone unhappy, commenting that we all are unhappy. He said when we're in this kind of situation we can throw up our hands and mash together what we have and leave you all to live with the consequences, or we can, as Councilor Dominguez is trying to do, look for data, look for that third way so we can achieve some sort of compromise.

Councilor Ortiz said his District does not have a large number of short term rentals, which allows him to see the broader picture. He can see, from a community perspective, how this issue affects all of you. He sees the rights of the neighbors being trampled upon, and the

daily intrusions into their lives and how that impacts their quality of life. He said he can see the position of the property owners, especially given the legal history. He said now he has an opinion from our City Attorney, an opinion from a group of lawyers purporting to represent neighborhood groups, and now an opinion of property owners, all of which say the same about what happened in 2002. In 2002, as a procedural and legal notice, we [Councilor Ortiz, Councilor Heldmeyer, Councilor Chavez and Councilor Bushee and our predecessors] passed an ordinance which did not have the correct title and general summary on it. He has legal opinions from three different lawyers telling us this.

Councilor Ortiz said we need to do something about that which creates problems for us as taxpayers, so something needs to happen. He said we need to come up with a way to regulate this industry, and a way in which this industry minimizes its effect on peoples quality of life. He said we don't have the answer of how to do this before us at this time. He said one of our Councilors who has been very active and very involved, and whose District has a large number of these units is not here tonight, and this is problematic for us as a governing body. He said there is no easy answer, and we will not have one by rushing a decision now, especially when we don't have the full complement of the Governing Body.

Councilor Heldmeyer said she looked at the minutes of the meeting. She said what happened previously was that a particular version was before the Council, and several different Councilors came with different ideas which we hadn't discussed. She said what we did as a body was to say we are going to delay this, and in delaying it, we really need to talk about these issues. She said at one point she asked Councilors with amendments to bring those in a timely fashion, and some did and some didn't. What happened was the version before us this evening. She said one way to drag this on is, is every time it comes up, we can say someone isn't here, or there are more amendments.

Councilor Heldmeyer said staff was supposed to get us this information. She said the opening line of an analysis of City Hall she did for the Mayor when he was a candidate was, "Everything takes too long and costs too much." She said this continues to be the case. She understands that people don't trust the numbers being given to us by the industry, because they seem to change depending on the tenor of any particular hearing. She said the reality is that putting this off during the off season to do research and due diligence, was a reasonable thing to do, but it can't be a "perpetual motion machine."

Councilor Wurzbarger said no one of the Council wants to end this debate more than she does, having been involved for more than two years. She said the "other bill," was her bill, and she didn't bring that one back because she thought she and the Mayor would come to some consensus, which they have tried to do over the past few months. She said there is one sticking point in the current proposal, which is that she has remained very uncomfortable with any legislation which provides that short term rentals in Santa Fe will unequivocally end at a certain time, and she has tried to work that out, and in the past two days has been looking at other options. She would still like to pursue getting a consensus on the bill.

Councilor Wurzbarger said, given that we have a legal document which she had not seen until today, and she doesn't have an opinion from the legal staff about the cursory comments about it, and given that the study which should give us a baseline of what is

happening in the community on short term rentals could be delivered in two weeks according to Jack Hiatt, and given her understanding of the comment earlier that there was a change with respect to Quail Run from the initial legislation which she proposed, and she wants to be sure there are no other changes. Therefore, she said she is going to move to table this for two weeks with the intention to take more input to try to come up with areas on which we can agree for moving forward which meet the objectives we have always had to balance the needs of the broad community which includes neighbors and businesses and the economic impact.

Councilor Wurzburger said at the last Finance Committee meeting she asked Chair Heldmeyer to have the BBER group present a report on the economy. She is extremely concerned that we perceive that Santa Fe is not being affected by what is happening nationally, which simply isn't possible. She said this is one piece of our economy, even though a small percentage of houses, and we don't know the numbers, but this is the amount of money which we have as a flex in our budget – \$1 million. She said we have about \$1 million annually after raises and personnel. She is hoping that the information from the study, and the two weeks to work with the Mayor and members of the Council, will give the opportunity to develop a bill which balances the needs of the entire community.

Councilor Wurzburger moved, seconded by Councilor Dominguez, to table this item, Item G(5) to the Council meeting of January 30, 2008.

Discussion: Councilor Heldmeyer said she doesn't know what will come forward in two weeks, but it sounds as if it might be substantially different in some ways than what we have tonight. She doesn't believe we need to get everyone to stand up again and talk about their opinions about short term rentals or even their experiences with short term rentals. However, if what is being suggested is a substantial change to the law, the only way to be fair to the public is for the public to have the ability to comment on those changes.

Councilor Wurzburger agrees with Councilor Heldmeyer and has no problem with that. She said she too, would really like to hear commentary on the proposed changes, as opposed to the same commentary we've heard tonight.

Councilor Heldmeyer said people who weren't here this evening would like to do similar commentary, or hear from people who were here this evening, but who want to say something different. She doesn't want to put "words in people's mouths," but she doesn't want to shut off the public hearing.

Councilor Wurzburger said that was never her intention.

Councilor Trujillo said if this is to be postponed for two weeks he has some concerns and questions. He said the ordinance doesn't speak to what happens if the mom and dad pass away, and the rental goes to a child, and asked if that person had to apply again because it is a change of ownership, or would they be grandfathered. He asked for clarification on what happens with inherited property which has been used for short term rentals.

Councilor Trujillo said the \$1,000 proposed to be charged for the license is steep. He

asked about charging by the number of bedrooms. He wants to look at a sliding scale on these charges.

Councilor Trujillo said the gentleman said 40% of the houses in Santa Fe are rentals, but he just doesn't buy that. He said it all comes down to the bad renters in Santa Fe and we need to deal with those.

Councilor Trujillo asked what happens with the grandma and grandpa who probably haven't been paying taxes, and are running a short term rental illegally. He asked what happens if this is their only livelihood and the way they make a living, and he wants us to explore this. He said, "I don't want to just go in there and say, hey, we caught you. Guess what, it ends right now." He said we have to look at people who have been doing this for years, and although they may not have been following the rules, he just doesn't want to take away their livelihood.

Councilor Trujillo asked the Councilors who moved to Santa Fe, to think about where they stayed when they first came here – in a hotel or short term rental – and how did they enjoy the City when they first came to Santa Fe. He agrees with Councilor Dominguez that there are a lot of issues. If this is postponed, he hopes he gets answers to these questions.

Councilor Chavez asked Councilor Wurzburger if she anticipates taking a vote at the next Council meeting, or if there will be another set of "twenty questions," based on the new data set which we may, or may not have.

Councilor Wurzburger said her questions have remained the same for the entire time, and they have not been answered. She said she would answer Councilor Chavez's question, "That if the other Councilors get engaged in the issue, and we can collectively work, I think we're close and I hope we all have a vote. I would like to not spend any more time on this. So, the answer to your question is yes, I do believe we can take a vote if we all work together very diligently to try to better understand this issue and come up with a compromise."

Councilor Chavez commented that we all have a different memory and observation on these things. He said if we approve a proposal to phase out in five years, and convert these from short term to long term rentals, it isn't cutting out the industry completely, and just changes from short to long term.

Councilor Wurzburger said this is a matter of perception, and she would like to work on this with the Mayor.

Councilor Chavez believes this is something on which we all need to work. He said we knew this situation was brewing, and we could have done something about it. He said we have the option, and every option we are presented doesn't seem to be good enough.

Councilor Wurzburger said, with all due respect, she has worked on creative options for nine months, and it this ordinance was introduced only 1½ months ago, and she has consistently taken a position against that particular proposal.

Mayor Coss said we are at a point where there is no consensus "out there" at all, and we've been working on this for two years. He appreciates the Councilors wanting more data, but we aren't going to get it because it is an illegal, unregulated activity, and you can't get data on that. He appreciates the management data submitting their data. However, he has heard since the beginning, and again tonight, that there are very few of these, and that there is a vast inventory and we will not be able to stop it, and he's heard there are 500-800. He said we can't resolve this in two weeks. He said the question for him is neighborhoods. He said in the labor movement, they say, "My work is more than my job, and my life is more than my work," and the work of Santa Fe includes Santa Fe but it isn't the only thing. He asked in the life of Santa Fe, do we have a life in Santa Fe anywhere where isn't surrendered to tourism, and if it makes a buck for tourism, do we have to do it. He said we have had testimony that we have lost a lot of our neighborhoods, and 40% of our neighborhoods are now rentals. He said we heard Councilor MacGregor testify that this has been going on since she was on the Council in the 1980s.

Mayor Coss asked if we are ever going to get our arms around this, and stand up for the concept of neighborhoods. He said he has had bad neighbors, but he has always had a neighborhood. He said the house next to his house is empty, and it is another house not owned by the people who live there. He doesn't want to see somebody different there every seven days. He said we are looking at a bill which was very unpopular when he introduced it. He said they took all of the work which Councilor Wurzburger put in terms of regulation and charging fees and having some way to get data and regulate an industry which imposed itself in the neighborhoods. He said Councilor Wurzburger was "bad mouthed" and demeaned by the same industry all the way through. He said he took her bill, and tried to take it whole cloth, and he apologizes to Councilor Wurzburger that the piece on Quail Run didn't make it into the bill.

Mayor Coss said the one difference between him and Councilor Wurzburger is that her bill would legalize short term rentals everywhere, all at once. He thought the better way would be to find out where we were legalizing it. However, after an Attorney's opinion, the only way was grandfathering, so we grandfathered for five years which is standard land use practice when something is changed.

Mayor Coss said we heard testimony that we are eliminating an industry, but we are not eliminating the industry in the Business Capital District, or by the Cross of the Martyrs, and if the amendment is passed, at Quail Run. He said we are now talking about a cap and how big that should be. He said if we impose this, we are saying to the neighbors that we're doing this because we couldn't figure out anything else to do.

Mayor Coss reiterated that this was a simple, straightforward piece of legislation, which took all of Councilor Wurzburger's work, and included the concept that we would separate residential neighborhoods from business. He welcomes the Council trying to get data, and he hopes they are successful where everyone else failed, but he doesn't think that will happen. He believes there will continue to be real estate speculation in Santa Fe, because this is a beautiful place to live. He said we will continue to get emails about people who bought a second house in Santa Fe which they can't afford, but please let them rent it short term so they can afford to make the payments. He said this isn't his concern. He is trying to get people into a house for the first time.

Mayor Coss believes this is a good bill, and he will continue to work with Councilor Wurzbarger, because she has worked very hard on this, trying to find something which works for the community. He hopes we can find someplace in Santa Fe where a neighborhood can just be a neighborhood.

Councilor Ortiz commended Mayor Coss for his impassioned defense of neighborhoods. He said this speech is the best reason for people to vote for the Charter amendment allowing the Mayor to vote, even when the Mayor is not required to vote. He said with one Councilor missing, there is no way the Mayor would be able to vote this evening. He said, given the Mayor's passion, and the work he has done on this, it is fair for the Mayor to have the ability to express himself by voting. He said we are held accountable for the decisions we make and the votes which are taken. He said the Mayor not being able to vote is a disservice to the Mayor and to the community he represents. He reiterated that the Mayor's speech is another reason we should have a delay until we have a full complement of the Governing Body in attendance, in the event there are differences on the Governing Body, the mayor would be able to vote.

Councilor Ortiz said the Mayor's proposal is also stuck in the same *status quo* which does not get to a solution, and in three weeks we may not have either the data or a solution. However, we will have the full governing body, and perhaps "new eyes and new approaches." He said if we are still deadlocked at the next meeting, the decision will be based on the Mayor's vote.

Councilor Calvert said many of us believe that if we made a decision tonight it would be "lose lose". However, he doesn't know if three weeks will make it less "lose lose," and he wants to work toward something which is less "lose lose," and perhaps could be more "win win," and a balance we can strike with which everyone can live, without winners and losers. He is ready to act because the most important result in moving forward is getting better information. He said, right now, we're "shooting in the dark," taking estimates from everyone on revenue and numbers, and anecdotal information on complaints. He believes we will make no progress until we pass something and start getting better information through better enforcement, which would be funded by the fees in this proposal. He said the next step is getting better information on what is happening, and we won't get that until we have a law. He wants to ensure that we make it as "win win" as possible. He will go along with the delay, but he will ask for a vote at the next Council meeting.

Councilor Heldmeyer said it would be good to have a vote. She spoke about the process which brought us to this point, which she believes has been extraordinarily unfortunate. Councilors who tried to do something, were given advice from the then City Attorney, and a series of "back room" meetings which led to a compromise, and a show trial task force which was not intended to come to a "win win" situation or to prevent polarization. She said what could and should have been done should have been modeled on what was done for the home occupation, which started contentiously and ended up with a consensus which has worked. She said this issue was lost in the shuffle in the changes in senior City personnel. She said if we had used that model, we probably could have come to a consensus and adopted an ordinance a year ago. She suggested that the Council look at that model as a way of reaching more consensus in the future, and having more "win win," and less polarization. She said trying to reach consensus and compromise at this point is okay, but trying to reach it through all of the

segments of the public generally results in a better product and something which she hears some of the Councilors saying they would have liked to do.

Mayor Coss told Councilor Ortiz he would welcome voting, and he wasn't speaking against the motion, he was explaining his rationale for the ordinance he introduced.

The motion to postpone was approved on the following Roll Call Vote:

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

Against: None.

There was a break from 10:05 to 10:20 p.m.

- 6) **CONSIDERATION OF BILL NO. 2007-58; ADOPTION OF ORDINANCE NO. 2008- 1 (COUNCILOR CALVERT, COUNCILOR WURZBURGER AND COUNCILOR BUSHEE). AN ORDINANCE AMENDING CHAPTER 7 REGARDING BUILDING AND RELATED CODES; ADOPTING THE 1006 INTERNATIONAL BUILDING CODE, THE 2007 INTERNATIONAL RESIDENTIAL BUILDING CODE, THE 2006 INTERNATIONAL EXISTING BUILDING CODE, THE 2006 UNIFORM MECHANICAL CODE, THE 2006 UNIFORM PLUMBING CODE, THE 2008 NATIONAL ELECTRIC CODE AND OTHER RELATED CODES AS AMENDED BY THE STATE OF NEW MEXICO AND CITY OF SANTA FE. (JACK HIATT)**
 - a) **CONSIDERATION OF RESOLUTION NO. 2008- 6 (COUNCILOR CALVERT AND COUNCILOR WURZBURGER). A RESOLUTION READOPTING FEE SCHEDULES FOR BUILDING PERMITS, ELECTRICAL PERMITS, MECHANICAL/GAS/PLUMBING PERMITS, SEWER AND SIGN PERMITS. (JACK HIATT)**
 - b) **REQUEST FOR APPROVAL OF BUDGET INCREASE – GENERAL FUND.**

A copy of a proposed amendment to the ordinance, submitted by Councilor Heldmeyer, is incorporated herewith to these minutes as Exhibit "6."

Jack Hiatt presented information regarding this matter to the Council.

Public Hearing

There was no one speaking for or against these requests

The Public Hearing was closed

Councilor Calvert moved, seconded by Councilor Wurzbarger, to adopt Ordinance No. 2008-1.

Discussion: Councilor Heldmeyer said she met last week with Mr. Trujillo and Ms. Slick, head of the State Historic Preservation Office [SHPO]. She said the good thing about this Code is the bad thing about this Code which is it has a fair amount of flexibility. One of the questions which has arisen is how that flexibility is going to be handled for buildings requiring historic preservation. She said other cities in New Mexico and around the country are trying to deal with this. She said in the meeting, Ms. Slick said there has to be communication between the Building Code people and the Historic Preservation people.

Friendly amendment: Councilor Heldmeyer handed out a proposed amendment [Exhibit "6."] She said the Amendment says two things, "One is that in cases, and the wording of the Code presents a distinct life safety hazard, which basically means, when people are asking for tear downs, that a decision has to be made jointly by a building official and a historic preservation, in this case a historic preservation director, which in this case, Jack is the acting director...and if a historic structure requires an alteration because of a change of occupancy, and again, that's code speak for..if it needs something for safety or ADA, if it's an alteration that would be covered by our Historic Preservation Ordinance that...again there has to be this coordination between Code compliance and Historic Preservation. So, therefore I would like to ask if it is a friendly amendment to add this amendment, which was arrived at by our staff from all the divisions to what we're passing."

Discussion on the Friendly amendment: Councilor Calvert said he would prefer more time before Councilor Heldmeyer would "spring" these amendments, a day would help. He asked Jack Hiatt if this is something on which you have all agreed to be a good and proper thing. He believes there are provisions in Chapter 14 which covers some of this situation. He asked if this needs to be part of the Building Code.

Mr. Hiatt said he thinks this is part of the some 15 amendments which were proposed by a number of working groups. He said this came to his desk about three months ago, he said it made sense to him that "stripping them of all the amendments made sense." He said it made sense specifically to eliminate the proposed amendment, because it gave joint authority and power to two different division directors in the department, which seem to him to set up conflict which did not need to be made. As Councilor Heldmeyer said, it certainly requires communication between departments and division within City government. He said as the Director of the Land Use Department, he is in charge of communication and he believes that will work. He said, "Councilor, specifically, I don't think it's necessary."

Councilor Heldmeyer said she got the proposed amendment from staff, not Mr. Hiatt because he wasn't present at the meeting with Ms. Slick. She said Ms. Slick felt the more codified this could be, the better. She said she asked Yolanda Cortez if something like this has been proposed, and she gave her whole stack of amendments, but this is the only one which was discussed in the meeting with SHPO. She said it is her understanding from that discussion that it is similar to amendments which have been done by other cities in New Mexico. She said Ms. Slick also felt that the City really needed a lot of training along with the communication.

However, the general feeling was that just “nice thoughts” that this kind of communication would happen, probably were not sufficient. She said if there were a disagreement between the Building Code official and Historic Preservation Division Director, it would be the job of the head of the Land Use Department, who supervises both of these positions, to resolve that disagreement. She said many cities in New Mexico are finding that they need this kind of language so that we don’t have the kinds of slipups which we have had often in the past. She said often people in the Building Code office are unaware that certain things are included in Chapter 14 in terms of historic preservation, and do need to be considered. She said similar language also is supported by the New Mexico Heritage Preservation Association. She likes this language better because it was written by staff.

Councilor Calvert asked Harold Trujillo his thoughts on this amendment.

Harold Trujillo, 2702 Rincon Court, said there were subgroups such as the Existing Building Subgroup, and some of the recommendations came out of that group. He said Mr. Hiatt currently has been working on a procedure which would help resolve these issues. He said he has looked at the way the State is resolving these issues. The State usually forms a committee of the lead reviewers of plans, followed by discussion, and then they vote on these issues, and if they don’t agree, it is sent to the director, and in some cases to the State Commission. The last avenue would be going to District Court. He said there are many different avenues to follow. He said the best guideline for addressing these issues is the Historic Chapter in the Existing Building Code, which gives a lot of guidance to the Code official to determine what is and isn’t acceptable, and that is part of what is being adopted here.

Councilor Calvert asked what is meant by the “existing building code.”

Councilor Heldmeyer said the “existing building code,” is part of all of these codes, but it is not the current building code.

Councilor Calvert said then it is in what we are adopting.

Mr. Trujillo said in this there is a Chapter on Historic Buildings, how you deal with historic buildings, and there is guidance in here which will help a building official determine what is good to remain, what needs to be fixed and such in a historic building.

Councilor Heldmeyer said what is missing, is how to translate that into Preservations, noting she is following Ms. Slick’s direction who felt the one thing was missing was the directive to have this conversation, these discussions. She said as it happened in the stuff Yolanda Cortez gave her, “this” already existed.

The amendment was not friendly to the maker of the motion. Councilor Calvert explained that he really hates getting things at the last minute without time to really study them, and it bothers him that the person in charge of administering these codes ultimately isn’t necessarily in agreement with this. He said it isn’t that he disagrees with this, but he is unsure why it is needed, but it could be entertained after there is more time to reflect on it. He doesn’t want to entertain it right now on such short notice.

Councilor Heldmeyer apologized, saying it is short notice due to holiday schedules and other reasons, noting the meeting with Ms. Slick was on fairly short notice as well, and it was necessary to dig into what staff had done to see if this was appropriate.

Councilor Heldmeyer moved for approval of her proposed amendment. DIED FOR LACK OF SECOND.

Councilor Chavez asked if the staff training is in sync with the new blend of Codes.

Mr. Hiatt said staff has been training, and are certified in some of the Codes through training provided by the international group. There will be more training, assuming the ordinance is adopted. He said there will be a transition period until July 1, 2008, where both Codes will be acceptable.

Councilor Chavez asked when the current codes will be phased out.

Mr. Hiatt said on July 1, 2008.

Responding to questions from Councilor Chavez, Mr. Hiatt said the training will coincide with the phasing out of the old codes. He said this is extraordinary training for staff. He said it isn't budgeted, but there was a recent budget increase of \$20,000 into the training budget, so for the foreseeable future he believes there are adequate training funds. However, he won't know for sure until the other training requests are sorted out, some of which have nothing to do with the building codes.

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 Heldmeyer.

Explaining her vote: Councilor Heldmeyer said Historic Preservation is important to this City, but we are going to take people who are kind of partially trained on this, and let them on historic preservation without appropriate oversight. She said we know that in the past, this has been a huge problem and has created a lot of problematic cases where the City was ultimately sued because we didn't make the correct decisions. She said, "I think that this is a very small step that should be included, and I'm going to vote no since it's not included."

Councilor Calvert clarified that the Public Hearing included all items in this request.

Councilor Calvert moved, seconded by Councilor Wurzbarger, to adopt Resolution No. 2008-6.

The motion was approved on the following Roll Call vote.

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

Against: None

Councilor Calvert noted the request for a budget increase is for \$3,000, and the Finance Committee determined it is not necessary to have Council approval.

7) CONSIDERATION OF RESOLUTION NO. 2008- 7 (COUNCILOR CHAVEZ). A RESOLUTION ADOPTING THE "IMPACT FEE CAPITAL IMPROVEMENTS PLAN AND LAND USE ASSUMPTIONS, 2007-2012" TO MEET THE STATE REQUIRED IMPACT FEE PROGRAM 5-7YEAR UPDATE AS CALLED FOR IN THE STATE DEVELOPMENT FEES ACT (§5-8-30 NMSA 1978). (REED LIMING)

Reed Liming, Director, Long Range Planning Division, presented information regarding this matter from the materials in the Council packet, and visual aids. He noted that Clancy Mullen of Duncan Associates is in attendance to make a power point presentation and to answer questions. Mr. Liming said Duncan Associates is recommending adoption of this Capital Improvements Program.

It was the consensus among the Governing Body that the power point presentation was unnecessary because the members already have received this information in the various committees, and that Mr. Liming, staff and Mr. Mullen should answer questions regarding this request.

Public Hearing

Jim Siebert said his concern is that Santa Fe has a certain perception that the community is not business-friendly, and this won't help that perception. He said his clients are concerned about the amount of the impact fees, noting his clients can pick and choose where to locate. He would hate to see Santa Fe get to the point where we are no longer competitive with other communities in New Mexico and other states.

Mr. Siebert quoted from State Statutes on Impact Fees, "The records of the account into which the impact fees are deposited shall be open for public inspection and copying during ordinary business of the municipality or county. He continued from another section, "As a part of the annual audit process, a municipality or county shall prepare an annual report describing the amount of the impact fees collected, encumbered and used during the preceding year by category of capital improvements and service area identified, as provided for in Subsection A of this section."

Mr. Siebert said the law is very specific about how these funds are collected, how you get interest, and how you must expend these funds. He said State law says the City has to spend these monies within seven years and complete the construction project.

Mr. Siebert requested that the community be able to see the audits for the past seven years to see how the funds were collected, and if those funds have been expended.

The Public Hearing was closed

Councilor Chavez asked Mr. Liming to respond to Mr. Siebert's points, one the comparison with other cities of similar size, and secondly, the reporting.

Mr. Liming said the City's impact fees are considerably less than those of other cities which collect a similar array of impact fees – Albuquerque and Rio Rancho. He said a single family home of 2,000 sq. ft. in Santa Fe is \$2,860, and a similar home in Albuquerque, depending on size, could be as much as \$7,000, and in Rio Rancho it is a flat \$7,000. He said staff prepares an annual report to the Council, and meets with the Capital Improvements Advisory Committee quarterly, to review the project list, the funds expended. He said this information is in the packet and those reports can be made available to anyone who wants to know the impact fees for each account and to what project it is going. He said this information is in Item G(8).

Councilor Chavez said then that summary lists all the projects the City has done over the past 4-5 years.

Mr. Liming said yes, since the last update to the impact fees was done for 2003-2004.

Councilor Chavez moved, seconded by Councilor Calvert, to adopt Resolution No. 2008-7.

The motion was approved on the following Roll Call Vote:

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

Against: None.

- 8) CONSIDERATION OF BILL NO. 2007-64; ADOPTION OF ORDINANCE NO. 2008- 2 (COUNCILOR CHAVEZ). AN ORDINANCE AMENDING SECTION 14-8.14 1987, REGARDING IMPACT FEES AND ADDING A NEW IMPACT FEE SCHEDULE. (REED LIMING)**

Reed Liming presented information regarding this matter to the Governing Body, noting this fee schedule is the one recommended by the Capital Improvements Committee which sets the fees at 60% of what the consultant said were the maximum potential fees the City could charge in its new fee schedule.

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

Councilor Heldmeyer said the impact fees are designed to cover impacts in the area. She has been concerned with what to do with individual developments, buildings, etc., in terms of very, very specific local impacts. She asked if the City can collect additional money for the local impacts on the street corners on which they sit, or other nearby places.

Mr. Liming said the City has a list of eligible projects, and if a developer is making an improvement to one of the list projects, it is due a credit. If it is required, through negotiation, to do other projects which are next to, for example an ingress/egress, those are not eligible for credits against impact fees. He said San Mateo, for example is listed as an eligible project because we've identified that as a widening, or we feel we need to increase capacity. He said if some developer increases capacity on San Mate, the developer should be credited the improvements they make. However, if it is not on the list, and it is a specific improvement which is needed which the Traffic Engineering people feel is needed, then it is not credited and they still would pay "full freight" on their impacts.

Councilor Heldmeyer asked about adding a left turn lane to an existing signal where the left turn is only for entrance into a particular development.

Mr. Liming said because that is development specific, he doesn't think they would be credited for the improvement. If they are putting money, or actually having an improvement made at an intersection at which they are part of the issue of increased demand, then there may be some credit. If it is something they are adding which specifically is created by and for their development, generally the City isn't crediting those.

Councilor Heldmeyer said developers have made promises to the City about things which they would do, and then come back saying they did it, asking for credit because they maintain it was additional.

Mr. Liming said the ordinance provides that any credit agreement between the City and a developer must be finalized before the final development plan is approved. He said there should be something in place when they come forward for the development plan, so these things are understood and not negotiated at the time that they are asking for development plan approval.

Councilor Heldmeyer said they have come in after the development was complete and say in order to get the City to vote for the development, we said we would do this, but we found it cost more, and now they want this to be a credit toward impact fees, and the City has approved that request.

Mr. Liming reiterated that the ordinance is clear that if a developer wants credit for a improvement made, it needs to be negotiated with the City prior to them getting final subdivision plat approval or final development approval.

Councilor Heldmeyer asked what happens if a developer offers an amenity as an incentive to get the Council to vote for something, can it then go back and negotiate with staff or the Planning Commission independent of the Council to decide whether or not that money can be credited to their impact fee.

Mr. Liming said credit agreements dealing with monetary value would come to the Council for final approval. He said the way we have tried to deal with this is, (1) if it is something the developer is doing that is identified as an eligible project in our CIP, then they should be credited for providing that; (2) if they are providing an amenity for which they are later trying to get credit, the City can go back and say this wasn't listed as a project and something you did on your own.

Responding to Councilor Heldmeyer, Mr. Liming said the City's answer would be whether or not there is a credit agreement worked out with the City and if they can provide that agreement.

Councilor Heldmeyer asked who is "the City" in this case.

Mr. Liming said he believes it is the Planning and Land Use Director or the Land Use Director who has approved a credit agreement.

Councilor Ortiz said he recalls two developments which the City has approved where the developer has come back to the City – Borrego and San Mateo, as well as the senior apartments off Wagon Road, south of Villa Linda, where they were supposed to put in an easement, but instead put up a bridge. He said they made it clear that they wanted the cost of the bridge credited toward the impact fees. He asked if the language needs to be changed so that action, at the very least, has to come back for Governing Body approval.

Mr. Liming quoted from the ordinance under credits, "1. Credit against the impact fees shall be provided for contributions made by developers toward the cost of capital improvements or facility expansions identified in the impact fees capital improvement plans, and eligible for funding with impact fees pursuant to the provisions of this section." He said the test would be if the bridge was listed in the eligible projects.

Councilor Ortiz said he is sure that it wasn't. He asked if the next sentence should be, "All credit agreements hereunder shall obtain Governing Body approval."

Councilor Chavez said that would be only if they are not under the list under enabling legislation. He said there are certain categories which the consultant reviewed, and he doesn't know where bridges would fall.

Mr. Liming said the concern is what is the check on a credit agreement where the Land Use Director has approved a credit agreement for something which may not have been listed in eligible projects. He said a sentence could be added, and asked Mr. Mullen to assist with the language based on his experience as to how other cities have dealt with this

Mr. Mullen said it has to be on the list, so the only way, under the current ordinance, that they could get credit would be to come back to the Council and amend the list of improvements to add that. He said Council would have to agree to allow the credit as the ordinance currently is written, so he believes this is covered if this is the concern.

Councilor Ortiz said Councilor Heldmeyer raises the point that perhaps the place to add this language requiring the Governing Body to look at and approve the credit agreement, might be in Paragraph 3.

Councilor Chavez said that would be okay, but he said through enabling legislation the City is allowed to impose impact fees on certain infrastructure. The enabling legislation speaks to certain sets of infrastructure.

Councilor Ortiz said then we just approve the plan which sets out what we think the infrastructure needs should be.

Councilor Chavez said this is correct, but the enabling legislation what can be on the list of eligible facilities. For example, in New Mexico, schools and libraries aren't on the eligible list for consideration of impact fees.

Councilor Ortiz said the City accepted annexation on Beatty South with the express condition that give a site to the School District.

Councilor Chavez said it is still outside enabling legislation.

Councilor Ortiz asked if we will be able to tell them we will accept all of this in the Annexation Agreement, but you don't get a credit on the impact fees.

Councilor Chavez moved, seconded by Councilor Calvert, to adopt Ordinance No. 2008-2, which includes an amendment to take it to the 80% level recommended by the Planning Commission.

Discussion: Councilor Chavez said this is still below the 100% for which the City is eligible.

Councilor Chavez said, with regard to development outside the City limits, there is a paragraph on page 17 of the packet, which provides, "The City's impact fees codified in Section 14-8.14 of the Santa Fe City Code apply to new development within the city limits. They also apply to new developments located outside the city limits and within the urban area set forth in the General Plan if the development requests City sewer service or a water service boundary extension. In those cases, the impact fee requirement is made part of the development

agreement.” He said it would be nice if we are doing that, but he believes we need to change the language. He said we have approved a lot of development to the EZC and EZA, and even though we are extending water and sewer, we aren’t capturing the gross receipts tax during construction, nor the impact fees on those developments.

Mr. Liming pointed out that under the ordinance, the City collects impact fees only from people within the City.

Councilor Heldmeyer said frequently developers will offer to pay more money for something which is on the list, as an extra bonus, trying to get the Council or the Planning Commission to approve a particular project. Then, several years down the line, after the bodies have changed, staff has changed, they come back saying it is on the list and they spent money and want credit.

Friendly amendment: Councilor Heldmeyer proposed to amend page 17 of the ordinance, 20 of the packet, to add a 3(d) that says: The Planning Commission or the Governing Body may limit the availability of a credit for certain projects at the time of project approval. **The amendment was friendly to the maker and second, and there were no objections by the other Councilors.**

Councilor Ortiz thanked Councilor Chavez for bringing this forward. He believes the CIAC is a Committee which is quietly under the radar and is very effective. He said the reason they suggested the 60% was grounded. He said the Planning Commission recommendation was a “split the difference approach.” He said in some ways it has a lot of value because it can generate more income, but it is at the cost of the homebuyer, and it is a significant cost.

Mr. Liming said it is fair to say that the Capital Improvements Advisory Committee deliberated on this longer than the Planning Commission, but he doesn’t want to get into what the Planning Commission was thinking.

Councilor Calvert said at Public Works, he raised this question, and Councilor Ortiz promised him that the public testimony would help us make this decision.

Councilor Chavez said he attended the Planning Commission meeting where this was discussed, and he encouraged them to go for the 80% versus the 60% because of the need which has been demonstrated over the past 4-5 years, noting many worthwhile projects have gone through the process and qualified for impact fees. He felt it better to go for the 80%, not disrespecting the work of the CIAC, and recommending the work of the consultant, noting the City hasn’t revised the impact for 10 years. He said to say we aren’t business friendly because we want to update these fees is incorrect because we need to invest in our infrastructure.

Councilor Ortiz said at the time, he was concerned with the “sticker shock” effect, as well as where the money would be spent, and that we were too general with that. He said the recommendations from the CIAC has swung his opinion, and believed that Committee was more deliberative about it, and had good reason to go with the lesser amount. He said he did read the Finance Committee minutes. He said single family homes will take the largest

percentage increase from the existing to the proposed. This is of concern to him. He said perhaps we should consider the lesser number, rather than the "split the difference" number. He thanked the consultants for their work and for their recommendations. He appreciates that developments have to pay for themselves, but it is the people moving into those new developments who are paying the price, and we need to balance that.

Councilor Chavez said Mr. Liming pointed out that this would be phased in, so the new fee schedule wouldn't be realized until four years out. He believes we do have to be concerned about the impact on individual homeowners, whether impact fees, or a general obligation bond to increase property taxes. He said the impact fees are a pass through, and even at 80%, the impact on an individual, single family home, for what they're getting, is worthwhile. He said in the interest of investing in our infrastructure and meeting the current needs, he believes it needs to be set at 80%.

Councilor Dominguez said he read the minutes and the reason that the CIAC recommended the 60% was because of the impact on the price of the smaller homes.

Councilor Ortiz moved, seconded by Councilor Dominguez, to amend the motion to reduce the 80% to the 60% fees which were recommended by the CIAC in place of the fee schedule in the original motion.

Discussion on the motion to amend: Councilor Heldmeyer asked if the City would get into some kind of trouble with the State if we gave 60% on residential and 80% on the other kinds of development – would this be prohibited by law.

Mr. Mullen said there isn't a specific prohibition in State law against doing that, but there is a general impact fee principal, a proportionate fair share, where the City should treat all land uses the same, so he would recommend against adopting different percentages for different land uses.

Councilor Chavez said it has been said that the percentages are arbitrary, but these are not arbitrary and are based on work which the consultants were directed to do. He asked Mr. Mullen the formula to come up with the 100% and how that differs from the 60% or the 80%.

Mr. Mullen said the 60% or 80% are policy issues, and the City can charge anything up to 100%, but he does recommend that whatever is chosen be charged across the board. He said the magnitude of what you're talking about is a one time difference of \$700 on a 2,000 sq. ft. home. He pointed out that affordable units are exempt from impact fees.

Councilor Ortiz pointed out that this is 60% of the closing costs on a 2,000 sq. ft. house.

Responding to Councilor Chavez, Mr. Mullen said the fees are based on the cost to provide new development with the same level of service that you have today.

Councilor Ortiz said with the increase in construction costs, he would argue that the 80% would meet that easier than the 60%.

The motion to amend was approved on the following Roll Call vote:

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

Against: Councilor Heldmeyer, Councilor Calvert and Councilor Chavez.

The motion to adopt Ordinance No. 2008-2, as amended, was approved on the following Roll Call Vote:

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

Against: None.

- 9) **CONSIDERATION OF BILL NO. 2007-63; ADOPTION OF ORDINANCE NO. 2008- 3 (COUNCILOR CALVERT AND COUNCILOR BUSHEE). AN ORDINANCE CREATING A NEW RATE SCHEDULE 10 OF EXHIBIT B, CHAPTER 25 SFCC 1987, ESTABLISHING A SPECIAL CHARGE FOR ALL WATER SERVICE CUSTOMERS IN ORDER TO FUND WATER CONSERVATION PROGRAMS. (DAN RANSOM)**

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

Councilor Calvert moved, seconded by Councilor Wurzburger, to adopt Ordinance No. 2008-3, with an amendment to exclude City lifeline customers from the charge.

Discussion: Councilor Heldmeyer asked if the special charge could be paid over one year, for the multi-family and commercial service, because she is being told by some condominium organizations that \$750 is a lot to pay at one time. She realizes there could be some increased costs in doing it this way.

Mr. Ransom said Peter Ortega could answer that, but he isn't here. However, multi family is its own category, so he is sure that could be accommodated.

Friendly amendment: Councilor Heldmeyer would like to amend the motion to assess the special charge over one year, for the multi-family and commercial service, depending on the billing system capability. **The amendment was friendly to the maker and second, and there were no objections by other members of the Council.**

Responding to Mr. Ransom, Councilor Heldmeyer said it could be done quarterly or monthly, or whatever is easier to do.

Councilor Chavez said he believes conservation is good. He said concerns were expressed about the water rates because they were based on meter size, noting this is based on meter size. He asked if this will cause problems moving forward.

Councilor Calvert said in the previous situation, the smaller meter customers were complaining, but here, the smaller meters pay the smaller fee. He said the Committee felt this would be the best guide to gauge the water use – larger meters use more water, smaller meters use less water.

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

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

Against: None.

- 10) **CONSIDERATION OF BILL NO. 2007-25; ADOPTION OF ORDINANCE NO. 2008- ____ (COUNCILOR HELDMEYER AND COUNCILOR TRUJILLO). AN ORDINANCE AMENDING SECTION 16-13.6 SFCC 1987, REGARDING CURFEW FOR PARKS AND RECREATION AREAS. (FABIAN CHAVEZ). (Postponed at December 12, 2007 City Council Meeting)**

This item was postponed to the meeting of February 2008.

- 11) **CONSIDERATION OF BILL NO. 2008-1; ADOPTION OF ORDINANCE NO. 2008- 4 (COUNCILOR ORTIZ). AN EMERGENCY ORDINANCE ESTABLISHING A NIGHT TIME OUTDOOR CONSTRUCTION MORATORIUM IN INDUSTRIAL ZONED AREAS. (JACK HIATT)**

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

Councilor Ortiz said this is an emergency ordinance, because, based on the opinion

from the City Attorney, the City doesn't have the jurisdiction to prohibit night time construction in an industrial zone. He said the industrial zone concerning him is the Rodeo Business Park, which is adjacent to a neighborhood in his district. He is introducing an ordinance later tonight which prohibits construction noise everywhere, but until that ordinance goes through the process for adoption in about 1-2 months, he wants this interim measure in place. This is that interim measure which gives the City the authority to do this, recognizing that it is an emergency now.

Councilor Ortiz moved, seconded by Councilor Wurzbarger, to adopt Ordinance No. 2008-4.

Discussion: Councilor Heldmeyer reminded Councilor Ortiz that the Council frequently has requests to differentiate the noise time for Monday through Friday, and weekends. She hopes this is discussed as it moves through the process.

Councilor Ortiz said one of the things we are doing is a reexamination of the noise ordinance in the ordinance which will be introduced later this evening, so he is open to these discussions.

The motion was approved on the following Roll Call Vote:

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

Against: None.

Absent: Councilor Chavez

- 12) **CONSIDERATION OF BILL NO. 2008-2; ADOPTION OF ORDINANCE NO. 2008- ____ . AN ORDINANCE ANNEXING CITY-OWNED AIRPORT ROAD RIGHT-OF-WAY EXTENDING FROM THE INTERSECTION WITH CERRILLOS ROAD AT THE EASTERN END TO THE INTERSECTION WITH NEW MEXICO HIGHWAY 599 AT THE WESTERN END OF AIRPORT ROAD." (RICHARD MACPHERSON). (Postponed to January 30, 2008 City Council Meeting)**

This item was postponed to the Council meeting of January 30, 2008.

- 13) **CONSIDERATION OF BILL NO. 2008-3; ADOPTION OF ORDINANCE NO. 2008- ____ . AN ORDINANCE ANNEXING CITY-OWNED RUFINA STREET RIGHT-OF-WAY EXTENDING FROM THE INTERSECTION OF RICHARDS AVENUE ON THE EASTERN END TO THE INTERSECTION OF SOUTH MEADOWS ROAD AT THE WESTERN END OF RUFINA STREET. (RICHARD MACPHERSON). (Postponed to January 30, 2008 City Council Meeting)**

This item was postponed to the Council meeting of January 30, 2008.

12. MATTERS FROM THE CITY MANAGER

Mr. Buller said Council study sessions have been scheduled for strategic planning as part of the beginning of the 2008-2009 budget, on Monday, January 14, 2008, 5:00 to 9:00 p.m., Tuesday, January 29, 2008, 5:00 to 9:00 p.m., and another on February 5, 2007. He said on January 14th, department and division directors from Public Utilities, Public Works, Fire, Police and City Attorney will be available, and on January 29th the remainder will be available. He said there will be no presentations, but they will be available to answer questions and give clarification on their projects. He said on February 5th the Council will prioritize the projects and begin the budget process.

15. MATTERS FROM THE CITY CLERK

There were no matters from the City Clerk.

16. COMMUNICATIONS FROM THE GOVERNING BODY.

Councilor Calvert

Councilor Calvert said the City says the removal of snow from sidewalks is the responsibility of the property owner. He said he almost "killed" himself on the sidewalk by the Library at the corner of Marcy and Washington. He said the City needs to do its own housekeeping there.

Councilor Calvert asked what happened with regard to the food concession at the golf course. We have received a letter of termination, and he would like information about this.

Mayor Coss said Robert Romero is checking into this and writing a letter of response to the business, but there are no details.

Mr. Buller said there are no details in the letter, so we are unsure what precipitated the letter which is a notice. He said a petition is attached to the letter, but the letter itself is strictly a notice of vacating the food concession.

Councilor Dominguez

Councilor Dominguez had no communications.

Councilor Ortiz

Councilor Ortiz introduced an ordinance prohibiting construction noise in the City between the hours of 9:00 p.m. and 7:00 a.m. He asked that it go to the appropriate

committees. A copy of the proposed ordinance is incorporated herewith to these minutes as Exhibit "7."

Councilor Ortiz said he is introducing an ordinance amending Chapter 14 and Chapter 26 which relates to appeals, which was done by staff, the City Attorney's Office and the contract attorney. He asked that it go to the Planning Commission and the appropriate committees. A copy of the proposed ordinance is incorporated herewith to these minutes as Exhibit "8."

Councilor Ortiz said he has the same concerns about the MRC and caterers, and he would like some sort of response.

Councilor Trujillo

Councilor Trujillo said all of the Councilors received a letter about the food court at Genoveva Chavez, asking the reason the café is closed on Sundays and Mondays. He asked Mr. Buller to find out why this is happening.

Councilor Trujillo wished his daughter a happy birthday this past Sunday.

Councilor Heldmeyer

Councilor Heldmeyer said she is receiving complaints that recycling and Christmas trees haven't been picked up in the South Capital area for 2-3 days. She spoke with Mr. DeGrande who told her he has had problems with people, equipment and the weather.

Councilor Calvert said he spoke with Fabian Chavez, and the Christmas trees were the responsibility of Parks & Recreation, and Mr. Chavez said they will be picking those up over the next two weeks.

Councilor Heldmeyer said she is concerned that the announcement that we are going to a once a week recycling pickup was made without consultation with the Council or Council Committees, so we could ask questions about it.

Councilor Heldmeyer introduced a Resolution which is cosponsored by Councilor Ortiz and Councilor Calvert, directing staff to place adequate funding for parks, trails and open space maintenance in the City's budget. She said the Parks Advisory Committee has said it won't support the bond issue unless there is something in place which guarantees adequate operating funds. She asked that it go to Parks Advisory and usual Committees. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "9."

Councilor Heldmeyer introduced an ordinance amendment cosponsored by Councilor Calvert, and perhaps Councilor Wurzbarger, amending the official zoning map of the City by rezoning areas the RM-1 and RAC areas surrounding downtown, as called for in the General Plan, to be rezoned to the built density, and it does include historic neighborhoods. She said an

ENN meeting is required, and it then needs to go to the Planning Commission and then to Council Committees. A copy of the proposed ordinance is incorporated herewith to these minutes as Exhibit "10."

Councilor Heldmeyer said she is going through things, and coming up with a list of things which have fallen through the cracks. She would like Mr. Buller to advise the best way to get closure on these in the next two months.

Mr. Buller said she can visit with him on this, noting he will be bringing the Resolutions from 2005 and 2006.

Councilor Heldmeyer said she has been told that the work which needs to be done for the Resolutions from 2005 and 2006, won't be done in next two months.

Mr. Buller said in some cases it may not be, but he has requested memorandums as to the reason they won't. He said he is assembling those right now, noting there aren't that many. He asked her to give him a copy of her list.

Mayor Coss

Mayor Coss introduced a Resolution for Councilor Chavez which obligates the City to lease 2,500 afy of the City's San Juan-Chama project water to the Bureau of Reclamation. A copy of this Resolution is incorporated herewith to these minutes as Exhibit "11."

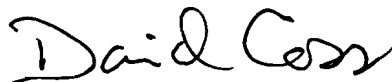
Mayor Coss introduced a Resolution for Councilor Chavez establishing a statewide transit fund to assist local governments in financing the provision of urban and rural transit services throughout New Mexico.

Mayor Coss asked to be a cosponsor on Councilor Heldmeyer's rezoning ordinance.

H. ADJOURN

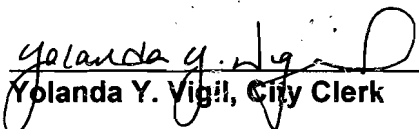
There being no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 11:47 p.m.

Approved by:

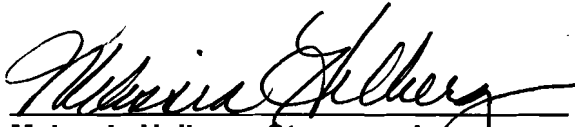


Mayor David Coss

ATTESTED TO:


Yolanda Y. Vigil, City Clerk

Respectfully submitted:


Melessia Helberg, Stenographer