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 Wednesday, October 14, 2015

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**REGULAR MEETING OF THE  
GOVERNING BODY  
Santa Fe, New Mexico  
October 14, 20125**

**AFTERNOON SESSION**

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor Pro-Tem Ives on Wednesday, October 14, 2015, at approximately 5:00 p.m., in the City Hall Council Chambers. Following the Pledge of Allegiance, Salute to the New Mexico flag, and the Invocation, roll call indicated the presence of a quorum, as follows:

**Members Present**

Mayor Javier M. Gonzales  
Councilor Peter N. Ives, Mayor Pro-Tem  
Councilor Bill Dimas  
Councilor Carmichael A. Dominguez  
Councilor Signe I. Lindell  
Councilor Joseph M. Maestas  
Councilor Christopher M. Rivera  
Councilor Ronald S. Trujillo

**Members Excused**

Councilor Patti J. Bushee

**Others Attending**

Brian K. Snyder, City Manager  
Kelley Brennan, City Attorney  
Yolanda Y. Vigil, City Clerk  
Melessia Helberg, Council Stenographer

**6. APPROVAL OF AGENDA**

**MOTION:** Councilor Dominguez moved, seconded by Councilor Rivera, to approve the agenda as presented.

**DISCUSSION:** Mayor Pro-Tem Ives asked if anything is removed from the Consent Calendar, he might ask for early discussion of Item 11, because he has to leave a little early and wants to make sure he is available to answer any questions.

**VOTE:** The motion was approved on a voice vote with Mayor Pro-Tem Ives, and Councilors Dimas, Dominguez, Lindell, Maestas, Rivera and Trujillo voting in favor of the motion, none voting against, and Mayor Gonzales absent for the vote.

**7. APPROVAL OF CONSENT CALENDAR**

Councilor Maestas said he would like to be added as a cosponsor of 10(n).

**MOTION:** Councilor Dominguez moved, seconded by Councilor Rivera, to approve the Consent Calendar, as amended

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

**For:** Mayor Pro-Tem Ives, Councilor Dimas, Councilor Dominguez, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

**Against:** None.

**Absent for the vote:** Mayor Gonzales.

Councilor Rivera thanked the young soccer players in attendance who have been diligent in attending each meeting to hear is what is going to happen on the Master Plan.

**8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – SEPTEMBER 30, 2015**

**MOTION:** Councilor Trujillo moved, seconded by Councilor Dimas, to approve the minutes of the Regular City Council meeting of September 30, 2015, as presented.

**VOTE:** The motion was approved unanimously on a voice vote with Mayor Pro-Tem Ives, and Councilors Dimas, Dominguez, Lindell, Maestas, Rivera and Trujillo voting in favor of the motion, none voting against, and Mayor Gonzales absent for the vote.

**9. PRESENTATIONS**

There were no presentations.

**10. CONSENT CALENDAR**

An action sheet from the Public Works/CIP and Land Use Committee meeting of Tuesday, October 13, 2015, regarding Item 10(o), is incorporated herewith to these minute as Exhibit " 1."

- a) REQUEST FOR APPROVAL OF BID NO. 15/17/B – ARMORED VEHICLE SERVICES AGREEMENT FOR VARIOUS CITY DEPARTMENTS; LOOMIS ARMORED US, LLC. (TERESITA GARCIA)
- b) REQUEST FOR APPROVAL OF AMENDMENT NO. 3 TO AGREEMENT BETWEEN OWNER AND ARCHITECT – CNG FUEL FACILITY UPGRADES FOR ENVIRONMENTAL SERVICES DIVISION; HUITT-ZOLLARS, INC. (MARY MacDONALD)
- c) REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – PLAN, DESIGN, PURCHASE AND INSTALL PLAYGROUND IMPROVEMENTS AND EQUIPMENT; LA COMUNIDAD DE LOS NINOS HEAD START. (DAVID CHAPMAN)
- d) SANTA FE BOYS & GIRLS CLUB OF SANTA FE. (DAVID CHAPMAN)
  - (1) REQUEST FOR APPROVAL OF MEMORANDUM OF AGREEMENT – ALLOCATION OF \$50,000 FOR ZONA DEL SOL FACILITY.
  - (2) REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – CITY OF SANTA FE TO ACT AS FISCAL AGENT AND PROJECT MANAGER.
  - (3) REQUEST FOR APPROVAL OF BUDGET INCREASE IN THE AMOUNT OF \$50,000.
- e) REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – SERVICES AT SANTA FE RAILYARD PARK STEWARDS. (ROBERT SIQUEIROS)
- f) REQUEST FOR APPROVAL OF AGREEMENT BETWEEN OWNER AND ARCHITECT – SALVADOR PEREZ PARK PARKING LOT, CONCESSION BUILDING AND ASSOCIATED WORK; JOHN BARTON ARCHITECTS, LLC. (JASON KLUCK)
- g) REQUEST FOR APPROVAL OF PROCUREMENT UNDER COOPERATIVE PRICE AGREEMENT – NINETY (90) FIRST Vu HD BODY CAMERAS FOR POLICE DEPARTMENT; DIGITAL ALLY, INC. (INTERIM POLICE CHIEF GALLAGHER)
  - (1) REQUEST FOR APPROVAL OF BUDGET INCREASE IN THE AMOUNT OF \$52,741.
- h) REQUEST FOR APPROVAL OF BUDGET INCREASE IN THE AMOUNT OF \$15,386 FOR SECTION 5303 FEDERAL TRANSPORTATION PLANNING FUNDS FOR SANTA FE METROPOLITAN PLANNING ORGANIZATION. (MARK TIBBETTS)
- i) REQUEST FOR APPROVAL OF EXEMPT PROCUREMENT – SOFTWARE AND SERVICES TO UPGRADE CITY WEB-BASED MAP SERVICES; LATITUDE GEOGRAPHICS GROUP, LTD. (RENEE MARTINEZ)

- j) REQUEST FOR APPROVAL OF AMENDMENT NO. 4 TO LEASE OPERATING AGREEMENT – FOOD AND BEVERAGE SERVICES FOR RESTAURANT FACILITY AT MARTY SANCHEZ LINKS DE SANTA FE GOLF COURSE; NORTHERN VENTURES, LLC D/B/A THE LINKS BAR & GRILL. (JENNIFER ROMERO)
- k) REQUEST FOR APPROVAL OF BUDGET ADJUSTMENT IN THE AMOUNT OF \$50,000 – PUBLIC MEETING FACILITATION AND PUBLIC PROCESS MANAGEMENT SERVICES FOR THE COMMUNITY HOSPITAL AND HEALTH CARE STUDY GROUP; UNIVERSITY OF NEW MEXICO HEALTH SCIENCES CENTER. (KATE NOBLE)
- l) CONSIDERATION OF RESOLUTION NO. 2015-91 (FINANCE COMMITTEE). A RESOLUTION RELATING TO A REQUEST FOR APPROVAL OF THE QUARTERLY REPORT AND ASSOCIATED FORMS; SCHEDULES REQUIRED FOR SUBMITTAL TO THE NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION/LOCAL GOVERNMENT DIVISION (DFA/LGD) FOR THE FOURTH QUARTER OF FISCAL YEAR 2014-2015. (CAL PROBASCO)
- m) CONSIDERATION OF RESOLUTION NO. 2015-92 (COUNCILOR BUSHEE, MAYOR GONZALES, COUNCILOR IVES, COUNCILOR LINDELL AND COUNCILOR MAESTAS). A RESOLUTION DIRECTING STAFF TO COMPLETE THE OLD PECOS TRAIL SCENIC CORRIDOR PLAN BY FOLLOWING THE NECESSARY PUBLIC PROCESS. (GREG SMITH)
- n) CONSIDERATION OF RESOLUTION NO. 2015-93 (COUNCILOR BUSHEE, COUNCILOR IVES, ~~AND COUNCILOR LINDELL, AND COUNCILOR MAESTAS~~). A RESOLUTION DIRECTING STAFF TO CREATE THE WEST SANTA FE RIVER CORRIDOR MASTER PLAN AND BRING IT FORWARD FOR ADOPTION BY THE GOVERNING BODY AS AN AMENDMENT TO THE GENERAL PLAN. (REED LIMING)
- o) REQUEST FOR APPROVAL OF MASTER PLAN FOR PLANNING RENOVATIONS, IMPROVEMENTS AND EXPANSION OF THE MUNICIPAL RECREATION COMPLEX (MRC) SOCCER VALLEY FACILITY. (JASON KLUCK)
- p) PURSUANT TO RESOLUTION NO. 2015-14, STUDY OF EXISTING ON-ROAD BICYCLE SAFETY ISSUES, REVIEW OF THE METROPOLITAN MASTER PLAN PROJECT6 RECOMMENDATIONS FOR ON-ROAD BIKEWAY IMPROVEMENTS AND FIVE YEAR IMPLEMENTATION PLAN TARGETED AT IMPROVING ON-ROAD BICYCLE SAFETY WITHIN THE CITY OF SANTA FE. (JOHN ROMERO). (INFORMATIONAL ONLY)
- q) PURSUANT TO RESOLUTION NO. 2015-45, REPORT ON THE OUTCOMES OF THE ZOZOBRA BURN-OUT TOURNAMENT. (JENNIFER ROMERO) (INFORMATIONAL ONLY)

r) **REQUEST FOR APPROVAL OF 2016 EMPLOYEE HOLIDAY CALENDAR. (LYNETTE TRUJILLO)**

**11. CONSIDERATION OF RESOLUTION NO. 2015-94 (COUNCILOR IVES). A RESOLUTION IN SUPPORT OF INCREASING THE FEDERAL ROYALTY RATE FOR OIL AND GAS PRODUCED ON FEDERAL PUBLIC LANDS. (JESSE GUILLEN)**

Jesse Guillen presented information in this matter from the Legislative Summary which is in the Council packet.

Mayor Pro-Tem Ives said this could have significant benefits for the State and especially for the public schools. He spoke with members of our Congressional Delegation and there is support among them for this change.

**Disclosure:** Councilor Maestas, "Kelley, I work for the Department of Interior and I guess this legislation, if passed, will go to the Department of Interior. I don't see any conflict that would prohibit me from taking action on this."

**Response by the City Attorney:** Ms. Brennan said, "I agree, I don't think this rises to a level of conflict that requires you to recuse."

**MOTION:** Councilor Dominguez moved, seconded by Councilor Lindell, to adopt Resolution No. 2015-94.

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

**For:** Mayor Pro-Tem Ives, Councilor Dimas, Councilor Dominguez, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

**Against:** None.

**Absent for the vote:** Mayor Gonzales.

**12. CASE NO. 2015-91. REQUEST FOR APPROVAL OF THE RECOMMENDATION OF THE CITY ATTORNEY TO REMAND BACK TO THE HISTORIC DISTRICTS REVIEW BOARD, PURSUANT TO THE STIPULATION BETWEEN THE PARTIES OF AN APPEAL BY JON JAYET FROM THE SEPTEMBER 8, 2015 DECISION OF THE HISTORIC DISTRICT REVIEW BOARD REGARDING STATUS REVIEW AT APPLICANT'S PROPERTY AT 829 WEST MANHATTAN AVENUE LOCATED IN THE WESTSIDE GUADALUPE HISTORIC DISTRICT. (ZACHARY SHANDLER)**

Zachary Shandler, Assistant City Attorney said, "Since the Historic Board hearing, the property owner has obtained new information that he believes would be informative and he would like to go back to the Historic Board so the property owner and the City Attorney's Office have both stipulated, and are asking for your remand of that jurisdiction back to the Board."

**MOTION:** Councilor Dimas moved, seconded by Councilor Trujillo, to approve the recommendation of the City Attorney, and to remand Case No. 2015-91 back to the Historic District Review Board.

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

**For:** Mayor Pro-Tem Ives, Councilor Dimas, Councilor Dominguez, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

**Against:** None.

**Absent for the vote:** Mayor Gonzales.

**13. REQUEST FOR APPROVAL OF STAFF REPORT AND RECOMMENDATIONS, PURSUANT TO RESOLUTION NO. 2015-87 – EXPLORING THE FEASIBILITY OF STAGING A NEW YEAR'S EVE EVENT ON THE PLAZA ON DECEMBER 31, 2015. (DEBRA GARCIA Y GRIEGO)**

Debra Garcia y Griego presented information regarding this matter from her Memorandum of October 8, 2015, with attachment, to the City Council, regarding this matter. Please see this Memorandum for specifics of this presentation.

*The Governing Body commented and asked questions as follows:*

-- Councilor Trujillo said he is concerned about a long time event, Light up the Life, on the Plaza on New Year's Eve. It is a solemn event in honor of all those who have passed this year, and usually continues until about 8:30 p.m. He asked if the proposed event will interrupt this very solemn, long time event.

Ms. Garcia y Griego said she spoke with Barbara Lopez, and the event is permitted until 8:00 p.m. and it will be about 8:30 before the event will wrap-up. She said there are concerns about coordination. She said this event doesn't start until 10:30 p.m. She said the people presenting the concert will need to sit with Barbara Lopez to talk that out thoroughly. She said there are 2½ hours between, but they need to work on the logistics of moving one event in and one out and the one coming in would have to be managed carefully.

– Councilor Dominguez said, “Just for the record, I just want to be clear, my computer shut down and I'm trying to look at her packet at the same time. All of these expenses to parks, fire and police are coming out of Tourism Santa Fe. Correct.”

Ms. Garcia y Griego said that is not correct. She said they would absorb them into the overtime budgets they have established. The Tourism Santa Fe funds would be used in presenting the actual events which would include the musical act and the multi-media display.

- Councilor Dominguez said then the indirect expenses are coming out of each of the departments' budgets.

Ms. Garcia y Griego said that is correct.

Mr. Snyder said, "Debra is correct. The indirect expenses, which are primarily overtime, would be absorbed for those 4 hours, which is similar we would have over time. Parks staff, Fire, Police..."

- Councilor Dominguez asked, "I'm just wondering why we didn't allow for, or maybe you did think about asking Tourism to absorb those costs. Was that discussed."

Mr. Snyder said, "Honestly, I didn't feel it was appropriate that Tourism Santa Fe would be paying for the staff time. We approached each of the departments and they felt reasonably comfortable in absorbing each of these estimated costs in the current approved overtime budget."

- Councilor Dominguez asked about the revenue in Tourism. Is it flat, or do we have an increase.

Ms. Garcia y Griego said it is her understanding there was an increase in Tourism funds over the past year which was budgeted. She said she believes part of the reserve fund from which Randy is pulling these funds is part of that realized increase.

- Councilor Dominguez said he won't oppose a motion necessarily for approval on this. He said, "The direct expenses, including music and equipment, why are those being paid out of Tourism. The multi-media light countdown, the event coordinator, traffic control barricades, portable toilets."

Randy Randall, Executive Director, Tourism Santa Fe, said, "The thought is that this is a combination of both an opportunity for both residents and tourists to celebrate New Years Eve. We plan to market this as part of what the City offers, the same way the Christmas Eve walk attracts people over the Christmas holiday, we expect this to expand and broaden what we offer on New Years Eve, rather than it being kind of *ad hoc*. It seemed appropriate that about half the costs should come from Tourism."

- Councilor Dominguez asked are we going to start trying to split those costs for every event that comes to the City where we're going to a certain percentage is for residents, and another percentage is intended to be a tourist attract. This is part of his concern.

Mr. Randall said, "Tourism money is usually not used to create events. It's used to promote events. But to help this get started, it seemed appropriate to, and we don't have a lot of resources within the City as you know to find \$50,000. For \$25,000 to come out of the reserves seemed to be reasonable, but it is unusual as you point out, for Tourism to be used for event creation, as opposed to event promotion."

- Councilor Dominguez said then the anticipated revenue is \$50,000.

Ms. Garcia y Griego said, "The expenses, and perhaps it would have been better stated that way, will be covered by \$20,000 from the Arts Commission's new Cultural Events Initiative, \$5,000 from Economic Development's Nighttime Economy Stimulus and another \$25,000 from Tourism Santa. That is how those expenses for the band and the light show would be covered."

– Councilor Dominguez said then that is where the revenue that will be will come from.

– Councilor Dominguez said part of the memo is an idea that we would get funds from private sponsorships, and asked if that has been done.

Ms. Garcia y Griego said no, but there are thoughts about who would be approach and those would go back to reducing the direct cost to the City.

– Councilor Dominguez asked if it will go back to Tourism or to the General Fund.

Ms. Garcia y Griego said that is the recommendation in the memo.

Mr. Snyder said it is in the economic section.

– Councilor Dominguez said it just said that any received funds would be used to defray these costs, but it doesn't say which costs.

Ms. Garcia y Griego said the idea was that the funds would go back to Tourism, the Arts Commission or Economic Development.

– Councilor Dominguez asked, "Could we apply some of that to the General Fund."

Ms. Garcia y Griego said she would be fine with that, but "Randy and Kate would have to speak to their capacity that was not discussed."

– Councilor Dominguez said as we all know it is the General fund that is in trouble and that continues to bleed. He just wants to raise the concern. He support the events, but we need to make sure that we are prudent when it comes to how these monies are received and spent. He is unsure there is support on the Governing Body to make sure we have that separation, and ensure any funds raised would go to the General Fund.

– Councilor Rivera said we are in the process of spending money for Meow Wolf, and it was recommended we go out to bid for certain services, and if that is the plan here, to go out for bid for concert services and the light countdown.

Ms. Garcia y Griego said they would go out for procurement for all services.

Councilor Rivera asked if there is time to get all that done.

Ms. Garcia y Griego said yes, commenting they believe the expertise exists in the community and to respond quickly to the RFP as well.

- Councilor Rivera asked if the Event Coordinator would be in-house staff.

Ms. Garcia y Griego said no, noting that the intent would be to get estimates per procurement, and hire an outside event coordinator.

- Councilor Rivera asked if there is anybody on staff that can do that.

Ms. Garcia y Griego said, "We did have some representatives from Parks there. However, given the level of technical expertise required to bring power onto the plaza to run both the concert and the light show, and coordinating all of those, I think, on top of the Holiday Events that are already scheduled, it would likely be too much of a strain on the Parks Department to add personnel to help with this."

- Councilor Maestas asked if the funding from Tourism Santa Fe comes from general Lodgers Tax Revenues, or Lodgers Tax revenues designated for the Convention Center, or are they other revenues.

Ms. Garcia y Griego deferred to Mr. Randall. She said in terms of the Arts Commission, it is from the Lodgers' Tax allocated for non-profit arts activities.

Mr. Randall the funds from Tourism Santa Fe come from the CVB fund balance – the marketing side and not the Convention Center side. These are kept in separate funds.

- Councilor Maestas noted there are limitations on the expenditure of Lodger's Tax revenues, and asked if this purpose is consistent with allowable expenses.

Mr. Randall said yes, it is.

- Councilor Maestas said it is great to establish this tradition and he does support. He said his concern is that the event is in the middle of the winter, especially if there is inclement conditions. He supports the countdown and what that entails and "limited scaled down festivities of shorter duration." He supports establishing the tradition, but in recognition of the City's finances, and not go for a concert initially. He supports establishing the tradition of the countdown and come up with some smaller scale, smaller priced activities of shorter duration just to see what reaction we get. He said it will be cold and it's hard for people to stay warm if just standing still. He said we can't have open fire pits on the Plaza to keep people warm, although we could have some heaters.

- Councilor Maestas continued, "I just think we're already in October, this is a first time event, and I think it's a great tradition. I fully support it. I just think the scale and the time frame is a bit much for the first go-around. I wish we would have had some optional activities, a full scale band and a longer duration, let's say 10:00 p.m. to 1:00 a.m., or maybe just having some vendors and carolers

or whatever maybe from 11:00 p.m. to 1:00 a.m. We need options, especially when it comes to a first time event that definitely is going to cost us money.” He said he thinks the scale is a bit too grand, it’s being rushed too much and the cost minus securing private sponsorships are of concern to him as well.

- Mayor Pro-Tem Ives said we had the St. Vincents Gala which brought in the Mavericks and the Beirut concert, and asked the crowd sizes for either one of those events.

Ms. Garcia y Garcia said she understands it was about 3,000 for both events.

- Mayor Pro-Tem Ives said that gives a little proof in terms of the capacity of the events to bring people in and make it a vibrant space. He said there are many revelers on New Year’s who will be out. He said if there is an opportunity to have them on the Plaza, he presumes Mr. Randall will be marketing the event through the Lodgers Association and other and trying to boost “heads and beds,” for the event as part of what he will be doing.

Mr. Randall said he presented it to the Lodgers today at its monthly meeting, and everybody was really excited about it. He said many of the lodging facilities plan to have in-house events that go beyond the second seating of a dinner event. He said everyone was very supportive and they are asking for details as soon as possible so they could put it on their websites, in addition to our marketing efforts, to fill the properties.

- Mayor Pro-Tem Ives said he believes it’s an opportunity to take advantage of an event when people are looking for a place to celebrate on New Year’s, and the Plaza is a wonderful place to do that. He said Time Square never seems to lack for people even through it is rainy, snowy or cold. He is in favor of moving it forward and see how it happens.

- Councilor Rivera asked Ms. Brennan if there is process to get special events on the Plaza, and have we done that.

Ms. Brennan said, “There’s a process, particularly for commercial events that take up all the Plaza. So this wouldn’t fall within that category It’s a City sponsored event, and that usually just involves the permitting process that has been alluded to here.”

- Councilor Rivera said then can we do as many City-sponsored events as we want to do on the Plaza.

Ms. Brennan said, “I’m not sure I would go that far. In terms of the permitting process, it’s actually a complicated process in itself. Whether people would tolerate events on the Plaza all the time, I don’t know. And also whether the Plaza would be sustainable as the kind of space it is if there were a lot of events all the time it would be questionable. So I think it’s finding the balance between keeping the Plaza as that kind of space and realizing that it is a public gathering place.”

- Councilor Rivera asked if consideration was given to the Railyard Park which seems larger and able to host something as well.

Ms. Garcia y Griego there was brief discussion of it, but the Resolution was specific as to the location being the Plaza.

- Councilor Trujillo said he had the same question, because the Resolution pertains strictly to the Plaza. He is all for having something in Santa Fe and this is a great idea. He said, "I want to focus on the locals, the people that are here. I'm sorry. It's great that the tourists are here and we want them here. I would like to see you put on something that is specific for those of us who are here 24/7. All I hear is tourists, tourists, tourists, tourists. I like tourism. But my concern are the people that live here 24/7, and I want to cater to the locals. We want to make something that is fund for the people that live here."

Ms. Garcia y Griego said the intention of the large committee was certainly to develop a community event, and to bring what the promoter thinks is the right band to attract families, young people, and people who want to be on the place. To develop an exciting light show to bring us all together. She said the Resolution was very clear that this was a community event, and the intent in drafting it. However, there are funding sources we can use to create an event that is both.

- Councilor Trujillo said he is in support, but agrees with Councilor Maestas in do we need such a huge band this year. He said the light show is a great idea and could become a tradition in this community. He is concerned about spending \$50,000.

Ms. Garcia y Griego said they certainly can scale back the musical portion of this event to be more in line with carolers and other non-profits who may be willing and able to bringing them out. They can accomplish that if that is the direction of the Governing Body and it would be more cost and time effective.

- Councilor Dominguez said he is unsure of the definition of a huge band. He said the message the Governing Body is sending is that we want good quality entertainment but don't want to pay large amounts for that. He thinks this could be good for economic development purposes, noting the Memo mentions a number of establishments that may be having private events or private parties. He said if not, and they are open, people will visit and revenue will be generate. However, he doesn't know the extent of those discussions, and asked her to talk about that.

Ms. Garcia y Griego said, "We did search. The only events currently listed are the event scheduled on the Plaza and one at the Lensic. As Randy mentioned, he has spoke with the hotels and none of the ones within the immediate periphery are planning the big New Year's Eve bashes hotels sometime do. In speaking to members of the Nighttime Economy Task Work who were this working groups best in to the nighttime establishments, none of them are planning anything beyond having special bands, maybe a higher cover. However, there were no big events being planned. Skylight would be the most obvious, given its history, for doing something big. But they haven't announced who's paying and what their cover fees will be at this point in time."

- Councilor Dominguez asked if we are encouraging these establishments to stay open, even though they may not have a special event.

Ms. Garcia y Griego said they anticipate restaurants will do their usual seatings, which she understands there are two seatings on New Year's Eve – one at 6:00 p.m. and one at 8:00 p.m., and then they will close. She thinks more nighttime establishments will stay open through their permanent time of 1:30 or 2:00 a.m. She said beyond, they don't expect businesses to extend their hours.

- Councilor Dominguez asked if they have or have not solicited private contributions.

Ms. Garcia y Griego said they have not. She said they plan to, but they need to know the details of what we're asking them to sponsor, commenting using the funds to pay for the multi-media and performance acts have some appeal to sponsors. "But yes, we plan to."

- Councilor Dominguez asked if there is a fundraising goal.

Ms. Garcia y Griego said they would like to raise between \$10,000 and \$15,000.

- Councilor Dimas asked what are the intended demographics we're looking to bring to the Plaza. He said he is asking, because as Councilor Maestas said, it's going to be very cold out there that night. He doesn't think you will get a lot of older people to the Plaza that night, commenting the Christmas Tree lighting is really cold. He said having had a band and having performed outdoors, he doesn't perform outdoors any longer, because a lot of equipment has been ruined if it's raining or snowing. He said to bring in a good group will be difficult and we'll really have to pay them a lot of money. He agrees with Councilors Maestas and Dominguez that we need to scale this thing down a little bit. He thinks a DJ might be good outside, because they don't have as much equipment to set up, and bring much entertainment to the Plaza and they can cater to any kind of different crowd with different kinds of music.

- Councilor Dimas continued saying he doesn't know what bands they had in mind. He thinks we ought to scale-back the first year, see how it goes and work it up. He said he thinks \$50,000 is a lot of money to spend on something like this. He wants to know who's going to and what are the demographic and asked if that has been discussed.

Ms. Garcia y Griego said they discussed demographics, and looked at the Mavericks concert that drew heavily on the late 30's to mid-50's crowd. She said they think people in their early 20's probably will choose to do other things and may come down for the big drop.

Ms. Garcia y Griego continued, saying they talked about the weather, and both the Tree Lighting and the Farolito Walk are done in cold weather, so Santa Feans do turn out *en masse* to go to events in the winter. She said Mr. Randall has placed a tentative hold on the Convention Center, so if there was significant weather that kept people from performing on the Plaza we could move to the Convention Center. She reiterated that the late 30's to mid-50's crowd is the target group.

- Councilor Dimas said he can't believe there isn't somebody on staff that could be the event coordinator, noting Tourism Santa Fe coordinates events all the time when they bring things in. He can't believe we are going to spend \$5,000 on an event coordinator outside of City staff.

Mr. Randall said, "It's not a matter of not having the talent on staff, it's the capacity to take someone from the job they need to do on a regular basis. They don't have the capacity to absorb this, pull it off, do it right between now and the end of the year. It's a capacity issue, not a talent issue."

- Councilor Dimas asked if they have looked into booking bands that are still open on New Year's Eve. He thinks it might be difficult at this late time.

Ms. Garcia y Griego said, "Knowing that we were going to go through an open procurement process, we were careful about who we talked to, but there are some indications that bands of this level would be available in this price range."

- Councilor Dimas said, "I still think it's too grandiose at this point. I support the idea. I think it's a great idea, and if it'll bring people out between 30 and 50. That includes everybody else on the Council, it excludes me. I just think it needs to be scaled down. I do agree with Councilor Maestas, and I don't quite know how to approach that. Maybe Councilor Maestas has an idea."

- Councilor Maestas said, "I think we have agreement on the feasibility of the event, based on staff recommendations. So maybe we ought to agree that we would like to see an event, but maybe have one more iteration, and have staff bring back a more detailed plan for the event. I think we're talking about expectations of the event, and the event is not quite yet planned. I think if we authorize to go forward to plan the event, and come back in two weeks with a more specific budget and more specifics that might answer some of our questions in terms of how this is going to look, what are the logistics. And I realize time is of the essence, I know that. But I think we're trying to do too much tonight. The event is not planned. We're basically approving an unplanned event. I think we ought to basically approved that we want to have a New Year's Event and ask staff to come back with a more detailed plan on the event itself. I'm suggesting this because I don't want this to go down because have so many questions about the event itself and the budget. Perhaps staff can give us some options, maybe an event of the scale that is originally intended in this report that has some basic recommendations. And then have another option with a much smaller budget."

Mr. Snyder said, "I would just caution that we have one meeting [Council] on October 28<sup>th</sup>. We will not have any of the procurement finished by that time. We have one meeting in November at which we could bring items back for consideration and discussion. I fear that moving that discussion, detailed options, those kinds of discussions with details we've obtained through the procurement process which we need to initiate yet may be too late. Councilor Dimas mentioned selection of a band, a D.J. That window is closing. So, I think we're ready to answer any questions you may have. The answers may be generic in nature because the Resolution that was passed by Council was directing staff to explore the feasibility of it. We did that, we're bringing it

back, and basically that direction was given at the last Council meeting. We scurried to pull together a group to bring back as much information as we could right now. Just have the conversation knowing that January 1<sup>st</sup> is right around the corner. We have three Council meetings between now and the end of the year before this event would even occur. We just wanted to be pro-active to get before you, provide as much information as we have, get some ballpark pricing. We don't know where the prices will come in as we go through the procurement processes. But based on our experience in other events, this is a target budget."

*Mayor Gonzales arrived at the meeting*

- Councilor Maestas said Ms. Garcia y Griego mentioned the possibility of scaling this back. He asked, "Can you scale it back. Can you scale it back to the degree of having the event not exceed \$25,000 in expenses. And again, that's not going to limit you from seeking sponsorships. That's not going to tie our hands. Can you or Randy throw out any kind of scaling back of this event, maybe on the budget side without really limiting your options for entertainment and such."

Ms. Garcia y Griego said, "What I'm hearing from the Governing Body are concerns about a very solemn event that happens before, concerns about the size of this band and time frame for people coming out, and the desire to scale it back to something that can be done really well within the time frame. So I think, given a \$25,000 goal, and those things you've talked about, we can accomplish that and can come up with an event that is I think a little bit more scaled back and honors the event that's happening before, honors local groups. I can say, with some relative level of assurance that scaling the budget back that far will mean that we don't pull on that level band originally intended. But I think, certainly as all of you have discussed, there are options locally that are much more affordable, and potentially more engaging for the community in some ways. So yes, I think we can do that."

**MOTION:** Councilor Maestas moved, seconded by Councilor Dominguez for purposes of discussion, "to approve staff recommendations and simply give them direction to try to scale this back a little bit, budget-wise, scale-wise, but not put any kind of specific monetary reductions in the budget and consistent with what Debra said."

**FRIENDLY AMENDMENT:** Councilor Dominguez said, "Is it possible, would you accept Councilor Maestas that whatever contributions we raise to \$7,255 be reimbursed back to the General Fund and not go into Tourism, and anything above that goes back into Tourism." **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

**FRIENDLY AMENDMENT:** Mayor Pro-Tem Ives said, "I would propose an additional amendment. I understand the notion of cutting back somewhat. I would make a request to bring back 1-2 options, because I think there is some validity in attracting a band that would allow lodgers throughout the City to advertise and bring people in."

**DISCUSSION ON FRIENDLY AMENDMENT:** Mayor Pro-Tem Ives said, "One question I had for Randy is how many rooms do we have in the downtown core.,

Mr. Randall said there is roughly 1,850 downtown, 2,500 on Cerrillos Road and the balance up to 5,200 in the peripheral area.

Mayor Pro-Tem Ives asked the percentage of full rates over the Christmas holiday.

Mr. Randall said he has to think back to his days in the business. He said, "Over the whole holiday period, we'd probably run 70-75% occupancy, up through Christmas is a little it slow starting about the 27<sup>th</sup>, and at least in the downtown area, hotels are fairly full, not necessarily totally full over the New Year's period. I would add that there are all the short term rentals that we're reviewing, and the preponderance of those are in the downtown area. So, with those, there are over 3,000 rooms for sure in the downtown area. I do not know the occupancy of short term rentals."

Mayor Pro-Tem Ives said, "I am asking because each of the events that have featured large bands on the Plaza, when I've been down there, I see tons of locals, lots of people from the community who are there. I think it is an opportunity here to attract folks and serve our economic purposes by putting heads in beds. But it's my experience that the locals are down there in throngs and enjoying themselves. So, I don't think in any way this is not an event for locals. It's just hopefully one that will spur our economic engines a little bit. I'm looking at an amendment that says bring us back a range of proposals rather than saying cut it back and bring me something cutback. They may find that bringing something of equivalent size actually does make the most sense."

Councilor Maestas said that's what he asked for earlier, and thinks we just don't have the time available. He said, "I have just one clarifying question. On the Tourism Santa Fe Seasonal Promotion, is that hard cash that's going to defray direct expenses or is that an in-kind in the form of promotion and marketing."

Ms. Garcia y Griego said yes.

Councilor Maestas said, "But anyway I did propose that Mr. Mayor Pro-Tem. And I think just giving them the latitude to try and scale it down, and be respectful of our budget situation, but not really tie their hands unnecessarily, I think is reasonable."

#### **THE AMENDMENT WAS NOT FRIENDLY TO THE MAKER.**

Councilor Dominguez agreed, saying it would be difficult for the Governing Body to determine what band is appropriate, and that's not really our job. He said, "Our job is to make sure we have a sufficient budget for the program. I think the budget is a little too much. I put on a SWAN Park opening with very little budget, outside of in-kind services, not that there's any comparison. The point is that giving clear direction to staff as you have Councilor Maestas to make sure staff does everything they can to bring the cost down, whatever it is they need to do to make sure there isn't a large fiscal impact, especially if we're not sure about what the turnout is going to be. I expect it's going to be a pretty decent turnout. I think in many ways this is using tourist monies, monies generated from tourists for a community event. And that is

exactly the way it is written, that's the way it's been proposed. Especially the idea, Councilor Maestas, that you accept in your motion the idea that we reimburse the General Fund is something I certainly support, because the General Fund is what the locals or the residents of this community utilize on a daily basis and we want to have as little impact there as we can."

**CLARIFICATION OF THE MOTION BY THE MAKER:** Councilor Maestas said, "And just for the record, my motion does include the transfer from Tourism Santa Fe. Yes. That's part of the action."

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

**For:** Mayor Gonzales, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

**Against:** None.

**Explaining her vote:** Councilor Lindell said, "I'm going to reluctantly say yes. But I don't really think that scaling this back is in our best interest. I think the activities we've had on the Plaza have been very very well attended, and I think that they are for the community. I hope, by trying to scale back in the first year, that we don't ruin an event that has the potential to become another sizable event for the community. So I will say yes."

**Explaining his vote:** Councilor Trujillo said, "Yes. And if we can get AC/DC to play for a low rate, I'm all for that. I've never seen them, okay."

**Explaining his vote:** Councilor Dimas said, "Well, after he said that, and if you did that, I'd have to vote no, but I'm going to vote yes under the circumstances, because you haven't gotten them yet."

**Explaining his vote:** Councilor Dominguez said, "I hope this turns out to be a great event. I look forward to it. I hopefully will be there. I vote yes."

*Mayor Pro-Tem Ives departed the meeting*

**14. REQUEST FOR APPROVAL OF A STATE OF NEW MEXICO CONTRACT FOR EXAMINATION ENGAGEMENT WHICH WILL RESULT IN AN OPINION ON THE CITY'S COMPLIANCE WITH LEGAL, REGULATORY AND POLICY CONSTRAINTS FOR EXPENDITURES CHARGED TO THE 2008 PARKS BOND ISSUE; ATKINSON AND CO., LTD. (LIZA KERR)**

A copy of *State of New Mexico Contract for Attestation Engagement - Examination*, is incorporated herewith to these minutes as Exhibit "2."

Liza Kerr, Internal Auditor, said they have put together an audit contract with Atkinson & Co., to perform the audit. The amount of the contract is \$148,000, plus gross receipts tax, for a total of \$160,303. The report is due to be delivered February 15, 2016, and that is a slight change from what was originally in the packet. She included that information and provided a new copy today [Exhibit "2"].

*The Governing Body commented and asked questions as follows:*

- Councilor Maestas is glad to see this contract. He said aside from having under the oversight of the State Auditor he thinks this something that was needed. He said the contract definitely reflects the scope. He said there is a provision on page 5, Section 3. Compensation, 3(A)(c) which provides, *"If fraud were found an increased fee might be indicated, otherwise this a capped fee engagement."*
- Councilor Maestas continued, "When we adopted the Resolution calling for the audit, we required if there were preliminary findings that indicated any criminal activity, there would be an immediate notification to the Attorney General's Office. I would think that could translate into a scope expansion, but there's nothing in there that accounts for any kind of contingencies. It's got a hard cap in terms of the budget. The scope is very well defined, but it doesn't seem like it's factored into the scope, potential contingencies like discovering potential fraud. So Liza can you address what would happen and why do we have this hard cap on the contract. It's very explicit and it says once you get to that amount, you stop working. What if he doesn't accomplish the scope. What if during the course of the audit, based on some of the preliminary findings, the scope is expanded and it looks as though we're probably going to exceed that hard budget cap. Can you tell us where in the contract it is going to allow for that."

Ms. Kerr said, "The way I would respond to that, is just exactly what it says. If fraud were found or indications of fraud that would about the only conditions that they would expand the scope of the audit. If fraud were found and we had to expand the scope, we would expand the cap fee for the engagement, so depending on what they found. It's hard to write into the scope the particular steps they would take, Councilor Maestas, because it might depend on what they find."

- Councilor Maestas said there are no other provisions for the potential for consulting with the Attorney General's Office.

Ms. Kerr said she didn't write the scope, the scope was written by the State Auditor's Office, noting they simply dropped it into the contract. She said, "We really did have a lot of say in how it was written or the different provisions of it. So this is an audit that has been designated per that designation letter and the scope is very specific. This is a draft of what we're doing."

- Mayor Gonzales said, "I think that it's important to recognize, at least the way I believe it, there is not any indication or any belief that there was any fraud committed through this process."

Ms. Kerr said, "That is a correct statement."

- Mayor Gonzales said, "If we continue to say and stay believing or thinking that that is the case, and want to channel a set of scope of services for that area, then I think that the State Auditor's Office isn't necessary *[inaudible]* we would refer something to the Attorney General or some law enforcement agency. But nothing has even been shown to that point. This audit isn't any different from any other audit that we have that goes on during the regular course of every year. And I

believe what the State Auditor is doing through the course of developing an audit plan, specifically is to test to determine if, in fact, what was said was spent is proved by invoices and that that is supported by policy and that we're able to determine, based on some sampling, because there's not going to be the ability I don't believe to test every transaction that occurred. But at least, based on some type of sampling whether there were proper accounting rules that were followed."

- Mayor Gonzales continued, "If in the event on this audit, or any other audit, those tests determine there is something unusual, or out of the norm that may lead or suspect a fraud, they're automatically required to expand the sample size without coming back to us and asking for more money. And if they actually determine that fraud as existed, it goes into another level of participation by law enforcement agencies and others who come in, alongside the Attorney General, and work to that level."
- Mayor Gonzales continued, "I just want us all to be sure that we understand that, through this audit, it's going to test whether expenditures were made appropriately, in compliance issues there was any abnormal activity that occurred outside of the scope of what should happen in a governmental arena. And if it leads to that, then it's not even an issue of funds. Right. So there won't be a point where they said, if they discovered fraud, we've spent \$145,000 therefore we're not going to pursue it because we're capped out. They are obligated by law to pursue a whole other avenue if something like that has happened. And I know we want to make sure."
- Mayor Gonzales continued, "Over the course of the past several months..... we want to make sure the public knows there has been a proper accounting for how the funds were spent. That is the goal. And I think the State Auditor's Office is very clear that is certainly what our intent is. But these audits are designed specifically to be able to identify and assess any risk of nonconformance with any type of generally accepted accounting principles. I know she's maybe not giving you necessarily the answer about what happens if there was fraud or the cap is too low and what do we do then if they find through some testing that there was irregular activity, the issue of cost and capping of contracts become a very moot point, because it take on a whole different life of its own, and they're required to follow a whole other process."
- Mayor Gonzales continued, "I want to make sure we're sending out the right message to the public *per se*, that they don't feel, because there is a contracted amount, that we're eliminating that ability to actually discover if there are any financial irregularities that were done with this."
- Councilor Maestas said, "On the point of sample size, Mr. Mayor and Liza, that was kind of the basis of the agreed upon procedures in the REDW audit and it was based on a sampling. And so it seems we're employing a similar kind of auditing technique. And I understand the limitations we have. As the Mayor said, we can't pull over every single piece of paper, but the scope is vague on defining that sample size. It's going to be based on a sample size that's sufficient to support the contractor's opinion. What are the factors that go into defining the sufficiency of the sample, depending on whether they're doing a sampling on a particular project, based on your background. Can you give a sense for how that would be defined through the course of the audit."

Ms. Kerr said, "I could defer that to Marty Mathisen with Atkinson & Co., and he can answer specifically as to how he will approach sample size. In general, he is being tasked with enough of a sample size to firm his opinion. So there are a lot of different factors that go into determining that sample size, and if he uses statistical sampling or if he selects a sample and needs to draw a bigger sample. He can certainly respond to that as to how they will approach it in this particular audit.

- Mayor Gonzales said, "I was going to add to that, that there is also a difference between this audit that is being contracted and the REDW audit, and the reasons we're paying \$145,000 versus the \$50,000. REDW didn't come in with a statistical sampling based on the number of transactions that were done. They didn't even get past first base because all of the materials weren't... they didn't have those in hand before they basically issued their letter of we can't deal with this audit. It's a very different contract here under the purview of the State Auditor's Office, not the internal auditor, that the auditor has to do a statistical sample based on the number of transactions that took place, based on the value size of the contract. The contractor has to attest through their signature to the State Auditor that the audit was done sufficiently enough to make an opinion available. So we can't get involved in telling him what his sample size should be, because they're got a whole process in terms of how to arrive at that statistical level and what's going to be tested and what's not going to be tested."
- Mayor Gonzales continued, "This is a very different audit from REDW, and REDW... well you can't call it an audit because it was more a review of the expenditures that occurred at the time. This will be exactly like our regular audit that we have year over year, and I think this is even more costly than our regular audit. So when you think of the fact that we have a \$300 million plus budget here at the City and our annual audit costs are less than the \$145,000, and this audit is going to cost City taxpayers \$145,000 for a \$30 million bond that was done. That is a large contract amount that's being focused on 10% of our City budget. So I think it's sufficient, and I think that the rules the Auditor has to follow are in compliance with all of the accepted accounting principles that are out there. So I don't think anything is going to be lightly tapped around, in terms of trying to really understand and determine where things were appropriately spent. Did I say anything out of line on that Liza."

Ms. Kerr said, "No. That was perfect. Thank you."

- Councilor Maestas said, "My only last issue is records. I know when we brought REDW on board, we just kind of threw them a box of records and said go for it. And obviously you know, that specific types of documents need to be produced prior to or at least at the outset of the audit. There's nothing really in here in terms of the City's responsibility in providing a certain schedule of specific documents. Is that understood. Or is that in some Appendix of the contract, in terms of what records we have to provide to the Auditor. I didn't see anything. I know it's a sensitive issue, because that was a huge issue in the REDW engagement. So can you maybe..."

Ms. Kerr said, "I don't recall everything being in the contract itself, but I do know that the records, at this point have been gathered and we have all the expenditure records. They have the final accounting together. They have the full records at this point, and all the records they need have been gathered. So I didn't see that as being an issue."

- Councilor Maestas said he wants to be sure it is no longer an issue.
- Ms. Kerr said it's no longer an issue.
- Councilor Maestas wants to know that it is not an impediment to this very important audit.
- Mayor Gonzales said, "And I want to add on that too, just on the matter of records, that through the management report issued several weeks back, on line on line now, there are records that include payroll, invoices, the original master plan the Council agreed to. To the issue of, are records in place or not, I think everything has been uploaded on line and there's nothing left to be uploaded, I don't think in terms of the availability, including minutes and other material rights. So the public, if they wanted to put some time into this on their own, be able to and examine the record that was created. Corrected."

Ms. Brennan said, "And Brian can speak more to this. All the records that we have assembled, and have been able to upload are uploaded, and we're still supplementing it. We are in the process of uploading the Council packet for all those projects for the years 2008 to 2011, and will do it through the present, but that's a highly labor intensive task."

- Mayor Gonzales said, "But in terms of accessing those records, auditors don't have to wait until those are...."

Ms. Brennan said no.

- Councilor Dominguez said, "Since that is the case, I anticipate that you will provide me with the information I've asked for regarding the Park up north, relatively quickly. I think you guys are working on that. I got an email from Rob today. I think what it comes down to for me is this, is that we owe it to the public to be as transparent and to answer to them as to what has happened with their money. And it is not the fault of this Governing Body that we are going to have to spend this much money and go through this process. It is the fault of the previous administration and management who were not able to provide us with the documents we needed and that we asked for on a continual basis, so that we even have to get to this point. I think that is something that is important to me. Although there are files uploaded now, and supplements are coming, it's information we've asked for previously, information that should have been given way back when. So because of the lack of transparency back then it has led us to this point today. And so again, it is not this Governing Body's fault we're having to spend this money, it is a lack of the previous management's ability to provide us with the information we need. "

- Councilor Dominguez continued, "Having said that, one of the questions that I have and I didn't see it in the scope, is I've been on the Finance Committee long enough to know there is always an entrance interview and a exit interview. Is that something intended to be done."

Marty Mathisen, audit shareholder, Atkinson and Co., Ltd., said, "To respond to your question, an entrance conference is a customary procedure. I find them extremely useful to get perspective, to put issues on the line and to start the communication process. I'm still feeling my way a little bit about the parties, and maybe there should be multiple entrance conferences. I want to hear, for instance, your perspective and opinions, some of which I know, as being a public official. I hope to have an effective entrance conference or multiple ones as a good start. It is standard practice."

- Councilor Dominguez said through this process he wants to set the record straight, once and for all in addition to other things, and we are getting close to that. He said throughout history there are a lot of bad things that happened, but were not necessary illegal. He said, "That is one of the things that I would hope would surface from this process, not whether certain numbers were put in the correct column, and at the end everything added up and the pluses and minuses lined up, but whether or not there was an usurpation of Governing Body authority. That is the part that concerns me the most. I don't know if this going to get us there. I'm not sure if that's part of the scope. I don't think the auditors look at that sort of thing. But if there is an opportunity to have something like that surface, I think it should. And hopefully through the year course of studying all of this, there will be instances where maybe Management wasn't told they could do something, so they went ahead and did what they thought was right anyway. And that's part of my concern, but that's not all of it, because the majority is the accounting of it. We've needed it for a long long time and hopefully we finally get it when we get to that point."

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

**DISCUSSION:** Mayor Gonzales asked how many respondents were there to the Request for Proposals.

Ms. Kerr said there was one respondent to the Request.

Mayor Gonzales asked the State Auditor if it is unusual for a special audit that there would be only a single contractor who would bid. He asked will you not try and find multiple contractors.

Sanjay Bhakta, Deputy State Auditor, said, "It is sort of unusual. However, it could be also is that this is the busy audit season when all the auditors have already assigned their resources, and therefore not available."

Mayor Gonzales asked, "Do you believe, based on what you know about this bond and the concerns brought forward by members of the public, that the single contractor who will be awarded tonight has the experience and capacity to be able to address and understand why the request was made by your Office and by the Council."

Mr. Bhakta said, "Yes, we have known Atkinson & Co., for many many years, and they have been engaged to perform these kinds of projects. And Marty Mathisen is a highly respected CPA in the New Mexico CPA community who is very much aware of these kinds of issues and I have all the faith in him."

Mayor Gonzales said, "One final question, because I want to make sure that.... I think Councilor Dominguez brings up an issue of governance and management practice that may not have been proper accounting, but not necessarily in the following of some type of governance process. Your audits aren't geared to determine whether, or correct me it might be a leading question, I don't believe your audits are geared to determine whether management has been out of line with governance. It's that there are financial audits to determine whether they've been done in accordance with generally accepted accounting principles, correct, or government functions."

Mr. Bhakta said, "I think it would be speculative for me to kind of say what would come out of this engagement. However, they look at all the policies and procedures, the bond covenants and they will identify what were the issues. What were the issues at the lower level issues, and at the higher level. So it will come up as a way of the findings."

Mayor Gonzales said, "I would encourage the Council, if you've never had a chance to read an audit, there is a part of the audit that does focus on management recommendations. So they may find that we've properly acted in accordance with Government Accounting Practices. Their recommendations may be that we have to shore up our internal communication channels to make sure that what the Governing Body is determining needs to happen actually as being executed. I am assuming those things could be highlighted in the management recommendation that really doesn't have to deal with accounting issues, but they determine could lead to potential problems down the road."

Mr. Bhakta said, "Yes, Mr. Mayor, I agree. And it wouldn't be management's recommendation, it would be the auditor's recommendation, and then management would respond to it."

Councilor Rivera asked, "Liza, for the record, or Brian, or whoever wants to, could you just explain why this process had to be expedited and couldn't go through the Committee process."

Mr. Kerr said, "Yes. Basically, the proposal had a report delivery date of April 25, 2016, and we wanted a quicker turnaround than that for the report. And specifically the State Auditor's office was looking at February 15, 2016, and they entered in discussions with Mr. Mathisen in regards to the date. We worked on it from that end, and I worked on it from this end, trying to shorten the amount of briefing time it would take to get through the Finance Committees and City Council. So the determination was made to bring it straight to the City Council, with the City Manager's approval, to buy them two weeks of time so they could deliver in February versus in April."

Councilor Rivera asked, "And why was that so important?"

Ms. Kerr said, "I think, politically, the elections are coming up in March for one thing, and we wanted to get it done before that, but also I think this issue just needs to be put to rest. I think there was a sense of urgency that we wanted to get this done, to get it wrapped up. I believe the first date turnout was January 15, 2016, and we negotiated for February 15, 2016. I just think everybody just wanted to restore the confidence, and the citizens confidence as well that we wanted this done as quickly as possible."

Councilor Rivera said, "So if we had waited until the next Council meeting and actually gone through the Committee process that would have only delayed it by two weeks."

Ms. Kerr said, "Yes. And so I'm not sure how much time the two weeks is actually buying us. I talked to Mr. Mathisen before we approached Brian in regard to just bringing it straight to City Council, but it will buy some time. And we just felt that any edge we could give the auditors would be worth trying."

Councilor River said, "You know, I'm in favor of this as well. But just anytime just comes through as quickly as this does, there are issues. Just assume that it will be done right, and would rather have had it go through the Committee process. We have several Council members that are gone from this meeting, so will there be other questions. I mean Councilor Bushee, with her 20 years of experience, may have questions that I may not think about. I would have rather seen it been done right and vetted through the process, and done accordingly, even if it was a two week delay, just to make sure that everything was done properly and in order. So, not quite sure I agree with why it was brought through as quickly as it is just to buy an extra two weeks. But again, I am willing to move forward with this, just to make sure it's done properly and we get some of the answers that we need."

Councilor Dimas said, "A quick question Liza. The accounting firm that's doing this audit is the same accounting firm that did the parking audit that we had done."

Ms. Kerr said, "No. The accountant that did the parking lot audit was Moss Adams."

Councilor Dimas asked if that was two years ago, and Ms. Kerr said, "Approximately 2½ years ago."

Councilor Dimas said he thought it was the same firm.

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

**For:** Mayor Gonzales, Councilor Dimas, Councilor Dominguez, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

**Against:** None.

**Absent for the vote:** Councilor Ives.

**Explaining his vote:** Councilor Maestas said, "Well this is the first major step in regaining the public's trust and I vote yes."

Mayor Gonzales said, "And just to support the fact, and Councilor Maestas's vote, from what I understand there have been new procedures that were put into play by Oscar and others in terms of the process for expenditure of funds. So that how Parks Bonds Funds that are remaining are being spent, are they done in a different environment now than what was back then and if so, how are the Council governance issues being followed."

Mr. Snyder said, "We have put into effect new procedures. I believe they have been emailed and shared with you maybe four months ago, in that time frame early in the summer. So we are following new procedures. It's not that those procedures were not being followed previously, but they're document now. The staff has been trained on accounting as well as various principles that the Governing Body has asked us to address."

Councilor Dominguez said, "I think now there are some clear policies in place that give specific direction as to how management should act."

**15. CONSIDERATION OF RESOLUTION NO. 2015-95 (MAYOR GONZALES AND COUNCILOR BUSHEE, COUNCILOR DIMAS, COUNCILOR DOMINGUEZ AND COUNCILOR MAESTAS). A RESOLUTION CALLING FOR A REGULAR MUNICIPAL ELECTION TO BE HELD MARCH 1, 2016 FOR THE PURPOSE OF ELECTING ONE CITY COUNCILOR FROM EACH COUNCIL DISTRICT AND ELECTING ONE MUNICIPAL JUDGE AT-LARGE. (YOLANDA Y. VIGIL)**

**RESOLUCIÓN QUE CONVOCA UNA ELECCIÓN MUNICIPAL ORDINARIA QUE TENDRÁ LUGAR EL DIA 1 DE MARZO 2016 CON EL FIN DE ELEGIR UN CONCEJAL DE LA MUNICIPALIDAD DE CADA DISTRITO DE CONCEJALES Y ELEGIR UN JUEZ MUNICIPAL PARA TODA LA MUNICIPALIDAD. (YOLANDA Y. VIGIL)**

A map entitled *City of Santa Fe Voting Precincts & Polling Places*, entered for the record by City Clerk Yolanda Vigil, is incorporated herewith to these minutes as Exhibit "3."

A map entitled *Voting Convenience Centers*, entered for the record by City Clerk Yolanda Vigil, is incorporated herewith to these minutes as Exhibit "4."

Yolanda Vigil, City Clerk, said there is a Resolution before the Council calling for the Regular Municipal Election to be held on March 1, 2016, for the purpose of electing one City Councilor from each Council District and one Municipal Judge at large. She said there is a section in the Resolution about Early Voting Locations, noting the Council approved an additional site for early voting, the Genoveva Chavez Community Center as well as the Office of the City Clerk. Early voting at the GCCC will be held Tuesday through Saturday, 9:00 a.m. to 6:00 p.m., so there will be two Saturdays during the early voting where people can vote. Early voting will be held in the City Clerk's Office, Monday through Friday, 8:00 a.m. to 5:00 p.m.

Ms. Vigil said the Resolution requests the Governing Body to approve the Consolidation of Precincts, noting there are two Resolutions in the packet, and there are two maps on the Governing Body's Desk [Exhibits "3" and "4"]. One of the maps shows the location of the traditional polling places, and the other is a map of Voting Convenience Centers. Ms. Vigil introduced Leonard Padilla of the City GIS Office.

Ms. Vigil said she is recommending going to Voting Convenience Centers [VCC] for election day voting that relies on opening non-Precinct specification voting locations. She said the VCC model takes the key attributes that gives greater convenience and choice and extends those to election day voters. The voter can choose the time and place of voting on election day that best fits their schedule. She said this differs from the current system where voters must find the one assigned location, usually in the neighborhood, where they are registered to vote. She said they will offer 12 voting convenience centers, noting there is no wrong place to vote on election day. She said registered voters in Santa Fe can go to any of the 12 sites to vote.

Ms. Vigil, assisted by Leonard Padilla used the overhead to show the map identifying the 12 locations [Exhibit "4"], noting there are 3 sites per District, and detailed those sites per District. Ms. Vigil said she thinks is the way to go, noting the IT and GIS staff along with herself are really excited about this. She asked the Governing Body to approve the use of Voting Convenience Centers. She said she has gone to each of the sites, noting the Schools will be closed on March 1, 2016. She said this is another way to increase voter turnout and make things more convenient for the voters.

**MOTION:** Councilor Dimas moved, seconded by Councilor Maestas, to adopt Resolution No. 2015-95 for Voting Convenience Centers, as presented.

**CLARIFICATION OF THE MOTION:** Councilor Maestas clarified that the motion is for the Resolution for Voting Convenience Centers, and Councilor Dimas said it is.

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

**For:** Mayor Gonzales, Councilor Dimas, Councilor Dominguez, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

**Against:** None.

**Absent for the vote:** Councilor Ives.

**Explaining his vote:** Councilor Dimas said, "Yes, and add me as a cosponsor."

**Explaining his vote:** Councilor Maestas said, "Yes, and add me too as a cosponsor."

**Explaining his vote:** Councilor Dominguez said, "Yes, and add me as a cosponsor."

16. CASE NO. 2015-51. APPEAL OF THE MAY 7, 2015 DECISIONS OF THE PLANNING COMMISSION (COMMISSION), APPROVING THE REQUEST OF THE BENEVOLENT AND PROTECTIVE ORDER OF THE ELKS LODGE NO. 460 BPOE) TO DIVIDE ITS PROPERTY AT 1615 OLD PECOS TRAIL INTO TWO LOTS; AND OF MVG DEVELOPMENT/MORNINGSTAR SENIOR LIVING'S REQUEST FOR A SPECIAL USE PERMIT TO OPERATE A CONTINUING CARE FACILITY ON ONE OF SAID LOTS AND FOR DEVELOPMENT PLAN APPROVAL FOR THE CONSTRUCTION OF AN APPROXIMATELY 73,550 SQUARE FOOT BUILDING ON SAND LOT TO HOUSE SAID FACILITY. (Postponed to October 28, 2015 City Council Meeting)
- a) MOTION TO CONSIDER SEPARATELY THE APPEAL BY THE SOUTHEAST NEIGHBORHOOD ASSOCIATION (SENA) FROM THE MAY 7, 2015 DECISION OF THE COMMISSION APPROVING THE APPLICATION OF THE BPOE TO DIVIDE ITS PROPERTY AT 1615 OLD PECOS TRAIL INTO TWO LOTS IN ACCORDANCE WITH THE AUGUST 11, 2015 WRITTEN REQUEST OF THE BPOE AND TO TAKE A SEPARATE VOTE ON THE MATTER. (Postponed to October 28, 2015 City Council Meeting)
  - b) CONSIDERATION OF THE APPEAL BY SENA FROM THE MAY 7, 2015 DECISION OF THE COMMISSION IN COMMISSION CASE NO. 2015-14 APPROVING THE APPLICATION OF THE BPOE TO DIVIDE ITS PROPERTY AT 1615 OLD PECOS TRAIL INTO TWO LOTS. (Postponed to October 28, 2015 City Council Meeting)
  - c) CONSIDERATION OF THE APPEALS BY SENA FROM THE MAY 7, 2015 DECISIONS OF THE COMMISSION APPROVING THE APPLICATIONS OF MVG DEVELOPMENT/MORNINGSTAR SENIOR LIVING IN COMMISSION CASES NO. 2015-15 AND NO. 2015-16 FOR, RESPECTIVELY, A SPECIAL USE PERMIT AND A DEVELOPMENT PLAN FOR CERTAIN PROPERTY AT 1615 OLD PECOS TRAIL. (Postponed to October 28, 2015 City Council Meeting)

These items, Item 16, 16(a), 16(b) and 16(c) are postponed to the City Council meeting of October 28, 2015.

17. **MATTERS FROM THE CITY MANAGER**

Brian Snyder said he had no matters for discussion.

Mayor Gonzales said, "I have one, Brian. I would like you to ask you to move on as we consider Councilor Maestas's Resolutions that are moving forward on staffing issues. We have a couple of Interim Directors that have been in play. We have the Police Chief and the Economic Development Department Director. Unless there is concern by the Council, I would like to ask you to move, over the course of the next 45-60 days to fill these positions in permanent status. One for stability and two so that we can address some of the various resolutions that will come up to deal with how we craft a strategy going forward. When it comes to the budget, I think it's important that, because the administration is largely going to be delivering information and coming up with ideas and solutions, that those two positions are

filled in some type of short order so that we've got a set of permanent directors that can be part of the solution as opposed to interims."

Mayor Gonzales said, "And Councilor Dimas, on the Public Safety Committee, it might be good to have a conversation with the City Manager at your next meeting, in terms of giving input as to things that you'd like to see, or the Committee would like to see in terms of traits of a new Chief in some of those areas so that there is input that is put in during that time period."

Councilor Dimas said, "I can take care of it."

Mayor Gonzales said, "Councilor Maestas, any concerns on that if we can move on those interims to fill them."

Councilor Maestas said, "The only concern I would have and it sounds like it's not an issue is that we're not filling positions that represent any expanded services, that there are no recurring revenues to cover. So."

Mayor Gonzales said, "Yes. It's just whatever that is interim still that we move to some permanent status on them. That way, as we go through this, we have that input."

## 18. MATTERS FROM THE CITY ATTORNEY.

### EXECUTIVE SESSION

**IN ACCORDANCE WITH THE NEW MEXICO OPEN MEETINGS ACT §10-15-1(H)(7)NMSA 1978, DISCUSSION REGARDING PENDING LITIGATION IN WHICH THE CITY OF SANTA FE IS A PARTICIPANT, INCLUDING, WITHOUT LIMITATION, DISCUSSION AND UPDATE ON MEDIATION UNDER THE DISPUTE RESOLUTION PROVISION OF THE WATER RESOURCES AGREEMENT BETWEEN THE CITY OF SANTA FE AND SANTA FE COUNTY; AND CITY OF SANTA FE V. THE LIQUID COMPANY, INC., ET AL., FIRST JUDICIAL DISTRICT COURT, NO. D-101-CV-2015-01330. (KELLEY BRENNAN).**

**MOTION:** Councilor Rivera moved, seconded by Councilor Dominguez, that the Council go into Executive Session, in accordance with the Open Meetings Act §10-15-1(H)(7) NMSA 1978, as recommended by the City Attorney for discussion regarding pending litigation in which the City of Santa Fe is a participant, including, without limitation, discussion and update on mediation under the Dispute Resolution Provision of the Water Resources Agreement between the City of Santa Fe and Santa Fe County, *City of Santa Fe v. The Liquid Company, Inc., et al., First Judicial District Court No. D-101-CV-2015-01330.*

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

**For:** Mayor Gonzales, Councilor Dimas, Councilor Dominguez, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

**Against:** None.

**Absent for the vote:** Councilor Ives.

The Council went into Executive Session at 6:35 p.m.

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

**MOTION:** At 7:10, Councilor Rivera moved, seconded by Councilor Dimas, that the City Council come out of Executive Session and stated that the only items which were discussed in executive session were those items which were listed on the agenda, and no action was taken.

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

**For:** Mayor Gonzales, Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

**Against:** None.

**Absent for the vote:** Councilor Ives.

### **19. ACTION REGARDING *CITY OF SANTA FE V. THE LIQUID COMPANY, INC., ET AL*, FIRST JUDICIAL DISTRICT COURT, NO. D-101-CV-2015-01330. (KELLEY BRENNAN)**

**MOTION:** Councilor Rivera moved, seconded by Councilor Maestas, to instruct the City Attorney to take action in accordance with the discussion held during the Executive Session.

**CLARIFICATION OF DIRECTION TO THE CITY ATTORNEY:** Mayor Gonzales said, "Can we say what that action was." Ms. Brennan said yes. Mayor Gonzales said, "The action was to direct the City Attorney to leave things as is, and not to appeal the decision of the District Court, the recent decision regarding the miniature ordinance."

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

**For:** Mayor Gonzales, Councilor Dimas, Councilor Dominguez, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

**Against:** None.

**Absent for the vote:** Councilor Ives.

**15. MATTERS FROM THE CITY CLERK**

There were no matters from the City Clerk.

**20. COMMUNICATIONS FROM THE GOVERNING BODY**

A copy of "Bills and Resolutions scheduled for introduction by members of the Governing Body," for the Council meeting of ~~September~~ October 14, 2015, is incorporated herewith to these minutes as Exhibit "5."

**Councilor Dimas**

Councilor Dimas introduced an Ordinance amending Article IX and Articles XII of the Uniform Traffic Ordinance to establish that all parking violations are civil parking violations and subject to administrative adjudication and collection by an external administrative and collection agency; and making such other changes as are necessary to meet the purposes of this Ordinance. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "6."

**Councilor Maestas**

Councilor Maestas introduced an Ordinance amending Section 24-2.6 SFCC 1987 to add a truck and other large vehicles traffic restriction to East De Vargas Street between Paseo de Peralta and Canyon Road. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "7."

Councilor Maestas gave a Shout Out to the Kitchen Angels for its celebration of serving its 1 millionth meal. He complimented the great work they do, particularly for the homebound in our community. He said, "We want one million more, Kitchen Angels."

**Councilor Dominguez**

Councilor Dominguez had no communications.

**Councilor Lindell**

Councilor Lindell thanked the crews from the Fire Department to helped at the Food Depot last week with a program for pet food. She said part of the program is that food that comes in 55 pound bags has to be re-bagged into 15 pound bags. She said they have done several tons of that. She said the Firemen re-bagged 10,800 pounds of dog food in two hours. She said she is retired from that duty now that they can do that. She is deeply appreciative to them for their help, commenting it was a lot of fun working with them. "I just wanted to give them a Shout Out on that."

### **Councilor Trujillo**

Councilor Trujillo said he brought up at Public Works that he noticed the crews have made progress and asked Mr. Snyder to express his appreciation and to “just keep on trucking.”

### **Councilor Rivera**

Councilor Rivera asked Mr. Snyder to thank the Parks and Recreation Department for him and on behalf of Councilor Dominguez with regard to their work on the weeds in District 3 in front of Capital High and the new Nino Otero School which were almost as tall as a person. He said they did a good job on that. And to thank them for the work that they did the past two months with the Sidewalk Angels, a program in District 3 where neighbors get together and help clean up entire neighborhoods – sidewalks and other places that are un-travelable. He said over 6 weeks, they picked up and disposed of more than 10,000 pounds of weeds with the help of the City Parks and Recreation Department.

**END OF AFTERNOON SESSION AT APPROXIMATELY 7:15 P.M.**

## EVENING SESSION

### A. CALL TO ORDER AND ROLL CALL

The Evening Session was called to order by Mayor Javier M. Gonzales, at approximately 7:15 p.m. There was the presence of a quorum as follows:

#### Members Present

Mayor Javier M. Gonzales  
Councilor Patti J. Bushee  
Councilor Bill Dimas  
Councilor Carmichael A. Dominguez  
Councilor Signe I. Lindell  
Councilor Joseph M. Maestas  
Councilor Christopher M. Rivera  
Councilor Ronald S. Trujillo

#### Members Excused

Councilor Peter N. Ives, Mayor Pro-Tem

#### Others Attending

Brian K. Snyder, City Manager  
Kelley Brennan, City Attorney  
Yolanda Y. Vigil, City Clerk  
Melessia Helberg, Council Stenographer

### F. PETITIONS FROM THE FLOOR

A copy of *Driving the Diverging Diamond Interchange*, entered for the record by Paul Brasher, is incorporated herewith to these minutes as Exhibit "8."

**Paul Brasher, Construction Engineer, District 5, New Mexico Department of Transportation, 7315 Cerrillos Road**, said he is here to give the Governing Body an update on a project they have under construction – rebuilding the Interchange at I-25 and Cerrillos/NM14.

Mayor Gonzales congratulated Mr. Brasher on his new position, commenting he didn't know he was going to come prepared to do a presentation, and knows he will need more than 2 minutes to do his presentation. He asked Mr. Brasher how much time he would need.

Mr. Brasher said he was going to give a construction update and was going to assume that they had some background on the project already, and have probably driven it. He said in the interest of time he will be brief.

Mr. Brasher presented information from Exhibit "8," using an enlarged, enhanced photograph of the subject site. Please see Exhibit "8," for specifics of this presentation.

Mr. Brasher said, "Right now it's under construction. We have demolished the outer, right hand lanes of the northbound and the southbound I-25 bridges. We have constructed the abutments and the drilled shafts for the abutments that are going to accommodate the bridge beams. We will be placing the bridge beams starting the 15<sup>th</sup> and 16<sup>th</sup>, and start constructing the outside of those bridges. Meanwhile, if you've driven it recently, traffic is two lanes in each direction on I-25, we have moved the north and southbound traffic onto 'this' side of Cerrillos, NM 14, right 'there.' That's two-way traffic. If you are going southbound on 14, we can accommodate a left turn onto northbound I-25. We can accommodate a right turn onto northbound I-25, a left turn going northbound on Cerrillos. We don't have a turn lane, but there are a few left turns that take place onto southbound Interstate 25. You'll see this bridge construction. What you may be especially interested is knowing is that going into winter, it will be this identical traffic configuration. The Interstate will be open, and traffic will be confined to two-way traffic on one side of Cerrillos in there."

Mr. Brasher continued, "The anticipated completion date, we are on schedule, and the anticipated completion date is November 2016. We have regular weekly progress meetings on the projects, a couple of them weekly, and we have invited and get the attendance of City, County and State staff, particularly the public safety, Police and Fire, and they pretty regularly attend our meetings. We update them on the conditions. The contractor will make accommodations for emergency vehicles to get beneath the bridge at all times. Right now, traffic heading northbound on I-25 is detoured say to 599 down here. We will probably, tomorrow or the next day open a ramp that will take northbound traffic down a ramp to a signalized intersection at the bottom of the hill where a driver can either turn right and get into Rancho Viejo or go left and take NM14 into Santa Fe. That's where we are today. We're on schedule, we're having good participation on the part of the City, the County and the State, those involved in public safety."

Mayor Gonzales said we appreciate Mr. Brasher attending and sharing this information and the handout is very helpful. He said he assumes we can continue to promote what's going on to the public by regular communication channels which is good for everyone.

Mr. Brasher said there is more detail, more information and demonstration of the diverging diamond and how it functions at the website for the project which is [www.santafeddi.com](http://www.santafeddi.com).

Mayor Gonzales said he is assuming we can get that information from the NMDOT.

Mr. Brasher said yes, and the detours, closing and so forth are posted and show up in public service announcements on the radio, etc.

Mayor Gonzales said it will be interesting to watch.

Councilor Dimas said he wanted to share with the Council that he and Mr. Brasher go back a number of years.

Councilor Trujillo said he has spoken with Franklin Garcia at the NMDOT and the possibility of making a formal presentation at the Public Works Committee and Mr. Brasher said yes.

Councilor Maestas said he would like to know the status of our Road Exchange Agreement with the State, and would like an update. He asked Mr. Brasher to work that into his schedule and speak with Isaac Pino.

Mayor Gonzales said the place to do that would be when this goes to Public Works.

Councilor Maestas said it has financial implications and thinks it should go to the Finance Committee as well.

Mr. Snyder said City staff has been in negotiations with the NMDOT for a number of months, and they are well on their way. He is unsure if it will be ready this month or next month, but staff plans to bring forward a consolidated, updated Road Exchange Agreement, that brings it from many years ago and contemplated actions to more current, some exchanges and some more real time timeframes. He said, "We expect to do that in the next couple of months, and let staff bring that forward once negotiations are complete and they're wrapping up as we speak."

Mayor Gonzales thanked Mr. Brasher for the presentation.

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**VERBATIM TRANSCRIPT  
OF THE REQUESTED PORTION OF PETITIONS FROM THE FLOOR, ITEM #F  
CITY COUNCIL MEETING  
October 14, 2015**

*Mayor Gonzales gave each person 2 minutes to speak*

STEFANIE BENINATO: I'm Stephanie Beninato. I wanted to bring to your attention that there is a real problem in the Land Use Department, in terms of intake. A couple of years ago there was a development, a new lot developed at 212 Sena. It has too much lot coverage, the setback on the back side is too close to the lot line and the aren't two off street parking where both cars could come and go. Yesterday, in front of the Historic Board, another vacant lot was being, the design was being approved. It's only 2,000 sq. ft. We understand that these lots have to be at least 4,000 sq. ft. Apparently whoever did the intake at Land Use doesn't know how to do simple math, because it was 1,000 sq. ft. building over 2,000 sq. ft. is 50% lot coverage. Residential lot coverage is only allowed at 40%. In addition, they would not have a 15 ft. setback at the back lot which is required. And they also do not have two off street parking shown in the plan, which again creates another problem in the neighborhood where we have a lot of parking issues. And in particular, people park on the street. And when

there is parking on both sides you have to wait for one vehicle to go by, for the other vehicle to go, so you can't have two moving vehicles. And I think it would be very hard for a fire engine to get through there with any speed. I did mention this to the head of Land Use who seemed unfamiliar with the standards for residential lot coverage, which surprises me, given the [inaudible] I do before taking this position, and has always being in this position. So I would asked that somebody, maybe the City Manager, to look into why it is that whoever is doing intake doesn't get the calculations correctly. I know they have calculators so we just can't blame it on the public schools. And to make sure that these kinds of setbacks, lot coverage and off street parking requirements really are fulfilled so that our neighborhood doesn't get even more traffic congested as it is now. And just two things, two suggestions, and I'm sure [inaudible]. One that is enforcing the hand held cell phone law which you [inaudible], and the other one is to start enforcing anti-littering law for people who drop their cigarette butts on the ground.

MAYOR GONZALES: Thank you.

STEPHANIE BENINATO: Right at the intersection of Galisteo and San Francisco Street, on any give day there is a stream of cigarette butts there. It looks worse than any third world country that I have ever been to. Thank you.

MAYOR GONZALES: Thank you very much. Appreciate it.

*I certify that this is a true and accurate transcript of the requested portion of Petitions from the Floor, Item #F, City Council Meeting, October 14, 2015.*

  
Melessia Helberg, Council Stenographer

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**G. APPOINTMENTS**

**ARTS COMMISSION.**

Mayor Gonzales made the following appointments to the Arts Commission:

- Monique Anair – to fill unexpired term ending 10/2016;
- Brian D. Vallo – term ending 10/2017;
- Penelope Hunter-Stiebel – Reappointment – term ending 10/2017;
- Todd Eric Lovato – Reappointment – term ending 10/2017; and
- Bernadette Ortiz Pena – Reappointment – term ending

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

**VOTE:** The motion was approved unanimously on a voice vote with Mayor Gonzales and Councilors Dimas, Dominguez, Lindell, Maestas, Rivera and Trujillo voting in favor of the motion and none voting against.

### **COMMUNITY DEVELOPMENT COMMISSION**

Mayor Gonzales made the following appointment to the Community Development Commission:

Ken Hughes – to fill unexpired term ending 03/2016.

**MOTION:** Councilor Maestas moved, seconded by Councilor Dimas, to approve this appointment.

**VOTE:** The motion was approved unanimously on a voice vote with Mayor Gonzales and Councilors Dimas, Dominguez, Lindell, Maestas, Rivera and Trujillo voting in favor of the motion and none voting against

## **H. PUBLIC HEARINGS**

- 1) **REQUEST FROM NEW MEXICO HARD CIDER, LLC, FOR A WINEGROWER OFF-SITE LIQUOR LICENSE WITH PATIO SERVICE TO BE LOCATED AT NEW MEXICO HARD CIDER TAPROOM, 505 CERRILLOS ROAD, SUITE 105. (YOLANDA Y. VIGIL)**

The staff report was presented by Yolanda Y. Vigil, City Clerk, from her Memorandum of October 9, 2015, which is in the Council packet. Ms. Vigil noted the application includes a patio, and staff requests a condition of approval to require the Applicant to enclose the patio, noting the Applicant has applied for the permits to do so. She said the location is not within 300 feet of a church or school, and staff recommends this business be required to comply with all City ordinances as a condition of doing business in the City.

The Applicant was in attendance.

### **Public Hearing**

There was no one speaking to this request.

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

**MOTION:** Councilor Dominguez moved, seconded by Councilor Dimas, to grant the Winegrower Off-Site Liquor License with Patio Service, to be located at New Mexico Hard Cider Taproom, 505 Cerrillos Road, Suite 105, with all conditions of approval as recommended by staff.

**DISCUSSION:** Mayor Gonzales said it is nice to see more entrepreneurship taking place in the City by local Santa Feans too, and wished them good luck in their business endeavor.

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

**For:** Mayor Gonzales, Councilor Dimas, Councilor Dominguez, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

**Against:** None.

*Councilor Dominguez departed the meeting*

- 2) **CONSIDERATION OF BILL NO. 2015-36: ORDINANCE NO. 2015-33 (COUNCILOR DOMINGUEZ). AN ORDINANCE AMENDING SECTION 23-4.13 SFCC 1987, TO INCLUDE THE SOUTHWEST AREA NODE (SWAN) REGIONAL PARK IN THE CITY SPORTS FIELDS. (ROB CARTER).**

Mayor Gonzales noted Councilor Dominguez is absent and asked if Councilor Dominguez wanted to hold this until he can be in attendance, and it was indicated that he did not.

### **Public Hearing**

There was no one speaking to this request.

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

**MOTION:** Councilor Rivera moved, seconded by Councilor Trujillo, to adopt Ordinance No. 2015-33, as recommended by staff.

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

**For:** Mayor Gonzales, Councilor Dimas, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

**Against:** None.

**Absent for the vote:** Councilor Dominguez

*Councilor Dominguez returned to the meeting during consideration of Item H(3)*

**3) CASE #2015-80. APPEAL BY PALACIO AZUL, LTD., FROM THE JULY 28, 2015 DECISION OF THE HISTORIC DISTRICT REVIEW BOARD REGARDING PARTIAL GRANT AND PARTIAL DENIAL OF CONSTRUCTION AT APPLICANT'S PROPERTY AT 535 EAST ALAMEDA LOCATED IN THE DOWNTOWN AND EASTSIDE HISTORIC DISTRICT.**

A Memorandum dated October 8, 2014<sup>5</sup>, for the October 14, 2015 Meeting of the Governing Body, with attachments, to Members of the Governing Body, from Zachary Shandler, Assistant City Attorney, is incorporated herewith to these minutes as Exhibit "9."

A copy of a color aerial map of the site, submitted for the record by David Rasch, is incorporated herewith to these minutes as Exhibit "10."

Zachary Shandler, Assistant City Attorney presented the staff report, via the overhead using photographs and documents which are in the Council packet. Please see Exhibit "9" for specifics of the presentation.

Mr. Shandler said, "I need to note for the record that the law of the Board's role in overseeing how a building looks from the street, like the type of stucco, the metal elements, the roof shape, there is no expressed language in their Historic Code that gives the Board the power to guarantee a citizen, like myself, the right to view certain properties."

David Rasch, Historic Preservation Division, presented information via the overhead, using Exhibit "10" for specifics of presentation. Mr. Rasch said, "Here you see a recent aerial photograph, I think from 2014. 'This' is Palace Avenue up 'here,' and 'here' is Alameda Street down here. And the Pond House is right 'here.' This is an important historic building designed by John Gaw Meem. The second story and the casita were built later. The second story is over the main part with casitas on the north being built by an associate of John Gaw Meem, but this building is recognized as an important early work of John Gaw Meem. So the property includes 'this' whole tract. 'These' are the four main buildings on the property and number 7, the one in question tonight is 'here.' The primary elevations of the Ashley Pond House I will point to. They go from 'this' corner all the way to the southwest corner and then the original west side of the property is just this L-shape, which is the primary elevation of this building. The primary elevation is that elevation that has to be preserved because of its historic character. The other elevations don't have that quality."

Mr. Rasch continued, "The proposal for tonight is to add onto Unit 7 'here,' and that's where the primary elevation would be blocked. Thank you."

**Presentation by the Appellant**

**Karl Sommer, Attorney for Appellant, P.O. Box 2476, Santa Fe, NM 87504, was sworn.**

Mayor Gonzales asked if there are additional parties that will be presenting, are there no other vested parties in this issue.

Ms. Brennan said, "Mr Sommer is representing the Appellant and is the Applicant present."

Mr. Sommer said, "The Applicant is the Appellant."

Mr. Sommer said, "We are appealing the H-Board's partial approval and denial. I'll be brief. I think the issue is very focused. This case is about the over-reaching by the Board beyond their authority to regulate matters that are expressly prohibited by case law, in a case that our firm took up to the Court of Appeals, dealing with the Inn at Loretto. And on those two issues the Court has found, look, the City of Santa Fe has a Historic Preservation Ordinance and it has a Design Ordinance. Neither one of those two aspects of this Ordinance allow the Historic Design Review Board to regulate and preserve view corridors. And second of all, if you are not going to alter a structure that has been designated contributing, there is no regulation that allows you to say if you're going to alter another building, you can use the significant building as a purpose for denial of that. That's what this case is about, plainly and simple. And I think Mr. Chandler has laid out the case law pretty clearly, and it is absolutely clear that the authority has been over-stepped by the Board."

Mr. Sommer continued, "Let me give you a little bit of background and then I'll be brief. I'm here tonight with Richard Yates who is the principal of the owner. Mr. Yates has been in Santa Fe, has had his business here, raised his family here, since 1973. He is an architect. He bought this property after it went into foreclosure. And all of us know, as we drove by it for many many years, it was falling apart, it was dilapidated. Mr. Yates picked up the property and is investing in our town, in his home town, to revitalize this property. He has been in front of the Historic Board 5 or 6 times, coming back, dealing with these matters. And the building we're talking about that is proposed to be altered is a building that was built in 2008. It was approved earlier than that by the H-Board in its location which is right in front of the Pond House. And you can see from the photographs I'm going to show you, the original placement of this house obscures the Pond House. *[STENOGRAPHER'S NOTE: Mr. Sommer used several color photographs in his presentation, but did not enter those photographs for the record.]*

Mr. Sommer continued, "Now why is that. Because the Historic Board back then did not say well we get to regulate the preservation of this view corridor. It is the present Board that has said we get to regulate that. We've already litigated that. If we could go to the other. 'This' is the building that we are talking about. 'This' portion of the building which is along Alameda was approved in 2008. What we're talking about is 'this' addition and then 'this' area. Mr. Yates came in originally and 'this' was to be a garage, and the H-Board denied that. And it was suggested by staff, well maybe if you turned it into a carport so you could see through it, they would approve that. Well we came in and proposed 'this' master bedroom and the carport. They approved the carport but denied the master bedroom. That's why we're here. And they denied this yard fence that is up front here, it's 4 ft. 6 in., is that right. And what it is it's a privacy fence 4 ft. 6 in., so that you don't look right into the front yard of this owner. That's what we're talking about here."

Mr. Sommer continued, "And what the Board said was, well you're not going to be able to see the portion of the Pond House which has been almost 100% obscured by previous approvals by the Board. And what I want to show you is, this afternoon I went by and took some photographs of this so you can see what we're talking about. 'That' is the view you get of the Pond House if you're a citizen walking by. You don't see anything but the top of the Pond House right 'there.' It's already obscured. It was obscured before this application was made. I'm going to show you another photograph. 'That' is the view of the area of the Pond House directly, when you're looking, standing right across from the property on Alameda and you look directly at this, 'that's' the view you get of the Pond House. You see there is a portion of the upper story Pond House obscured by a long pine. The rest of the Pond House, this primary façade that Mr. Rasch talked about, which was the portal, you can't see that from anywhere because it was already obscured."

Mr. Sommer continued, "I could go on and you all are familiar. You've lived here a long time and you've driven by, and what we're dealing with simply is the Board is imposing a subjective, unlawful standard on this development. And the Courts have already said they don't have the authority to do that. We're here, and I think kind of meaninglessly, asking you to approve the project as presented. Actually what we would like you to do is to remand this project, because the only reason we have a carport instead of a garage on this property is because they denied the original application. That application should have been approved, but was denied for the reasons we're here tonight."

Mr. Sommer continued, "So if this Council sees fit, we would like you to remand it with direction to not regulate the structure or this application in the manner that has been done, mainly with view corridors being preserved, or with the idea that somehow the Pond property is going to be affected. Now let's go through that for just one second. The historic status of a property is done by the H-Board. They are the ones that say whether a property is significant or not significant. Actually it's this Council. And you all say if something is significant or not significant. In order for this property to lose its significance, someone would have to apply and say that the Pond property, the Pond House, has been altered in such a way that its lost its historic character. Nothing is happening to the Pond House. No one could apply and say that a change on an adjacent property changes the Pond House. And in fact, the Pond House was approved for changes by the Historic Board. Mr. Yates built on a garage to the back of the Pond House and that was approved. That was a change to this significant building."

Mr. Sommer continued, "I think the long and short of it, members of the Council, is what we have here is a misapplication of the law, in an overreaching manner that is clearly clearly unlawful and we ask that you reverse the decision of the Board, and perhaps, if you see fit, remand it with direction to approve the project as originally submitted. I would stand for questions. And Mr. Yates and Mr. Borer is here as well. He is the architect that has worked on the project with Mr. Yates."

Mayor Gonzales said we will hold questions to be asked after the Public Hearing is closed.

## **Public Hearing**

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**VERBATIM TRANSCRIPT  
OF THE REQUESTED PORTION OF THE PUBLIC HEARING, ITEM #H(3)  
CITY COUNCIL MEETING  
October 14, 2015**

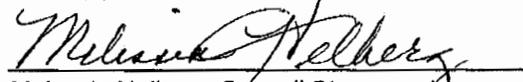
*Mayor Gonzales gave each person 2 minutes to speak*

STEFANIE BENINATO: I'm a bit surprised by the City Attorney's presentation, too, because it seems so negative and not in support of the Board. There is a part of openings of this structure that interferes with the primary façade, that indicates the status may be changed. There is very little of this building that is functionally being preserved as the primary façade. It is not unusual for the Board to allow additions on non primary façades because they don't want to appear unreasonable, capricious in preventing development. I think we should realize that this property had only the Pond building on it to begin with and it now has 8 units, most have two-car garages, most have master suites, etc., etc. it is a significant building contributing by being a building by John Gaw Meem. It is again, in the Historic Districts Ordinance that when it is in the public welfare to preserve buildings. And if you can't see them, then what is point of preserving them at all. And *[inaudible]* because no one can see them one can say this part of our heritage. Here's a building that was designed and built on a certain date. So I would urge you to approve the Board's decision and not allow the carport, not allow the master bedroom which has blocked it. The fact that a different composition Board approved this, you know it's a continuous body. It's just like saying you are very different people on the City Council so that makes it different. Again, there is part of the Ordinance that does allow this. It has been to Court. It is not part of the case law as alleged. The case law is about a view corridor. This is based on the specific part of the Ordinance that does give the Board the ability to say on the same property, if you put another building in front of the primary façade of the contributing building, the contributing building may lose it's status.

MAYOR GONZALES: Thank you.

STEPHANIE BENINATO: Thank you.

*I certify that this is a true and accurate transcript of the requested portion of the Public Hearing, Item H(3), City Council Meeting, October 14, 2015.*

  
\_\_\_\_\_  
Melissa Helberg, Council Stenographer

Mayor Gonzales asked Mr. Sommer if he has any follow-up in closing.

Mr. Sommer indicated he did not.

### **The Public Hearing was Closed**

Councilor Maestas said, "I don't have any questions. I think there's enough here for me to make my decision, but I do want to make a few comments. This request, the application, was recommended by staff, so I want to make it clear that staff fully recommended approval without any conditions. And the H-Board did not agree with staff. In looking at the transcript from the H-Board when they were discussing this, there was no robust discussion about view corridors or anything like that. The discussion leading up to the motion, really was totally unrelated to the view corridor, which I think troubles me. And there was one individual who kind of made the motion and there was just a, it seemed based on the transcript, just an immediate action to vote in favor of that. So I really felt like the H-Board did not have a robust enough discussion about a view corridor. So then, I think I went to the *Teme* case, and I was trying to see if there was a distinction between what an historic view corridor is versus just a plain old view corridor, and I think it's irrelevant. And I think that case law concluded the H-Board doesn't have the authority to regulate view corridors. So I think whether a view corridor is scenic or not, which was the case, or at least one of the issue deliberated for the Loretto Chapel issue, that's a non issue."

Councilor Maestas continued, "I think the case also, with regard to any kind of impact to an adjacent contributing, structural contributing status, the Court had a much higher test for impact, and it wanted evidence of that historic property. If this action of an adjacent property, if there is any evidence that it could diminish or cause that status to be diminished, then that could have bearing. And in this case, to me, there is no evidence, and I'm using evidence, because that's what the Court said in its case law, there's no evidence that the proposed action is going to alter the status of the Pond House. And I'm not really inclined to remand this. I think the carport was agreed to by the Applicant. I think that's a nice compromise in trying to maintain some kind of view corridor. So I'm not inclined to remand this, but I agree... I don't think the H-Board was really within their authority to take this action. Again, it was contrary to staff recommendations, and certainly, it seems to me, I'm not an attorney, but it seems to be contrary to very recent case law."

Mayor Gonzales said before Councilor Maestas offers a motion, he would like to hear discussion, if any, from the other members of the Council.

Councilor Lindell asked Mr. Rasch, "Do you have any inclination that the status of the Pond House would be threatened if this were constructed."

Mr. Rasch said, "As stated I did recommend approval since the Pond House was not being altered on the primary elevation, I don't think it would be compromised."

Councilor Lindell said, "I've driven by this thousands of time. I'm glad there has been movement and construction on it. It sat for a very, very, very long time, and in fact, it's been somewhat of an eyesore. Will this little compound be gated."

Mr. Rasch said, "There has been no proposal to put in gates. They are changing the entrance to the compound, closing the existing entrance from Palace and putting a new entrance on Alameda."

Councilor Lindell asked, "If someone absolutely were inclined to get a look at the Pond House, they probably could pull into the compound and look at it. Is that correct?"

Mr. Rasch said technically, that would be trespassing unless you were invited onto the private property.

Mayor Gonzales said you could step up to the public which is right against the property.

Mr. Rasch said that's correct.

Councilor Lindell said she is inclined to agree with Councilor Maestas. She said, "I would not be inclined to remand this back. Are you ready for a motion?"

Mayor Gonzales said, "Not yet. I want to ask Mr. Sommer why the interest in remanding back, that I don't understand. Is there something different your client wants to do minus the carport?"

Mr. Sommer said, "If I may just show you one thing. Mr. Mayor, I just asked my client about the remand, and we will withdraw that request just to make it simple, if the Council is inclined. I'll show you what I was talking about. If we could go to the overhead, Maria. 'That' was the original design. 'That's the garage and that is now a carport, and it was changed because it was unacceptable like that."

Mayor Gonzales asked if it was unacceptable by the H-Board or by staff.

Mr. Sommer said, "By the H-Board. So we'll live with the application as submitted and the remand is unnecessary."

Mayor Gonzales asked, "David, if the Council decided to go ahead and grant the request to do a garage, does that have an impact on the historic status?"

Mr. Rasch said, "No, it does not."

Mayor Gonzales asked, "Do we have that flexibility tonight to be able to, if there is a motion to allow for either a garage or open, but give the authority to the staff to be able to work out what works best for both the City and the Applicant?"

Ms. Brennan said, "The Applicant has indicated a willingness to accept the carport. You do have the ultimate authority of making the decision to vary the design and you could move for staff to approve the design of the garage if you did do that. But again, the Applicant hasn't made that request."

Mayor Gonzales said, "Again, in an effort to send the right message out to people to invest in properties that have been eyesores, and having confidence in our staff, I don't think there's anything wrong in being able to provide some discretion to David to work through, if the garage works and it make sense and doesn't violate the historic character, I don't that hurts anyone, versus a portal. I'm not sure that there is really a compromise by just saying, well we'll do a portal. The issue is, does the historic status of the Pond House, is it threatened by a garage. The answer was no. Is it threatened by a carport. The answer is no. So if the Applicant wants to do a garage, and it's what works for the property and the development, why say no. So I would hope we would either grant the flexibility or be able to allow the Applicant to, so long as the historic nature of the property is not violated, to work with the staff to get something that works."

Ms. Brennan said, "If this is the choice of the Governing Body, you should make a finding to the effect that it would not negatively affect the status of the building."

Mayor Gonzales said, "I did offer to Councilor Maestas that we would defer to you in terms of being able to offer a motion, but hopefully we grant flexibility in this."

Councilor Maestas said, "Maybe, Kelley, the question would be, the motion speaks to the Applicant's appeal, and the scope of the appeal does not include a garage, it's a carport. So can we, through our actions, amend the scope of their appeal."

Ms. Brennan said, "You are the final decision making body on this appeal and have broad authority as decision-makers generally."

Councilor Maestas said, "I guess my question really is what involvement did staff have, I guess, in the decision to go from a garage to a carport. Was that strictly an H-Board... was that kind of direction from H-Board to you or, what was the dynamic that led to the decision away from the garage into a carport."

Mr. Rasch said, "I'm not extremely clear on that, but typically, we take forward applications and don't ask about altering what an applicant requests. But in this case, I did talk to the Applicant probably about the impact on that historic structure, and that a carport would be more beneficial, because it does provide more view. But at the same time, I did not say that a garage would not be appropriate."

Councilor Maestas said, "Well, the only reason why I wasn't inclined to remand, is just the process. What we have before us already represents an agreement between the H-Board, City staff and the Appellant, but I'm not averse if we can skip a step and give the Applicant that flexibility to redesign the carport and morph it into a garage. I'm okay with that, but I really felt like, at the end of the day, the carport is kind of a *de facto* compromise in this whole issue about a view corridor. And the last thing I'll say, is that let's keep in mind this Pond House and the primary elevation... first of all, the Pond House is in the middle of the lot and kind of the primary elevation faces inward. And I think for us to try and preserve a view corridor for a building that is situated near the middle of the lot, whose primary elevation faces the interior, I think that is over-reach. I think it's almost bordering on the absurd. So I want to point that out, too, for my colleagues. So I'll yield the floor."

Councilor Trujillo said, "Kelley, [inaudible] for that carport. The reason I remember this is because there was an appeal dealing with windows. That's what I remember the most, and the lady wanted to spray that foam in there, and that was part of the appeal. I remember when we were having the discussion, Frank Katz said if the person would like that, he allowed it. That was his decision. You may have a different theory on that."

Ms. Brennan said, "Again, the H-Board has authority. You have broad statutory authority in the zoning, planning, platting category, and are the final decision-makers. I feel you have that authority."

Councilor Trujillo said, "If you're saying Historic has authority, then with this appeal, they overstepped their so-called authority, because this has always been my concern. And Zack, I don't know, is there a lawyer present at these hearings that actually tells the Historic Board what they can and cannot do. Because, Kelley, I don't think this should even come before us. If you're telling me that the Board overstepped their boundaries, they couldn't do this. Why did this even come before us?"

Mr. Shandler said, "Yes. I was there. And, as Councilor Maestas described, the motion came quickly and in the interim, all of this crosses in a separate case Mr. Sommer and I have talking about, this *Teme* case, and so the Board may not have been fully aware of that case at that time, but we're certainly now aware of it, and it is our legal duty to disclose adverse case law."

Councilor Trujillo said, "I personally would grant what they originally came for. I don't see any reason not to. It's not going to harm this building in any way. And you're trying to tell me that you can see it sort of blocked by a Spruce. I can't even see it in the pictures that Mr. Sommer showed me. So I really don't see that as a factor, being able to see it. That's all I have to say."

Councilor Rivera asked, "So David, I remember you said that if you were standing at the street or on the sidewalk, that you would be able to see the façade of the Pond House. Is that correct?"

Mr. Rasch said, "Yes. From Alameda Street, if you're on either sidewalk or in the street and you were in the public way, you have to look straight at it, because there are many pinons and then this other building, to see it. And you can see a portion of that façade now, the primary façade. From Palace Avenue, you can see the entire house upper part, but none of that is primary façade."

Councilor Rivera asked, "If it were an actual garage, an enclosed garage, would that still be the case?"

Mr. Rasch said, "If the garage were built as proposed, I do believe all the primary elevation would not be visible."

Councilor Rivera said, "I think that was a great compromise. I would still support that. I don't think I would support a full garage. I think I have hard time with this, Councilor, allowing things on the fly like that. But since we're here Karl, anything else you want, maybe a two-story apartment complex, anything like that. And I grew up downtown and love all these downtown buildings and these homes, and areas. A good friend of mine from DOT who just retired, grew up right next to this on West Alameda, and I spent

many times at his house and was in the area quite often, and would love to see it stay as close to the way it was originally designed. But I know change can't be stopped. Again, I would support this with the portal, and thank you for that accommodation, the change you made in order to keep it visible from the road, but probably wouldn't support it with the addition of a garage. So, depending on the motion, that will let you know how I'm going to vote."

Mayor Gonzales said, "Thank you Councilor. I guess my point is, in listening to your point about the 'on the fly,' we have broad discretion for a reason. And in this case, there was a path that was taken for no reason that was a stated purpose for the Historic District. It was basically an arbitrary belief of the Board to go down that path. And then, I think our staff, in a great willingness to try and find some compromise that might be accepted by the Board, offered that up. But, we went down this path because people decided on that Board that it was just something they wanted. And I think that we're given broad discretion so we can try and neutralize those kinds of decisions in ways that are fair to all people, but also uphold the importance of some of the zoning that exists in the City and that Historic District is very clear about the preservation of important, significant structures."

Mayor Gonzales continued, "And so long as they're not compromised, I think we have to allow for, hopefully, maximum flexibility for investment to occur on some of these properties so they stay lively and update. I respect definitely your point, I just want to offer that counter point that I don't think that this is on the fly because we're not arbitrarily picking something else from happening. There was an original request for a garage, they were channeled down a different path that didn't have anything to do with the preservation of that home to have its status maintained. Then there was a compromise, and my view is, to maintain some level of flexibility, but to assure that that preservation isn't violated. And so, if there hadn't been a request for a garage originally, and we just kind of randomly decided now, how about a garage, then I think that would kind of be on the fly. But there was an effort and a process that started with that, and I'm just hoping that we restore that balance or that type of flexibility that would ensure confidence of current or future property owners in the District that is a place where you can invest and create some great places to live."

Councilor Rivera said, "If I can respond, Mayor. I appreciate that, and just to Ms. Beninato's point, I understand there are no changes to the Pond House, but really, if you're going block it off from view, then really why are we concerned about. You might as well allow changes to it. That's the only benefit that the public has, the only benefit that people who are interest in John Gaw Meem homes may have is that ability to see it from the street. And if we're taking that away from them, really why have it. Might as well allow anything to go on at the Pond House. Thank you."

**MOTION:** Councilor Maestas moved, seconded by Councilor Dimas, regarding Case #2015-80, to reverse the Historic District Board's decision, and grant the Applicant's appeal, and to direct staff to prepare Findings of Fact and Conclusions of Law consistent with this motion.

**DISCUSSION:** Councilor Rivera asked if the action just taken was to keep the portal or to leave the portal as is.

Councilor Maestas said, "Yes. And just under discussion, I want to thank Mr. Yates and anyone else who is investing in this property that had been seemingly abandoned, thank you for doing that and improving that neighborhood. And we don't want to discourage this kind of investment as the Mayor said, so thank you."

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

**For:** Mayor Gonzales, Councilor Dimas, Councilor Dominguez, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

**Against:** None.

**I. ADJOURN**

The was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 8:15 p.m.

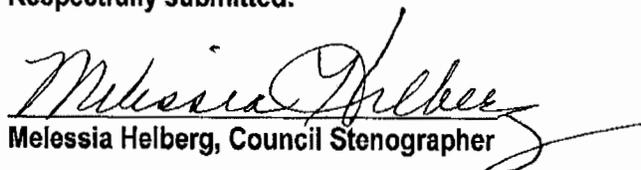
**Approved by:**

\_\_\_\_\_  
**Mayor Javier M. Gonzales**

**ATTESTED TO:**

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

**Respectfully submitted:**

  
**Melessia Helberg, Council Stenographer**

CITY COUNCIL MEETING  
EXECUTIVE SESSION  
October 14, 2015

The Governing Body of the City of Santa Fe met in an executive session duly called on October 14, 2015 beginning at 6:44 p.m.

**The following was discussed:**

In Accordance with the New Mexico Open Meetings Act §10-15-1(H)(7) NMSA 1978, Discussion Regarding Pending Litigation in Which the City of Santa Fe is a Participant, Including, without Limitation, Discussion and Update on Mediation Under the Dispute Resolution Provision of the Water Resources Agreement Between the City of Santa Fe and Santa Fe County; and *City of Santa Fe v. The Liquid Company Inc., et al.*, First Judicial District Court, No. D-101-CV-2015-01330.

PRESENT

Mayor Gonzales  
Councilor Dimas  
Councilor Dominguez  
Councilor Lindell  
Councilor Maestas  
Councilor Rivera  
Councilor Trujillo

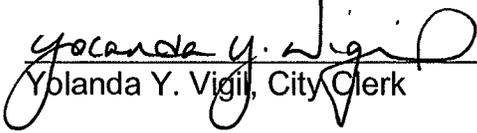
ABSENT

Councilor Bushee  
Councilor Ives

STAFF PRESENT

Brian K. Snyder, City Manager  
Kelley A. Brennan, City Attorney  
Yolanda Y. Vigil, City Clerk

There being no further business to discuss, the executive session adjourned at 7:05 p.m.

  
Yolanda Y. Vigil, City Clerk