



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
OCTOBER 14, 2009
CITY COUNCIL CHAMBERS

AMENDED – ITEM 12

AFTERNOON SESSION – 5:00 P.M.

CITY CLERK'S OFFICE.

DATE 10/13/09 TIME 1:15 pm

SERVED BY _____

RECEIVED BY Indomenguez

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. SALUTE TO THE NEW MEXICO FLAG
4. INVOCATION
5. ROLL CALL
6. APPROVAL OF AGENDA
7. APPROVAL OF CONSENT CALENDAR
8. APPROVAL OF MINUTES: Reg. City Council Meeting – September 30, 2009.
9. PRESENTATIONS
 - a) Employee of the Month for October 2009 – Leona Shaw, Cashier; Finance Department. (5 minutes)
 - b) Update on Community Galleries First Year of Operations. (Sabrina Pratt and Rod Lambert) (5 minutes)
 - c) Green Building Summit and Expo – October 23-25, 2009. (Kim Shanahan) (5 minutes)
10. CONSENT CALENDAR
 - a) Bid No. 10/05/B – City-Wide Sewer Line Spot Repair Contract for Wastewater Management Division; Advantage Asphalt and Seal Coating, LLC. (Stan Holland)
 - b) Request for Approval of Change Order No. 2 – Police Department Renovations Phase II; Lockwood Construction Company. (Chip Lilienthal)



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- c) Request for Approval of Procurement Under State Price Agreement – On-Call Pavement Resurfacing Project; Advantage Asphalt and Seal Coating, LLC. (David Catanach)
- d) Request for Approval of Memorandum of Agreement – Annexation Phase I Roadway Improvements Prior to Annexation for Engineering Division; County of Santa Fe. (Chris Ortega)
- e) Request for Approval of Amendment No. 1 to Professional Services Agreement – Increase Project Appropriations for Plan, Design and Construction of Multi-Purpose Community Center for Santa Fe Civic Housing; Santa Fe Civic Housing Authority. (David Chapman)
- f) Request for Approval of Amendment No. 4 to 2006 General Fund Grant Agreement – Santa Fe Railyard Park and Plaza for Arts in Public Places; State of New Mexico Department of Finance and Administration. (David Chapman)
 - 1) Request for Approval of Budget Decrease – Railyard Park and Plaza Funds.
- g) Request for Approval of 2009 New Mexico Legislative General Fund Agreements – Projects Funded by the 2009 New Mexico State Legislature; State of New Mexico Department of Finance and Administration. (David Chapman)
 - 1) Request for Approval of Budget Increase – Grant Fund.
- h) Request for Approval of 2009 New Mexico Legislative Severance Tax Grant Agreements – Projects Funded by 2009 New Mexico State Legislature; State of New Mexico Department of Finance and Administration. (David Chapman)
- i) Request for Approval of Amendment No. 2 to Project Management and Fiscal Services Agreement – Raise Project Manager Authority for Buckman Direct Diversion Project for Consistency with City and County; Buckman Direct Diversion Project Board, County of Santa Fe and Sangre De Cristo Water Division. (Rick Carpenter)



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- j) Request for Approval of Revised Amendment No. 1 to Lease Agreement – Parcel Configuration and Use of City Siler Yards; Kitchen Angels, Inc. and Food Depot. (Edward Vigil)
- k) Request for Approval of Professional Services Agreement – Lobbyist Services for City of Santa Fe (RFP #10/06/P); Mark Duran. (Sebastian Gurule)
- l) Request for Approval of Evaluation Report by Public Utilities Committee for Pressure Reducing Valve Remote Monitoring Project for Water Division. (Robert Jorgensen)
- m) CONSIDERATION OF RESOLUTION NO. 2009-_____. (Councilor Dominguez)
A Resolution Adopting the *Anti-Graffiti Task Force Recommendations* Dated April 15, 2009; Implementing the Recommendations of the Anti-Graffiti Task Force that Have No or Minimal Fiscal Impact; Directing that a Position of Coordinator for Anti-Graffiti Programs be Created in the Police Department; and Directing the City Attorney to Review the City Code Amendments Recommended by the Task Force. (Chief Aric Wheeler)
- n) Request for Approval of Consideration to Re-Establish Position in FY 2009/2010 Budget. (Kristine Kuebli)
- o) Request for Approval to Publish Notice of Public Hearing on November 10, 2009:
 - 1) Bill No. 2009-49: An Ordinance Authorizing Leases for Three Tracts of Land Totaling 9.5692 Acres Consisting of: Tract 1/Phase 1 (3.9587 Acres Located North of West Alameda, East of Las Crucitas and Southwest of West San Francisco Street; Tract 1/Phase 2 (3.7370 Acres) Located North of West Alameda, East of Las Crucitas and Southwest of West San Francisco Street and East of Tract 1/Phase 1; Tract 2 (1.5235 Acres) Located North of West Alameda, West of Camino Del Campo and South of West San Francisco Street; and Tract 3 (0.3500 Acres) Located North of West Alameda, East of Camino Del Campo and South of West San Francisco Street. (Santa Fe Civic Housing Authority/Villa Alegre Project) (Mayor Coss) (Lee Depietro)



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- a) Request for Approval of Ground Lease – Villa Alegre Housing Project; Santa Fe Civic Housing Authority.
 - 1) Multifamily
 - 2) Senior
 - 3) Workforce
- 2) Bill No. 2009-50: An Ordinance Repealing Sections 18-8.1 Through 18-8.8 SFCC 1987 Regarding Pushcart Vendors; and Creating a New Section 23-5.5 Regarding Plaza Pushcart Vendors. (Councilor Chavez) (Sevastian Gurule)
 - a) CONSIDERATION OF RESOLUTION NO. 2009-_____. (Councilor Chavez)
A Resolution Establishing an Application Fee for Persons Who Apply for a License Under the Plaza Pushcart Ordinance, §23-5.5 SFCC 1987. (Sevastian Gurule)
- 3) Bill No. 2009-51: An Ordinance Authorizing the Issuance and Sale of the City of Santa Fe, New Mexico Water Utility System/Gross Receipts Tax Revenue Bonds, Series 2009 in an Aggregate Principal Amount Not to Exceed \$61,000,000 for the Purpose of Providing Funds for (I) the Acquisition, Construction and Improvement of the Buckman Direct Diversion Project and the Water Utility System, (II) Funding a Debt Service Reserve Fund for the Bonds, and (III) Paying the Costs of Issuance of the Bonds; Providing that the Bonds Will be Payable and Collectible From the Net Revenues of The Water Utility System and Certain Gross Receipts Tax Revenues Distributed to the City; Establishing the Terms, Form and Details of the Bonds; Authorizing the Execution and Delivery of a Bond Purchase Agreement, an Official Statement and a Continuing Disclosure Undertaking in Connection With the Bonds; Ratifying Action Previously Taken In Connection With the Bonds; Repealing All Ordinances in Conflict Herewith; and Related Matters. (David Millican and Helene Hausman)



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- a) CONSIDERATION OF RESOLUTION NO. 2009-_____.
A Resolution of the Governing Body of the City of Santa Fe, New Mexico Declaring its Official Intent to Reimburse Itself With the Proceeds of a Future Tax-Exempt Borrowing for Capital Expenditures Paid to Acquire, Construct and Improve the Buckman Direct Diversion Project; Identifying the Capital Expenditures and the Funds to be Used for Such Payment; and Providing Certain Other Matters in Connection Therewith. (David Millican and Helene Hausman)
- 4) Bill No. 2009-52: An Ordinance Repealing Ordinance No. 2009-36 Which Authorized the Issuance and Sale of the City of Santa Fe, New Mexico College of Santa Fe Lease/Subordinate Lien Gross Receipts Tax Revenue Bonds, Series 2009 in an Aggregate Principal Amount Not to Exceed \$30,000,000. (David Millican)
- 5) Bill No. 2009-53: An Ordinance Creating a New Article 23-8 SFCC 1987 Regulating Street Performers on Business License Fees. (Councilor Bushee) (Sevastian Gurule)
- 6) Bill No. 2009-54: An Ordinance Annexing Approximately 1,956 Acres (Phase 1) in Accordance with the "Annexation Phasing Agreement Between the City of Santa Fe and Santa Fe County" Executed in February 2009. The Phase 1 Annexation Includes Areas 3, 6, 8, 9, 10, 11, 13, 15, 16, 17 and the Interstate 25 Right-of-Way Between Old Pecos Trail and NM Highway 599, as Shown on the Attached Maps (Exhibits A-L). (Councilor Chavez) (Reed Liming)
- 7) Bill No. 2009-55: An Ordinance Amending Section 9-1.3 SFCC 1987 Revising the Municipal Election District Map to Reflect Annexations. (Mayor Coss) (Yolanda Y. Vigil)
11. CONSIDERATION OF RESOLUTION NO. 2009-_____. (Councilor Dominguez, Councilor Trujillo and Mayor Coss)
A Resolution Supporting the Santa Fe Public School District and the Efforts of its Superintendent and Board of Education to Maintain its Existing Budget During the Upcoming Special Legislative Session. (Jeanne Price)



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12. CONSIDERATION OF RESOLUTION NO. 2009-_____. (Councilor Chavez)
A Resolution Declaring an Emergency and Imploring the Governor and New Mexico State Legislature Not to Repeal or Otherwise Eliminate the Offset for Food Deduction Distribution to Municipalities Set Forth in Section 7-1-6.46 NMSA 1978. (Jeanne Price)

Substitute Language:

A Resolution Declaring an Emergency and Opposing Legislative Efforts to Balance the State's Budget at the Expense of Local Government Including any Proposal to Repeal the Hold Harmless Provision.

13. MATTERS FROM THE CITY MANAGER
14. MATTERS FROM THE CITY ATTORNEY
15. MATTERS FROM THE CITY CLERK
16. COMMUNICATIONS FROM THE GOVERNING BODY

EVENING SESSION – 7:00 P.M.

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE
- C. SALUTE TO THE NEW MEXICO FLAG
- D. INVOCATION
- E. ROLL CALL
- F. PETITIONS FROM THE FLOOR
- G. APPOINTMENTS



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H. PUBLIC HEARINGS:

- 1) 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 Espanola Valley Humane Society Fundraiser to be held on October 24, 2009 from 7:00 p.m. to 12:00 a.m. (Yolanda Y. Vigil)
- 2) CONSIDERATION OF BILL NO. 2009-40: ADOPTION OF ORDINANCE NO. 2009-_____. (Councilor Wurzburger and Councilor Romero)
An Ordinance Amending Section 14-14-6.2(A)(6) SFCC 1987 Regarding Short Term Rental Units. (Jeanne Price)
- 3) CONSIDERATION OF BILL NO. 2009-48: ADOPTION OF ORDINANCE NO. 2009-_____. (Councilor Wurzburger)
An Ordinance Amending Rule 8 of Exhibit A, Chapter 22 SFCC 1987, to Increase the Monthly Sewer Service and Usage Fees by 30.1 Percent Effective January 1, 2010; Thereafter Effective October 1, 2012 the Monthly Sewer Service and Usage Fees Shall be Increased By 4.7 Percent Per Year for Three Years for Residential, Multi-Family and Commercial Customers of the City's Sewer System; and Amending Rule 12, of Exhibit A to Increase the Mass Based Cost of Providing Air to Remove the Chemical Oxygen Demand ("COD") in Wastewater by 30.1 Percent Effective January 1, 2010; Thereafter Effective October 1, 2012 the Cost Shall be Increased by 4.7 Percent per Year for Three Years. (Bryan Romero)
- 4) CONSIDERATION OF BILL NO. 2009-38: ADOPTION OF ORDINANCE NO. 2009-_____. (Councilor Ortiz)
An Ordinance Amending Chapter 14 Land Development Laws and Chapter 26 Affordable Housing SFCC 1987 Relating To Appeals. (Greg Smith) **(Postponed at September 9, 2009 City Council Meeting)**
 - a) CONSIDERATION OF RESOLUTION NO. 2009-_____. (Councilor Bushee)
A Resolution Directing Staff to Prepare Rules of Practice and Procedure for Adjudicative Proceedings in Cases Arising Under Chapter 14 and Chapter 26 SFCC 1987. (Jeanne Price)



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- 5) Request for Approval of Amendment #3 to the Professional Services Agreement for Museum of New Mexico Foundation (RFP# 09/02/P) in the Amount of \$27,000. (Fabian Trujillo)
- 6) CONSIDERATION OF BILL NO. 2009-42: ADOPTION OF ORDINANCE NO. 2009-_____. (Councilor Romero, Mayor Coss and Councilor Calvert)
An Ordinance Amending Section 9-2.9 SFCC 1987 Specifying What Campaign Contributions Shall Not be Used For; and Amending Section 9-2.14 SFCC 1987 Establishing Campaign Contribution Limits. (Yolanda Vigil) **(Postponed at September 9, 2009 City Council Meeting)**
- 7) CONSIDERATION OF BILL NO. 2009-46: ADOPTION OF ORDINANCE NO. 2009-_____. (Councilor Ortiz, Mayor Coss, Councilor Wurzbarger, Councilor Bushee, Councilor Calvert and Councilor Romero)
An Ordinance Creating a New Article 9-3 SFCC 1987 for the Purpose of Establishing a System of Voluntary Public Financing of Campaigns. (Frank Katz, Yolanda Vigil and David Millican)
- 8) CONSIDERATION OF BILL NO. 2009-47: ADOPTION OF ORDINANCE NO. 2009-_____. (Councilor Ortiz, Mayor Coss, Councilor Wurzbarger, Councilor Bushee, Councilor Calvert and Councilor Romero)
An Ordinance Amending Certain Provisions of Article 6-16 SFCC 1987 Regarding the Ethics and Campaign Review Board as it Relates to the Public Finance Code. (Frank Katz and Yolanda Vigil)
- 9) CONSIDERATION OF BILL NO. 2009-44: ADOPTION OF ORDINANCE NO. 2009-_____. (Councilor Chavez)
An Ordinance Amending Section 14-6.3 (C)(1) SFCC 1987 Clarifying the Ownership of Accessory Dwelling Units and Requiring the Recording of Restrictive Covenants for Accessory Dwelling Units. (Jeanne Price)
(Postponed to October 28, 2009 City Council Meeting)

I. ADJOURN

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



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

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

**SUMMARY INDEX
SANTA FE CITY COUNCIL MEETING
October 14, 2009**

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APPROVAL OF CONSENT CALENDAR	Approved [amended]	2
CONSENT CALENDAR LISTING		2-5
APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – SEPTEMBER 30, 2009	Approved	5
<u>PRESENTATIONS</u>		
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<u>CONSENT CALENDAR DISCUSSION</u>		
REQUEST FOR APPROVAL OF 2009 NEW MEXICO LEGISLATIVE GENERAL FUND AGREEMENTS – PROJECTS FUNDED BY THE 2009 NEW MEXICO STATE LEGISLATURE; STATE OF NEW MEXICO, DEPARTMENT OF FINANCE AND ADMINISTRATION REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND	Approved	8-9

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
<p>REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON NOVEMBER 10, 2009:</p> <p>BILL NO. 2009-54: AN ORDINANCE ANNEXING APPROXIMATELY 1,956 ACRES (PHASE 1) IN ACCORDANCE WITH THE "ANNEXATION PHASING AGREEMENT BETWEEN THE CITY OF SANTA FE AND SANTA FE COUNTY," EXECUTED IN FEBRUARY 2009. THE PHASE 1 ANNEXATION INCLUDES AREAS 3, 6, 8, 9, 10, 11, 13, 15, 16 17 AND THE INTERSTATE 25 RIGHT-OF-WAY BETWEEN OLD PECOS TRAIL AND NM HIGHWAY 599, AS SHOWN ON THE ATTACHED MAPS (EXHIBITS A-L)</p> <p>*****</p> <p>END OF CONSENT CALENDAR DISCUSSION</p> <p>*****</p>		9-10
<p>CONSIDERATION OF RESOLUTION NO. 2009- 97 A RESOLUTION SUPPORTING THE SANTA FE PUBLIC SCHOOL DISTRICT AND THE EFFORTS OF ITS SUPERINTENDENT AND BOARD OF EDUCATION TO MAINTAIN ITS EXISTING BUDGET DURING THE UPCOMING SPECIAL LEGISLATIVE SESSION</p>	Approved	10-11
<p>CONSIDERATION OF <u>SUBSTITUTE</u> RESOLUTION NO. 2009-98 COUNCILOR CHAVEZ). A RESOLUTION DECLARING AN EMERGENCY AND IMPLOING THE GOVERNOR AND NEW MEXICO STATE LEGISLATURE NOT TO REPEAL OR OTHERWISE ELIMINATE THE OFFSET FOR FOOD DEDUCTION TO MUNICIPALITIES SET FORTH IN SECTION 7-1-6.46 NMSA 1978 <u>OPPOSING LEGISLATIVE EFFORTS TO BALANCE THE STATE'S BUDGET AT THE EXPENSE OF LOCAL GOVERNMENT, INCLUDING ANY PROPOSAL TO REPEAL THE HOLD HARMLESS PROVISION</u></p>	Approved [caption amended]	11-12
MATTERS FROM THE CITY MANAGER	None	12
MATTERS FROM THE CITY ATTORNEY	None	12
MATTERS FROM THE CITY CLERK	None	12
COMMUNICATIONS FROM THE GOVERNING BODY	Information/discussion	13-15

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
<u>EVENING SESSION</u>		
CALL TO ORDER AND ROLL CALL	Quorum	16
PETITIONS FROM THE FLOOR		16
<u>APPOINTMENTS</u>		
Planning Commission	Approved	16-17
Santa Fe Housing Authority	Approved	17
Sister Cities Committee	Approved	17
<u>PUBLIC HEARINGS</u>		
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 ESPANOLA VALLEY HUMANE SOCIETY FUNDRAISER TO BE HELD ON OCTOBER 24, 2009, FROM 7:00 P.M. TO 12:00 A.M.	Approved	17-18
CONSIDERATION OF BILL NO. 2009-40; ADOPTION OF ORDINANCE NO. 2009- 40. AN ORDINANCE AMENDING SECTION 14-14-6.2(A)(76) SFCC 1987, REGARDING SHORT TERM RENTAL UNITS	Approved	18-23
CONSIDERATION OF BILL NO. 2009-48: ADOPTION OF ORDINANCE NO. 2009- 41. AN ORDINANCE AMENDING RULE 8 OF EXHIBIT A, CHAPTER 22 SFCC 1987, TO INCREASE THE MONTHLY SEWER SERVICE AND USAGE FEES BY 30.1 PERCENT, EFFECTIVE JANUARY 1, 2010; THEREAFTER EFFECTIVE OCTOBER 1, 2012, THE MONTHLY SEWER SERVICE AND USAGE FEES SHALL BE INCREASED BY 4.7 PERCENT PER YEAR FOR THREE YEARS FOR RESIDENTIAL, MULTI-FAMILY AND COMMERCIAL CUSTOMERS OF THE CITY'S SEWER SYSTEM; AND AMENDING RULE 12, OF EXHIBIT A TO INCREASE THE MASS BASED COST OF PROVIDING AIR TO REMOVE THE CHEMICAL OXYGEN DEMAND ("COD") IN WASTEWATER BY 30.1 PERCENT EFFECTIVE JANUARY 1, 2010; THEREAFTER EFFECTIVE OCTOBER 1, 2012, THE COST SHALL BE INCREASED BY 4.7 PERCENT PER YEAR FOR THREE YEARS		23

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CONSIDERATION OF BILL NO. 2009-38: ADOPTION OF ORDINANCE NO. 2009-42. AN ORDINANCE AMENDING CHAPTER 14 LAND DEVELOPMENT LAWS AND CHAPTER 26 AFFORDABLE HOUSING, SFCC 1987 RELATING TO APPEALS	Approved [amended]	24-29
CONSIDERATION OF RESOLUTION NO. 2009-99 A RESOLUTION DIRECTING STAFF TO PREPARE RULES OF PRACTICE AND PROCEDURE FOR ADJUDICATIVE PROCEEDINGS IN CASES ARISING UNDER CHAPTER 14 AND CHAPTER 26 SFCC 1987	Approved	29
REQUEST FOR APPROVAL OF AMENDMENT #3 TO THE PROFESSIONAL SERVICES AGREEMENT FOR MUSEUM OF NEW MEXICO FOUNDATION (RFP #09/02/P) IN THE AMOUNT OF \$27,000	Postponed to 10/28/09	29
CONSIDERATION OF BILL NO. 2009-42: ADOPTION OF ORDINANCE NO. 2009- 43. AN ORDINANCE AMENDING SECTION 9-2.9 SFCC 1987, SPECIFYING WHAT CAMPAIGN CONTRIBUTIONS SHALL NOT BE USED FOR; AND AMENDING SECTION 9-2.14 SFCC, ESTABLISHING CAMPAIGN CONTRIBUTION LIMITS	Approved	29-32
CONSIDERATION OF BILL NO. 2009-46; ADOPTION OF ORDINANCE NO. 2009- 44. AN ORDINANCE CREATING A NEW ARTICLE 9-3 SFCC 1987 FOR THE PURPOSE OF ESTABLISHING A SYSTEM OF VOLUNTARY PUBLIC FINANCING OF CAMPAIGNS	Approved	32-37
CONSIDERATION OF BILL NO. 2009-47: ADOPTION OF ORDINANCE NO. 2009- 45. AN ORDINANCE AMENDING CERTAIN PROVISIONS OF ARTICLE 6-16 SFCC 1987, REGARDING THE ETHICS AND CAMPAIGN REVIEW BOARD AS IT RELATES TO THE PUBLIC FINANCE CODE	Approved	37
CONSIDERATION OF BILL NO. 2009-44: ADOPTION OF ORDINANCE NO. 2009- _____. AN ORDINANCE AMENDING SECTION 14-6.3(C)(1) SFCC 1987, CLARIFYING THE OWNERSHIP OF ACCESSORY DWELLING UNITS AND REQUIRING THE RECORDING OF RESTRICTIVE COVENANTS FOR ACCESSORY DWELLING UNITS	Postponed to 10/28/2009	38
ADJOURN		38

**MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
October 14, 2009**

AFTERNOON SESSION

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor David Coss, on October 14, 2009, at approximately 5:00 p.m., in the City Hall Council Chambers. Following the Pledge of Allegiance, Salute to the New Mexico flag, and the Invocation, roll call indicated the presence of a quorum, as follows:

Members Present

Mayor David Coss
Councilor Rebecca 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

6. APPROVAL OF AGENDA

Mr. Buller said staff has requested to remove Item 10(f) from Consent because it was postponed at the Finance Committee, and to postpone Item #5 on the Evening Agenda to the next Council meeting because Fabian Trujillo is ill.

MOTION: Councilor Wurzburger moved, seconded by Councilor Romero, to approve the agenda as amended.

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

7. APPROVAL OF CONSENT CALENDAR

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

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

For: Councilor Calvert, Councilor Chavez, Councilor Romero, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

Absent: Councilor Dominguez and Councilor Ortiz.

- a) **BID NO. 10/05/B – CITY-WIDE SEWER LINE SPOT REPAIR CONTRACT FOR WASTEWATER MANAGEMENT DIVISION; ADVANTAGE ASPHALT AND SEAL COATING, LLC. (STAN HOLLAND)**
- b) **REQUEST FOR APPROVAL OF CHANGE ORDER NO. 2 – POLICE DEPARTMENT RENOVATIONS PHASE II; LOCKWOOD CONSTRUCTION COMPANY. (CHIP LILIENTHAL)**
- c) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – ON-CALL PAVEMENT RESURFACING PROJECT; ADVANTAGE ASPHALT AND SEAL COATING, LLC. (DAVID CATANACH)**
- d) **REQUEST FOR APPROVAL OF MEMORANDUM OF AGREEMENT – ANNEXATION PHASE I ROADWAY IMPROVEMENTS PRIOR TO ANNEXATION FOR ENGINEERING DIVISION; COUNTY OF SANTA FE. (CHRIS ORTEGA)**
- e) **REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT – INCREASE PROJECT APPROPRIATIONS FOR PLAN, DESIGN AND CONSTRUCTION OF MULTI-PURPOSE COMMUNITY CENTER FOR SANTA FE CIVIC HOUSING; SANTA FE CIVIC HOUSING AUTHORITY. (DAVID CHAPMAN)**

- f) REQUEST FOR APPROVAL OF AMENDMENT NO. 4 TO 2006 GENERAL FUND GRANT AGREEMENT – SANTA FE RAILYARD PARK AND PLAZA FOR ARTS IN PUBLIC PLACES; STATE OF NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION. (DAVID CHAPMAN)
- 1) REQUEST FOR APPROVAL OF BUDGET DECREASE – RAILYARD PARK AND PLAZA FUNDS.

This item was removed from the agenda because it was postponed at Finance Committee.

- g) *[Removed for discussion by Councilor Chavez]*
- h) REQUEST FOR APPROVAL OF 2009 NEW MEXICO LEGISLATIVE SEVERANCE TAX GRANT AGREEMENTS – PROJECTS FUNDED BY 2009 NEW MEXICO STATE LEGISLATURE; STATE OF NEW MEXICO, DEPARTMENT OF FINANCE AND ADMINISTRATION. (DAVID CHAPMAN)
- i) REQUEST FOR APPROVAL OF AMENDMENT NO. 2 TO PROJECT MANAGEMENT AND FISCAL SERVICES AGREEMENT – RAISE PROJECT MANAGER AUTHORITY FOR BUCKMAN DIRECT DIVERSION PROJECT FOR CONSISTENCY WITH CITY AND COUNTY; BUCKMAN DIRECT DIVERSION PROJECT BOARD, COUNTY OF SANTA FE AND SANGRE DE CRISTO WATER DIVISION. (RICK CARPENTER)
- j) REQUEST FOR APPROVAL OF REVISED AMENDMENT NO. 1 TO LEASE AGREEMENT – PARCEL CONFIGURATION AND USE OF CITY SILER YARDS; KITCHEN ANGELS, INC., AND FOOD DEPOT. (EDWARD VIGIL)
- k) REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – LOBBYIST SERVICES FOR CITY OF SANTA FE (RFP #10/06/P); MARK DURAN. (SEVASTIAN GURULE)
- l) REQUEST FOR APPROVAL OF EVALUATION REPORT BY PUBLIC UTILITIES COMMITTEE FOR PRESSURE REDUCING VALVE REMOTE MONITORING PROJECT FOR WATER DIVISION. (ROBERT JORGENSEN)
- m) CONSIDERATION OF RESOLUTION NO. 2009- 96 (COUNCILOR DOMINGUEZ). A RESOLUTION ADOPTING THE ANTI-GRAFFITI TASK FORCE RECOMMENDATIONS DATED APRIL 15, 2009; IMPLEMENTING THE RECOMMENDATIONS OF THE ANTI-GRAFFITI TASK FORCE THAT HAVE NO OR MINIMAL FISCAL IMPACT; DIRECTING THAT A POSITION OF COORDINATOR FOR ANTI-GRAFFITI PROGRAMS BE CREATED IN THE POLICE DEPARTMENT; AND DIRECTING THE CITY ATTORNEY TO REVIEW THE CITY CODE AMENDMENTS RECOMMENDED BY THE TASK FORCE. (CHIEF ARIC WHEELER)
- n) REQUEST FOR APPROVAL OF CONSIDERATION TO RE-ESTABLISH POSITION IN FY 2009/2010 BUDGET. (KRISTINE KUEBLI)

- o) REQUEST FOR APPROVAL OF AMENDMENT NO. 4 TO PROFESSIONAL SERVICES AGREEMENT – WEBSITE REDESIGN. REDEVELOPMENT AND ONGOING MAINTENANCE FOR SANTA FE CONVENTION AND VISITORS BUREAU; STUDIO X, INC. (KEITH TOLER)**
- p) REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON NOVEMBER 10, 2009:**

 - 1) BILL NO. 2009-49: AN ORDINANCE AUTHORIZING LEASES FOR THREE TRACTS OF LAND TOTALING 9.5692 ACRES, CONSISTING OF: TRACT 1/PHASE 1 (3.9587 ACRES LOCATED NORTH OF WEST ALAMEDA, EAST OF LAS CRUCITAS AND SOUTHWEST OF WEST SAN FRANCISCO STREET; TRACT 1/PHASE 2 (3.7370 ACRES) LOCATED NORTH OF WEST ALAMEDA, EAST OF LAS CRUCITAS AND SOUTHWEST OF WEST SAN FRANCISCO STREET AND EAST OF TRACT 1/PHASE I; TRACT 2 (1.5235 ACRES) LOCATED NORTH OF WEST ALAMEDA, EAST OF CAMINO DEL CAMPO AND SOUTH OF WEST SAN FRANCISCO STREET (SANTA FE CIVIC HOUSING AUTHORITY/VILLA ALEGRE PROJECT) (MAYOR COSS). (LEE DEPIETRO).**

 - a) REQUEST FOR APPROVAL OF GROUND LEASE – VILLA ALEGRE HOUSING PROJECT; SANTA FE CIVIC HOUSING AUTHORITY.**

 - 1) MULTIFAMILY**
 - 2) SENIOR**
 - 3) WORKFORCE]**
 - 2) BILL NO. 2009-50: AN ORDINANCE REPEALING SECTIONS 18-8.1 THROUGH 18-8.8 SFCC 1987, REGARDING PUSH CART VENDORS; AND CREATING A NEW SECTION 23-5.5 REGARDING PLAZA PUSH CART VENDORS. (COUNCILOR CHAVEZ) (SEVASTIAN GURULE)**

 - a) CONSIDERATION OF RESOLUTION No. 2009- ____ (COUNCILOR CHAVEZ). A RESOLUTION ESTABLISHING AN APPLICATION FEE FOR PERSONS WHO APPLY FOR A LICENSE UNDER THE PLAZA PUSH CART ORDINANCE. §23-5.5 SFCC 1987. (SEVASTIAN GURULE)**
 - 3) BILL NO. 2009-51: AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF SANTA FE, NEW MEXICO WATER UTILITY SYSTEM/ GROSS RECEIPTS TAX REVENUE BONDS, SERIES 2009 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$61,000,000 FOR THE PURPOSE OF PROVIDING FUNDS FOR: (I) THE ACQUISITION, CONSTRUCTION AND IMPROVEMENT OF THE BUCKMAN DIRECT DIVERSION PROJECT AND THE WATER UTILITY SYSTEM; (II) FUNDING A DEBT SERVICE RESERVE FUND FOR THE BONDS; AND (III) PAYING THE COSTS OF ISSUANCE OF THE BONDS; PROVIDING THAT THE BONDS WILL BE PAYABLE AND COLLECTIBLE FROM THE NET REVENUES OF THE**

WATER UTILITY SYSTEM AND CERTAIN GROSS RECEIPTS TAX REVENUES DISTRIBUTED TO THE CITY; ESTABLISHING THE TERMS, FORM AND DETAILS OF THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, AN OFFICIAL STATEMENT AND A CONTINUING DISCLOSURE UNDERTAKING IN CONNECTION WITH THE BONDS; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION WITH THE BONDS; REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND RELATED MATTERS (DAVID MILLICAN AND HELENE HAUSMAN)

- a) **CONSIDERATION OF RESOLUTION NO. 2009-____. A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF SANTA FE, NEW MEXICO, DECLARING ITS OFFICIAL INTENT TO REIMBURSE ITSELF WITH THE PROCEEDS OF A FUTURE TAX-EXEMPT BORROWING FOR CAPITAL EXPENDITURES PAID TO ACQUIRE, CONSTRUCT AND IMPROVE THE BUCKMAN DIRECT DIVERSION PROJECT; IDENTIFYING THE CAPITAL EXPENDITURES AND THE FUNDS TO BE USED FOR SUCH PAYMENT; AND PROVIDING CERTAIN OTHER MATTERS IN CONNECTION THEREWITH (DAVID MILLICAN AND HELENE HAUSMAN.**
- 4) **BILL NO. 4009-52: AN ORDINANCE REPEALING ORDINANCE NO. 2009-36 WHICH AUTHORIZED THE ISSUANCE AND SALE OF THE CITY OF SANTA FE, NEW MEXICO, COLLEGE OF SANTA FE LEASE SUBORDINATE LIEN GROSS RECEIPTS TAX REVENUE BONDS, SERIES 2009 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$30,000,000. (DAVID MILLICAN)**
- 5) **BILL NO. 2009-53: AN ORDINANCE CREATING A NEW ARTICLE 23-9 SFCC 1987, REGULATING STREET PERFORMERS ON BUSINESS LICENSE FEES. (COUNCILOR BUSHEE). (SEVASTIAN GURULE)**
- 6) ***[Removed for discussion by Councilor Wurzburger]***
- 7) **BILL NO. 2009-55: AN ORDINANCE AMENDING SECTION 9-1.3 SFCC 1987, REVISING THE MUNICIPAL ELECTION DISTRICT MAP TO REFLECT ANNEXATIONS (MAYOR COSS). (YOLANDA Y. VIGIL)**

8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – SEPTEMBER 30, 2009

MOTION: Councilor Wurzburger moved, seconded by Councilor Trujillo, to approve the minutes of the Regular City Council meeting of September 30, 2009, as presented.

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

Councilor Dominguez arrived at the meeting

9. PRESENTATIONS

a) EMPLOYEE OF THE MONTH FOR OCTOBER 2009 – LEONA SHAW, CASHIER, FINANCE DEPARTMENT.

Mayor Coss read the letter of nomination into the record and presented Ms. Shaw with a plaque and a check for \$200 from the Employees Benefit Committee. Mayor Coss thanked her for her excellent service to, and on behalf of, the City.

Ms. Shaw said she is proud to work for the City, values her job and takes it very seriously, and expressed appreciation for this honor.

b) UPDATE ON COMMUNITY GALLERY'S FIRST YEAR OF OPERATION. (SABRINA PRATT AND ROD LAMBERT).

A copy of the power point presentation is incorporated herewith to these minutes as Exhibit "1."

A copy of Resolution No. 2006-112, entered for the record by Councilor Chavez, is incorporated herewith to these minutes as Exhibit "2."

Sabrina Pratt introduced Michael Namingha a member of the Arts Commission and the Community Gallery Advisory Committee.

Rod Lambert presented information via power point. Please see Exhibit "1" for specifics of this presentation.

Councilor Trujillo asked if there has been outreach to Seniors about the possibility of using this space for a week or a month. Mr. Lambert said yes, they've done pilot programs.

Councilor Trujillo said he is speaking of seniors in the community who do arts and crafts, not about established artists. Mr. Lambert said that falls under Community Services, so "feasibly it could be possible."

Councilor Trujillo wants to extend outreach to seniors as well as the youth.

Councilor Chavez shares Councilors Dominguez and Trujillo's concerns with regard to youth and seniors. He noted he distributed copies of Resolution No. 2006-112 [Exhibit "2"] which addressed the concerns about how the gallery is to be managed, who it is to benefit and the themes which have been suggested. The Resolution wanted to capture all of this and direct staff.

Councilor Chavez said he agrees with Mr. Lambert and accepts that the Gallery has been working well. However, the Resolution was adopted to set Council policy. He said we can talk about adding

components, which should be done and captured in a Resolution directing staff to go in this direction, so staff will know what is expected and the public will know what to anticipate.

Councilor Chavez said we are talking about culture and heritage tourism, and there is a lot of talent in this community, which has been well demonstrated in many of the shows and themes which have been selected. .

Councilor Ortiz arrived at the meeting

Councilor Chavez said the Gallery Task Force is organic and somewhat ad hoc because the Resolution really wasn't completed, and needs to be expanded as well. He said the notion that the Gallery would support emerging artists not already represented in galleries is one theme we want to hold onto, because it could be the incubator for those who haven't been accepted in the downtown galleries. He said the under represented, emerging artists was to be a focus, noting Mr. Lambert mentioned that earlier

Councilor Chavez asked Mr. Lambert to speak to the commission which is charged to the artists in the Community Gallery space.

Mr. Lambert said the policy currently is that artists receive 60% of all sales and the City receives 40% to help manage operations of the gallery. If there is an artist who is represented by a gallery exclusively with an exclusive contract, he works with the gallery, and he has a contract with the gallery where the gallery receives 70% of the sale and the City receives 30%. He said that is to recognize that the Gallery has supported and represented that artist, noting people may wind up going through that Gallery as the result of seeing work in the Community Gallery.

Councilor Chavez said this is policy which was not adopted formally by the City Council. There are two different price points, and he raises this as a concern.

Councilor Chavez said he has donated his time for the demonstrations he has done in the Gallery. He said the artists generally are paid while demonstrating which is good. He said Resolution No. 2006-112 says these are the things we should be doing, noting we are doing a lot of things in the Resolution. However, we are doing things which aren't in the Resolution. He said we need to continue to modify the program, the policies and procedures to ensure it benefits resident artists and craftsmen. He said the Community Gallery is an asset and part of our cultural heritage and tourism.

Councilor Chavez said when people are in Santa Fe to attend a convention, you enhance their experience, giving the visitor first hand information and interaction with the artists and craftsmen. He said how we coordinate that with the Gallery and the booking schedule will be critical. He said these are things we can do that don't cost a lot of money, and just need to be expanded.

Councilor Wurzbarger said staff is doing a tremendous job of turning a concept into reality. She said, in terms of policies and procedures, she would be happy to sponsor a resolution which clarifies formally what you are doing as this moves forward.

Councilor Wurzbarger said we have been working closely with the Tourism Department, Economic Development and the Gallery to bring this link. She said the student intern has put together a list which will list experiences which are cultural heritage and creative tourism experiences. She said she heard that this Gallery had more visitors than any other gallery.

Mr. Lambert said that was just a rumor, although the Gallery has done well.

Councilor Wurzbarger asked about the numbers on sales – the number of artists, an average sale and what did we facilitate to get money to the artists.

Mr. Lambert said 34 artists have sold, some more, some less, and in this economic climate the lower price point is a draw. He said the total sales for the year are approximately \$22,000.

Ms. Pratt said another holiday show is coming up, and she hopes the Governing Body will help them to market it, noting it will begin the Tuesday after Thanksgiving.

c) GREEN BUILDING SUMMIT AND EXPO – OCTOBER 23-25, 2009. (KIM SHANAHAN)

A copy of an Albuquerque Journal newspaper insert, "Santa Fe Green Building Summit & Expo," entered for the record by Kim Shanahan, is incorporated herewith to these minutes as Exhibit "3."

Kim Shanahan presented information regarding the upcoming Santa Fe Green Building Summit & Expo, and reviewed the events from Exhibit "3." He said it is free on Saturday and Sunday, and he hopes the Community Gallery will be open during the Summit on Saturday and Sunday. Mr. Shanahan distributed copies of a newspaper insert regarding the upcoming Summit & Expo, VIP passes and invited all of the members of the Governing Body to attend.

Councilor Calvert thanked Mr. Shanahan for attending and informing the Council and the public about this upcoming event. He said it should be educational as well as interesting.

CONSENT CALENDAR DISCUSSION

10 (g) REQUEST FOR APPROVAL OF 2009 NEW MEXICO LEGISLATIVE GENERAL FUND AGREEMENTS – PROJECTS FUNDED BY THE 2009 NEW MEXICO STATE LEGISLATURE; STATE OF NEW MEXICO, DEPARTMENT OF FINANCE AND ADMINISTRATION. (DAVID CHAPMAN)

1) REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND.

A copy of an Action Sheet from the Public Works/CIP and Land Use Committee meeting of October 13, 2009, is incorporated herewith to these minutes as Exhibit "4."

Councilor Chavez thanked the Legislature, especially the Santa Fe Legislative delegation for its

work, and reviewed the list of funded items in Mr. Chapman's Memorandum of October 5, 2009, to the Finance Committee. He noted that the \$148,500 which was reauthorized is carry-over money from 2007, originally appropriated for an indoor art space to benefit local artists and craftsmen, which didn't come to fruition. He said Representative Jim Trujillo asked us to work with him to reauthorize these funds and to use the funds to "plan, design and construct vendor space, surfacing and other improvements to the Santa Fe Railyard Park" in Santa Fe.

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

VOTE: 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.

10 (o) REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON NOVEMBER 10, 2009:

- (6) BILL NO. 2009-54: AN ORDINANCE ANNEXING APPROXIMATELY 1,956 ACRES (PHASE 1) IN ACCORDANCE WITH THE "ANNEXATION PHASING AGREEMENT BETWEEN THE CITY OF SANTA FE AND SANTA FE COUNTY," EXECUTED IN FEBRUARY 2009. THE PHASE 1 ANNEXATION INCLUDES AREAS 3, 6, 8, 9, 10, 11, 13, 15, 16 17 AND THE INTERSTATE 25 RIGHT-OF-WAY BETWEEN OLD PECOS TRAIL AND NM HIGHWAY 599, AS SHOWN ON THE ATTACHED MAPS (EXHIBITS A-L). (REED LIMING)**

Councilor Wurzburger said a concern was expressed at the Finance Committee with regard to the County not taking responsibility completely for road conditions. She said Mr. Katz said things are progressing. She wants to confirm that if this isn't resolved in the next two weeks, we can bring this item forward again after it is published.

Mr. Katz said yes. One of the items approved on Consent was an MOU with the County that it would do the roads, noting he will take this draft to the County. He spoke with the County about the roads which need to be repaired, and they seem to be receptive to doing that work. He said the MOU provides that prior to recording the Annexation the County will do this work. He said the Annexation will be before the Council at the November meeting, at which time he presumes there will be a public hearing. If the Governing Body is not satisfied that the work has been done, there will be the option to continue it after the public hearing or just approving it with direction that it not be recorded until the work has been done.

Councilor Wurzburger wanted to clarify that this was of major concern to the members of the Finance Committee and that we will want to be watching this as a group.

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

DISCUSSION: Councilor Chavez said the conditions of the roads are "what they are," and through the EZC and EZA we were party to that, and these are the existing conditions. He said we can question whether the \$300,000 is sufficient to make the improvements, noting they are still making improvements based on County standards. He hopes this road issue doesn't unravel the settlement agreement we've worked on for years, noting the Boundary Commission rejected our annexation request years ago on the issue of roads. He asked Reed Liming the miles of road with which we are dealing.

Reed Liming said he understands it is about 5 lane miles. He said part of the Settlement Agreement was that the two Public Works Department Directors would work out which roads would be maintained by the City, noting this is for Ocate and Lopez Lane in Phase one.

Councilor Chavez said then we are talking about 5 lane miles which potentially, could unravel the first phase.

Councilor Romero said the concerns expressed at the Public Works Committee were similar. She said staff drafted the MOU, and she believes we are on the right track at this point.

Councilor Wurzbarger said she wants to make it very clear that her intention is not to unravel the Settlement Agreement, but to bring to the table the agreement we agreed we would make and to implement it.

VOTE: 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 Chavez voted yes and gave credit to the Regional Planning Authority and we need to move forward on this annexation.

END OF CONSENT CALENDAR DISCUSSION

11. **CONSIDERATION OF RESOLUTION NO. 2009- 97 (COUNCILOR DOMINGUEZ, COUNCILOR TRUJILLO AND MAYOR COSS). A RESOLUTION SUPPORTING THE SANTA FE PUBLIC SCHOOL DISTRICT AND THE EFFORTS OF ITS SUPERINTENDENT AND BOARD OF EDUCATION TO MAINTAIN ITS EXISTING BUDGET DURING THE UPCOMING SPECIAL LEGISLATIVE SESSION. (JEANNE PRICE)**

MOTION: Councilor Dominguez moved, seconded by Councilor Trujillo, to adopt Resolution No. 2009-97.

DISCUSSION: Councilor Dominguez said it isn't just the condition of the public schools, it is also the fiscal state of the City and Nation. He said this is a community-wide issue, and this is an attempt to get community support of the recommendations proposed by professionals, such as the Superintendent.

Councilor Chavez noted the Special Session will focus mostly on the State's efforts to balance its budget, but there is discussions about identifying new revenue sources. He suggested adding language to the Resolution to identify impact fees for schools, as well as for public libraries, as a potential revenue source which currently isn't available to the Schools.

Councilor Dominguez said he thought about this, but the School District has made its efforts on its own to recognize the impact which impact fees would have on them as well. He said he would have had no problem in adding this if this had been a source of revenue identified by the Schools, but it isn't part of its recommendations.

Mayor Coss said there is a recommendation about some amendments in the House and Senate, about using the bond allowance for certain costs which would take some pressure off the funding formula – HB-33 and SB-9. Responding to Councilor Chavez, Mayor Coss said it doesn't address the impact fees directly.

Councilor Chavez said the current funding formula provides funding for the construction of the buildings but not O&M.

VOTE: 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.

Mayor Coss thanked Councilors Dominguez and Trujillo for attending the meeting, and said he believes the Superintendent has some good recommendations.

12. **CONSIDERATION OF SUBSTITUTE RESOLUTION NO. 2009-98 COUNCILOR CHAVEZ). A RESOLUTION DECLARING AN EMERGENCY AND ~~IMPLOING THE GOVERNOR AND NEW MEXICO STATE LEGISLATURE NOT TO REPEAL OR OTHERWISE ELIMINATE THE OFFSET FOR FOOD DEDUCTION TO MUNICIPALITIES SET FORTH IN SECTION 7-1-6.46 NMSA 1978~~ OPPOSING LEGISLATIVE EFFORTS TO BALANCE THE STATE'S BUDGET AT THE EXPENSE OF LOCAL GOVERNMENT, INCLUDING ANY PROPOSAL TO REPEAL THE HOLD HARMLESS PROVISION. (JEANNE PRICE)**

A copy of a Substitute Resolution which was distributed to the Councilors by Ms. Price prior to the start of the meeting, is incorporated herewith to these minutes as Exhibit "5."

Yolanda Vigil asked to enter the title of the Substitute Resolution into the record.

Councilor Chavez said there has been discussion about the possibility of repealing the food and medical hold harmless provision for local governments, which would be a loss of \$94.5 million to municipalities and \$26.5 million to counties for a total of \$121 million if this was to be repealed. He said it would be a real detriment if this was repealed, and the reason for the Resolution, noting this was an action request from the New Mexico Municipal League, which will be directed to the NMML and the City's Lobbyist.

MOTION: Councilor Chavez moved, seconded by Councilor Wurzbarger, to adopt Substitute Resolution No. 2009-98 [Exhibit "5"]..

DISCUSSION: Mayor Coss noted he met with Speaker Lujan yesterday and the Speaker said this isn't on the table for the Special Session. However, the HAFC Chairman told them yesterday that everything will be on the table in January. He said two years ago the State capped the amount of funding the City can receive under this law, and we don't want this to get any worse.

VOTE: 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.

13. MATTERS FROM THE CITY MANAGER

There were no matters from the City Manager.

14. MATTERS FROM THE CITY ATTORNEY

There were no matters from the City Attorney

15. MATTERS FROM THE CITY CLERK

There were no matters from the City Clerk

16. COMMUNICATIONS FROM THE GOVERNING BODY

A copy of "Bills and Resolutions scheduled for introduction by members of the Governing Body," for the Council meeting of , is incorporated herewith to these minutes as Exhibit "6."

Councilor Wurzburger

Councilor Wurzburger asked the status of her request for a copy of the report with regard to the suggestions on the proposed transit cuts, and would also like a status report on what is happening with the transit cuts.

Councilor Wurzburger introduced a Resolution on the donation of real property on the western flank of Sun Mountain along old Santa Fe Trail subject to a conservation easement. A copy of the proposed Resolution is incorporated herewith to these minutes as Exhibit "7."

Councilor Dominguez

Councilor Dominguez introduced a Resolution directing staff to apply for an access break along NM 599 for the future Jaguar Drive intersection. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "8."

Councilor Dominguez noted the second Resolution he introduced this evening was regarding the Schools' efforts to maintain its existing budget, which was just approved by the City Council .

Councilor Dominguez welcomed his wife back tomorrow.

Councilor Ortiz

Councilor Ortiz had no communications.

Councilor Trujillo

Councilor Trujillo asked if Councilor Romero's Resolution with the DOT is specifically for Pacheco Street, and Councilor Romero said yes. He advised Mr. Buller to look at the language and consider changing the wording to "various streets," because having it for one specific street could cause significant delays.

Councilor Romero

Councilor Romero introduced the following:

1. A Resolution to enter into a capital cooperative agreement with NMDOT to share in the funding for improvements on Pacheco Street. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "9."
2. A Resolution directing the City Manager to do a budget adjustment of \$750,000 from the City's reserve fund to the General Fund to compensate the Santa Fe 400th Anniversary, Inc., for various events and programs. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "10."

Councilor Chavez

Councilor Chavez noted the Emergency Resolution which he introduced was approved earlier by the City Council.

Mayor Coss

Mayor Coss said Councilor Calvert is introducing the following Resolutions:

1. A Resolution recognizing the urgency of stabilizing the climate. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "11."
2. A Resolution requiring that significant decisions regarding the Northwest Quadrant Project must have approval by a vote of not less than 6 members of the Governing Body. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "12."
3. A Resolution amending Resolution No. 2009-83, that adopted standard formulas by water use category for calculating development water budgets. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "13."

Mayor Coss introduced the following Resolutions coming from the Joint City-County alcohol recommendations, noting he wants co-sponsors, hopefully the entire Governing Body:

1. A Resolution urging the State Legislature to adopt Governor Richardson's proposed DWI 2010 Legislation. A Copy of the Resolution is incorporated herewith to these minutes as Exhibit "14."

2. A Resolution urging the Legislature to amend the Local Liquor Excise Tax Act to authorities to authorize all New Mexico counties to impose a local liquor tax. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "15."

Mayor Coss also introduced the following Resolutions, asking for cosponsors:

1. A Resolution urging the Legislature to enact the Domestic Partners Rights and Responsibilities Act. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "16."
2. A Resolution calling for a regular municipal election to be held on March 2, 2010.

Mayor Coss thanked the staff and the 400th Anniversary Committee, the government of Spain and the State of New Mexico for the fantastic the Crown Prince and his wife from Spain, which went quite well.

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. Following the Pledge of Allegiance, salute to the New Mexico Flag, and Invocation, Roll Call indicated the presence of a quorum as follows:

Members Present

Mayor David Coss
Councilor Rebecca Wurzbarger, Mayor Pro-Tem
Councilor 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

F. PETITIONS FROM THE FLOOR

Bob Krieger invited the Council to attend the Santa Fe Green Building Summit and Exposition next week, noting the Exposition is free, and described the workshops and activities planned for this activity. Please see Exhibit "3," for details of the activities.

G. APPOINTMENTS

Planning Commission

Mayor Coss made the following appointment to the Children & Youth Commission:

Michael Multari –to fill unexpired term ending 01/2011.

MOTION: Councilor Chavez moved, seconded by Councilor Dominguez, to approve this appointment.

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

Santa Fe Housing Authority

Mayor Coss made the following appointment to the Santa Fe Housing Authority:

Gerard Gonzales – Reappointment – term ending 03/2014.

MOTION: Councilor Chavez moved, seconded by Councilor Romero, to approve this appointment.

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

Sister Cities Committee

Mayor Coss made the following appointments to the Sister Cities Committee:

Daniel Anthony – Reappointment – term ending 10/2011;
Bernard Rubenstein – Reappointment – term ending 10/2012;
Roque Garcia – Reappointment – term ending 10/2011; and
Carol Robertson Lopez – Reappointment – term ending 10/2012.

MOTION: Councilor Chavez moved, seconded by Councilor Trujillo, to approve this appointment.

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

H. PUBLIC HEARINGS

- 1) **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 ESPANOLA VALLEY HUMANE SOCIETY FUNDRAISER TO BE HELD ON OCTOBER 24, 2009, FROM 7:00 P.M. TO 12:00 A.M. (YOLANDA Y. VIGIL)**

The staff report was given by Yolanda Y. Vigil.

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

MOTION: Councilor Calvert moved, seconded by Councilor Trujillo, to approve the request for the sale/consumption of alcoholic beverages at El Museo Cultural de Santa Fe, 1615-B Paseo de Peralta for the Espanola Valley Humane Society Fundraiser to be held on October 24, 2009, from 7:00 p.m. to 12:00 a.m.

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

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

Against: None.

Absent: Councilor Ortiz

2) CONSIDERATION OF BILL NO. 2009-40; ADOPTION OF ORDINANCE NO. 2009- 40 (COUNCILOR WURZBURGER AND COUNCILOR ROMERO). AN ORDINANCE AMENDING SECTION 14-14-6.2(A)(76) SFCC 1987, REGARDING SHORT TERM RENTAL UNITS. (JEANNE PRICE)

A copy of a news article, from the September 27, 2009 The New Mexican, entered for the record by Dena Aquilina, is incorporated herewith to these minutes as Exhibit "17."

A copy of the statement from the Santa Fe Association of Realtors regarding Short Term Rental Amendments Testimony on October 14, 2009, submitted for the record by Mary Schroeder, is incorporated herewith to these minutes as Exhibit "18."

A copy of a letter dated October 14, 2009, from Mary Ann Kay, Sales Manager for Casa de Guadalupe, with attachments, in opposition to the Ordinance, entered for the record by Bruce Kingsley, is incorporated herewith to these minutes as Exhibit "19."

Jeanne Price presented information regarding this matter from the memorandum of October 7, 2009, to the Mayor and City Councilors, which is in the Council packet, noting the Amendments, including Staff amendments are included as well.

Responding to Councilor Dominguez, Ms. Price said the proposed fees are on page 6 of the packet. She said as the expenses have been fine tuned, these are what is proposed by staff.

Public Hearing

Mayor Coss gave each person 3 minutes to speak.

Councilor Ortiz arrived at the meeting

Dena Aquilina, said she lives in small neighborhood where the houses are close together, and the neighborhood is tightly packed. There are 12 houses on her street, 2 of which are short term rentals. She believes it is a shame that the Council has allowed this commercial use in residential neighborhoods without zone changes. She said it isn't a happy situation to find new people across the street every week. She quoted from a news article, Exhibit "17," which quoted a judge on the California Supreme Court, which upheld a ban on vacation rentals in Carmel:

"It stands to reason that the 'residential character,' of a neighborhood is threatened when a significant number of homes are occupied not by permanent residents but by a stream of tenants staying a weekend, a week or even 29 days. Such rentals undoubtedly affect the essential character of a neighborhood and the stability of a community. Short term tenants have little interest in public agendas or in the welfare of the citizenry. They do not participate in local government, coach little league, or join the hospital guild. They do not lead a scout troop, volunteer at the library or keep an eye on an elderly neighbor. Literally, they are here today and gone tomorrow – without engaging in the sort of activities that weld and strengthen a community."

Ms. Aquilina said they wouldn't know if a stranger is on your property. She hopes a future Council will recognize the harm this has done to the neighborhoods and reverse this ordinance. She believes the Ordinance makes it easier for this activity to happen in the neighborhoods, and for that reason she is opposed to the Ordinance.

Mary Schroder, SF Association of Realtors, spoke on behalf of the Association of Realtors on behalf of the Ordinance and most of the amendments. They do not support the requirement for an owner to sign an affidavit stating that a short term rental is in compliance with any applicable covenants, and including persons under age 18 as part of the short term rental occupancy limits. Ms. Schroeder read her statement into the record. Please see Exhibit "18," for specifics of this statement.

Bruce Kingley, 209 Chapelle, said he operates 20-30 vacation rentals in the BCD and is appearing in opposition to the Ordinance. He quoted from a blog on homeaway.com, a major player in

internet vacation rentals: "With a demand for vacation homes so strong, especially what used to be sleepy little towns, the prices are driving out the locals." He said according to the September 9 issue of The Santa Fe Reporter says 6.1% of Santa Fe's leisure and hospitality jobs were lost in the last year. He said the numbers they got 6 weeks ago indicate that the 350 vacation rentals grossed less than \$3 million in the first year. He quoted from The Santa Fe Trends at the City website, "Santa Fe's economy is a \$3 billion a year economy, and \$3 million is .001 of that, which is like renting a room in your house for \$2.50 per month or \$30 a year. He asked why we are renting rooms in our houses for so little, and what harm would be done to gradually cut the rentals from 350 to a number that makes sense, and let some of "that \$3 million flow away from out-of-town second home owners to legitimate Santa Fe rentals, beds and breakfasts or inns in the BCD and owned by Locals. There would be no damage." He said the average rental in the program brings in \$7,000 a year. He said renting the house to the tourists is the real money loser. He said most of the houses are on the east side and would bring 4-5 times that amount in annual rentals.

Mr. Kingsley said the owners are willing to make so little on rentals because they don't live in Santa Fe. He said when Kokopelli filed suit against the City for a refund of the \$1,000, it submitted a roster of property owners, and the majority did not list a Santa Fe address. He said people want to come and go here as they please and make a little pocket change in the meantime. He said vacation rental owners were surveyed and the results posted on homeaway.com, and most of them had no expectation of making a profit [page 2 of Exhibit "19."]. Page 3 lists 250,000 searches for terms such as Santa Fe hotels, bed and breakfasts, etc. He said there are 11 searches per month per vacation rental property in Santa Fe, versus 44 searches for a hotel room per month. He said this means there is too much supply and not enough demand for the number of the vacation rentals. He is requesting that the City collect more data and find out how many vacation rentals are really needed in Santa Fe and work toward a number that makes sense. He believes in zoning laws, and believes these are neighborhoods not markets, and neighborhoods should be for neighborhoods.

Marilyn Bane said she feels someone needs to point out, and would like to point out, for the record, that we are weakening something that doesn't need to be weakened. The Courts didn't say they should be weakened, and the only concern of the Court was the \$1,000 permit fee. She shares Ms. Aqualina's concerns and believes we are going in the wrong direction in weakening short term rental laws. We should not encourage short term rentals outside of the designated zoning as is being done. She believes disclosure should be given to people who are buying homes so they would have an indication of any restrictions.

Marilyn Proctor, 2839 Don Quoxite, has been handling short term rentals in Santa Fe for almost 30 years, and they have followed all guidelines of the ordinance. She said her firm has received no complaints and they've worked hard. They're doing an 18 month review to be sure there were no complaints or issues against them. She is a local, and this has been her livelihood for 30 years. Even though the owners don't live here, she does, and she is a Girl Scout Leader, soccer coach and is involved

in the church and school, including St. Michael's 150th Celebration last weekend. She said she hopes consideration is given to owners who do live here, although their clients do not.

The Public Hearing was closed

Councilor Wurzbarger thanked staff for its work and Councilor Romero for working with her to consider these changes. She said what we have proposed is a balanced approach, and not an effort to turn the clock around, noting we still have precedents. She said we still have an ordinance which protects the community and the neighborhood.

MOTION: Councilor Wurzbarger moved, seconded by Councilor Romero, to adopt Ordinance No. 40, with the proposed changes as identified in the Council packet, including the amendment sheets on pages 4, 5, 6 and 7 of the Council packet, and the staff recommendations.

DISCUSSION: Councilor Wurzbarger said she wants to make it clear to the public that the recommendations of the Planning Commission which maintained the owner signing an affidavit saying the short term rental is in compliance, will remain in the bill as proposed, as does the issue of persons under age 18 being included for purposes of calculating the short term rental occupancy limits.

Councilor Chavez said he received more than 50 letters in favor of short term rentals outside of the BCD, noting they were generally form letters, but wanting to remove the disclosure provision. He said he is self-employed under the Home Occupation Ordinance, with a shop in his back yard. He said some of these things help to make the neighborhood more safe, but they also can have a negative impact on the neighborhood. He said the amendments Councilor Wurzbarger proposes to keep in the ordinance are fair. He said it isn't unreasonable to ask those in the short term rental industry to help the City to share that information with its customers. He said Mr. Kingsley has had a business in the designated area and has a valid concern. He said he doesn't know to what extent, if any, these rentals are taking away from the hotels.

Councilor Chavez spoke at length about the issues surrounding short term rentals, including competition for the same client group. He regrets we were unable to enforce our ordinance and this is a reflection on the government. He said although the majority are concentrated in the downtown area, there are short term rentals all across the City, and believes we will see more of this.

Councilor Chavez asked, if there is an accessory dwelling unit and a main house on the same property, does the main house have to remain the primary residence or do both fall under or distinction between.

Ms. Price explained one accessory dwelling is allowed per property, but the owner has to occupy either the principal unit or the accessory unit.

Councilor Chavez said this isn't happening. He said people are converting single family homes in a

neighborhood into condos whether or not there is an accessory dwelling unit. He asked how we will know if the family is living in one of the units.

Ms. Price said because zoning laws are cumulative, this still would be a requirement.

Councilor Chavez said that would be hard to enforce.

Frank Katz said the rules allow someone who owns property who has a main house and an accessory unit to choose which one in which to live, and as long as the owner is living in one of the units they can rent the other unit as a short term rental.

Councilor Chavez said he didn't realize they had the option. He asked how we can guarantee that the owner is living in one of the units. He said the property in many cases will show up for sale as a condominium and people can buy one or both of the units

Councilor Wurzbarger said this is a good point, but this is one of the intentions of the legislation on which Councilor Chavez is working with respect to accessory dwelling units which was postponed this evening.

Councilor Chavez said he would hope so, however there is language here this evening which speaks to accessory dwelling units.

Councilor Wurzbarger said her inference from Mr. Katz's remarks is that a short term rental could apply to either of the units – accessory or the larger unit.

Councilor Chavez reiterated his question is to how the City can guarantee that one of them will be maintained as the primary residence.

Councilor Calvert said this is a problem the City faces across the board with any of our ordinances, and we stand a much better chance of enforcement with this ordinance because funding is available through the ordinance for enforcement..

Councilor Chavez said he doesn't have a lot of faith in the City's enforcement of its ordinances.

Tomas Herrera, Planning/Enforcement, said when someone applies for an accessory dwelling unit permit, he does an inspection of the unit, and they have to prove to him that they do reside on the property – in the guest house or the primary dwelling.

Councilor Chavez asked Mr. Herrera if he goes back with regularity to check the information – how do you monitor this. Also, what happens if the property is sold with the assumption that the buyer can rent units, and who is responsible to advising them differently.

Mr. Herrera said new owners have to apply for a permit.

Councilor Chavez asked how do you monitor this moving forward. Mr. Herrera said, after the initial inspections, it would be difficult to know.

Councilor Dominguez said he firmly believes people have to be educated and informed about what's happening in their neighborhood.

Responding to Councilor Dominguez, Councilor Wurzbarger said the disclosure requirement is not being removed, and will be restored with the approval of the proposed Planning Commission amendments, and the reason she made reference to that when she made her motion.

Councilor Dominguez asked if this is something we can do.

Mayor Coss said yes, although the real estate industry has said it would prefer not to have that requirement, but with the adoption of the Planning Commission amendment, that requirement will continue.

Ms. Price said it is #3 of the Planning Commission amendments on page 5 of the packet and page 10 of the bill.

VOTE: The motion 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 Chavez said he would vote no and is in the minority and thinks it would have been in the City's best interest to enforce the Ordinance to start with.

- 3) **CONSIDERATION OF BILL NO. 2009-48: ADOPTION OF ORDINANCE NO. 2009- 41 (COUNCILOR WURZBURGER). AN ORDINANCE AMENDING RULE 8 OF EXHIBIT A, CHAPTER 22 SFCC 1987, TO INCREASE THE MONTHLY SEWER SERVICE AND USAGE FEES BY 30.1 PERCENT, EFFECTIVE JANUARY 1, 2010; THEREAFTER EFFECTIVE OCTOBER 1, 2012, THE MONTHLY SEWER SERVICE AND USAGE FEES SHALL BE INCREASED BY 4.7 PERCENT PER YEAR FOR THREE YEARS FOR RESIDENTIAL, MULTI-FAMILY AND COMMERCIAL CUSTOMERS OF THE CITY'S SEWER SYSTEM; AND AMENDING RULE 12, OF EXHIBIT A TO INCREASE THE MASS BASED COST OF PROVIDING AIR TO REMOVE THE CHEMICAL OXYGEN DEMAND ("COD") IN WASTEWATER BY 30.1 PERCENT EFFECTIVE JANUARY 1, 2010; THEREAFTER EFFECTIVE OCTOBER 1, 2012, THE COST SHALL BE INCREASED BY 4.7 PERCENT PER YEAR FOR THREE YEARS. (BRYAN ROMERO)**

Bryan Romero presented information regarding this matter, recommending approval of the proposed Ordinance, saying it is necessary to meet the current bonding and current O&M at the facilities. He introduced Jason Mumm of StepWise who was hired to do an analysis of the rates. This ordinance is based on that analysis.

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

MOTION: Councilor Wurzburger moved, seconded by Councilor Romero, to adopt Ordinance No. 2009-41.

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

For: Councilor Calvert, Councilor Chavez, Councilor Ortiz, Councilor Romero, and Councilor Wurzburger.

Against: Councilor Trujillo and Councilor Dominguez.

Councilor Wurzburger thanked staff for all the work they did, and we are catching up with something we absolutely had to do.

- 4) CONSIDERATION OF BILL NO. 2009-38: ADOPTION OF ORDINANCE NO. 2009-42 (COUNCILOR ORTIZ). AN ORDINANCE AMENDING CHAPTER 14 LAND DEVELOPMENT LAWS AND CHAPTER 26 AFFORDABLE HOUSING, SFCC 1987 RELATING TO APPEALS. (GREG SMITH) (Postponed at September 9, 2009 City Council Meeting)**

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

A copy of an Action Sheet from the Public Works/CIP and Land Use Committee Meeting of October 13, 2009, is incorporated herewith to these minutes as Exhibit "20."

Jeanne Price presented information regarding this matter, noting there is an amendment sheet which lists the proposed changes in table form, and contains all amendments proposed by Councilor Bushee, staff, Historic Design Review Board, Planning Commission, Board of Adjustment and the Archaeological Review Committee. She noted she distributed copies of an Action Sheet from the Public Works Committee yesterday which says that the Committee recommended approval of all of these, with

the exception of amendments 2, 3 and 4, and came up with its own amendments, and recommended approval of Amendment #5, and did not recommend #20.

Ms. Price said, with regard to Resolution No. 2009-99, Adjudicative Procedures, the Public Works Committee supported staff's amendment to allow 6 months instead of 90 days, so it can be done in-house.

Public Hearing

Marilyn Bane, 622½-B Canyon Road, thanked the City Council especially Councilor Ortiz and Councilor Trujillo for sending this back to Public Works for further work. She said they were able to voice their concerns. She is grateful to the action at the Public Works Committee yesterday. She said standing was one of her particular concerns because there are civic organizations and nonprofits which contribute to the City and the suggestion by the PWC will enable that to happen rather than being onerous. She feels strongly about the 30 days. She urged the Council to support the Public Works decision from yesterday.

Fred Rowe, President, Neighborhood Law Center, said the Center worked with staff and many suggestions were adopted. They were particularly supportive of the innovative concept of a hearing officer and a mediator in appropriate cases. He said his organization appreciated the remand to the Public Works Committee, and the amendment to clarify standing without the necessity of hiring a lawyer. He said he supports the ordinance as it now stands. He commended Jeanne for her careful, professional work to clarify a "dreadful mess of multiple amendments."

Jim Harrington, 1588 Cerro Gordo, Chair of the State Governing Council of Common Cause, and is speaking on behalf of Common Cause on this bill, and they support the Ordinance with the amendments made at Public Works, which are crucial to their support, which restored the 30 day period for Planning Commission appeals, and restored the rule for determining standing to pursue appeals, and rejecting the staff's effort to establish a rule of standing which would have prevented neighborhood and civic organizations from taking appeals.. The PWC amends are critical to preserving public involvement and transparency and he urges approval of the ordinance as amended by Public Works.

The Public Hearing was closed

MOTION: Councilor Calvert moved, seconded by Councilor Romero, to adopt Ordinance No. 2009-42 with the amendments in the packet and as interpreted or amended by Public Works in its meeting yesterday.

DISCUSSION: Councilor Ortiz said then the Public Works Committee amendment is giving a do pass to Item #4.

Councilor Calvert said the Public Works amendment is a hybrid of the 3 amendments which were offered.

Councilor Ortiz asked if there is a definition of civic public interest organizations in this bill or in Chapter 14, and Ms. Price said no.

Councilor Ortiz asked, by stating the term within this Ordinance, how will that be defined – broadly or narrowly.

Mr. Katz said this includes any organization, entity, person, corporation, or whatever – everyone is subject to the same standing rule, and it doesn't expand the definition of persons, and puts them all under the same standing.

Councilor Ortiz said the amendment provides, "Persons, including non-profits, civic public interest organizations," and again asked what is a civic public interest organization.

Mr. Katz said the Neighborhood Network, OSFTA, and a number of the neighborhood organizations.

Councilor Ortiz said the Neighborhood Network and OSFTA are non-profits, so those presumably would qualify under the first part of the definition, and asked what is the purpose of the second civic public interest organization. What else does that entail, because it seems to be something which was contemplated in the staff recommendation, its followed by the Public Works Committee.

Mr. Katz said it may well be that civic public interest organizations probably will be non-profits, but he doesn't know one which wouldn't be organized as non-profits, perhaps some neighborhood associations.

Ms. Price said staff introduced the concept of the non-profit civic public interest organizations in response to the Network, the Law Center and OSFTA.

Councilor Ortiz said he wants to get a handle on the source of this definition and if it is meant to fit-in particular groups. He spoke about the situation in a neighborhood where the neighborhood association voted to recommend approval of a business development, while the interested neighbors in the neighborhood association didn't like what it did and formed a new neighborhood association and appealed the decision to the City Council. He asked if a new association, formed specifically to object to a particular project, is considered to be one of these civic public interest organizations, reiterating that isn't defined in the Code or here. He said this Chapter was to try to curtail things such as this, and to give clarify to who is an interested party for purposes of appeal.

Mr. Katz said that situation is a case in Los Alamos where an entity was formed to challenge a land use approval. The court ruled that they didn't have standing because they didn't exist at the time the land use decision was made. He said this still requires the showing of injury, and being a "do good" organization doesn't get you there.

Councilor Ortiz said it used to do so with the staff recommendation. However, if we go with the Public Works Committee recommendation which is a mesh between the Neighborhood Network through

Councilor Bushee and the Historic Board, and puts in this other interest, which opens the door for any kind of appeal. We're not just saying economic, environmental or even esthetic, and we throw out "or other interest."

Councilor Ortiz said a group appealed a decision from the H-Board on the status of the historic nature of concrete in front of the Georgia O'Keefe House and whether or not it could be transformed to brick. He said some group appealed which didn't have standing and we spent hours listening to that appeal. He said part of the work we charged staff and the consultant to do is to tighten these things so we have bona fide cases before us and not to have to hear every last thing. He asked if "or other interest," doesn't open the doors, and that people like this because it says anyone can appeal anything, just like it is now. He asked if the proposal, as moved and seconded, creates a distinction from the current system.

Mr. Katz said he doesn't think it does. He said the reason staff recommended "direct injury or threat of imminent injury" was to do what he is suggesting, and this is the law in New Mexico and what is required, and the reason staff wanted the language in place.

Councilor Ortiz asked why we would want to expand or continue to keep the door open for any number of appeals which might have no basis under New Mexico law.

FRIENDLY AMENDMENT: Councilor Ortiz asked to amend the motion to strike "or other" from the Public Works Committee amendment [Exhibit "20"], and strike "civic public interest organization," and insert "or interested homeowners association," so it reads as follows: "(f) Persons including nonprofit, civic public interest organizations or interested homeowners associations alleging injury to their economic, environmental, or aesthetic or other interests [alleging direct injury in fact or imminent threat of economic or other injury]; and .." He said that will make it clear that a homeowners association has the right to file an appeal.

DISCUSSION ON FRIENDLY AMENDMENT: Councilor Calvert said he would accept striking "or other," but he wants to be clear about the other part of the proposed amendment. He said there are certain nonprofits in the official definition, but there can be other civic groups that might from time to time lobby and therefore are not considered to be nonprofits.

Councilor Ortiz asked for a definition. He said a neighborhood association sounds to him to be a more definitive entity than a "civic public interest organization" which has no definition in Code or under law. He asked who is a "civic public interest organization," that is not a nonprofit organization.

Councilor Calvert said something like Conservation Voters of New Mexico or something like that.

Councilor Ortiz said he supported staffs' recommendation, noting they did a good job in coming up with the correct recitation of New Mexico State law. He questions why we are bending to this because of the testimony of a couple of individuals, so that they can have the ability to appeal decisions, noting he will go along for purposes of compromise, but he doesn't believe it is the right course of action. So, he is offering

this amendment as a compromise to be definitive. He said we know what a homeowners association is, and in terms of "interested," that is to say that, for example, the Casa Solana Homeowners Association can appeal some decision that's happening on Rodeo Road – there has to be some logical tie.

THE AMENDMENT WAS FRIENDLY TO THE MAKER BUT NOT TO THE SECOND.

MOTION: Councilor Ortiz moved, seconded by Councilor Trujillo, to amend the motion to strike "or other" from the Public Works Committee amendment [Exhibit "20"], and strike "civic public interest organization," and insert "or interested homeowners association," so it reads as follows: "(f) Persons including nonprofit, civic public interest organizations or interested homeowners associations alleging injury to their economic, environmental, or aesthetic or other interests [alleging direct injury in fact or imminent threat of economic or other injury]; and .."

THE SECOND EXPLAINING WHY THE AMENDMENT IS NOT FRIENDLY: Councilor Romero said as she recalls from the Public Works discussion, a neighborhood association is an entity that could be a civic organization. However, in looking for examples, we looked to the national perspective. If the neighborhood association, for example, said it really would like to have a development, but it might undermine escarpment ordinances, or another environmental issue, then the Sierra Club, as a civic organization, could have standing from an environmental perspective, so it went beyond neighbors to larger associations. She said the examples were such that they could be contradicted. She thought being broader was better than being more narrow as intended by the Public Works Committee in its broader discussion last night.

CLARIFICATION BY THE CITY ATTORNEY: Mr. Katz said the way it was worded from Public Works, "nonprofit civic public interest organization," describes one type. It is not a for-profit civic public interest organization, it is a "nonprofit civic public interest organization." He said Councilor Ortiz's proposed amendment actually broadens it to include nonprofits, such as the Sierra Club or the Trust for Public Lands, plus the neighborhood associations, so it actually broadens it.

THE AMENDMENT FRIENDLY TO THE SECOND, AND THERE WERE NO OBJECTIONS FROM THE OTHER COMMITTEE MEMBERS.

THE MOTION AND SECOND WERE WITHDRAWN SINCE THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND.

CLARIFICATION OF THE FRIENDLY AMENDMENT: Ms. Price said she has heard the words "homeowners" and "neighborhood" associations, and asked Councilor Ortiz his intent. Councilor Ortiz said it is "neighborhood association," because there are some neighborhoods that don't have homeowners associations.

VOTE: 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.

- a) **CONSIDERATION OF RESOLUTION NO. 2009-99 COUNCILOR BUSHEE). A RESOLUTION DIRECTING STAFF TO PREPARE RULES OF PRACTICE AND PROCEDURE FOR ADJUDICATIVE PROCEEDINGS IN CASES ARISING UNDER CHAPTER 14 AND CHAPTER 26 SFCC 1987. (JEANNE PRICE)**

MOTION: Councilor Calvert moved, seconded by Councilor Romero, to adopt Resolution No. 2009-99, with the staff amendment.

VOTE: 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.

Mayor Coss thanked Councilor Ortiz and Councilor Trujillo for bringing this forward and for all the work on this item.

- 5) **REQUEST FOR APPROVAL OF AMENDMENT #3 TO THE PROFESSIONAL SERVICES AGREEMENT FOR MUSEUM OF NEW MEXICO FOUNDATION (RFP #09/02/P) IN THE AMOUNT OF \$27,000. (FABIAN TRUJILLO)**

This item was postponed to the October 28, 2009 Council meeting.

- 6) **CONSIDERATION OF BILL NO. 2009-42: ADOPTION OF ORDINANCE NO. 2009- 43 (COUNCILOR ROMERO, MAYOR COSS AND COUNCILOR CALVERT). AN ORDINANCE AMENDING SECTION 9-2.9 SFCC 1987, SPECIFYING WHAT CAMPAIGN CONTRIBUTIONS SHALL NOT BE USED FOR; AND AMENDING SECTION 9-2.14 SFCC, ESTABLISHING CAMPAIGN CONTRIBUTION LIMITS. (YOLANDA VIGIL). (Postponed at September 9, 2009 City Council Meeting)**

Yolanda Vigil presented information regarding this matter, noting there are amendments from Councilor Calvert, the Finance Committee and the Ethics and Rules Committee.

Public Hearing

Mayor Coss gave each person 3 minutes to speak to the issue.

Jim Harrington, Common Cause New Mexico, said Common Cause supports this bill with amendments as suggested by the Ethics and Rules Committee, supports postponing the effective date to 2012, and raising the contribution for Mayoral candidates from \$1,000 to \$2,500 for Mayor, but opposes raising the limit above \$1,000 for Council candidates. He said Common Cause's view on this issue is based on the level of past contributions as reflected in the Clerk's records, and contributions over \$1,000 have been very rare in Council races, but very common for Mayoral candidates. He said contributions above \$2,500 for Mayoral candidates have been rare. They believe setting limits of \$1,000 for Council candidates and \$2,500 for Mayoral candidates is a reasonable rule which would allow what has been common in the past to continue, but would eliminate the really extravagant contributions which run the risk of undue influence. He said, with regard to the balance of the bill dealing with the restriction on the use of campaign funds, the bill essentially closes loopholes in existing restrictions on the use of these funds adopted by the Council in 2005, on the recommendation of the Campaign Reform Commission. The bill would round out these restrictions to create a single, uniform rule that all campaign donations must be used in the candidate's current campaign, and anything left at the end must be given to the City, to a nonprofit or refunded to the contributors. Common Cause believes this is an excellent bill which should be enacted in its present form.

Steve Allen, Director of Common Cause New Mexico. Mr. Allen said Mr. Harrington understands the details of the bill quite a bit more profoundly than he does. He said they have reviewed the bill in some detail. He said Common Cause New Mexico worked hard to pass a similar bill at the State level during the last Legislature. He said it is an important direction for the City to go, and it is a stronger and better bill than the one passed by the State.

Herb Cohen, 2477 La Bajada, said he is interested in anything dealing with campaign finance reform and he speaks out when he has the opportunity. He is in favor of the bill, which should be adopted in as stringent a form as is possible. He said campaign finance reform is the issue of our time. This is an opportunity to put aside our own personal needs aside, and plans to run for office, and think about the greater good. He said this issue impacts the whole world, and we can change the world by dealing with this issue in our community. He urged the Council to adopt this bill.

Russell Simon, 608 Rio Grande Avenue, said he has no doubt money influences politics in a way we all wish would stop, and has no doubt money can buy votes and influence. He generally is in favor of any and all campaign contribution limits and as many restrictions as possible. He said government often passes a law to target certain groups, but ends up impacting other areas you didn't realize. He said his grandmother gave him a campaign contribution which is well above the limit suggested for Council races.

He said his grandmother was very clear that what she wanted in return was a thank you note. He said that contribution has freed him from the need to go around the City asking for money from other people and groups. He asked the Council to consider the consequences of this bill on people or groups which you might not be targeting.

The Public Hearing was closed

MOTION: Councilor Romero moved, seconded by Councilor Wurzbarger, to adopt Ordinance No. 2009-43, with two amendments: (1) Mayoral candidate contributions will not exceed \$2,500; and (2) the effective date of the Ordinance will be in 2012.

DISCUSSION: Councilor Chavez said for any of this to work, someone has to enforce the Ordinance and he believes that would be the Ethics and Campaign Review Board. He said there are two vacancies on that Board right now. He asked Mr. Harrington his plans and thoughts on filling the vacancies.

Mr. Harrington said he has declined to serve on that Board.

Mayor Coss said Councilor Ortiz would appoint one member and Councilor Ortiz would appoint the other member.

Councilor Ortiz announced that he is looking for a candidate to appoint to the Board, saying this needs to be done so there aren't issues of quorums in enforcing the ordinance.

Councilor Ortiz asked the maker of the motion her rationale behind the last minute amendments and the reason for an effective date of 2012.

Councilor Romero said this was proposed in the early summer prior to any election timetable, and she had hoped that it would be in 2010 and we would move on this more quickly. However, in going through the Committee process it took too long to get here, and people already have started to raise money for the campaigns. The initial intent was to apply it to the 2010 election, but it's just too late now.

Councilor Ortiz asked if she has a rationale for the \$2,500 contribution limit for Mayoral candidates and \$1,000 for Council candidates which differs from the rationale expressed by Jim Harrington.

Councilor Romero said it is based on the experience of other cities, and her personal experience is that a cap of \$1,000 for Council seats was common in the last election, and \$2,500 for Mayoral candidates was also more in line. She said the last campaign had contributions of \$10,000 or more which she thought to be very large and \$2,500 is 1½ times more than the Council candidates. She said she believes contributions of \$5,000 and \$10,000 are just too high.

Councilor Ortiz said he will support the amendments, but not for the reasons expressed. He said a case is pending before the Supreme Court which will have an impact, and it could impact this campaign. He said

pushing this to 2012 will give us the opportunity to see what comes down from the Supreme Court and whether any of these caps will be lawful or not. He said it is appropriate, given the national climate, to be cautious in applying campaign limits, noting he disagrees with the proposed limits.

CLARIFICATION OF THE MOTION: Ms. Vigil asked if the amendments proposed by Councilor Calvert and the Finance Committee are part of the motion. Councilor Romero said the amendments proposed by the Finance Committee, Councilor Calvert and the Ethics and Rules Committee should be part of the motion, and in addition the two amendments she proposed which are: (1) Mayoral candidate contributions will not exceed \$2,500; and (2) the effective date of the Ordinance will be in 2012.

DISCUSSION ON CLARIFICATION OF THE MOTION: Ms. Vigil said staff would recommend adoption of Councilor Calvert's Amendments #1 and #2 which delete Finance Committee amendments #2 and #3. She said the Finance Committee amendments require that all receipts for all expenditures would be filed with the City, and staff wants the Campaign Treasurers to maintain those records, not the City.

CLARIFICATION OF THE MOTION: Councilor Calvert said the motion is to adopt his amendment and the Finance Committee amendments. Ms. Vigil said Amendment #1 on Page #5 deletes the adult members of the candidate's family on page 3, line 16, which came from the Ethics and Rules Committee.

VOTE: 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.

- 7) **CONSIDERATION OF BILL NO. 2009-46; ADOPTION OF ORDINANCE NO. 2009- 44 (COUNCILOR ORTIZ, MAYOR COSS, COUNCILOR WURZBURGER, COUNCILOR BUSHEE, COUNCILOR CALVERT AND COUNCILOR ROMERO). AN ORDINANCE CREATING A NEW ARTICLE 9-3 SFCC 1987 FOR THE PURPOSE OF ESTABLISHING A SYSTEM OF VOLUNTARY PUBLIC FINANCING OF CAMPAIGNS. (FRANK KATZ, YOLANDA VIGIL AND DAVID MILLICAN)**

A copy of an Amendment Sheet with amendments proposed by staff is incorporated herewith to these minutes as Exhibit "21."

Items H(7) and H(8) were combined for purposes of presentation, public hearing and discussion, but were voted upon separately.

Frank Katz presented information regarding this matter from the materials in the packet and from his Memorandum of August 27, 2009, described the process, and reviewed the provisions of the proposed ordinance. Please see the materials in the packet for specifics of this presentation.

Mr. Katz said there are issues regarding obtaining the funds for public campaign financing and this is one of the reasons for the delayed effective date of the bill. Also, 2012 is not a Mayoral election year and would be less expensive, as well as give the City additional time to identify and secure funding sources/streams.

Councilor Chavez said it is good that we are taking this step. He believes we also need to take a step toward ranked choice voting or instant runoff, and we still need to work on this piece.

Public Hearing

David Nava, 121 Cedar Street, Cedar Street, said it is absurd to have public financing for campaigns. He is employed by Taxation & Revenue, and reads every day where there are budget cuts, and questions funding public campaigns. He said it is a personal choice to run for public office. He said it would be "more smart" to cap what you are allowed to spend in a campaign and that's all you are allowed to raise. He said there are more important uses for public money than to fund campaigns. We have things in the City which need to be fixed, and programs which need to be funded, and so forth, which could use these funds. He reiterated that it is better to cap expenditures and revenues. He said he will get phone calls on this, such as whether or not it is tax deductible and such. He said we have to think about the public. He said people out there might not like any of the candidates, but their money is going to support campaigns. He urged reconsideration of all of this and cap the total amount for public campaigns.

Jim Harrington said the voters have decided to have public financing in some form, and the spending caps are unconstitutional. He said one of the advantages of public financing is that it is the only constitutional way to accomplish spending caps by getting candidates to agree voluntarily in return for accepting public financing.

Mr. Harrington said three financial concerns haven't been addressed previously, and he wants to address those this evening:

- 1) Fear that non-serious candidates might qualify to receive public funds. He said in Albuquerque two candidates tried and failed to raise the requisite numbers of qualifying contributions. He believes there virtually is no chance this would happen.
- 2) Concern about the possibility of run-away expenses. There is a limit of triple the original amount, as well as an escape clause which says payments don't have to be made if there aren't sufficient funds.

- 3) The bill contains inadequate controls on how the candidates use the public money. He said there are a number of control in the bill, including extensive and detailed restrictions on how the funds may be spent, and a requirement to report each expenditure at the same frequency other candidates are required to file campaign finance reports. The reports are filed under oath which could result in a felony indictment.

Steve Allen, Director of Common Cause, New Mexico, said we all know Santa Fe and Albuquerque are very different cities. They do have things in common, and voters in both cities voted to put a public financing system in place and to remove special interest money entirely from the political system. He said it is a smart choice, and reflects the frustrations of the citizens with the way democracy has worked in this country for some time. He said most elected officials want to do the best possible job for their constituents and not for those giving them contributions. The current system can create a lot of confusion for the reputations of the good public officials and creates an untenable situation where money is coming from people or groups while the officials are supposed to treat everyone equally. This system is designed to fix that. It is smart to start with a Council race, make adjustments and get ready for a Mayoral race where a lot more money is being spent in a more high profile, high stress situation. It worked well this year in the Albuquerque City election, although some adjustments are needed. This is a strong proposal and he encouraged the Council to vote for it.

Russell Simon, 608 Rio Grande, said he supports the bill. It is well crafted. Public financing is good for democracy. Mandatory spending limits are constitutional. This is a good bill which he supports fully.

Donato Coviello expressed extreme displeasure with the Mayor and Council, excluding Councilor Ortiz who wants to start this right now. He berated the Governing Body about its policies and procedures. The City should establish term limits, noting this was a Charter Amendment voted by the people. He spoke about the poor voter turnout for elections, alleging that the Mayor spent \$250,000 in his last race for Mayor.

Patricio Larragolite, 812 Cleveland Street, said he serves on the Ethics Review Board and Chaired the Public Finance Advisory Committee. He said, as Herb Cohen said, it's time for this City to take a leadership role and move campaign financing forward, and raise the bar on ethics. This is your opportunity to make a footprint in the world of politics. This is similar to Albuquerque's bill, but it is better and it does work. He urged the Council to adopt the ordinance.

The Public Hearing was closed

Councilor Ortiz thanked the committee for its hard work on this issue. He said he had to withdraw his bill for public financing in 2005, because he couldn't get one cosponsor for the bill, and it died of apathy. He said it is refreshing that a majority of the Councilors are listed as cosponsors on this bill. He said this bill mirror's Albuquerque's and is a good start all things considered.

Councilor Ortiz said the effective date of the bill is troubling, and he should have pushed more loudly and with more passion about implementing this in time with sufficient resources. He spoke about the budget issues for the City in this fiscal year. He said given some of the proposals, there are sufficient funds in the City coffers if we would cut in some areas and tap into reserves, to implement this right now in place as intended by the voters. He said he has not seen any will or movement from the Council to proceed in that direction. He said given the uncertainty, and the unsettled nature of the Federal Court case, it probably is more prudent for this to happen in 2012.

Councilor Ortiz said there is the law of unintended consequences we are seeing in public financing in the State. He said in the PRC race, the public financing allowed a secondary or tertiary candidate to establish an equal footing immediately on entering the race. He believes this is not an intended consequence of public financing. He said there are well publicized issues in spending funds, which one of the PRC candidates had difficulty in resolving.

Councilor Ortiz said he believes the new Mayor of Albuquerque, a member of a minority party, was elected because public financing allowed several candidates to run and split the vote to allow the minority candidate to be elected. He is unsure the public really intended these kinds of consequences when they voted for the Charter Amendment. He has always supported public financing of campaigns, but he is aware of the budgetary issues involved. He believes the public needs to decide how to finance public funding of campaigns. He said pushing the effective date to 2012 will allow the City, potentially, to put an issue before the public for a vote on how to finance public campaigns, and the mechanism to do that. He said the City is funding itself in an environment of potential furloughs, layoffs or both. The City needs to decide by a vote how to pay for financing public elections into the future.

MOTION: Councilor Ortiz moved, seconded by Councilor Wurzbarger, to Adopt Ordinance No. 2009-44, with the amendments from the Ethics and Rules Committee, Exhibit B.

DISCUSSION: Mr. Katz said there are conflicts, including the effective date. He said there are two amendments from the Ethics and Rules Committee which were not undone by the Ethics and Campaign Review Board, so if you adopt both of them, you will end up with two from the Ethics and Rules Committee.

Ms. Vigil said Amendment #14 is badly needed because it clarifies that the Clerk will verify that the candidate has the requisite number of qualifying contributions.

CLARIFICATION AND RESTATEMENT OF THE MOTION: Councilor Ortiz moved, seconded by Councilor Wurzbarger, to Adopt Ordinance No. 2009-44, with Exhibit B, which supplants Exhibit A

DISCUSSION: Mr. Katz said Exhibit B does not supplant all of Exhibit A with one crucial difference. He said Amendment #14 in Exhibit A is badly needed, because that clarifies that the City Clerk will have 20 days to certify that the qualifying contributions are valid.

SECOND CLARIFICATION AND RESTATEMENT OF THE MOTION: Councilor Ortiz moved, seconded by Councilor Wurzbarger, to Adopt Ordinance No. 2009-44, with Exhibit B, and Item #14 from Exhibit A.

DISCUSSION: Councilor Wurzbarger said for clarification of the public record, when this was in the Finance Committee she took the position and twice tried to get this passed this year, and offered to have this in effect in District #2, but was unsuccessful, noting Councilor Ortiz was absent for that discussion. She has been supportive of this since the beginning, and was dismayed that because of the budget crisis and "sitting on top of this," we were unable to implement it in a way which more accurately reflects what the citizens wanted to have happen. She said, however, it may be just as well in view of Councilor Ortiz's comments with respect to the federal decisions which may be coming around this issue.

Councilor Trujillo asked how the City will track loans candidates give to their own campaign

Mr. Katz said expenditure reports will have to be filed as they always were, and candidates will have to report how and on whom the funds were spent.

Councilor Trujillo agrees that people do choose to run for office. However, he likes that this bill puts everyone on a level playing field. However, the person who spends the most money isn't always victorious and this bill keeps candidates accountable. He supports the bill and hopes that it works.

Councilor Ortiz said the City Clerk pointed out that she has proposed four amendments in a document that was on our desks [Exhibit "21"] which he failed to include in his motion.

Mr. Katz said these are cleanup amendments to the bill.

THIRD CLARIFICATION AND RESTATEMENT OF THE MOTION: Councilor Ortiz moved, seconded by Councilor Wurzbarger, to Adopt Ordinance No. 2009-44, with Exhibit B, Item #14 from Exhibit A, and the four amendments proposed by the City Clerk in Exhibit "21."

Councilor Calvert said he supports this bill, and he advocated setting aside funds in previous budget years for this purpose in 2010, but he couldn't get support to do this. He said we now find ourselves in a position where we do not have the money available now, and this is part of the reason it is necessary to postpone the effective date to 2012. He said he wants to make it clear for the record that he tried in previous years budgets to set aside funds in logical increments which would have allowed us to do it this year, but it wasn't the will of the majority.

Mayor Coss said, for the record, he remembers Councilor Calvert making the proposal to set aside funds and it not being successful. Mayor Coss said he included funds for this purpose in the FY 2007-2008

budget, but that was not successful. He supports the bill before the Governing Body and it is the best effort of many people going forward. He said there was an intention in the drafting committees to start in 2012 on a Council race instead of a Mayoral race. He said this is a big step.

Mayor Coss said, to correct the record, he did not spend a quarter million dollars in the last election, and he spent approximately \$144,000 in the last election and he was outspent by his opponent. He said bringing it to \$60,000 is a great step.

VOTE: 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 votes yes and asked to be added as a cosponsor.

Explaining his vote: Councilor Chavez said this is a step in the right direction and he hopes there is a day when we catch up to Albuquerque, to which we are comparing ourselves, and so this is one step, but we have another big step to take and hopes we can work on that in the next two years and votes yes.

Explaining his vote: Councilor Dominguez asked to be added as a co-sponsor, saying four years ago he said he would support this, and votes yes.

- 8) **CONSIDERATION OF BILL NO. 2009-47: ADOPTION OF ORDINANCE NO. 2009- 45 (COUNCILOR ORTIZ, MAYOR COSS, COUNCILOR WURZBURGER, COUNCILOR BUSHEE, COUNCILOR CALVERT AND COUNCILOR ROMERO). AN ORDINANCE AMENDING CERTAIN PROVISIONS OF ARTICLE 6-16 SFCC 1987, REGARDING THE ETHICS AND CAMPAIGN REVIEW BOARD AS IT RELATES TO THE PUBLIC FINANCE CODE. (FRANK KATZ AND YOLANDA VIGIL)**

MOTION: Councilor Ortiz moved, seconded by Councilor Wurzbarger, to adopt Ordinance No. 2009-45.

VOTE: 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.

- 9) **CONSIDERATION OF BILL NO. 2009-44: ADOPTION OF ORDINANCE NO. 2009- ____.** (COUNCILOR CHAVEZ). AN ORDINANCE AMENDING SECTION 14-6.3(C)(1) SFCC 1987, CLARIFYING THE OWNERSHIP OF ACCESSORY DWELLING UNITS AND REQUIRING THE RECORDING OF RESTRICTIVE COVENANTS FOR ACCESSORY DWELLING UNITS. (JEANNE PRICE). (Postponed to October 28, 2009 City Council Meeting)

This item is postponed to the City Council meeting of October 28, 2009.

I. ADJOURN

The was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 9:20 p.m.

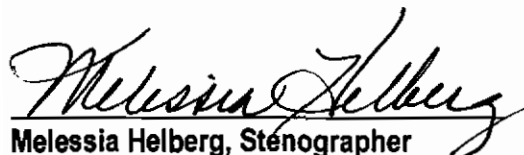
Approved by:

Mayor David Coss

ATTESTED TO:

Yolanda Y. Vigil, City Clerk

Respectfully submitted:


Melessia Helberg, Stenographer