



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
SEPTEMBER 29, 2010
CITY COUNCIL CHAMBERS

AFTERNOON SESSION – 5:00 P.M.

CITY CLERK'S OFFICE

DATE 9-24-10 TIME 1:55pm

SERVED BY _____

RECEIVED BY Jydomiguez

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 15, 2010.
9. PRESENTATIONS
 - a) Environmental Hall of Fame. (Katherine Mortimer) (5 minutes)
(Postponed at September 15, 2010 City Council Meeting)
10. CONSENT CALENDAR
 - a) Request for Approval of Procurement Under State Price Agreement – Six (6) Vehicles for Parks Division; Bob Turner Ford. (Robert Rodarte)
 - b) Request for Approval of Procurement Under State Price Agreement – Water Meters and Service Equipment and Supplies for Water Division; HD Supply Waterworks; Albuquerque Winnelson and Baker Utility Supply. (Robert Rodarte)
 - c) Request for Approval of Change Order No. 2 – Southside Library–Plaza; Lockwood Construction Company. (Chip Lilienthal)
 - 1) Request for Approval of Budget Increase – Project Fund.
 - d) Request for Approval of Amendment No. 5 to Memorandum of Agreement – Trails and Open Space Projects; Santa Fe County. (Leroy Pacheco)
 - 1) Request for Approval of Budget Increase – Project Fund.



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
SEPTEMBER 29, 2010
CITY COUNCIL CHAMBERS

- e) Request for Approval of Grant Agreement – New Mexico Legislative 2009 Special Session Appropriations for La Familia Medical Center; State of New Mexico Department of Finance and Administration Local Government Division. (David Chapman)
 - 1) Request for Approval of Budget Increase – Grant Fund.
- f) Request for Approval of Cooperative Agreement – Partnership Between the School District and the City for Shared Resources and Services; Santa Fe Public Schools. (Isaac Pino)
- g) Request for Approval of Lease Agreement – Fiscal Agent for Santa Fe One Stop Homeless Coalition; Interfaith Community Shelter Group. (Isaac Pino)
- h) Request for Approval of Procurement Under State Price Agreement – Natural Gas Services and Distribution to City Wide Facilities; BP Energy Company. (Nick Schiavo)
- i) Request for Approval of Procurement – LED Lighting Retrofits at Sandoval Parking Garage (RFP #10/31/P); Infinilux, Inc. (Nick Schiavo)
- j) Request for Approval of Grant Agreement – Juvenile Services for Community Services Division; State of New Mexico Children, Youth and Families Department. (Richard DeMella)
 - 1) Request for Approval of Budget Increase – Grant Fund.
- k) Request for Approval of Procurement Under State Price Agreement – One Vactor Truck for Wastewater Management Division; Pete's Equipment, Inc. (Bryan Romero)
- l) Request for Approval of Agreement – Services for Fiscal Year 2010/2011 Nutrition, In-Home Support Services, Transportation, Etc. for Senior Division; North Central New Mexico Economic Development District Non-Metro Area Agency on Aging. (Ron Vialpando)
 - 1) Request for Approval of Budget Increase – Senior Wellness Program Fund.



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
SEPTEMBER 29, 2010
CITY COUNCIL CHAMBERS

- m) Request for Approval of Budget Increase for Federal Forfeiture Sharing Fund From Cash Balance. (Police Chief Aric Wheeler)
- n) Request for Approval of Support Services Agreement – Land Use, Police and Fire Department Systems Support Services; Sungard Public Sector, Inc. (Caryn Fiorina)
- o) Request for Approval of Procurement Under State and Federal Price Agreements – ITT Services and Equipment for City Departments; Various Vendors. (Thomas Williams)
- p) Request for Approval of Change Order No. 3 to Agreement – Transmission and Distribution System Rehabilitation Project; TLC Plumbing and Utility. (Stephanie Reynolds)
- q) Request for Approval of Water Rights Purchase Agreement – City of Santa Fe to Purchase Water Rights; Hinkle, Hensley, Shanor & Martin, LLP and Agora II LLC. (Marcos Martinez)
- r) CONSIDERATION OF RESOLUTION NO. 2010-_____. (Mayor Coss)
A Resolution Supporting Wilderness Designation for the Inventoried Roadless Areas Adjacent to the Pecos Wilderness. (Jeanne Price)
- s) CONSIDERATION OF RESOLUTION NO. 2010-_____. (Councilor Romero)
A Resolution Committing to a Workplace of Mutual Respect for all City of Santa Fe Employees. (Vicki Gage)
- t) CONSIDERATION OF RESOLUTION NO. 2010-_____. (Councilor Calvert)
A Resolution Amending Resolution No. 2010-16 Exhibit A, Guidelines for the City's Rebate Program for the Installation/Retrofit of Efficient Water Conservation Technologies. (Dan Ransom)
- 1) CONSIDERATION OF RESOLUTION NO. 2010-_____. (Councilor Romero)
A Resolution Adopting Requirements for the Water Conservation Rebate Program for Home Owner Associations and Condominium Associations with Water Master Meters. (Brian Snyder)



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
SEPTEMBER 29, 2010
CITY COUNCIL CHAMBERS

- u) CONSIDERATION OF RESOLUTION NO. 2010-_____. (Councilor Ortiz and Councilor Trujillo)
A Resolution Approving Funding in the Amount of \$40,000 for the Spanish Royalty Visit and the Mexican Presidential Visit, Events Planned by Santa Fe 400th Anniversary, Inc. Upon Certain Conditions.
 - 1) Request for Approval of Budget Increase – Lodger's Tax Fund.
- v) Request for Approval of Consideration to Fill Vacant Positions. (Robert Romero)
- w) Request for Approval of Proposed Sliding Fee Scale for 2011 Summer Youth Program. (Edith Martinez)
- x) Request for Approval of Correction to Term of Agreement (**July 1, 2010 through June 30, 2012**); Collective Bargaining Agreement Between City of Santa Fe and American Federation of State, County and Municipal Employees (AFSCME) for **2010/2012**. (Vicki Gage)
- y) Request for Approval of Sole Source Procurement and Professional Services Agreement – City's Watershed Management Project Services for Water Division; Santa Fe Watershed Association. (Dale Lyons)
- 11. Consideration of the Following Resolutions: (Councilor Calvert) (Brian Snyder)
 - a) CONSIDERATION OF RESOLUTION NO. 2010-_____.
A Resolution Amending the City's Administrative Procedures for Water Demand Offset Requirements to Include a Water Loan Transfer Program.
 - b) CONSIDERATION OF RESOLUTION NO. 2010-_____.
A Resolution Allocating Three Acre Feet of Available Water from the City's Existing Water Supply to Luna Laundry to be Located at 3138 Rufina Street.
 - c) CONSIDERATION OF RESOLUTION NO. 2010-_____.
A Resolution Authorizing the Transfer for Luna Laundry's Current Usage at 7620 Baca Lane of Three Acre Feet of Water to Luna Laundry's New Location at 3138 Rufina Street.
- 12. MATTERS FROM THE CITY MANAGER



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
SEPTEMBER 29, 2010
CITY COUNCIL CHAMBERS

13. MATTERS FROM THE CITY ATTORNEY

EXECUTIVE SESSION:

Pursuant to City of Santa Fe Resolution No. 2010-24, Discussion of Threatened or Pending Litigation in which the City of Santa Fe is or may Become a Participant, in Accordance with §10-15-1(H)(7), NMSA 1978.

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

C. SALUTE TO THE NEW MEXICO FLAG

D. INVOCATION

E. ROLL CALL

F. PETITIONS FROM THE FLOOR

G. APPOINTMENTS

H. PUBLIC HEARINGS:

1) CONSIDERATION OF BILL NO. 2010-26: ADOPTION OF ORDINANCE NO. 2010-_____.

An Ordinance Authorizing the Issuance and Sale of City of Santa Fe, New Mexico, General Obligation Tax-Exempt Bonds, Series 2010, in the Principal Amount of \$10,300,000, Payable From Ad Valorem Taxes Levied on all Taxable Property Within the City, Levied Without Limit as to Rate or Amount; Providing for the Form, Terms and Conditions of the Bonds, the Manner of Their Execution, and the Method of, and Security for, Payment; Providing for the Award and Sale of the Bonds to the Purchaser and the Price to be Paid by the Purchaser for the Bonds; and Providing for Other Details Concerning the Bonds. (Kathryn Raveling)



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
SEPTEMBER 29, 2010
CITY COUNCIL CHAMBERS

- 2) Request for Approval of Lease Agreement for Property Adjacent to the Genoveva Chavez Community Center; Youthworks, Inc. (Economic Development Project – Public Hearing Pursuant to Section 11-11.8, SFCC 1987. (Kate Noble) **(Postponed at September 15, 2010 City Council Meeting)**
- 3) CONSIDERATION OF BILL NO. 2010-24: ADOPTION OF ORDINANCE NO. 2010-_____. (Mayor Coss, Councilor Ortiz, Councilor Trujillo and Councilor Dominguez)
An Ordinance Repealing Section 16-7.4 SFCC 1987, Indecent Exposure; and Creating a New Section 16-7.4 SFCC 1987 Regarding Public Indecency. (Marcos Martinez) **(Postponed at September 15, 2010 City Council Meeting)**

I. ADJOURN

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

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

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

SUMMARY INDEX
SANTA FE CITY COUNCIL MEETING
September 29, 2010

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
<u>AFTERNOON SESSION</u>		
CALL TO ORDER AND ROLL CALL	Quorum	1
APPROVAL OF AGENDA	Approved [amended]	1-2
APPROVAL OF CONSENT CALENDAR	Approved [amended]	2
CONSENT CALENDAR LISTING		2-5
APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – AUGUST 25, 2010	Approved	5
<u>PRESENTATIONS</u>		
ENVIRONMENTAL HALL OF FAME	Presentation	6
<u>CONSENT CALENDAR DISCUSSION</u>		
CONSIDERATION OF RESOLUTION NO. 2010- 79 A RESOLUTION APPROVING FUNDING IN THE AMOUNT OF \$40,000 FOR THE SPANISH ROYALTY VISIT AND THE MEXICAN PRESIDENTIAL VISIT. EVENTS PLANNED BY SANTA FE 400 TH ANNIVERSARY, INC. UPON CERTAIN CONDITIONS REQUEST FOR APPROVAL OF BUDGET INCREASE – LODGER’S TAX FUND *****	Approved [amended] Approved [amended]	6-7
END OF CONSENT CALENDAR DISCUSSION *****		
<u>CONSIDERATION OF THE FOLLOWING RESOLUTIONS:</u>		
CONSIDERATION OF RESOLUTION NO. 2010- _____. A RESOLUTION AMENDING THE CITY’S ADMINISTRATIVE PROCEDURES FOR WATER DEMAND OFFSET REQUIREMENTS TO INCLUDE A WATER LOAN TRANSFER PROGRAM	Postponed to 10/13/10	7-8
CONSIDERATION OF RESOLUTION NO. 2010- _____. A RESOLUTION ALLOCATING THREE ACRE FEET OF AVAILABLE WATER FROM THE CITY’S EXISTING		

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
WATER SUPPLY TO LUNA LAUNDRY TO BE LOCATED AT 3138 RUFINA STREET	Postponed to 10/13/10	7-8
CONSIDERATION OF RESOLUTION NO. 2010- ____ . A RESOLUTION AUTHORIZING THE TRANSFER FOR LAUNDRY'S CURRENT USAGE AT 7620 BACA LANE OF THREE ACRE FEET OF WATER TO LUNA LAUNDRY'S NEW LOCATION AT 3138 RUFINA STREET	Postponed to 10/13/10	7-8
MATTERS FROM THE CITY MANAGER	None	8
MATTERS FROM THE CITY CLERK	Information/discussion	8
COMMUNICATIONS FROM THE GOVERNING BODY	Information/discussion	8-12
<u>MATTERS FROM THE CITY ATTORNEY</u>		
EXECUTIVE SESSION: PURSUANT TO CITY OF SANTA FE RESOLUTION NO. 2010-24, DISCUSSION OF THREATENED OR PENDING LITIGATION IN WHICH THE CITY OF SANTA FE IS, OR MAY BECOME A PARTICIPANT, IN ACCORDANCE WITH §10-15-1(H)(7), NMSA 1978	No Executive Session	12
<u>EVENING SESSION</u>		
CALL TO ORDER AND ROLL CALL	Quorum	13
PETITIONS FROM THE FLOOR		13
<u>APPOINTMENTS</u>		
Santa Fe Regional Juvenile Justice Board	Approved	14
<u>PUBLIC HEARINGS</u>		
CONSIDERATION OF BILL NO. 2010-26; ADOPTION OF ORDINANCE NO. 2010- 21. AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF CITY OF SANTA FE, NEW MEXICO, GENERAL OBLIGATION TAX-EXEMPT BONDS, SERIES 2010, IN THE PRINCIPAL AMOUNT OF \$10,300,000, PAYABLE FROM AD VALOREM TAXES LEVIED ON ALL TAXABLE PROPERTY WITHIN THE CITY, LEVIED WITHOUT LIMIT AS TO RATE OR AMOUNT; ETC.	Approved	14-15

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
REQUEST FOR APPROVAL OF LEASE AGREEMENT FOR PROPERTY ADJACENT TO THE GENOVEVA CHAVEZ COMMUNITY CENTER; YOUTHWORKS, INC. (ECONOMIC DEVELOPMENT PROJECT) – PUBLIC HEARING PURSUANT TO SECTION 11-11.8 SFCC 1987	Approved	15-17
CONSIDERATION OF BILL NO. 2010-24; ADOPTION OF ORDINANCE NO. 2010-22. AN ORDINANCE REPEALING SECTION 16-7.4 SFCC 1987, INDECENT EXPOSURE; AND CREATING A NEW SECTION 16-7.4 SFCC 1987, REGARDING PUBLIC INDECENCY	Approved as amended	17-30
ADJOURN		30

**MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
September 29, 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 September 29, 2010. Following the Pledge of Allegiance, the 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 Christopher Calvert
Councilor Miguel Chavez
Councilor Carmichael A. Dominguez
Councilor Matthew E. Ortiz
Councilor Ronald S. Trujillo

Members Excused

Councilor Patti J. Bushee
Councilor Rosemary Romero

Others Attending

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

6. APPROVAL OF AGENDA

Mr. Romero said staff is asking to postpone item 10(f) on the Consent Calvert, and noted that there is an amendment on Item 10(g) to remove the reduced fees per the recommendation of the Finance Committee.

Councilor Calvert would like to postpone Item #11 on the Afternoon Agenda to the next Council meeting on October 13, 2010.

MOTION: Councilor Calvert moved, seconded by Councilor Chavez, to approve the agenda as amended.

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

7. APPROVAL OF CONSENT CALENDAR

MOTION: Councilor Wurzburger moved, seconded by Councilor Calvert, 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 Trujillo and Councilor Wurzburger

Against: None.

- a) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – SIX (6) VEHICLES FOR PARKS DIVISION; BOB TURNER FORD. (ROBERT RODARTE)**
- b) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – WATER METERS AND SERVICE EQUIPMENT AND SUPPLIES FOR WATER DIVISION; HD SUPPLY WATERWORKS; ALBUQUERQUE WINNELSON AND BAKER UTILITY SUPPLY. (ROBERT RODARTE)**
- c) **REQUEST FOR APPROVAL OF CHANGE ORDER NO. 2 – SOUTHSIDE LIBRARY-PLAZA; LOCKWOOD CONSTRUCTION COMPANY. (CHIP LILIENTHAL)**
 - A. **REQUEST FOR APPROVAL OF BUDGET INCREASE – PROJECT FUND.**

- d) **REQUEST FOR APPROVAL OF AMENDMENT NO. 5 TO MEMORANDUM OF AGREEMENT – TRAILS AND OPEN SPACE PROJECTS; SANTA FE COUNTY. (LEROY PACHECO)**
 - A. **REQUEST FOR APPROVAL OF BUDGET INCREASE – PROJECT FUND.**
- e) **REQUEST FOR APPROVAL OF GRANT AGREEMENT — NEW MEXICO LEGISLATIVE 2009 SPECIAL SESSION APPROPRIATIONS FOR LA FAMILIA MEDICAL CENTER; STATE OF NEW MEXICO, DEPARTMENT OF FINANCE AND ADMINISTRATION, LOCAL GOVERNMENT DIVISION. (DAVID CHAPMAN)**
 - A. **REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND.**
- f) **REQUEST FOR APPROVAL OF COOPERATIVE AGREEMENT — PARTNERSHIP BETWEEN THE SCHOOL DISTRICT AND THE CITY FOR SHARED RESOURCES AND SERVICES; SANTA FE PUBLIC SCHOOLS. (ISAAC PINO)**
- g) **REQUEST FOR APPROVAL OF LEASE AGREEMENT – FISCAL AGENT FOR SANTA FE ONE STOP HOMELESS COALITION; INTERFAITH COMMUNITY SHELTER GROUP. (ISAAC PINO)**

A copy of the Action Sheet from the Finance Committee meeting of September 20, 2010, is incorporated herewith to these minutes as Exhibit "1."

- h) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE WIDE PRICE AGREEMENT – NATURAL GAS SERVICES AND DISTRIBUTION TO CITY WIDE FACILITIES; BP ENERGY COMPANY. (NICK SCHIAVO)**
- i) **REQUEST FOR APPROVAL OF PROCUREMENT – LED LIGHTING RETROFITS AT SANDOVAL PARKING GARAGE (RFP #10/31/P); INFINILUX, INC. (NICK SCHIAVO)**
- j) **REQUEST FOR APPROVAL OF GRANT AGREEMENT – JUVENILE SERVICES FOR COMMUNITY SERVICES DIVISION; STATE OF NEW MEXICO, CHILDREN, YOUTH AND FAMILIES DEPARTMENT. (RICHARD DeMELLA)**
 - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND.**
- k) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – ONE VACTOR TRUCK FOR WASTEWATER MANAGEMENT DIVISION; PETE'S EQUIPMENT, INC. (BRYAN ROMERO)**

- l) REQUEST FOR APPROVAL OF AGREEMENT – SERVICES FOR FISCAL YEAR 2010/2011 NUTRITION, IN-HOME SUPPORT SERVICES, TRANSPORTATION, ETC., FOR SENIOR DIVISION; NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT, NON-METRO AREA AGENCY ON AGING. (RON VIALPANDO)**

 - 1) REQUEST FOR APPROVAL OF BUDGET INCREASE – SENIOR WELLNESS PROGRAM.**
- m) REQUEST FOR APPROVAL OF BUDGET INCREASE FOR FEDERAL FORFEITURE SHARING FUND FROM CASH BALANCE. (POLICE CHIEF ARIC WHEELER)**
- n) REQUEST FOR APPROVAL OF SUPPORT SERVICES AGREEMENT – LAND USE, POLICE AND FIRE DEPARTMENT SYSTEMS SUPPORT SERVICES; SUNGARD PUBLIC SECTOR, INC. (CARYN FIORINA)**
- o) REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE AND FEDERAL PRICE AGREEMENTS – ITT SERVICES AND EQUIPMENT FOR CITY DEPARTMENTS; VARIOUS VENDORS. (THOMAS WILLIAMS)**
- p) REQUEST FOR APPROVAL OF CHANGE ORDER NO. 3 TO AGREEMENT – TRANSMISSION AND DISTRIBUTION SYSTEM REHABILITATION PROJECT; TLC PLUMBING AND UTILITY. (STEPHANIE REYNOLDS)**
- q) REQUEST FOR APPROVAL OF WATER RIGHTS PURCHASE AGREEMENT – CITY OF SANTA FE TO PURCHASE WATER RIGHTS; HINKLE, HENSLEY, SHANOR & MARTIN, LLP AND AGORA II LLC. (MARCOS MARTINEZ)**
- r) CONSIDERATION OF RESOLUTION NO. 2010-75 (MAYOR COSS). A RESOLUTION SUPPORTING WILDERNESS DESIGNATION FOR THE INVENTORIED ROADLESS AREAS ADJACENT TO THE PECOS WILDERNESS. (JEANNE PRICE)**
- s) CONSIDERATION OF RESOLUTION NO. 2010-76 (COUNCILOR ROMERO). A RESOLUTION COMMITTING TO A WORKPLACE OF MUTUAL RESPECT FOR ALL CITY OF SANTA FE EMPLOYEES. (VICKI GAGE)**

- t) **CONSIDERATION OF RESOLUTION NO. 2010-77 (COUNCILOR CALVERT). A RESOLUTION AMENDING RESOLUTION NO. 2010-16, EXHIBIT A, GUIDELINES FOR THE CITY'S REBATE PROGRAM FOR THE INSTALLATION/RETROFIT OF EFFICIENT WATER CONSERVATION TECHNOLOGIES. (DAN RANSOM)**
 - 1) **CONSIDERATION OF RESOLUTION NO. 2010-78 (COUNCILOR ROMERO). A RESOLUTION ADOPTING REQUIREMENTS FOR THE WATER CONSERVATION REBATE PROGRAM FOR HOME OWNER ASSOCIATIONS AND CONDOMINIUM ASSOCIATIONS WITH WATER MASTER METERS. (BRIAN SNYDER)**
- u) *[Removed for discussion by Councilor Ortiz]*
- v) **REQUEST FOR APPROVAL OF CONSIDERATION TO FILL VACANT POSITIONS. (ROBERT ROMERO)**
- w) **REQUEST FOR APPROVAL OF PROPOSED SLIDING FEE SCALE FOR 2011 SUMMER YOUTH PROGRAM. (EDITH MARTINEZ)**
- x) **REQUEST FOR APPROVAL OF CORRECTION TO TERM OF AGREEMENT (JULY 1, 2010 THROUGH JUNE 30, 2012); COLLECTIVE BARGAINING AGREEMENT BETWEEN CITY OF SANTA FE AND AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME) FOR 2010/2012. (VICKI GAGE)**
- y) **REQUEST FOR APPROVAL OF SOLE SOURCE PROCUREMENT AND PROFESSIONAL SERVICES AGREEMENT – CITY'S WATERSHED MANAGEMENT PROJECT SERVICES FOR WATER DIVISION; SANTA FE WATERSHED ASSOCIATION. (DALE LYONS)**

8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – AUGUST 25, 2010.

MOTION: Councilor Dominguez moved, seconded by Councilor Chavez, to approve the minutes of the Regular City Council meeting of August 25, 2010, as presented.

VOTE: The motion was approved on a voice vote with Councilors Calvert, Chavez, Dominguez and Ortiz voting in favor of the motion, none voting against and Councilors Trujillo and Wurzbarger abstaining from the vote.

9. PRESENTATIONS

a) ENVIRONMENTAL HALL OF FAME. (KATHERINE MORTIMER)

A copy of the "Talking points for the Sustainability Hall of Fame Awards, Sustainable Santa Fe Commission, is incorporated herewith to these minutes as Exhibit "2."

A copy of an information sheet about the City, the Mayor, Council and the Sustainable Santa Fe Commission distributed by Dan Baker, is incorporated herewith to these minutes as Exhibit "3."

Dan Baker said the Environmental Hall of Fame wanted to recognize the efforts of the City, the Governing Body and the Sustainable Santa Fe Commission for its development of policies and procedures and implementing those. Mr. Baker presented information from Exhibit "2." Please see Exhibit "2" for specifics of this presentation.

Steve Skelton spoke about his involvement in energy issues and conservation. He thanked the Governing Body and the Commission for its work.

Mr. Baker presented plaques to Mayor Coss, the Governing Body, Katherine Mortimer and the members of the Sustainable Santa Fe Commissioners in attendance, Joe Sehee and Camilla Bustamante.

Mayor Coss thanked everyone for this honor and recognition for the hard work of the Sustainable Commission, and thanked Katherine Mortimer, Nick Schiavo and other City staff that have worked so hard in this regard.

CONSENT CALENDAR DISCUSSION

- 10(u) CONSIDERATION OF RESOLUTION NO. 2010- 79 (COUNCILOR ORTIZ AND COUNCILOR TRUJILLO). A RESOLUTION APPROVING FUNDING IN THE AMOUNT OF \$40,000 FOR THE SPANISH ROYALTY VISIT AND THE MEXICAN PRESIDENTIAL VISIT. EVENTS PLANNED BY SANTA FE 400TH ANNIVERSARY, INC. UPON CERTAIN CONDITIONS.**
- 1) REQUEST FOR APPROVAL OF BUDGET INCREASE – LODGER’S TAX FUND.**

An amendment sheet to this Resolution submitted by Councilor Ortiz is incorporated herewith to these minutes as Exhibit "4."

Councilor Ortiz noted the amendment sheet to the Resolution [Exhibit "4"]. Councilor Ortiz proposed to amend the proposed Amendment as follows:

1. Everywhere it says "State" it should say "Spanish State," because there will be state visitors from the royal house.
2. Amend line 10, page 2 as follows: "...these two special visits from the Spanish State ~~Royalty~~ and the Mexican President and one or more of our Sister Cities from Spain

Councilor Ortiz said the amount of money is reduced to \$20,000 because it is just a Spanish State Visit and a Mexican Presidential visit, noting we do have a matching contribution from the State as indicated on the Action Sheet, with the amendments from the Finance Committee.

MOTION: Councilor Ortiz moved, seconded by Councilor Wurzbarger, to adopt Resolution No. 2010-79, with the conditions from the Finance Committee on the Action Sheet [Exhibit #1], the amendments on Exhibit "4," and his proposed amendments to the amendment sheet, Items #1 and #2 above.

DISCUSSION: Mayor Coss acknowledged the members of the 400th Anniversary Committee, Inc., in attendance and thanked them for their hard work.

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

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

Against: None

END OF CONSENT CALENDAR DISCUSSION

11. **CONSIDERATION OF THE FOLLOWING RESOLUTIONS: (COUNCILOR CALVERT). (BRIAN SNYDER)**
 - A. **CONSIDERATION OF RESOLUTION NO. 2010- _____. A RESOLUTION AMENDING THE CITY'S ADMINISTRATIVE PROCEDURES FOR WATER1 DEMAND OFFSET REQUIREMENTS TO INCLUDE A WATER LOAN TRANSFER PROGRAM.**

- B. CONSIDERATION OF RESOLUTION NO. 2010- _____. A RESOLUTION ALLOCATING THREE ACRE FEET OF AVAILABLE WATER FROM THE CITY'S EXISTING WATER SUPPLY TO LUNA LAUNDRY TO BE LOCATED AT 3138 RUFINA STREET.**
- C. CONSIDERATION OF RESOLUTION NO. 2010- _____. A RESOLUTION AUTHORIZING THE TRANSFER FOR LAUNDRY'S CURRENT USAGE AT 7620 BACA LANE OF THREE ACRE FEET OF WATER TO LUNA LAUNDRY'S NEW LOCATION AT 3138 RUFINA STREET.**

This item is postponed to the meeting of October 13, 2010.

12. MATTERS FROM THE CITY MANAGER.

There were no matters from the City Manager.

13. *[This item was moved to the end of the Afternoon Session by Mayor Coss]*

14. MATTERS FROM THE CITY CLERK.

Ms. Vigil said there will be an Ethics Study Session of the City Council on Tuesday, November 9, 2010, at 5:30 p.m. in Council Chambers. She asked everyone to let her know if they will be in attendance.

Councilor Wurzbarger asked Ms. Vigil to email this information to the members of the Governing Body.

15. COMMUNICATIONS FROM THE GOVERNING BODY

A copy of "Bills and Resolutions scheduled for introduction by members of the Governing Body," for the Council meeting of September 15, 2010, is incorporated herewith to these minutes as Exhibit "5"

Councilor Calvert

Councilor Calvert said he would like to hear more from the Juvenile Justice Task Force, in

terms of what it is doing to pull all of the players together to address our current issues regarding crime in Santa Fe. He is hopeful that Task Force will have some good ideas and will work with the City to get all of the players involved.

Councilor Calvert read a letter into the record:

On August 29th a tragedy hit the neighborhood on Bobb Street. The home of Jeff and Anna Wehmeier burned to the ground with all of their possessions. There was no insurance on the home or its contents. Two of their cars that were parked in front of the home were also destroyed, only one of which had enough comprehensive insurance to cover the loss. Since the fire, the Wehmeier family of four has been living in a one-room hotel on Cerrillos Road. Although they applied for emergency stimulus money, they were told that they were fractionally above the income eligibility limit. The only help they have received has been five days of rent from the Red Cross, seven days of rent from La Luz and some private donations from a benefit fund drive sponsored by the Torreon Neighborhood Association. An anonymous benefactor has donated a mobile home to the Wehmeier but it won't be available for a month. It needs some repair work and will have to be moved and placed on footers. It will need stucco and utility hookups. The estimated cost to the Wehmeiers to install the mobile home on their property on Bobb Street is approximately \$10,000. To date, we have raised \$2,300. The Wehmeier, Jaramillo and Angel families are long time residents of Santa Fe and have contributed to the economy and culture of the community for generations. We are appealing to you to help us raise money and to help this family in such dire need. They are a good family who has hit bad times and are in need of help. Since the family has such strong roots in this community, we feel the City Council should do all it can to help them. One way to help that family out, would be to read this letter into the minutes at the City Council meeting for all to hear and read.

Councilor Calvert said he will provide this letter to the press in the event someone wants to pick it up and publish it in the paper.

Councilor Calvert would appreciate the monthly information on the GRTs by email.

Councilor Dominguez

Councilor Dominguez thanked Councilor Calvert for asking for the update from the Juvenile Justice Task force, because it is nice to know that others are interested in the health and safety of our children. He said a lot of work has been done, and he still gets a detailed update. He said the membership of the Board was just amended by the Governing Body, and there are a lot of things happening. He looks forward to that update.

Councilor Dominguez introduced a Resolution directing the Parks and Open Space Advisory Commission, the Bicycle Trails Advisory Committee and other City Committees to make recommendations regarding priorities for parks, open space, trails, and recreational facilities that have not previously been funded or were under funded. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "6."

Councilor Wurzburger

Councilor Wurzburger introduced the following:

1. A Resolution cosponsored with Councilor Romero, naming the new public access trail from Old Santa Fe Trail to the top of Sun Mountain, "The Sun Mountain Trail." She asked that this go quickly to Public Works and Finance, and then to the Council, so they can have the naming for the function later this month. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "7."
2. A Resolution directing Public Works Department staff to design and oversee construction of shoulder improvements to the south side of Camino Lejo adjacent to Museum Hill's main parking area. She said this is in response to so many people going to the Folk Art Exhibit which is causing congestion around the event, as well as problems of a lesser nature which occur during the year. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "8."

Councilor Trujillo

Councilor Trujillo asked the status of the appointment of the hearing officer.

Mr. Zamora said over the past few weeks he has received resumes, conducted reviews of resumes with various members in the City, including the Police Department, City Attorney's Office and City Manager's Office. After reviewing the resumes, they submitted five names to Chief Judge Barbara Vigil. Judge Vigil reviewed those and chose Rosanna Vazquez, a local attorney, as the primary hearing officer. He said the secondary hearing officer is Jamison Barclay. He said they all met for the first time this morning with those hearing officers in an introductory meeting. They will begin holding hearings within the next few weeks. He said before we can hold meetings with individuals, they must be given notice, so it will be 2-2½ weeks before the first hearings take place.

Councilor Ortiz

Councilor Ortiz thanked the Finance Department, particularly Robert Rodarte, for researching an award we did. After his review of the proposed scope of work, Mr. Rodarte has determined that the contract cannot be awarded and has to go out to bid. He thanked the City Purchasing Division for doing their best to identify these kinds of issues. He said he didn't believe there was any way an \$18,000 contract could be turned into a contract of \$180,000.

Councilor Chavez

Councilor Chavez asked, in addition to the discussion on ethics, that the Council discussion include both the Ethics Ordinance and Campaign Ordinance.

Mayor Coss said it should include whatever ordinances involve those two committees.

Ms. Vigil said it will be advertized in this manner.

Councilor Chavez would like to see if we can provide for a written comment portion of the meeting, as well as an opportunity for on-line comment between now and that meeting, with a deadline for submission of comments. He said the Task Force can then do the assigned work.

Councilor Chavez would like an update on CVB bookings, and staff credited the booking of the event, the number of people in the group, the number of room nights and the origin of the visitors. He would like this report either at Public Works or Council.

Councilor Chavez said the accessory dwelling unit ordinance has gotten a lot of attention lately. He would like to see what we can do to enforce the existing ordinance, commenting you can rent one of the units as long as the other remains the primary dwelling of the owner.

Councilor Chavez said these units, whether attached or not, are put on the market and sold in some cases as a condo. He said the County Clerk is recording those condominium declarations right now, noting we are asking her to do that. He said the problems the neighborhood is having with this "end run" around lot splits, is that it increases the density, at times creates off street parking and it is not in the best interest of the neighborhood. He asked what we can do to enforce the existing ordinance regarding accessory dwelling units, whether or not attached.

Mayor Coss

Mayor Coss reminded everyone that he will be giving his State of the City speech on October 7, 2010, at the Forum at the College of Santa Fe, and invited everyone to attend.

Mayor Coss introduced the following on behalf of Councilor Romero:

1. An Ordinance amending Rule 18, Exhibit A of Chapter 25 SFCC 1987, regarding water meters for multi-family dwelling units (apartment and condominiums). A copy of the proposed Ordinance amendment is incorporated herewith to these minutes as Exhibit "9."
2. A Resolution adopting requirements for master water meters for multi-family dwelling units (apartments and condominiums). A copy of the Resolution is incorporated herewith to these minutes as Exhibit "10."

13. MATTERS FROM THE CITY ATTORNEY

EXECUTIVE SESSION: PURSUANT TO CITY OF SANTA FE RESOLUTION NO. 2010-24, DISCUSSION OF THREATENED OR PENDING LITIGATION IN WHICH THE CITY OF SANTA FE IS, OR MAY BECOME A PARTICIPANT, IN ACCORDANCE WITH §10-15-1(H)(7), NMSA 1978.

Councilor Wurzbarger asked Mr. Zamora if he has a report on anything which is imminent or unusual. She said some of the Councilors are thinking this could be done every other meeting or perhaps even quarterly.

Mr. Zamora said it is a standard report, much like you have seen over the past few months.

Councilor Wurzbarger asked if someone should move to not have an executive session.

Mr. Zamora said if there is no motion, second and vote, then the Governing Body will not go into Executive Session. He said the one differentiation is that there is a public hearing tomorrow in Las Cruces on the Quest issue, and he and the Councilors can have private conversations on this.

END OF AFTERNOON SESSION AT 5:45 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 Ronald S. Trujillo

Members Excused

Councilor Patti J. Bushee
Councilor Rosemary Romero

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

Sagemaya, Dandhi, 1492 Canyon Road, spoke about an incident on Friday on Artist Road. He was told that the Parks Division and two police officers went “up there” [on Artist Road] and cut up “their tents.” He would like an investigation with regard to who authorized this – the Council, the City Manager, Parks & Recreation, the Police Department. He doesn’t feel it is proper to chop up peoples’ tents. He wants to bring this to the attention of the religious groups. He asked the Mayor to petition the Governor to investigate this and hold a hearing to find out who is responsible.

G. APPOINTMENTS

Santa Fe Regional Juvenile Justice Board

Mayor Coss made the following appointments to the Santa Fe Regional Juvenile Justice Board:

Gloria Lopez – Reappointment – term ending 10/2012;
Susan Nelsen – Reappointment – term ending 10/2013;
Deacon Anthony Trujillo – Reappointment – term ending 10/2013;
Kit Ayala – Reappointment – term ending 10/2012;
Jamesfrancis Bianca – Reappointment – term ending 10/2013;
Patty Montes Burks – Reappointment – term ending 10/2012;
Judge Michael Vigil – Reappointment – term ending 10/2013;
Mary Ellen Burns Gonzales – term ending 10/2013;
Louis A. Carlos – term ending 10/2012;
Tommy L. Rodriguez – term ending 10/2013; and
Bonifacio (Boni) Amijo – term ending 10/2012.

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

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

H. PUBLIC HEARINGS

- 1) **CONSIDERATION OF BILL NO. 2010-26; ADOPTION OF ORDINANCE NO. 2010- 21. AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF CITY OF SANTA FE, NEW MEXICO, GENERAL OBLIGATION TAX-EXEMPT BONDS, SERIES 2010, IN THE PRINCIPAL AMOUNT OF \$10,300,000, PAYABLE FROM AD VALOREM TAXES LEVIED ON ALL TAXABLE PROPERTY WITHIN THE CITY, LEVIED WITHOUT LIMIT AS TO RATE OR AMOUNT; PROVIDING FOR THE FORM, TERMS AND CONDITIONS OF THE BONDS, THE MANNER OF THEIR EXECUTION, AND THE METHOD OF, AND SECURITY FOR, PAYMENT; PROVIDING FOR THE AWARD AND SALE OF THE BONDS TO THE PURCHASER AND THE PRICE TO BE PAID BY THE PURCHASER FOR THE BONDS; AND PROVIDING FOR OTHER DETAILS CONCERNING THE BONDS. (KATHRYN RAVELING)**

A copy of a document regarding the G.O. Bonds, Series 2010, in the amount of \$10,300,000, prepared by First Southwest is incorporated herewith to these minutes as Exhibit "11."

Kathryn Raveling presented information regarding this matter noting the bond has been issued in two parts, noting the interest on the first phase was 4.1% and it is now down to 3.2%, with the additional benefit of being 100 basis points less. She said Bond Counsel Dwayne Brown and George Wiliford of First Southwest are here to answer any questions.

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

MOTION: Councilor Wurzbarger moved, seconded by Councilor Dominguez, to adopt Ordinance No. 2010-21.

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

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

Against: None.

2) REQUEST FOR APPROVAL OF LEASE AGREEMENT FOR PROPERTY ADJACENT TO THE GENOVEVA CHAVEZ COMMUNITY CENTER; YOUTHWORKS, INC. (ECONOMIC DEVELOPMENT PROJECT) – PUBLIC HEARING PURSUANT TO SECTION 11-11.8 SFCC 1987. (KATE NOBLE) (POSTPONED AT SEPTEMBER 15, 2010 CITY COUNCIL MEETING)

A Memorandum dated September 29, 2010, with attachments, to the City Council, from Kate Noble, Economic Development Division, regarding this matter is incorporated herewith to these minutes as Exhibit "12."

A copy of an Action Sheet from the Public Works/CIP and Land Use Committee Meeting of Monday, September 27, 2010, regarding this request, is incorporated herewith to these minutes as Exhibit "13."

A copy of the minutes and summary index for the Economic Development Review Sub-Committee of August 26, 2010, is incorporated herewith to these minutes as Exhibit "14."

Kate Noble said there is an updated packet which includes amendments from the Finance Committee providing that YouthWorks will convene a neighborhood meeting to discuss issues of concern to the neighbors. The second amendment is from the Public Works Committee to include an amendment in the lease that YouthWorks will pay all utilities, noting that is in Item #19 of the Lease Agreement.

Public Hearing

Kenneth Montoya thanked the City on behalf of himself and his colleagues for its support.

Sotero Romero thanked the Council, and said it is good to help people to get jobs.

Raymond Ramirez thanked the Governing Body for the program because give them jobs and keep them off the streets.

The Public Hearing was closed

MOTION: Councilor Calvert moved, seconded by Councilor Trujillo, to approve this request, as amended.

DISCUSSION: Councilor Chavez said in the new lease agreement there are new conditions which were discussed at the previous meeting. He said when YouthWorks is in the community working for other entities for the City or, for example, Cornerstone, or wherever, that in all cases there needs to be more supervision for quality control, as well as showing up on time and being prepared for the work day. This needs to be tightened as much as possible between staff and for whomever YouthWorks is working.

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

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

Against: None

Explaining his vote: Councilor Ortiz agrees with the concerns raised by Councilor Chavez, noting we did receive complaints which were reported to staff, and he wholeheartedly agrees with Councilor Chavez's recommendations and votes yes.

3) CONSIDERATION OF BILL NO. 2010-24; ADOPTION OF ORDINANCE NO. 2010-22 (MAYOR COSS, COUNCILOR ORTIZ, COUNCILOR TRUJILLO AND COUNCILOR DOMINGUEZ). AN ORDINANCE REPEALING SECTION 16-7.4 SFCC 1987, INDECENT EXPOSURE; AND CREATING A NEW SECTION 16-7.4 SFCC 1987, REGARDING PUBLIC INDECENCY. (MARCUS MARTINEZ) (POSTPONED AT SEPTEMBER 15, 2010 CITY COUNCIL MEETING.

A set of petitions totaling 1,035 signatures, stating "I am in support of Mayor David Coss's efforts to strengthen the City of Santa Fe's Indecent Exposure Ordinance referred to as Section 16-7.4 Public Indecency Ordinance," submitted for the record by Barbara Yardman and Cecilia Rivera, are incorporated herewith to these minutes in total as Exhibit "15."

A letter dated September 29, 2010, with attachments, to Mayor David Coss and Council Members, from Cecilia C. Rivera, is incorporated herewith to these minutes as Exhibit "16."

A copy of the statement for the record made by Margaret Kuhlen, with attached photographs, entered for the record by Margaret Kuhlen, is incorporated herewith to these minutes as Exhibit "17."

A copy of the statement for the record made by Tamara Lichstenstein, and entered for the record by Tamara Lichstenstein, is incorporated herewith to these minutes as Exhibit "18."

Marcus Martinez said the proposed ordinance is a revision of the existing ordinance. Santa Fe's current ordinance is based on the crime of indecent exposure, and proposes an ordinance based on Albuquerque's ordinance which is more strict than Santa Fe's. He said one difference is that the bill contains an amendment that recognizes that breast-feeding is permissible under State law. Albuquerque's ordinance appears to be based on a State law from Indiana. The Indiana law was challenged in the U.S. Supreme Court, and satisfied the test regarding restrictions on symbolic speech, and the issue of free speech has been addressed by the Supreme Court.

Mr. Martinez said Albuquerque's Ordinance has been upheld by the New Mexico Court of Appeals. He said the Court has held that an ordinance preventing only females from exposing their breasts in public places and not requiring that of men, does not violate the Equal Rights

Amendment of the State Constitution which is more restrictive than the Equal Rights Amendment to the U.S. Constitution.

Mr. Martinez said the Governing Body should be aware that the existing and proposed ordinances are permissible ways to regulate indecent exposure.

Councilor Wurzbarger asked Mr. Martinez, for the record, to give a context for the reason for the need for our law to be changed.

Mr. Martinez said he believes the impetus for the change is that certain members of the Governing Body were alerted by concerns expressed by citizens in regard to the World Naked Bike Ride which occurred in Santa Fe, commenting this is his only understanding of what propagated this change.

Councilor Wurzbarger asked Mr. Martinez to point out the deficiency in our law which needs to be addressed in this revision.

Mr. Martinez said there was no deficiency in our law in that it is compliant with State law. However, it can be made more restrictive and still be constitutional and permissible in the same way that Albuquerque has done.

Councilor Wurzbarger said, "The point being that in order to address the issue of breasts, it had to be revised, because we don't cover this in our law, and this is the main issue we're getting in this. Correct?"

Mr. Martinez said this is correct.

Mr. Zamora said, to provide further clarification, there are two major amendments which relate to the amount of coverage. The original ordinance required coverage in front and below the waist, whereas the proposed amendment provides for coverage of the buttocks for both male and female, as well as coverage of the breasts for females.

Public Hearing

Mayor Coss gave each person three minutes to speak to this issue.

Mayor Coss asked everyone to be respectful during the public hearing as we proceed forward.

Barbara Yardman said she and **Cecilia Riviera** are presenting, for the official record, petitions containing 1,035 signatures in favor of the proposed ordinance [Exhibit "15"], as a show of their support of a strong law against the kinds of disrespect which has been shown to the people of Santa Fe and its visitors. She said she and Ms. Rivera thank the Mayor and Councilors who sponsored the ordinance amendment.

Cecilia Riviera said, "When I heard comments that this ordinance wasn't going to be strong enough, I contacted two of New Mexico's largest cities, Albuquerque and Las Cruces, to see what they had on this subject. And Las Cruces... of course I asked for copies of them, and Las Cruces told me they couldn't send me copies because they had adopted, by reference in their ordinance, the whole Chapter 30 of the New Mexico Statutes annotated. Then Albuquerque's ordinance, which I got a copy of, which I'm going to turn in to you, along with these other references which I will be mentioning [Exhibit "16"], made reference of New Mexico State Statutes Annotated, one section only, the whole Chapter 30. And pretty much the ordinance you have falls pretty much in line with the definition in NMSA 39-9-14-1, including the definition of the breasts and also coverage of certain parts of the body. So, you track in line with that particular reference."

Ms. Rivera continued, "Additionally, I kept reading and in the same Chapter, there was another section on Aggravated Indecent Exposure which defines the kind of manner and behavior that these people are conducting against victims and also the intent for their actions. She said from the first section, which was a misdemeanor, when you get to this point it goes up to a Fourth Degree Felony. It continues on and I won't itemize what was in the other sections, except that it does describe violent acts along with the penalties that go with them."

Ms. Rivera continued, "The old City ordinance did make a reference to one of the sections of the New Mexico Statutes, but the new, proposed ordinance... I looked all over the place for it, because we got copies of it, and I didn't see that reference to the New Mexico Statutes any place. So I encourage the Santa Fe City Council to incorporate or reference in the new Ordinance, New Mexico State Statute annotated Chapter 30, either partially or in its entirety, because it provides the teeth to the ordinance that everybody is looking for, and it strengthens the proposed ordinance, the comments people had on that. So, by referencing it, you don't have to redo it, you don't have to redo the whole... it's just the statutory reference in the proposed ordinance. And also, total and impartial enforcement is the key to the integrity of this law. So, I'm going to hand this in as a reference point."

Nicole de Jurenev, 201 Alamo Drive, said she believes the human body is very beautiful, and if it isn't flaunted in her face, she's very happy to see it. She said she is sorry she missed the "buff looking bicyclists" who rode by, saying "maybe it's because I'm an old woman, what can I say." She is horrified that the Council would spend time on this when there are terrible problems in the neighborhood. She said on one day in the Mayor's neighborhood there were 5 break-ins. She said "we would like you to pay attention and get new legislation so people who are arrested at least have ankle bracelets and aren't allowed to be out on bail so they continue this cycle of committing crime." She said one of the reasons for crime is because "our schools are so terrible, and I would like to know why you are not addressing the over 50% dropout rate. What are those people going to do. Hello! They're going to steal because they can't get jobs." She said it is totally ridiculous that women can't breast-feed in public. She said, "We need you to address what is important in the community and the number one problem is crime, and maybe the number one problem is also the schools. So please, please, take care of the important stuff. This is just a joke."

Margaret Kuhlen, 2800 Cerrillos Road #156, said she is speaking in "the strongest possible opposition" to the proposed ordinance. She is a [inaudible] and a lactation consultant and she advised the Council that it is difficult enough to encourage young women to nurse their babies for at least one year, as recommended by the WHO, and all other such health organizations. She said, if adopted, she would advise the Governing Body that the inhibiting, embarrassing and dampening factor of this ordinance would be damaging to the work they do every day to encourage breast-feeding and the bond of the mother and the child in our community. She said if nursing mothers are not welcomed, she would be most ashamed of this community. Ms. Kuhlen presented pictures as follows for the record [Exhibit "17"]:

- An image from Lourdes of the Blessed Virgin nursing the infant Jesus, which could be said under this ordinance to be indecent exposure.
- The Mother of Jesus nursing her infant openly presumably as an act of worship and an offering to all of us.

Micki Vasquez, 2908 Pueblo Sangre, said she would like to suggest, as written, this ordinance needs more special situations, noting she sees that there is a proposed amendment that this section shall not apply to breast-feeding. She said the last time we were here, someone asked what would happen if a 6-year-old child was running around the pool without a top, or whether men could be topless in a place such as a public swimming pool. She sees this as needing some thought. She said it is her concern, as a Professor of Business, that incidents such as a naked bicycle ride would be detrimental to tourism in Santa Fe. She wants Santa Fe to be known as a place where people who come for meetings can bring their families, a man can bring his wife, or the

children can go to the Plaza and expect to see people dressed conventionally. She said even though it says businesses can have performances and that would be exempted, she thinks there should be more consideration for different situations, but with conventional clothing in our most public places so the tourism industry is not impacted.

Stan Rosen said he lives in the County. He made a statement last week that the ordinance should be considered for changes. He said, in his judgment, the present ordinance provides enough latitude, whether legal or otherwise, to maintain the kinds of standards "I think you are suggesting." He said secondly, he sent a Memorandum to "the City Council in which I included 20 questions." He said it would take too much time to go over these 20 questions. However, he raised a number of serious questions about the enforcement of this law and what that will mean to the friendliness of the City to non-hasslement of our tourists and citizens and some very significant questions." He said he has only heard about turgid college lectures, and he has questions as to how something like turgidity will be enforced. He thinks this pushes the limits of enforcement. Thirdly, since we are a Creative City and the City Different, he believes many people who demonstrate are trying to get attention for their cause. He suggested a procedure where the City mediates with "people like those individuals," tells them they prefer that they "do the following," which could include certain standards of coverage and behavior. He said he heard one group decided not to come to Santa Fe if these were the standards. However, if they do, he suggested we have a standard that is in keeping with fairness. He said finally, if the ordinance is passed, the City should adopt a standard coverup.

Tamara Lichstenstein entered her statement for the record against the Ordinance (Exhibit "18"). Please see Exhibit "18" for the complete statement. She said she is wearing two costumes this evening, and both of them currently are legal to wear in public. One is a scary costume, the other is a normal bathing suit which apparently is scary to some people because they would try to pass a law making it illegal to wear in public because of buttock exposure

Ms. Lichstenstein concluded, "The burden of living in a diverse democracy, with freedom of expression, and not in a theocracy, is that we are practically guaranteed to be exposed to expressive speech and action that we don't like – even to things that deeply offend us. The First Amendment is meant to protect even offensive expression – that is its most pressing purpose. If we all agreed and no one were ever offended, we wouldn't need a First Amendment." Ms. Lichstenstein then raised her costume exposing her bathing suit bottom, which she said under the ordinance would be illegal at a Santa Fe swimming pool. [The balance of her remarks were inaudible because she was away from the microphone.]

Raymond Joggerst said he has no problem with indecent exposure ordinances, but he has a problem with the way this one is written, in that it defines nudity as "nudity means the showing of human male or female genitals, pubic area," commenting he is okay with that, "or buttocks," which is problematic and how much is okay and what isn't okay, and then "with less than fully opaque coverings." This defines nudity as wearing clothes, and "when those aren't acceptable, you will be calling that nudity as well." He asked what constitutes opaque clothing. He asked, "Would it be opaque clothing if someone is back lit, then probably not so much." He said the ordinance provides, "the showing of the female breasts in less than opaque clothing." He asked would an evening gown be considered fully opaque. He said the ordinance provides "covering any part of a nipple or showing male genitals in a turgid state," which is his favorite part because it doesn't matter whether or not the cloth is transparent, it's that someone gets to decide if you're turgid. He said we will have men riding bicycles and if someone points to them and yells turgid, and someone calls the police, how can you prove it, commenting the same thing could happen at a swimming pool. He said the ordinance is poorly written. He said this is a free license for the people in our society who are the most vindictive and meanest, to be mean and vindictive. He said they could call the police if his one-year-old daughter pulls up her shirt and shows her baby nipples.

David McQuarie, 2997 Calle Serrada, said he is here to speak against the adoption of this ordinance change. He said some people are afraid they can't bring their kids to the Plaza. He said he is modest and has never exposed himself in public, but if some do, it is freedom of speech and let them. They are American, he is American, and he believes in equal rights. He said he wishes the disabled had equal rights in Santa Fe.

Gilbert Pino, Board Member, New Mexico Catholic Coalition, said a lot of people have spoken and some people in the audience think it is a laughing matter, but he isn't laughing and is very serious about this issue. He was born and raised in Santa Fe, the City of the Holy Faith, which sadly is no longer the same. He attended St. Michaels for 12 years, and he was raised with morals, and he is saddened by what is happening here. He is in favor of the proposed ordinance, because he cannot see the good which comes from public nudity. He asked what lessons we are teaching our young people. He said there are private places where people can do what they want, which is fine, but he doesn't understand doing these things in public and that people will accept this kind of behavior. He urged the Governing Body to adopt the ordinance.

Candace Joggerst said if this ordinance is adopted, which she hopes it isn't, that it has strong provisions protecting the right to breast-feed. She said she has chosen to breast-feed her child, and believes she has the right to be an equal participant. She said prohibiting breast-feeding is ridiculous.

Diana Alvarado, 517 Juniper Drive, said many of the examples given this evening were somewhat overdone. She said, "No one is going to arrest you if you're wearing a bathing suit. That's ridiculous." She said we all know feeding our babies is essential. She said some of the things we are protesting are people wearing g-strings and exposing their genitals and parading around making a mockery. She said this is what we are opposed to and we support the ordinance.

The Public Hearing Was Closed

MOTION: Councilor Ortiz moved, seconded by Councilor Trujillo and Councilor Dominguez, to adopt Ordinance No. 2010-22, with the amendment sheet that the ordinance specifically does not apply to breast-feeding.

DISCUSSION: Councilor Wurzbarger said there is an interpretation by one member of the public about the bathing suit, and many people have bathing suits such as that, and some of the buttocks will show. She asked Mr. Zamora, "How would that issue be affected in this. We've already heard from one person that that's not the intention. I clearly expected to see an European bathing suit that just goes up the middle. So could you clarify how a bathing suit, such as we've seen tonight... is that covered. And if it is, then I would like to have an amendment to clarify that.... that's the first question."

Mr. Zamora said, "The answer to your first question, and I'll also ask Marcos Martinez to supplement my answers. Under the definition section, where it says what nudity means, go to the showing of the buttocks with less than a fully opaque covering. In the instance of what we've seen this evening, we have coverage on the buttocks with an opaque or non-see-through covering."

Councilor Wurzbarger said it doesn't describe full coverage on the buttocks.

Mr. Martinez said, "That is how I would read it.

Councilor Wurzbarger said, "Then, by virtue of the fact that it doesn't say the entire buttocks, then we won't have a problem with that. Well, I just want to make sure I understand it."

Mr. Zamora said, "Again, review this in contrast to the existing ordinance which does not require any coverage of the buttocks area."

Councilor Wurzbarger said, "The second question is with respect to the covering of the female breast, and the young man who spoke about the nature of materials. If you wear a white tee-shirt and you don't happen to wear something under the white tee-shirt, even though it is opaque, you could still see what is underneath the tee-shirt, so, now is that covered. If you have on a white standard tee-shirt that you can see through. The material is opaque, but you can still see, do we have a problem. Are we legislating that as well."

Mr. Martinez said, "Part of the problem stems from the fact that this ordinance is not meant to cover every conceivable situation, and there's always a degree of discretion that's given to law enforcement in determining the applicability of any ordinance. Part of the reason the ordinance is written as it is, is because this ordinance has been upheld in many different contexts, and that becomes one basis for selecting an ordinance, which is that people have found it to be constitutional and therefore they emulate it, and that is what has happened in the case of Albuquerque emulating Indiana. And now, if the City were to adopt this, we would be emulating other examples that have already been found to be constitutional. This ordinance would become sprawling if it attempted to address every single contextual possibility, and there's always room in every ordinance, especially criminal law, to determine whether it would apply or not. And that's why intent is always a component of any kind of criminal law and whether there would be some intent to violate this ordinance, would be one element that would have to be proved as well. So, I think in these questions that are on the edges or on the fringes, they would have to be determined on a case-by-case basis. But, it is up to the will of the Governing Body to suggest any amendments that we could consider."

Councilor Wurzbarger said, "About the question that was brought up by someone in the audience with respect to age, the way this is written, as I interpret it, it could apply to children. You did not say the word adult and you didn't operationally define anything male or female, and is that the intention of the sponsors, and would you consider an amendment that would eliminate children up to a certain age from being able to do what they do, which is run around without their clothes on. What was the intention. Is that nudity to be controlled, it is nudity."

Councilor Ortiz said, "As maker of the motion, as the father of a 13-year-old girl, yes. And if you want to propose an amendment that further operationally defines it, I'm willing to consider that. 12 and above adult – whatever language you want to put that operationally defines who is subject to this, so it takes away from the example one of the audience raised about a little kid streaking in the pool. Yes, I can see that, but, what's the cut-off."

Councilor Wurzbarger said she didn't write the law nor make the suggestion.

FRIENDLY AMENDMENT: Councilor Wurzbarger proposed to amend the ordinance to include the word "adult," and then define it as age 12 and above. **THE AMENDMENT WAS FRIENDLY TO THE MAKER.**

Mayor Coss asked Mr. Zamora to speak to the Friendly Amendment.

Mr. Zamora said, "As we've done some of the research, one of the difficulties you will run into in age limitations is differences in development, speed of development, verification of ages, so if you do encounter a naked 12-year old, either male or female, have you verify the age in that regard. That's why a lot of these ordinances and model ordinances that have passed constitutional scrutiny don't have the age issue."

Councilor Wurzbarger asked if they have the word "adult" in them and Mr. Zamora said It does not.

WITHDRAWAL OF THE MAKER'S AGREEMENT TO THE FRIENDLY AMENDMENT: Councilor Ortiz said, "So Mayor, based on the advice of the City Attorney, I withdraw the Friendly Amendment."

Councilor Wurzbarger said, "The last thing is... as I was reading this, I was extremely concerned about the implementation, particularly of the turgid state discussion. Have we had input from the Police Department with respect to how you really would do this."

Mr. Martinez said, "I can only say that I believe this would also be similar...to address this question, I would address it similarly to the way I did the previous one, which is this a problem of enforcement. There is a degree of discretion that the Police have. I have not had any specific discussions with them on how they would have to deal with that particular problem. The reason why it is in there is that it has been in the ordinances, in the model ordinances, which have been found to be constitutional by the U.S. Supreme Court and our Court of Appeals, and that is the only reason it is there."

Councilor Wurzbarger said, "Then in the discussion in creating this, was the concern... I mean it wasn't sufficient just to be covered, that you have to be concerned about size, shape and turgidity. She understands, and for those of you in support of this, I understand the issue of wanting to protect the community from the perspective of how we define Santa Fe, but I'm just trying to deal with the operational implementation perspective of how we define Santa Fe. I'm just trying to deal with the operational implementation of the law. And this really concerns me. Again, I wasn't part of

the discussion when you put this together, and maybe you're going to say again, it's because it is a model law. Is that in the model law.. this thing about the turgid state."

Mr. Zamora said, "That part has passed legal scrutiny."

Councilor Wurzbarger believes it's going to be impossible to implement.

Councilor Chavez said part of what prompted some of the concerns, is not only the state of dress of this group, but this Ordinance seems to make it better. He likes the idea about having a pre-permit procedure. He said he believes there was a level of disrespect in the previous event from the group toward the citizens, perhaps not intentionally, but because the bike ride was hosted at a time when other events were being staged downtown. He said some of the downtown churches were also concluding services about this time. He said we should think about the route and timing of these parades, no one was riding while breast-feeding. They were trying to bring our attention to our dependence on oil, which is a valid statement, but how it was done, when and where, caused all of the problems. He would like to include the pre-permit procedure in the application process.

Mayor Coss clarified that the group didn't have a parade permit, and didn't need a parade permit because the ordinance is permissive. These people just went for a bike ride, and they had read the ordinance.

Councilor Chavez said he believes we will be asking them to apply for a permit in the future, and in that case, moving forward he would like a pre-permit as part of the procedure.

Councilor Ortiz asked if this is a procedure that goes with parades or what.

Councilor Chavez is unsure how that would work. He said there has to be some sort of notice that these people are going to come into Santa Fe and use public space.

Councilor Ortiz asked if Mr. Zamora if they have to apply for a permit for legitimate artistic expression or for legitimate free speech expression.

Mr. Zamora said, "Using the naked bicycle ride as an example. There are certain organizations that will study ordinances before they come in. One of the things they studied was the indecency ordinance for a level of coverage and that was part of the reason for coming here. The other thing that they did do, was seek, in advance to get permitted, but as they proceeded the event that they put together was a casual bicycle ride among a few people, so there would have to be substantial changes. If it's one person riding a bike nude, does that apply. Do you have to get a permit for one

person riding down the street. That's not necessarily a parade. It's not necessarily an organized protest. What they did was just a few small number of people going nude going on a bicycle ride like we see lots of people going on a bike ride. So, it's difficult to address that issue."

Councilor Ortiz said then they went through the permit process, found out it was too difficult, and instead did an informal ride. He said we have a permit process for people who are legitimate in their concerns about artistic or free speech expression, but they didn't want to do that. Instead, they thought we had a lax ordinance, and so they didn't need to get a permit. This is what he is hearing.

Mr. Zamora said, "That's correct. That was the analysis."

Councilor Chavez said then that changes his thinking.

Councilor Trujillo said amendment proposed has taken care of the issue of breast-feeding, and Mr. Zamora said this is correct.

Councilor Trujillo said it is important to be able to breast-feed children. He said his wife breast-fed both of their children for one year, but when they were in public, she covered her breast with a cloth. This takes care of the children, while considering others around you. He said he saw the World Naked Bicycle Ride. He was on the Plaza with his wife and children, having just finished watching the parade and decided to get ice cream. While sitting in the ice cream parlor, his son called his attention to the naked bicyclists.

Councilor Trujillo said he and his wife decide what his children will see, at the movies and on television. He said the Plaza was crowded with a lot of people. He doesn't want his children seeing things like this, and this is his concern, saying children have never seen things like this. He wants to protect the children, because they're not ready for this. He understands that Santa Fe is a Creative City. He said there was a group that wanted to flash, but they did it at Ft. Marcy and people could choose whether or not to attend. He said, however, he can't see these kinds of things being done with children around. He said he supports the Ordinance with the amendment.

Councilor Dominguez said because of the nexus behind the child friendly City initiative, he is glad to see the amendment exempting breast-feeding which he believes is appropriate and natural. He said, for the record, "I want to specifically ask if the specific language has been tested at the Supreme Court."

Mr. Martinez said, "The history of that was presented to the New Mexico Court of Appeals was whether requiring women to cover their breasts and not requiring men, was that a violation of the Equal Rights Amendment, and the Court of Appeals found that it wasn't, and that the ordinance, in general, was not a violation of the First Amendment. So, those were the parts of the ordinance in Albuquerque that were tested and found to be constitutional. The challengers to the ordinance petitioned the Supreme Court of New Mexico, and the Supreme Court declined to review the case. So the case stands, as the New Mexico Court of Appeals has found it to be constitutional."

Councilor Dominguez said the reason for his question, is because "there was a part of me that wanted to strengthen it a little bit. But it sounds like what is being proposed has been tested and is legal."

Councilor Dominguez said, as a cosponsor of the Ordinance, it comes because he received a number of calls from constituents who were concerned about the nature of the protest. He said he went to the staging area where the bicyclists left for the ride. He said it comes down to the fact that they were taking advantage of the current ordinance which allows them to do that. He said they were interested in making a statement, of course, but they were utilizing the existing ordinance as a way to expose what he and others thought was more than what was appropriation.

Councilor Dominguez said nudity isn't new, nor are naked demonstrations. He said staff has done a good job to ensure that we have something which is viable and defensible. He said this is a community which uses its proper discretion and what was being displayed was not proper. He said this comes down to ensuring in our Code, in the legalese of things that govern the City, that there is a level of respect which will be allowed, and the reason he supports the ordinance. He thanked everyone who spoke this evening, whether for or against the ordinance, because it is freedom of expression and people should free to do this, and thanked Tamara for her demonstration.

Mayor Coss thanked Marcos for his excellent work. He wants to see our events grow, but he does not want to be known as the capital of the World Naked Bike Ride. He said these were 19 people who were not from Santa Fe, and although he loves visitors, he believes people who come here should show more respect that they did. He understands this was a polite group who said if we change our ordinance they will honor it.

Mayor Coss said an important piece to him is the amendment for breast-feeding. He said his wife has been involved in breast-feeding promotion for 40 years. He said this issue is well addressed in the ordinance.

Mayor Coss said, with regard to the "what if" games, he would ask the public to give our police a little bit of credit. They deal with these kinds of things all year long, and discretion is a part of their job every single day. He said this provides a better tool so we all live respectfully together in Santa Fe. He thanked Marcos Martinez for his good work on this issue.

Mr. Zamora said, "With regard to Marcos Martinez and his duties, so that no one gets the wrong idea, in addition to being an excellent water lawyer, he's one of the best constitutional researchers out there, and he has begun taking on the constitutional research for this Governing Body to ensure our constitutional compliance."

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

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

Against: None

Explaining her vote: Councilor Wurzbarger said, "I vote yes, because I've been satisfied with respect to the question of having a very narrow focus and a more narrow implementation than what was possible than when it was first presented."

Explaining his vote: Councilor Calvert said, "I did struggle with this one early on, because on the one hand I think this is something that occurs in our community once every 3-4 years, is my recollection. And we have things like break-ins of things like cars and homes on a daily basis. So, I was struggling with the attention one thing was getting versus another, and also with the fact that people who do this kind of demonstrations want the attention, so I'm not sure they are going to care what the law is, because they're seeking attention of their acts. And, this law provides punishment of a petty misdemeanor which I'm not sure will be much deterrence to people who really want to get that attention for whatever demonstration they're doing. And I didn't receive that many calls or emails. But one lady, a very polite lady, calmly told me her opinion of why she was for this law, which was that it was an insult to our culture. And I really took that comment to heart, and you know people have heard me talk about sustainability, well, that isn't just things green, but that's also sustainability as it applies to the culture of this City and it's history. And so I really took that comment to heart, and with respect toward maintaining that sustainability of the culture, I want to respect that and I'll vote yes."

Explaining his vote: Councilor Chavez said, "Well, I did get comments and a few calls from people. During Fiestas, I was approached by a few people, and I really thought people were asking for more of a dress code. And the level of support that I see tonight for this Ordinance tells me that our community is accepting, and do tolerate other points of view. And I think that says a lot about who we are. And, I hope that in doing this, we can demonstrate to the public, to Albuquerque, to other parts of the country that we do care about our history and culture, but that we're open to other points of view. That's a little bit of a contradiction, but I think many times that's who and what we are. And so, I was a little surprised at the level of support for or against it as written. I'm going to support it and hope that we can get on to other business that is important to the citizens as well.

Explaining his vote: Councilor Ortiz said, "I want to thank Ms. Casados and the ladies from the St. Francis group who came, and approached us about this issue and about their diligence in coming up with the push behind this particular ordinance, and I respect all of them, and I vote a very positive yes."

I. ADJOURN

There was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 8:25 p.m.

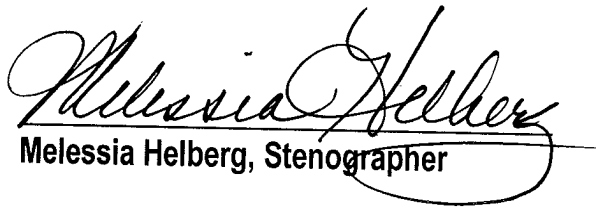
Approved by:

Mayor David Coss

ATTESTED TO:

Yolanda Y. Vigil, City Clerk

Respectfully submitted:


Melessia Helberg, Stenographer