



# Agenda

REGULAR MEETING OF  
THE GOVERNING BODY  
OCTOBER 6, 2008  
CITY COUNCIL CHAMBERS

## AFTERNOON SESSION – 5:00 P.M.

CITY CLERK'S OFFICE

DATE 10-3-08 TIME 8:30

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

RECEIVED BY [Signature]

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 – September 24, 2008
8. PRESENTATIONS
  - a) Muchas Gracias – Owen Lopez. (Councilor Wurzburger) (5 minutes)
  - b) Muchas Gracias – Santa Fe Mad Dogs, Roberto Clemente Santa Fe AABC 2008 City and State Champions and 2<sup>nd</sup> Place in Regional Qualifier Held in Oklahoma. (Councilor Trujillo)
9. CONSENT CALENDAR
  - a) Request for Approval to Publish Notice of Public Hearing on October 29, 2008:  
  
Bill No. 2008-56 – An Ordinance Amending Sections 22-6.2 and 25-1.11 SFCC 1987 Regarding City Wastewater and Water Service Outside the City Limits. (Councilor Wurzburger) (Stan Holland)
  - b) CONSIDERATION OF RESOLUTION NO. 2008-\_\_\_\_\_. (Councilor Chavez and Councilor Ortiz)  
A Resolution Directing Staff to Prepare Recommendations for the Governing Body's Consideration Regarding Assistance to the City of Parral, Mexico, Santa Fe's Sister City.
  - c) CONSIDERATION OF RESOLUTION NO. 2008-\_\_\_\_\_. (Mayor Coss)  
A Resolution Adopting the Santa Fe County Hazard Mitigation Plan. (Joyce Purley)



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- d) CONSIDERATION OF RESOLUTION NO. 2008-\_\_\_\_\_. (Councilor Wurzbarger, Councilor Ortiz, Councilor Romero, Councilor Trujillo, Councilor Calvert and Councilor Dominguez)  
A Resolution Adopting the Goal of Reaching a 33% Recycling Rate by the Year 2012 and Taking Such Steps as are Necessary to Reach this Goal. (Bill DeGrande)
- e) CONSIDERATION OF RESOLUTION NO. 2008-\_\_\_\_\_. (Mayor Coss and Councilor Chavez)  
A Resolution Agreeing to Rejoin the North Central Regional Transit District as a Voting Member of the District and to Re-Appoint a Board Member to the Board of Directors. (Jon Bulthuis)
- f) Bid No. 09/05/B – Construction of ARFF Building and Agreement at Santa Fe Municipal Airport; AIC General Contractors, Inc. (Jim Montman)
- g) Request for Approval of Contract – Purchase and Equip Vehicles for Transportation for Open Hands/Adult Day Care in Santa Fe; State of New Mexico; New Mexico Aging and Long-Term Services Department. (Terrie Rodriguez)
- h) Request for Approval of Amendment No. 1 to Professional Services Agreement – Preventative Maintenance at GCCC; Kovach, Inc. (Martin Valdez)
- i) Request for Approval of First Amendment to Capital Cooperative Agreement – 2007 Legislative Appropriations for Pedestrian Railing at Intersection of Zia Road and Camino Pintores; New Mexico Department of Transportation. (Desirae Lujan)
- j) Request for Approval of Professional Services Agreements – Housing and Economic Development. (Ted Swisher)
  - 1) Homewise
  - 2) Santa Fe Housing Trust
- k) Request for Approval of Water Rights Purchase Agreement – City Water Rights Within Middle Rio Grande Conservancy District; Edward L. Romero and Elizabeth A. Romero. (Dale Lyons)



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- l) Request for Approval and Consent for Solid Waste Management Agency to Accept Waste from North Central Solid Waste Authority and Los Alamos County. (Randall Kippenbrock and Bill DeGrande)
- m) Request for Approval of Budget Increase – City Initiated Annexation Project and Community Plan Project (Santa Fe Boulevards Project) in Long Range Planning Strategic Plan for 2008-2009. (Reed Liming)
- n) Request for Approval of Procurement Under State Price Agreement – Putting Green and Installation at Mager's Field Phase 2; Synscapes of New Mexico, LLC. (Ben Gurule)
- o) Request for Approval of Sole Source Procurement and Professional Services Agreement – Administer Promotional Assessment Test for Police Department; Donnoe & Associates, Inc. (Chief Eric Johnson)
- p) Request for Approval of Procurement Under State Price Agreement – Equipment and Services on Behalf of All City Departments Through ITT Division; Various Vendors. (Thomas Williams)
- q) Request for Approval of Service Agreement – City's Land Mobile Radio System; Motorola. (Thomas Williams)
- 10. Consideration of Request for the Governing Body to Review the Decision of the Planning Commission in Case # M 2008-26: La Triada Town Homes Final Development Plan. (Councilor Matthew Ortiz)
- 11. Renewal of Motion to Repeal Rainwater Harvesting Barrel Rebate Program. (Councilor Calvert)
  - a) CONSIDERATION OF BILL NO. 2008-52: ADOPTION OF ORDINANCE NO. 2008-\_\_\_\_\_. (Councilor Calvert)  
An Ordinance Repealing Section 25-2.10 SFCC 1987 for the Purpose of Discontinuing the Rainwater Harvesting Barrel Rebate Program. (Dan Ransom)
- 12. MATTERS FROM THE CITY MANAGER
- 13. MATTERS FROM THE CITY ATTORNEY
- 14. MATTERS FROM THE CITY CLERK



# Agenda

REGULAR MEETING OF  
THE GOVERNING BODY  
OCTOBER 6, 2008  
CITY COUNCIL CHAMBERS

## 15. 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 Tune Up Cafe, LLC for a Restaurant (Beer & Wine) Liquor License to be located at Tune Up Cafe, 1115 Hickox Street. (Yolanda Y. Vigil)
  - 2) Request from Mornmor, Inc., for a Transfer of Ownership of Dispenser License #2593 from Pranzo Corporation to Mornmor, Inc. The License will Remain at Pranzo Italian Grill, 540 Montezuma Avenue. (Yolanda Y. Vigil)
  - 3) Pursuant to §60-6B-10 NMSA 1978, a Request for a Waiver of the 300 Foot Location Restriction and Approval to Allow the Sale/Consumption of Alcoholic Beverages at El Museo Cultural de Santa Fe, 1615 B. Paseo de Peralta, Which is Within 300 Feet of Alvord Elementary School, 551 Alarid and Located on City Property. The Request is for the Following Event: (Yolanda Y. Vigil)
    - a) Espanola Animal Shelter's Fund Raiser to be held on Saturday, October 25, 2008 from 5:00 pm to 11:00 pm.



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4) CONSIDERATION OF BILL NO. 2008-49: ADOPTION OF ORDINANCE NO. 2008-\_\_\_\_\_.

An Ordinance Authorizing the Issuance and Sale of The City of Santa Fe, New Mexico Gross Receipts Tax Refunding Revenue Bonds, Series 2008B in an Aggregate Principal Amount Not to Exceed \$23,930,000 for the Purpose of Defraying the Cost of Refunding, Paying and Discharging the Outstanding City of Santa Fe, New Mexico Gross Receipts Tax Refunding And Improvement Revenue Bonds, Series 1997A; and City of Santa Fe Gross Receipts Tax Improvement Revenue Bonds, Series 1999; Providing that the Refunding Bonds will be Payable and Collectible From the Gross Receipts Tax Revenues Distributed to the City; Providing for the Disposition of the Receipts Derived from the Gross Receipts Tax Revenues; Establishing the Form, Terms, Manner of Execution and Other Details of the Refunding Bonds; Authorizing the Execution and Delivery of a Bond Purchase Agreement, in Connection with the Refunding Bonds; Providing for Redemption of the Series 1997A and 1999 Bonds; Approving Certain Other Agreements and Documents in Connection with the Refunding Bonds; Ratifying Action Previously Taken in Connection with the Refunding Bonds; Repealing All Ordinances in Conflict herewith; and Related Matters. (David Millican) **(Postponed at September 24, 2008 City Council Meeting)**

5) CONSIDERATION OF BILL NO. 2008-53: ADOPTION OF ORDINANCE NO. 2008-\_\_\_\_\_. (Councilor Wurzbarger, Mayor Coss, Councilor Romero and Councilor Calvert)

An Ordinance Amending Article 18-19 SFCC 1987 Regarding the Workforce Housing Funding Initiative. (Kathy McCormick)

a) CONSIDERATION OF RESOLUTION NO. 2008-\_\_\_\_\_. (Councilor Wurzbarger, Mayor Coss, Councilor Romero and Councilor Calvert)  
A Resolution Calling for a Special Municipal Election to be Held March 10, 2009 for the Purpose of Submitting a Question to the Qualified Electors of the City of Santa Fe as to Whether an Excise Tax Should be Imposed on the Use by Purchasers of Transfer Services to Effectuate and Facilitate the Transfer of Certain Real Property in the Amount of One Percent (1%) of the Portion of the Purchase Price in Excess of \$750,000. The Tax Would be Imposed on the Purchaser and the Revenues Collected from the Tax Would be Used Exclusively for Affordable Workforce Housing. (Yolanda Y. Vigil ) **(Postponed at August 27, 2008 City Council Meeting)**

a) Request for Approval of Consolidated Precincts.



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Resolución Convocación de Elección Municipal Extraordinaria que Tendrá Lugar el 10 de Marzo, 2009 Con el Fin de Someter La Cuestión a Los Votantes Calificados de la Municipalidad de Santa Fe Respecto a Si un Impuesto Sobre Consumos y Ventas Deberá Imponerse Sobre el Uso por Compradores de Servicios de Transferencia Con el Fin de Efectuar y Facilitar la Transferencia de Cierta Propiedad Inmueble en la Suma de Uno Por Ciento (1%) de la Parte del Precio de Compra Que Exceda \$750,000. El Impuesto se Impondrá Sobre el Comprador y Los Ingresos Juntados del Impuesto se Usarían Exclusivamente Para Viviendas Asequibles por la Clase Trabajadora.

- 6) CONSIDERATION OF BILL NO. 2008-54: ADOPTION OF ORDINANCE NO. 2008-\_\_\_\_\_.  
**Case #ZA 2008-06. Fullerton Withers Family Partnership Rezoning from R-1 to C-2.** James W. Siebert, Agent for Reese Fullerton and Marylin Withers Requests Rezoning of Tract C-1, Remnant of C-1 and Tract D Totaling 1.84± Acres of Land From R-1 (Residential, 1 Dwelling Unit Per Acre) to C-2 (General Commercial). The Property is Located at the Northwest and Northeast Corner of Vegas Verdes Drive and Camino de Los Arroyos. (Lou Baker)
- 7) Request for Approval of the Following Economic Development Professional Service Agreements: (Fabian Trujillo)
  - a) Business Incubator Services (RFP# 09/03/P); Santa Fe Incubator
  - b) Business Outreach and Technical Assistance (RFP# 09/04/P); SCORE
  - c) Business Innovation Projects (RFP# 09/02/P)
    - 1) Green Jobs Training Program; Youthworks
    - 2) Mentorship Training Program; Monte Del Sol Charter School
    - 3) Artisan Business Development Program; Museum of New Mexico Foundation



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- 8) CONSIDERATION OF RESOLUTION NO. 2008-\_\_\_\_\_. (Councilor Ortiz, Councilor Wurzbarger and Councilor Dominguez)  
A Resolution Designating Water Rights for the City's Northwest Quadrant Project. (Kathy McCormick) **(Postponed at September 10, 2008 City Council Meeting)**
- 9) Appeal by Benny Lew from Denial by Finance Department of Distress Merchandise Sale License. (Sevastian Gurule)
- 10) CONSIDERATION OF BILL NO. 2008-35: ADOPTION OF ORDINANCE NO. 2008-\_\_\_\_\_. (Councilor Chavez)  
An Ordinance Creating a New Section 14-6.2(F) SFCC 1987 Establishing Requirements Regarding Electric Facilities and Making Such Other Changes as are Necessary. (Nick Schiavo) (Postponed at September 10, 2008 City Council Meeting – PUBLIC HEARING IS CLOSED) **(Postponed to October 29, 2008 City Council Meeting)**
  - a) CONSIDERATION OF RESOLUTION NO. 2008-\_\_\_\_\_. (Councilor Chavez)  
A Resolution Adopting the Electric Facilities Plan as an Amendment to the City of Santa Fe General Plan. (Nick Schiavo)
  - b) CONSIDERATION OF RESOLUTION NO. 2008-\_\_\_\_\_. (Councilor Chavez)  
A Resolution Adopting a Fee Schedule for the Review of Applications for Electric Facilities. (Nick Schiavo)

## H. ADJOURN

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

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

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

**SUMMARY INDEX  
SANTA FE CITY COUNCIL MEETING  
October 6, 2008**

<b><u>ITEM</u></b>	<b><u>ACTION</u></b>	<b><u>PAGE #</u></b>
<b><u>AFTERNOON SESSION</u></b>		
<b>CALL TO ORDER AND ROLL CALL</b>	<b>Quorum</b>	<b>1</b>
<b>APPROVAL OF AGENDA</b>	<b>Approved [amended]</b>	<b>1</b>
<b>APPROVAL OF CONSENT CALENDAR</b>	<b>Approved [amended]</b>	<b>2</b>
<b>CONSENT CALENDAR LISTING</b>		<b>2-3</b>
<b>APPROVAL OF MINUTES: Reg. City Council Meeting – September 24, 2008</b>	<b>Approved</b>	<b>4</b>
<b><u>PRESENTATIONS</u></b>		
<b>MUCHAS GRACIAS – OWEN LOPEZ.</b>		<b>4</b>
<b>MUCHAS GRACIAS – SANTA FE MAD DOGS, ROBERTO CLEMENTE SANTA FE AABC 2008 CITY AND STATE CHAMPIONS AND 2<sup>ND</sup> PLACE IN REGIONAL QUALIFIER HELD IN OKLAHOMA</b>		<b>4</b>
<b><u>CONSENT CALENDAR DISCUSSION</u></b>		
<b>REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENTS – HOUSING AND ECONOMIC DEVELOPMENT     HOMEWISE     SANTA FE HOUSING TRUST</b>	<b>Postponed to 10/29/2008 Returned to Committee</b>	<b>4</b>
<b>REQUEST FOR APPROVAL AND CONSENT FOR SOLID WASTE MANAGEMENT AGENCY TO ACCEPT WASTE FROM NORTH CENTRAL SOLID WASTE AUTHORITY AND LOS ALAMOS COUNTY</b>	<b>Postponed to 10/29/08 Returned to Finance/Public Works</b>	<b>5-6</b>



<b><u>ITEM</u></b>	<b><u>ACTION</u></b>	<b><u>PAGE #</u></b>
REQUEST FOR APPROVAL OF BUDGET INCREASE –CITY INITIATED ANNEXATION PROJECT AND COMMUNITY PLAN PROJECT (SANTA FE BOULEVARDS PROJECT) IN LONG RANGE PLANNING STRATEGIC PLAN FOR 2008-2009	Approved	6
***** END OF CONSENT CALENDAR DISCUSSION *****		
CONSIDERATION OF REQUEST FOR THE GOVERNING BODY TO REVIEW THE DECISION OF THE PLANNING COMMISSION IN CASE #M-2008-26; LA TRIADA TOWN HOMES FINAL DEVELOPMENT PLAN	Approved	7
RENEWAL OF MOTION TO REPEAL RAINWATER HARVESTING BARREL REBATE PROGRAM CONSIDERATION OF BILL NO. 2008-52; ADOPTION OF ORDINANCE NO. 2008- 50. AN ORDINANCE REPEALING SECTION 25-2.10 SFCC 1987 FOR THE PURPOSE OF DISCONTINUING THE RAINWATER HARVESTING BARREL REBATE PROGRAM	Approved	7
	Approved	8-10
MATTERS FROM THE CITY MANAGER	None	10
MATTERS FROM THE CITY ATTORNEY	None	10
MATTERS FROM THE CITY CLERK	None	10
COMMUNICATIONS FROM THE GOVERNING BODY	Information/decision	10-12
<b><u>EVENING SESSION</u></b>		
CALL TO ORDER AND ROLL CALL	Quorum	13
PETITIONS FROM THE FLOOR		13-14
<b><u>APPOINTMENTS</u></b>		
Buckman Direct Diversion Board	Approved	14
North Central Regional Transit District	Approved	15
Board of Adjustment	Approved	15
Ethics and Rules Committee	Approved	15-16

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
<b><u>PUBLIC HEARINGS</u></b>		
REQUEST FROM TUNE UP CAFÉ, LLC, FOR A RESTAURANT (BEER & WINE) LIQUOR LICENSE TO BE LOCATED AT TUNE UP CAFÉ, 1115 HICKOX STREET	Approved	16
REQUEST FROM MORN MOR, INC., FOR A TRANSFER OF OWNERSHIP OF DISPENSER LICENSE #2593 FROM PRANZO CORPORATION TO MORN MOR, INC. THE LICENSE WILL REMAIN AT PRANZO ITALIAN GRILL, 540 MONTEZUMA AVENUE	Approved	16-17
PURSUANT TO §60-6B-10 NMSA 1978, A REQUEST FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE SALE/CONSUMPTION OF ALCOHOLIC BEVERAGES AT EL MUSEO CULTURAL DE SANTA FE, 1615-B PASEO DE PERALTA, WHICH IS WITHIN 300 FEET OF ALVORD ELEMENTARY SCHOOL, 551 ALARID AND LOCATED ON CITY PROPERTY. THE REQUEST IS FOR THE FOLLOWING EVENT: ESPANOLA ANIMAL SHELTER'S FUND RAISER TO BE HELD ON SATURDAY, OCTOBER 25, 2008, FROM 5:00 P.M. TO 11:00 P.M.	Approved	17-18
CONSIDERATION OF BILL NO. 2008-49; ADOPTION OF ORDINANCE NO. 2008- _____. AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF SANTA FE, NEW MEXICO GROSS RECEIPTS TAX REFUNDING REVENUE BONDS, SERIES 2008B IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$24,000,000 FOR THE PURPOSE OF DEFRAYING THE COST OF REFUNDING, PAYING AND DISCHARGING THE OUTSTANDING CITY OF SANTA FE, NEW MEXICO, GROSS RECEIPTS TAX REFUNDING AND IMPROVEMENT REVENUE BONDS, SERIES 1997A; AND CITY OF SANTA FE GROSS RECEIPTS TAX REVENUE BONDS, SERIES 1999; ETC.	Postponed to 10/29/08	18

<b><u>ITEM</u></b>	<b><u>ACTION</u></b>	<b><u>PAGE #</u></b>
CONSIDERATION OF BILL NO. 2008-53; ADOPTION OF ORDINANCE NO. 2008- 51. AN ORDINANCE AMENDING ARTICLE 18-19 SFCC 21987, REGARDING THE WORKFORCE HOUSING FUNDING INITIATIVE	Approved/Adopted	18-25
REQUEST FOR APPROVAL OF CONSOLIDATED PRECINCTS	Approved	25
CONSIDERATION OF RESOLUTION NO. 2008- 88. A RESOLUTION CALLING FOR A SPECIAL MUNICIPAL ELECTION TO BE HELD MARCH 10, 2008, FOR THE PURPOSE OF SUBMITTING A QUESTION TO THE QUALIFIED ELECTORS OF THE CITY OF SANTA FE AS TO WHETHER AN EXCISE TAX SHOULD BE IMPOSED ON THE TRANSFER OF RESIDENTIAL PROPERTY IN THE AMOUNT OF ONE PERCENT (1%) OF THE PORTION OF THE PURCHASE PRICE IN EXCESS OF \$750,000. THE TAX WOULD BE IMPOSED ON THE BUYER AND THE REVENUES COLLECTED FROM THE TAX WOULD BE USED SOLELY FOR AFFORDABLE WORKFORCE HOUSING	Approved/Adopted	26-27
RESOLUCIÓN CONVOCACIÓN DE ELECCIÓN MUNICIPAL EXTRAORDINARIA QUE TENDRÁ LUGAR EL 19 DE AGOSTO 2008, CON EL FIN DE SOMETER LA CUESTIÓN A LOS VOTANTES CALIFICADOS DE LA MUNICIPALIDAD DE SANTA FE RESPECTO A SI UN IMPUESTO INDIRECTO SE DEBERÁ IMPONER SOBRE LA TRANSFERENCIA DE PROPIEDAD INMUEBLE RESIDENCIAL EN LA SUMA DE UNO POR CIENTO (1%) DE LA PARTE DEL PRECIO DE COMPRA QUE EXCEDA \$750,000. EL IMPUESTO SE IMPONDRIA UNICAMENTE PARA FINANCIAR VIVIENDA PARA TRABAJADORES		26-27

<b><u>ITEM</u></b>	<b><u>ACTION</u></b>	<b><u>PAGE #</u></b>
<p>CONSIDERATION OF BILL NO. 2008-54; ADOPTION OF ORDINANCE NO. 2008- 52, <u>CASE #ZA-2008-06</u>. FULLERTON WITHERS FAMILY PARTNERSHIP REZONING FROM R-1 TO C-2. JAMES W. SIEBERT, AGENT FOR REESE FULLERTON AND MARILYN WITHERS, REQUESTS REZONING OF TRACT C-1, REMNANT OF C-1 AND TRACT D TOTALING 1.84± ACRES OF LAND FROM R-1 (RESIDENTIAL, 1 DWELLING UNIT PER ACRE) TO C-2 (GENERAL COMMERCIAL). THE PROPERTY IS LOCATED AT THE NORTHWEST AND NORTHEAST CORNER OF VEGAS VERDES DRIVE AND CAMINO DE LOS ARROYOS</p>	Adopted/Approved	27-30
<p>REQUEST FOR APPROVAL OF THE FOLLOWING ECONOMIC DEVELOPMENT PROFESSIONAL SERVICES AGREEMENTS:</p>		
<p>BUSINESS INCUBATOR SERVICES (RFP #09/03/P); SANTA FE INCUBATOR</p>	Approved	30-42
<p>BUSINESS OUTREACH AND TECHNICAL ASSISTANCE (RFP #09/04/P); SCORE</p>	Approved	30-42
<p>BUSINESS INNOVATION PROJECTS (RFP #09/02/P)</p>		
<p>GREEN JOBS TRAINING PROGRAM; YOUTHWORKS</p>	Approved	30-42
<p>MENTORSHIP TRAINING PROGRAM; MONTE DEL SOL CHARTER SCHOOL</p>	Postponed to 10/29/08	30-42
<p>ARTISAN BUSINESS DEVELOPMENT PROGRAM; MUSEUM OF NEW MEXICO FOUNDATION</p>	Approved [amended]	30-42
<p>CONSIDERATION OF RESOLUTION NO. 2008- 89. A RESOLUTION DESIGNATING WATER RIGHTS FOR THE CITY'S NORTHWEST QUADRANT PROJECT</p>	Adopted/approved	42-46
<p>APPEAL BY BENNY LEW FROM DENIAL BY FINANCE DEPARTMENT OF DISTRESS MERCHANDISE SALE LICENSE</p>	Appeal denied [Verbatim]	46-53

<b><u>ITEM</u></b>	<b><u>ACTION</u></b>	<b><u>PAGE #</u></b>
CONSIDERATION OF BILL NO. 2008-35; ADOPTION OF ORDINANCE NO. 2008- ____ AN ORDINANCE CREATING A NEW SECTION 14-6.2(F) SFCC 1987, ESTABLISHING REQUIREMENTS REGARDING ELECTRIC FACILITIES AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY	Postponed to 10/29/08	53-54
CONSIDERATION OF RESOLUTION NO. 2008- ____ . A RESOLUTION ADOPTING THE ELECTRIC FACILITIES PLAN AS AN AMENDMENT TO THE CITY OF SANTA FE GENERAL PLAN	Postponed to 10/29/08	53-54
CONSIDERATION OF RESOLUTION NO. 2008- ____ . A RESOLUTION ADOPTING A FEE SCHEDULE FOR THE REVIEW OF APPLICATIONS FOR ELECTRIC FACILITIES	Postponed to 10/29/08	53-54
COMMUNICATIONS FROM THE GOVERNING BODY	Information/discussion	54-55
ADJOURN		55

**MINUTES OF THE  
REGULAR MEETING OF THE  
GOVERNING BODY  
Santa Fe, New Mexico  
October 6, 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 October 6, 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 Rebecca Wurzburger, Mayor Pro-Tem  
Councilor Christopher Calvert  
Councilor Miguel Chavez,  
Councilor Carmichael A. Dominguez  
Councilor Matthew E. Ortiz  
Councilor Rosemary Romero  
Councilor Ronald S. Trujillo

**Members Excused**

Councilor Patti J. Bushee

**Others Attending**

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

**5. APPROVAL OF AGENDA**

Mr. Buller said staff is requesting postponement of Item G(4) to the meeting of October 29, 2008.

Mayor Coss said Councilor Calvert was called back to work, and has requested that Item #11 be postponed to the evening session if he's not in attendance when that item comes up.

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

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

**6. APPROVAL OF CONSENT CALENDAR**

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

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

**Against: None.**

**Absent: Councilor Calvert.**

- a) REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON OCTOBER 29, 2008:  
BILL NO. 2008-56 – AN ORDINANCE AMENDING SECTIONS 22-6.2 AND 25-1.11 SFCC 1987, REGARDING CITY WASTEWATER AND WATER SERVICE OUTSIDE THE CITY LIMITS (COUNCILOR WURZBURGER). (STAN HOLLAND)**
- b) CONSIDERATION OF RESOLUTION NO. 2008- 84 (COUNCILOR CHAVEZ AND COUNCILOR ORTIZ). A RESOLUTION DIRECTING STAFF TO PREPARE RECOMMENDATIONS FOR THE GOVERNING BODY'S CONSIDERATION REGARDING ASSISTANCE TO THE CITY OF PARRAL, MEXICO, SANTA FE'S SISTER CITY.**
- c) CONSIDERATION OF RESOLUTION NO. 2008- 85 (MAYOR COSS). A RESOLUTION ADOPTING THE SANTA FE COUNTY HAZARD MITIGATION PLAN. (JOYCE PURLEY)**
- d) CONSIDERATION OF RESOLUTION NO. 2008- 86 (COUNCILOR WURZBURGER, COUNCILOR ORTIZ, COUNCILOR ROMERO, COUNCILOR TRUJILLO, COUNCILOR CALVERT AND COUNCILOR DOMINGUEZ). A RESOLUTION ADOPTING THE GOAL OF REACHING A 33% RECYCLING RATE BY THE YEAR 2012 AND TAKING SUCH STEPS AS ARE NECESSARY TO REACH THIS GOAL. (BILL DeGRANDE)**
- e) CONSIDERATION OF RESOLUTION NO. 2008- 87 (MAYOR COSS AND COUNCILOR CHAVEZ). A RESOLUTION AGREEING TO REJOIN THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT AS A VOTING MEMBER OF THE DISTRICT AND TO RE-APPOINT A BOARD MEMBER TO THE BOARD OF DIRECTORS. (JON BULTHUIS)**
- f) BID NO. 09/05/B – CONSTRUCTION OF ARFF BUILDING AND AGREEMENT AT SANTA FE MUNICIPAL AIRPORT; AIC GENERAL CONTRACTORS, INC. (JIM MONTMAN)**

- g) REQUEST FOR APPROVAL OF CONTRACT – PURCHASE AND EQUIP VEHICLES FOR TRANSPORTATION FOR OPEN HANDS/ADULT DAY CARE IN SANTA FE; STATE OF NEW MEXICO; NEW MEXICO AGING AND LONG-TERM SERVICES DEPARTMENT. (TERRIE RODRIGUEZ)**
- h) REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT – PREVENTATIVE MAINTENANCE AT GCCC; KOVACH, INC. (MARTIN VALDEZ)**
- i) REQUEST FOR APPROVAL OF FIRST AMENDMENT TO CAPITAL COOPERATIVE AGREEMENT – 2007 LEGISLATIVE APPROPRIATIONS FOR PEDESTRIAN RAILING AT INTERSECTION OF ZIA ROAD AND CAMINO PINTORES; NEW MEXICO DEPARTMENT OF TRANSPORTATION. (DESIRAE LUJAN)**
- j) *[Removed for discussion by Councilor Ortiz]***
- k) REQUEST FOR APPROVAL OF WATER RIGHTS PURCHASE AGREEMENT – CITY WATER RIGHTS WITHIN MIDDLE RIO GRANDE CONSERVANCY DISTRICT; EDWARD L. ROMERO AND ELIZABETH A. ROMERO. (DALE LYONS)**
- l) *[Removed for discussion by Councilor Ortiz]***
- m) *[Removed for discussion by Councilor Dominguez]***
- n) REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – PUTTING GREEN AND INSTALLATION AT MAGER'S FIELD PHASE 2; SYNSCAPES OF NEW MEXICO, LLC. (BEN GURULE)**
- o) REQUEST FOR APPROVAL OF SOLE SOURCE PROCUREMENT AND PROFESSIONAL SERVICES AGREEMENT – ADMINISTER PROMOTIONAL ASSESSMENT TEST FOR POLICE DEPARTMENT; DONNOE & ASSOCIATES, INC. (CHIEF ERIC JOHNSON)**
- p) REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – EQUIPMENT AND SERVICES ON BEHALF OF ALL CITY DEPARTMENTS THROUGH ITT DIVISION; VARIOUS VENDORS. (THOMAS WILLIAMS)**
- q) REQUEST FOR APPROVAL OF SERVICE AGREEMENT – CITY'S LAND MOBILE RADIO SYSTEM; MOTOROLA. (THOMAS WILLIAMS)**



**7. APPROVAL OF MINUTES: Reg. City Council Meeting – September 24, 2008.**

**Councilor Chavez moved, seconded by Councilor Romero, to approve the minutes of the Regular City Council Meeting of September 24, 2008, as presented. The motion was approved on a voice vote, with Councilors Chavez, Dominguez, Ortiz, Romero, Trujillo and Wurzburger voting for the motion, none against and Councilor Calvert absent.**

**8. PRESENTATIONS**

**a) MUCHAS GRACIAS – OWEN LOPEZ. (COUNCILOR WURZBURGER)**

Mayor Coss, assisted by Councilor Wurzburger, introduced Owen Lopez, and read a proclamation into the record proclaiming October 6, 2008, as Owen Lopez Day in Santa Fe. Mayor Coss presented a plaque and a Muchas Gracias Certificate to Mr. Lopez.

Mr. Lopez thanked the City for this honor.

**b) MUCHAS GRACIAS – SANTA FE MAD DOGS, ROBERTO CLEMENTE SANTA FE AABC 2008 CITY AND STATE CHAMPIONS AND 2<sup>ND</sup> PLACE IN REGIONAL QUALIFIER HELD IN OKLAHOMA. (COUNCILOR TRUJILLO)**

Assisted by Councilor Trujillo, Mayor Coss congratulated the Santa Fe Mad Dogs, the Roberto Clemente Santa Fe AABC 2008 City and State Champions and second place Regional Qualifiers in Oklahoma. Councilor Trujillo introduced the members of the team and coaches Jimmy Catanach, Gil Gonzales, Joe Joe Padilla and Manager Joe Martinez.

Mayor Coss and Councilor Trujillo presented each team member and the coaches with a Muchas Gracias Certificate.

**CONSENT CALENDAR DISCUSSION**

**9(j) REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENTS – HOUSING AND ECONOMIC DEVELOPMENT. (TED SWISHER:**

- 1) HOMEWISE**
- 2) SANTA FE HOUSING TRUST**

Councilor Ortiz said this was heard by Finance Committee, but questions arose after that.

**Councilor Ortiz moved, seconded by Councilor Wurzburger, to postpone Item 9(j)(1) and (2) to October 29, 2008, and to send this item back to the Finance Committee. The motion was approved on a voice vote, with Councilors Chavez, Dominguez, Ortiz, Romero, and Wurzburger voting for the motion, none against and Councilors Trujillo and Calvert absent.**

**9(l) REQUEST FOR APPROVAL AND CONSENT FOR SOLID WASTE MANAGEMENT AGENCY TO ACCEPT WASTE FROM NORTH CENTRAL SOLID WASTE AUTHORITY AND LOS ALAMOS COUNTY. (RANDALL KIPPENBROCK AND BILL DeGRANDE)**

Councilor Ortiz said he opposed this at both Committees and is still against this. He said certain representations were made about the safety of the waste coming from Los Alamos. He handed out an email from Concerned Citizens for Nuclear Safety as well as a press release. [These documents were not entered for the record].

**Councilor Ortiz moved, seconded by Councilor Dominguez, to postpone Item 9(l) to October 29, 2008, and send it back for rehearing either to the Finance Committee or the Public Utilities Committee.**

**Friendly amendment:** Councilor Chavez asked to amend the motion to provide that it go to the Finance Committee or Public Works Committee, so those not on Public Utilities can review this before it comes back to the Council. **The Maker said he would revise the friendly amendment to send it to the Finance Committee and back to the Council on October 29, 2008. The revised friendly amendment was friendly to the second.**

Councilor Chavez asked Councilor Ortiz if he is questioning the source of the solid waste as the primary reason for the motion.

Councilor Ortiz said, in light of the information he passed out, he is concerned about the measure of safety we can have regarding the waste that is coming from Los Alamos. He is asking to postpone this item so we can have that discussion at Finance Committee and return it to the Council at the end of October.

Councilor Romero asked Mr. Kippenbrock if the County passed its Resolution in support of this effort.

Mr. Kippenbrock said the County passed it last week.

Responding to Councilor Romero, Mr. Kippenbrock said this was heard by SWMA on September 3, 2008, and it received unanimous approval.

Councilor Romero asked if this needs to go to other committees in addition to Finance.

Councilor Chavez said he suggested that it go either to Public Works or Finance, but doesn't think it is necessary to go through both committees

Councilor Romero said she thought it had already been heard by Public Works.

Councilor Chavez said it has been heard by Public Works, but he was suggesting, for those who aren't on Public Utilities, but are on Finance or Public Works, that it go through one of those Committees before it comes back to the Full Council.

Councilor Romero said she isn't on Finance, but she is on Public Works.

**Friendly Amendment:** Councilor Ortiz said he would like to amend the motion to send this to both the Finance and Public Works Committee, and that it come back to the City Council on October 29, 2008, saying he believes there is time to do this. **The amendment was friendly to the second.**

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

**For: Councilor Chavez, Councilor Dominguez, Councilor Ortiz, Councilor Romero, and Councilor Wurzburger.**

**Against: None.**

**Absent: Councilor Trujillo and Councilor Calvert.**

***Councilor Calvert arrived at the meeting at this time***

**9(m) REQUEST FOR APPROVAL OF BUDGET INCREASE –CITY INITIATED ANNEXATION PROJECT AND COMMUNITY PLAN PROJECT (SANTA FE BOULEVARDS PROJECT) IN LONG RANGE PLANNING STRATEGIC PLAN FOR 2008-2009. (REED LIMING)**

Councilor Dominguez asked Mr. Liming to give a verbal summary of this topic for the record.

Mr. Liming said this is basically a transfer of funds from an RPA fund balance into an RPA expenditure item which can be used to do a contract for public process management, a meeting facilitator, to assist them with the various phases of the City initiated annexation. Also, depending on the balance of funds, staff will start to look at a professional services contract to look at the Boulevards Project.

Councilor Dominguez said he wants to clarify that some of these funds can be spent for the Boulevard Project.

Mr. Liming said it is not anticipated that the entire \$145,000 would be needed for the public process management on the annexation.

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

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

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

**Against: None.**

**Absent: Councilor Romero**

\*\*\*\*\*  
**END OF CONSENT CALENDAR DISCUSSION**  
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**10. CONSIDERATION OF REQUEST FOR THE GOVERNING BODY TO REVIEW THE DECISION OF THE PLANNING COMMISSION IN CASE #M-2008-26; LA TRIADA TOWN HOMES FINAL DEVELOPMENT PLAN. (COUNCILOR MATTHEW ORTIZ)**

Councilor Ortiz moved, seconded by Councilor Trujillo, pursuant to Council discretion and the concerns which were raised by the neighborhood, noting that the Findings of Facts have been completed, to review the decision of the Planning Commission in Case #M-2008-26, La Triada Town Homes Final Development Plan and hear it at a public hearing at a City Council meeting.

**Discussion:** The members discussed a date certain for the public hearing before the City Council.

**Amended motion:** Councilor Ortiz moved, seconded by Councilor Trujillo, pursuant to Council discretion and the concerns which were raised by the neighborhood, noting that the Findings of Facts have been completed, to review the decision of the Planning Commission in Case #M-2008-26, La Triada Town Homes Final Development Plan and to hear it *de novo* at a public hearing at the City Council Meeting on December 10, 2008.

The motion was approved on the following roll call vote:

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

**Against:** Councilor Romero.

**11. RENEWAL OF MOTION TO REPEAL RAINWATER HARVESTING BARREL REBATE PROGRAM. (COUNCILOR CALVERT)**

Councilor Calvert moved, seconded by Councilor Romero, to renew the Motion to repeal the Rainwater Harvesting Barrel Rebate Program.

The motion was approved on the following roll call vote:

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

**Against:** Councilor Chavez.

- a) **CONSIDERATION OF BILL NO. 2008-52; ADOPTION OF ORDINANCE NO. 2008- 50 (COUNCILOR CALVERT). AN ORDINANCE REPEALING SECTION 25-2.10 SFCC 1987 FOR THE PURPOSE OF DISCONTINUING THE RAINWATER HARVESTING BARREL REBATE PROGRAM. (DAN RANSOM)**

**Councilor Calvert moved, seconded by Councilor Wurzbarger, to adopt Ordinance No. 2008-50.**

**Discussion:** Councilor Chavez said he is speaking against this again, as he did previously. He apologized for sending a mixed message. He originally thought it would be a good idea. He said it is the most basic, low tech version of water harvesting, and he thinks it is better to have this in the program. He said staff's position was that it is hard to enforce and it was not cost effective. However, in further discussions with staff, he learned it was not staff's fault. It appeared that some of the vendors who were providing the rainbarrels were not following the specifications as set out in the original ordinance, which made it hard to enforce the ordinance and it was more labor intensive to find those who were following the specifications and those that were not. He said it came to staff's attention that some of the affidavits may have been falsified by vendors saying they met specs when they did not. He said this presents a challenge, but believes we should not discontinue the program.

Councilor Chavez said staff told him many people were requesting more than one rainbarrel because many homes have more than one canale. He said it is true that you only capture rainwater when it rains, but the more rainbarrels you have, the more effective you are in conservation in trading potable water for harvested water.

He said these are his reasons for speaking against discontinuing this program. He said rather than discontinuing he would like to see how we can expand the program to give a rebate for more than one rainbarrel for those who can use them. He said for those who don't have drip irrigation and other technology, this seems to be the most basic, low tech type of water harvesting and we should continue this program.

Councilor Ortiz understood the logic presented on the original motion to discontinue. He said the rationale from the Conservation Committee and from Councilor Calvert is sound, that this isn't giving a significant return on our investment and it costs more, given that staff is spending an inordinate amount of staff time on this program, so we are not getting maximum usage for other programs. However, in these times it is nice to get a rebate for doing the right thing, and not to always be proscriptive to get people to do something, but to be proactive. He said this program might help people to make a decision between purchasing a \$75 to \$80 rainbarrel and not purchasing one. He said the FIR indicates the cost of the program is only about \$13,000, which is a relatively small amount to provide a program which provides a marginal difference for those buying rainbarrels. He said unless there is new information being provided, or another approach to try to get incentives which he hasn't heard, he wants to continue the program. He will be voting against the repeal of this Ordinance.

Councilor Trujillo agrees with Councilor Chavez, noting he would like seven barrels for his seven canales, and we need to look at this to up the rebate to 4 or 5. He believes people might buy more barrels if there were more rebates. This is a less expensive way to save water than purchasing a \$1800 washer just to get the rebate. He will be voting no on the motion.

Councilor Romero said she purchased a rainbarrel for \$300 in the spring and received a \$55 rebate from the City. She said the average citizen might not be able to afford this, noting she is an average citizen and she thought very hard about spending the money. She said the rebate wasn't the incentive, but it was doing the right thing. She believes education should come before the "carrot," but the carrot would be there for folks who are going to this anyway. She said we need to reach those who can't afford some of the higher technology, and inform them about drip systems. She said it seems we would get more bang for the dollar through education and outreach to people about the various things which can be done. She said the rainbarrels may be lower tech, but they're expensive. She supports the repeal of this ordinance in favor of doing more education and outreach to the public.

Councilor Calvert said this is the least cost effective program we have currently. He said there is a limited amount of money. He said although \$13,000 may not seem like a lot of money, we imposed fees during the past year as part of the water bill. He said with the increase in water bills, he is unsure we will be renewing that feature year after year. He said we have to be very wise and judicious in our use of these funds. He said Councilors Wurzbarger and Ortiz's bill will be looking at another way to offer rebates. He said we don't need to be using these funds for an inefficient program when we have things which are more efficient.

Councilor Chavez said education can start at different levels, and water harvesting with the most basic technology is part of education. The inefficiency of the program lies with the vendors. He said we are talking about high technology and low technology to save water and money for the family. He is in favor of keeping the rainbarrel rebate program in place as a part of the mix now and in the future.

Councilor Dominguez said we have created a sense of dependency when people don't get a rainbarrel because they won't get a rebate, and we need to move away from this. He doesn't want people to depend on rebates to conserve water, but that it becomes a part of their way of life.

Councilor Ortiz noted he sponsored the first water conservation fee as well as the Water Conservation Committee. He said this was adopted in very tough, drought times. The fee was specifically sunsetted for the kinds of efficiency arguments to which Councilor Calvert alluded. He said the fee was not imposed to become efficient. He said many City services we provide are exceedingly inefficient, for example Transit. He said many programs don't pay for themselves, but they purport to have a higher good and to give the incentives that some people need to conserve water. He believes people should be rewarded for doing the right thing in light of the kinds of increases we are proposing. He said the \$13,000 is just a "drop in the bucket," and he would discourage this movement toward just efficiencies.

Councilor Ortiz said he hopes he and Councilor Wurzbarger have the kinds of incentives in their bill which will allow families to purchase the \$1,000 washers and/or dryers. However, he wants to continue this program for these kinds of small household items which conserve water and save money for those families, noting it is a small amount given the huge inefficiencies in other parts of City government we provide to the public at a loss every year because it's the right thing to do.

Councilor Calvert said transit doesn't pay for itself in any other city, nor do things such as parks pay for themselves. However, water is an enterprise fund and is supposed to pay for

itself. He said if we add this charge it is our responsibility to give our citizens the best bang for their buck. He said the water services differ from the other areas mentioned.

Mayor Coss said when this program started, the City bought the barrels and had a really good program and a good rainbarrel. It was an educational effort. We found out, through the Conservation Committee that the program is not efficient unless it is really well managed and you have a lot of storage. It was a good educational effort in the beginning. He said he and Councilor Pfeffer "messed that up," when they introduced this ordinance to let people buy their own. This is where the inefficiencies came in and we started experiencing problems with vendors who sold rainbarrels which weren't to specification and made the program even less efficient.

Mayor Coss asked if the Council might want to consider going back to purchasing the right rainbarrels and give them to the public. He said, retrospectively, the change to the ordinance looks like a mistake. He said, from a water conservation perspective, he doesn't believe rainbarrels are helping us get to the next level of conservation.

Councilor Chavez said this is along the lines he is thinking, and he believes this program should be part of the education and outreach component, reiterating his thoughts about discontinuing this program.

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

**Against: Councilor Trujillo, Councilor Chavez and Councilor Ortiz.**

**For: Councilor Wurzbarger, Councilor Calvert, Councilor Dominguez and Councilor Romero.**

**The vote did not result in the five affirmative votes required to adopt an ordinance, and Mayor Coss cast a vote in favor of the motion and the motion was approved.**

**Explaining her vote:** Councilor Wurzbarger voted yes, saying we should go back to the original plan and present it as an option for the community, but it should be done in the way that we originally intended it.

**Explaining his vote:** Councilor Chavez said we don't have to repeal the current Ordinance to direct staff to make sure the vendors are following the specifications, so he votes against discontinuing the Rainwater Harvesting Barrel Rebate Program.

## **12. MATTERS FROM THE CITY MANAGER**

There were no matters from the City Manager.

## **13. MATTERS FROM THE CITY ATTORNEY**

There were no matters from the City Attorney.

**14. MATTERS FROM THE CITY CLERK**

There were no matters from the City Clerk.

**15. COMMUNICATIONS FROM THE GOVERNING BODY.**

**Councilor Wurzbarger**

Councilor Wurzbarger introduced the following:

- a) An Ordinance amendment regarding sewer rate increases. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "1."
- b) A Resolution waiving Development Review fees and Building Permit fees for Affordable Housing. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "2."
- c) A Resolution endorsing and adopting the Water Division 10 Year Financial Plan, cosponsored by Councilors Calvert and Romero. A copy of this Resolution is incorporated herewith to these minutes as Exhibit "3."
- d) An Ordinance amending the water rate schedule to increase the monthly volume rates and service charge by 9.5% per year for five years, cosponsored by Councilors Chavez and Romero. A copy of this Resolution is incorporated herewith to these minutes as Exhibit "4."

**Councilor Romero**

Councilor Romero introduced a Resolution supporting leaving no New Mexico child inside, and asked that it go to the Children & Youth Commission, Finance Committee and back to the City Council. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "5."

Councilor Dominguez would like the Resolution to go to the Mayor's Youth Advisory Board if possible, and Councilor Romero said absolutely.

Councilor Romero congratulated Councilor Wurzbarger for a job well done on the recent Conference. She would like to see some of the presentations come back to the Council in a workshop or study session.

Councilor Wurzbarger said it was an amazing week, noting that Joe Abeyta and staff videotaped all of the presentations and addresses as well as selected panels, and those are available to the Councilors and to the public.



### **Councilor Chavez**

Councilor Chavez would like to know the number of people attending the Creative Cities Conference as well as the amount of revenue from registration.

Responding to Councilor Chavez, Councilor Wurzbarger said funds were allocated to the Conference from the 400<sup>th</sup> Anniversary Committee, but she didn't ask the source of the funds and he would need to get that information from Mr. Bonal.

Councilor Chavez said it was interesting that the 400<sup>th</sup> Anniversary Committee is contributing funds, noting that the 400<sup>th</sup> Anniversary Committee will be challenged to have adequate revenue for their own programs.

Councilor Chavez thanked the staff for their assistance for some of the events which were hosted on the Plaza for National Heritage Month. He noted it is a shoestring budget, and the pamphlets were designed and printed in-house. He reviewed the various activities which have been held, noting the two sets of workshops which were very well attended. He said there will be an updated program on the City website. He said the October workshops will be held on Saturdays in the Community Gallery in the Community Convention Center.

Councilor Chavez thanked Terese Prada and Patrick Nicholson for their assistance on the Hickox/Sierra Vista Neighborhood meeting on September 29, 2008, which was attended by 25-30 people. He thanked those people from the public who attended.

**Prior to adjournment, a communication dated October 6, 2008, from the Citizens of the American Constitution was given to each member of the Governing Body. A copy of this communication is incorporated herewith to these minutes as Exhibit "6."**

Mayor Coss said the balance of Communications from the Governing Body will be heard at the end of the Evening Agenda. He said the Council will reconvene at 7:00 p.m.

**END OF AFTERNOON SESSION AT 6:00 P.M.**

## **EVENING SESSION**

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

The Evening Session was called to order by Mayor David Coss, at approximately 7:00 p.m. Roll Call indicated the presence of a quorum as follows:

#### **Members Present**

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

#### **Members Excused**

Councilor Patti J. Bushee

#### **Others Attending**

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

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

A copy of a statement entered for the record by John Withbeck, is incorporated herewith to these minutes as Exhibit "7."

**Bob Martinez** thanked Councilors Ortiz and Chavez for introducing the Resolution to work with Parral, Mexico in its situation of distress. He expressed appreciation for what the City of Santa Fe has done, commenting that Parral can't depend on its state and nation for assistance like we can. He said the National Guard has been given permission to take water to Parral. He said the help is growing.

**Donato Coviello** said he spoke with the City Clerk who advised him that the registered voter lists she obtains for various purposes aren't available for the use of the general public. He is here to petition the City to purchase a complete list which would be available to the public. He believes this would be a good use of City funds, so the public doesn't have to go to the County Clerk to obtain these lists. He wished the Mayor and those traveling to China a "bon voyage," and to extend his greetings to the people of China.

**John Withbeck, on behalf of the Eldorado Residents Association and Co-Chair of**

**the Eldorado Mobility Committee**, said several months ago Councilor Bushee asked the NCTRD the cost for the Eldorado express. He has been riding the bus since it started. At that time, Jack Valencia said he had no idea. He said Councilor Bushee then asked Jon Bulthuis for that information and he had those numbers, commenting Mr. Bulthuis is a good source of information on that organization. Mr. Withbeck said Eldorado is a community of 7,000 people. He said NCTRD had a meeting in March 2007 for public input, noting there were two meetings and a total of 100 people attended both meetings. He said they requested midday bus service. Many in Eldorado are students at the Santa Fe Community College, many are retirees who need to go to their doctors. They feel this service would enhance the ridership. They also requested advertising to increase awareness of the service. In both cases, the NCTRD said there are no funds available. In July 2007, they were told the 54 passenger bus was only half full, and unless the ridership increased, the bus would cease which created concern among the people of the community.

Mr. Withbeck said yesterday the New Mexican published a front page article on the NCTRD, noting there was an article in early August. Josette Lucero, the Executive Director of the NCTRD was interviewed, and said she was exasperated with the negativity and complaints from the people of Eldorado. He quoted from the article that Ms. Lucero is at a loss as to what they need to do. He said the Committee has tried to find out what's really going on for some time. Their primary source of information is the DOT website, as well as the Santa Fe Transit Advisory Board, Jon Bulthuis, and the County. He said he told the reporter his source of information has been Jon Bulthuis and referred the reporter to him, but "for some mysterious reason," they couldn't reach him before they published the August article, and still haven't used any information from Jon Bulthuis for the October article. He said it appears the sole source of information are the two people who run NCTRD.

Mr. Withbeck said, based on their experience, they are petitioning the City Council please to consider a broader source of information than the New Mexican before voting on whether or not to stay with NCTRD, because it hasn't presented many of the pertinent facts for the situation. He said, "If you would care to, we'd be more than happy to give you these facts."

## **F. APPOINTMENTS**

### **Buckman Direct Diversion Board**

Mayor Coss appointed the following individual as an alternate to the Buckman Direct Diversion Board:

Councilor Rosemary Romero – alternate.

**Councilor Wurzbarger moved, seconded by Councilor Calvert, to approve the appointment.**

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

### **North Central Regional Transit District**

Mayor Coss appointed the following individual to the North Central Regional Transit District:

Councilor Rosemary Romero.

**Councilor Wurzbarger moved, seconded by Councilor Calvert, to approve the appointment.**

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

### **Board of Adjustment**

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

Charles Baldonado – Reappointment – term ending 09/2011;  
James Brack – Reappointment – term ending 09/2009;  
Gary Friedman – Reappointment – term ending 09/2010;  
Peter Komis – Reappointment – term ending 09/2010;  
Ruben D. Montes – Reappointment – term ending 09/2011; and  
Roderick Thompson – Reappointment – term ending 09/2010.

**Councilor Romero moved, seconded by Councilor Dominguez, to approve these appointments.**

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

### **Ethics and Rules Committee**

Mayor Coss appointed the following individuals to the Ethics and Rules Committee:

Sloan Cunningham – Reappointment – term ending 03/2010;  
Melessia Helberg – Reappointment – term ending 03/2010;  
Elicia Montoya – Reappointment – term ending 03/2010;  
Julia Nathanson – Reappointment – term ending 03/2010; and  
Donald W. Martinez – to fill unexpired term ending 03/2010.

**Councilor Wurzbarger moved, seconded by Councilor Dominguez, to approve these appointments.**

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

#### **G. PUBLIC HEARINGS**

- 1) REQUEST FROM TUNE UP CAFÉ, LLC, FOR A RESTAURANT (BEER & WINE) LIQUOR LICENSE TO BE LOCATED AT TUNE UP CAFÉ, 1115 HICKOX STREET. (YOLANDA Y. VIGIL)**

The staff report was given by Yolanda Vigil, noting the business is not within 300 feet of a church or school, and staff recommends the business comply with all City ordinances.

##### **Public Hearing**

There was no one speaking for or against this request.

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

Councilor Wurzburger moved, seconded by Councilor Trujillo, to approve the request for a Restaurant Liquor License to be located at Tune Up Café, 1115 Hickox Street as recommended by staff.

The motion was approved on the following Roll Call Vote:

**For: Councilor Calvert, Councilor Dominguez, Councilor Romero, Councilor Trujillo, and Councilor Wurzburger.**

**Against: None.**

**Absent: Councilor Ortiz and Councilor Chavez.**

- 2) REQUEST FROM MORN MOR, INC., FOR A TRANSFER OF OWNERSHIP OF DISPENSER LICENSE #2593 FROM PRANZO CORPORATION TO MORN MOR, INC. THE LICENSE WILL REMAIN AT PRANZO ITALIAN GRILL, 540 MONTEZUMA AVENUE. (YOLANDA Y. VIGIL)**

The staff report was given by Yolanda Vigil. Ms. Vigil said staff is requesting that this business comply with all of the City's ordinances.

##### **Public Hearing**

There was no one speaking for or against this request.

**The Public Hearing was closed**

**Councilor Calvert moved, seconded by Councilor Romero, to approve the request for the transfer of Dispenser License #2593.**

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

**For: Councilor Calvert, Councilor Dominguez, Councilor Romero, Councilor Trujillo and Councilor Wurzbarger.**

**Against: None.**

**Absent: Councilor Ortiz and Councilor Chavez.**

- 3) PURSUANT TO §60-6B-10 NMSA 1978, A REQUEST FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE SALE/CONSUMPTION OF ALCOHOLIC BEVERAGES AT EL MUSEO CULTURAL DE SANTA FE, 1615-B PASEO DE PERALTA, WHICH IS WITHIN 300 FEET OF ALVORD ELEMENTARY SCHOOL, 551 ALARID AND LOCATED ON CITY PROPERTY. THE REQUEST IS FOR THE FOLLOWING EVENT:**
- a) ESPANOLA ANIMAL SHELTER'S FUND RAISER TO BE HELD ON SATURDAY, OCTOBER 25, 2008, FROM 5:00 P.M. TO 11:00 P.M. (YOLANDA VIGIL)**

The staff report was given by Yolanda Vigil, noting this is located on City property.

**Public Hearing**

There was no one speaking for or against this request.

**The Public Hearing was closed**

**Councilor Calvert moved, seconded by Councilor Wurzbarger, to grant the request for the waiver of the 300-foot location restriction to allow the sale of alcoholic beverages at Espanola Animal Shelter's Fund Raiser on October 25, 2008 from 5:00 p.m. to 11:00 p.m.**

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

**For: Councilor Calvert, Councilor Dominguez, Councilor Romero, Councilor Trujillo, and Councilor Wurzbarger.**

**Against: None.**

**Absent: Councilor Chavez and Councilor Ortiz.**

- 4) CONSIDERATION OF BILL NO. 2008-49; ADOPTION OF ORDINANCE NO. 2008- \_\_\_\_ . AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF SANTA FE, NEW MEXICO GROSS RECEIPTS TAX REFUNDING REVENUE BONDS, SERIES 2008B IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$24,000,000 FOR THE PURPOSE OF DEFRAYING THE COST OF REFUNDING, PAYING AND DISCHARGING THE OUTSTANDING CITY OF SANTA FE, NEW MEXICO, GROSS RECEIPTS TAX REFUNDING AND IMPROVEMENT REVENUE BONDS, SERIES 1997A; AND CITY OF SANTA FE GROSS RECEIPTS TAX REVENUE BONDS, SERIES 1999; PROVIDING THAT THE REFUNDING BONDS WILL BE PAYABLE AND COLLECTIBLE FROM THE GROSS RECEIPTS TAX REVENUES DISTRIBUTED TO THE CITY; PROVIDING FOR THE DISPOSITION OF THE RECEIPTS DERIVED FROM THE GROSS RECEIPTS TAX REVENUES; ESTABLISHING THE FORM, TERMS, MANNER OF EXECUTION AND OTHER DETAILS OF THE REFUNDING BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, IN CONNECTION WITH THE REFUNDING BONDS; PROVIDING FOR REDEMPTION OF THE SERIES 1997A AND 1999 BONDS; APPROVING CERTAIN OTHER AGREEMENTS AND DOCUMENTS IN CONNECTION WITH THE REFUNDING BONDS; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION WITH THE REFUNDING BONDS; REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND RELATED MATTERS. (DAVID MILLICAN). (Postponed at September 24, 2008 City Council meeting.)**

This item was postponed to the meeting of October 29, 2008.

- 5) CONSIDERATION OF BILL NO. 2008-53; ADOPTION OF ORDINANCE NO. 2008- 51 (COUNCILOR WURZBURGER, MAYOR COSS, COUNCILOR ROMERO AND COUNCILOR CALVERT). AN ORDINANCE AMENDING ARTICLE 18-19 SFCC 1987, REGARDING THE WORKFORCE HOUSING FUNDING INITIATIVE. (KATHY McCORMICK)**
- a) CONSIDERATION OF RESOLUTION NO. 2008- 88 COUNCILOR WURZBURGER, MAYOR COSS, COUNCILOR ROMERO AND COUNCILOR CALVERT). A RESOLUTION CALLING FOR A SPECIAL MUNICIPAL ELECTION TO BE HELD MARCH 10, 2008, FOR THE PURPOSE OF SUBMITTING A QUESTION TO THE QUALIFIED ELECTORS OF THE CITY OF SANTA FE AS TO WHETHER AN EXCISE TAX SHOULD BE IMPOSED ON THE TRANSFER OF RESIDENTIAL PROPERTY IN THE AMOUNT OF ONE PERCENT (1%) OF THE PORTION OF THE PURCHASE PRICE IN EXCESS OF**

**\$750,000. THE TAX WOULD BE IMPOSED ON THE BUYER AND THE REVENUES COLLECTED FROM THE TAX WOULD BE USED SOLELY FOR AFFORDABLE WORKFORCE HOUSING. (YOLANDA Y. VIGIL).  
Postponed at August 27, 2008 City Council Meeting)**

**1) REQUEST FOR APPROVAL OF CONSOLIDATED PRECINCTS.**

**RESOLUCIÓN CONVOCACIÓN DE ELECCIÓN MUNICIPAL EXTRAORDINARIA QUE TENDRÁ LUGAR EL 19 DE AGOSTO 2008, CON EL FIN DE SOMETER LA CUESTIÓN A LOS VOTANTES CALIFICADOS DE LA MUNICIPALIDAD DE SANTA FE RESPECTO A SI UN IMPUESTO INDIRECTO SE DEBERÁ IMPONER SOBRE LA TRANSFERENCIA DE PROPIEDAD INMUEBLE RESIDENCIAL EN LA SUMA DE UNO POR CIENTO (1%) DE LA PARTE DEL PRECIO DE COMPRA QUE EXCEDA \$750,000. EL IMPUESTO SE IMPONDRIA UNICAMENTE PARA FINANCIAR VIVIENDA PARA TRABAJADORES.**

***Councilor Ortiz arrived at the meeting at this time***

A copy of a document entered for the record by Susan Harris is incorporated herewith to these minutes as Exhibit "8."

Frank Katz said, "The Council passed this Real Estate Transfer Tax earlier this year. A lawsuit was filed against the City attacking it on quite technical, legal grounds, and the amendments that are in this Ordinance to the Workforce Housing Funding Initiative simply ensure that we are not tripped up by that very technical, legal issue. The amendments do two things and only two things. The tax remains a tax on the purchaser, the amount is the same, it's figured the same way, it's paid the same way. The only two changes are this. The tax is on the purchaser's use of transfer services rather than on the transfer, and this is to make clear that the tax is imposed on the use of a service as is required by the State law. And the second change is that there was a requirement concerning the county clerk regarding the recording of deeds, and that is removed, because the county clerk's with regard to recording is controlled by State statute."

Mr. Katz continued, "There is in your packet a further amendment which basically restores the provision that says that the tax is a lien on the property of the purchaser. That's really the only thing that this bill does. And I think it puts us in a much stronger position in any litigation against the proposal."

**Public Hearing**

Mayor Coss said each person will be given three minutes to speak. He asked those giving testimony to please speak to the two issues that are involved in the amendment of this ordinance, which is the use of transfer services and removing the county clerk's duty since that is specified elsewhere.



**Baro Shalizi, President of the Santa Fe Association of Realtors**, read a statement into the record as follows:

"Good evening, Mayor and Councilors. My name is Baro Shalizi and I'm the President of the Santa Fe Association of Realtors. The Association has approximately 1,300 members, engaged in all aspects of both residential and commercial real estate. Home ownership, as you know, is the foundation upon which many families build their future. Housing is a good long term investment that provides both economic and social benefits. The Santa Fe Association of Realtors is a strong advocate for home ownership and works at all government levels on a wide variety of housing issues that include reducing the tax burden on housing. Like many housing advocates in the City, the Santa Fe Association of Realtors is interested in finding and supporting solutions to housing affordability. The fact that at the last public hearing we offered a number of possible affordable housing solutions. One of the suggestions at the time, was only a federal proposal at the time, but is now a viable program with the passage of the Housing and Economic Recovery Act of 2008. It is a temporary, first time homebuyer tax credit of up to \$7,500 for the purchase of homes used as a principal residence. The Santa Fe Association would welcome the opportunity to collaborate with the City to help promote this new tax credit."

Mr. Shalizi continued, "In addition, the Santa Fe Association of Realtors stands ready to work with the City and other stakeholders to advance initiatives that are lawful, equitable and provide effective solutions to the affordable and workforce housing needs of Santa Feans. However, having said that, we have reviewed the recently proposed amendments to the Ordinance. The Association believes that there is clear evidence that the original ordinance could not survive a legal challenge. The proposed amendments now specifically tax real estate broker services and the title company services involved in the transfer of real estate. However, the services provided themselves are not being taxed. The tax is based solely on the value of the real property that's being transferred. The actual character of the tax is what is important, that is, a tax on the transfer of real estate, and that is not permitted under New Mexico State law."

Mr. Shalizi continued, "The City's proposed amendment again targets a very narrow sector of the working Santa Feans, namely real estate sales people and title companies. While the Ordinance attempts to capture other types of residential property sales, it does not specifically define transfer services as those provided by individual property owners or provided through attorneys. The Ordinance also represents a somewhat misguided effort and unfairly targets a small segment of the homebuyers to shoulder the burden of addressing the affordable housing struggles of our community. A burden we believe that should be borne by the entire community."

Mr. Shalizi continued, "Due to these serious concerns, on behalf of the Santa Fe Association of Realtors, I urge you to reject this Ordinance under consideration this evening. Thank you. I appreciate you hearing me."

**Hank Hughes, New Mexico Coalition to End Homelessness**, said he wants to reiterate the Coalition's supports for the Ordinance. He doesn't believe either of the two changes are significant enough to change their support. There is still a need for affordable rental housing and home ownership housing, and the Coalition still believes taxing high end homes is the fairest way to fund the provision of homes for people who otherwise can't afford one.

**Signe Lindel, 147 Gonzales Road**, said she is a Realtor and supports the transfer service tax, but mostly she supports the peoples' right to vote. She said this is a splendid town and many people are willing to invest sizeable amounts to be here part time. She said nearly every property owner has prospered handsomely in the last ten years if they sold property. She has not seen a property sell for more than \$750,000 that was sold by a distressed, impoverished owner. She said, as realtors, we may be greedy when we decry that the Real Estate Transfer Service Tax will slow the market. She noted a \$900,000 sale generates about \$54,000 in commissions and would generate \$1,500 for affordable housing. She said, "I would suggest, as realtors, we stop shining a light on this. Must we really spend our resources fighting this." She said realtors are generous and asked that we not tarnish this reputation. She said if we are waging against illegality, it will be changed in due time. She asked that the realtors spend their resources and energies on other matters. Ms. Lindel said last year, she had the privilege of selling 30 affordable houses, and saw how a little down-payment assistance can get a family into a home which they can afford. She said these are not handouts, and most assistance is repaid when the house is sold. She said we generate money for many civic activities through taxes and fees on home ownership which is minimal and need. The tax on a million-dollar home owned for ten years, would amount to \$250 per year. She wants us to give citizens the opportunity show how generous and civic minded we are.

**Emily Ford, Homewise**, said Homewise is in support of the Workforce Housing initiative and the amendments presented tonight. She said Homewise thinks it is important for Santa Feans be allowed to make the decision on this important measure, and that it not be lost to just a technicality. The potential to leverage the funds and deploy them many times over, will have a much greater economic benefit to the community than any potential negative effect on a very modest tax on very high end homes.

**Spencer Hanesworth, Santa Fe Community Housing Trust**, said this Ordinance supports the Trust's mission to provide affordable housing to the community and the workforce that can't afford housing currently. She said she wants the community to vote on this, and they don't believe the changes to the Ordinance change the issues. The Trust supports this Ordinance.

**Steve Reiman, minority owner of Southwestern Title & Escrow, as well as the operating manager for Fidelity National, as well as a licensed broker and New Mexico educator**. He said Mr. Shalesi says that this is a tax on the transfer of property, and the

ordinance changes are carefully worded that it is a tax on the services which means that you're taxing title companies. He said title companies operate under a promulgated statutory formula and determined each year before the Public Regulation Hearing and the Insurance Division. He asked if the City has the authority to tax industries whose rates are set by the Insurance Division of the PRC, and if we are asking for a fight on a legal basis which wasn't investigated prior to this Ordinance.

**Susan Harris** said she is a member of this community and a realtor, and believes we need to continue to join together as a community to address affordable housing needs which have been difficult to meet for too long. She said she would rather take a positive look at the Ordinance and how we can tweak it, as well as other existing and proposed programs, to include more families, redefining what would expand affordable housing for more families. Ms. Harris distributed a copy of a document she printed from the MLS, which is a list of homes of \$300,000 and less and entered that for the record [Exhibit "8"]. There are between 100-200 such homes, noting she eliminated those under contract from the list. Ms. Harris spoke about the unintended consequences because of the global financial environment which has changed the local housing market, reducing the median price in some areas while affordable housing has increased. She said this could expand home ownership to additional higher income families which haven't been able to buy a home because they weren't eligible for affordable housing and the available market rate homes were unaffordable. She said Santa Fe Realtor Multiple Listing Service has an increased selection of affordably priced homes which might qualify for the affordable housing guidelines. She hopes we can work together to improve coordination between the affordable housing programs and the Realtor community. She said many realtors would like to work with first time buyers and buyers of affordable housing. She said currently, affordable programs do not permit realtors to continue with clients and friends throughout the entire purchase process. She believes affordable housing buyers need and want representation in purchasing homes. She urges the Council, whatever the outcome of the Ordinance, to open the program to allow that. She said the nature of the housing market could work against the program, and trending toward reducing the number of homes which would activate this tax. She suggested the Council look at a revenue raising plan which work across the board in all economic circumstances.

**Wayne Nichols, long time citizen, a realtor, builder and developer,** said there are a great many homes available for sale within the affordable range. He isn't part of Homewise or SF Housing Trust, both of which are beneficiaries of these kinds of ordinances. He is a person who is concerned about the image of Santa Fe, and about our economy. He believes one more burden or impact on the real estate process and price is a very untimely effort on the part of the City. He strongly recommends that the Governing Body take a good look at the many alternatives, affordable housing and workforce housing programs being implemented throughout the country, and using resources of the groups that are studying this process. He said "we" have not explored those alternatives, and hopes you will before going in this direction.

**Ed Rosenthal, Director, New Mexico Office of Enterprise Community Partners,**

said his organization is involved in affordable housing issues nationally, and in 25 years has invested more than \$10 billion and helped to create more than 250,000 homes nationally. In New Mexico, they have invested more than \$110 million in affordable housing, and has worked for 12 years in Santa Fe. He doesn't want to argue on the issues of the legality of the legislation, nor on the affordable housing crisis because of the present economic situation. He said several people indicated that the tools to address this issue are shrinking. The Housing Stabilization bill is quickly turning out not to be effective and it's important for this body to address the issue of affordable housing locally. In the new Stabilization Act there is a \$7,000 first time buyer home tax credit which is paid over a 15-year period. Another factor in the Act is the creation of the National Housing Trust Fund, but that trust fund depends on the profitability of the GSCs, Freddie Mac and Fannie Mae which are not profitable. Those tools become ephemeral. The existing federal programs are shrinking quickly, and unfortunately the next administration which hopefully will be more friendly to affordable housing will have its hands tied. This is one of the best ways to meet those needs.

**Elise Noble, Realtor** for 25 years, said she and her husband have owned Noble Real Estate for 32 years. She has spoken to the Council before, and will be brief. She supports the workforce housing initiative. It is important to make the community feel vibrant and vital to enable people who work here, to live here. She did her first sale involving Homewise which was exciting. She thinks there should be a lot more business for realtors if we have more support for affordable housing. She would like to do more deals which involve finance from Homewise. She believes the funds from the program will do a lot to create some business for realtors at the lower end of the market. She suggested changing "Workforce Housing Initiative," to "Welcome Fee," to welcome people to live in the town where they grew up, and those who have been serving us in restaurants, hospitals and such to homes in Santa Fe.

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

**Councilor Wurzbarger moved, seconded by Councilor Calvert, to adopt Ordinance No. 2008-51 regarding the Workforce Housing Funding Initiative with the amendments before the Council.**

#### ***Councilor Chavez arrived at the meeting at this time***

**Discussion:** Councilor Ortiz noted a question was raised by the title company person, and asked Mr. Katz to respond.

Mr. Katz said, "The tax is not imposed on the title company. The tax is a use tax imposed on the purchasers for the use of those services, so I don't believe there is any problem there."

Councilor Ortiz said the amendment proposed to the definition provides, "Transfer Services means the services of real estate brokers and title companies to effectuate and facilitate the transfer of the property from a seller to a purchaser." He asked if this language

could be construed to mean a tax on services that are provided by a title company.

Mr. Katz said, "The section that governs the imposition of the tax, specifies that the tax is imposed on the used by the purchaser of transfer services. So, I think the imposition section is very clear where the imposition of the tax is. This is very much like our compensation tax, use tax. You often have a sales tax that is imposed on the sale, and sometimes you can't tax the sale – the sale is from out of state or something. And, so you tax the purchaser's use, and that's what this is."

Councilor Ortiz said, when this first came to the Council, he and Councilor Bushee wanted to see a proposal that would work and to see a compromise which made sense. They worked hard to get language amendments in the Ordinance they thought would accomplish this. Councilor Ortiz said there are three things he wants to put to the Council:

- a) Is this kind of approach that we want to take. We are here again, because the problem that was identified was identified only after the fact. This didn't go to committee, so Mr. Reiman's question and concerns from the realtors weren't addressed. We are faced with the same kind of decision, not just compounding legal problems of the existing litigation. We've now got a whole other set of other legal issues with which we may be faced on this bill.
- b) He said Ms. Noble said she hopes this tax will be passed because we don't want an Aspenization of Santa Fe. This idea comes to us from Colorado, from those communities which we purport we don't want to have. Is this the approach we want to take, given that this is the very kind of community that we want to stop – we don't want to be like Aspen or other resort communities. Do we really want to follow suit.
- c) In this environment, with the circumstances we are facing here as well as at the state and national level, do we really want to send this issue to the voters, even at a special election in March. It will be a very divisive, polarizing flash point issue.

He believes the patch proposed by the City Attorney is insufficient, and opens a whole host of other programs from a whole host of other entities and it is not the right approach, and we shouldn't be doing this now. He is speaking against this particular amendment. He reminded the Council that this has not been a simple or straightforward issue, and it has been rife with questions and uncertainties from the beginning. He said this is the latest attempt by our City Attorney trying to answer a legal challenge which was put forward to us. He asked what other legal challenges we want to have. He asked what other kind of approach do we want to take. He asked if we will continue to do this because we have time and we're going to put it on the ballot and we expect it to pass. He said this isn't the way to do litigation, nor a way to create laws, and we are creating both. He urged caution, some deliberation and perhaps a new approach on this.

Councilor Chavez noted we had the opportunity in March 2007 to put this on the ballot at no cost to the taxpayer. He asked Ms. Vigil the cost of this special election.

Ms. Vigil said there is an FIR in the packet, noting it is approximately \$72,500.

Councilor Chavez said this is one consideration. He said, in the past two weeks, he's gotten more phone calls from people questioning the direction in which we are going, than those supporting it. This raises a flag in his mind. He believes we should proceed with caution, noting what happens in the market in the future might make it more significant. He thinks with the current market trend, we really don't know the amount of the funds which will be generated, so he has reservations about this at this time.

**The motion was approved on the following Roll Call vote.**

**For: Councilor Calvert, Councilor Dominguez, Councilor Romero, Councilor Trujillo and Councilor Wurzbarger.**

**Against: Councilor Ortiz and Councilor Chavez.**

Ms. Vigil asked for the Council to vote next on the consolidation of precincts for the Election Resolution. She noted there are two different lists in the packet. One is a list of the precincts used for the March 2008 regular election, and the other is the proposed list for the special election. She said we would be using 10 less machines at the polling places, noting voters won't go to different polling places. She just consolidated precincts to vote on one machine. She noted typically that voter turnout for special elections is lower. She said this decision is entirely the Council's. She noted if the Council wants to further consolidate the precincts, it is estimated there will be a minimum savings of \$6,000 to consolidate.

**Councilor Wurzbarger moved, seconded by Councilor Romero to approve the consolidation of precincts as proposed for purposes of the March 10, 2008 Special Election.**

**Discussion:** Responding to Councilor Chavez, Ms. Vigil said more precincts would be voting on one machine. She said the check in possibly could be longer. However, the City can set up as many voting booths as we would like. The voter will vote and feed the ballot into the tabulator, so the longest part of the process would be the check-in.

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

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

**Against: None.**

**Explaining her vote:** Councilor Wurzbarger voted yes, noting when she first heard this, she thought it was to reduce the number of polling places, to which she is opposed. However, she is comfortable in decreasing the number of machines.

**Councilor Wurzbarger moved, seconded by Councilor Calvert, to adopt Resolution No. 2008-88.**

**Councilor Ortiz moved, seconded by Councilor Chavez for purposes of discussion, to amend the Motion to postpone the proposed election to the Regular Municipal Election in March 2010.**

**Discussion on Motion to Postpone:** Councilor Ortiz said this would allow the greatest number of people to decide this issue, and we would have the cost savings. He said this isn't about the savings on the cost of a special election, it is because not a lot of people come for a special election. He asked the turnout for a special election is about 10-15% of the registered voters.

Ms. Vigil said the turnout was less in 2005, but that was also a very bad snow day, noting City Hall was closed that day. It was a special election on the water election and the turnout was less than 10%.

Councilor Ortiz said typically the best turnout is for the Mayoral election with 35-40% of the voters.

Ms. Vigil said it is probably lower than that, but the turnout is typically higher.

Councilor Ortiz said there is a low turnout for special elections, which is a sad state of our democracy, but we would get the largest target audience in 2010. This would give us time to work out some of these proposals. He thinks the Realtors have some ideas which are worth considering, and they need time to prove their worth and they can stand behind some of their proposals. He said these are changing times, and believes we are on the pivot point of a generational turn here and nationally. He thinks it might be better to have a reconsideration of how we've approached affordable housing to date. By giving more lead time, we have time to come up with those policies and to flesh out the funding requests. He believes holding this in March 2010 might cause heartburn for some of those running for reelection or election, but it gets to the highest number of potential voters. It is about giving the public the right to choose, and it makes sense to have it during the regular election when there is the greatest turnout.

Councilor Wurzbarger said it won't be on the ballot in 2010, because the Realtor's Association has made it totally and completely clear that they plan to go back to the Legislature and prevent us from having this on the ballot, so that is a moot point. More importantly, given this market, if we can get the resources we need in the community, more people will be able to buy the homes that are reducing in price. In a way, it can help the real estate to move the product which will be on the market. She believes there is a strong argument on both points to proceed now. She said everyone is aware of the economic study that was done in conjunction with McCune. The amount of money that is being depleted by people who live in work, but work here, is tens of millions of dollars, and we need to bring that back to our community. This is an extreme economic time and we can use the resources of the people who are spending their money in Albuquerque, and that's what this program is about. We have a State initiative which will match the money, the business community is willing to match the money and the County



has said they are interested in supporting this. She said now is the time to do this proposal.

Councilor Chavez commented it is interesting that we would have a transfer tax which would apply to the County, noting his concern is that this applies only to transfers within the City. He said it doesn't include commercial or retail. He said affordable housing and affordable business space go hand and hand. He said local artists and businesses need affordable shop and retail space. He thinks there are two funds we should consider as part of this transfer tax. One would be for housing to generate funds for the Affordable Housing Trust Fund, the other to help expand the Small Business Revolving Loan Fund. He sees both as needing attention, but this focuses only on the residential side.

Councilor Wurzbarger reiterated that she would be happy to work with Councilor Chavez to look at what we should do with the issue of businesses. With respect to her statement on the County, she was not implying this could be a tax which would be imposed by the County. She meant to say several County Commissioners have indicated their willingness to join this initiative, and provide funds to match State funds and businesses in the County. So, it would be a parallel initiative, but not with the tax, because the County cannot impose such a tax.

**The Motion to Amend failed to pass on the following Roll Call Vote:**

**For: Councilor Chavez and Councilor Ortiz.**

**Against: Councilor Calvert, Councilor Dominguez, Councilor Romero, Councilor Trujillo and Councilor Wurzbarger.**

**The motion to adopt Resolution No. 2008-88 was approved on the following Roll Call Vote:**

**For: Councilor Calvert, Councilor Dominguez, Councilor Romero, Councilor Trujillo and Councilor Wurzbarger.**

**Against: Councilor Chavez and Councilor Ortiz.**

**Explaining his vote:** Councilor Dominguez said we have been working on this for a long time and voted yes.

**Explaining his vote:** Councilor Ortiz said we have been working on this and we don't have it right and we still could have a legal challenge and voted no.

- 6. CONSIDERATION OF BILL NO. 2008-54; ADOPTION OF ORDINANCE NO. 2008- 52, CASE #ZA-2008-06. FULLERTON WITHERS FAMILY PARTNERSHIP REZONING FROM R-1 TO C-2. JAMES W. SIEBERT, AGENT FOR REESE FULLERTON AND MARILYN WITHERS, REQUESTS REZONING OF TRACT C-1, REMNANT OF C-1 AND TRACT D TOTALING 1.84± ACRES**



**OF LAND FROM R-1 (RESIDENTIAL, 1 DWELLING UNIT PER ACRE) TO C-2 (GENERAL COMMERCIAL). THE PROPERTY IS LOCATED AT THE NORTHWEST AND NORTHEAST CORNER OF VEGAS VERDES DRIVE AND CAMINO DE LOS ARROYOS. (LOU BAKER)**

A memorandum dated September 26, 2008 for the October 6, 2008 City Council Meeting, to City of Santa Fe City Council, with attachments, from Lou Baker, AICP, Senior Planner, is incorporated herewith to these minutes as Exhibit "9."

The staff report was presented by Lou Baker which is contained in Exhibit "9," who asked to enter the conditions of approval into the record.

**Recommendation:** On July 27, 2008, the Planning Commission moved to recommend that the City Council approve Case #ZA 2008-06 with staff conditions. The motion recommended denial for a requested variance to Article 14-7.4 to allow a decrease of a required 15'-landscaped buffer on Tract D. The applicant has not requested that the Governing Body review or reconsider the landscape variance. Therefore, staff concurs with the Planning Commission and recommends approval of Case #ZA 2008-06 Fullerton Withers Family Partnership Rezoning from R-1 to c-2 with a development plan. The City of Santa Fe 1999 General Plan, the Future Land Use Map and the Southwest Area Master Plan classify the subject property as Transitional Mixed Use.

If the City Council determines the merits of rezoning application ZA 2008-06 warrant approval, staff recommends the following conditions in addition to conditions outlined in the Conditions of Approval matrix (see Exhibit B):

- A. Applicant shall work with the City of Santa Fe Addressing and GIS divisions to determine correct addressing and submit documentation when completed to the City of Santa Fe Land Use Department.
- B. Applicant shall comply with Infrastructure Completion Policy (See Exhibit I).
- C. The Development Plan does not show a solid waste facility design plan therefore: applicant shall comply with Ordinance 2007-19 regarding Solid Waste collection requirements (See Exhibit J).
- D. Construction will occur near an existing neighborhood, therefore applicant shall submit a construction staging plan (see Exhibit K) detailing activities in a manner as to not to disrupt the harmony and safety of the neighborhood and existing vegetation; i.e. location of port-a-potty, location of dumpster, time of deliveries, time of construction, parking for construction workers, traffic control and warning signs (Construction Ahead), and tree protection, etc.
- E. Applicant shall comply with Article 14-5.3 Archaeological Review District requirements because the subject property is designated, "Suburban Archaeological Review District."
- F. Applicant shall comply with Article 14-8.2 Terrain and Stormwater management requirements.
- G. Applicant shall comply with Article 14-8.4 Flood Regulations.
- H. Applicant shall comply with Article 14-8.4 Landscape and Site Design.
- I. Applicant shall comply with Article 14-8.5 Walls and Fences.

- J. Applicant shall comply with Article 14-8.6 Off-Street Parking and Loading, specifically 14-8.6(D) Off Street Bicycle Parking.
- K. Applicant shall comply with Article 14-8.7(D) Architectural Design Standards and earn a minimum of 225 points.
- L. Pursuant to Article 14-8.7(E) Landscaping and Site Planning Standards criteria: the proposed development plan earned 15 points, therefore the applicant shall comply with Article 14-8.7(E) Landscaping and Site Planning Standards and earn a minimum of 100 points (see Exhibit F).
- M. Applicant shall comply with Article 14-8.9 Outdoor Lighting requirements and provide an outdoor lighting plan and photometrics.
- N. Applicant shall comply with Article 14-8.10 Signs requirements and provide sign elevations and sign design.
- O. Applicant shall comply with Article 14-8.12 Relocation of Gunnison's Prairie Dogs requirements and provide a plan to relocate Gunnison's Prairie Dogs.
- P. Applicant shall comply with Article 14-8.13 Annual Water Budget.
- Q. Pursuant to Article 14-3.5(C)(5) "the developer may be asked to contribute a proportional fair share of share of the cost of the expansion," therefore, the applicant shall comply with Article 14-8.14 Impact Fees.

## **Public Hearing**

### **Presentation by the Applicant**

**Jim Siebert, 915 Mercer, Santa Fe.** Mr. Siebert demonstrated the subject site on enlarged drawings. He said all utilities are in place. The site is composed of three different parcels: Parcel C which is a small remnant created by the roadway going through the property, Parcel D and Parcel E. Parcel E, which is on the south side of Camino de los Arroyos, is not under consideration this evening. The applicant is proposing to dedicate that to the City for road and drainage easement, so there is no reason to rezone it to C-2 and it will remain R-1.

Mr. Siebert said the zoning around the project, as the map indicates, is C-2, noting it is surrounded almost entirely by C-2 zoning, with the exception of the condominium units, Condominiums at Alameda, and then a higher density assisted housing. He said this area has evolved as commercial in nature.

Mr. Siebert said, existing on the property, PNM has a gas substation located in an easement and there is an easement for the gas line coming into the gas pump station. He said, regarding the development on this property, it is a given that there is very little flexibility in terms of site design on this, particularly parcel C. Originally, they had thought Tract E would be appropriate for parking as an ancillary or overflow parking for this particular use. The Traffic Engineer was concerned that people, instead of going to the crosswalk, would take a shortcut across "here," and may not be the best use for that particular tract. He said they provided a use list which would go along with this particular tract and are uses which could get by on a tract of this size and would appropriate uses for this particular location.

Councilor Dominguez asked if the use list is in the packet.

Mr. Siebert said the use list is on the development plan, as well as on this plan "here."

Councilor Dominguez said then it would go with the Development Plan and be a part of the Plat.

Mr. Siebert said it would be recorded with the Development Plan.

**Those speaking to the request**

There was no one speaking for or against this request.

**The Public Hearing was Closed**

**Councilor Romero moved, seconded by Councilor Trujillo, to adopt Ordinance No. 2008-52, with conditions as recommended by staff, in Case #ZA-2008-06.**

**Discussion:** Ms. Baker said she wants to stress that when you look at the Development Plan on page P-6, it is for three tracts, but it doesn't include Tract E which is on the south side.

**The motion was approved on the following Roll Call vote.**

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

**Against: None.**

**Explaining his vote:** Councilor Trujillo said this is where he used to ride his bicycle, and it is sad it has to be developed, but this is a good development because that is what is out there right now, so he votes yes as well.

**7. REQUEST FOR APPROVAL OF THE FOLLOWING ECONOMIC DEVELOPMENT PROFESSIONAL SERVICES AGREEMENTS: (FABIAN TRUJILLO)**

- a) BUSINESS INCUBATOR SERVICES (RFP #09/03/P); SANTA FE INCUBATOR.**
- b) BUSINESS OUTREACH AND TECHNICAL ASSISTANCE (RFP #09/04/P); SCORE.**

- c) **BUSINESS INNOVATION PROJECTS (RFP #09/02/P)**
  - 1) **GREEN JOBS TRAINING PROGRAM; YOUTHWORKS.**
  - 2) **MENTORSHIP TRAINING PRO/AM; MONTE DEL SOL CHARTER SCHOOL.**
  - 3) **ARTISAN BUSINESS DEVELOPMENT PROGRAM; MUSEUM OF NEW MEXICO FOUNDATION.**

A copy of "The Mentorship Program at Monte del Sol," is incorporated herewith to these minutes as Exhibit "10."

*NOTE: Items 7(a), (b) and (c)(1), (2) and (3) were combined for purposes of presentation, public hearing and discussion, but were voted upon separately.*

Fabian Trujillo presented information from his Memorandum of October 6, 2008, which is in the Council packet. Mr. Trujillo said staff recommends approval of these five contracts which are before the Council this evening.

Councilor Chavez said these seem to be good programs. He has been critical of the Museum of New Mexico Foundation's licensing agreements with out-of-state manufacturers, which is reverse economic development because they are sending jobs out of state which we could be keeping here. He said this might be a way to compensate for that and it will give it a value added component.

Responding to Councilor Chavez, Mr. Trujillo said the web links can be established through the contract process without additional expenditure of funds.

Councilor Chavez asked Mr. Trujillo if he has spoken with the Museum Foundation or the Museum, with regard to the concept of establishing a letter of authenticity which can be provided with the products which are hand made in the area.

Mr. Trujillo said he hasn't had those conversations, but he believes he can entertain those discussions, commenting these are good ideas, and can be incorporated into the contract. He would like this direction to staff to be a part of any motion.

Councilor Calvert said Mr. Trujillo mentions 35 at-risk youth, but the packet says 105.

Mr. Trujillo said it would be 35 for the first year, and 105 over three years.

Responding to Councilor Chavez, Mayor Coss said each contract has to be voted upon separately.

### **Public Hearing**

Mayor Coss said all those speaking to this request will be given three minutes for their remarks.

### **Those speaking to the request**

**Toby Botlyons, Youth Education Director at YouthWorks** said he is excited to present phase 2 of the project. He detailed what happened in Phase 1 which was a pilot program which finishes this week. He said the City has gotten national attention for this project and is emerging as a leader in sustainability and work force development. He just met and spoke with the three employers from Phase 1, noting six youth were placed this summer. The businesses are: Los Amigos Educational Resource Center, Cedar Mountain Solar and Shanahan & Associates. He said one of the young people is being hired at Los Alamos, and he wants one more youth in the next phase. Cedar Mountain has hired one and considering hiring another as full time employees, and want two more as soon as possible. Shanahan & Associates, a local green builder has places in the building trades for both of the youth in the program and Mr. Shanahan wants to take two kids every time they do a cohort and place them with other local builders with whom he has relationships. He said two of the six young people completed their tests for a GED, two have completed four of the five tests and are one math test away from being high school graduates which is a huge accomplishment. The other two have done three of the five tests. All six have received 3 full Community College credits in science, technology, engineering and math.

**James Montoya, Cedar Mountain Solar**, said he does solar plumbing, and was offered this job through YouthWorks, saying he never thought in his life he would be a plumber. He said he has learned so much. He said this is a great program to help kids. He got his GED through YouthWorks. This program has been very good to him and it has been very helpful.

**Anthony Sanchez**, said he is 17 years old and has been working with Los Amigos, a weatherization program, and learning plumbing and carpentering as well as responsibilities. He enjoys his job and he found out today they want to keep him. He thanked the City Council for making this happen and he hopes the City keeps this program running.

**Clara Marquez** owns Divine Beauty, and she is here in reference to SCORE. She was recently introduced to SCORE and has found her mentor. She has a winning business plan, the funding and will be hiring three people within this year. She said SCORE has also helped her to write her proposal for the Job Training Incentive Program. She highly recommends funding this program to help the Community grow as well as help our economic situation.

**Christine Martinez** said she learned about SCORE about eight months ago through the Chamber of Commerce. She is a new business owner, a single mom, a homeowner and she looks forward to working with SCORE, although she's not quite there in her business. She is ready to get the mentorship. She said Ms. Marquez is her friend and SCORE has helped her to feel confident and how to get the business going. She said the other way to do this would be to hire business coaches who charge \$150 per hour while SCORE is a free program. She looks forward to working with SCORE and hopes the City helps them.

**Paquita Francisca Hernandez** said she has a group of people with her tonight, and introduced these mentors and students. She thanked the City for investing in their school, their program and the community. She said the grants will allow them to strengthen their program, partner with the City and help to disseminate the model, and said thanks for "thinking out of the box" with them. She distributed a packet to the Governing Body [Exhibit "10"].

Councilor Dominguez said one of the project outcomes is #4, which says, "Develop a plan to disseminate the mentorship model with the Santa Fe Public School District that will target at-risk traditional public schools, i.e. Capital High, Santa Fe High." He asked if this is more than a study session with them and asked how they will help the Santa Fe Public Schools with this initiative which is a great initiative.

Ms. Hernandez said there is a basic difference between a program and a model. The program is something you fit into a structure, and the model is something which changes the structure. She said they need to train a group of trainers, and one of things they will be doing in the first year. The trainers would be in charge of training in year 2-3 for all those who would be implementing the model with the different schools and organizations.

Hernandez program and model. We need to train trainers and doing that. The trainers would do training for 2-3 years for those implementing models with different schools.

Councilor Dominguez assumes this information will be shared among the people at Monte del Sol, or will it be shared throughout all of the schools.

Ms. Hernandez said there are several pieces to the grant. One is to strengthen the Mentorship Program at Monte del Sol. She is the founder and director of the program, and for many years she was the only person doing it. She said we need to expand it so it doesn't just depend on one individual, so you need a group of people to sustain it over a long period of time. This is one of the ways the grant helps them. She said the Dissemination Plan is a different piece which expands it to other organizations and schools.

Councilor Chavez said there is a PSA in the packet specifically for Monte del Sol Charter School. He asked if the overview, general concept and dissemination plan are captured in the PSA.

Mr. Trujillo said yes.

Councilor Wurzbarger asked if the \$30,000 contract will result in the implementation of a dissemination plan this year. Will we actually start disseminating the model, training the trainers in other schools this year.

Ms. Hernandez said no, just the first year, and that begins in the second year.

Councilor Wurzbarger said she is confused, noting in BQL we talked about starting to do a transfer process this year.

Ms. Hernandez said the dissemination plan is a three-year plan, and detailed what will

happen in years one and three. She said they will be disseminating the model, not directly implementing the program in those schools, and the reason they need to train a group of people.

Councilor Wurzbarger asked if that first year is this year, and if it's part of the contract which is before us.

Ms. Hernandez said yes it is.

Councilor Ortiz asked, for example, if he had child attending Santa Fe High, and the City gives you this money, can that student participate in that program the first year.

Ms. Hernandez said not in the first year, because they are training the trainers, the people who will implement it at Santa Fe High.

Councilor Ortiz said this program, these monies, are only to benefit students attending Monte del Sol this year.

Ms. Hernandez said yes, to strengthen the program at Monte del Sol. She it also contributes to the workforce development in the City through the students at Monte del Sol, noting they match 200 students each year. This year they will match the same 200, and all of them will have all of the soft skills needed in terms of the development of the workforce, as well as establishing a connection to the larger community and working with those 200 students. She said this is the intent.

Mr. Trujillo said the first year they will be working to put the program together, and will implement and disseminate it in the public schools in years 2-3 of the contract.

Councilor Ortiz said then this is just funding for this year.

Mr. Trujillo said yes, but this is an RFP we will be asking for funding over three years.

Councilor Ortiz said if this is just for Monte del Sol in year one and part of the outcome is to train people, then in year two which would be year one for Santa Fe High or Capital High then those schools will be coming forward. He asked if they are going to be asking for the same kind of monetary support – is this conceivable.

Mr. Trujillo said it is conceivable if the program is successful. He said this program is being matched by Monte del Sol, so it's leveraged. He said we would ask the same thing if the public schools would come in for a program like this also.

Councilor Ortiz asked if it is matched in-kind by Monte del Sol, or with actual dollars.

Mr. Trujillo said it is matched with actual dollars.

Ms. Hernandez said it is also matched in-kind when there 150-175 mentors donating their time in terms of in-kind services, plus the extra work offered by people at the school, work

of the parents and other organizations in the City. She said when you put a price on it, it goes into thousands and thousands of dollars, so it is being matched in-kind by many sources.

Councilor Ortiz said it benefits a relatively small number of students who attend Monte del Sol.

Ms. Hernandez said this is where the model has been implemented and has been successful. She said she has 30-years experience in this area. She said this their first attempt to go into the Santa Fe Public Schools and she wants to make sure it is successful. She said there are a "ton" of mentoring programs out there, all with different definitions. This is highly academic, very structured with very important principles in place. It develops social skills as well as intellectual schools and career/job skills. She said they are interested in the work force part, but also in the self knowledge, personal development of the students and social consciousness and awareness. She believes this is important for any person who is interested in the business community.

Councilor Dominguez asked if this is consistent with the School Charter approved by the Santa Fe Public Schools, and asked what kinds of discussions have taken place with the Santa Fe Public Schools regarding dissemination of this plan.

Ms. Hernandez said this is part of what will happen this year as part of the dissemination plan.

**Seth Biederman, Dean of Students, Monte del Sol**, said they have spoken with Denise Johnson in the Santa Fe Public Schools whose daughter attends the school and is in the mentorship program. He graduated from Santa Fe Public School, and he wishes this was available when he was in high school. They have been able to do this because it is part of the Monte del Sol Charter. He said they are called Monte del Sol Charter School and Professional Development Center. He said it is part of their Charter, like every charter school, to try out new models in hopes of passing them to the School District. He said the program will exist with or without the grant, but the grant allows them to apply the mentorship to more students and gives them a way to spread it into the other District Schools.

Ms. Hernandez said this is correct, and the program will go on, but this is a tremendous opportunity to go beyond Monte del Sol.

Councilor Romero said as someone who has started these programs, often with foundation funds, she believes this should start small somewhere and really focus on the success. Her sense is that this program has a foundation they have continued to build on, and kids in other schools will take from their experiences. She hopes at some point Santa Fe High, Capital High or other schools would use the model and grow from that. However, we aren't at that point, and we are the point of growing the program with trainers. She said getting the trainers into the schools is in Phases 2-3. She said a foundation has been laid, and building on that foundation is critical. She said we are funding other programs we're funding that have been very successful, such as YouthWorks. She said she spent time with YouthWorks last week and they talked about some of the great work they're doing to give back to the community.



Councilor Romero thanked the community members who served on the committees to go through this RFP process. She said the RFP process is transparent and has served as another model of how to get grants into the community through a transparent process. She appreciates the work of the volunteers who have given their time to a really successful process.

Councilor Trujillo asked when the grant will start.

Ms. Hernandez said right away.

Councilor Trujillo said then she is saying next year, day one of school, in Santa Fe High, Capital High, it is open to everyone at the first of next year.

Ms. Hernandez said they are working on the trainees next year.

Mr. Biederman said they can't send Ms. Hernandez to Capital High because they need her at Monte del Sol to run the program. So, next year, they will be working with Capital High, Santa Fe High and possibly Gonzales and Eldorado to develop a coach at their school to run their program starting on day one.

**Nathaniel Hesse, Sculptor**, said he was a mentor at Santa Fe High in 2002, and then he learned what Ms. Hernandez was going to do. He said she has devoted a lot of time over the past 20 years, and has made concerted effort to make the mentorship work so a lot of people are included and know how it is supposed to work. He gives her credit for putting this time in, and she's come up with a really interesting model at Monte del Sol. She said the mentors bring the younger people into the professional world. He is in favor of her giving this to the Santa Fe Public Schools.

**Katy Dowsett, Taos** said she has been a mentor for three years at Monte del Sol. She spoke about her work in the film industry, saying she is trying to help train other people to work in the film industry in Santa Fe. She said the pay is good, \$22 to \$50 at 12 hours per day. A student she mentored has graduated from Monte del Sol and is attending the Community College and wants to work in the field of makeup. She is also a cosmetologist. She said it is wonderful to be a mentor, noting she is beginning her fourth year. She takes the student on the film set and they get to meet the stars, and see what it's like to work as a makeup artist in the film industry. She wants to extend the program to all students in Santa Fe. She said the program will continue at Monte del Sol whatever happens here. She said students are required to take a mentorship for two years at Monte del Sol in order to graduate. She said most teens don't know what they want to do when they are in high school, so this exposes them to many things.

**Lorraine Lovato-Hyde** said she is here on behalf of Monte del Sol as the parent of three teenage sons that have attended Monte del Sol, and understands the issues and questions which have been raised. She is an educator in the SF Public Schools. She said a

vital part of the plan is developing the model so it would be sustainable within the Public Schools system. She said the Public School has its own model and in introducing the mentorship program, the critical components are sustainability and relevancy to the youth and to the community. She is here to speak in favor of that relevancy. Her three young sons have taken mentorship for six years at Monte del Sol, and one currently is a student at NMSU majoring in Engineering, one is at UNM, and her eldest would not have graduated from High School but for his mentorship in Spanish colonial arts because it was a connection for him to his community. As a young male in the community he was struggling, and if not for the quality of this program which kept him focused on many levels academically and culturally, she doesn't know what would have happened. She is in support of this program. She spoke about her son who has customers from all over the world, and has gallery space in Switzerland. She urged support of this program.

**Paul Biederman, Chair of the Board, at Monte del Sol,** said he hears myths about Monte del Sol: that they get the cream of crop and only the best kids come to their school, or that they are somehow funded like Santa Fe Prep, that they are a rich school. He said they are no different from any other school in any of those respects, except that their students are chosen by a totally random lottery and they have students all across the spectrum.

Mr. Biederman said the underlying issue here is that the mentorship program is another example of the efforts the school makes to be creative. He said they welcome the opportunity to what Charter Schools generally are created to do: to try to be a laboratory, experiment with ideas and then disseminate them. He said \$23,000 of the \$30,000 will go to help fund a staff person to help to implement the program, and continue and expand the program within the school. \$7,000 is set aside to disseminate the program. Without the additional staff, it is not possible to build the basis for dissemination, noting they don't have the critical mass of staff people in the tiny school to perform services needed to build an ability to disseminate. He said they are doing this on a shoestring, as they do everything at Monte del So. He said you are getting a lot for the \$7,000 for each of three years. They are doing the best they can on a very limited budget to help disseminate the program.

Mr. Biederman said this Program won an award from the National Association of School Administrator several years ago, noting this is the first time a charter school ever won a national award from that group. The award was for this program, and was awarded to the Santa Fe School District for Monte del sol. He said they want to disseminate this program to the rest of the school district, but it won't happen without your support because they can't do it on their own. Mr. Biederman said they are committed to it, but it will take buy-in from the other schools to do this.

### **The Public Hearing was Closed**

Councilor Ortiz asked if the \$23,000 is just for another staff person.

Mr. Trujillo said the breakdown of the contract is for the specific outcome and the \$23,000 is for them to use to hire a person to do whatever it takes to expand this program.

Councilor Ortiz said Item 3(A) would relate Paragraph C(1), (2) and (3) and the \$7,000 relates to Paragraph 4.

Mr. Trujillo said this is correct.

Councilor Ortiz said A, B and C will happen at Monte del Sol whether or not they get this funding.

Mr. Trujillo said this is correct.

Councilor Ortiz said then we're talking about the only way we can have a chance to disseminate the program to at-risk students, other than those at Monte del Sol, is if we fund Paragraph B which is the \$7,000.

Mr. Trujillo said this is correct.

Councilor Ortiz said these kinds of programs happen whether or not public monies are expended. He said we talked earlier about developing a culture of dependence. One of things this does is to take public funds from a larger community use and specifically narrow it and believes we shouldn't do that and we need to be broader in our approach to the use of public funds. He said we're talking about expanding this program and training trainers which is a good outcome, but that's not the outcome we're funding. He said it is clear that the outcome we're paying for is an expansion of a program that helps a specific subset of students, which we don't normally do. He said he's never seen this level of exclusivity when we do this with the public schools.

Councilor Ortiz believes this program needs to be supported and expanded to at-risk youth. He said these at-risk youth are struggling at Capital and Santa Fe High, and asked how we get them in the same kinds of programs. He said it isn't a fault of Monte del Sol. They're responding to an RFP. He said this is the only group that applied under this particular program. He would like to see these deliverables for the school year beginning in 2009, and asked Mr. Trujillo if staff is confident that's going to happen.

Mr. Trujillo said they are. He said as they were going through the CTEC process through the Public Schools, they discovered there is a tremendous dropout rate in the Public Schools, and we need innovative work force programs to work with business and teach life skills and such for our youth. This is one of the programs staff feels is innovative and they are going to work to get it in the Public Schools as a model for that. This is the reason staff is recommending funding of this workforce program.

Councilor Ortiz said, as a parent of a child on the cusp of going into Junior High and High School, he understands the concern with the public schools and the dropout rate. He presumes the dropout rate at Monte del Sol is significantly lower than the dropout rate at Santa Fe or Capital High Schools. He asked, if we're concerned about the dropout rate, where should we be spending those resources – where the dropout rate is low or where it is high.

Mr. Trujillo said he believes we need to work on innovative programs for all of the

different sectors, and this particular program touches the students going into the green energy sector as well as media, technology and knowledge-based industry. He said this will bring a lot of students back into Santa Fe.

Councilor Ortiz said these students are fortunate to have gotten a lottery slot at Monte del Sol.

Mr. Trujillo believes we can expand this program if we can take it into the Santa Fe Public Schools.

Councilor Ortiz said this is where he wants to support this program, but he sees this program supporting the expansion of the program at Monte del Sol, with a relatively small amount being done for the second purpose.

Councilor Wurzbarger said this is a great model. She would argue that we don't need to train another 60 students at the Charter School to prove the model. This Council is interested in having the model transferred more quickly and it is a matter of priority from a community-wide perspective, which in no way denigrates the value of the model. She asked if there is a way to modify the contract to put more emphasis on the transfer. She appreciates Mr. Biederman's remarks that they are doing workforce development at Monte del Sol which is a public school. She said it's a matter of shifting more emphasis on the transfer and making that more clear in order to make it more relevant to something we should be funding.

Councilor Wurzbarger noted this is a 3-year program and wonders if this means in years 2, 3 and 4 if we'll have other schools wanting the same kind of program. There is a distinction between paying for the workforce development as a City and the transfer of the model which she believes is a much more legitimate expense for the City. She would appreciate a staff response as to how to do this.

Councilor Chavez said arts and culture were left out of Monte del Sol and he is focused on that as a part of our economic development plan to promote products produced locally, and if we can export them it is even better. He said Monte del Sol is a smaller, hands on learning environment which will produce better results. He said if we don't invest in it or expand it, it is like putting a basket over the light.

Councilor Dominguez said the at-risk students are those who don't have parents to advocate for them or put them in a lottery to go to a charter school, so these are the true at-risk students. He wants us to be real in talking about at-risk students. He wants those students that don't have or don't know about these opportunities to be able to take advantage of these public monies we're offering. He said the reality is that a bureaucracy exists at the Santa Fe Public Schools for whatever reason. He said Charter schools aren't doing anything different. They are just doing it without autonomy and are able to focus on the intent, noting Charter schools want some of the benefits of being a public school without this autonomy. He said Charter schools are more able to focus on intent because they don't have the bureaucracy which exists in the much larger organizations. This is a good thing for those students whose parents make them part of the lottery process.

Councilor Dominguez asked how we make the connection between this and how it benefits the greater student body and community, and how can we use this information and model to expand it to benefit students at the Santa Fe Public Schools or any other school, public or private.

Councilor Dominguez asked who are the trainers, and asked if they could be Santa Fe Public School employees.

Ms. McCormick said staff would propose at this time, given the interest shown and the requests for clarifications and suggestions by Councilor Wurzbarger, to send staff back to work with Monte del Sol to clarify the outcomes in this particular contract, exactly how those dollars will be used, and this contract back to the next City Council meeting.

Councilor Dominguez said he won't be attending the next City Council meeting but he will give her his suggestions for outcomes.

Councilor Wurzbarger said it's in the Public School system. The issue for her is to clarify how we're going to get kids at other locations in the Public School system into this program. She asked how many kids can attend the program at Monte del Sol, not attend the Monte del Sol school. She presumes the mentoring program doesn't happen only at the school, and might be happening where the mentors are. She wants to know the model. She said we probably can't afford for every school to have its own mentorship program, and said we need a model which works which was put together creatively. However, the delivery mechanism is what isn't clear, and there are combinations as to how this can be done. She said the program is fabulous and believes it should be widely disseminated.

Councilor Romero said she is completely comfortable with going back and having staff work with Monte del Sol to answer some of these questions. She spoke about her work in implementing a dispute resolution program which started at Cesar Chavez under the guidance of Exilda Martinez, thinking outside the box. We need to look at what they've done right, what they can do better and what we can learn from that to get it even better. She wants to be sure we're spending the public dollars in the most fiscally responsible way, and looks forward to the continued conversation.

Councilor Trujillo said this is a great idea, and all of us want to see other kids from other kids to be able to participate. He said the intent of the program is to help the entire community. He believes we will get better data if this is in all three schools. He asked how these schools or children will be selected, and wants that data.

**Councilor Ortiz moved, seconded by Councilor Wurzbarger, to postpone item G(7)(c)(2) to the Council meeting of October 29, 2008, and ask that staff go back and work with the contract to clarify the amount expended and to come up with information on how this program in the public schools can be expanded to reach more students than the target population just at Monte del Sol.**

**Discussion:** Mayor Coss asked if we are asking them to back and look at this and put

more emphasis on getting into the other schools, and if we are also talking about increasing the amount of the contract.

[NOTE: There was no audible response]

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

**Councilor Ortiz moved, seconded by Councilor Wurzburger, to approve Item G(7)(a), Business Incubator Services, Santa Fe Incubator.**

**The motion was approved on the following Roll Call vote.**

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

**Against: None.**

**Councilor Ortiz moved, seconded by Councilor Wurzburger, to approve Item G(7)(b), Business Outreach and Technical Assistance, SCORE.**

**The motion was approved on the following Roll Call vote.**

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

**Against: None.**

**Councilor Ortiz moved, seconded by Councilor Chavez, to approve Item G(7)(c)(1), Green Jobs Training Program with YouthWorks.**

**The motion was approved on the following Roll Call vote.**

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

**Against: None.**

**Explaining his vote:** Councilor Calvert voted yes and said he hopes we bring forward soon the loan program for energy efficiency and solar, so that when these folks are trained there will be demand in the community and they will have permanent jobs.

**Councilor Chavez moved, seconded by Councilor Ortiz, to approve Item G(7)(c)(3) Artisan Business Development Program, Museum of New Mexico, with the amendments directed to staff earlier establishing the links to the Community Gallery and individual links to individual web pages.**

**Friendly amendment:** Councilor Ortiz would like to amend the contract that this contractor speak with the Museum of New Mexico regarding authentic New Mexican wares in all museums in New Mexico. **The amendment was friendly to the maker.**

**Discussion:** Councilor Ortiz doesn't believe the Foundation has the authority to make those decisions and it has to be a discussion, but this discussion needs to be had. If we're going to be attracting people to come for our culture, they should come to our culture and be able to see and to sit on authentic New Mexico work, not work being crafted elsewhere.

Councilor Chavez said the Foundation is in the initial stages of that conversation in developing a program which would provide a letter of authenticity to those pieces being promoted to this program, and believes it is time that we do that.

**The motion, as amended, was approved on the following Roll Call vote.**

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

**Against: None.**

- 8) CONSIDERATION OF RESOLUTION NO. 2008- 89 (COUNCILOR ORTIZ, COUNCILOR WURZBURGER AND COUNCILOR DOMINGUEZ). A RESOLUTION DESIGNATING WATER RIGHTS FOR THE CITY'S NORTHWEST QUADRANT PROJECT. (KATHY McCORMICK). (Postponed at September 10, 2008 City Council Meeting)**

Kathy McCormick presented information regarding this matter to the Governing Body.

### **Public Hearing**

#### **Those speaking to the request**

**Rick Martinez, 725 Macias Road**, said these water rights are a public asset and not a developer asset. [Remarks here are inaudible because the microphone was off] He said when we first started this project, the City told them there would be a downtown connection to this project, but he said there won't be a downtown connection and we are creating a bedroom community in this project. He said there are no adequate roads to the project, and there is only a one-way in and one-way out. He said the first thing we should do is to develop the connections to this project rather than working on water issues, and helping to protect the existing neighborhoods of this community. He said there is an annexation with 13,000 homes in

the pipeline for the Southside, and 390 affordable homes should go on the south side of town. We should be taking care of the needs of the south side of Santa Fe before we start looking at development in this part of town.

Mr. Martinez said if the City gives the Northwest Quadrant all of the affordable water rights we have, what will we do for water rights for the rest of the south side and other parts of town. He believes we should take care of the south side which is in desperate need, instead of looking at a project which is very far down the line, especially with the current economics.

**Nicole de Juerniv, a concerned homeowner from Casa Solana,** said there is a real problem with the Northwest Quadrant and it's not the fault of the Northwest Quadrant but of the economic situation. She said this is an international situation. She is concerned we will give the water rights to the Northwest Quadrant and you won't be building, because there are over 100 homes of \$300,000 and lower category which can't be sold because there isn't any money. The buyers no longer qualify for the mortgages. The notion you are going to build the Northwest Quadrant is totally irresponsible in view of the financial situation. The market plunged 800 points today, and Bank of America is "going out," and asked where mortgage money will come for the buyers of the units the City thinks its going to build. She asked what developer would want to risk capital on this project. The major developers have pulled out of Santa Fe and Albuquerque because they can't sell their units. She said not to provide water for units already in the pipeline is totally irresponsible, and the City needs to take care of what it is you're already committed to. She said she is concerned that there isn't enough water for the 13,000 units coming on, plus the other 750 in this development. She said, "we want you to be good stewards so that we have enough water, we the existing people in this town, have enough water. We feel it's irresponsible to be giving away more water to more developments. It just doesn't make any sense, particularly if the water is just stuck there because there's no money for this development, which is definitely going to be the case. We're not looking at life in a realistic way in this City." Ms. De Juerniv continued that there won't be money or cash available, noting the bonds for all the other projects, and asked what will happen when the revenues in the City dry up and asked if we are going to default on the bonds. This is a serious problem.

### **The Public Hearing was Closed**

**Councilor Calvert moved, seconded by Councilor Ortiz, to adopt Resolution No. 2008-89, with the amendments in the packet and those handed out [NOTE: the amendments which were handed out were not entered for the record].**

**Discussion:** Councilor Chavez said this is the first time he can remember that we have ever allocated a specific volume amount of water to any project, public or private. He said there is an amendment providing, "The remainder of the City of Santa Fe's Water Rights portfolio, the City's reservoirs, the City's well field, the Buckman Well field, the San Juan Chama or Jicarilla rights, which make up the water's water system shall not be allocated to a specific project." Councilor Chavez it sounds as if this is a one time deal for the Northwest Quadrant. He asked what is the "remainder."



**Kyle Harwood** said the way that paragraph is added to the Resolution on the bottom of page 2, it is saying the remainder of the City's water rights portfolio. He said Paragraph 1 talks about allocating 118.14 afy of the 131 afy.

Councilor Chavez said there are two numbers – in the Resolution it is 131.9 afy, but then there's an amendment which says 118.14 afy.

Mr. Harwood said the 131.9 afy is a very unique right in the portfolio. The ones listed in paragraph 4 are the backbone water rights. He said the idea is that the site water budget for those portions of the project that are called out for – the affordable, the workforce and some of the community uses, the ones that we heard back from Councilors. He noted the Resolution was introduced in June 2007, and has been working through the process since then. He said based on feedback from the Council, they've added the categories for affordable, workforce and community uses, and there is an approved site water budget from Sangre de Cristo for 118.14 afy. Paragraph 2 of the Resolution provides the balance would go into the Affordable Housing Credit pool. This disposes of the 131.9 afy.

Mr. Harwood said the new Paragraph 4 is trying to say the balance of the City's water rights, all of the other water rights that support all the other points of diversion, shall not be allocated to a specific project. He said this came up in comments from the public, particularly Neva Van Peski who was uncomfortable about the ways the Resolution talks about City-owned, unallocated rights, and felt this clarified that.

Councilor Chavez asked why we don't do the same thing for Parks, the Southwest sector and annexation, asking where is the specific water allocation for the growth areas identified in the annexation and the settlement agreement.

Mr. Harwood said the parks are budgeted for overall on the demand side.

Councilor Chavez said we haven't set a specific volume amount in a resolution.

Mr. Harwood noted the parks don't offset their water demand in the same way that this and other developments do. He said they don't prepare site budgets in the same way, nor go through this step of the process, and are carried in a more generalized budget. All public purposes are supplied and accounted for as large blocks of public water for public purposes.

Councilor Chavez believes that there should be a process to allocate and dedicate a certain afy for parks into perpetuity off the top of the water budget.

Councilor Ortiz said he respects that Councilor Chavez has always remained consistent and had problems with this particular allocation and this project. He said, unequivocally, the City always has consistently allocated its parks, fire stations, fire hydrants in the water budget and have never had an unallocated portion of the parks. He said we had this discussion when we approved the Parks Master Plan and Facilities Plan leading up to the bond passage in terms of allocation for the parks.

Councilor Ortiz said this development is going through a process which no other

developer or project has gone through because it is a City project which has received attention from the neighbors, and has gone through different iterations. He said part of the reason there is no connectivity and the plan has problems is because of concerns raised by the neighbors.

Councilor Ortiz said the neighborhood voiced its opposition to the downtown connection, and it was removed. He said every time a substantive issue has been raised, staff, the planners, consultants have been thoughtful and addressed each and every concern. This is one of the concerns.

Councilor Ortiz said we need an allocation of water before we come up with an approval process, which is the genesis behind this particular Resolution. It is understandable that this project, as large in scope as it is, is going to create problems and issues which need to be addressed thoughtfully. It is wrong to assume that this project is a project which is just similar to any other kind of development and is a developer initiated project. He said we are in a process in providing workforce housing. This development will provide those houses. He said some of the neighbors don't want this under any circumstances at any cost. He said, however, there are larger interests and those will garner support for this project as it winds its way through the process. This is just the first step. He agrees with the amendments, and thinks the School Board does have to become accountable and needs to make a decision on what it wants to do with its parcels.

Councilor Ortiz said this project as conceived, amended, modified and compromised has become the hope for the kind of mixed income, green sustainable that we can support and strive for. This is the last available parcel on the north side of town to do that. For these reasons, this is a response in our fiduciary obligation to get the entitlements in place, if there is a change in the economy, that this project will be willing to take off. If not, there are lots of projects in the City in the same pattern as we are. He said how we respond to that and what we're prepared to do will dictate what happens with regard to this property. He believes we need to do the responsible thing and move this forward.

Mayor Coss said he was the original sponsor of this four years ago, and he still supports this project. It has gone through an exhaustive review process. He tends to support programs for affordable housing, and he likes this project for its potential. He believes the City can do more than one thing at a time. We can take care of the southwest sector and we voted tonight to move into annexation and we can handle that. He said pursuing the Northwest Quadrant doesn't forsake the Southwest sector, and the City is capable of doing both.

Mayor Coss said this is a Resolution and if it doesn't work out, the Resolution can be amended and send the water elsewhere.

Mayor Coss said people can't stand up and say they don't want any car traffic in their neighborhood and then say somehow it's isolated. The City can make connections if the neighborhood allows it. He said there are other modes of transportation to make connections besides automobiles. He is still in support of this.

**The motion, as amended, was approved on the following Roll Call vote.**

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

**Against: Councilor Chavez.**

**Explaining his vote:** Councilor Ortiz thanked Councilor Wurzbarger, Mayor Coss and Councilor Dominguez who have been stalwart supporters of this project as it moves forward, and looks forward to the School Board's decision and sending this to the Planning Commission, so he votes yes.

**9) APPEAL BY BENNY LEW FROM DENIAL BY FINANCE DEPARTMENT OF DISTRESS MERCHANDISE SALE LICENSE. (SEVASTIAN GURULE)**

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**Verbatim Transcript of Agenda Item G(9)  
CITY COUNCIL MEETING  
October 6, 2008**

**MAYOR COSS:** Sevastian.

**SEVASTIAN  
GURULE:**

Good evening Mayor, members of the Governing Body. On August 29, David Tapia who works in the Accounts Receivable Office received a letter of intent from Mr. Lew requesting a Distress Merchandise License. On September fourth, I was notified by Mr. Tapia that Mr. Lew did not have a business registration with the City of Santa Fe.

On September eighth, a meeting was held with Mr. Tapia and myself and Mr. Lew, in which Mr. Lew explained why he needed to have, or why he was requesting the Distress Merchandise License. I, in turn, explained the City ordinance and the reason why the City of Santa Fe has such strict regulations against these type of sales. I asked Mr. Lew if he would consider operating as a regular business and use the appropriate signage to advertise his business. He responded , "No. Being able to advertise as a going out of business was the only way that I could move my inventory quickly." He stated that he had a lease at 225 Galisteo for only ninety days. Ending the meeting, I notified Mr. Lew that I could not approve his Distress Merchandise Sale, due to the fact that he did not have an established business, and that he could not have a "going out of business" without being in business. I further notified Mr. Lew that he had been in violation of City ordinance

since the very beginning, as he did not register his business at The Santa Fe Place. Being proactive, I did assure Mr. Lew that I would work with our Legal Department to review his request and to get back a final decision as soon as possible.

During that week of September eighth, I met with the Legal Department, and it was determined on September fifteenth that the request for the Distress Merchandise Sale License would be denied for the following reasons.

"Pursuant to Section 18-1.2 License and Taxes, under Definitions, Distress Merchandise Sale means, Any offer to sell to the public, or sale to the public of goods, wares or merchandise, on the implied or direct representation that such sale is in anticipation of the termination of a business at its present location, or that the sale is being held, other than in the ordinary course of business."

Mr. Lew has not established an ordinary course of business at 225 Galisteo Street, as he had only been licensed to conduct business at that location for only six days. As a result, Mr. Lew could not reasonably be deemed to be terminating an established business at that location. In addition, Mr. Lew has represented to the City of Santa Fe that he has established the business solely to liquidate inventory, which means that such a sale would not be held other than in the ordinary course of business.

If I may add, during this time between the last week of August through the middle of September, my office had received a large number of complaints about illegal signs in the Historic District. 225 Galisteo Street was one of those on the list.

On September sixteenth, a meeting was held with Mr. Lew, at which time, I handed him the denial letter and advised him that he can appeal this decision to either the City Manager or to the Governing Body.

MAYOR: Any questions for Sev. Okay, this is a Public hearing. Would you come forward.

BENNY LEW: My name is Benny Lew, Mayors, Members of the Council...

MAYOR: Sorry, you have to be sworn in for your appeal. [Mr. Lew was sworn by City Clerk Yolanda Vigil.]

Sir, are you going to speak as well? Go ahead and get sworn in too. [The individual, John Dressman, was sworn by City Clerk Yolanda Vigil]

MAYOR: Okay, Mr. Lew.

LEW: Mayor, members of the Council.

MAYOR: I'm sorry to interrupt you again. How much time are you going to need?

LEW: Five minutes.

MAYOR: Five minutes? Okay.

LEW: The City of Santa Fe applies its permit rules in a capricious and arbitrary manner. I'm desperately trying to wind down a business and pay off my creditors, and the City relentlessly places obstacles in front of me, causing me a loss of income. My dire business situation is like a house on fire. Instead of helping me deal with the fire, they are sending me a fire truck that is a store closing sign. The City of Santa Fe plays games by giving me a fire hose, a fifty percent off sign for two weeks, then asked me to remove it for the next two weeks. It says it would allow me to have the fire hose for just three more times, two weeks on, two weeks off. They even regulate the gauge of the fire hose. Eighteen by twenty-four inch maximum. The result is a trickle of business traffic and my house continues to burn. My house has only ninety days before it burns down, as my lease expires November thirtieth. The City acts smug and seems blind to the fact that businesses all over the country are facing the biggest economic crisis in ninety years.

I imported a container of furniture from Indonesia in May 2008. I moved it into an eight thousand square foot space at The Santa Fe Place Mall, which I used as a show room for interior designers, open by appointment. My intention was for designers to see my sample furniture and order entire containers of furniture from me. For the next three and a half months, I wrote and phoned every designer in Santa Fe to come see our furniture. Less than one percent returned my calls or answered my emails. The few who came, showed no interest. I realize I made a big mistake. I was told, too late, that local interior designers are the tip of the iceberg, and most of the designers that decorate those expensive second and third homes in Santa Fe, are flying in from the City where the buyer comes from. Wealthy people bring in their own designers. Who knew?

And who knew in January 2008, when I started shopping for my container in Indonesia, that the bottom would fall out of the housing market and no one would be needing new furniture because fewer people are buying homes to fill with furniture and fewer people are moving to Santa Fe. After not receiving a single order of furniture from interior designers in nearly four months, I was ready to admit defeat. This was further exacerbated by The Santa Fe Place Mall giving me

notice August eleventh that I had to be out of my space by August thirty one.

On August 31, 2008, I moved to 225 Galisteo on a ninety day lease. The clock was ticking. After setting up the store, I applied for a Distress Sale Merchandise Permit. I was told I would receive the permit within two hours of submitting my application, which I did, the next day on September fourth. I was told they were sending the application to their Legal Department and they'd have fifteen days to get back to me. On September seventeenth, they issued a denial saying:

"Pursuant to City Ordinance, Distress Merchandise means an offer to sell to the public or sale to the public, goods, wares or merchandise on the implied or direct representation of the termination of a business at its present location."

I complied with the Ordinance, because the lease I submitted shows a termination date of November 30, 2008. End of story. Or the Ordinance says, and I remind the City, it says "or" and not "and." "Or that the sale is being held in other than in the ordinary course of business."

Sevastian Gurule, my bureaucratic nemesis, looked over the word "or" and interpreted it to mean "and," and said gotcha. "You haven't established an ordinary course of business at 225 Galisteo, as you have been licensed to conduct business there for only six days," the denial letter said, "As a result, you cannot be deemed to be terminating an established business at that location. In addition, you have represented to the City that you've established the business solely to liquidate inventory, which means such a sale would not be held in the ordinary course of business."

First of all, it is an extremely narrow definition of business, to think that business is a retail store. I'm selling wholesale containers to designers where letters of credit would be issued to Indonesia where I have merchandise manufacturers manufacturing furniture for peoples' orders. It's beyond the realm of Sevastian Gurule to understand that that is a type of business. There's probably two hundred and seventy classifications. So, I'm not an ordinary retail business.

The City's contenting I established the business solely to liquidate inventory. They ignore the fact that I've been in another location for four months that failed, and that I was forced to move to this location because I lost my lease. I even tried to conduct a liquidation at The Santa Fe Place Mall and was prohibited from doing so by Mall management.

I found that the City Attorney, Frank Katz, was really behind the denial and he

took the most extreme position of all. He even told me, quote, take your distress merchandise on a truck and sell it in Scottsdale. Mr. Katz went on to tell me that he doesn't want downtown Santa Fe cluttered with going out of business and [inaudible] 50% off signs. They're just not elegant.

The bottom line is that the intent behind the ordinance regarding the granting of Distress Sale Merchandise Licenses is not a matter of esthetics. First of all, it is to protect the public from harm, that is from unscrupulous merchants deceiving the public by pretending to go out of business when they're not. For instance, they give permits to these rug merchants. I Googled rug merchants and the word "going out of business" and I hit three hundred and forty nine thousand hits on Googled. Duh. Don't give it to those people, because ninety days later they put the business in their brothers-in-law... brother-in-law's name and ninety days later, not... in the name of a camel. The word "rug merchant" in Arabic means thief. So, of course you've had bad experiences because you weren't using your head.

MAYOR:

Are you about to wrap up sir?

LEW:

Okay, I have just a little bit more. My business idea of marketing to interior designers failed because I... and I just want to get rid of the merchandise and any cost. Does the City suggest I continue with my same failed business idea at this new location?

The second intent of the Ordinance is to give relief to the merchant whose business had failed. It allows the merchant to recoup its capital, pay off its creditors. I personally owe thirty-seven thousand dollars to my creditors who have been waiting nine months to be paid. It's impossible to liquidate this merchandise in the next sixty days I have left with that store closing signage, that I'm legally entitled to.

Santa Fe wants you to move here, run a successful business here, but should your business fail, God forbid, it appears that the City's official position is put your distress merchandise on a truck and move it to Scottsdale. According to a CNBC study of fifty states, New Mexico is the fourth worst state in the country, in terms of business friendliness and within New Mexico, Santa Fe is probably the most business unfriendly city in the United States. Nothing to be proud of. In 2004, the Angelou Economics was contracted by the City to do a seven month study on economic development strategy, entitled *Cultivating Santa Fe's Economic Future*. Participants include the previous Mayor and many of the Council people here today, and a specific thirteen hundred and fifty two individuals and businessmen located in this city. One of it's primary recommendations, Santa Fe's government should permit the easing and shortening the City permitting process.

I've had twelve weeks in which to liquidate my merchandise. It took me five weeks to even get this appeal hearing for my denied permit. I would hardly call it an expeditious and streamlined permit process. The Angelou Economics Project concluded the City's focus should be on creating a climate that's ripe for entrepreneurship and small business success, rather than recruiting large companies. A healthy economy benefits residents and businesses in the region and the business community, the nonprofit organizations, the arts and native populations. Well, I am an entrepreneur. I take calculated risks. Some succeed, some fail, and my last one failed. The City does not offer a climate ripe for entrepreneurship and micromanages and puts obstacles in front of free enterprise. My story is simply a microcosm of the crisis faced by all small business in trouble in this economy, and particularly demonstrates the egregious indifference of Santa Fe City Hall in dealing with this problem. By your actions thus far, it appears that Santa Fe City is in denial of what the Chairman of Fed calls the worst economic crisis since the great depression.

Mayor, members of the Council, the two worst affected businesses in the recession economy are car dealers and furniture dealers. My house is on fire and I need a fire truck. Please grant me my store closing permit, allow me to display it in my store window for the remaining days of my lease. Please allow me to do a progressive discount sale, starting at fifty percent and ending at eight percent off without the absurd micromanaged rule of two weeks outside and two weeks inside. Customers who pass by are not mind readers. Please let me pay off my creditors and recoup my capital, so I can, in the future, open a new business in Santa Fe. My [inaudible] handicrafters business in New York grossed six hundred thousand a year. That's six hundred thousand, times 7.9% sales tax, forty eight thousand in tax revenue for the City of Santa Fe and the State, plus a number of new jobs. I am an entrepreneur and you should want me to remain in Santa Fe and create a climate ripe for entrepreneurship. Don't chase me away to Scottsdale. I hate the heat.

MAYOR: Thank you. Yes sir.

JOHN DRESSMAN: Mayor, City Councilors staff, my name is John Dressman. I have a couple of stores down on the Plaza, but I'm not coming here speaking for myself tonight. We have a newly incorporated organization called the Santa Fe Downtown Merchants Association. And we had a meeting this afternoon and we wanted to let you know that we exist, for a couple of reasons. And one of them is to facilitate communication with you and with staff about our problems, worries, trials and tribulations, but the other one for today, is to thank you for enforcing the codes that help protect us and the consumers that we work for. That's going to be a mainstay of what we try to do, is to try to work with you, with staff, in order to find



ways to make Santa Fe's business atmosphere more conducive. We're afraid that there has been a business model that has moved into town very strongly that weakens the bond that we have with our tourist population. And, this is one of those things, a very, very hot button subject with us, and we appreciate the work that you've done on it. Thank you.

MAYOR: Thank you. Anyone else. Okay, the public hearing is closed. Councilor Ortiz.

COUNCILOR ORTIZ: Mayor I'd make a motion that we uphold staff's position and that we deny the appeal, and I want to make some additional findings. I find that staff's actions at all times were consistent with the ordinance. I find that the Ordinance itself is to protect not just customers, but also businesses that could be affected within the Business Capitol District. And, I want to make the last finding that the Appellant, in placing this appeal before us, raised no substantive issues of fact or law that would justify overturning or reinterpreting the Ordinance that staff enforced.

COUNCILOR  
CALVERT: Second.

MAYOR: Roll call...

No, the hearing is closed sir [to Mr. Lew].

Roll call Yolanda.

YOLANDA VIGIL: Councilor Wurzburger.

COUNCILOR  
WURZBURGER: Yes.

YOLANDA VIGIL: Councilor Calvert.

COUNCILOR  
CALVERT: Yes.

YOLANDA VIGIL: Councilor Dominguez.

COUNCILOR  
DOMINGUEZ: Yes.

YOLANDA VIGIL: Councilor Ortiz.

COUNCILOR  
ORTIZ:

Yes.

YOLANDA VIGIL:

Councilor Romero.

COUNCILOR  
ROMERO:

Yes.

YOLANDA VIGIL:

Councilor Trujillo.

COUNCILOR  
TRUJILLO:

Yes.

YOLANDA VIGIL:

The motion has been approved.

MAYOR:

Thank you.

*[STENOGRAPHER'S NOTE: Councilor Chavez was absent for the vote]*

*I certify that this is a true and accurate transcript of Agenda Item G(9) from the City Council meeting of October 6, 2008.*

  
Melessia Helberg, Stenographer

\*\*\*\*\*  
**END OF VERBATIM TRANSCRIPT**  
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- 10) **CONSIDERATION OF BILL NO. 2008-35; ADOPTION OF ORDINANCE NO. 2008- \_\_\_\_ (COUNCILOR CHAVEZ). AN ORDINANCE CREATING A NEW SECTION 14-6.2(F) SFCC 1987, ESTABLISHING REQUIREMENTS REGARDING ELECTRIC FACILITIES AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY. (NICK SCHIAVO) (Postponed at September 10, 2008 City Council meeting – PUBLIC HEARING IS CLOSED) (Postponed to October 29, 2008 City Council meeting)**
- 1) **CONSIDERATION OF RESOLUTION NO. 2008- \_\_\_\_ (COUNCILOR CHAVEZ). A RESOLUTION ADOPTING THE ELECTRIC FACILITIES PLAN AS AN AMENDMENT TO THE CITY OF SANTA FE GENERAL**

- PLAN. (NICK SCHIAVO)**  
**2) CONSIDERATION OF RESOLUTION NO. 2008- \_\_\_\_ (COUNCILOR CHAVEZ). A RESOLUTION ADOPTING A FEE SCHEDULE FOR THE REVIEW OF APPLICATIONS FOR ELECTRIC FACILITIES. (NICK SCHIAVO)**

This item was postponed to the meeting of October 29, 2008.

## **15. COMMUNICATIONS FROM THE GOVERNING BODY**

### **Councilor Dominguez**

Councilor Dominguez said he was going to introduce a resolution adopting an education and outreach program for the implementation of the City's Residential Green Building Code, but he is holding off until we do all of the Green Building Code "stuff."

Councilor Dominguez said there is a classification and compensation study being conducted, and he has two concerns. The first is the process by which we are collecting that data, specifically the fact that we're doing some of it on-line, and the concern that everyone have access to a computer. He hopes we aren't just giving a recommendation on a budget amount, but on some potential solutions as to how we can comply with the study. He can see how we could get "broad-sided" with these classification and compensation studies.

Councilor Dominguez said he received a phone call during the break, having to do with concerns in Planning & Land Use, and he will meet with Mr. Buller to discuss that along with the study.

### **Councilor Ortiz**

Councilor Ortiz said he has nothing except to thank the Mayor for his continued support of the Northwest Quadrant. He appreciates that very much.

### **Councilor Trujillo**

Councilor Trujillo introduced the following:

- a) An Ordinance amendment amending Article 2-16 SFCC for the purpose of deleting the Department of Civil Preparedness and creating the Office of Emergency Management, co-sponsored by the Mayor. He asked that it go to the Public Safety, Finance and Public Works Committees. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "11."

- b) A Resolution recognizing and celebrating the River Festival and Fishing Derby as an annual event to be held the first Saturday in June, beginning in 2009 and every year thereafter. It is cosponsored by Councilor Wurzbarger. He asked that it go to the BQL, Public Works, Public Utilities and Finance Committees. A copy of the resolution is incorporated herewith to these minutes as Exhibit "12."

**Mayor Coss**

Mayor Coss introduced the following:

- a) An Ordinance amending Article 20-1 regarding the powers of the Mayor during an emergency. A copy of this Resolution is incorporated herewith to these minutes as Exhibit "13."
- b) An Ordinance amendment to create a Hospital Zoning District within the Las Soleras Annexation Area. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "14."

**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 10:15 p.m.

**Approved by:**

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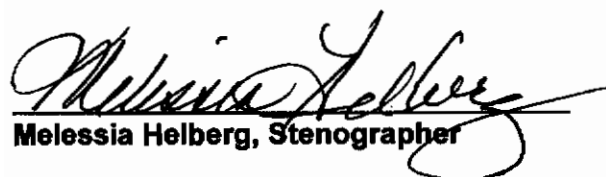
**Mayor David Coss**

**ATTESTED TO:**

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**Yolanda Y. Vigil, City Clerk**

**Respectfully submitted:**



**Melessia Helberg, Stenographer**