



# Agenda

REGULAR MEETING OF  
THE GOVERNING BODY  
APRIL 14, 2010  
CITY COUNCIL CHAMBERS

## AFTERNOON SESSION – 5:00 P.M.

CITY CLERK'S OFFICE

DATE 4-9-10 TIME 2:45pm

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

RECEIVED BY J. Dominguez

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 – March 31, 2010.
9. PRESENTATIONS
  - a) Employee of the Month for April 2010 – Joseph Gurule, Parks Supervisor. (5 minutes)
  - b) National Crime Victims' Rights Week Celebration and March; April 24, 2010. (Jodi Rodgers, Esperanza Shelter) (5 minutes)
  - c) Update on First Year Accomplishments – The Food Policy Council. (Katherine Mortimer) (5 minutes)
  - d) The Homeless Taskforce Five Year Plan Update. (Hank Hughes) (5 minutes)
  - e) Proclamation – Fair Housing Month. (Lois Sury, President Santa Fe Association of Realtors). (5 minutes)
10. CONSENT CALENDAR
  - a) Request for Approval of Professional Services Agreement – Prairie Dog Relocation Services (RFP #10/27/P); ECO Solutions. (Robert Wood)



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- b) Request for Approval of Amendment No. 2 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)
  - 1) Request for Approval of Budget Increase – Grant Fund.
- c) Request for Approval of Grant Agreement – Plan, Design and Construct a Multipurpose Community Center; State of New Mexico Department of Finance and Administration Local Government Division. (David Chapman)
  - 1) Request for Approval of Budget Increase – Grant Fund.
- d) Request for Approval of Lease Agreement – Real Estate at 404 Montezuma Avenue for Development of a Multi-Modal Transit Center Appurtenant to The Santa Fe Railyard; New Mexico Department of Cultural Affairs. (Edward Vigil)
- e) Request for Approval of Budget Increases for Transit Engine Rebuild Program. (Jon Bulhuis)
- f) CONSIDERATION OF RESOLUTION NO. 2010-\_\_\_\_\_. (Councilor Calvert and Mayor Coss)  
A Resolution Supporting the City of Santa Fe – Santa Fe Trails Request For Federal Transit Administration Capital Funds Necessary to Deliver Ongoing Urban Transit Services in the Greater Santa Fe Area. (Jon Bulhuis)
- g) Request for Approval to Publish Notice of Public Hearing on May 12, 2010:  
  
Bill No. 2010-11: An Ordinance Amending Section 14-5.5 (A) (3) SFCC 1987 Regarding General Standards for the South Central Highway Corridor Protection District. (Councilor Wurzburger and Councilor Romero) (Jeanne Price)



*Agenda* REGULAR MEETING OF  
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- h) CONSIDERATION OF RESOLUTION NO. 2010-\_\_\_\_\_. (Councilor Romero and Councilor Wurzburger)  
A Resolution Directing Staff to Apply for a 6 Month Extension to an Existing Municipal Arterial Program Funding Agreement Between the New Mexico Department of Transportation and the City of Santa Fe for the Old Pecos Trail Reconstruction Project – Cordova Road to Berger Street. (John Romero)
- i) CONSIDERATION OF RESOLUTION NO. 2010-\_\_\_\_\_. (Councilor Bushee)  
A Resolution Directing the City Attorney to Report to the Governing Body Regarding the Representation of the City of Santa Fe in Litigation and Non-Litigation Matters. (Geno Zamora)
- j) Request for Approval to Fill Vacant Positions. (Robert Romero)
11. MATTERS FROM THE CITY MANAGER
12. MATTERS FROM THE CITY ATTORNEY
- EXECUTIVE SESSION:
- Discussion Pertaining to Pending or Threatened Litigation in which the City Is or May Become an Amicus Participant Regarding Bank of New York v. Romero, No. 29.945 in the Court of Appeals of the State of New Mexico, Pursuant to §10-15-1(H)(7) NMSA 1978.
13. Action Pertaining to Pending or Threatened Litigation in Which the City Is or May Become an Amicus Participant Regarding Bank of New York v. Romero, No. 29.945 in the Court of Appeals of the State of New Mexico. (Geno Zamora)
14. MATTERS FROM THE CITY CLERK
15. COMMUNICATIONS FROM THE GOVERNING BODY

**EVENING SESSION – 7:00 P.M.**

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



# Agenda

REGULAR MEETING OF  
THE GOVERNING BODY  
APRIL 14, 2010  
CITY COUNCIL CHAMBERS

- C. SALUTE TO THE NEW MEXICO FLAG
- D. INVOCATION
- E. ROLL CALL
- F. PETITIONS FROM THE FLOOR
- G. APPOINTMENTS
- H. PUBLIC HEARINGS:
  - 1) Request from Fukuda Family, LLC, for a Restaurant Liquor License (Beer and Wine On-Premise Consumption Only) to be Located at Shohko Café, 321 Johnson Street, Santa Fe. (Yolanda Y. Vigil)
  - 2) Request from Adelita's Incorporated, for a Restaurant Liquor License (Beer and Wine On-Premise Consumption Only) to be Located at Taqueria Adelita's, 3565 Cerrillos Road. (Yolanda Y. Vigil)
  - 3) Request from the National Dance Institute of New Mexico (NDI-NM) for a Waiver of the 300 Foot Location Restriction to Allow the Dispensing/ Consumption of Alcoholic Beverages at NDI-NM, 1140 Alto Street, Which is Within 300 Feet of Desert Academy. 313 Camino Alire and the Former Alameda Middle School, 450 La Madera. The Request is for the NDI-NM Annual Gala to be held on Saturday, May 15, 2010 from 5:30 – 11:00 p.m. (Yolanda Y. Vigil)
- I. ADJOURN

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

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

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

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April 14, 2010**

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*****		
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<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
ACTION PERTAINING TO PENDING OR THREATENED LITIGATION IN WHICH THE CITY IS OR MAY BECOME AN <i>AMICUS</i> PARTICIPANT REGARDING <u>BANK OF NEW YORK V. ROMERO</u> , NO. 29,945, IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO	Decision to take no action	10
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<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
REQUEST FROM THE NATIONAL DANCE INSTITUTE OF NEW MEXICO (NDI-NM) FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION TO ALLOW THE DISPENSING/CONSUMPTION OF ALCOHOLIC BEVERAGES AT NDI-NM, 1140 ALTO STREET, WHICH IS WITHIN 300 FEET OF DESERT ACADEMY, 313 CAMINO ALIRE AND THE FORMER ALAMEDA MIDDLE SCHOOL, 450 LA MADERA. THE REQUEST IS FOR THE NDI-NM ANNUAL GALA TO BE HELD ON SATURDAY, MAY 15, 2010, FROM 5:30 TO 11:00 P.M.	Approved/with requirements	19-20
ADJOURN		20

**MINUTES OF THE  
REGULAR MEETING OF THE  
GOVERNING BODY  
Santa Fe, New Mexico  
April 14, 2010**

**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 April 14, 2010, at approximately 5:00 p.m., in the City Hall Council Chambers. Following the Pledge of Allegiance, Salute to the New Mexico flag, and the Invocation, roll call indicated the presence of a quorum, as follows:

**Members Present**

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

**Others Attending**

Robert Romero, City Manager  
Geno Zamora, City Attorney  
Yolanda Y. Vigil, City Clerk  
Melessia Helberg, Council Stenographer

**6. APPROVAL OF AGENDA**

**MOTION:** Councilor Wurzbarger moved, seconded by Councilor Romero, to approve the agenda as published.

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



## **7. APPROVAL OF CONSENT CALENDAR**

**MOTION:** Councilor Wurzburger moved, seconded by Councilor Trujillo, 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 Dominguez, Councilor Ortiz, Councilor Romero, Councilor Trujillo and Councilor Wurzburger.

**Against:** None.

**Absent:** Councilor Bushee.

- a) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – PRAIRIE DOG RELOCATION SERVICES (RFP #10/27/P); ECO SOLUTIONS. (ROBERT WOOD)**
- b) **REQUEST FOR APPROVAL OF AMENDMENT NO. 2 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)**
  - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND.**
- c) **REQUEST FOR APPROVAL OF GRANT AGREEMENT – PLAN, DESIGN AND CONSTRUCT A MULTIPURPOSE COMMUNITY CENTER; STATE OF NEW MEXICO, DEPARTMENT OF FINANCE AND ADMINISTRATION, LOCAL GOVERNMENT DIVISION. (DAVID CHAPMAN)**
  - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND.**
- d) **REQUEST FOR APPROVAL OF LEASE AGREEMENT – REAL ESTATE AT 404 MONTEZUMA AVENUE FOR DEVELOPMENT OF A MULTI-MODAL TRANSIT CENTER APPURTENANT TO THE SANTA FE RAILYARD; NEW MEXICO DEPARTMENT OF CULTURAL AFFAIRS. (EDWARD VIGIL)**
- e) **REQUEST FOR APPROVAL OF BUDGET INCREASES FOR TRANSIT ENGINE REBUILD PROGRAM. (JON BULTHUIS)**
- f) **CONSIDERATION OF RESOLUTION NO. 2010- 22 (COUNCILOR CALVERT AND MAYOR COSS) A RESOLUTION SUPPORTING THE CITY OF SANTA FE – SANTA FE TRAILS REQUEST FOR FEDERAL TRANSIT ADMINISTRATION CAPITAL FUNDS NECESSARY TO DELIVER ONGOING URBAN TRANSIT SERVICES IN THE GREATER SANTA FE AREA. (JON BULTHUIS)**

- g) **REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON MAY 12, 2010; BILL NO. 2010-11: AN ORDINANCE AMENDING SECTION 14-5.5(A)(3) SFCC 1987, REGARDING GENERAL STANDARDS FOR THE SOUTH CENTRAL HIGHWAY CORRIDOR PROTECTION DISTRICT (COUNCILOR WURZBURGER AND COUNCILOR ROMERO). (JEANNE PRICE)**
- h) **CONSIDERATION OF RESOLUTION NO. 2010- 23 (COUNCILOR ROMERO AND COUNCILOR WURZBURGER). A RESOLUTION DIRECTING STAFF TO APPLY FOR A 6-MONTH EXTENSION TO AN EXISTING MUNICIPAL ARTERIAL PROGRAM FUNDING AGREEMENT BETWEEN THE NEW MEXICO DEPARTMENT OF TRANSPORTATION AND THE CITY OF SANTA FE FOR THE OLD PECOS TRAIL RECONSTRUCTION PROJECT – CORDOVA ROAD TO BERGER STREET. (JOHN ROMERO)**
- i) **CONSIDERATION OF RESOLUTION NO. 2010- 24 (COUNCILOR BUSHEE). A RESOLUTION DIRECTING THE CITY ATTORNEY TO REPORT TO THE GOVERNING BODY REGARDING THE REPRESENTATION OF THE CITY OF SANTA FE IN LITIGATION AND NON-LITIGATION MATTERS. (GENO ZAMORA)**
- j) ***[Removed for discussion by Councilor Chavez]***

#### **8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – MARCH 31, 2010**

**MOTION:** Councilor Trujillo moved, seconded by Councilor Dominguez, to approve the minutes of the Regular City Council meeting of March 31, 2010, as presented.

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

#### **9. PRESENTATIONS**

- a) **EMPLOYEE OF THE MONTH FOR APRIL 2010 – JOSEPH GURULE, PARKS SUPERVISOR.**

Mayor Coss read the letter of nomination into the record and presented Joseph Gurule with a plaque and a check for \$200 from the Employee Benefits Committee, noting that Mr. Gurule retired last Friday.

Mr. Gurule thanked the Mayor, Council, Robert Romero and his fellow coworkers for this honor and for the opportunity to work with the City.

*Councilor Bushee arrived at the meeting*

**b) NATIONAL CRIME VICTIMS' RIGHTS WEEK CELEBRATION AND MARCH, APRIL 24, 2010. (JODI RODGERS, ESPERANZA SHELTER)**

A copy of a card containing information on National Crime Victims' Rights Week on April 24, 2010, is incorporated herewith to these minutes as Exhibit "1."

Jodi Rodgers, Esperanza Shelter, spoke about the planned activities on April 24, 2010, and invited the Governing Body and public to participate. Please see Exhibit "1" for specifics of this presentation.

Mayor Coss said he will attend as many events as possible on April 24<sup>th</sup>, although it will be a very busy day for him.

**c) UPDATE ON FIRST YEAR ACCOMPLISHMENTS – THE FOOD POLICY COUNCIL. (KATHERINE MORTIMER)**

Katherine Mortimer, Chair, introduced Vice-Chair, Sarah Noss. She acknowledged the members of the Food Policy Council in attendance, and introduced Rosina Cohen, the new Staff Coordinator for Council.

Sarah Noss gave a brief overview and summary of Food Policy Councils nationally. She presented information from the materials in the packet regarding the activities of the Santa Fe Food Policy Council. Please see these materials for specifics of this presentation.

Councilor Romero said it was an honor to work with this dedicated and enthusiastic group, and said she is most impressed with the caliber of people

Councilor Wurzbarger thanked Ms. Mortimer, Ms. Noss and the members of the Council for their efforts on behalf of the community. She said it is important to connect the dots in terms of childhood and youth diabetes, and asked the Council to come up with three policy things the City and the Council can do differently to reduce childhood and youth diabetes.

Councilor Bushee thanked the Council for their work and spoke about how it has evolved over the years noting it is a most important collaborative effort.

Mayor Coss thanked the Council for its work.

**d) THE HOMELESS TASK FORCE FIVE YEAR PLAN UPDATE. (HANK HUGHES)**

Israel Laros said he works with the Adelante Program, working with homeless children and their families. He thanked the Mayor and Council for their work in this critical economic time. He said they are represented by the Youth Shelters, LifeLink, Faith at Work, Interfaith Committee, Casa Familia, Santa Fe Community Services, St. Elizabeth's Shelter, the Housing Trust, Sojourners, Esperanza and Adelante, and invited all those involved in the effort to stand and be recognized.

Mr. Laros quoted President Franklin D. Roosevelt, "We cannot be content no matter how high the general standard of living may be, if some fraction of our people, whether it be 1/3, 1/5 or 1/10 is ill fed, ill clothed, ill housed and insecure." He said today these economic truths have become accepted. We have accepted a second bill of rights under which a new basis for security and prosperity can be established for all, regardless of station, race or creed. He said one of the rights proposed by President Roosevelt was, "The right of every family to a decent home."

Mr. Laros said the current economy has caused many organizations to deal with 40% increase in homeless program, which for the Adelante Program is 1,200 plus students, experiencing some form of homelessness, noting 900 of these are school age students. He said there is no way to track students unless they are associated with an organization or are in school. He said they working to address the needs, but we really need a 24/7 one-stop service center for the homeless and a year-round overnight shelter.

Mr. Laros said many of the "pantries" are scarce, noting LifeLink is receiving about 50 calls per day about rental housing assistance. He said because of lack of resources, many people are being turned away. He said Faith at Work assists many agencies throughout Santa Fe and many organizations are requesting available resources. He said there has been an increase in domestic violence and Esperanza is seeing more families in its shelters. He said Sojourners is seeing about 24 more women per day. He spoke about the plight of the homeless with chronic illness, many with mental illness and without any kind of assistance. He said although everyone is working together, the resources aren't sufficient to meet the demand for services. He said they want to do more, noting Adelante has 2 full time and 1 part time staffers dealing with 1,200 homeless which is about what the other organizations are managing.

Hank Hughes said they are once again requesting the City's assistance for a 24/7 one-stop, noting it will allow better utilization of limited resources, would be a community-based effort rather than organizations separately helping the homeless, and would be a more efficient use of the limited resources. He said the Interfaith Group and Faith at Work are operating the winter shelter again this year at 2801 Cerrillos Road. He said St. Elizabeth has expanded its shelter services by renting a building at 1604 Berry Street, to provide shelter to women and families with children. He said in 2010, "We now have much better, first contact services through these new shelter programs." He said the goal is to increase youth transitional housing opportunities to 60 beds, noting the project is now finished at the site on Airport Road which opened last week. Funding from the City Affordable Housing Fund was very important for this project.

Mr. Hughes spoke about providing supportive housing for adult individuals through rental assistance, vouchers and apartments owned by local non-profits, and the assistance provided by the City Affordable Housing Fund. He said the Village Sage apartments will have units for adults and families.

Mr. Hughes said the Task Force is concerned about the civil rights for the homeless, including the relationship with the Police Force. He said Deputy Chief Abram Anaya serves on the Task Force and helps to continue to work on this relationship and to investigate complaints. He said there have been no recent reports of the homeless by Police. He said the Task Force also is looking at Transportation issues.

Mr. Hughes said to keep moving forward on the plan, there are four areas where the Santa Fe City Council should consider taking action:

1. Amend the Homes Ordinance to allow nonprofit organizations to purchase affordable homes produced through the program to be used as rental housing for households that are not financially ready for home ownership, which helps to meet the need for additional housing needs and disburse the units throughout the City.
2. The Stimulus Funds for homeless prevention and rapid rehousing programs which funds rental assistance vouchers will be used in three-years, and they would like the Council to consider ways to continue to fund rental assistance for people on the verge of being homeless.
- 3 Identify land suitable for apartments which could be donated for future projects.
4. Continue to have City staff to assist them to locate a suitable site for a 24/7 one-stop service center and to obtain funding..

Mr. Hughes thanked the Mayor and Council for its assistance on behalf of the Task Force in implementing the plan which wouldn't have been possible without the City support.

Mayor Coss said there was no mention of the emergency shelter, and asked if that is part of the 24/7 one-stop request, and Mr. Hughes said yes.

Councilor Bushee thanked everyone for their work. She asked what is the center of town in location of the 24 hour one-stop.

Guy Gronquist, Integrated Community Shelter Group Board, said the current location on Cerrillos at Pete's Pets works well geographically, because it is on the bus line, and not too close to the plaza. Unfortunately, that site is too expensive.

Councilor Bushee asked if the City owned property at Siler Road would be close enough.

Susan Odysseus, Interfaith Community, said Siler Road sounds like a great idea, however it is April and winter is coming, and the Siler Road Project is a good time in the future and the lease at Pete's Pet expires on April 30, 2010.

Councilor Bushee said she is referring to the 24/7 one-stop.

Councilor Bushee asked if there is the potential for obtaining more stimulus funds.

Terrie Rodriguez said that has been explored and the funds received fit much better with the rapid rehousing and homelessness prevention – it was the best bang for the buck. She hasn't been able to find any funds to use for the purchase of a building or land.

Councilor Bushee asked if the City has looked at available land for this purpose at Siler Road.

Robert Romero, City Manager said "the whole world's changed since we began that study," and we are looking at local options, and we need to better understand how much land would be needed just for that effort.

Responding to Councilor Bushee, Guy Gronquist said the need is for a facility of approximately 10,000 to 12,000 sq. ft., noting Lee DiPietro has been helping them to look for an existing building. He said on any night there are 6-12 women, and they do serve youth, mostly teenagers. Unidentified said St. Elizabeth Shelter assisted over 3,000 people last month. The new facility, Casa Familia, at 1604 Berry, was opened on November 1, 2009, and has served more than 150 people, noting the capacity is 32 per night all women and families.

Mr. Hughes said the Youth Shelter has a shelter on Agua Fria which can handle 16 homeless youth, noting they need to be able to take care of 60 homeless youth per day, although those figures fluctuate.

Councilor Bushee asked if there are leads for the winter.

Ms. Rodriguez reiterated that the group is requesting assistance with Pete's Pets, with the goal to move to the one-stop.

Councilor Bushee thanked the Task Force for its work.

Councilor Chavez asked what would be involved in staying at Pete's Pet as part of the interim solution – what would be the cost.

Ms. Odysseus said they entered into an agreement for a rental with option to purchase, but that has expired. She said Pete wants to sell the property. She said the property is only 6,000 sq. ft. and wouldn't meet their needs unless there were additional funds for a major retrofit – build a second story and build out. She said there are insufficient bath facilities.

Councilor Chavez suggested perhaps locating the one-stop at the College of Santa Fe, and Ms. Odysseus said they are open to any suggestion.

Councilor Calvert asked Mr. Hughes to provide the Council with a copy of the four recommendations so we can look at those, and Mr. Hughes said he will email those to the Council.

Councilor Trujillo said he and his family volunteer their time at the shelter, which has been a great learning experience for his children. He said he hopes the City Council can help with this effort.

Mayor Coss thanked the Task Force and all of the volunteers who have worked on this project. He asked them to check with Kathy McCormick and Lee DePietro with regard to the availability of CDBG funds.

**e) PROCLAMATION – FAIR HOUSING MONTH. (LOIS SURY, PRESIDENT, SANTA FE ASSOCIATION OF REALTORS.**

A copy of a tri-fold, "Save Now with the Homebuyers Tax Credit, a Quick Reference Guide," is incorporated herewith to these minutes as Exhibit "2."

Mayor Coss read the proclamation into the record.

Lois Sury thanked the City for the Proclamation and for its participation in the Fair Housing Month, noting they reached a diverse population of 120-130 people.

**CONSENT CALENDAR DISCUSSION**

**10 (j) REQUEST FOR APPROVAL TO FILL VACANT POSITIONS. (ROBERT ROMERO)**

Councilor Chavez said the 3 positions proposed to be filled, mentioned in paragraph one of the Memorandum in the packet are for Community Services Department Director, Human Services Manager and Facilities Division Director, which differs from the request below, which has caused some confusion.

Mr. Romero said the request is to hire a Community Services Department Director, Human Services Manager and Facilities Division Director

**MOTION:** Councilor Chavez moved, seconded by Councilor Ortiz, to approve this request to fill the positions of Community Services Department Director, Human Services Manager and Facilities Division Director.

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

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

**Against:** None.

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**END OF CONSENT CALENDAR DISCUSSION**  
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#### **11. MATTERS FROM THE CITY MANAGER.**

Mr. Romero said the telecommunication ordinance was to have come to the Council on May 12, 2010, but because of the two town hall meetings, he is requesting the following amendment to the schedule for that bill:

Publication – April 28, 2010;  
Public Utilities Committee – May 5, 2010;  
Public Works Committee – May 10, 2010;  
Finance Committee – May 17, 2010; and  
City Council public hearing – May 26, 2010.

Councilor Chavez said at the next town hall meeting, he would like City staff to take the lead to set the tone and parameters for discussion. He said at the last town hall meeting, there was a lot of discussion about the health side of the issue, but we need to remind the public that we want to focus on land use issues. He suggested staff from the City Attorney's Office and the Land Use Department make a presentation at that Town Hall, and then hear public comment.

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

##### **EXECUTIVE SESSION:**

**DISCUSSION PERTAINING TO PENDING OR THREATENED LITIGATION IN WHICH THE CITY IS OR MAY BECOME AN *AMICUS* PARTICIPANT REGARDING BANK OF NEW YORK V. ROMERO, NO. 29,945, IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO, PURSUANT TO §10-15-1(H)(7) NMSA 1978.**

**MOTION:** Councilor Wurzbarger moved, seconded by Councilor Romero, that the Council go into Executive Session for the purpose of discussion of pending or threatened litigation in which the City is or may become an *amicus* participant regarding Bank of New York v. Romero, No. 29,945 in the Court of Appeals of the State of New Mexico.



**DISCUSSION:** Councilor Chavez asked Mr. Zamora if it would be appropriate to give some parameters on this case at this time.

Mr. Zamora said it would be more appropriate to give that description after the executive session, in terms of what is privileged information and what is public information. He said he possibly can provide a summary of the facts of the case after executive session.

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

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

**Against:** None.

The Council went into Executive Session at 6:00 p.m.

#### **MOTION TO COME OUT OF EXECUTIVE SESSION**

**MOTION:** At 6:15 p.m. Councilor Wurzbarger moved, seconded by Councilor Calvert, that the City Council come out of Executive Session and stated that the only item which was discussed in executive session was the item which was on the agenda, and no action was taken.

**VOTE:** The motion was approved on a voice vote with Councilors Bushee, Calvert, Chavez, Ortiz, Romero, Trujillo and Wurzbarger voting for the motion, no one voting against, and Councilor Dominguez absent for the vote.

#### **13. ACTION PERTAINING TO PENDING OR THREATENED LITIGATION IN WHICH THE CITY IS OR MAY BECOME AN *AMICUS* PARTICIPANT REGARDING BANK OF NEW YORK V. ROMERO, NO. 29,945, IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO.**

**MOTION:** Councilor Wurzbarger moved, seconded by Councilor Bushee, to take no action in this matter.

**VOTE:** The motion was approved on a voice vote with Councilors Bushee, Calvert, Chavez, Ortiz, Romero, Trujillo and Wurzbarger voting for the motion, no one voting against, and Councilor Dominguez absent for the vote.

#### **14. MATTERS FROM THE CITY CLERK**

There were no matters from the City Clerk.

## **25. 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 April 14, 2010, is incorporated herewith to these minutes as Exhibit "3."

### **Councilor Calvert**

Councilor Calvert introduced an ordinance which would allow reduction of the required off street parking spaces when a transit facility is provided. A copy of the ordinance is incorporated herewith to these minutes as Exhibit "4."

### **Councilor Trujillo**

Councilor Trujillo introduced a Resolution on behalf of Councilor Dominguez, in support of the Airport Road Safety Improvements Project, funded through a cooperative agreement with the New Mexico DOT. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "5."

Councilor Trujillo distributed the packets for the Relay for Life, as the Captain of the team, and invited the City Clerk, City Attorney and City Manager to join their team.

Mr. Romero said they are forming their own team.

Councilor Trujillo congratulated his son Hunter on being admitted to "Break Through," which is a College preparatory course.

### **Councilor Wurzburger**

Councilor Wurzburger congratulated her daughter, Riana, who was just admitted to the UNM Medical School, noting she has been teaching in Teach America for the past two years.

Councilor Wurzburger said she would like, based on discussions at the Finance Committee, to raise the possibility of postponing SWMA's decision to raise its rates.

Councilor Romero, SWMA Chair, said she is happy to meet with anyone to talk further. She is sending an email to everyone regarding the meeting with Regina Wheeler and Brian Snyder.

Councilor Wurzburger asked if the proposed rate increase is on SWMA's meeting agenda for tomorrow.

Councilor Romero said the meeting tomorrow is canceled because of a lack of a quorum, and it will be on the SWMA agenda for its meeting of May 20, 2010.

Councilor Bushee said there have been good discussions regarding SWMA with the SWMA Director, Regina Wheeler and Jason Mumm. She said the City is concerned about the proposed increase, as the main customer of SWMA, and would like to have a deeper discussion on the underlying assumptions being built into the model which is causing the rapid and continuous increase in tipping fees.-

Councilor Trujillo invited the concerned Councilors to attend the May SWMA meeting.

### **Councilor Ortiz**

Councilor Ortiz said we did have a discussion at Finance Committee regarding our concerns about the pending City rate increases, which are tied to SWMA.

Councilor Ortiz said he would like to be appointed as the third City member on the SWMA Board.

Councilor Ortiz introduced a Resolution directing staff to explore and pursue the lease by the City of office space at the Market Station on the Railyard, noting it will go to Public Works and Finance Committees and then to the Council. He is looking for cosponsors of the Resolution, and recognized the assistance of this City Attorney and the City Manager for their diligence in ensuring there is a more fiscally responsible option on the table.

Councilor Ortiz said concerns were expressed to him by County constituents regarding the BDD. They received a letter from Nancy Long, Attorney for the BDD, telling them not to contact any elected City or County officials, and because of the threat of litigation they can communicate only through her. He has concerns as to whether that was authorized by the BDD, and doesn't think we have ever told the public not to contact the elected officials. He said he has seen this letter to the County residents from Ms. Long, and asked the City members of the BDD look into this and correct any error in direction to staff.

Councilor Wurzbarger said this is the advice they received. She said, for the public record, various members of the BDD had discussions with Mr. Leyba and others, and once he threatened litigation, they were advised that they should not communicate with him directly.

Councilor Ortiz reiterated his concern about this advice. He said we can't talk to anyone if contacted, but we can't tell the public not to contact elected officials. He said we can tell them we can't respond because of the threatened litigation.

Councilor Wurzbarger said she will contact the Board in this regard.

Councilor Romero asked City Attorney Geno Zamora to speak to this issue.

Mr. Zamora said, to establish a bright line rule, he will speak about one instance where an attorney for plaintiffs against the City in a pending lawsuit, attempted to contact Councilors to lobby the position of the litigation, in which the City was represented by outside counsel. He said at that point he asked the attorney not to contact the Councilors because they are part of the client, and he must go through

opposing counsel to get to the client. He said, "This is the clearest and most bright line rule with that, is that in pending litigation, if the attorneys try and contact you, that gets referred directly to my office, but, believe it or not, I'm part of the client also, so that I refer it out to the outside counsel and I can't have contact with that attorney outside the presence of the outside counsel. So again, bright line rule there, when litigation is threatened and there may or not be an attorney involved. If it's an attorney contacting you, again, I would follow the same process. Send it over to the City Attorney's office. If it is a public constituent, I actually do believe it would best to cut the conversation off and say, I would like to speak with you about this, but this is threatened litigation. Contact the City Attorney's office and we'll handle it that way."

Mr. Zamora continued, "And I think it's really a messaging. It's important to say this is why I cannot talk to you about this, rather than saying don't talk to public officials. That just sends out the wrong message."

Councilor Ortiz said, for example, David McQuarie, has threatened us several times if we don't change our behaviors and acts that there may be the threat of a lawsuit. He's put out the threat of a lawsuit for ADA compliance many times. But, he's my constituent, and I'm not going to be in place ever to tell him that because he threatened to sue us he can't communicate. Or, worse, ask the City Attorney to write him a letter and tell him to stop talking to me. Councilor Ortiz said Mr. McQuarie is entitled to say whatever he wants to say to me as a constituent, but he can't respond on those things on which he has threatened to sue the City.

Councilor Bushee said then the only time we can't talk directly is when there is an appeal in the one week time frame – *ex parte* communication.

Mr. Zamora said, "Right. And that's not necessarily litigation, it's the appellate process. And by the way, in some of my conversations with members of the Governing Body, I think members have asked for a clarification of the quasi judicial role, and all of that context. We're trying to catch up on some of the initiatives, going over the quasi judicial role and the role of the Council, and what they can and cannot do."

Councilor Bushee asked why that would be done in executive session.

Mr. Zamora said it does contain attorney-client privilege communications on interpretation of the law, but believes it is up to the Governing Body to decide whether to do that in public and on television so the public understands just as well as you do what the requirements are.

### **Councilor Chavez**

Councilor Chavez introduced a Resolution, authorizing the submission of a grant application to the New Mexico Energy, Minerals and Natural Resources Department for the Acequia Trail and trail crossing at St. Francis Drive, noting it will go to Finance, BTAC, Public Works and to the City Council on April 28, 2010. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "6."

Councilor Chavez congratulated Hunter Trujillo as well, noting his son Manuel is an alumni of that program, and the graduation ceremony will be on May 30, 2010. He said Manuel was in one of the first classes for this great program, and has been admitted to UNM in the Fall.

### **Councilor Romero**

Councilor Romero said she has no communications. She said she's been on vacation, but she's ready to "roll up her sleeves" again and SWMA will be the first place into which she puts her time and energy.

### **Mayor Coss**

Mayor Coss introduced a Resolution establishing the Santa Fe City and County Addressing Alcohol Abuse Board. Councilors Bushee and Calvert asked to be added as cosponsors. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "7."

### **Councilor Bushee**

Councilor Bushee introduced a Resolution amending Resolution No. 3004-87 regarding the Bicycle and Trail Advisory Committee. The Resolution will provide for staggering of terms, and will be changing some of the language because the BTAC deals with pedestrian issues, and she will work with Ms. Price on this. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "8."

Councilor Bushee said she would like to work with staff on Jaguar on the Pavilion development to see what connectivity we can achieve with the Trails.

**END OF AFTERNOON SESSION AT 6:35 P.M.**

## **EVENING SESSION**

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

The Evening Session was called to order by Mayor Pro-Tem Rebecca Wurzburger, 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 Wurzburger, Mayor Pro-Tem  
Councilor Patti J. Bushee  
Councilor Christopher Calvert  
Councilor Miguel Chavez  
Councilor Matthew E. Ortiz  
Councilor Rosemary Romero  
Councilor Ronald S. Trujillo

#### **Members Excused**

Councilor Carmichael A. Dominguez

#### **Others Attending**

Robert P. Romero, City Manager  
Geno Zamora, City Attorney  
Yolanda Y. Vigil, City Clerk  
Melessia Helberg, Council Stenographer

### **F. PETITIONS FROM THE FLOOR**

A copy of a letter to Robert Romero, City Manager, dated February 23, 2010, from Lois Simms, Chair, Mayor's Committee on Disability, requesting an accounting of the 2008 Bond item of \$300,000 for ADA improvements, is incorporated herewith to these minutes as Exhibit "9."

**Jim Kentch** said he has a true story about what the City is doing to discouraging people from riding bicycles, and to propose a solution to fix the problem. He spoke about his personal experience, when, 13 months ago he opened a business near the Lensic, and decided to ride his bike to work and park in the Sandoval Garage. There are bicycle racks which are filled with 3 bicycles which are dusty and have flat tires which are still there after 13 months. He talked to employees about moving these bicycles, but got nowhere, noting he wrote a letter to Mayor Coss during his campaign, but got no response. He found a railing which was not posted "No Bicycles," and chained his bicycle to the railing, but two weeks ago there was a sign saying, "No Bicycles." He parked elsewhere where there is no "No Bicycles" sign. However, last week the employee cut his bicycle lock and moved his bicycle because people were complaining, even though there was no sign saying "No Bicycles." He has had his bicycle red-tagged three times in the past

13 months. He is petitioning the Governing Body to red tag the three abandoned bicycles, which would free up 3 spaces. The alternative a lose-lose, where he drives his car to work and parks it in a in place which could be used by tourists and visitors. He believes this is not asking too much. He said as he understands the development design standards for a private office building with more than 150 parking spaces, they are required to provide 25 bicycle spaces. He said there are 350 parking spaces in Sandoval Garage, but he will settle for 3 spaces.

Mayor Pro-Tem Wurzbarger asked Mr. Kentch to give his contact information to the City Manager, so he can deal with this situation.

**David McQuarie** said he is here as a private citizen and not representing a Committee or sanctioned to appear on behalf of a committee. He is requesting, as a private citizen, assistance from the Governing Body in answering the letter from the Chair of the Mayor's Committee on Disability [Exhibit "9"]. He noted the letter was written in February, but there has been no answer, and he is requesting that the answer to the question in Exhibit "9" be in writing, and not a verbal response.

## **G. APPOINTMENTS**

### **City Business and Quality of Life Committee**

Mayor Pro-Tem Wurzbarger presented the following appointment on behalf of Mayor Coss to the City Business and Quality of Life Committee:

David "Mick" Thomson – term ending 03/2012.

**MOTION:** Councilor Calvert moved, seconded by Councilor Romero, to approve the appointment.

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

### **Santa Fe City & County Advisory Council on Food Policy**

Mayor Pro-Tem Wurzbarger presented the following appointment on behalf of Mayor Coss to the Santa Fe City & County Advisory Council on Food Policy:

Denise Lynch – to fill unexpired term ending 01/2011.

**MOTION:** Councilor Ortiz moved, seconded by Councilor Wurzbarger, to approve the appointment.

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

#### **Mayor's Youth Advisory Board**

Mayor Pro-Tem Wurzbarger presented the following appointments on behalf of Mayor Coss to the Mayor's Youth Advisory Board:

Alex Wirth – Reappointment – term ending 12/2011;  
Laura Lopez – Reappointment – term ending 12/2011;  
Nick Gordon – Reappointment – term ending 12/2011; and  
Adrian Salazar – Reappointment – term ending 12/2011.

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

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

#### **Bicycle and Trails Advisory Committee**

Mayor Pro-Tem Wurzbarger presented the following appointment on behalf of Mayor Coss to the Bicycle and Trail Advisory Committee:

Tomas Rivera – term ending 11/2011.

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

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

*Mayor Coss and Councilor /Bushee arrived at the meeting*



## **H. PUBLIC HEARINGS**

Mayor Coss assumed the duties as chair.

### **1) REQUEST FROM FUKUDA FAMILY, LLC, FOR A RESTAURANT LIQUOR LICENSE (BEER AND WINE ON-PREMISE CONSUMPTION ONLY) TO BE LOCATED AT SHOHKO CAFÉ, 321 JOHNSON STREET, SANTA FE. (YOLANDA Y. VIGIL)**

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

#### **Public Hearing**

There was no one speaking for or against this request.

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

**MOTION:** Councilor Wurzbarger moved, seconded by Councilor Calvert, to approve the request from Fukuda Family, LLC, for a Restaurant Liquor License (beer and wine on-premise consumption only), to be located at Shohko Café, 321 Johnson Street, Santa Fe.

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

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

**Against:** None.

**Absent:** Councilor Ortiz

### **2) REQUEST FROM ADELITA'S INCORPORATED FOR A RESTAURANT LIQUOR LICENSE (BEER AND WINE ON-PREMISE CONSUMPTION ONLY), TO BE LOCATED AT TAQUERIA ADELITA'S, 3565 CERRILLOS ROAD. (YOLANDA Y. VIGIL)**

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

#### **Public Hearing**

There was no one speaking for or against this request.

**The Public Hearing was closed**

**MOTION:** Councilor Trujillo moved, seconded by Councilor Romero, to approve the request from Adelita's Incorporated, for a Restaurant Liquor License (Beer and Wine On-Premise Consumption Only) to be located at Taqueria Adelita's, 3565 Cerrillos Road.

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

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

**Against:** None.

- 3) REQUEST FROM THE NATIONAL DANCE INSTITUTE OF NEW MEXICO (NDI-NM) FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION TO ALLOW THE DISPENSING/CONSUMPTION OF ALCOHOLIC BEVERAGES AT NDI-NM, 1140 ALTO STREET, WHICH IS WITHIN 300 FEET OF DESERT ACADEMY, 313 CAMINO ALIRE AND THE FORMER ALAMEDA MIDDLE SCHOOL, 450 LA MADERA. THE REQUEST IS FOR THE NDI-NM ANNUAL GALA TO BE HELD ON SATURDAY, MAY 15, 2010, FROM 5:30 TO 11:00 P.M. (YOLANDA VIGIL)**

The staff report was given by Yolanda Vigil, City Clerk, noting there is a letter of support in the Council packet for this request from the Santa Fe Public Schools giving its support based on the following requirements:

1. NDI will serve only Host Liquor with wine, champagne and non-alcoholic beverages;
2. NDI will provide proof of General Liability Insurance, naming the district and licensee (La Fonda on the Plaza) of the Special Dispenser Permit as additional insured with limits of no less than \$2,000,000, noting that the General Liability Insurance policy expiration date is 04/15/10, and NDI-NM will provide proof of insurance renewal to the City Clerk no later than April 21, 2010;
3. NDI will show proof of Workers Compensation for the employees of the Lessee; and
4. NDI will provide Auto Liability insurance should the Lessee own any vehicles, noting that NDI-NM does not own any vehicles, therefore proof of insurance is not required according to Jackee Munoz, Pom & Associates Insurance Broker for the SFPS District.

Ms. Vigil noted there is a letter in the Council packet showing compliance with all of these requests from NDI. There is also a letter in the Council packet from Desert Academy expressing support for the requirement.

### **Public Hearing**

There was no one speaking for or against this request.

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

**MOTION:** Councilor Wurzbarger moved, seconded by Councilor Calvert to approve the request for a waiver of the 300 foot location restriction and to allow the dispensing/consumption of alcoholic beverages at NDI-NM, 1140 Alto Street, at the NDI-NM Annual Gala, to be held on Saturday, May 15, 2010, 5:30 p.m. to 11:00 p.m., with compliance of all requirements.

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

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

**Against:** None.

### **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 7:15 p.m.

**Approved by:**

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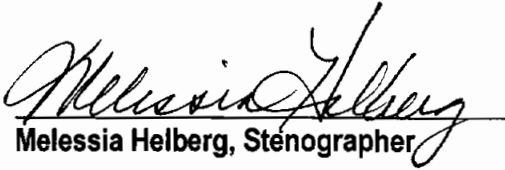
**Mayor David Coss**

**ATTESTED TO:**

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**Yolanda Y. Vigil, City Clerk**

**Respectfully submitted:**

  
**Melessia Helberg, Stenographer**