



# Agenda

REGULAR MEETING OF  
THE GOVERNING BODY  
APRIL 25, 2007  
CITY COUNCIL CHAMBERS

## AFTERNOON SESSION – 5:00 P.M.

CITY CLERK'S OFFICE

DATE 4/20/07 TIME 2:20 pm

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

RECEIVED BY *Lydominguez*

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. INVOCATION
4. ROLL CALL
5. APPROVAL OF AGENDA
6. APPROVAL OF CONSENT CALENDAR
7. APPROVAL OF MINUTES: Reg. City Council Meeting – April 11, 2007
8. PRESENTATIONS
  - a) Muchas Gracias – Santa Fe Demon Heat Dance Team; 2007 U. S. Dance Champions (Pom Division). (5 Minutes)
  - b) Muchas Gracias – St. Michael's Boys Basketball Team – AAA State Champions. (5 Minutes)
  - c) Muchas Gracias – Capital High School Boys Basketball Team – AAAA State Runner-Up. (5 Minutes)
  - d) Santa Fe Home Builders Association Home and Remodeling Show. (Gary Ehlert) (5 Minutes)
9. CONSENT CALENDAR
  - a) Bid No. 07/41/B – El Rio Trail Road Improvement Project Construction Contract; Concrete Rose Construction. (David Chapman)
  - b) Request for Approval of Amendment No. 2 to Professional Services Agreement – Police Main Facility Renovations; Lloyd and Associates Architects. (Chip Lilienthal)
    - 1) Request for Approval of Budget Adjustment – Project Fund.



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- c) Request for Approval of Grant Agreement – Facilitate Recruitment, Retention/Expansion and Creation of Jobs in Santa Fe; State of New Mexico Economic Development Department. (Craig Fiels)
  - 1) Request for Approval of Budget Increase – Grant Fund.
- d) Request for Approval of Amendment No. 1 to Professional Services Agreement – Relocation of Prairie Dogs at Franklin Miles Park and Larragoite Park; ECO Solutions. (Ben Gurule)
- e) Request for Approval of Non-Exclusive License Agreement – Downtown Tour Operators. (William Hon)
  - 1) Afoot in Santa Fe Tours, Inc.
  - 2) Custom Tours by Clarice, Inc.
  - 3) Fiesta Tours
- f) Request for Approval of Santa Fe Civic Center Project. (Frank Archuleta)
  - 1) Request for Approval of Amendment No. 2 to Professional Services Agreement; Museum of New Mexico, Office of Archaeological Studies.
  - 2) Request for Approval of Amendment No. 3 to Professional Services Agreement – Project Management Consultant; Hands Engineering, LLC.
  - 3) Request for Approval of Amendment No. 2 to Professional Services Agreement – Project Architect; Fentress Bradburn Architects, Ltd.
  - 4) Request for Approval of Construction Change Order No. 3 to Construction Contract; Cameron Swinerton.
- g) Request for Approval of Professional Services Agreement – Security Services at Water Facilities; Chavez Security, Inc. (Gary Martinez)
- h) Request for Approval of Agreement – Supply the Santa Fe Horse Park with Treated Effluent; Santa Fe Horse Park, LLC. (Costy Kassisieh)  
**(Request to Postpone to May 9, 2007 City Council Meeting).**
- i) Request for Approval of Lease Agreement – Supplemental Water for the Silvery Minnow from San Juan Chama Water; Bureau of Reclamation. (Claudia Borchert)



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- j) Request for Approval of Contract – Certified Local Government and Assurances Program of Cultural Affairs; State of New Mexico Department of Cultural Affairs Historic Preservation Division. (David Rasch)
  - 1) Request for Approval of Budget Increase – Grant Fund.
- k) Request for Approval of Amendment No. 6 to Legal Services Agreement; Sutin Thayer & Browne, P.C. (Frank Katz)
- l) Request for Approval of Budget Increase for Compressed Natural Gas for Transit Division. (Jon Bulthuis)
- m) Request for Approval to Publish Notice of Public Hearing on May 30, 2007:
  - 1) Bill No. 2007-16 – An Ordinance Creating a New Article 10-10 SFCC 1987 Prohibiting the Burning of Coal in the City Limits of Santa Fe. (Councilor Wurzbarger, Mayor Coss, Councilor Calvert, Councilor Dominguez, Councilor Ortiz and Councilor Trujillo) (Jack Hiatt)
  - 2) Bill No. 2007-21 – An Ordinance Amending Section 18-1.2 SFCC 1987 Regarding the Definition of Distress Merchandise Sale; Creating a New Section 14-8.10(B)(8) SFCC Regarding Fines for Non Complying Signs; Amending Section 14-8.10(H)(28) and Creating a New Section 14-8.10(H)(29) SFCC 1987 Regarding the Prohibition of Price Reduction Signs in the Historic Districts. (Councilor Heldmeyer) (David Rasch)
  - 3) Bill No. 2007-17 – An Ordinance Repealing Section 8 of Exhibit A, Chapter 22 SFCC 1987 and Creating a New Section 8 of Exhibit A, Chapter 22 SFCC 1987 Establishing New Sewer Service Charges; Amending Section 12 of Exhibit A, Chapter 22 SFCC 1987 Establishing New Extra Strength Sewer Surcharge Rates; and Amending Section 13 of Exhibit A, Chapter 22 SFCC 1987 Establishing New Effluent Rates. (Councilor Calvert and Councilor Trujillo) (Costy Kassisieh)



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- 4) Bill No. 2007-19 – An Ordinance Amending Chapter 21, SFCC 1987 Regarding Solid Waste Collection Requirements and Enforcement Penalties. (Councilor Ortiz and Councilor Trujillo) (William DeGrande)
- 5) Consideration of Adoption of 2007/2008 Community Development Block Grant (CDBG) Entitlement Program. The CDBG Program is Part of the City's Annual Action Plan Submitted to the U. S. Department of Housing and Urban Development. (Melisa Collett)
- n) CONSIDERATION OF RESOLUTION NO. 2007-\_\_\_\_\_. (Councilor Ortiz, Councilor Dominguez, Councilor Calvert and Councilor Trujillo)  
A Resolution Repealing Various Resolutions that Created Certain Committees, Boards, Commission and Task Forces of the City of Santa Fe Whose Status are Inactive or are No Longer the Pleasure of the Governing Body. (Julie Berman)
- o) Request for Approval Sole Source Procurement and Agreement – Software Upgrades for Planning and Land Use Department; Sungard H.T.E., INC. (Caryn Fiorina)
- p) CONSIDERATION OF RESOLUTION NO. 2007-\_\_\_\_\_. (Councilor Ortiz, Councilor Bushee, Councilor Dominguez, Councilor Trujillo and Councilor Calvert)  
A Resolution Adopting Administrative Procedures for Implementing the Santa Fe River Fund, Creating a Voluntary Contribution Fund to Acquire or Lease Water Rights for the Benefit of the Santa Fe River and the Rio Grande. (Janine Johnston)
- q) CONSIDERATION OF RESOLUTION NO. 2007-\_\_\_\_\_. (Councilor Bushee, Councilor Trujillo and Councilor Calvert)  
A Joint Resolution Honoring the Memory of Sarah Williams; Naming a Trail in the County of Santa Fe's Trail System for Her.
- r) Request for Approval of Collective Bargaining Agreement – American Federation of State, County and Municipal Employees (AFSCME). (Debbie Blea)



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- s) Request for Approval of Change Order No. 5 (Cancellation of Change Order No. 2) – Camino Alire Bridge and Intersection Improvements Project; A.S. Horner, Inc. (Peter Manzanares)
- 10. **Case # A 2006-11. Dismissal of 444 Camino de Las Animas Building Permit Appeal.** Decision by Governing Body to Dismiss for Failure of Appellant to Prosecute the Appeal by Cecilia Redman-Tafoya of Board of Adjustment Decision Denying an Appeal of Building Permit 06-1745 for an Accessory Dwelling Unit. The Property is Located at 444 Camino de Las Animas Street. (Greg Smith) **(Postponed at the March 28, 2007 City Council Meeting)**
- 11. MATTERS FROM THE CITY MANAGER
- 12. MATTERS FROM THE CITY ATTORNEY

## EXECUTIVE SESSION:

- 1) Discussion of Pending Litigation with Tierra Contenta Corporation, Pursuant to §10-15-1 (H) (7) NMSA 1978.
- 2) Discussion of Pending Litigation with Avistar, Pursuant to §10-15-1 (H) (7) NMSA 1978.
- 3) Discussion of Threatened Litigation Concerning Recent Amendments to the City Ethics/Campaign Code, Pursuant to §10-15-1 (H) (7) NMSA 1978.
- 13. Action Regarding Settlement Agreement with Tierra Contenta Corporation. (Frank Katz)
- 14. Action Regarding Settlement Agreement with Avistar. (Jim Montman)
- 15. MATTERS FROM THE CITY CLERK
- 16. COMMUNICATIONS FROM THE GOVERNING BODY

## EVENING SESSION – 7:00 P.M.

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



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CITY COUNCIL CHAMBERS

C. INVOCATION

D. ROLL CALL

E. PETITIONS FROM THE FLOOR

F. APPOINTMENTS

G. PUBLIC HEARINGS:

- 1) Request from Jerry A. Honnell Jr., for a Restaurant (Beer & Wine) License to be located at Honnell's Late Night Burger, 1201 Cerrillos Road. (Yolanda Y. Vigil)
- 2) CONSIDERATION OF BILL NO. 2007-13: ADOPTION OF ORDINANCE NO. 2007-\_\_\_\_\_. (Councilor Chavez)  
An Ordinance Amending Section 14-3.4 SFCC 1987 Regarding Petition Method Annexations and Sector Plans and Amending the Definition of Sector Plan in Article 14-12 SFCC 1987. (Frank Katz)
- 3) CONSIDERATION OF BILL NO. 2007-14: ADOPTION OF ORDINANCE NO. 2007-\_\_\_\_\_. (Councilor Bushee, Councilor Calvert, Councilor Chavez, Councilor Trujillo and Councilor Dominguez)  
An Ordinance Amending Section 14-8.15 SFCC 1987 Requiring the Dedication of Land or Easements for the Purpose of Public, Non-Motorized Trails. (Anne McLaughlin)
- 4) Request from Palo Alto, Inc, for a Restaurant (Beer & Wine) License to be located at Pizza Hut #12958, 4250 Cerrillos Road. (Yolanda Y. Vigil)  
**(Postponed to May 9, 2007 City Council Meeting)**

H. ADJOURN

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

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

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

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**April 25, 2007**

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<b>ITEM</b>	<b>ACTION</b>	<b>PAGE(S)</b>
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<b>Discussion of Pending Litigation with Avistar, Pursuant to §10-15-1 (H) (7) NMSA 1978.</b>		
<b>Discussion of Threatened Litigation Concerning Recent Amendments to the City Ethics/Campaign Code, Pursuant to §10-15-1 (H) (7) NMSA 1978.</b>		
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**MINUTES OF THE  
REGULAR MEETING OF THE  
GOVERNING BODY  
Santa Fe, New Mexico  
April 25, 2007**

**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 25, 2007, at approximately 5:00 p.m., in the City Hall Council Chambers. Following the Pledge of Allegiance and Invocation, Roll Call indicated the presence of a quorum, as follows:

**Members Present**

Mayor David Coss  
Councilor Miguel Chavez, Mayor Pro-Tem  
Councilor Patti J. Bushee  
Councilor Christopher Calvert  
Councilor Karen Heldmeyer  
Councilor Matthew E. Ortiz (late)  
Councilor Ronald S. Trujillo  
Councilor Rebecca Wurzbarger

**Members Absent:**

Councilor Carmichael A. Dominguez (excused)

**5. APPROVAL OF AGENDA**

Mayor Coss asked at the request of Councilor Ortiz that the Executive Session be moved to after the public hearings during the evening session.

**Councilor Wurzbarger moved approval of the agenda as amended, Councilor Bushee seconded the motion which passed by unanimous voice vote.**

**6. APPROVAL OF CONSENT CALENDAR**

Councilor Heldmeyer requested item i be removed per staff and she requested items r and s be removed.

Councilor Bushee clarified that the CDBG block grants go to Committees before they get advertised. She said it has been done this way in the past.

Councilor Heldmeyer said this is just a request to publish notice for May 30<sup>th</sup>.

Mayor Coss said it will go to the Committee before the May 30<sup>th</sup> final public hearing.

Councilor Bushee said that is not usually how it has been done. She also did not recall ever putting contracts with the union on consent. She wanted to make the point that the block grants at the very least are going to Committee.

**Councilor Bushee moved for approval of the consent agenda as amended. Councilor Calvert seconded the motion. The motion passed on the following roll call vote:**

**Those for the motion: Councilor Bushee, Councilor Calvert, Councilor Chavez, Councilor Heldmeyer, Councilor Trujillo and Councilor Wurzbarger. [Councilor Ortiz was not present for this vote].**

- a) Bid No. 07/41/B – El Rio Trail Road Improvement Project Construction Contract; Concrete Rose Construction. (David Chapman)**
- b) Request for Approval of Amendment No. 2 to Professional Services Agreement – Police Main Facility Renovations; Lloyd and Associates Architects. (Chip Lilienthal)**
  - 1) Request for Approval of Budget Adjustment – Project Fund.**
- c) Request for Approval of Grant Agreement – Facilitate Recruitment, Retention/Expansion and Creation of Jobs In Santa Fe; State of New Mexico Economic Development Department. (Craig Fiels)**
  - 1) Request for Approval of Budget Increase – Grant Fund.**
- d) Request for Approval of Amendment No. 1 to Professional Services Agreement – Relocation of Prairie Dogs at Franklin Miles Park and Larragoite Park; ECO Solutions. (Ben Gurule)**
- e) Request for Approval of Non-Exclusive License Agreement – Downtown Tour Operators. (William Hon)**
  - 1) Afoot in Santa Fe Tours, Inc.**
  - 2) Custom Tours by Clarice, Inc.**
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- f) Request for Approval of Santa Fe Civic Center Project. (Frank Archuleta)**
  - 1) Request for Approval of Amendment No. 2 to Professional Services Agreement; Museum of New Mexico, Office of Archaeological Studies.**
  - 2) Request for Approval of Amendment No. 3 to Professional Services Agreement – Project Management Consultant; Hands Engineering, LLC.**
  - 3) Request for Approval of Amendment No. 2 to Professional Services Agreement – Project Architect; Fentress Bradburn Architects, Ltd.**
  - 4) Request for Approval of Construction Change Order No. 3 to Construction Contract; Cameron Swinerton.**
- g) Request for Approval of Professional Services Agreement – Security Services at Water Facilities; Chavez Security, Inc. (Gary Martinez)**
- h) Request for Approval of Agreement – Supply the Santa Fe Horse Park with Treated Effluent; Santa Fe Horse Park, LLC. (Costy Kassisieh) (Request to Postpone to May 9, 2007 City Council Meeting).**

- j) Request for Approval of Contract – Certified Local Government and Assurances Program of Cultural Affairs; State of New Mexico Department of Cultural Affairs Historic Preservation Division. (David Rasch)**
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- k) Request for Approval of Amendment No. 6 to Legal Services Agreement; Sutin Thayer & Browne, P.C. (Frank Katz)**
- l) Request for Approval of Budget Increase for Compressed Natural Gas for Transit Division. (Jon Bulthuis)**
- m) Request for Approval to Publish Notice of Public Hearing on May 30, 2007:**
  - 1) Bill No. 2007-16 – An Ordinance Creating a New Article 10-10 SFCC 1987 Prohibiting the Burning of Coal in the City Limits of Santa Fe. (Councilor Wurzbarger, Mayor Coss, Councilor Calvert, Councilor Dominguez, Councilor Ortiz and Councilor Trujillo) (Jack Hiatt)**
  - 2) Bill No. 2007-21 – An Ordinance Amending Section 18-1.2 SFCC 1987 Regarding the Definition of Distress Merchandise Sale; Creating a New Section 14-8.10(B)(8) SFCC Regarding Fines for Non Complying Signs; Amending Section 14-8.10(H)(28) and Creating a New Section 14-8.10(H)(29) SFCC 1987 Regarding the Prohibition of Price Reduction Signs in the Historic Districts. (Councilor Heldmeyer) (David Rasch)**
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  - 4) Bill No. 2007-19 – An Ordinance Amending Chapter 21, SFCC 1987 Regarding Solid Waste Collection Requirements and Enforcement Penalties. (Councilor Ortiz and Councilor Trujillo) (William DeGrande)**
  - 5) Consideration of Adoption of 2007/2008 Community Development Block Grant (CDBG) Entitlement Program. The CDBG Program is Part of the City's Annual Action Plan Submitted to the U. S. Department of Housing and Urban Development. (Melisa Collett)**
- n) CONSIDERATION OF RESOLUTION NO. 2007-33. (Councilor Ortiz, Councilor Dominguez, Councilor Calvert and Councilor Trujillo)**

**A Resolution Repealing Various Resolutions that Created Certain Committees, Boards, Commission and Task Forces of the City of Santa Fe Whose Status are Inactive or are No Longer the Pleasure of the Governing Body. (Julie Berman)**
- o) Request for Approval Sole Source Procurement and Agreement – Software Upgrades for Planning and Land Use Department; Sungard H.T.E., INC. (Caryn Fiorina)**

**p) CONSIDERATION OF RESOLUTION NO. 2007-34. (Councilor Ortiz, Councilor Bushee, Councilor Dominguez, Councilor Trujillo and Councilor Calvert)**

**A Resolution Adopting Administrative Procedures for Implementing the Santa Fe River Fund, Creating a Voluntary Contribution Fund to Acquire or Lease Water Rights for the Benefit of the Santa Fe River and the Rio Grande. (Janine Johnston)**

**q) CONSIDERATION OF RESOLUTION NO. 2007-35. (Councilor Bushee, Councilor Trujillo and Councilor Calvert)**

**A Joint Resolution Honoring the Memory of Sarah Williams; Naming a Trail in the County of Santa Fe's Trail System for Her.**

**7. APPROVAL OF MINUTES: Reg. City Council Meeting – April 11, 2007**

**Councilor Calvert made a motion to approve the minutes as presented, Councilor Chavez seconded the motion which passed by unanimous roll call vote.**

**Those voting for the motion: Councilor Calvert, Councilor Chavez, Councilor Heldmeyer, Councilor Trujillo, Councilor Wurzbarger and Councilor Bushee.**

**Those voting against the motion: None**

**8. PRESENTATIONS**

**a) Muchas Gracias – Santa Fe Demon Heat Dance Team; 2007 U. S. Dance Champions (Pom Division). (5 Minutes)**

**Mayor Coss presented the team with a Muchas Gracias for 1<sup>st</sup> place in the Pom Division at the US Championship in Anaheim, California and 2<sup>nd</sup> place in the Team Performance Division. He thanked them for their hard work and stated how proud Santa Fe is. He added that this is Linda Borrego's last year coaching.**

**Linda Borrego, Coach, said they have become accomplished in dance over the last four years and during this time they won a national championship. She said they have also achieved a great deal academically with a 3.2 overall grade point average. The girls have been doing community service as well.**

**The members of the team thanked Linda for her hard work and her great coaching. They thanked her for all the support and how far she goes for the dancers. It was stated that Linda is like a second mother to all of them.**

**b) Muchas Gracias – St. Michael's Boys Basketball Team – AAA State Champions. (5 Minutes)**

**Mayor Coss presented Muchas Gracias certificates to the St. Michael's Boys Basketball Team for being the AAA State Champions this year.**

**Their Coach said it was no accident that they achieved this two years in a row. He said they have worked really hard and this is a great tradition that he walked into. He noted that there are 8 other guys who are playing spring sports so they could not be here.**

**c) Muchas Gracias – Capital High School Boys Basketball Team – AAAA State Runner-Up. (5 Minutes)**

Mayor Coss presented Muchas Gracias certificates to the Capital High School Basketball Team for being the AAAA State Runner-Up. He thanked the team for representing the community of Santa Fe.

Coach Ben Gomez thanked the City Council and everyone for honoring them. He said once Mayor Coss coached the team they turned it around and had a good season.

Ben Gomez, Jr. said this season meant a lot as it was his senior year. He thanked his dad for coaching.

Councilor Trujillo informed everyone that a resolution has been put forward for next year creating the Mayor's Cup. He said every year there is a City champ, but they have never really been recognized. He congratulated the teams.

**d) Santa Fe Home Builders Association Home and Remodeling Show. (Gary Ehlert) (5 Minutes)**

Gary Ehlert reported that the 13<sup>th</sup> annual Home and Remodeling show will be from 10-5 p.m. at the Genoveva Chavez Center this weekend. He said they will be addressing green building, feng shui as well as many other remodeling issues. The Santa Fe Animal Shelter will have animals ready for adoption. There will be numerous non-profit organizations present. He added that he is on the Governor's Task Force to develop the rules for the current legislation that was just passed. He said they will be reporting back on the codes. They expect a great deal of local people. He thanked Dan Ransom for allowing them to put free tickets in the water bills.

**9. CONSENT CALENDAR DISCUSSION**

**i) Request for Approval of Lease Agreement – Supplemental Water for the Silvery Minnow from San Juan Chama Water; Bureau of Reclamation. (Claudia Borchert)**

Councilor Heldmeyer said this was taken off as Ms. Borchert has a new and improved contract.

Ms. Borchert said they were trying to change the document, but this was not what was wanted. The change is on page 3 under the payment date *by April* which was removed and in the reclamation deliverables under #2 the first sentence now says by April 30<sup>th</sup>, 2007.

**Councilor Heldmeyer made a motion to approve this request, Councilor Wurzbarger seconded the motion.**

Councilor Bushee asked how this compares to last year's contract.

Ms. Borchert said they got \$100 an acre foot last year because they were taking the water out of Abiqui which was storage. The price for stored water is more. Reclamation is not interested in paying for stored water so they are only buying non-stored water.

**The motion passed by the following roll call vote:**

**Those voting for the motion: Councilor Calvert, Councilor Chavez, Councilor Heldmeyer, Councilor Trujillo, Councilor Wurzbarger, and Councilor Bushee.**

**Those voting against the motion: None.**

**r) Request for Approval of Collective Bargaining Agreement – American Federation of State, County and Municipal Employees (AFSCME). (Debbie Blea)**

Councilor Heldmeyer commented that the gross receipts tax is still not at 4%, but this is based on the assumption that it will be 4%. She asked Len Montoya if the City does not meet the 4% what the union is willing to do to help the City balance its budget.

Len Montoya asked if Councilor Heldmeyer is asking the union to help balance the budget.

Councilor Heldmeyer prefers a more collaborative approach with the union rather than the Council imposing something. She said the union must have talked about what they are willing to add to the mix if the City does not meet the 4% GRT.

Mr. Montoya said there are steps the union can take such as vacancy savings. They have continuously done this. He agreed they would meet with Galen Buller.

Councilor Heldmeyer said the proposed budget is relying more on vacancy savings than this years. She asked what the members of AFSCME can do to help the City if the gross receipts are less than a 4% increase.

Mr. Montoya said they will do everything they can do to help them, but he does not understand the question because in the past they have helped the City. He said the union has always stepped forward to help the City. He said in 2005 when the GRT fell off, they stepped forward and helped the City Manager on a plan. He said it seems she is asking if the union would step forward and not take the raise.

Councilor Heldmeyer said that is not what she is asking, but she is asking if they are in a position where the gross receipts did not equal the 4% anticipated, what kind of actions or ideas the union is willing to bring forth to help deal with that. She is not asking them not to take the raise, but she is sure this has been discussed amongst the union members. She said the State came up with the money a year and a half ago, but she would prefer it not be the Council alone making those kinds of decisions. She prefers collaboration. She is interested in what kinds of things the union is willing to do without violating the contract.

Councilor Bushee stated that she feels this is out of context.

Councilor Heldmeyer asked Mr. Katz if it is not in the contract if that means they do not talk to the union if they get in financial trouble.

Mr. Katz said of course they would talk to the union and everyone they deal with.

Councilor Wurzbarger expressed confusions as she thought they were sure that if they did not make the 4% they would go back and talk about the raises. She recalls that she was pointed to a section in the contract that said if they could not pay they would come up with ways of addressing this including postponing raises. She feels mislead if this is not in the contract.

Mayor Coss explained that there is language in the contract that states if the money is not appropriated by the Governing Body then the raises do not happen.

Mr. Montoya agreed with the Mayor and referred to article 38 which is the appropriations clause. He said if the GRT took a bad dive they would look at it. He pointed out that currently they are at 3.97 which is almost 4%. He feels this is prematurely drastic, but he said if it took a dive he would be one of the first ones sitting down with the City Manager.

Councilor Chavez said they did discuss what would happen if there is a downturn in the economy. He said approving the union contracts and the budget does involve a leap of faith due to their source of revenue.

Councilor Bushee felt it was awkward to put the union chief on the spot given that article 38 spells this out. She does not know of anything outside of this forum where they should be asking these questions or exacting any kind of promises. She assumes there is still an out and asked Ms. Raveling if she feels comfortable with this.

Ms. Raveling agreed that they are always taking a risk as they are projecting for the next year. She said every time they do a budget there is a risk. She is comfortable with the numbers. She said there is an advantage because now when they do the budget they know what the number will be. She is comfortable with the clause if it gets bad. She said on the whole the gross receipts are between 3.5-5%. She is relatively comfortable. The union contracts go in the budget first. She said if employees are the priority then it gets approved and everything else fits into the budget afterwards.

Councilor Bushee said the Council asked for a different process and this is new, but they did ask for this approach. She feels more comfortable with the even increment over three years. She assumed they would make it work if other unions ask for a larger number. She added that the unions are taking a risk to some degree as well because they are capping the increase.

Ms. Raveling said this does away with the crazy mid year stuff.

Councilor Bushee does not think it has ever been the case that the union has refused to work with the City.

**Councilor Bushee moved approval of this request. Councilor Chavez seconded the motion.**

Councilor Calvert asked if Mr. Buller was part of these negotiations.

Mr. Buller replied no, except to the extent that management came in to talk to him from time to time.

Councilor Calvert said the Council had asked for merit pay, so he asked if this was discussed during the negotiations.

Chris Ortega said it was never discussed as a what if. This was never a proposal or a counter proposal.

Councilor Calvert asked Mr. Montoya if they would seriously discuss this concept for the next contract.

Mr. Montoya was not opposed to discussing this, but it will require some planning that will need to go into it. He thinks for the coming fiscal year they may need to stay with what they have.

Councilor Calvert clarified that he wants them to begin discussing it now for the next contract so the concept is feasible for the City employees.

Mr. Montoya agreed to explore the possibilities.

Councilor Heldmeyer agreed that every budget and every contract is a leap of faith. She understood article 38 is in the contract. She said if it really came down to that this is not how she would want to do it, but she would want to find alternate ways to deal with a budget shortfall. She did not think appropriating the raise should be the first thing to go.

Mr. Montoya said that is correct.

Councilor Heldmeyer said her preference would be collaboration between the union, management and the Governing Body to sit down and deal with the budget shortfalls. She wants to know that the union would be willing to participate in this discussion.

Mr. Montoya said they always look forward in helping however they can and all it requires is an invite.

Councilor Heldmeyer said that is what she wanted to hear.

Councilor Chavez commented that they are all taking a risk although there was a lot of give and take in the process. There may be some employee risk and there may be some concessions to balance the budget. He thinks they can draw a distinction between the base pay and the benefit package. He feels the benefit package is a big part of the package.

Councilor Bushee understood there were also some language changes management sought.

Mr. Ortega summarized the significant items negotiated included in the packet. He said the biggest change is the drug testing as it added reasonable suspicion drug testing.

Councilor Bushee asked if the reemphasis on the LMC is significant.



Mr. Ortega said the emphasis was on having the LMC serve primarily as an interpretive group.

Councilor Wurzbarger hopes this does free up time for the union to work up the critical issues on how to bring more resources into the City. She hopes to see them work on merit pay, a classification system, health insurance and ideas for implementing cost savings.

Mayor Coss thanked both bargaining committees again. He thinks everybody has some buyer's remorse, but feels it is a worthy process. He believes they will save thousands of dollars by doing this once every three years instead of every year. He said this administration and council asked for the three year contract. He thinks 4% is a reasonable pay raise and added that if the GRT goes up the raise will remain the same. He said those people servicing the community will help keep the gross receipts strong and grow the economy and community. He noted that police and fire are still in negotiations.

Councilor Bushee asked what they have done with the non-union.

Mayor Coss said they have not done anything with the non-union except plug in the 4% equivalent raise. He does not anticipate this to be an across the board raise.

**There being no abstaining or dissenting votes, the motion passed on the following roll call vote:**

**Those voting for the motion: Councilor Chavez, Councilor Heldmeyer, Councilor Wurzbarger, Councilor Trujillo, Councilor Bushee, and Councilor Calvert.**

**Those voting against the motion: None.**

- s) Request for Approval of Change Order No. 5 (Cancellation of Change Order No. 2) – Camino Alire Bridge and Intersection Improvements Project; A.S. Horner, Inc. (Peter Manzanares)**

Councilor Heldmeyer clarified that they need this change order to rescind change order No. 2.

**Councilor Chavez moved for approval of this request, Councilor Bushee seconded the motion which passed by the following roll call vote:**

**Those voting for the motion: Councilor Heldmeyer, Councilor Wurzbarger, Councilor Trujillo, Councilor Bushee, Councilor Calvert and Councilor Chavez.**

**Those voting against the motion: None.**

**10. Case # A 2006-11. Dismissal of 444 Camino de Las Animas Building Permit Appeal. Decision by Governing Body to Dismiss for Failure of Appellant to Prosecute the Appeal by Cecilia Redman-Tafuya of Board of Adjustment Decision Denying an Appeal of Building Permit 06-1745 for an Accessory Dwelling Unit. The Property is Located at 444 Camino de Las Animas Street. (Greg Smith) (Postponed at the March 28, 2007 City Council Meeting)**

Mr. Katz explained that staff has tried repeatedly to get the cooperation of the appellant to do the notice that was necessary. He referred to the packet which contains documentation regarding the number of times staff tried to contact the appellant. Out of despair of getting this resolved, they suggested a motion to dismiss the appeal because it was not being prosecuted. He said two meetings ago the appellant asked for more time and they were given a month with nothing done. He recommends the Council dismiss the appeal with prejudice for failure to prosecute.

Councilor Chavez asked if this means they cannot bring this back to the Council.

Mr. Katz said that is what it means. This appeal does not have anything to do with the building permit issued.

Councilor Chavez clarified that these are legal matters between two property owners.

Mr. Katz believes that is the case.

Councilor Heldmeyer reported that the Tafoya's have repeatedly emailed her and for whatever reason they do not want to do the notice process. She said this is the process that everybody goes through.

**Councilor Heldmeyer moved for dismissal of this case with prejudice, Councilor Wurzburger seconded the motion which passed on the following roll call vote:**

**Those voting for the motion:**

**Councilor Trujillo, Councilor Wurzburger, Councilor Calvert, Councilor Chavez, Councilor Heldmeyer and Councilor Bushee.**

**Those voting against the motion:**

**None.**

**11. MATTERS FROM THE CITY MANAGER**

Mr. Buller thanked and listed all the staff individually that helped with the Easter Egg Hunt.

**15. MATTERS FROM THE CITY CLERK**

None.

**END OF AFTERNOON SESSION AT 6:15 P.M.**

**EVENING SESSION – 7:00 P.M.**

The evening Session was called to order by Mayor David Coss at approximately 7:00 p.m.

**A. CALL TO ORDER**

**B. PLEDGE OF ALLEGIANCE**

**C. INVOCATION**

**D. ROLL CALL**

Roll call indicated the presence of a quorum as follows:

**Members Present:**

Mayor David W. Coss  
Councilor Miguel Chavez, Mayor Pro-Tem  
Councilor Patti J. Bushee  
Councilor Christopher Calvert  
Councilor Karen Heldmeyer  
Councilor Matthew E. Ortiz (late)  
Councilor Ronald S. Trujillo  
Councilor Rebecca Wurzbarger

**Members Absent:**

Councilor Carmichael A. Dominguez (excused)

**E. PETITIONS FROM THE FLOOR**

**Charles Tafoya, 446 Camino San,** petitioned the Council to immediately enforce the existing side setback and rear setback codes or regulations. There have been some long term violations at 444. He said he has not entered into any 0 lot line agreement. This is causing damage to his wall. He said they were supposed to be on this agenda, but they did not get in. He feels this has not been dealt with fairly or equally by the City staff. He wanted a plaque that was illegally altered to be corrected immediately to reflect the rules and laws in place. He believes this was done unilaterally and illegally by City staff and the work was done illegally by a person operating under an RFP which makes them an ad hoc employee in his opinion. He said public money being used for private concern falls under the anti-donation clause. He submitted a letter into the record which is incorporated herewith to these minutes as Exhibit "1." He would like some action taken. He does not believe any of the issues require a hearing by the City Council, but they do require action to be enforced. He said he should not have to go through this. He was told by Pete Ortega that he was instructed by Jack Hiatt to not inspect the property. He requested immediate attention for something that should be corrected automatically without a resident having to ask.

**16. COMMUNICATIONS FROM THE GOVERNING BODY**

**Councilor Chavez**

None.

**Councilor Calvert**

Councilor Calvert introduced an ordinance to restrict truck, truck trailer and other large vehicle traffic on Camino Carlos Rael between West Alameda Street and the City Limits which is incorporated herewith to these minutes as Exhibit "2." He suggested this go to Public Safety and Public Works. He noted that the County is doing likewise from Agua Fria to the county limits so they are attacking from both sides. His second introduction was a resolution directing the Trans division to work with public works utilizing things at

their disposal to improve pedestrian access to bus stops which is incorporated herewith to these minutes as Exhibit "3." He suggested this go to Public Works and Finance.

### **Councilor Wurzbarger**

Councilor Wurzbarger introduced a resolution designating water rights for low priced dwelling units in the northwest quadrant and for low priced dwelling unit credit pool which is incorporated herewith to these minutes as Exhibit "4." She introduced a second resolution amending the annual water budget administrative regulations and procedures specifically in the northwest quadrant which is incorporated herewith to these minutes as Exhibit "5." She suggested these go to Public Utilities and Finance.

### **Councilor Trujillo**

None.

### **Councilor Heldmeyer**

Councilor Heldmeyer introduced an ordinance amendment to the parking ordinance in the uniform traffic code that would allow the police chief to deputize private individuals to enforce ADA and fire lane parking. This is incorporated herewith to these minutes as Exhibit "6." She said this should go to the Parking Advisory Committee, the Mayor's Committee on Disability and then to Public Works and Finance.

### **Councilor Bushee**

Councilor Bushee introduced an ordinance regarding the outdoor display of merchandise in historic districts which is incorporated herewith to these minutes as Exhibit "7." She wants to initiate a program creating master lease agreements to lease rental units at pre-approved prices for one year terms for fire and police. She believes they have a critical mass for trying to take care of the emergency service workers. She thinks they need to have a special Council meeting on public safety issues due to the crime rates escalating, motives for disbanding drug units and concern that they are not being competitive on salaries. She noted that the website does not show the increase given over six months ago. She was surprised to learn things through the newspaper. She does not want to direct the police force, but does want answers.

Councilor Heldmeyer agreed that there are concerns and she has set aside time at the next budget hearing to discuss some of this.

Councilor Trujillo agreed they need answers as he had no idea about some of these things in his own district. He did not want to read about something for the first time in the newspaper. He understands there are ongoing investigations, but wants the answers so he can answer concerns from those in his neighborhood. He introduced two resolutions for Councilor Dominguez. The first is a resolution in support of the Siler Road Extension Project through Governor Richardson's Investment Partnership 2 enacted during the 2007 special session of the New Mexico Legislature, and Committing to the Local Match Requirement which is incorporated herewith to these minutes as Exhibit "8." The second is a resolution in support of the Cerrillos Road reconstruction project through GRIP2 enacted during the 2007 special session of the New Mexico Legislature and committing to the local match requirement which is incorporated

herewith to these minutes as Exhibit "9." He said these should go to Finance and Public Works.

**F. APPOINTMENTS**

None.

**G. PUBLIC HEARINGS:**

- 2) CONSIDERATION OF BILL NO. 2007-13: ADOPTION OF ORDINANCE NO. 2007-\_\_\_\_\_. (Councilor Chavez)**  
**An Ordinance Amending Section 14-3.4 SFCC 1987 Regarding Petition Method Annexations and Sector Plans and Amending the Definition of Sector Plan in Article 14-12 SFCC 1987. (Frank Katz)**

Mr. Katz explained that the wrong version was published so this needs to be postponed to May 30<sup>th</sup>.

**Councilor Chavez moved to postpone this to May 30<sup>th</sup> including the correct ordinance. Councilor Heldmeyer seconded the motion.**

Councilor Heldmeyer expressed concern that the coming meetings will be quite heavy and this will be the fifth ordinance that will be heard at the May 30<sup>th</sup> meeting.

Mr. Katz explained that this is not a terribly difficult one as it really verifies what current law says anyways.

Councilor Bushee asked if this is much of a change from what was advertised.

Mr. Katz said there are changes to the first three sections.

Councilor Bushee did not want to discourage discourse. She asked if they could conduct the public hearing portion.

Mr. Katz said they ought to have the hearing on the correct bill.

**There being no abstaining or dissenting votes, the motion passed by unanimous voice vote.**

- 1) Request from Jerry A. Honnell Jr., for a Restaurant (Beer & Wine) License to be located at Honnell's Late Night Burger, 1201 Cerrillos Road. (Yolanda Y. Vigil)**

The staff report was given by Tina Dominguez, noting that this is not within 300 feet of a church. Staff does not anticipate any unacceptable traffic impacts due to the approval of this request. Staff recommends that Honnell's Late Night Burger be required to comply with the City's litter and noise ordinances as a condition of doing business with the City.

**Public Hearing**

There was no public testimony on this case.

**The public hearing was closed.**

**Councilor Chavez moved for approval, Councilor Bushee seconded the motion which passed on the following roll call vote:**

**Those voting for the motion: Councilor Wurzburger, Councilor Bushee, Councilor Calvert, Councilor Chavez, Councilor Heldmeyer and Councilor Trujillo.**

**Those voting against the motion: None.**

**3) CONSIDERATION OF BILL NO. 2007-14: ADOPTION OF ORDINANCE NO. 2007-12. (Councilor Bushee, Councilor Calvert, Councilor Chavez, Councilor Trujillo and Councilor Dominguez)  
An Ordinance Amending Section 14-8.15 SFCC 1987 Requiring the Dedication of Land or Easements for the Purpose of Public, Non-Motorized Trails. (Anne McLaughlin)**

Ms. McLaughlin explained that the General Plan and the Parks Recreation Master Plan both call for a network of trails to be developed in the City. There is also a policy to amend the code to require the dedication of trail easements and/or rights of way. There are concerns about the loss of traditional use trails. She proposed an amendment to include review by the Summary Committee and Planning Commission. A lot split on the escarpment would have blocked access at the end of Bob Street to get up to the dog park. The ordinance as drafted applies to the subdivision of residential lots and also of development plan approval for non-residential uses which require approval by the Planning Commission. The developer will be responsible for the trail improvements. Land dedicated for non-motorized trails may be used to satisfy the requirement for the dedication of regional parks. This draft has been recommended for approval by the Bicycle and Trail Advisory Committee, City Planning Policy Commission, Planning Commission, Public Works and Finance. There was a letter from Marian Shirin in support of the ordinance presented which is incorporated herewith to these minutes as Exhibit "10."

Councilor Bushee thanked Marian Shirin for bringing attention to this matter. She said what they had hoped would be ongoing trails or dedicated easements have been threatened by future developments. She asked if citizens can initiate concerns for keeping a particular trail or easement as developments come forward.

Ms. McLaughlin said if the staff can demonstrate that a public trail use has been used for 10 years or more by aerial photography or written testimony then the City can decide to require a dedication. She would like to get the word out to the public so they know that this is the case. She said the Bicycle and Trail Advisory Committee could add some of these traditional use trails to their map ahead of the development.

Councilor Bushee said the only other area of concern in her district is over by the National Cemetery. She wanted to make sure that staff can follow up so they are not passing something they cannot enforce.

Ms. McLaughlin said she will be following up on this herself.

**Councilor Bushee moved approval of Ordinance 2007-12, Councilor Calvert seconded the motion.**

Councilor Heldmeyer asked if it is a one to one match in terms of trail square footage to parks and open space square footage.

Ms. McLaughlin replied yes.

Councilor Heldmeyer commented that almost everybody at the Summary Committee pays a fee rather than provide open space. She asked if there is a provision to do a combination where they can provide x amount of space and then prorate the fee in lieu of.

Ms. McLaughlin explained that residential developments have to pay an impact fee for neighborhood parks and regional parks so they would get a credit based on the value of the acreage dedicated.

Councilor Heldmeyer asked if it is the value or size.

Ms. McLaughlin said for the trail it would be acreage for acreage and this applies to the regional park requirement.

Councilor Heldmeyer asked if there is some way to pro-rate the fee in lieu of if they give a partial amount of land, but not the amount required in the ordinance.

Ms. McLaughlin said under the current legislation they would be able to prorate the acreage towards the fee. She believes Reed Liming is approaching soon with changes to the impact fee

Councilor Heldmeyer said this is separate from the impact fee as they are required to provide parks and open space.

Mr. Katz stated that he has not read it with that in mind.

Councilor Heldmeyer asked if it would be a friendly amendment to page 7, number 4, line 6 – *if the area dedicated for a trail is in partial fulfillment toward the regional park land dedication requirement then the City at its discretion may pro-rate the fee that would ordinarily be required.*

Councilor Bushee said it is friendly in concept. She wanted the actual language to be looked at in 1-5 to make sure they are covered. The concept she wants to emphasize is that do not want arroyos dedicated. She said most of the Summary Committee stuff is single lot splits so they do not have to dedicate anything.

Councilor Bushee asked Mr. Katz if there is a better place to put this concern in as the fee in lieu of is already allowed for.

Mr. Katz responded to the questions stating that it does not make a whole lot of difference where you put it in.

Councilor Heldmeyer asked if they could approve this conceptually and then staff could determine where to put the language in.

Mr. Katz urged them not to do that. He explained that friendly amendments are fine, but there needs to be unanimous consent or a vote to adopt the friendly amendment.

Councilor Bushee said in the past if there is no protest then they have accepted them and then everybody votes on it at the end.

*Councilor Ortiz arrived at this time.*

Mr. Katz said that is correct and suggested asking if anyone objects. He said there has to be some opportunity to protest and acknowledgement. He said it is not just the maker and the seconder who have to accept.

Mayor Coss asked if there was any objection to the friendly amendment. There was no objection.

**The motion passed on the following roll call vote:**

**Those voting for the motion:**

**Councilor Bushee, Councilor Calvert, Councilor Chavez, Councilor Heldmeyer, Councilor Trujillo and Councilor Wurzbarger.**

**Councilor Ortiz abstained from voting.**

**Those voting against the motion: None.**

- 4) Request from Palo Alto, Inc, for a Restaurant (Beer & Wine) License to be located at Pizza Hut #12958, 4250 Cerrillos Road. (Yolanda Y. Vigil) (Postponed to May 9, 2007 City Council Meeting)**

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

### **EXECUTIVE SESSION:**

- 1) Discussion of Pending Litigation with Tierra Contenta Corporation, Pursuant to §10-15-1 (H) (7) NMSA 1978.**
- 2) Discussion of Pending Litigation with Avistar, Pursuant to §10-15-1 (H) (7) NMSA 1978.**
- 3) Discussion of Threatened Litigation Concerning Recent Amendments to the City Ethics/Campaign Code, Pursuant to §10-15-1 (H) (7) NMSA 1978.**

**Councilor Bushee objected to item 3 being discussed in Executive Session and said she would sit out of this discussion.**

**Councilor Ortiz agreed and said he would be sitting out on item 3 as well.**

**Councilor Calvert moved, seconded by Councilor Wurzbarger to go into executive session pursuant to §10-15-1 (H) (7) NMSA 1978 to discuss pending litigation with Tierra Contenta Corporation, pending litigation with Avistar and threatened litigation concerning recent amendments to the City Ethics/Campaign Code.**

**The motion passed by unanimous voice vote.**



**For: Councilor Ortiz (except item 3), Councilor Trujillo, Councilor Wurzbarger, Councilor Calvert, Councilor Chavez, and Councilor Heldmeyer.**

**Councilor Bushee abstained from voting due to her objection on item 3.**

**Against: None.**

*The Council went into Executive Session at 7:50 p.m. and came out at 8:30 p.m.*

**Councilor Calvert moved, Councilor Trujillo seconded the motion to come out of executive session. The only matters discussed were those listed in the agenda.**

**The motion passed by unanimous voice vote.**

**13. Action Regarding Settlement Agreement with Tierra Contenta Corporation.  
(Frank Katz)**

**Councilor Chavez moved to accept the settlement agreement laid out by the City Attorney, Councilor Calvert seconded the motion which passed by the following roll call vote:**

**Those voting for the motion:**

**Councilor Calvert, Councilor Chavez, Councilor Heldmeyer, Councilor Trujillo, and Councilor Wurzbarger**

**Those voting against the motion: Councilor Bushee and Councilor Ortiz.**

Councilor Ortiz explained his vote. He said Tierra Contenta throughout the public process were invited to the table and they chose to ignore it and decided to sue the City after being the beneficiary of the City's largess for a number of years. He said this is better than the first draft, but it is wrong on principle as they have no leg to stand on when it comes to complying with City regulations as it relates to water rights transfer ordinances.

**14. Action Regarding Settlement Agreement with Avistar. (Jim Montman)**

**Councilor Ortiz made a motion to agree to accept the amount offered to the City by PNM to settle the dispute regarding operation and maintenance of the City's water supply utility system. He directed staff to prepare a settlement agreement for the Council's consideration and action. Councilor Wurzbarger seconded the motion.**

Councilor Bushee asked where Avistar has gone.

**Robert Castillo, local Operations Manager for PNM, said he is representing Bill Reel who was the chief negotiator in this process. He said Avistar is still in existence for the purpose of research and development.**

Councilor Bushee asked if Avistar is involved in billing.

Mr. Castillo said it previously was, but he is not sure now. He agreed to get that answer back to them.

**The motion passed on the following roll call vote:**

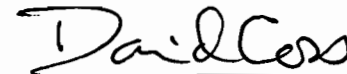
**Those voting for the motion: Councilor Calvert, Councilor Chavez, Councilor Heldmeyer, Councilor Ortiz, Councilor Trujillo, and Councilor Wurzbarger,**

**Those voting against the motion: Councilor Bushee**

**H. ADJOURN**

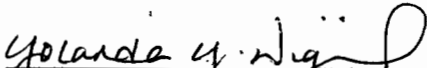
**There being no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 8:40 p.m.**

**Approved by:**



**Mayor David Coss**

**ATTESTED TO:**

  
\_\_\_\_\_  
**Yolanda Y. Vigil, City Clerk**

**Submitted by:**

  
\_\_\_\_\_  
**Denise Cox, Stehographer**