

Summary minutes of:

**CITY OF ESPANOLA
CITY COUNCIL MEETING
TUESDAY, OCTOBER 27, 2009, 6:00PM
CITY HALL COUNCIL CHAMBERS
405 PASEO DE OÑATE, ESPAÑOLA, NEW MEXICO**

Meeting was called to order at 6:02pm, with the following in attendance:

Mayor: The Honorable Joseph M. Maestas, Mayor of the City of Española

Mayor Pro Tem: Alice Lucero

Councilors: Danielle Duran
Rosario “Chayo” Garcia
Alfred Herrera
Helen Kain-Salazar
Cecilia Lujan (*arrived at 6:05pm*)
Edward Maestas
Dennis Tim Salazar

City Manager: Veronica Albin

City Attorney: Paula Maynes

City Clerk: Heather Velasquez

Deputy City Clerk: Sally Baxter

Staff: Fire Chief John Kitchen; Len Cata, Community Services Director; Ben Ortega, Public Works Director; Public Safety Director and Police Chief Julian Gonzales; Lupita de Herrera, Grant Administrator; Teddie Riehl, Library Director; Planning Director Russell Naranjo

Members of the Public: Rick Ulibarri, Los Alamos National Laboratories; Mark Montoya, Chair of Española Valley Toy Run; Len Gallegos and Ben Martinez, Española Valley Toy Run; Olivia Martinez; Tony Atkin of Atkin, Olshin, Schade Architects; Miguel da Silva of Da Silva Architecture; JD Martinez; Margret Montano; Robert Robeda, Ron Mosier, Michelle Solace, Molzen Corbin and Associates

Agenda as presented:

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CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF AGENDA

PUBLIC COMMENTS

COUNCILOR COMMENTS

MATTERS FROM THE MAYOR

1. Employee of the Month Award- Lupita De Herrera nominated by Chief Julian Gonzales
2. Employee of the Month Award-Teddie Riehl nominated by Len Cata

BUSINESS WITH VISITORS

3. Proclamation for Española Valley Toy Run to be held November 22, 2009
4. Request for Co-Sponsorship for Española Valley Electric Light Parade to be held December 5, 2009
5. Railroad Museum Concept Presentation by Atkin Olshin Schade Architects and Da Silva Architecture

CONSENT AGENDA

6. Approval of Minutes, City Council Meeting August 25, 2009
7. Approval of Minutes, City Council Workshop September 21, 2009
8. Approval of Minutes, City Council Meeting September 29, 2009
9. Resolution 2009-29 Acceptance of New Mexico Department of Transportation Co-op Award
10. Resolution 2009-30 Requesting Approval of MAP Amendment

11. Resolution 2009-31 Approving Water Trust Board Application
12. Resolution 2009-32 Establishing a Land Acquisition and Management Fund
13. Recommendation of Award of RFP 2009-6 N. McCurdy Road Project

PUBLIC HEARINGS

14. Ordinance 2009-08 Adoption of National Fire Protection Association Guidelines and 2006 International Fire Code

ITEMS PROPOSED FOR COUNCIL CONSIDERATION

15. Resolution 2009-30 Adoption of Fiscal Year 2009-2010 Budget
16. Recommendation of Award of RFP 2009-8 Water and Wastewater Line Projects
17. Proposed Ordinance-Rules and Structure of Committees
18. Appointment of Planning and Zoning Commission

DISCUSSION ITEMS

ANNOUNCEMENTS

ADJOURNMENT

---END---

Call to Order

Mayor Joseph Maestas called the meeting to order at 6:02pm.

Pledge of Allegiance

Mayor Joseph Maestas led the Pledge of Allegiance.

Roll Call

City Clerk Heather Velasquez read the names of the members of the Governing Body; Councilor Cecilia Lujan arrived after the roll call was read (at 6:05pm).

Mayor Joseph Maestas announced there was a quorum for the meeting.

Approval of Agenda

Mayor Maestas said after item # 4 there would be a brief recess so Atkin Olshin Schade could set up for their presentation (item #5). The Mayor said there was a change in numbering needed, changing the Resolution for item #10 (Requesting Approval of MAP Amendment) from Resolution Number 2009-30 to Resolution Number 2009-33, and there would be an Executive Session after item #18, pursuant to NMSA 1978, §§10-15-1 H (2) and (7). The Mayor asked if there were any other changes requested; there were none.

Councilor Herrera made a motion to approve the Agenda as amended, seconded by Councilor Kain-Salazar. The motion carried 8/0.

Public Comments

Rick Ulibarri from Los Alamos National Laboratories (LANL) presented information regarding a job fair in Española; he said LANL received \$21.2 million in stimulus funding with money available for the public sector, and would be hiring two hundred people for high-paying jobs that would last two years. Mayor Maestas asked if LANL had placed ads for these jobs and Mr. Ulibarri responded it had.

There were no more public comments.

Councilor Comments

Councilor Salazar said that as a member of the Governing Body, he felt it was important to keep citizens informed and was asking to be on "Coffee Break" [on KDCE Radio, each Thursday], and that he should be free to go on the program anytime without the Mayor's permission.

Councilor Lujan apologized for arriving late.

Councilor Duran said December 1st would be the final public meeting for the Main Street area economic development committee. She said they would also be discussing local economic development.

There were no other Councilor comments.

Matters From the Mayor

Item #1, Employee of the Month Award presented to Lupita de Herrera, nominated by Chief Julian Gonzales.

Mayor Maestas said the city has an employee recognition program which is an opportunity to recognize an employee worthy of the designation “Employee of the Month”; he said this month there were two such employees.

The Mayor said one of these employees was Grants Administrator Lupita de Herrera, who had been nominated by Chief Julian Gonzales. The Mayor asked the Chief to say why he had nominated Ms. De Herrera; the Chief said he nominated Ms. De Herrera for her work for a COP grant and a Justice grant the Police Department had received. He said he started the applications, then sent them to Ms. De Herrera, who reworked the applications; the Chief said she worked hard and spent hours after work, donating her time to finish the applications, and she knew what was needed to submit successful applications.

Mayor Maestas thanked the Chief for his nomination. The Mayor thanked Ms. De Herrera for her efforts and presented her with a Certificate of Appreciation and a check for \$50.00.

Ms. De Herrera said she was honored to receive the award and said she enjoyed working for the city. Councilor Duran said she couldn’t think of a better person to receive the award, and it was well-deserved.

Ben Ortega, Public Works Director, said the city had just received a grant worth approximately \$460,000.00 to upgrade the heating and cooling system at City Hall.

Mayor Maestas said within the first three or four months Ms. De Herrera had worked for the city, she identified approximately \$450,000.00 in unreimbursed grant money owed to the city. He said that under Ms. De Herrera’s administration of grants, no legislative funds received by the city had been rescinded because of Ms. De Herrera’s active grant management skills.

Item #2, Employee of the Month Award presented to Library Director Teddie Riehl, nominated by Community Services Director Len Cata.

Mayor Maestas asked Mr. Cata to say why he had nominated Ms. Riehl; Mr. Cata said in the two months Ms. Riehl had worked for the city, he had noticed her phenomenal organizational skills and the way she viewed the library as a special place of learning for all members of the public. He said he was looking forward to a bright future working with Ms. Riehl. The Mayor read the Certificate of Appreciation then presented Ms. Riehl with the Certificate and a \$50.00 cash award; the Mayor said the cash award was donated by City Manager Veronica Albin and Community Services Director Len Cata and had not come from any city monies.

Ms. Riehl thanked everyone for the award.

Item #3, Proclamation for Española Valley Toy Run to be held November 22, 2009

Mayor Maestas said he had a Proclamation regarding the Española Valley Toy Run and introduced the organizers of the event, Mark Montoya (Chair), Len Gallegos and Ben Martinez. Mr. Montoya said November 22, 2009, would be the twenty-fourth annual event and thanked the city for twenty-four years of support. He said because of the city's support, they had been able to gather about four- to five hundred toys each year and raise some funds for food baskets, all of which were delivered to those in need each Christmas. He invited the Councilors to attend the event.

Mayor Maestas thanked City Clerk Heather Velasquez for her help in organizing the event; Ms. Velasquez said she had attended the Santa Fe/Pojoaque event and was excited to be a part of the Española Valley Toy Run.

Mayor Maestas read a Proclamation proclaiming November 22, 2009, "Española Valley Toy Run Day"

Item #4, Request for Co-Sponsorship for Española Valley Electric Light Parade to be held December 5, 2009

Olivia Martinez, member of the public, presented:

Ms. Martinez said she was a committee member of DATE (Downtown Action Team) and was asking the city to co-sponsor the Light Parade to be held December 5, 2009; she said it was one of the best light parades in the state.

Councilor Lujan made a motion to co-sponsor the event, seconded by Councilor Maestas.

Councilor Duran said she commended DATE on doing a terrific job every year. She said people from all around the state attended, and she wanted to commend the business community for their efforts. Ms. Martinez said she did this for the community.

Mayor Pro Tem Lucero thanked the committee for doing a great job every year, and said the event would be advertised state-wide.

The motion carried 8/0.

Mayor Maestas called a recess at 6:25pm; the meeting was called back to order at 6:34pm.

Mayor Maestas said the state government had issued a press release the previous day announcing that \$8.1 million in American Recovery and Reinvestment Act (stimulus) funding had been awarded throughout the state, with Española receiving \$451,680. He said he wanted to recognize the efforts of all staff involved in the project, with special recognition for Grants Administrator Lupita de Herrera and Planning Director Russell Naranjo. The Mayor said he had asked Mr. Naranjo to serve as the city's stimulus funding coordinator to ensure the city maximized its funding opportunity, and with this grant the city had received approximately \$2.5 million. The Mayor asked Mr. Naranjo to tell the Council about the project for which the \$451,680 was awarded.

Mr. Naranjo said this would be the first step towards the city becoming a green municipality and the project would be to upgrade the HVAC (Heating, Ventilation and Air Conditioning) system, change lighting to include LEDs (Light Emitting Diodes), and create entry vestibules, all in City Hall.

The Mayor said this award meant the city had been aggressive in pursuing stimulus money, as stimulus money was drying up. He said this would be a green project, and would reduce utility costs, saving millions of dollars in the long run.

Item #5 Railroad Museum Concept Presentation by Atkin Olshin Schade Architects and Da Silva Architecture

Tony Atkin presented:

Mr. Atkin said this project was very exciting to work on and he wanted to give an update on the project. He also introduced Miguel da Silva of his partner firm.

Mr. Atkin gave a brief overview of the history of the Chili Line and its significance to Española. He said old maps showed businesses at the time including the Bond Warehouse. He said he felt the museum would leverage the development of the Plaza and make it a destination. He said the idea behind the design of the museum was to recreate the depot and that there could be an area for a retail outlet for items such as pins and tee-shirts.

Miguel da Silva said in a previous meeting with Mayor Maestas, Public Works Director Ben Ortega, Plaza Director Andrew Herrera and Planning Director Russell Naranjo, there had been a discussion to have a three-phase plan. He said the three phases would be (1) building the depot and board walk, (2) expanding into the old maps overlay with produce or mercantile items, and (3) refurbishing a water element, landscaping and a permanent Christmas tree.

JD Martinez, a member of the public, spoke. Mr. Martinez said he felt the museum was needed, especially for the children, and urged the members of the City Council to support the project.

Mr. Atkin said preliminary costs for the project were \$450,000 for phase one, \$300,000 for phase two, and \$35,000 for phase three with a total cost of approximately \$800,000 for the complete project. He distributed copies of the preliminary plan, a conceptual image as seen from Main Street, and cost estimates for the project.

Councilor Duran said she appreciated the history of the area, loved the idea of a children's play area, and liked display boards. She said she was concerned about the issue of signage, citing as an example the difficulty people had finding the Chamber of Commerce, and said she would like for the project to include adequate signage. Councilor Duran said she also had questions about security, and wanted to know what was being considered with respect to graffiti and vandalism. She asked if Police Chief Julian Gonzales had evaluated the security for the museum, and if any items such as security cameras or anti-graffiti paint had been considered. Mr. Atkin said there was an allowance in the project to address security with a combination of items that could include cameras and anti-graffiti paint.

Councilor Duran asked how much the appropriation for the project was; Mayor Maestas said approximately \$400,000 with the DOT (New Mexico Department of Transportation) willing to add additional funds, and if the Governing Body proceeded forward, they could possibly do the entire project.

Councilor Duran asked about having a caboose as part of the museum; Mr. Atkin said there was not a line item for this, but it could possibly be donated.

Mayor Pro Tem Lucero said she was impressed with the project, especially as the preliminary budget was under a million dollars so it was cost effective. She said she felt it would enhance the Plaza, and with the Misión and the museum, the only feature that would be missing would be something to honor the Native American heritage of Española. The Mayor Pro Tem asked what the timeline for the project was; Mr. Atkin said if given approval to go ahead, working drawings could be ready by the end of the year or January of 2010, and the project could go out to bid shortly after the working drawings were prepared. He said in order to meet the timeframe, he would need to receive approval to go ahead with the project at this meeting.

Mayor Maestas said this project had been "in the works" since 2001 and it was finally becoming a reality. He said the railroad had led to the establishment of the city, provided a link to the city, and had transformed Española to an economic

hub. He said he felt the Chili Line Railroad was important as part of the city's history, and hoped the Council Members felt so as well.

Councilor Duran asked if administration had considered the type of maintenance this project would need, including personnel, and if the city would have the ability to run the museum properly. City Manager Veronica Albin said the preliminary budget estimate provided by Andrew Herrera, Plaza Director, was \$30,000 per year, which included all costs except utilities. The City Manager said one thing the Governing Body needed to consider was if this would be a fully operational facility, or a "shallow building", a structure people could look into but not enter.

Mr. Atkin said the proposal presented was for a fully operation facility with restrooms, and any proceeds from a gift shop could go towards operational expenses.

Mayor Maestas said currently the only facilities at the Plaza were in the Convento, and there weren't enough restroom facilities for big events. He said he felt this should be similar to the Bond House Museum (a fully operational facility).

Mayor Pro Tem Lucero said the project represented the history and culture of the area, and that this could be an area schools could use for field trips.

Mayor Maestas asked Mr. Atkin what the next step would be; Mr. Atkin said he just needed the approval to go ahead with the project. The Mayor said there was not an item on the agenda to give approval, and asked the City Manager if approval could be given administratively; the City Manager responded it could. The Mayor gave Mr. Atkin approval to move forward with the project.

Councilor Herrera said he encouraged the Governing Body to approve providing staff needed for the museum. He asked the Mayor how certain he was about the possibility of receiving additional funding from the DOT (New Mexico Department of Transportation). Mayor Maestas said there was funding available from October First through 2010 and with the estimates for the project cost, the city could now request additional funding. The Mayor said the next step would be to make a presentation to the DOT and make the funding request.

Councilor Kain-Salazar said she loved the idea of a museum, and admired Mr. Martinez' enthusiasm for the project. She said there was a lot of history that area children did not know about. Mr. Atkin said including an oral history component would be a fantastic element for the project.

Councilor Duran said she wanted to forward contact information to Bruce Poster (President, Southwest Planning and Marketing). She said regarding signage, staff needed to work to ensure the Chamber was more accessible. She said she supported a fully functional museum, and while \$30,000 was not a huge amount of money, she would like to see the museum be as self-sufficient as possible. She said there needed to be a solid plan to get people to the Plaza.

Mr. De Silva said the best signage would be a locomotive that could be seen by motorists; he said no other signage could convey the same presence.

Councilor Kain-Salazar asked Mr. Martinez if Chama (The Cumbres and Toltec Scenic Railroad) were willing to lend the city a locomotive, would they also transport it to the city. Mr. Martinez said he felt the only requirement for Chama to lend a locomotive would be that the city takes care of it, for example, preventing graffiti.

Margaret Montano (New Mexico Greater Economic Development Community) asked if the architects had met with Northern Heritage. Mr. Martinez said the historical society knew about the Chili Line. Mr. Atkin said all suggestions were welcome.

Mayor Pro Tem Lucero asked if the Council could move forward on this as there was not an action item on the Agenda; Acting City Attorney Paula Maynes said the Council could.

Mayor Pro Tem Lucero made a motion to give approval to the architects to proceed with the project, seconded by Councilor Garcia. The motion carried 8/0.

Councilor Kain-Salazar left the meeting at 7:30pm.

Consent Agenda

Councilor Duran made a motion to approve the Consent Agenda, seconded by Councilor Maestas. The motion carried 7/0.

Councilor Kain-Salazar returned at 7:36pm.

Public Hearings

Ordinance 2009-08 Adoption of National Fire Protection Association Guidelines and 2006 International Fire Code

Fire Chief John Kitchen presented:

Chief Kitchen said he was requesting the Governing Body adopt the guidelines and code along with any future additions; he said the last time these had been adopted was 1998 and those guidelines and code were now out of date. He said the city had since adopted the 2006 International Building Code (2006 IBC), and the 2006 IBC, the National Fire Protection Association Guidelines, and 2006 International Fire Code cross-referenced each other. He said adopting the guidelines and code would ensure inspections and certifications met the 2006 IBC.

Mayor Pro Tem Lucero asked if this would impact older buildings. Chief Kitchen said it would. He said this was a life-safety issue, and therefore he was reluctant to give waivers.

Councilor Garcia asked what the timeline was; the Fire Chief said any new building requests would require meeting the code (2006 IBC) and he felt they should also be required to meet the 2006 International Fire Code.

Mayor Pro Tem Lucero said thirty days did not seem a reasonable amount of time for any improvements that would require moving walls; she said this would take time and money. Chief Kitchen said he wanted to see smoke detectors, fire alarms, safety lighting and, where required, sprinkler systems installed in businesses; he said he wanted to see businesses make improvements to meet the basic life-safety requirements.

Mayor Pro Tem Lucero said it would be nice if businesses could comply, but this would be a burden to them as they might not have the money to make the improvements, and might need six months. Fire Chief Kitchen said the city hadn't been enforcing the fire code, so businesses had not been complying with the code. The Mayor Pro Tem said this might not be the safest choice, but businesses closing had to be considered. She said she supported safety for the public, but wanted to be sure businesses had adequate time to comply with any changes.

Mayor Maestas asked if the code included any leeway with respect to the timeframe, and said it would help if the Fire Department could do an assessment of businesses. Fire Chief Kitchen said the timeframe could be extended if a major overhaul was needed. He said regarding the assessment, he estimated it would take approximately two years to complete assessments on existing businesses given personnel available and that assessments had not been previously done. He said inspections were being done on new businesses.

Councilor Garcia said that as a business person, she knew daycare facilities had to have fire inspections every year to be licensed, and she had to make sure a proper renovation had been done. She said this was part of being a business owner, and she did not feel it was a bad thing. She said she agreed with giving leeway with respect to the timeframe to allow time for corrections to be made. The Fire Chief said he wanted to be proactive, not reactive.

Mayor Maestas asked what this would do for hazard insurance rates; the Fire Chief said it could lower rates.

Councilor Duran said she wondered if businesses that weren't complying with the fire code were thinking about their customers. She said she sympathized with the impact this might have, but if the business owners weren't concerned with the safety of their customers, she was not as sympathetic. Councilor Duran said her concerns were having information to let business owners know what the expectation would be, being consistent with how the code was enforced, and having information for the business owners that would be easy to understand and fulfill. Chief Kitchen said his concern was with smoke alarms and smoke detectors.

Councilor Duran asked what Planning Director Russell Naranjo was doing; Mr. Naranjo said he and the Fire Chief had discussed the code and there was no "grandfather" provision, so he and the Chief were working to see what the changes to the code were, and what the impact would be for businesses; Chief Kitchen confirmed there was no "grandfather" provision in the fire code. Councilor Lujan said the code put the impetus on businesses to ensure customers were safe.

Councilor Garcia said she did have the concern that this could cause some businesses to close. Fire Chief Kitchen said he had not identified any businesses that needed, but didn't already have, sprinkler systems.

Mayor Maestas opened the Public Hearing at 7:48pm and invited members of the public to speak on the item.

There were no members of the public wishing to speak.

Mayor Maestas closed the Public Hearing at 7:49pm.

Councilor Herrera asked if adopting the guidelines and code was time-sensitive and needed to be at this meeting. He said his reluctance was that no business owners had been at this meeting and he wasn't sure if they realized how this would impact them. The Fire Chief said Fire Department personnel had just completed training for inspections using the 2006 code, and also, by using the 1998 code, the Planning Department had nothing to reference with respect to the 2006 IBC.

Mayor Maestas said a preliminary assessment of businesses would assist in making a decision, especially if it included information regarding potential financial impact.

Chief Kitchen said his concern was the liability to the public.

City Attorney Paula Maynes said her concern was the lack of enforcing the code the city had, and the Governing Body could adopt what it considered appropriate.

Mayor Maestas asked if the Fire Chief could shut a business due to violations; the Fire Chief responded it depended on the criticalness of the violation. Councilor Duran asked what the differences were between the 1998 and 2006 code; the Fire Chief said the changes involved alarm systems, extinguishing systems in fire hoods, materials used for holes in walls, and the requirement in the 2006 code to

have hardwired smoke detectors and emergency signs. Councilor Duran asked if a business was compliant with the 1998 code, what would the cost be to comply with the 2006 code. Fire Chief Kitchen said it would depend on the violation, but could be the cost to wire detectors and signage and installing new hoods. Councilor Duran said there could be a notice that in six months the city would adopt the code.

Mayor Maestas asked if the state had adopted the new code; Fire Chief Kitchen said the state was in the process, and the 2009 code would be out at the end of the year. The Mayor asked what impact this would have on the city, and if this would affect residences; the Fire Chief said the state was concerned with major businesses including the hospital, churches and the college, and did not require inspections of residences.

The Mayor said the council could adopt the ordinance and defer the effective date until the end of the year. Councilor Lujan said she would feel more comfortable about the ordinance if business owners were given more time. Mayor Pro Tem Lucero asked if any extra measures had been taken to give notice of the proposed ordinance. Fire Chief Kitchen said he had talked with business owners and felt the response from them was positive.

Mayor Maestas said an option could be to adopt the code to become effective in January of 2010, and do a targeted outreach now informing business owners of the code requirements; Councilor Duran said a targeted outreach was important. Councilor Garcia said if the decision was to act but defer implementation, she wondered why the matter should be acted on, and said she didn't know if waiting would make the implementation "hurt less", although she did agree businesses needed to know about the code change.

Councilor Maestas said his concern was that with the economy the way it was, he was concerned that the financial burden for the business owners would be a problem, and said he felt more notice should be given to the business owners. Councilor Duran said there should be a list of typical upgrades from the 1998 code to the 2006 code and Public Works Director Ben Ortega could estimate the financial impact of the differences.

Councilor Garcia said she could assist with notifying business owners, and could call and invite them to a meeting to learn more about the changes. Mayor Pro Tem Lucero said she could do an "email blast" through the chamber [City of Española Chamber of Commerce]. Chief Kitchen said he would work with the City Manager and Public Works Director on getting the information requested by the Council.

Mayor Pro Tem Lucero made a motion to table the item until the public could be notified, seconded by Councilor Maestas. The motion carried 8/0.

Mayor Maestas asked if item 16, "Recommendation of Award of RFP 2009-08, Water and Wastewater Line Projects" be reviewed next.

Item #16

Bernadine Martinez, Procurement Specialist, presented:

Ms. Martinez said this was a request for an engineering firm to design water and wastewater projects; she said this was in response to a Request For Proposals (RFP), and based on the responses staff recommended awarding the contract to Molzen Corbin and Associates for the scope of work outlined in the RFP.

Councilor Kain-Salazar said she wanted to commend the Public Works Director for the excellent information he provided regarding this matter. Mayor Maestas asked the Public Works Director, Ben Ortega, to elaborate on the information presented.

Mr. Ortega said he had received emails asking for more information as well as additional information being requested at the previous week's City Council Workshop; two companies had been interviewed in response to the RFP. He said since 2003 when the first phase of this work had begun, seventeen projects had been completed, six were active, and the total project cost had been approximately \$1.8 million with the city owing approximately \$250,000. He said Wilson and Company [engineering firm] had been awarded six projects.

Mr. Ortega referred to a map, saying it showed existing city water lines with projects designed by Wilson and Company and projects designed by Molzen Corbin and Associates. He said proposals were scored based on criteria in the RFP and the proposal included information on the company's capability to deliver service. Mr. Ortega said representatives of Molzen Corbin and Associates were present at the meeting and were available to answer any questions the council might have.

The Mayor asked if the company had been invited to make a presentation at the meeting; Mr. Ortega said they had not, but rather, had chosen to attend the meeting on their own.

Robert Robeda, Ron Mosier and Michelle Solace of Molzen Corbin and Associates introduced themselves to the Governing Body.

Councilor Garcia said her main concern was that there was no information on cost in the proposals. City Attorney Paula Maynes said under the procurement code when procuring professional services, relative merit was based on the assessment of the responses with the next step being cost determination of the professional services and any associated project construction costs. Ms. Maynes said there was no commitment to spend the money.

Councilor Duran said she had asked a similar question for a contract that had been awarded to Wilson and Company and at that time had been told it was not appropriate to second-guess the staff recommendation. She said she understood there were concerns about the performance [of Molzen Corbin and Associates] but felt if it was inappropriate of her to have questioned the previous award, it was also not appropriate regarding this award. Ms. Maynes said when the previous contract had been awarded, as long as the proposal selected was responsive the Council was within its rights to make the award. She said if the proposals were not responsive, staff would not have recommended them.

Mayor Maestas asked Public Works Director Ben Ortega to elaborate on the evaluation criteria. Mr. Ortega said staff received and evaluated four proposals which were evaluated on seven criteria; two did not meet the criteria so only the remaining two, Wilson and Company and Molzen Corbin and Associates, were asked to participate in the next level of the evaluation process. He said the two firms made presentations to the evaluating committee and Molzen Corbin and Associates outperformed Wilson and Company and was therefore the firm the evaluating committee was recommending.

Mayor Maestas asked what steps would be taken to ensure there was no perceived favoritism; Mr. Ortega referred to information included in the council packets, and said the Public Works Director would prepare the work scope, coordinate and oversee the project, initiate any contract for work in excess of \$50,000, and approve any and all reimbursements. He said at no time would the City Manager be engaged in any negotiations. Mayor Pro Tem Lucero asked who had come up with the evaluation criteria; Bernadine Martinez, Procurement Specialist, said it was a state [of New Mexico] board recommendation.

Mayor Pro Tem Lucero said on the technical criterion, Wilson and Company had scored higher [than Molzen Corbin and Associates] and her experience was that Molzen Corbin and Associates had problems with work performance. She said her fear was that the change orders Molzen Corbin and Associates was "notorious

for" would drive up the cost of the project and based on this she wanted to make a motion to award the contract to Wilson and Company.

Mayor Pro Tem Lucero made a motion to award the contract to Wilson and Company. Councilors Kain-Salazar and Lujan seconded the motion.

Councilor Garcia said her concern was the perceived conflict of interest, how this looked to the Councilors, and said the perception bothered her.

Councilor Herrera said he felt he had to take exception to the comments made by the Mayor Pro Tem because she had not cited any specific items the representatives from Molzen Corbin and Associates could address. He said if the Mayor Pro Tem had elaborated on specific issues, the representatives could have been afforded the opportunity to address the issues. He said the comments made were similar to comments he had made when a contract had previously been awarded to Wilson and Company, and he had asked that the second firm recommended be selected. He said at that time the Council had chosen to take the recommendation made by staff, and he felt awarding the contract currently being considered to Wilson and Company set a bad precedence. He said when the previous contract had been awarded, for that contract Molzen Corbin and Associates had been the second choice and the award had been made to Wilson and Company. Councilor Herrera said he felt the Council was being unfair to Molzen Corbin and Associates and he felt the evaluation committee had done their job and had taken into consideration all of the items when making its recommendation, and regarding a perceived conflict of interest he did not see what the problem was. Councilor Herrera said regarding the relationship between the City Manager and her husband, he was an employee of Molzen Corbin and Associates, not an owner of the firm. He said he did want to know why Doug Albin (husband of City Manager Veronica Albin) was not present at the meeting but wanted to yield the floor to the Molzen Corbin and Associates representatives if they wished to address the issue.

Ron Mosier (Molzen Corbin and Associates) said it was a conscious decision to not bring Mr. Albin so as not to put him in an awkward position. He said Mr. Albin was an excellent technician and a valuable resource to the firm, but he was an employee. Mr. Robeda (Molzen Corbin and Associates) said he had been extremely disappointed when the previous contract had been awarded, but had accepted the decision. He said he felt the firm was the highest rated in New Mexico, and he said representatives of the firm would be willing to have a workshop with the Council to discuss the project, their proposal, any concerns the Council might have regarding previous work, and the firm's qualifications in detail. He asked the Council to keep the selection process based on the evaluating committee's recommendation in place. He said the firm had been in business for fifty years, had been working on projects in Española for forty years, employed many engineers from New Mexico, and he had always enjoyed working in Española. He said Mr. Albin had been with the firm for twenty-eight years, long before meeting City Manager Veronica Albin.

Councilor Herrera asked if Mr. Albin would be the project manager for this contract, if it was awarded to Molzen Corbin and Associates; Mr. Mosier said the project Manager would be Michele Solace.

Councilor Lujan said she agreed with Councilor Garcia regarding the public perception of a conflict of interest. Councilor Kain-Salazar said the Council had a right to change its mind whenever it wanted. She said her concern was past performance and that was what she would be basing her vote on.

Councilor Duran said regarding the past performance of Molzen Corbin and Associates, if there had been problems with the firm, the city would have sued the firm, which had never been done. She said with respect to the perception regarding the City Manager and her husband, who was an employee, if that were an issue, every member of the Council would have a conflict of interest. She said

the city had staff who had worked hard on the evaluations and she felt that their opinions were not being honored. Councilor Duran said she felt disappointed with her fellow Councilors.

Councilor Maestas said he would vote based on the recommendation of staff as they had worked hard and done their research. He said if the Council was not going to accept their recommendations, there was no need for an evaluation committee.

Mayor Maestas said the Governing Body had striven greatly to establish transparency in the city government, there was no basis to deny awarding the contract to Molzen Corbin and Associates, no serious issues had been raised, steps had been taken to ensure there were no actual or perceived conflicts of interest, and he felt they should respect the recommendation of staff. He said it was asinine to think staff would not be impartial in making the recommendation. The Mayor said if there were to be a tie vote, he would not support the motion to award the contract to Wilson and Company.

A roll call vote was taken:

Councilor Salazar - for

Councilor Lujan - for

Councilor Duran - against

Councilor Herrera - against

Councilor Garcia - for

Councilor Maestas - against

Councilor Kain-Salazar - for

Mayor Pro Tem Lucero - for

The motion to award the contract to Wilson and Company carried 5/3.

Item #15, Resolution 2009-30, Adoption of Fiscal Year 2009-2010 Budget
City Manager Veronica Albin presented:

The City Manager said the budget provided had grant information included and changes requested by Department heads. She said she had worked with the DFA (New Mexico Department of Finance and Administration) and the budget was based on quarterly reports. She said she had started with the budget the Governing Body had approved with changes reflecting that the first quarter of the Fiscal Year had passed.

Mayor Pro Tem Lucero said there had been a meeting the previous week in which the budget had been reviewed, and said she was concerned that there were changes made since that meeting, the information regarding grants had not been reviewed in the previous meeting, and the salary schedule was not included. The City Manager said the changes made had been corrective adjustments, and to reflect BARs (Budget Adjustment Requests) but did not include any "bottom line" changes.

The Mayor Pro Tem asked if any members of the Council wanted to have a work session to discuss the salary schedule. She asked what DFA said; the City Manager said DFA had approved submitting the budget and she was requesting that the Council approve the budget.

Councilor Duran said the city needed to get the budget finalized and proceed, and asked what, if any, significant differences there were between the budget being considered and the budget previously approved. She asked if the Department heads had approved the budget; the City Manager said she had met with the Department heads and was satisfied their needs had been met. City Manager Albin said regarding the Councilor's question about any significant changes, expenditures were approximately a half a million dollars less than the information previously submitted.

Councilor Duran said the Community Development Corporation expense would be \$7,500 and asked if that had been budgeted. The City Manager said it was accounted for in the City Manager's budget.

Mayor Maestas asked if the Council was prepared to take action on the matter. The Mayor Pro Tem said she was comfortable with the information presented.

Mayor Pro Tem Lucero made a motion to adopt the budget, seconded by Councilors Duran and Garcia. The motion carried 8/0.

Item #17, Proposed Ordinance - Rules and Structure of Committees

Councilor Danielle Duran presented:

Councilor Duran said there had not been many changes made since the previous review of the information. She said if there were any changes to email those to her or City Clerk Velasquez. Councilor Duran said a Public Hearing needed to be scheduled and requested that the Clerk post in time for the November Council meeting. She said the purpose of the proposed ordinance was to set transparent ground rules for committees including clarifying what the public could expect from committees. She said an ordinance was being proposed instead of a resolution because a resolution might not be the same from administration to administration.

Mayor Maestas asked if this would apply to council committees or all boards and committees; Councilor Duran said this was for council committees.

Councilor Herrera said he felt uneasy about council committees going into executive session; Councilor Duran said council committees could go into executive session for matters specific to that committee's purview. She said that would be included in the ordinance and could be reviewed.

Mayor Maestas directed City Clerk Heather Velasquez to advertise the proposed ordinance in time to have the proposed ordinance as an item on the November Council meeting agenda.

Item #18, Appointment of Planning and Zoning Commission

Planning Director Russell Naranjo presented:

Mr. Naranjo said per ordinance, it was necessary to appoint/reappoint members of the Planning Commission. He said

there were seven members, the Commission met monthly, these were voluntary positions, and the terms served were one and two years with four members serving one year terms and three members serving two year terms. Mr. Naranjo said the Commission reviewed variances and zoning issues. He requested the following individuals be appointed for the term length listed:

Erle Wright, 1 year
Lupe Garcia, 1 year
Amrit Khalsa, 1 year
Laurie Koontz, 1 year
Anissa Martinez, 2 years
Sunee Sandoval, 2 years
Vacant position, 2 years

Mr. Naranjo said commission member Rachel Fresquez had requested to be removed from the Commission; Mr. Naranjo said he wanted to thank her for her service.

Mayor Pro Tem Lucero said she felt the timing of this was strange with the upcoming election and asked if the existing members of the commission could have their service extended rather than reappointing them. Mr. Naranjo said no, extending the terms wasn't allowed and while the appointments were usually made each August, this was being requested in October as there had not been a Planning Commission meeting for the several months previous.

Mayor Maestas said if the incoming administration had concerns with any of the commissioners, the commissioners could be removed for caused, or asked to voluntarily resign. City Attorney Maynes said some of the terms would expire in August following the March (2010) election, and the reasoning for staggering the terms was so a new administration would be able to make some changes to the commission.

Mayor Pro Tem Lucero made a motion to appoint the commissioners for the term lengths recommended, seconded by Councilors Maestas and Lujan. The motion carried 8/0.

Mayor Pro Tem Lucero made a motion to go into Executive Session, seconded by Councilors Duran and Lujan. The motion carried 8/0.

The Governing Body went into Executive Session at 9:14pm.

Councilor Garcia made a motion to exit Executive Session, seconded by Councilor Lujan. The motion carried 8/0.

The Governing Body exited Executive Session at 9:38pm.

Discussion Items

There were no discussion items.

Announcements

There were no announcements

Adjournment

Councilor Garcia made a motion to adjourn the meeting, seconded by Councilor Lujan. The motion carried 8/0.

The meeting adjourned at 9:39pm.

***Minutes taken and transcribed by Sally Baxter
Deputy City Clerk/Public Information Officer***

APPROVED AND ADOPTED THIS 30th DAY OF November, 2009

ELECTRONIC FILE, SIGNATURES AVAILABLE UPON REQUEST