SUMMARY OF ACTION
FINANCE COMMITTEE MEETING
Thursday, May 14, 2015

ITEM	ACTION	PAGE
CALL TO ORDER AND ROLL CALL	Quorum	1
APPROVAL OF AGENDA	Approved	2
QUESTIONS AND CLARIFICATION	Information/discussion	2
CONTINUATION OF REVIEW OF FISCAL YEAR 2015/2016 OPERATING BUDGET		
DEPARTMENT REVIEWS		
ENTERPRISE AND SPECIAL REVENUE FUNDS (CONTINUED)		
Transportation Parking	Approved	3-7
SUPPORT SERVICES		7
GENERAL GOVERNMENT		
Internal Auditor	Approved	7-10
Mayor and Council	Approved	10
City Manager	Approved	10-19
ITT	Approved	19-26
PUBLIC HEARING		26-28
CONTINUATION OF REVIEW OF FISCAL YEAR 2015/2016 OPERATING BUDGET		
WRAP-UP	Information/discussion	28-33
REQUEST FOR APPROVAL OF RESOLUTION ADOPTING CITY OF SANTA FE'S OPERATING BUDGET AND ORGANIZATIONAL CHART FOR FISCAL YEAR 2015-2016	Approved with changes	34
ADJOURN		34

MINUTES OF THE MEETING
CITY OF SANTA FE
SPECIAL FINANCE COMMITTEE
Thursday, May 14, 2015

1. CALL TO ORDER

A Special Meeting of the City of Santa Fe Finance Committee, was reconvened by Chair Carmichael A. Dominguez, at approximately 3:00 p.m., on Thursday, May 14, 2015, in the Council Chambers, City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico.

2. ROLL CALL

MEMBERS PRESENT:
Carmichael A. Dominguez, Chair
Councilor Ronald S. Trujillo
Councilor Joseph M. Maestas
Councilor Signe I. Lindell
Councilor Christopher M. Rivera

Other Governing Body Members in attendance
Mayor Javier Gonzales
Councilor Patti J. Bushee
Councilor Peter Ives

OTHERS ATTENDING:
Brian K. Snyder, City Manager
Oscar S. Rodriguez, Finance Department
Yolanda Green, Finance Division
Melessia Helberg, Stenographer.

There was a quorum of the membership in attendance for the conducting of official business.

NOTE: All items in the Committee packets for all agenda items are incorporated herewith to these minutes by reference. The original Committee packet is on file in the Finance Department.

3. APPROVAL OF AGENDA

Chair Dominguez said we will stay with the general agenda as written, although there have been some requests, noting he wants to hear Parking as quickly as possible, and Councilor Ives has requested to hear ITT near the end of the meeting so he can be present for some of that discussion. He said then we will wrap-up and answer some questions that may be lingering, and hopefully we can get to an approval or recommendation on the budget.

MOTION: Councilor Lindell moved, seconded by Councilor Trujillo, to approve the agenda, as presented.

VOTE: The motion was approved unanimously on a voice vote.

4. QUESTIONS AND CLARIFICATION

Councilor Maestas asked about integrating policy changes in conjunction with the budget development/approval process, noting he is uncomfortable in doing this. He said he is willing to approve a budget based on a proposed policy, but will only go along with this process if there is subsequent formal action to ratify the policies formally after budget approval.

Chair said he will be including this under Wrap-Up.

5. CONTINUATION OF REVIEW OF FISCAL YEAR 2015/2016 OPERATING BUDGET

A. DEPARTMENT REVIEWS

A copy of *City of Santa Fe Annual Operating Budget – Fiscal Year 2015-2016 City Manager's Recommended Plan*, is incorporated herewith to these minutes by reference as Exhibit "1." Copies are on file in the Finance Director's Office.

A copy of *Summary of Parking Funds*, entered for the record by Jon Bulthuis, is incorporated herewith to these minutes as Exhibit "2."

A copy of *Parking Division Revenues and Expenses*, entered for the record by Jon Bulthuis, is incorporated herewith to these minutes as Exhibit "3."

A copy of *City of Santa Fe FY 2015-16 Operating Budget Plan – Information Technology & Telecommunications (ITT) Department*, entered for the record by staff is incorporated herewith to these minutes as Exhibit "4."

A copy of *City of Santa Fe Organizational Chart FY 15/16*, entered for the record by staff, is incorporated herewith to these minutes as Exhibit "5."

1) ENTERPRISE AND SPECIAL REVENUE FUNDS (CONTINUED)

a) Parking

Oscar Rodriguez, Finance Director, presented information regarding the Parking Division budget from Exhibit "1." He noted in his write-up transmittal he indicated they were recommending a rate increase for parking, but not a specific amount. Funds are being included for the Parking Division budget to engage an expert to advise on the rate increase, and facilitate staff engagement with the public. Mr. Rodriguez said the Council directed that the burden for the debt at the parking garage be shifted to the Parking Division, which will result close to a million over the next 3 years. The Parking Division Fund will be in deficit at the end of next year, and the recommendation is to consider increasing rates. Staff will come back with a definite plan and after having engaged the interested stakeholders.

Jon Bulthuis, Director, Transportation Department, said they will be engaging in a Rate & Fees Study, and staff will make recommendations to the Council for how to restructure the rate and fee schedule to meet the debt burden. He said the Memo included in Exhibit "1" identifies that need at about $1 million annually, as approved during the budget process last year to split the debt for the Convention Center parking facility to come to parking. They will be working on the administrative adjudication of parking fees, under the City's home rule powers to do that outside the Court system and increase response. The Council directed moving forward with administrative adjudication using a collection agency, which is built into the budget, to narrow the gap between revenue/operating to almost break-even. They are counting on Governing Body support to collect the outstanding revenues.

Mr. Bulthuis said a major project which isn't within the budget, is upgrading technology, so all of the revenue and control technology is in place for better management control over facilities, so the citations, etc. can be addressed through that system. He said Parking Director Noel Correia is working on an RFP. He said they are fairly certain the revenues as a result of that will to pay for the required capital investment, reiterating this is a project outside the budget request, and something you will see in the coming fiscal year.

The Committee asked questions and commented as follows:

Chair Dominguez asked the impact of the move made at the Convention Center and how that relates to the rate increase.

Mr. Rodriguez reiterated his previous explanation.

Chair Dominguez noted that in the summary provided the rate increase was for 2 hours or more.

Mr. Bulthuis said he was asked to develop a sample scenario of what could possibly be approved by the Council going forward to generate the $1 million, and this is one possibility. He said the approach they would like to take is to look at the rates and fees across the division and come back with multiple scenarios for discussion with the public, the stakeholders and the Governing Body, to meet the $1 million need. The Memo is an example of what could be done that would achieve the $1 million, it is an illustrative exhibit.

Chair Dominguez said regardless of what the rate increase will be, what has been presented is a balances budget, and Mr. Rodriguez said yes. Chair Dominguez said if we choose not to increase rates, the budget for this year will be balanced, but after that there will be a deficit, and Mr. Rodriguez said that is correct.

Councilor Maestas we had anticipated an increase in revenue in replacing the old meters, but we've only installed about 250 meters. It doesn't appear he is factoring-in any increase in parking revenues. He said on page 64, Parking Operations, there are $162,000 in capital purchases, with an ending balance of $908,000. He asked if it would be prudent to move forward with a larger phase of installing the new meters, investing as much as we can, adding to the $162,000. He ask how much more revenue we are generating with the new meters.

Noel Correia, Parking Director, said installing the new meters does not necessarily mean in an increase in meter revenue. There may be a slight increase, but paying for the communications needed for every transaction to get credit card approvals, etc. The second thing when people pay at the meters, the violations decrease, and citations decrease, so overall we are not gaining any new revenue. He said we may see a decline in revenues overall. He wanted to make this clear.

Councilor Maestas asked if he can draw any conclusions from the limited revenue history.

Mr. Bulthuis said they can take a closer look, but the primary goal in putting the new meters on the street is the ease of customer use in having the ability to use a credit card.

Councilor Maestas said the general perception is that the new meters would translate into more revenues. He is glad we are taking a go slow approach on raising rates. He said apart from the study, he thinks staff should consider appropriate signage to encourage park in the garages.

Mr. Correia said the biggest challenge is the fact that on-street parking rates are cheaper by $1 than the garage rate. He said the rates for parking in the garage should be less expensive to push people to use the cheaper parking underground, so the newcomers can park on the street.

Councilor Maestas said it would be good to have shared use for private or State managed parking lots, suggesting the study should look at innovative partnerships to come up with agreements for joint use after business hours.

Councilor Lindell asked Mr. Correia would recommend over to increase the hourly rate for street meters and lower the rate for parking garages.

Mr. Correia said no, his suggestion is that the garage rates currently are equitable for what the driver gets in return. The street parking is too cheap, and to encourage people to get into the parking garage we need to bring the meter equal to or higher for the garage. He said we can make it equal and then look at the effect, and move forward with something else.

Councilor Lindell asked why the contractual services are decreasing so dramatically.

Mr. Bulthuis said that was due to a shift in the security firm currently in place, versus what was in place in last years. He said this may need to be modified as we move forward based on who gets that contract in future years.

Councilor Lindell noted it is a sizeable decrease but that is good.

Mr. Bulthuis said they are doing the best they can to work within the budget.

Councilor Lindell asked about Other Operating costs, and asked for a breakdown of those costs, on page 64 [Exhibit "1"].

Mr. Hopkins said it is based on his data base that includes all the categories the financial system doesn't have in a native way. It includes travel, training, print & publish, postage & mail service, advertising, rental of equipment, and facilities rental.

Mr. Bulthuis said this number has been stable for a number of years, and there is no request for additional funds.

Councilor Lindell said it's a very very sizeable item with no details.

Mr. Bulthuis said they have done no travel or training at the Parking Divisions. The Operations Manager and the new Director will be attending the Annual Parking Convention this year due to the desire to upgrade our equipment to meet with vendors and such, noting that is about $3,000.

Mr. Bulthuis said advertising is fairly limited, and that line item has taken a big hit over the years related to what can be used to place ads in any media.

Councilor Lindell asked what is a sizeable item in the $1.1 million.

Mr. Hopkins said the break-down includes Fees & Taxes $298,216, Internal Service Charges $396,691, inventory exempt equipment purchases $52,000, other operating miscellaneous $23,800, rentals $326,200, travel $3,900 and that is it. He said the rental includes equipment rental, as well as space rental at the Cathedral Lot.

Councilor Trujillo asked the cost per hour at the meters, and Mr. Bulthuis said it is $1 an hour.

Councilor Trujillo asked the charge for private spaces.

Mr. Bulthuis said the permit parking is a set fee of $65 a month.

Councilor Trujillo what happened with the automated ticket dispenser, and what we are going to do with those.

Mr. Bulthuis said those have been removed and repurposed. They did some placement at the Railyard and upfitted those so they are functional and working right now. They are servicing the Violet Crown area and the Railyard at large. The pay and display equipment is being placed at the Airport as well. They are looking to upgrade this equipment throughout the system so there is a standardized means of doing business with supporting software with consistency.

Councilor Trujillo said he was under the assumption as well that the new meters would bring more revenue. He didn't take into account the cost to operate one of those meters.

Mr. Correia said the 200 meters we have currently are costing us $24,160 to maintain and to pay for the air time needed. He said these costs will increase as we add more meters, but that technology is the wave of the future 10 years ago. We are far behind, so we have to move in this direction, and it is the goal to do that over the next two fiscal years – to have all smart meters.

Chair Dominguez said then we don't generate a lot of revenue with that new technology.

Mr. Bulthuis said we don't generate additional revenue, but it provides ease of customer interface, as well as reducing cash handling by staff. We're just getting out of the business of dealing with cash which is always a good thing. There are benefits beyond seeing an increase in revenue.

Councilor Maestas asked the status of our collections efforts.

Mr. Bulthuis said they met with the Municipal Judge and the City Attorney's Office about expanding the ability to do that for more citations and taking a second look at the administrative adjudication process, noting Councilor Dimas is bringing forward a new Ordinance in this regard to help us to see more revenue come in from fees that have been assessed. Our track record has been poor for many years, so it's a shift in the way we do business. We want to make it as easy as possible for people to comply and where the technology upgrade is focused. He said aren't at the point of hiring a collection agency, and they are working on the administrative adjudication language to get it to a place where we can do that. That will be happing in the first part of the fiscal year.

Councilor Maestas asked the outstanding balance of uncollected Parking revenues, saying before we agree on a rate, it will consider a higher collection rate.

Mr. Correia said it is in excess of $2 million, noting State law allows us to collect on citations for up to 4 years old. As soon as we get the Ordinance on lines, the company will start to collect the money. We will have to write off anything more than 4 years old.

Councilor Trujillo asked if the outstanding balance includes late fees, and Mr. Rodriguez said yes. Councilor Trujillo said that discourages a lot of people, and would like for us to think about having a week where people can pay the original fine, and the rest is forgiven. He would rather collect at least something.

Mr. Bulthuis said as we talk about how to collect the money and enforce fines going forward, and an amnesty program was thought of as a way for people to get right on past fines.

Councilor Trujillo said if a Resolution is needed, he would like to look at sponsoring it.

Mr. Bulthuis said the Governing Body will be walked through each step as they bring those recommendations forward.

MOTION: Councilor Trujillo moved, seconded by Councilor Lindell, to approve the Transportation Budget as presented.

VOTE: The motion was approved unanimously on a voice vote.

Mr. Rodriguez noted he will be passing out copies of the Organizational Chart [Exhibit "5"].

2. SUPPORT SERVICES

3) GENERAL GOVERNMENT

b) Internal Auditor

Liza Kerr, Internal Auditor, reviewed the budget which is on page 141 of the Budget [Exhibit "1"] Please see Exhibit "1" for specifics of this presentation. She noted there is $31,000 for Teammate software, saying she is very familiar with the software and how to use it effectively to make the department run more efficiently. It is an electronic audit work paper software, and it is pre-loaded with audit programs.

Chair Dominguez asked if this will be purchased by the department or by ITT.

Mr. Rodriguez said it is joint, noting there is an ITT governance committee that coordinates all of these purchases that approves it and ensures everything comes together, but it will be in the department budget.

Ms. Kerr said ITT can use it to do their self assessment. Additionally she recently attended a day of investigations the person leading the discussion also uses the software to house their inspector general type of work.

Mayor Gonzales said, "Just a quick update for Councilor Maestas and Councilor Bushee. At our last Council Meeting I attended.... I have had a couple of meetings with the Internal Audit Committee Chair and the Internal Auditor to discuss specifically, as we continue this dialogue of moving toward true independence and looking at the idea of an inspector general and the roles they play in pursuing fraudulent activity and the abuse of activity with government, to please, as a Committee, consider a series of recommendations that could come to Council to at least begin to move toward what I think you've expressed an interest in going towards. Things like readjusting the organization chart to take away the dotted line that goes toward the City Manager and reports more toward the Mayor and the Chair of the Finance Committee, as an example, but at least two individuals on the Governing Body, being able to

conduct annual evaluations in a periodic way and submitting that to the Governing Body so we are kept abreast of the performance of the Internal Auditor, looking at ways to require training activities for the Internal Audit Committee, because right now there is no requirement for training. So, being able to train Internal Audit Committee members so they understand how to support audit programs, or identify what to do in cases where there might be fraudulent activity, in an effort to separate the Internal Auditor from the management structure and have it report more toward the Governing Body."

Mayor Gonzales continued, "The issues of hiring and termination I think is something they are going to consider, because the City Manager right now is the only one with the authority to hire and terminate. These are all issues we need to address to make sure your desires and requests for further independence didn't get left until we brought it up again. I have asked the individuals right now that are tasked with performing some of those functions to offer a series of short term recommendations as we proceed to the consideration or the adoption of an inspector general to begin to create more of the independent structure desire under the current Charter as it is. I am hopeful the Council will receive a letter from the Committee with a series of those recommendations so we can begin to consider and move toward policy. Because I think there are some short term things we can do to begin to establish the independence that Councilor Bushee talked about, and also expand the duties or begin to prepare for an actual position that is focused on fraudulent activities and seeking out waste and abuse that are separate from what an internal auditor does to run the course of auditing the City's activities to make sure we are in compliant, which is very different from pursuing forensic auditing to seek out fraud and abuse and what might be going on."

Mayor Gonzales, "Just wanted to report that those recommendations will be coming forward for consideration. I do think, Mr. Chairman, hopefully, there clearly is a need to expand the budget of the Internal Audit office. We discussed looking at contractual relationship versus an FTE. I have asked the Internal Auditor, having listened to our dialogue and debate, what might be best to roll out, and I think there is going to be conversation with the Audit Committee, at least what was given back in year one, considering granting some contractual service money so when, through the Fraud Hotline, something that comes forward that requires quick movement and investigation there is money available and contractual service can be done. And then at the end of next year, being able to evaluate how much time was actually spent pursuing fraudulent activities that were uncovered, costs association, and does that warrant a position. But just to move toward the direction I think you wanted so it doesn't get lost in all of the dialogue and establish that independence and the true position that is looking for fraud and abuse that will happen in a large bureaucracy over time. But that's not what the internal auditor set up, and I think that was your point is you've been advocating something separate from the Internal Audit function done. Hopefully this is a logical pathway to getting closer to where you have to be."

Councilor Bushee asked if they also make recommendations of how to incorporate and beef up the Hotline with that whole process.

Mayor Gonzales said they listened to the debate that night and he thinks they have digested it quite a bit in my conversations with them. I have asked that they take it up with the Internal Audit Committee and come up with specific recommendations that can respond to the direction you were driving for more independence, and as Councilor Maestas suggested a position considering fraud and abuse

without having to wait until something completely disrupts, or us never having a function set in place. He said this is an opportunity to develop a collaborative approach between the Council and the Internal Audit group in a way that allows us to begin to ease our way that makes the objective you talked about. He said if we just funded the position requested by Ms. Kerr that she could absorb it into other things without pursuing forensic accounting or fraud and abuse. The hope is to collect data through the Fraud Hotline, how much was spent on contractual services, if approved, and see if it warrants a full position.

Councilor Bushee said the two questions for her this fiscal year, is to try to include funds for two things, a forensic audit of the 2008 Parks Bond, and for any additional positions or however we restructure it.

Chair Dominguez said if we do need to do a special audit on anything, how is that established within the budget.

Mr. Rodriguez said he would respectfully advise that you would consider a one-time cost from the General Fund contingency fund.

Councilor Maestas said we seem to be coming to consensus on position to investigate instances fraud, waste and abuse. In consulting with Ms. Brennan in creating an I.G, he is considering a policy track to establish an I.G., one of which is to bring forward a proposal to be acted on if it's deemed viable, and that would be to put a question on the March ballot if they want to establish an office of inspector general. He said the funding can be considered later.

Councilor Maestas would like for us to integrate routine evaluations of key departments based on risk, budget, interaction with the public, and put them on rotation where Ms. Kerr's department evaluates them. He wants to see us become a high performance City and address issues in those departments that really need help.

Mayor Gonzales said he wants to be careful how much we put on Internal Audit outside of what an Internal Audit group should do. There are lots of risks year after year that occur in any operation and the Audit Plan needs to follow those risks, and it might not be about high performance. He likes the direction he wants to go. He would prefer that we do an allocation that becomes more a department or focus of high performance meeting metrics, performance evaluation, invest in personnel that brings return on the investment. He said part of the Audit Plan should be making sure we're high performing, but we haven't necessarily adapted the culture or set the vision and if we don't have a coach out there that's moving it, it's very hard to do. He is 100% on board with where Councilor Maestas wants to go, noting that in his experience that year after year issues can arise in the normal course of business. He said he suggested previously perhaps going to the public to change the Charter to create an inspector general.

Chair Dominguez said, "The message is loud and clear, especially given what we've experienced the past few months that we're going to be going in the direction of oversight, transparency, etc. When I worked with Liza on the position, part of the intent was to create that separation and independence or give them the autonomy that is needed.... I think we're putting up a nice framework to make that happen."

MOTION: Councilor Maestas moved, seconded by Councilor Dominguez, to approve the Internal Audit Budget as presented.

VOTE: The motion was approved unanimously on a voice vote.

c) Mayor and Council

Mr. Snyder said there isn't much change in the Mayor and Council's budget. He said they did increase some of the travel budget, the operating supplies. He said there is an uptick in the budget, but that is to provide services for travel, paper, cell phones and those kinds of things as we move forward.

MOTION: Councilor Trujillo, seconded by Councilor Maestas, to approve the budget for the Mayor and Council, as presented.

VOTE: The motion was approved unanimously on a voice vote.

d) City Manager

Mr. Snyder said the budget is flat, although there is an uptick which you can see on page 141, the lion's share of which is moving the Asset Development Director and his assistant, the Property Manager, into the City Manager's budget. There is also a request for a Deputy City Manager.

Mr. Snyder said he would like to present his vision of what the Deputy City Manager would do. The Deputy City Manager largely would be helping in areas he is unable to focus on during the day. He currently has 23 direct reports which is quite a bit larger than the typical 5-7 direct reports span of control, and doesn't allow him to focus on some of the things we've talked about. Such as lead the streamlining of business processes, organizational efficiencies, looking at reorganizational opportunities, and focus on change management. It will take a lot to change a process, a culture, and it would be a huge to have somebody focused on it. The person would lead level of services evaluations around the past, as we've talked about right-sizing our operations.

Mr. Snyder said he spoke with Renee Martinez today and her evaluation is that with the installation of an ERP system, we will need a dedicated person that is not an IT person, not necessarily a project manage, but oversees operations within the City and take a lead effort in that to be successful. It's important to have someone to oversee that, and the new position would take a lead role in that as well. When they did the Quality New Mexico application earlier this year, that we are deficient in some areas, and he felt the biggest deficiency is that we don't have a way to measure and report metrics. We do a lot of things well, but we don't report well, or collect data well, and this position would assist in the organizational development of certain criteria and collection of data to become a high performing organization.

Mr. Snyder said they also talked about cross-training and career ladder building in H.R. This position would also assist with that.

Councilor Dominguez said what Mr. Snyder is requesting is somewhat of an uphill battle. He has always felt we are a big enough organization to require and need a Deputy City Manager, a Chief of Staff, whatever the term is, but the experience hasn't been good in the past with Deputy City Managers. There doesn't seem to have been clarity in the job description, or mission. It hasn't fit in the organization very clearly. He asked how will this be different from the bad experiences we've had in the past with the Deputy City Manager, other than that we have a different City Manager.

Mr. Snyder said he wasn't here when there was a Deputy City Manager, noting he was in the Water Division, commenting he believes that was Bill Tallman when Galen was the City Manager. He doesn't know how it didn't function. He would that position would direct reports, but focus more on efficiencies and opportunities to help make a better City.

Chair Dominguez said the Governing Body has asked for liaisons as well, noting they toyed with that in the last budget. He asked how can we make this position help the Governing Body to help Mr. Snyder, so it's not a position that's just specific to supervision by the City Manager, instead of being another constituent services position. He would like to see a more definitive job description and how it can give the Governing Body the opportunity to help you, and what Mr. Snyder's expectations would be of this Deputy Manager.

Mr. Snyder said he doesn't look at this as an opportunity for "you to help me, but an opportunity for us as a group to help the organization and provide better service to the community by streamlining processes, doing things better, looking at the ways we provide levels of service." He said in terms of constituent services, they will be coming to one of the next Council meetings to a 311 system. He said once we move in that direction, noting they have learned a lot from the pilot and there are opportunities to help capture what you're talking about. He would focus constituent relations in that area, as opposed to driving more efficiencies from within with this position in the organization, noting the community and visitors will also reap the benefits.

Chair Dominguez said the challenge, in his experience, there is this sense of "well, you're just a Deputy City Manager, not the City Manager." He said this is something Mr. Snyder will have to deal with through sending a message throughout the City government that the Deputy Manager is speaking on behalf of the City Manager.

Councilor Maestas said he course jotted down Mr. Snyder's vision. He has no doubt the work load is there, but there are elements of that plan with which he has issues. He said "you used the word your vision, and that's where the disconnect is." He said we were elected, we had a retreat and rallied around principles, but we haven't embarked on an effort to come up with a shared vision between the administration and the City Council. He said a lot of Mr. Snyder's plans for a Deputy Manager would be components of a strategic plan. He said we are year into the new administration and believes it would be a worthwhile investment of time and effort into a strategic plan – or to align our visions for the City – which hasn't been done in his opinion. The duties of the new position would be based in part on the results of

our consensus building and determining a shared vision for the City. He knows Mr. Snyder works long hours, and does a great job, and it's not a sustainable situation. He reiterated that until we have a process to establish alignment, joint visions and consensus he can't support the position until that is done.

Chair Dominguez said for him, it comes down to seeing a job description, and if we are going to task the Deputy City manager with some things to help us to get to a better place.

Councilor Bushee said she has always wanted to see someone in training, but she agrees with the Chair's remarks that it has much more to do with how the way the City is managed. She said she should challenge Mr. Snyder to look from within to find the staff that might be there. She said when we got the new Land Use Director, we kept the old one and gave him plenty of work. There have to people on whom he relies who are good managers that you could bring on from in house without creating a new position. She said she has been through many strategic planning policies, put it on a shelf, and since 2008 we have robbed Peter to pay Paul, scramble and have no real plan. She said we don't follow the plan no matter how much time we put into it, and we've gone by the seat of our pants at least since 2008 when the economy took a downturn.

Councilor Bushee continued, saying she doesn't want someone who is just here to help us get a Quality New Mexico plaque, or bean count. She doesn't want to see the City go through these efforts when we don't really follow them. She can't support this request, we don't have the money. She doesn't see continuing to look at the pot of gold sitting in the water company which doesn't find right either. She said she hasn't seen a good rationale to create a new position. She would hope he could come back to us with a position within the existing employees. She said under the previous City Manager, people would approach us and tell us the City was bloated with staffing levels, and the former City Manager gave a song and dance in terms of, oh, we run the water company. She said relative to cities of our size statewide, we were pretty high in certain areas. She said we've never had follow-through on our staffing levels, and asked if we are heavy, and in what areas. She thinks this is a good aim, but doesn't believe we are there yet.

Councilor Trujillo said he believes the work load is there for a Deputy City Manager, but said he is soured on the way the last Deputy City Manager was used, and it really didn't work. He agrees with Councilor Maestas we need a job description, commenting that with the budget right now, he doesn't see that happening. He does know that Mr. Snyder is overworked.

Councilor Lindell said she things to move in the direction this Council wants to move, we do need to have a Deputy City Manager. She said she doesn't think one person can do the active day to day management of the City and have 30 seconds left over to do any future strategic work or have any chance to find the time to do analysis to make us more efficient and find places we could be more efficient and do the analysis of that. There aren't enough hours in the day to do all we would like to have done. She is very supportive of having a Deputy City Manager.

Councilor Rivera arrived at the meeting

Chair Dominguez summarized the discussion to this point.

Mayor Gonzales said he is pleased with the comments and the sentiment to get some assistance for the Manager. He said he has been pleasantly pleased, and surprised at his capacity to be able to lead this government given all the challenges we have. He said he has been able to go through the process of hiring new personnel, exemplified what we want in leadership when it comes to individual who, by example, sets the tone for his direct reports and isn't afraid to hold people accountable if they don't step our or meet the needs of the City. He also sees a person who comes to work at 7:00 a.m., leaves at 8:00 p.m. He sees his kids in his office after school until 7:00 p.m., and most of the time he's sitting there working on personnel action items, tasks the Council has given him that he feels he needs to deal with personally. He said he believes to foster a healthy environment to keep a strong manager in place there has to be a strong work-life balance in place, and he is tilted completely on the work side in his commitment to the City. His kids have been great about going along with it, but there's just so much time that kids like hanging out in an office drawing on a white board. He said with incredible ideas coming from this Council that we want to see introduced and creating a stronger government that is better performing, he doesn't have the capacity to do it. And if we want to see more initiatives undertaken, Brian has to have some assistance.

Mayor Gonzales continued, saying, "In terms of how you fund the position and determine its duties, I think I would asked the Council respectfully not to quite go into that area, and to keep focus on the outcomes and expectations. So if you have a series of deliverables for the City Manager that it is incumbent on his entire team to deliver on what that is. If you ask for a delivery plan on to start creating benchmarks and high performance measurements and how to begin the training process, ideally that would be something the Deputy City Manager might do. However, if it is restricted and the person is called to do other things it becomes a challenge. So I would ask that you give him the support, but you hold him accountable for ultimately what you are asking to get done and you evaluate his success based on that."

Mayor Gonzales said Las Cruces is a similar size City and it has 2 Deputy City Managers, Rio Rancho has a Deputy City Manager, and all of his peer institutions in pay and assistance have more support around them. He said he thinks this is called for, noting in the paper we saw where the County Manger is making $170,000 with Deputy County Managers, for a size of government that is less than half of the City's. He said, "I know we have the right person as City Manager, but he's not going to be able to get us there by himself, so hopefully the Council will approve it and then continue to set outcomes and performance requirements he has to meet to keep his job, but we've given him the additional support to execute on some of these big things that we want, so hopefully the Finance Committee will see that."

Chair Dominguez said what the Mayor said is the same sentiment we have articulated. He said we need to consider our past experience with Deputy City Managers. He wants to see a clear definition of what that person would be doing. He said Councilor Maestas has articulated approval with contingency, and we have lots of options, so "let's see where the road takes us."

Responding to the Chair, Mr. Snyder said the $147,000 is 10 months salary and benefits for a Deputy City Manager.

Chair Dominguez said the budget as presented by Management is balance with that position included, and Mr. Snyder said that is correct.

Councilor Rivera said he was working here when we had a Deputy City Manager the first time and experienced first-hand some of the issues and problems that happened. He said he thought it was a lack of communication between the City Manager and the Deputy City Manager, as well as a duplication of effort, and if you didn't get an answer from the City Manager, you would go to the Deputy City Manager who loved College Basketball and if you talked about the old days, things happened pretty quick. He things it will take some real leadership from Mr. Snyder to create a good job description to point the Deputy City Manager in the direction they should go. He noted the Council hasn't completed Mr. Snyder's annual review through the process agreed upon.

Councilor Rivera said another issue is that we still haven't found raises for mid-level and non-union employees, and all employees look at this wonder why we can't do that but will find funding for a Deputy City Manager. He would like to see these raises, as well as to do the annual review prior to considering the new position.

Councilor Maestas he is hearing that every Councilor wants a transformational change, and no more incremental change. He said the proposed position could help to get us there, but we all have a different idea of how to get there, and he wants us to be aligned on a shared path and shared vision in a transformational fashion. He is willing to revisit this at mid-year if we develop a process, but he doesn't think we are ready to create the new position.

Councilor Bushee departed the meeting

MOTION: Councilor Maestas moved, seconded by Councilor Trujillo, to approve the City Manager's budget as presented, without the Deputy City Manager.

DISCUSSION: Chair Dominguez said one of the options we have is to create that position on the organizational chart and fund it at mid-year after we go through the process and come up with a collaborative overall funding source.

Mayor Gonzales said he is on board 100% to get a strategic plan to create the alignments and get somebody to execute it. However, the motion ignore's today's reality that "the guy is working 12 hours a day just to handle what's in place now and he is delegating to his staff, but there are things we expect him to take on as a City Manager. Minus getting somebody in place to alleviate some of that, there's going to be a burnout very soon, and that's not the environment I want for the City Manager or for any of our employees." He said he doesn't believe any Councilors think he sits on his hands. He hopes the Council doesn't ignore the fact that there is a need for help today in the office.

Mayor Gonzales continued, pointing out that the strategic plan isn't going to appear magically, and all of us are really busy and it's going to be hard as a Council to begin the process on top of all the things we're doing, to develop a strategic plan, unless we invest in a resource which will deliver the product. We can contract somebody to do a strategic plan, and thinks those are the plans that end up on the shelf. Or even if we do it through a term position to evaluate, at the end of next year we had an individual working in-house with those directions who could come and do the day to day development of the shared vision. He said if the Committee adopts the motion, in 6 months we'll see the same thing, unless we contract

somebody to do a strategic plan, and he will be in the same place he is now of working on things we want him to do. He said if you can put the position in the chart, and fund it or wait to fund it until a job description comes forward, and then evaluate at the end of the year to see if the outcomes were truly established. Mayor Gonzales pointed out that Mr. Snyder, among his peers across the State, is making the least money with the least support around him. He is hopeful we can create support this year with an outcome tied to it where we don't go down the path of fund a Deputy and it got lost in the bureaucracy, and really use it to make sure there is a return in place. He said Mr. Snyder's days are getting longer and longer, and I don't think it's the right thing to ask of anybody, much less a guy who is raising two kids.

Chair Dominguez said with all due respect to the Mayor and City Manager, "I believe the City Manager knew what the word load was. Granted it's a new administration, but he was the interim City Manager before that, and certainly he signed up for the job knowing that there wasn't a Deputy City Manager position." He likes the idea of setting the funding in place, but not utilizing it until we have a commitment from the City Manager and the Governing Body that maybe the first priority is to get some of these people pay raises and nothing happens before that. He said, "I'm kind of riding the fence on this one, I'm going both ways, but let's see what we come up with."

Councilor Maestas said he is open, but taking a tough position initially will help get us to the aligned shared vision. We need to ask our community how they want it to look, which he things is fair. The visioning process needs a prominent public component. He is willing to set aside funding and use half of that to contract someone to facilitate community visioning. He doesn't want to create another document that is going to collect dust, but at some point, we have to put the past behind us and move forward.

FRIENDLY AMENDMENT: Councilor Maestas would like to amend the motion to approve the position of Deputy Manager, that the money be set aside and that the money be split between contractual service to develop an all inclusive plan for our City or direction of vision, and we can look at the results at mid-year, and how it integrates with the proposed position. He would forego writing a job description until we're done with asking our community what they want from their government. **THE AMENDMENT WAS NOT FRIENDLY TO THE SECOND.**

Councilor Trujillo said he is more open to what Councilor Rivera said, if we're going to set aside the money, that's fine, but we need to look at the priorities of employees that haven't gotten raises, rather than contractual services.

Chair Dominguez asked the total dollars to do the raises.

Councilor Rivera said the last plan he saw there were different models and options and ranged anywhere from $80,000 to $200,000 to do the raises.

Mr. Snyder said the numbers he and Oscar were talking about and recall were the 3% for non-union employees making less than $90,000 a year, and the cost was around $550,000. That was the most expensive of the options, and the others fall below that.

Mayor Gonzales said he is supportive of where Councilor Rivera wants to go, but this is an apples and oranges kind of deal. He said, "I'm not going to beat the horse, you're right, Brian knew what he was getting into, he is delivering, he hasn't complained, but there still is a need to do more work out there that all of us want to know. The visioning is one component, but there is also the strategy of how we develop training, create upward mobility, good align for our employees and that's not going to happen overnight and it's not something that personnel can develop over night." He thinks if we want to fund pay raises for non-union employees, we should find $150,000 or $200,000 in the budget cycle, and make a commitment as a Governing Body to allocate a pool of money and start building a fund for the employees to start getting raises over a 3-year period.

Mayor Gonzales continued, saying we should task it to the City Manager to come forward with a written plan that provides a description that lays out here is how the individual will be utilized, and the metrics for determining success. He said a great initiative this year would be a strategic plan, noting he has asked Mr. Rodriguez to begin to move forward with performance based budgeting so departments' budget are based on performance and the is a method to evaluate whether they are being successful or not. He said any initiative we give him, minus what he has right now, is going to sit there unless we actually fund it. Instead, we take control of the position and wait until he comes back with written plan. Or perhaps the Council can set the priorities and then Mr. Snyder has to write a plan on how he'll meet the priorities with the position, and at that point the Council can release the money so he can go forward, and that could be evaluated, and in that might be bring us back a plan in 6 months that shows us how we're going to cover pay raises for non-union employees in a systemic way, so it isn't subject to Councilor Rivera always needing to be the voice of saying we need to fund these or give these guys increases that haven't received it. He appreciates being part of the dialogue. He thinks we can have the position pay for itself. He said the desires of all of us to see our certain issues addressed can be managed, but he's not going to take these on any more than what he can right now.

Councilor Lindell said we have a City Manager who is here from 7:00 a.m. to 8:00 p.m., and we're trying to get an assistant for somebody who is running this ship day in and day out, and instead of willing trying to find a way to find an assistant, we're saying maybe, but in order to get that assistant, we're going to put a bigger work load on him to get that assistant.

Councilor Lindell continued, "That doesn't make any sense to me to do that. It's yes or no, but it's not like well you can have half of the money, but for the other half you need to find a consultant. There aren't enough hours in the day to get it done. We're funding an inspector general. Did we need that position. I guess we did, but I don't see that as being a critical need we have for someone else working to be Deputy City Manager. How many departments are there Brian."

Mr. Snyder said there are 14 departments.

Councilor Lindell said, "This is not a small enterprise to manage, and I think when we fund things without giving it a second thought, and sometimes we give it a second thought, and sometimes a third thought, but we still end up funding them. And the amendments that come forth to us on contracts, 4, 5 and 6 amendments that we fund, I just don't think we're being as genuine as we can be about how big this task is. I wish we would just fund this position in this budget, ask Brian to bring forth a job description for it and

move on with it, so we can accomplish the goals that we all have. I very much appreciate what Councilor Rivera says, and I'm supportive of that. I think it's another issue. I would be happy to join you and work on that, but I do see it right now as a separate issue. We had a motion, we had a different motion and the second said it was not friendly, so I'm going to ahead and make a motion Chair."

SUPERCEDING MOTION: Councilor Lindell moved, seconded by Councilor Rivera for purposes of discussion, to approve the budget for the City Manager as presented with the position of Deputy Manager in it, with City Manager Snyder bringing forward to us a job description for the Deputy City Manager."

CLARIFICATION OF STATUS OF MOTION: Ms. Helberg noted to the Chair there already is a motion on the floor and asked if this is a superceding motion, and Chair Dominguez said it is a superceding motion. He asked, just for clarity and to make the action clean, for the maker and second of the previous motion to withdraw the motion, but that action was not taken.

DISCUSSION ON THE SUPERCEDING MOTION: Councilor Rivera agreed with Councilor Lindell that these are separate and his point was just that there are needs out that still have to be met while we're considering this budget. He wasn't trying to muddy the water to say that it's either a Deputy City Manager or raises for other employees. These are separate issues and believes we can find the money, and it's up to us along with the City Manager and Finance Director to actually do that. So he is in favor of the motion and thinks it can work and something Mr. Snyder needs to have the City to function appropriately, to continue to be funded appropriately and run appropriately.

FRIENDLY AMENDMENT TO THE SUPERCEDING MOTION: Councilor Rivera would like to do the annual review of the City Manager prior to looking at anything with the Deputy City Manager. **THE MOTION WAS FRIENDLY TO THE MAKER AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE COMMITTEE.**

Councilor Trujillo said then we are satisfied on funding this. [*Stenographer's Note: There was no reply to his question]*. Councilor Trujillo asked the timeframe for the City Manager to come up with a job description.

Mr. Snyder said he will have the job description within a month.

Councilor Trujillo said part of the job description should be finding money for the employees.

Chair Dominguez said, "I think we need to have that job description, probably before we approve the budget."

Councilor Trujillo said, "I will approve it. I will go with this. I think it's a compromise."

Councilor Maestas said, "I just don't think we're ready, and I think by making special exceptions we lose focus on what we need to do to really again formulate that shared vision, however we do that. And just to respond to Councilor Lindell, we're not funding any kind of inspector general in this budget. And I personally think the inspector general would be much more important than a Deputy City manager position.

So I can't support this. I indicated I was willing to reconsider this in 6 months, depending on the progress we make in developing a shared vision and I don't think we're quite ready. I agree with Councilor Rivera, I think we're sending the wrong message by approving this. I think you recall a year ago, looking at the magnitude of expansion requests last year from the departments and we didn't get to see that this year for a reason. And so we're not just sending a message to the rank and file, I think we're sending a message to the other departments that we're not willing to give you the necessary resources to do the best job you can for you and your staff. So I think it's a fundamental issue at this point. I wish we were further along, but we're not. That would truly justify creating and funding this position. So I can't support this, Mr. Chair."

SUMMARY OF THE MOTION ON THE FLOOR, AS AMENDED: Chair Dominguez said there is a motion on the floor to approve the City Manager's budget, with the Deputy City Manager position in it, and the two additions to that are that the job description come before the Governing Body by the time we approve the budget, and that the annual evaluation be done.

Chair Dominguez asked the reason we haven't considered or have in this budget, raises for non-union employees, noting Councilor Rivera has talked about it and asked for information for quite some time.

Mr. Snyder said there is a Resolution in the works, noting it is the source of the numbers he provided earlier as part of the options he and Mr. Rodriguez have been considering. He says it's not in the budget, as it stands, but he understands it is being considered to be introduced as a Resolution and work its way through the Governing Body process for their consideration.

Councilor Rivera asked if it is too late to consider something from the City Manager or Finance Director in regard to funding raises for non-union is it too late.

Chair Dominguez said it is not too late because the budget has not been approved, and if we have the funds available, it will take some time for staff to plug in the numbers and see how it looks in the overall scheme of the budget.

Councilor Rivera asked if Mr. Rodriguez and Mr. Snyder can do in a short amount of time.

Mr. Snyder said they do have options, and staff would ask for direction, noting they were looking at various sliding scales of 1-3%, depending on the salary. He said the last non-union raises were given 5 or so years ago. He said there is no recurring source of funding for this purpose, especially at the $500,000 level for one of the options. He said staff will ask for direction from the Committee in terms of a flat percentage across the board or a sliding scale percentage, and with that, he and Mr. Rodriguez are committed to see what they can come up with.

FRIENDLY AMENDMENT: Councilor Rivera would like to amend the motion to give direction to staff to come up with something, and provide options for a sliding scale and for a flat percentage across the board 1-3% so it potentially can be considered in this budget. **THE MOTION WAS FRIENDLY TO THE MAKER AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE COMMITTEE.**

VOTE ON SUPERCEDING MOTION, AS AMENDED: The motion was approved on the following Roll Call vote:

For: Councilor Lindell, Councilor Rivera and Councilor Trujillo.

Against: Councilor Maestas.

Chair Dominguez noted for the Board that he would like to conclude the meeting by 7:00 p.m.

e) <u>ITT</u>

Renee Martinez, Director, ITT Department, said she has been on the job for 8 months. And it is clear to her by getting to know the departments and the IT organization that the departments have a very high dependence on IT and their success is very much tied to a functioning and highly capable IT Department. She was impressed with and the reference to and the importance given to technology and enabling them today to achieve their operational goals and their service goals.

Ms. Martinez reviewed the information in the handout and in the budget. Please see Exhibits "5" and "1" for specifics of this presentation.

The Committee commented and asked questions as follows:

- Chair Dominguez said when it comes to IT the City is lacking and we definitely do need to have a strategic plan and this budget reflects the direction we want to do. He said on page 3 of her handout [Exhibit "5"] when we look at the new positions, the Enterprise Applications Manager, the IT Business Liaison, and then look at the position responsibilities, he would guess that isn't a concentration of your priorities, it's spread throughout the entire organization.

  Ms. Martinez said she originally wanted 6 new staff and pared it down to 5 in the budget that was submitted to you. These would be, excluding the Applications Software Specialists, those would be the 5 she just detailed for next year. She said she noted that on page 18 there is a description of all 18 positions which is the IT staffing expansion by fiscal year. She said the 18 staff requested staff are spread across 3 different fiscal years, noting she had to prioritize those she though were the most important, year by year.

- Chair Dominguez said then she sees the 5 positions as the most critical right now and Ms. Martinez said yes.

- Chair Dominguez asked the cost of the expansion.

  Ms. Martinez said she believes it is in the range of $274,000 is based on a standard hiring for 5 people on July 1st, if they were going to start hiring on that date and fill the positions as quickly as possible.

- Chair Dominguez said it is $272,000 in the memo and asked if it has changed, and Ms. Martinez said yes.

- Chair Dominguez said that expansion is for salary and benefits and Ms. Martinez said yes.

- Chair Dominguez said the overall budget for ITT appears to be increasing.

  Ms. Martinez said there is a slight increase in contracts and utilities, and a slight increase in Other Operating costs to take care of hardware and software replacements for some critical equipment that is reaching end of life.

- Chair Dominguez said for the next budget, it might be wise to articulate in more detail the Other Operating costs we have in each of the department budgets – perhaps the top 3.

  Ms. Martinez said there is some detail in the packet she sent to the Committee on the last page. The two items on that list are going to be discussions for CIP, those are the big ones. Those include the Data Center Modernization with a placeholder of $1 million and for the ERP System there is another placeholder of $1 million.

- Chair said we had discussed in the past how secure our data is. He said assuming we were to get the $1 million for Data Center Modernization, does the staffing plan consider that.

  Ms. Martinez said yes, and it will have to be reevaluated.

  Chair Dominguez asked what will have to be reevaluated, the capital costs or the staffing.

  Ms. Martinez said it is the staffing. She said the approach for the Data Center Modernization right now is to bring in a consultant with data center expertise to review the past assessments the City has done and the internal assessment and help us put together an RFP for Data Center services. And assuming it isn't cost effective to invest in modernizing our current facility, her personal opinion is that a facility here in this old building for a center is not suitable. And we should be looking at outsourcing the data center, noting most organizations have done this unless they are a very large organization such as Presbyterian Health Care Services whose data center is in Houston, Texas. It is a company that does this as a business, and have an investment in the state of the art data center with all the environmentals and equipment. And having that in an area of competency within a small organization like a City doesn't make sense."

  Ms. Martinez continued, "She said we will have competitive bids on data center services and make a decision. Once we do that, she will have a staffing plan around that, noting there are some things the outsource company will do, but there are other things we will continue to do. For example, we will continue to monitor equipment, create new environments for new systems and daily administrative tasks as well as project related tasks. So it's not complete, and we will have reevaluate our staffing needs, once that decision is made."

- Councilor Rivera, referring to the organizational chart handed by Mr. Rodriguez, and what doe the yellow signify, commenting he assumes it is for vacancies. Mr. Rodriguez said this is correct.

  Council Rivera noted the ITT organization chart has 29 positions, and asked if she is asking to reorganize the organizational chart, since there currently are 20 positions being funded.

- Ms. Martinez said the request is to add 5 new positions next year, and they will be filling the other vacancies.

- Councilor Rivera said then she is looking to increase to 34 positions total.

  Ms. Martinez said yes, noting the organizational chart says 29, and she is trying to verify that chart is correct. In the budget book, there were 25 positions. It should be 29 plus the 5 new positions which would be 34 total positions.

- Councilor Maestas said he is glad Ms. Martinez is on board. He thinks she is approaching the challenge in a logical fashion. She answered his question about the Presidio Report. He is glad she is going to "hit the refresh button," and go through the Presidio Report, identify top priorities and ensure what is still relevant, noting obsolescence comes more quickly whether hardware or software.

- Councilor Maestas said they discussed the performance audit in Council, ane there were some non-funding issue. One of the findings was repeated and modified which is a lack of formal polices and procedure, and the other repeat and modified was lack of adequate physical security in data centers. He asked if the Chair is convinced we are going to address those two issues and get them done.

  Ms. Martinez said formal policies and procedures definitely are an area of weakness and span across all the discipline in IT. The hiring of security officers will help tremendously in the security area which are the higher risk ones. The other thing we will need to do with existing staff until we have additional staff is to prioritize all the other areas for policies and procedures. Those related to risk management will be the higher priority one. The plan is to prioritize the list and policies and procedures we need and start working on them. She said in regard to security for server rooms, they have reviewed the security for the different server rooms and they all have a keypad or a FOB type of security to them. They do need, on a regular basis, especially for the FOB access, to ensure as soon as an IT person has left the organization to make sure they update the account so that FOB can't be used again. That kind of routine maintenance and update of the list of personnel that can get in and have access and change the access codes, needs to be done as a routine procedure.

- Councilor Maestas asked if she has the budget in the next year to address the absolute highest risks.

Ms. Martinez said yes, we have both the staffing and operating budget for the lowest cost, but higher impact items like the $500 humidity and temperature sensor in each of the four server rooms – those are things they are going to get done.

- Councilor Maestas said on the last page there is $1 million for Data Center Modernization which you mentioned as a CIP issue. He asked if all of the CIP project are woven into each department's budget.

  Mr. Rodriguez said no, the plan is to put all of them in front of you at one time together, so we can work on fund planning.

- Chair Dominguez said staff has considered the CIP plan as they put the budget together, understanding there are things in the CIP plan may or may not be approved. It is intended to be separate, the staff budget is somewhat reflective of the potential CIP plan.

Councilor Ives arrived at the meeting

- Councilor Maestas would like to see a backup generator for City Hall, noting it is a significant undertaking and big investment. However in the context of ITT systems, we need to make decisions such as where to house the data center, do we go with a cloud based type system, keeping in mind that City Hall does not have a back-up generator.

- Councilor Lindell asked, on the handout, page 10, the IT Strategic Roadmap, what are the dark green blocks.

  Ms. Martinez said consecutive dark blocks means activity is fairly constant across that timeframe. There are some issues where there is less activity until you for the funding, for example the radio system upgrade will be a $3 million investment. That will require a lot of discussion about funding, so there is a time lag between approval and implementation.

- Councilor Lindell said asked about the CBA score.

  Ms. Martinez it takes the scores for cost and benefit and provides a score, the higher score means with the lower cost you have a higher benefit.

- Councilor Lindell said, regarding payroll automation, it appears in the second and third quarter of 2015 we are actively working on this.

  Ms. Martinez said without replacing the EFP system we can make changes to our legacy system and processes that will give us a high benefit. And later when we start working on the ERP we can get additional benefits by having modern capabilities out of a modern ERP system.

- Councilor Lindell asked if the initial part of the project will be completed by third quarter 2015.

Ms. Martinez said yes, they are hoping to do that. They have asked the vendors to do tweaking to our system, but we're working to get electronic timesheets in place, as well as trying to reduce the number paper checks instead of direct deposit. A lot of labor can be reduced by some of these fairly simple process changes.

- Councilor Lindell said it sounds like a great step toward efficiency and she appreciates it.

- Councilor Ives asked what are the actual brackets of the measures – low, medium and high.

  Ms. Martinez said low is in the $10,000's, medium is in $100,000's, and high is over $100,000.

- Councilor Ives asked if there is an indication on the Strategic Roadmap of prioritization of threats within the IT system or to the IT infrastructure at the City.

  Ms. Martinez said most of those in the risk area are early on the plan, noting the IT security, if we can get the security officer on board right away we can start making headway on that one, noting they have treated some of the risk areas earlier in the planning.

- Councilor Ives asked if they are identified in any systemic way on the strategic plan sheet.

  Ms. Martinez said most of them really are only IT operational *[inaudible]*. They weren't split out to separate categories.

- Councilor Ives asked if there is budget to resolve all of the 9 items identified during the internal audit, if not what remains, and characterize those.

- Ms. Martinez said there are 2 items they will resolve with the operation budget with the sensors in the main server rooms. She has submitted a request for a security officer which was a recommendation so that's in the process. The other bigger investments like the backup generator she wants to push off until they finish the data center modernization assessment to see whether we are going to keep the data center here in this building.

- Councilor Ives asked the timing for the completion of the assessment.

  Ms. Martinez is preparing a request to proceed with a contractor who is available on State Price Agreement, noting it is the same company that helped us to put together the Strategic Road Map, Info-Tech Research Group. She asked for a proposal from them and from Gardner Group because those companies are both on one State Price Agreement. She received 2 competitive proposals from them of the same quality, but Info-Tech is about $40,000 less. She is preparing paperwork to seek approval to proceed with Info-Tech. This probably is about a three-month effort, so in 5 minutes she can come back with a recommendation for a data center organization.

- Councilor Ives asked if there are funds in the budget to cover Info-Tech and the work they would be doing to complete the assessment.

Ms. Martinez said yes, they are planning to use the CIP funds that were put in place, the $745.000 for IT infrastructure, toward that effort so it is there.

- Councilor Ives asked in terms of implementation of any recommendations they might make, what is the plan for that when we get there.

  Ms. Martinez said she doesn't know but hopes that would be within 6 months of finishing the assessment.

- Councilor Ives asked if she is saying there is nothing in this budgetary cycle and everything will wait until next year.

  Ms. Martinez said they put a placeholder for next year, but that may be part of the CIP discussion with all the other requests.

  Councilor Ives wants to ensure we are addressing as many of the threats to our systems as we possibly can in this budgetary cycle, and those are matters that should be in the budget from get go as opposed to being an add-on. He asked if we have a budget for security officer.

  Ms. Martinez said she is requesting that today in the next fiscal year's budget.

- Chair Dominguez asked if she is requesting that as part of the expansion.

  Ms. Martinez said yes, that is one of the 5 positions.

- Councilor Ives said you had talked about a level of management to oversee various segments, departments and asked how that works into the Strategic Roadmap.

  Ms. Martinez said many of the initiatives under Business Application Upgrades and eGovernment will require having those positions filled.

- Councilor Ives said if we take the CBA score as measure of efficiency, setting aside the issue of strategic priorities, which ones are in the budget of those with a CBA score of 25.

  Ms. Martinez said the first would be Project Portfolio Management, noting they have hired a Certified Project Manager so that wouldn't require an additional investment. The next would be project management itself, to the extent one project manager can handle all the larger projects on our plate, that should be taken care of. The next is City Related Documents, which one which may need an investment in software. We're at the point where we're researching electronic document management systems, electronic forms, electronic *[inaudible]* type of software, noting she doesn't know how large that would be and whether our operating budget would be sufficient for it. The GRS data location and wire services doesn't have a cost by itself. The strategy on that one is really as we upgrade systems we want to look for functionality that allows a lot of our applications to do location ware – capabilities to automatically flag, for example, licenses, like proximity to a

church or a school. The cost is imbedded in some of the business application upgrades. Ms. Martinez said Transit Information transactions is part of the new software in parking, so that is covered. She said these are the items with the highest CBA score.

- Responding to Councilor Ives, Ms. Martinez said the water meter project is already funded.

- Councilor Ives said with regard to restructuring systems and allowing ITT to re-ascend as a significant service entity, how is that going.

  Ms. Martinez said there definitely are some trust issues we're working on and we're trying to engage the departments, planning the systems, and getting involved up-front in technology selection, and they were trying to position that as a consultant with them to build that trust. It's going to take time. One of the things she hopes to accomplish is the hiring of business analysts and business solution manager to go a long way in strengthening the relationship between IT and the Department.

- Responding to Councilor Ives, Ms. Martinez said they have a mix of funding, most of which is in IT. I've saved $4.5 million of $6.3, so there are differences in the department budgets. She noted if there is a very large investment in a new system the departments are budgeting it in their budgets.

- Councilor Ives asked if that is the most efficient system.

  Ms. Martinez said there are pros and cons, if you centralize everything into an ITT budget, sometimes that creates a big target, noting she has seen that backfire in State government. She thinks if it is in the department, it motivates them to take a leadership role which is important.

  Councilor Ives said he sees IT as a service organization in the City, but highly specialized. He hopes each department is coming to IT as it evaluates or looks at needs and allowing IT to do the job it is meant to do, which is to enable the systems to be acquired and put in place in the most efficient and cost effective way. He asked if this has been happening.

  Ms. Martinez said, "I believe it's starting to do so and it will take some time."

- Councilor Ives said he has talked with the City Manager about Finance, HR, IT being service platforms to enable the rest of the City to get the work done is a significant one and the capacity to do it well will earn respect and allow it to function the way it should.

- Councilor Ives asked if there is anything else that is critical that isn't in the budget that the City should be funding to ensure safety of the City systems at this time – are our systems safe, are we dealing with potential threats sufficiently, and if not, what do we need to do now to change that.

  Ms. Martinez said investment in staffing is key, noting we have 30 plus very critical business applications and only 5 people to take care of them. In some cases, some of those systems require at least a full time person or two to take care of it. She said, "We're really stretched staffing

wise, and that's why I asking that we make a commitment to three staffing over the next 2 years, and we'll work on the most critical areas first."

- Councilor Ives said he hopes we are doing enough, quickly enough, to make sure we don't have major failures within the system, because it appears to be exposed from the reports we've received. He said, "I can only say I trust we are addressing those intelligently, and if not, I will be an advocate for change."

  Mr. Snyder said, "If I could expand on that. We presented a report 3-4 months ago for the need for a lot more positions than she has presented in the budget, it was 18 in that range. Right now she has 29 staff, and increasing it by 18 is a huge ramp-up in one year. In fact, the budget she printed to myself and Oscar was asking for 9 additional positions. And after conversations with Renee we convinced her to scale back to 5 because that percentage of her total number of staff already is a huge ramp-up. And in order to evolve change and move the organization forward, she came up with a phasing approach that I believe is going to be successful by hiring a new person every quarter depending on the work load and such, so that, I'll answer it a little bit more bluntly, does she have everything she needs. In her mind no, and in my mind no, but what she's asking for is something that will take a step in that direction, and help the organization overall."

- Councilor Ives said he appreciates that and clearly we're not in the position of spending on everything we need to, again, he's merely harping on the critically exposed systems which if we don't deal with them, we're leaving the door open to trouble, "and if there is that trouble, I will be looking to hold people accountable."

MOTION: Councilor Lindell moved, seconded by Councilor Maestas, to approve the IT Budget as presented.

DISCUSSION: Chair Dominguez thanked Councilor Ives for bringing IT to the spotlight, noting we have discussed this in the past and Councilor Maestas was also interested. He said we realize we are behind the times in terms of IT.

VOTE: The motion was approved unanimously on a voice vote.

7. PUBLIC HEARING

Chair Dominguez gave everyone 3 minutes to speak to the issue

Carolyn Sigsteadt said, "I am speaking tonight because it's nearly the time for you to come up with the budget, and you have many needs, and you seemingly have an easy solution, perhaps, and I'm saying, don't do that. It's short sighted. I have been out of the State recently, I've lived here my whole life, but I've been in California. And there's interesting things going on out there in terms of water and the drought. And we know a great deal about that right here in our home State. I think we can be an example in New Mexico of what to do or what not to do, and I would prefer it be the first. The fact that we have

these water rates that probably are charging the right amount for water. Water is our precious resource. It's only going to cost more and more, and these costs will relate to legal adjudication and things. Personally, in terms of that, I think the Middle Rio Grande and he big players, it's going to be top down and then the bottom will start to adjudicate, but that is something that we're going to have to look at in the future if we're going to be responsible adults about this resources that is so precious, and is the next oil, in my opinion, on the planet."

Ms. Sigsteadt continued, "So this money that we have in this category can be used in so many ways to actually model what to do to in the 21st even 22nd century. Water hits the fan here before it does anywhere else in the country. So what we do here is an example, good or bad, as I said. My feeling is that money could be used to look for the leaks in our system, and I know them to be 10-15%, and we could incrementally just tighten up all the leaks in our water system. I proposed that we use this money to invest in a 21st/22nd century infrastructure system that really deals with our water both effluent and graywater."

Ms. Sigsteadt continued, "In California and other places in the country, there are systems where they are purifying the water on the surface as well as purifying it on the surface and injecting it into aquifers which will make it potable. This is the future and we should be taking baby steps, and these are expensive baby steps, but marching in that direction. Albuquerque is growing at a phenomenal rate, there are 600,000 residents in the City of Albuquerque and the County just outside the City is another 60,000. Those put together a City/County/Regional water system. This is something that over the 40 years that I've lived here, I've been kind of a witness at the County level of government. I'm kind of sad that Javier Gonzales isn't here because he knows me well. I've always believed in a regional water system. We have a regional water system between the City and the County that is asleep right now. I say we wake that up again, because what goes on in the County affects very much what happens in our City in terms of water. All of this take money."

Ms. Sigsteadt continued, "Obviously, the last story is a quick little story when I came to Santa Fe 40 years ago, my first jobs was at a non-profit and the only reason I got that job is the person who had the job before had misused the money for what the grant was accountable for and spent it on something. And so I had to go in there and perform to that grant's accountability without any budget. And that's what I'm afraid you will do when you move the money from water to the General budget. Please don't do it. Think long term. Thank you."

Chair Dominguez said, "Even though we've been doing it, I guess maybe your comments are very well taken."

Fred Sandoval, Executive Operations Manager, for the National Latino Behavioral Health Association, and thanked the Committee for understanding the specific needs of the Community Protection Initiative. He said, "I've been following that project for a number of months, and as the former Deputy Secretary of the Department of Health and the Income Support Division Director, I very much know that the very efforts you're undertaking to support the Community Protection Initiative is something can be vitally supported at the State and federal level. It would be a great opportunity to collaborate with the local resources that you all considered for supporting that particular initiative by leveraging it with other sources.

And I'm hoping that as part of your efforts, that you also look to find additional resources beyond those you are look at from local revenues, because it's one of those resources and services that is actually fundable outside of local government. And I would like to encourage you to factor that strategy as part of your support for the Community Protection Initiative. As you know, there are more than 33 organizations, of which I'm one of those, that supports the CPI project, and it is undoubtably one of the exemplary models that can be forwarded across the country. So you're opening that pathway to have local government step up its relationship around community health is exemplary. I can say to you, first and foremost, thank you for responding to my calls during those advocacy phone contacts and emails because it really speaks to your understanding of the impact City government can have on health care. So, Mr. Chairman, members of the Committee, thank you very much for your time.

5. CONTINUATION OF REVIEW OF FISCAL YEAR 2015/2016 OPERATING BUDGET

4) WRAP-UP

Councilor Ives said all of the departments have been approved in some form or fashion except for Water, for which there are outstanding outliers on water that need to be discussed. He asked if there is anything else that anyone wants to talk about, let him know now so we can be sure we have staff available for that.

Councilor Ives said in response to the remarks just made, we are busy populating our health care Hospital Study Group, and hopes to introduce a modification to the Resolution that established that organization to invite both members of the Department of Health to participate as well as the State Insurance Division, with an eye to engaging them in the type of discussion you mentioned, looking for additional funding as well as using the CPI program possibly as another way in which Santa Fe is trying to lead in the State of New Mexico on those public health issues, so very much in mind.

Chair Dominguez said under Wrap-Up the most significant issue we're dealing with in this budget is the Utility Policy, the fee in lieu or fee in lieu of taxes, at $3.8 million. One thing he would like to see is direction to staff to provide information to the Governing Body on what it would look like to provide either a rebate and looking at a water rates. He said, "I guess we would have to do some reevaluation of our capital projects on that, and what I don't want to do is to kind of react and do a reduction in water fees this year and then to have to increase them in two years. I think there's a lot of conversation we have to have before we decide whether or not we do one or the other, how much we do it for and for how long. But I don't think that there's necessarily anything wrong with at least direction staff to have that discussion starting from now. And aside from any discussion we may have regarding this, and what other Committee members may say, I'm not quite sure we can balance the budget by resolving that issue right now."

Chair Dominguez continued, "A couple of questions I do have just in terms of what that looks like. The first question Kelley, there's been some indication that the proposed policy is illegal, so I'm wanting to get City staff, City Attorney's response to that."

Ms. Brennan said, "Councilor Dominguez, I've have actually... I'd actually like to read something first."

Councilor Maestas said so you are referring to the payments in lieu of taxes policy, and the Chair said yes.

Ms. Brennan said, "And I'll just read to you because it says it more clearly I think than I could directly. First I will say yes, it is legal. I will say yes, it is legal to do the transfer. And I'm reading from a 1974 where exactly this question was litigated up to the Supreme Court, and the facts underlying the case. On August 2, 1971, the Albuquerque City Commission adopt Ordinance No. 102-1971, which increased sewer and water service charges over those charged under the superceded Ordinance. On the same day, the City Commission adopted Budget Resolution No. 2, where by its terms, the City requests approval by the Attorney General and the Department of Finance & Administration, for budget transfers and increases enumerated in schedules attached to the Resolution. The Schedules indicated that water and sewer revenues increased by the amount of $1.5 million, and that fund such amount $1.1 million was to be appropriated to the General Fund of the City and appropriated from the General Fund to cover budget increases for various departments in the municipality. So that's very clearly what we're talking about right here. I would say this case is on point. A certain amount of the discussion focused on the home rule powers of Albuquerque which are the same as ours. And ultimately, the Court says, this contention proceeds on the theory that a municipality has no right to charge for its utility service or product a rate in excess of cost, i.e., that it has no right to make a profit. Nevertheless we are not referred to any statute or constitutional provision denying this right. In the absence of such prohibition, a municipality, no less than a private corporation, engaged in the operation of a public utility is entitled to a fair profit. In the operation of a public utility, a municipal acts not in a governmental capacity as an arm or agency of the sovereignty of the State, but in a proprietary or business capacity. I've been carrying this around in my phone for a while."

Chair Dominguez said it's something you've looked at extensively, and not something you just looked at this afternoon.

Mr. Brennan said, "And I assume that the Ordinance that's on the books that says you can transfer but only this much was enacted with the same legal advice, that it is legal."

Chair Dominguez asked if she has seen the policy being presented by management in the Budget Book.

Ms. Brennan said, "I have, I'm sure I've seen it..."

Chair Dominguez wants to be sure that what is being presented is consistent with your legal assessment.

Ms. Brennan said, "It seems to be. It seems to be consistent with the theory, and I would say that, because the existing Ordinance limits the amount, you would have to amend the Ordinance to conform with your wishes in terms of how much you wanted to transfer, but it is right now a limiting Ordinance."

Chair Dominguez asked Mr. Rodriguez how much the General Fund owes Utilities.

Mr. Rodriguez said, "That can be a very long conversation or a very brief one. If by owe, you mean the free service, for example, that Wastewater, Solid Waste and maybe other sort of lenient billing that the utility offers the General Fund, etc., that could be many millions of dollars over the years. I sent you Memo explaining how in Wastewater and Solid Waste, that's about $900,000, very generally the calculation there.

Mr. Rodriguez continued, "The person who keeps an assiduous watch of that is Nick Schiavo. He's a very good advocate for the Water utility. He could probably tell you more. The other part is the positions, these 19-20 positions that are being talked about. That print-out that you got from Nick, which you got from us by the way. That's generally how we came to this $900,000. As I explained to others, Nick and I have a friendly disagreement as to exactly what's that calculation. I believe it's less. I believe the City actually pays, some of those positions when you look at them more closely, you're going to find them to be utility-related and some of them may very well not be, but we're going to let you decide and provide information to you on that. So if you took all of that together to answer your question, Council. On an annual basis, in the neighborhood of the $3 million."

Chair Dominguez asked, if we don't approve this policy, what are the options to balance the budget, besides cutting positions, laying people off and raising taxes.

Mr. Rodriguez said, "That's exactly what you would be doing. And look, we didn't offer this thing not thinking a lot about it... no no, there was a lot of thinking that went along with it. And we didn't offer it, also taking into account the possibility of tax increase, what that would do, and perhaps even cutting things out there significantly. And so we came to thinking if you will, that this is the best of evils, or the worst of evils, excuse me. Because first of all it's a standard practice, this is not an unusual thing. What you have in front of you is not a radical idea by any means. The litigation Kelley was talking about is 1970s. These issues have been going on for a long time. It's just the idea that if this was a private company and had the right to block the streets, if there was flooding in the streets and business was interrupted, etc., all that sort of stuff that would be okay. I just can't believe that you here, over time would not come to think that no, this company needs to pay a higher franchise fee than the cable company or the phone company which is the 2%. And so, based on all that thinking, we finally decided to recommend that this was the best foot forward at least at this time, and to reserve possibly an increase for taxes, or talk about that for some time in the future when we've got a better look at what the economy was going to be in the future, and also when you got a better look at all of the CIP. And so that's how we came to this decision. It was done very soberly, very seriously with the City's finances *[inaudible]*.

Chair Dominguez asked Mr. Snyder if he would agree that in some ways we've done this in the past, maybe not specifically as the policy as written and proposed, but in some form or fashion.

Mr. Snyder said, "Mr. Chair, I would say yes. And I think Oscar had explained this early on, probably on the first day of budget discussions. We were going through the policies and one of the goals is to be transparent, to bring it to the forefront and say not only have we done it in different forms and fashions, we're still doing it and we'd rather bring it to the forefront and say let's agree on the fact that

we're doing it. Let's study it more as we talk through these budget discussions on the number of staff that are allocated, where, how they're allocated and what the services are and do a level of service study. All that, we're agreeable that yes, that needs to be done. Can it be done this week, next week, no. it's going to take time to do that. But let' be realistic on having a conversation of what percentage could or should be this year, that's what's being proposed. Next fiscal year these policies will be brought back before you as well, and presumably throughout the year, we'll have that discussion and evaluation done, so we can have the further discussion of, is that the right percentage, is it not compared to more levels of service and actual costs and have a more detailed conversation is what our approach is."

Chair Dominguez said we've been doing it, and some Councilors who are opposed to it have supported it in the past. He asked if the administration is committed, in terms of the difference between a rebate and a reduction, not that we should limit, but the rationale right now.

Mr. Snyder said from the standpoint of issuing a rebate and the challenges of whether it's cutting a check, or crediting the bill, or calculating the percentage, or if they're past due – whatever the status is of each individual account. If this were to move forward, his recommendation would be that we explore the idea of a rate reduction that would be flat across the board, would not interfere with the tiered structure and the water conservation measures in place and incentives, but rather look at a simple rollback of a rate increase and what that would be across the board.

Chair Dominguez said it's a tricky situation because we want to continue the policies we have in place with regard to water conservation. We don't want to provide an excuse for people to use more water than they should because they can afford it. He said a lot of discussion has to happen. He said the rates are incorporated into the capital improvement plan for water needs to be discussed about what that looks like and how it might change our fees.

Councilor Maestas said he would urge caution about making any changes at this point, because there are a lot of issues that are developing that could impact the water fund financially. One of which is the asset management Councilor Rivera is pushing through his legislation. He thinks we'll take a more comprehensive look at the water enterprise from an asset management standpoint, which could translate into greater emergency reserves and infrastructure reserves, and perhaps a surplus above and beyond covering the debt. We should wait to see the impact of the recommendations on the water fund balances. The other issues is there are serious policy changes coming from the OSE which could cost the City millions and millions of dollars. He urges the Council to be open to the scenario of what it would take for the Water Fund to be self-sufficient without the GRT subsidy, a hypothetical test. This is a windfall for the public in that we're taking a source of funds with great versatility for infrastructure investment in other areas, where we can't spend water fund revenues on other non-water fund related purposes. Without raising taxes, we use existing taxes used for the water fund, and we assess if it can be self sufficient, and if it is, without the need for water rate increases above those anticipated in FY2020-2021. He has legislation coming forward to formalize the water transfer policy. He urges the Finance Committee to approve the budget with that policy.

Chair Dominguez said he agrees completely, but all of this needs to be discussed by the Governing Body. He said there a lot of funds that need a policy debate – Transit, for example. He said we need the separation as well as the flexibility to move outside however it is segregated.

Councilor Lindell said, "I wish I could tell you that I'm comfortable with this and that I support it, but at this point I don't and I'm not. I 'm not comfortable with a rebate, or rolling back rates. I don't want to do anything to encourage people to use more water. If we could keep rates stable for some number of years, that is the best service to the citizens. I realize that not doing this makes us look at some very very tough options in this budget, which, as Mr. Rodriguez said, probably comes down to cutting services or increasing taxes. And we may have to entertain some of those ideas. 12% seems excessive to me. We only ask, for example the cable and telephone utilities, have a 2% franchise fee. We don't ask other areas to pay in lieu. So I think as you said Chair, we're not done discussing this and it's the one sticking point of the budget for me. I wish it wasn't, I wish it was much easier and we could move this along quickly, but at this moment, I just cannot support this. So that's where I am with it today.

Councilor Trujillo said when we had this discussion, back when we ver voting on this, and Councilor Ortiz compromised on 4% because this is exactly what he said was going to happen, this surplus. And now we have it. He said we can't give a rebate, noting we balanced the deficit 4-5 years ago with the water fund. He doesn't know what will happen in the next 3-5 years, and it is always good to have money for a rainy day. At the same time, his concern is in raising the rates, he thinks we can ride the course over the next vew years. He has already heard from constituents asking for a rebate or to do something. He tells them it happened and it will be the Council's decision as to how to use the money, commenting it has to be used in the best interest of the community which he knows is what will be done.

Councilor Ives said, "Kelley, I presume that California case from San Capistrano is distinguished by virtue of the fact of California Proposition #218 that allowed the taxpayers group there to sue the tiered water rate at that water company successfully."

Ms. Brennan said, "Councilor, you have me there. But I didn't see anything that contradicted this in New Mexico law."

Councilor Ives said and that would be a distinction because it relied heavily on the proposition that had been passed and Ms. Brennan said, "Correct, that was one of the same cases that discussed the tax versus fee provision which is central to this case as well."

Councilor Ives said it is interesting that only the past 2 weeks have we heard the suggestion about the policy of charging the Water utility as if it were a private entity. Because, what that suggests is that is something that has been being done for years, functionally. He said, "I can't say I had any recognition or knowledge that we were paying 20 different positions out of the funds coming in through the rates that were being paid by our water customers. And this, I will say, the challenge I have had with our budgeting process, and I would hope to high heaven that next year it is not the case. And I've said I'm glad Oscar is here, because I finally feel there is some transparency in how we do our budgeting that I have just never felt before. And I look at this as an example."

Councilor Ives continued, "I have a friend in Santa Fe who for years has said, you know we have the second highest water rates in the country, what are you doing. And unfortunately, if we are charging rates and covering people all over different parts of the City, responding to them saying well it's a matter of conservation. All of a sudden all of the words out my mouth to explain why this makes sense, all of a sudden are that much garbage. And I hate being put in the position as being a person who is talking to constituents, the people who elect everybody on this Council, in ignorance, or trying to make excuses for something that was done, or saying we just didn't know. That's not something that works for me."

Councilor Ives continued, "So know we have 16-17 days before we have to submit our budget to the State, I think we're too late in the game to do anything terribly constructive, other than look to put forth a balanced budget on these measure. But know by the time we get into the process next year, I would love to understand how we use all these funds. Stormwater would be another one. I understand we do pay 5-6 or more people out of the Stormwater Fee and I don't know where they work across the City budget, but I'm hoping it's all on stormwater issues which is $3.5 million at the rate of 1½. I was given a wrong figure, but in any event if 20 people is $900,000, then presumably that's a group of about 30 people, and if we only have 5-6, I want to understand where these funds that we collect are going on annual basis if we we're collecting them for specific purposes. I think we have to be totally honest and totally transparent on how we are using our funds."

Councilor Ives continued, "I'm more than willing to make hard decisions in terms of how we allocate those on expenses across the city or what programs we actually choose to support or not support, based on our revenues. But what I cannot just tolerate is doing it out of ignorance and being led down a path where I really don't think I understand what I'm doing, and I hate to say that. So know that I'm disappointed in our budgeting process for that reason. I look forward to working with everybody here to correct that. Know that again, that transparency, honest in how we're doing it is critical, from my perspective, to everybody up here making the informed decision which is the hallmark of what we need to be doing as Councilors. If we cannot do that, we should just resign our seats, go home and be done with it. We count on staff to make sure we do understand all these issues. Again, hard decisions, I think we're perfectly capable of making. I have no problem in making those in intelligent ways, but I can only do it if I understand all the information."

Councilor Ives continued, "I'll say it again. I'm disappointed it's been this late in the game that we are talking about these issues. I'm disappointed we weren't talking about them the first year I came on Council. And I will say that I will work very hard to make sure we are talking from that transparency perspective going forward. And I don't mean to belittle the difficulty of the job staff does in bringing forward a balanced budget or a budget that makes sense. But your job functionally is to really inform us, make sure we are fully cognizant of the issues, what we need to do, what the effects of what we do would be, but we are called upon I think ultimately, to make some of those decisions. So you have to help us make informed, intelligent decisions."

Councilor Dominguez said he appreciates that Councilor Ives and Mr. Snyder have said many times, "the decision is yours as policymakers." We haven't had that luxury in the past, it's been "interesting," I'll just put it like that nicely.

6. REQUEST FOR APPROVAL OF RESOLUTION ADOPTING CITY OF SANTA FE'S OPERATING BUDGET AND ORGANIZATIONAL CHART FOR FISCAL YEAR 2015-2016

A copy of City of Santa Fe Resolution No. 2015, *A Resolution Adopting the City of Santa Fe Fiscal Year 2015-2016 Annual Budget*, introduced by the Finance Committee, is incorporated herewith to these minutes as Exhibit "5."

MOTION: Councilor Maestas moved, seconded by Councilor Rivera, moved to approve the Operating Budget and Organizational Chart for the fiscal year 2015/2016 budget.

FRIENDLY AMENDMENT: Chair Dominguez would like to amend the motion to add the changes we've made and the Resolution affirming the current tax rate [Exhibit "6"]. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE COMMITTEE.**

DISCUSSION: Chair Dominguez thanked the Finance Committee, the Governing Body, the staff, everyone from the City Manager to every single City employee for the work they've done. He thanked the Committee and said, while these things are gruel and tough, they are certainly a learning experience. He thanked the public for participating in the public hearings. He said the budget is something over which we have the most control and has the most significant impact on the day to day operations and the service we provide to the committee.

VOTE: The motion was approved on a voice vote, with Councilors Trujillo, Rivera and Maestas voting in favor of the motion and Councilor Lindell voting against.

8. ADJOURN

The meeting was adjourned at approximately 7:00 p.m.

Carmichael A. Dominguez, Chair

Reviewed by:

Teresita Garcia 5/27/2015

for **Oscar S. Rodriguez, Finance Director**

Department of Finance

Melessia Helberg

Melessia Helberg, Stenographer

SUMMARY OF ACTION
FINANCE COMMITTEE MEETING
Monday, May 4, 2015

ITEM	ACTION	PAGE
CALL TO ORDER AND ROLL CALL	Quorum	1
APPROVAL OF AGENDA	Approved	2
APPROVAL OF CONSENT AGENDA	Approved [amended]	2
CONSENT AGENDA LISTING		2-3
APPROVAL OF MINUTES:		
REGULAR FINANCE COMMITTEE – MARCH 30, 2015	Approved	3
REGULAR FINANCE COMMITTEE – APRIL 13, 2015	Approved	3
CONSENT CALENDAR DISCUSSION		
REQUEST FOR APPROVAL OF AMENDMENT NO. 4 TO PROFESSIONAL SERVICES AGREEMENT – CITY VIDEO SURVEILLANCE PROJECT – FINAL PARK SITES; CHAVEZ SECURITY, INC.	Approved w/direction	4-8
REQUEST FOR APPROVAL OF BUDGET INCREASE FOR LODGERS' TAX BUDGET ESTIMATE TO THE AMOUNT PROJECTED IN FEBRUARY 2015 FOR THE TOTAL FY 2014/15, WHICH ADJUSTS ALLOCATIONS TO THE LODGERS' TAX RECIPIENT FUNDS IN THE AMOUNT OF $1,190.789	Approved	8-10

****
END OF CONSENT CALENDAR DISCUSSION
****

DISCUSSION		
ADMINISTRATIVE HEARING ON STAFF'S REQUEST TO REVOKE THE BUSINESS LICENSE ISSUED TO ANASAZI GALLERY TRADING, INC. ACTION BY FINANCE COMMITTEE ON WHETHER ANASAZI GALLERY TRADING, INC., HAS SHOWN CAUSE WHY THEIR LICENSE SHOULD NOT BE REVOKED	Move forward to City Council	11-45

ITEM	ACTION	PAGE
CONTINUATION OF REVIEW OF FISCAL YEAR 2015/2016 OPERATING BUDGET		
DEPARTMENT REVIEWS		
ENTERPRISE AND SPECIAL REVENUE FUNDS (CONTINUED)	Information/discussion	45-54
SUPPORT SERVICES		55
GENERAL GOVERNMENT		
Municipal Judge	Budget approved	55
City Clerk	Budget approved	56-58
Human Resources	Budget approved	59-66
Finance	Approved	66-67
City Attorney	Approved	67-71
PUBLIC HEARING	No one speaking to the request	71
REQUEST FOR APPROVAL OF RESOLUTION ADOPTING CITY OF SANTA FE'S OPERATING BUDGET AND ORGANIZATIONAL CHART FOR FISCAL YEAR 2015/2016	No action/postponed to 05/14/15	71
OTHER FINANCIAL INFORMATION	None	71
MATTERS FROM THE COMMITTEE	Information/discussion	71-72
ADJOURN		72

MINUTES OF THE
CITY OF SANTA FE
FINANCE COMMITTEE
Monday, May 4, 2015

1. CALL TO ORDER

A meeting of the City of Santa Fe Finance Committee was called to order by Chair Carmichael A. Dominguez, at approximately 5:00 p.m., on Monday, May 4, 2015, in the Council Chambers, City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico.

2. ROLL CALL

MEMBERS PRESENT:
Carmichael A. Dominguez, Chair
Councilor Signe I. Lindell
Councilor Joseph M. Maestas
Councilor Ronald S. Trujillo
Councilor Christopher M. Rivera

OTHER GOVERNING BODY MEMBERS ATTENDING
Councilor Peter Ives

OTHERS ATTENDING:
Oscar S. Rodriguez, Director, Finance Department
Kelley Brennan, City Attorney
Teresita Garcia, Finance Department
Yolanda Green, Finance Department
Melessia Helberg, Stenographer.

There was a quorum of the membership in attendance for the conducting of official business.

NOTE: All items in the Committee packets for all agenda items are incorporated herewith to these minutes by reference. The original Committee packet is on file in the Finance Department.

3. APPROVAL OF AGENDA

MOTION: Councilor Trujillo moved, seconded by Councilor Maestas, to approve the agenda, as presented.

VOTE: The motion was approved unanimously on a voice vote.

4. APPROVAL OF CONSENT AGENDA

MOTION: Councilor Rivera moved, seconded by Councilor Trujillo, to approve the following Consent Agenda as amended.

VOTE: The motion was approved unanimously on a voice vote.

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CONSENT AGENDA

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6. REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – FUNDING OF RAILYARD'S EVENTS AND MARKETING FOR FISCAL YEAR 2015/16; SANTA FE RAILYARD COMMUNITY CORPORATION. (ROBERT SIQUEIROS)

7. REQUEST FOR APPROVAL OF GRANT AWARD – FISCAL YEAR 2014/15 RIDEFINDERS PROGRAM; U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL TRANSIT ADMINISTRATION AND REQUEST FOR APPROVAL OF BUDGET INCREASE IN THE TOTAL AMOUNT OF $84,004. (KEN SMITHSON)

8. REQUEST FOR APPROVAL OF BUDGET INCREASE IN 2012 CIP BOND FUNDS ALLOCATED TO TRANSIT FROM FUND 5400 INTO FUND 5409 IN THE AMOUNT OF $50,000. (KEN SMITHSON)

9. REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – TWO (2) ADA-ACCESSIBLE REPLACEMENT VEHICLES FOR SANTA FE PICK-UP SERVICES; CREATIVE BUS SALES, INC., AND APPROVAL OF BUDGET INCREASE IN THE AMOUNT OF 4100,000 IN 2014 CIP BOND FUND. (KEN SMITHSON)

10. REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – FIVE (5) HURST EDRAULIC AUTO EXTRICATION RESCUE TOOLS FOR FIRE DEPARTMENT; L.N. CURTIS & SONS AND APPROVAL OF GRANT AWARD AND AGREEMENT FROM NEW MEXICO DEPARTMENT OF HOMELAND SECURITY & EMERGENCY MANAGEMENT. (JAN SNYDER)

11. **REQUEST FOR APPROVAL OF 2014 GENERAL OBLIGATION BOND AWARD – BOND PASSED BY NEW MEXICO CITIZENS TO BENEFIT NEW MEXICO LIBRARIES; NEW MEXICO STATE LIBRARY AND APPROVAL OF BUDGET INCREASE IN THE AMOUNT OF $162,773. (PATRICIA HODAPP)**

12. ***[Removed for discussion by Councilor Lindell]***

13. ***[Removed for discussion by Councilor Maestas]***

14. **REQUEST FOR APPROVAL OF A RESOLUTION RELATING TO CHILD HUNGER; PROCLAIMING SUPPORT FOR COMMUNITY EFFORTS TO ENSURE THAT ALL CHILDREN AGES 0-18 ARE ABLE TO ACCESS AT LEAST ONE HEALTHY MEAL PER DY (MAYOR GONZALES). (CHRIS SANCHEZ) Committee Review: City Council (scheduled) 05/13/15. Fiscal Impact – No.**

15. **REQUEST FOR APPROVAL OF A RESOLUTION RELATING TO THE MUNICIPAL GROSS RECEIPTS TAX ORDINANCE, SECTION 18-10 SFCC 1987; DIRECTING STAFF TO EVALUATE THE ALLOCATION AND EXPENDITURE OF GROSS RECEIPTS TAX DEDICATED FOR THE PUBLIC BUS SYSTEM AND QUALITY OF LIFE PURPOSES FOR FY 2012/2013; FY 2013/2014 AND FY 2014/2015 SO THAT THE GOVERNING BODY MAY DETERMINE WHETHER TO AMEND THE DEDICATION PROVISION OF SECTION 18-10 SFCC 1987 (COUNCILOR MAESTAS). (OSCAR RODRIGUEZ Committee Review: Public Works Committee (approved) 04/27/15; and City Council (scheduled) 05/13/15. Fiscal Impact – No.**

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END OF CONSENT AGENDA

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5. **APPROVAL OF MINUTES: REGULAR FINANCE COMMITTEE – MARCH 30, 2015**
REGULAR FINANCE COMMITTEE – APRIL 13, 2015

MOTION: Councilor Trujillo moved, seconded by Councilor Maestas, to approve the minutes of the regular Finance Committee meeting of March 30, 2015, as presented.

VOTE: The motion was approved unanimously on a voice vote.

MOTION: Councilor Rivera moved, seconded by Councilor Maestas, to approve the minutes of the regular Finance Committee meeting of April 13, 2015, as presented.

VOTE: The motion was approved unanimously on a voice vote.

CONSENT CALENDAR DISCUSSION

12. REQUEST FOR APPROVAL OF AMENDMENT NO. 4 TO PROFESSIONAL SERVICES AGREEMENT – CITY VIDEO SURVEILLANCE PROJECT – FINAL PARK SITES; CHAVEZ SECURITY, INC. (RENEE MARTINEZ)

Councilor Lindell said she is has a few questions. She said this was approved in 2013 by the City Council, and it terminates in 2017, so it is a four year contract and we're two years into it, and Ms. Martinez said this is correct.

Councilor Lindell said the contract terminates in two years and there is a fair amount of the work that still hasn't been completed.

Ms. Martinez said her history with the project dates to when she started work with the City in September 2014. She said at that time, there had been work completed on the project. She was asked to work with the Parks Division to look at some data around complaints and criminal incidents in the Parks to finalize the list of sites under the current contract to implement the video surveillance capabilities. She doesn't know the reason the contract expires in 2017, unless there was some sense there would be additional sites, not necessarily Parks or Parking, but other facilities where we may want to extend these capabilities. She said the scope of services and the schedule, at least the parking area in the parks sites, was to be completed way before that date.

Councilor Lindell said she wasn't on the Council when this was approved in 2013. She asked if there was expectation that this work would be completed and the cameras would be operating by a certain timeframe, or is this contract such that it was let in 2013 with all work to be completed by 2017.

Ms. Martinez reiterated she can't answer that question.

Councilor Lindell asked if anybody can answer her question.

Robert Rodarte said as he recalls, there was a timeframe to install the cameras, and the contract had something to do with the storage of the information that has been recorded, so, it was for service and maintenance of the equipment over a 4 year period as well as the information.

Councilor Lindell said they were supposed to be up and running by now.

Mr. Rodarte said yes, but he can't provide the exact schedule for installation, but "I'm pretty positive that it had something to do with regular maintenance and the monitoring and storage of the data, and that's why it was 4-year contract."

Councilor Lindell said when we discussed this previously, we were talking about a proprietary system of Chavez Security. She asked if this is a proprietary system

Mr. Rodarte said he doesn't think it is a proprietary system, because this is our data. He said the storage device belongs to them, but the data belongs to the City.

Councilor Lindell said she is concerned we let this contract in 2013, and we don't have the use of this system yet, and we're already two years into this contract. Additionally, on the Amendment Agreements, it would be helpful to have the date of approval on them. She asked when Amendment #3 was approved.

Ms. Martinez asked if there is a contract summary in the packet.

Councilor Lindell said there is a summary of contract agreements and amendments, but it only gives the termination date of the contract, and it doesn't indicate when Amendments #1, #2 and #3 were approved by the Council.

Responding to the Chair, Councilor Lindell said she wants the approval date because she doesn't remember approving it anytime recently, particularly Amendment #3. She noted it was signed by Chavez Security on April 2, 2015.

Ms. Martinez said on page 61 of the packet, shows a signature by the City Clerk on April 24, 2013, and by the Mayor on April 29, 2013, for Amendment #2. Ms. Martinez said Amendment #3 is a recent amendment by the Transit Division, and that isn't in the packet.

Councilor Rivera said this doesn't have the Mayor's signature, and asked if it went through the Council Committee process.

Mr. Rodarte said it went through the Council process.

Councilor Rivera said he's talking about Amendment #3.

Mr. Rodarte said one amendment shows a signature by Mayor Coss, so that tells him that Amendments #1 and #2 did come to the Governing Body. He said Amendment #3 did not have to come before the Governing Body, because it is less than $50,000, so that should have Brian's signature.

Councilor Lindell said Amendment #1 was $13,000 and Amendment #2 is $10,000.

Mr. Rodarte said those should have been signed by the City Manager.

Chair Dominguez asked where in the packet is Amendment #3.

Mr. Rodarte said on pages 12 and 13.

Ms. Martinez said Amendment #3 is in the packet and the signature is on page 13.

Councilor Lindell said she saw that, noting it is on page 12. She said Amendment #1 is on page 52, and on page 55 it says "attachment 2, but that's not Amendment 2."

Mr. Rodarte said it's an amendment rather than an attachment on page 55.

Councilor Ives said he thinks Attachment 2 is the underlying agreement, and Councilor Lindell agreed.

Ms. Martinez said she believes the notation "attachment 2," was an artifact of it being submitted to a Committee at the time.

Councilor Lindell said you're saying Amendment #3 was an administrative approval.

Mr. Rodarte said yes, it was less than $50,000.

Councilor Lindell said Amendment #2 was for surveillance at Market Station, and asked if Market Station is considered the Railyard.

Mr. Rodarte said he would have to say that Market Station is part of the Railyard.

Councilor Lindell said on page 8 of the packet, under Parks, it says Railyard Park, that that site is removed. But we have Resolution [Amendment?] #2 adding surveillance at Market Station.

Councilor Lindell said the lists on page 6 and page 7, in her opinion don't match to each other, and this could take a while to sort out.

MOTION: Councilor Lindell moved, seconded by Chair Dominguez, to postpone this item to the next meeting of the Finance Committee on May 18, 2015, to get clarity.

DISCUSSION: Chair Dominguez asked Mr. Rodriguez if we can get someone from the Railyard to help answer some of these questions.

Ms. Martinez said, for clarification, she is hearing the Committee asking for clarity around the Railyard, because across the different amendments there has been different treatment at the Railyard related to its parking lot and to it as a park, and also as a facility, which she believes is a fair request.

Chair Dominguez said that's part of that, and Councilor Lindell can talk about the others.

Councilor Lindell said on page #7, it's showing removing the 5 sites and then on page #8 it shows removing 5 sites and the two lists don't match. And it is the same with the second list on page #7 which does not match up with the projects on page #8.

VOTE: The motion failed to pass on a voice vote, with Councilors Maestas, Trujillo and Rivera voting against the motion, and Councilor Lindell voting in favor of the motion.

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

DISCUSSION: Councilor Maestas complimented staff, noting when this was last heard, it seemed we weren't getting the crime data information to Parks and we weren't getting a lot of the hardware and software issues to Parks and we finally got all three, IT, PD and Parks talking to really make sense of these locations. And he think the location selection is great, much improved. However, the summary table in the packet indicates the location and the network is still incomplete. He wants to know on what network these proposed new locations will be. If IT recommends it be on CSI's network, that's fine, if that's the best.

Councilor Maestas continued, "I want to state for the record that I want avoid our dependence on any kind of proprietary systems. I want to make sure that our own cameras are compatible and can use our own network. So for something like this, and I know there is not just a proprietary network, but there are some proprietary systems involved in this. I want to reduce our dependence on that too, and hopefully we can find some commercially available surveillance equipment, and other equipment that lessens our dependence on the proprietary stuff. So that's my general message, but I want to comment staff for coming up with much improved locations. These really make sense and it's based on crime data and it's based on hardware and software. So great job."

[Ms. Martinez's remarks as follows are for the most part inaudible because her microphone was turned off. What follows are done from my notes.]

Ms. Martinez said, "When we come back here we don't want you to think you were given faulty information. So relating to the network of these accounts, there was never a budget put in place in the City's budget for real time monitoring of these accounts."

Councilor Dominguez asked if she is speaking of monitoring by City staff.

Ms. Martinez said, "Monitoring and the budget for the device in entering the data to services of Verizon to stream the data to a service point. The cost for that for the networking and real time monitoring was never placed in the budget. What we had to say is okay, what do we have budget for. So the only budget that we have is for local storage of the video at each site. So at this point, if we have a need to retrieve videos we would have to and pull the hard drive from the camera and then download that into a system so that we view it. But right now, there is nothing in our budget that would pay for real-time monitoring and streaming of the footage on an ongoing basis."

Chair Dominguez said then that wasn't part of the original scope we put out to bid.

Ms. Martinez said it isn't.

Chair Dominguez asked if we didn't know enough about it.

Ms. Martinez said in looking at the contract in place, she found that we had no budget for networking and monitoring of this data in real time. So we said let's go ahead and install the remaining sites, but we would not have the budget at this point for the local storage of the *[inaudible]*.

Councilor Dominguez asked Mr. Rodarte if that wasn't part of the original contract. He said when we scoped this out, the direction was clear that we wanted to have these cameras for....

Mr. Rodarte said it was in the bid itself. There were options for storage for 1 years and 2 years. And the discussion at Council, was about storing it for 2 years, but the cost was astronomical. He said he will have the bid information on the storage. He said in dealing with storage it's a lot of money, saying he thinks it would be $250,000 to store the data in real time for 2 years.

Councilor Dominguez wants to be sure the scope didn't change as went through the process, "in other words, we make it more complicated than it really needs to be so that someone can get a bid, or whatever the case may be.

Mr. Rodarte said it came down to the financial process.

Chair Dominguez said he would like a summary of the original bid by the time this goes to Council, which he thinks would be helpful. He noted this isn't a new item and it has been before the Council before, commenting previously it's been pretty contentious. So as much of the history that we can get would be beneficial.

Mr. Rodarte said he will do so.

Councilor Lindell said it does appear that nearly every site we have is a CSI box, so, if that is proprietary we purchased an entirely proprietary system, which she remember us saying that's not what we wanted to do. She reiterated her concern that the list on page 7 can't agree with the list on page 8.

Chair Dominguez said he would like staff to get that clarified as well by the time it goes to Council.

VOTE: The motion was approved on a voice vote, with Councilors Rivera, Trujillo and Maestas voting in favor of the motion, and Councilor Lindell voting against.

13. REQUEST FOR APPROVAL OF BUDGET INCREASE FOR LODGERS' TAX BUDGET ESTIMATE TO THE AMOUNT PROJECTED IN FEBRUARY 2015 FOR THE TOTAL FY 2014/15, WHICH ADJUSTS ALLOCATIONS TO THE LODGERS' TAX RECIPIENT FUNDS IN THE AMOUNT OF $1,190.789. (RANDY RANDALL)

A copy of a letter dated April 30, 2015, from Randy Randall, to the Finance Committee and the City Council, regarding Tourism Santa Fe 2015/16 budget, is incorporated herewith to these minutes as Exhibit "1."

Councilor Maestas said we adopted the budget for Tourism Santa with one proviso, that we get information on the proposed BAR. He said this BAR does have budget implications for the 2015/2016 budget. His first concern is that there is a $1 million unanticipated windfall in Lodgers' Tax. He said in the Memo we received there is incredible confidence on the part of Randy Randall that it will continue to grow.

He said, "But as you know, expansion requests have been very very limited and highly scrutinized. I understand that return on investment of marketing and promotion of our City, but I want us to be cautious in terms of approving any kind of expansion that represents a recurring expense, which I thought was one of our principles in this next budget. Does everybody have the Memo. I'm speaking from Randy Randall's Memo [Exhibit "1"], it wasn't in the packet."

Chair Dominguez said it was part of the budget hearing packet.

Councilor Maestas said, "One element of this expansion calls for adding 5 additional positions, including salary and benefits. In a previous version of this proposal, part of the plan was to use positions reallocated from other City Departments. Is that still the case, that we're reallocating vacant positions from other departments."

Mr. Rodriguez said that has been the case for all vacancies that come up at the City. That's part of our vacancy management plan, so the extent we can fill those with other vacancies, other places, both people as well as positions, we'll continue to do that.

Councilor Maestas asked, since this clearly is a department that is expanding, are we applying the 4% vacancy assumption to their budget, so they have another 4% in their budget for vacancies."

Mr. Rodriguez said staff will provide the vacancy savings estimate, noting it was passed out at the budget hearings. He said, "No, the expansion here was not part of our calculations as far as that goes. Just to be absolutely sure about what you're seeing with this BAR versus the budget request. The budget request in the recommended budget will not change at all, regardless of what you do with the BAR. The BAR is for this current fiscal year, so if you approve it, the resources to be allocated, will be allocated this fiscal year not next year. There will some funds that will be less negative if they otherwise. If you don't approve it, they will pool into those funds anyway. And this is new and I take full responsibility for any confusion. What I'm trying to do with this is show you, at any given time when we believe there is enough information for us to either cut something, or to recognize increased revenues, the plan here is to bring it to you, so you have a chance at that point to weigh in."

Mr. Rodriguez continued, "So we've been reporting to you monthly since January that it looks like it's going to come in higher, come in higher, come in higher. Well what this does at the end is say well, let's just go ahead and recognize what we've been reporting to you, unless you don't agree with that, and we will recommend to you how to allocate that. You can see the biggest part of the increase is to take it to the Convention Center Fund Summary to lower the $750,000 deficit to something less than $200,000. So if you don't approve it would pour into those things per a formula. If you do approve that, it will mostly pour into those things *pro forma* with the exception of the $254,000 that is there and that will go into the Operating Fund, and that is extra resources for that department to use this fiscal year. Ir they're not able to use it this fiscal year, then it will simply pour into the ending balance anyway. And what's recommended to you next year won't change."

Cal Probasco said, "All this BAR is doing is recognizing the Lodgers' Tax proceeds as they come in. We have made no recommendations, here obviously, as to how it is to be allocated. When the dollars

come in, 3% of the Lodgers' Tax goes to the Convention Center, 1% to the Arts, 1.5% to the Marketing Fund and the Special Uses Fund. So the actual reallocation of those, the $250,000 Mr. Rodriguez was referring to could be used to supplement to reduce the deficit in the Operating Fund. So if this BAR is not approved, the dollars will still be going into these funds, except it won't have matching budget to compare it against."

Councilor Maestas asked if this will balance the current budget of Tourism, and Mr. Probasco said yes.

Councilor Maestas said, "I thought we still had a bust in the debt."

Mr. Probasco said, "If you look strictly at what's going in each fund, I think it leaves a hole of about $200,000 or so in the operating, 5100, the Operating Fund. I wanted to give you another piece of information. The Manager told me has a report that shows a 3% vacancy credit was taken for this department.

Mr. Rodriguez said, "It did not include these positions here, by the way, those positions are not funded for a full year anyway, so there's going to have to be some *[inaudible]."* Responding to the Chair, Mr. Rodriguez said this 3% credit was for the next fiscal year.

Councilor Maestas said, "I was mixing apples and oranges."

Mr. Rodriguez said, "This is new. It does seem like we're going a lot of complicated things here, but we're trying to put it in front of you before this amount of money pours into the ending balance. You'll be seeing more of that and it is just part of trying to be as transparent as we can with moving money around."

Councilor Maestas said the BAR we approved last did include the debt, and a paydown.

Mr. Rodriguez said, "In different funds."

Councilor Maestas asked if it included this debt as well.

Mr. Rodriguez said, "We very specifically put everything with Lodgers' Tax, Convention Center, etc., separate so they could all come here. You're right, the BAR we approved last time from the General Fund, we did take some of the projected increase in the ending balance to a number of funds that were going to be negative, for example the Fire GRT. We did transfer almost $300,000 to that so we could start next year with at least no more negatives that we started this year."

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

VOTE: The motion was approved unanimously on a voice vote.

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END OF CONSENT CALENDAR DISCUSSION

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DISCUSSION

16. ADMINISTRATIVE HEARING ON STAFF'S REQUEST TO REVOKE THE BUSINESS LICENSE ISSUED TO ANASAZI GALLERY TRADING, INC. (ZACHARY SHANDLER)

A *Letter of Agreement– Exhibit 1*, submitted for the record by Karl Sommer, is incorporated herewith to these minutes as Exhibit "2."

A *Certificate of Incorporation – Exhibit 2*, submitted for the record by Karl Sommer, is incorporated herewith to these minutes as Exhibit "3."

Exhibit 3, submitted for the record by Karl Sommer, is incorporated herewith to these minutes as Exhibit "4."

1040 U.S. Individual Income Tax Return for Amjad Nassar – Exhibit "4", is incorporated herewith to these minutes as Exhibit "5."

Exhibit #5, a handwritten list, submitted for the record by Karl Sommer, is incorporated herewith to these minutes as Exhibit "6."

Two color photographs submitted for the record by Karl Sommer, is incorporated herewith to these minutes collectively as Exhibit "7."

A Memorandum, with attachments, dated April 14, 2015, to Councilor Dominguez, Chairperson, from Zack Shandler, Assistant City Attorney, regarding Business License Administrative Hearing, submitted for the record by Zack Shandler, is incorporated herewith to these minutes as Exhibit "8."

Karl Sommer said, "Mr. Chairman. My name is Karl Sommer and I'm here representing the business and the applicant for the business license in this case, and I understand this is a quasi-judicial proceeding, because you are make a determination and recommendation to the Governing Body related to my clients particular individualized rights under your ordinance. And I believes this has civil rights implications to my client. And I know that your rules require that all your witnesses be sworn and subject to cross-examination. I would like to make sure that you all see it that way as well, and if you don't, then I can be clear about my position. And second of all, obviously Mr. Shandler and I are not witnesses, so neither one of us are allowed to testify. And we're going to request that the documents that are submitted on behalf of the City be backed up with sworn testimony so we have the opportunity to question them. And if those witnesses aren't here, maybe Mr. Shandler and I can come to some agreement about that if it becomes an issue. And I just want to make sure that we understood and the Committee understand that that's the nature of this proceeding. I'm sorry Zach for interrupting."

Chair Dominguez said, "So Zach, this is really the second time it has ever come before us, not this one, but this sort of hearing has come before the Finance Committee. So go right ahead. We're going to work it as we go through it there Karl."

Zachary Shandler, Assistant Attorney said, "If you have any objections we can work through it at that point. Good evening, the City Attorney's Office has requested that this item be placed on the agenda, and we're asking you to review the evidence and to vote to issue a cease and desist order. This order will be forwarded to the full City Council for their review and their vote on whether the Order should be adopted, and that's revoking the Business License of Anasazi Gallery Trading."

Mr. Shandler continued, "There will be a hearing tonight, the order will be, the City Attorney's Office will make a short presentation. Mr. Nassar or his legal counsel can make a presentation, and then Committee members can ask questions. I have no objection if the witnesses need to be sworn in. Afterwards, the Committee will then deliberate and determine by the preponderance of the evidence whether Mr. Nassar has shown cause why his license should not be revoked. If he wins, then your motion should be to dismiss this Notice, if he can't then the Finance Committee's motion should be to issue the cease and desist order and forward it to the City Council for a final vote."

Mr. Shandler continued, "Let's start with the who, what, where and why. My case won't have any witnesses. It will all be based on documents submitted to the government, or documents that can be supported by Mr. Nassar. Who. Amjad Nassar. What. He submitted an application for a new, and I emphasize new business license for a company called Anasazi Gallery Trading in December 2014. Where. 150 Washington Avenue, Suite 103, that's right across from the main library. Why. Well, that's the question."

Mr. Shandler continued, "Let's go back to 2014. The City has records that the business license was issued for Anasazi Gallery, Anasazi Gallery, that's a different name, at 150 Washington Avenue, Suite 103. According to all documents, it's owned by Amjad Nassar. Let's go to City's Exhibit No. 2, that should be in your packet. City's Exhibit No. 2 is the Distress Merchant Sale Application. So let me clear, the City Attorney's Office is not going after anyone's Distress Merchant Sale Permit. A business can have a license and a permit at the same time, but a permit is short term and once they expire, there is no penalty for revoking an expired permit. But this document is important for context. Again, it is filled out for this entity called Anasazi Gallery. It's at that Washington Street address. The Application is signed here on June 30, 2014. The reason for going out of businesses is that the lease is going to expire sometime in the Fall. The signature is impossible for me to read. Maybe the witness can provide that."

Mr. Sommer said, "I would just like to know and I won't continue to do this, but you're being presented a document that is, one, not authenticated. The witness who signed it is not here to testify about it and I have no opportunity to cross-examine from the City. Certainly Mr. Shandler has no ability to testify about these documents. If he has witnesses he would like to present that would substantiate how these documents for to the City, that's fine. But my client has a right to cross-examine the witnesses with respect to these documents and they're not being presented here. This is the very thing that I was saying as an objection. Perhaps the Finance Director can testify about these things and be subjected to cross-

examination, but Mr. Shandler is not a witness with respect to this document, and it is a violation of my client's right to cross examine a witness with respect to this document. And so I just note that, and I'm not going to continue to do that, I'll let Mr. Shandler finish. But for the record, I have an ongoing objection with respects to documents that Mr. Shandler testifies about, because that's what they're doing and about their origin, their nature, what they do in the City. All of those things. Mr. Shandler is not a witness. He cannot testify and I don't have the opportunity to cross-examine a City witness on these and that is a continuing objection with respect to those matters, and I'll let Zach finish the way he was going to present. So I have the same objections to the other documents."

Chair Dominguez asked Mr. Sommer if he is going to repeat all of that when it comes time to cross examine.

[Mr. Sommer attempted to say something but he was away from the microphone and was inaudible]

Ms. Helberg said, "Mr. Chair, if Mr. Sommer is going to speak in this hearing he will need to come to the microphone."

Mr. Sommer said, "I'm not going to continue to interrupt him, but I needed to note, for the record, that the rules allow for that. Mr. Shandler is not a witness. I'll let him finish, but I don't want the record to be unclear. We have a continuing objection of that nature."

Chair Dominguez said, "So, Karl, I think that your comments are duly noted, and just know that, so we can get Zach to continue his presentation and then we will continue through the process."

Mr. Sommer said, "Thank you."

Chair Dominguez said, "Zach."

Mr. Shandler said, "Okay, so the Distress Merchant Sale Application, we were talking about that, and according to City records, the permit was granted on July third, it lasted for ninety days, so it was set to expire on October third. Let's go to City's Exhibit No. 3. That should be the next thing that's on letterhead from this Anasazi Gallery. Okay. So this document here, it's on letterhead from the Anasazi Gallery. It's dated September 24, 2014. The letter asks for a one month extension of its going out of business sale to move more inventory. That's what it says in the letter. It is signed by Majdi Nassar. So that's the context of that."

Mr. Shandler continued, "Now, let's go now to City's Exhibit No. 1 in your book [packet]. City's Exhibit No. 1 is titled Amendment No. 2, at the top, Amendment No. 2. Okay. So what is this document. First the effective date is listed on that first line, effective September 29, 2014. It is between the parties Crow-Hobbs No. 1, and the tenant is listed as Amjad Nassar. It's for the same property, suite 103 at the site on Washington Avenue. And under the Agreement Section, Extension of Term. The document says, 'The term is hereby extended,' it was set to expire, but not it is extended to December 31, 2017, rather than September thirtieth. The next page, the top of page 2, has a paragraph that reads Trade Name, page

2, paragraph 4, Trade Name. That says, 'Landlord hereby consents to Tenant using the Trade Name of Anasazi Trading Co.' That's the first time the wording 'trading' has shown up in our vernacular here. And if you look at the last page, it's signed Tenant, Amjad Nassar, with a signature."

Mr. Shandler continued, "So let's take a time out. Anasazi Gallery is going out of business. It's losing it's lease. That's why it's going out of business and having one of these going out of business sales. On September twenty-fourth, they asked the City for one more month to keep their going out of business sign out there to move more merchandise. But five days later, on September twenty-ninth, Amjad Nassar is negotiating a lease extension for another two years. On September twenty-ninth, he's working on a new idea, Anasazi Trading. Does he tell City officials, wait, we don't need this sale any more. We're not going out of business. We just got a lease extension. No. They stay silent, they allow customers to keep coming in, in October, and they continue to have an unfair advantage over their competitors."

Mr. Shandler continued, "So let's move forward to December 2014. This is Exhibit No. 4 in your book [packet]. Exhibit No. 4 in your book, it's labeled City of Santa Fe on the very top. It's a Business License Application. Here Anasazi Gallery Trading, Inc. So now 'Trading' starts showing up on official documents, with the same address on Washington Avenue. In there, there is a box that says, 'Is the business new,' one third of the way down, 'new' is checked on it. Next line down there, Anticipated Opening Date, December 1, 2014. On the box for owners, Amjad Nassar, contact person, Amjad Nassar, on this document."

Mr. Shandler continued, "So let's take another time out. I expect Mr. Nassar to tell a story tonight that he's the hero of the business. Maybe in June 2014, another family member was the President. Maybe he just ran the store on a daily basis and he was the named party on the lease. Maybe things were going bad and he decided they had to go out of business. Maybe they knew the lease was coming up. But what happened on September twenty-ninth. That seems to help that story. So you might ask in your questions tonight, what was he supposed on December first. The Business License Application does not have a box saying taking over the family business. There's no box for reorganized business. But when we brought this case to you and we know it's unusual, because we really think on September twenty-ninth, something went on. There was a plan. Disregard the old name, use about the same name for a new business. Same location. Same person behind the counter. Same person on the lease. So on December first when he checked the box New Business, that was a misrepresentation. That was deceptive to the City and to the public. It was not transparent. I expect them to say there's nothing in the Ordinance that says if you're deceptive, you must get revoked. But the City Code does say when a person is guilty of violating a regulation relating to granting a license, when the judgment of the Governing Body, the public welfare requires a license to be revoked, the Governing Body may revoke a license. So we're asking for the opportunity to go to the full City Council to argue that the public welfare, faintness to customers, fairness to merchants, requires that this business license for Anasazi Trading Gallery should be revoked. And I expect the counter argument that, you know, it's black and white. It was one business with one name, another business with another name. They're two different companies, but I there were two different companies, I mean I think the point was on September twenty-ninth, a plan was made."

Mr. Shandler continued, "And you might ask what is the point. The City Council can revoke this license and he can come back the next day and apply for a new license under The Chaco Canyon Gallery

Trading Company and pay a $35 application fee. What penalty is that. Well maybe it sends a message. It sends a message to consumers, to merchants, that the City is going to take a more watchful eye. Maybe it's part of a multi-prong approach that includes an Ordinance change, so that a person and an address can't call themselves Business A, then Business B, then Business C. Maybe the Ordinance change should be one sale tied to that address, and you can't keep going out of business. Maybe it's a step, but it's a first step. But today, the burden on the City Code is on Mr. Nassar. It's an Order to Show Cause. So we start with the who, what, where and why. Let's get the why. Let's give him his chance. These are his documents. This is his change to explain why he acted this way. Thank you."

Chair Dominguez said, "Okay. So you did not call up any witnesses Zach, and obviously you can't be a witness, and so what I will do is I'll give you Mr. Sommer about 15 minutes, which is what Zach had, to testify."

Mr. Shandler said, "There is nothing in the City Code that requires me.."

Mr. Sommer said, "I don't intend to testify. I intend to present witnesses, but the City has the burden of showing you something. They can't just get their lawyer up here and point the finger at you and say it's your job now to prove your innocence. They have to show you something with testimony, and I have the right to cross examine witnesses. I'm still going to put on my case, but I know for you all that if all the City has is documents and lawyer pointing fingers, I submit to you would fail on that basis alone. We intend to prove to you what he should not be here proving. That's he's not guilty of what he is being charged with here."

Chair Dominguez said, "So you want to go ahead and present your case."

Mr. Sommer said, "Yes, I'll do that. I'm going to make a brief opening statement. You might note I feel passionate about this, because I think that what's being done here is a witch hunt and it is a witch hunt based on reports, complaints by City merchants, who may have legitimate complaints. But they don't have a legitimate complaint against Amjad Nassar, and I'm going to tell you why. I intend to show you tonight with sworn testimony, with exhibits that Mr. Amjad Nassar took over a family business, so to speak, but what he did was, he said, I've been working for my family since a young man in a business. I was an employee of my father's. I was an employee of my brother's, and now I have the chance to start my own business, and that's what he did. He bought the inventory, he's paying for the inventory. He set up his own accounts. He set up his own corporation. He makes all of his payments, and nobody else but Amjad Nassar does that in his business."

Mr. Sommer continued, "In the previous business, the evidence will show that his brother, Majdi Nassar, owned a corporation called Anasazi Gallery, Inc. And, a person in business in that corporation, he was an employee and he ran the store, just like he had run for his father and he was paid a salary and when they were going out of business Amjad Nassar had a choice. He has a wife, child and a child on the way. He had a choice to make. Do I want to go work for somebody else, or do I want to make a go of it, and he put his life savings into his new business, bought the inventory and went to work creating his own business."

Mr. Sommer continued, "Now I submit to you that if his name had been Rios and in the Wood Yard that got passed from generation to generation or Aranda who worked in a plumbing business that got passed from generation to generation, or Sommer who worked in a law office that got passed from generation to generation, he would not be here. He's here because of his last name, and his family's origin of nationality. He was born in Albuquerque, New Mexico. He has been in the jewelry business, the Native American jewelry business since he was 15 and he's been around in it all his life, just like the other businesses that I rattled off to you, including myself. What we intend to show you through documents, unequivocal evidence that Mr. Nassar has his own new business. And what we're here about is that the City got pressure into bringing a very bad case against the wrong person. That's what we intend to show. I'm going to hand out to you... may I approach Mr. Chair."

Chair Dominguez, "You may approach."

Mr. Sommer said, "We'll call as our first witness, Mr. Amjad Najar. Mr. Chair, I'll call Mr. Amjad Najar to testify first and if you don't mind, I'll just direct him with questions so that we can move along instead of him just sort of giving a speech. Is that all right with the Committee."

Chair Dominguez said, "I think so, but do you have an opportunity to cross examine Zach. Is that going to be Oscar."

Mr. Sommer said, "He can cross examine him afterwards, but definitely."

Chair Dominguez said, "Right. Okay. Okay. Go ahead.

Mr. Sommer said, "So you need to be sworn."

Melessia Helberg, "Under penalty of perjury do you swear the testimony you're about to give is the truth, the whole truth and nothing but the truth."

Mr. Amjad Nassar said, "I do."

Mr. Sommer asked, "So speak into the mike and just answer my questions and we'll get through this as quickly as we can. Now would you please tell us your full name."

Mr. Nassar said, "My name is Amjad Najar."

Mr. Sommer asked, "Where were you born."

Ms. Nassar said, "I was born in Albuquerque, New Mexico."

Mr. Sommer asked, "What is your heritage."

Mr. Nassar said, "Palestinian."

Mr. Sommer asked, "What year were you born."

Mr. Nassar said, "1981."

Mr. Sommer asked, "Where are your parents from."

Mr. Nassar said, "East Jerusalem."

Mr. Sommer asked, "When did your parents come to this country."

Mr. Nassar said: "Mid-seventies."

Mr. Sommer asked,"And from the mid-seventies to the present, where have your parents lives.

Mr. Nassar said, "New Mexico."

Mr. Sommer asked, "Tell the Committee how it is you got involved in the jewelry business."

Mr. Nassar said, "I was pretty much born into it. My father had a trading post in Zuni Pueblo as well as Gallup, New Mexico, for over 30 years."

Mr. Sommer asked, "What's your father's name."

Mr. Nassar said his name is, "Nassar Nassar."

Mr. Sommer asked, "Is he here tonight."

Mr. Nassar asked, "He is."

Mr. Sommer asked, "Do you have brothers and sisters."

Mr. Nassar said, "I do."

Mr. Sommer asked, "Who are your brothers."

Mr. Nassar said I have my brother Majdi, my brother Emad, my brother Adel, and I have a sister named Faison."

Mr. Sommer asked, "And have they worked in the businesses that your father had."

Mr. Nassar said, "Absolutely."

Mr. Sommer asked, "All right. So tell the Committee from the time that you were, say 15, what involvement did you have in the jewelry business and with whom."

Mr. Nassar said, "Basically learning about the business with my father. He would take me there on weeks as long as I didn't have any sporting events or school. Running, you know, trying to sell to customers, as well as running day-to-day operations. My dad retired in 1999, and we opened, my father actually opened a business on Water Street."

Mr. Sommer asked, "What kind of business."

Mr. Nassar said, "The same type of business, it was called the Golden Adobe, in 2003."

Mr. Sommer asked, "And what did you do in the business."

Mr. Nassar said, "I was the Sales Manager, and I ran the day-to-day operations."

Mr. Sommer asked, "Did you have any ownership interest in this..."

Chair Dominguez asked, "Are you picking all of this up Ms. Helberg."

Ms. Helberg said, "Yes, and Mr. Chair, I would like to ask for the record, that you provide the spelling of the names he gave. I would appreciate it."

Mr. Sommer said, "Yes, and they're in the documents."

Ms. Helberg said, "Thank you."

Mr. Sommer said, "So did you have any ownership in your dad's company for the Golden Adobe."

Mr. Nassar said, "No sir."

Mr. Sommer said, "All right. Did your dad continue that business and then end it at some point.:

Mr. Nassar said, "Yes, he closed October 2011."

Mr. Sommer asked, "And from that time has he been involved in any businesses."

Mr. Nassar said, "No sir."

Mr. Sommer asked, "What does he do now."

Mr. Nassar said, "He's retired."

Mr. Sommer asked, "What did you do after he closed his business."

Mr. Nassar said, "I was looking for a job and looking for job, and that's when my brother, Majdi Nassar, who is the President of the Anasazi Gallery, Inc., decided to open the Washington Street location,

the Anasazi Gallery, Inc."

Mr. Sommer asked, "Where does your brother Majdi live."

Mr. Nassar said, "He lives in Littleton, Colorado."

Mr. Sommer asked, "Tell me about the Anasazi Gallery, Inc. What is that."

Mr. Nassar said, "It was a corporation that my brother opened. He was the President and owned all the shares to it. He put me as an officer in the corporation, because he's not here all the time. And that's basically it."

Mr. Sommer asked, "What did you do for him in the business."

Mr. Nassar said, "I was, again, the Sales Manager. I ran the day-to-day operations, and I got a salary."

Mr. Sommer said, "So tell me, in the City's packet they presented to the City an amendment to a lease. Are you familiar with the original lease for that space."

Mr. Nassar said, "Yes."

Mr. Sommer asked, "Who signed that."

Mr. Nassar said, "I did."

Mr. Sommer asked, "Why did you sign it."

Mr. Nassar said, "Because my brother negotiated it, got it, and he was out of town. He wasn't here. He was actually out of the country at that time."

Mr. Sommer said, "So you realized you signed that personally."

Mr. Nassar said, "Yes."

Mr. Sommer asked, "And who made the payments on that lease from the time it was executed to the end of September of last year."

Mr. Nassar said, "My brother."

Mr. Sommer said, "Through what."

Mr. Nassar said, "Until the closing which was November third."

Mr. Sommer asked, "Did he make it through the company, or did he make it through..."

Mr. Nassar said, "Through his company."

Mr. Sommer asked, "Who wrote the checks for that."

Mr. Nassar said, "He did."

Mr. Sommer asked, "Did you ever make a payment on that lease for Anasazi Gallery, Inc."

Mr. Nassar said, "No sir."

Mr. Sommer said, "All right. I want to turn your attention to the City's exhibit that Mr. Shandler testified about, Exhibit No. 2, a Distressed Merchandise Sale. Could you tell the Committee whose signature is on that."

Mr. Nassar said, "My brother Majdi Nassar."

Mr. Sommer asked, "Did you sign that."

Mr. Nassar said, "No."

Mr. Sommer asked, "Why, if you know was that application filed."

Mr. Nassar said, "The business wasn't doing great. My brother has other commitments in Colorado and is looking at opening other businesses, and he decided that he didn't want to stay in business, so."

Mr. Sommer said, "With respect to that business, Anasazi Gallery, Inc., did you invest any money in that business."

Mr. Nassar said, "No sir."

Mr. Sommer asked, "Were you paid any dividends, or anything other than a salary in that business."

Mr. Nassar said, "No."

Mr. Sommer said, "All right, so tell the Committee, after this application was filed by your brother, what happened in that business."

Mr. Nassar said, "We got the approval for the 3-month Distress Merchandise Sale. As you can imagine, people love great deals, and my brother wanted to get rid of it, so we were really busy in the shop. That gave me personally, the idea and the confidence to, maybe I can take over and do my own

business in the same location."

Mr. Sommer asked, "Are you married."

Mr. Nassar said, "I am."

Mr. Sommer asked, "Do you have any children.

Mr. Nassar, "I have a 4-year old boy."

Mr. Sommer asked, "And do you have any children on the way."

Mr. Nassar said, "The end of June."

Mr. Sommer asked, "What would have happened for your employment if your brother had gone out of business and you had done nothing."

Mr. Nassar said, "I would not be able to provide for my family."

Mr. Sommer asked, "What would you have had to do."

Mr. Nassar said, "Work for somebody, or work a couple of jobs. My brother and my father really set me on a good path to start the business without leaving that location."

Mr. Sommer asked, "How did they do that."

Mr. Nassar said, "They helped me with the showcases. And anything they weren't able to carry basically in bags, like jewelry, sculptures, pottery, kachina dolls, anything that was fragile, they were going to put in storage in Colorado. And I told them that we can do a consignment where every month, whatever I sell, I would pay you, and my attorney has even proof of that, the consignment."

Mr. Sommer said, "And so, at the end of this sale, what did you decide to do."

Mr. Nassar said, "It was actually right before... it wasn't at the end."

Mr. Sommer said, "Okay"

Mr. Nassar said, "It was September twenty-ninth, which is the date, after talking to my wife and deciding what the best course of action for me and my family, and providing for them, I decided to make a deal with the landlords on my own behalf and sign a lease for a couple of years."

Mr. Sommer said, "Okay, and did you make a deal with your brother."

Mr. Nassar said, "I did on the merchandise that was left."

Mr. Sommer asked, "And what about the equipment."

Mr. Nassar said, "And the equipment as well."

Mr. Sommer said, "Describe for the Committee what your deal was with them."

Mr. Nassar said, "Basically, the showcases, like I said, any of the fragile items, every month if business is willing, of course, I would pay him slowly so I can keep it. Because, if I moved to another place, I would not have been financially able to open another business, because of the cost of showcases, the cost of moving, etc."

Mr. Sommer said, "Let me show you Exhibit 1. It's in your packet. Could you tell the Committee briefly what Exhibit 1 is and it's 1, 2, 3, look through that and tell them what Exhibit 1 is."

Mr. Nassar said, "It's basically a letter of agreement between me and my brothers, and basically saying that I owe a certain amount for the inventory that was left over. And that I would compensate in payments once merchandise is sold. There are couple of instances, a couple of checks that are attached, copies of checks that I have paid the Anasazi, Inc., for their consignment inventory."

Mr. Sommer asked, "How much did you agree to pay your brother."

Mr. Nassar said, "Forty Nine Thousand Seven Hundred Sixty Eight Dollars ($49,768)."

Mr. Sommer said, "I notice that the first page of Exhibit 1 isn't signed. Tell the Committee why it isn't signed and why are all your brothers names are there."

Mr. Nassar said, "It's not signed because all four of us haven't been at the same place at one time. And all my brothers names are here, because if something was to happen to my brother, Majdi, Emad and Adel would be the people to get the checks."

Mr. Sommer said, "I noticed that... on the second page, who signed that page of Exhibit 1."

Mr. Nassar said, "Me. That's me basically signing that I received the merchandise."

Mr. Sommer asked, "And what are the numbers there."

Mr. Nassar said, "Well, there was an added... there was a little bit of the merchandise that I bought."

Mr. Sommer asked, "What's ...."

Mr. Nassar said, "This is for the showcases I bought."

Mr. Sommer said, "Tell the Committee what it says."

Mr. Nassar said, "This is the total merchandise from Adel, Emad and Majdi, Fifty Nine Thousand Five Hundred Dollars and Fifty Cents ($59,500.50)."

Mr. Sommer asked, "Is that what you agreed to pay them."

Mr. Nassar said, "Correct."

Mr. Sommer asked, "What's the next.

Mr. Nassar said, "And I paid Amjad, this is a credit card."

Mr. Sommer asked, "By whom."

Mr. Nassar said, "That was used by me."

Mr. Sommer asked, "And who owes that credit card."

Mr. Nassar said, "I do.'

Mr. Sommer said, "And then what does the balance represent."

Mr. Nassar said, "That's what I owe now."

Mr. Sommer asked, "Is that what you agreed to pay your brother for his interest in the property that was there."

Mr. Nassar said, "Yes sir."

Mr. Sommer said, "And the payments behind it, are checks that you've made to him in continuing to pay off that debt to him."

Mr. Nassar said, "Yes. Every month, whatever I owe, I have to pay."

Mr. Sommer said, "There was a corporation called Anasazi Gallery, Inc. Who formed that corporation."

Mr. Nassar said, "My brother Majdi Nassar."

Mr. Sommer asked, "Did you invest anything in that."

Mr. Nassar said, "No."

Mr. Sommer asked, "Were you a shareholder in that business."

Mr. Nassar said, "No."

Mr. Sommer said, "I'm going to hand you what is Exhibit 2 [Exhibit "3"]. And just describe for the Committee what Exhibit 2 is."

Mr. Nassar said, "It's a Certificate of Incorporation for the Anasazi Gallery Trading."

Mr. Sommer asked, "Who formed that."

Mr. Nassar said, "I did."

Mr. Sommer asked, "Why did you form that."

Mr. Nassar said, "Because I was starting my own business."

Mr. Sommer asked, "Did you get Tax ID numbers for that business."

Mr. Nassar said, "I did."

Mr. Sommer said, "Look it through, Exhibit 2, and you'll see a document that is entitled Business License. Do you see that."

Mr. Nassar said, "Yes."

Mr. Sommer said, "All right. Who is the owner of the business that you are operating. Is it you, or is it the company."

Mr. Nassar said, "I own all the shares to the company."

Mr. Sommer said, "All right, but who operates the business."

Mr. Nassar said, "I do."

Mr. Sommer asked, "Through what."

Mr. Nassar said, "I don't understand."

Mr. Sommer said, "Is your company...."

Mr. Nassar said, "Oh the Anasazi Gallery Trading."

Mr. Sommer said, "Right. So on the application for a Business License that you filled out and that Mr. Shandler testified about, who does it say the owner of the business is."

Mr. Nassar said, "Amjad Nassar."

Mr. Sommer asked, "Who does it say that the contact in person is for your business."

Mr. Nassar said, "Amjad Nassar."

Mr. Sommer asked, "Who did it say that the contact business person was or the previous business license."

Mr. Nassar said, "Amjad Nassar."

Mr. Sommer asked, "Who was the owner of that business."

Mr. Nassar said, "Amjad Nassar."

Mr. Sommer asked, "Why did you fill out a business application for your brother on his site over there."

Mr. Nassar said, "Because he wasn't here. He's the one who authorized it."

Mr. Sommer said, "Next on Exhibit 2, I see a registration certificates, what are those."

Mr. Nassar said, "That's from the State of New Mexico, Taxation and Revenue Department, to get my..."

Mr. Sommer asked, "What did they give you."

Mr. Nassar said, "The CRS number, the tax ID.

Mr. Sommer asked, "What is a CRS number."

Mr. Nassar said, "So this way I can go and buy from different dealers as well as artists, and have a Tax ID number, and pay the sales tax."

Mr. Sommer asked, "Who pays the sales tax in your business."

Mr. Nassar said, "I do."

Mr. Sommer asked, "Who paid the sales tax in the other business, the previous business."

Mr. Nassar said, "My brother Majdi."

Mr. Sommer asked, "Did you ever write a check personally for any expenses out of your brother's business."

Mr. Nassar said, "No."

Mr. Sommer asked, "Has he, or anybody else written any checks to you in payment of your business expenses."

Mr. Nassar said, "No."

Mr. Sommer said, "Tell the Committee how it is you have funded your business."

Mr. Nassar said, "Basically, all the money that I've saved over the years working in Santa Fe for about 9 years as a manager. I sold a couple of my personal collections, like baseball cards and stuff that I've had since I was a kid."

Mr. Sommer asked how much capital did you raise from doing that."

Mr. Nassar said, "About Twenty Thousand Dollars ($20,000)."

Mr. Sommer asked, "How do you pay yourself today."

Mr. Nassar said, "I don't pay myself."

Chair Dominguez asked, "How much more time do you have Karl."

Mr. Sommer, "I'm sorry."

Chair Dominguez asked, "How much more time do you need."

Mr. Sommer said, "I need about 10 more minutes."

Chair Dominguez said, "10 more minutes."

Mr. Sommer said, "Yes. I'll be as quick as I can. Just, members of the Committee, I'm sorry to take so long, but what you're dealing with is this young man's livelihood. And it's critical. Thank you very much Mr. Chair."

Mr. Sommer said, "Look at the next page, would you tell the Committee what the next page is."

Mr. Nassar said, "It's an IRS Department of Treasury, IRS from Cincinnati, Ohio. That's the Federal Tax ID Number."

Mr. Sommer asked, "And who is that for."

Mr. Nassar said, "That is for my company, Anasazi Gallery Trading."

Mr. Sommer asked, "Who is responsible for the withholdings and the payment of unemployment tax to the Federal government in your business."

Mr. Nassar said, "I am."

Mr. Sommer asked, "Who was responsible in the other business that was run by your brother."

Mr. Nassar said, "My brother Majdi Nassar."

Mr. Sommer asked, "Did you ever pay any unemployment tax or withholding in his business."

Mr. Nasser said, "No."

Mr. Sommer said, "I would like to move you on to Exhibit 3. Tell the Committee what that represents."

Mr. Nassar said, "These are a couple of checks to get more merchandise. I got some more stuff on consignment. This is a couple of checks to my friend Mansoor who is a friend of mine who put some stuff on consignment. These are basically checks paying him."

Mr. Sommer said, "And what business paid him."

Mr. Nassar said, "The Anasazi Gallery Trading."

Mr. Sommer asked, "What is the invoice in that Exhibit #3."

Mr. Nassar said, "That's an example of the sale of my company, the Anasazi Gallery Trading."

Mr. Sommer asked, "Is that an example of an invoice that you sent to somebody that paid you."

Mr. Nassar said, "Correct."

Mr. Sommer asked, "Where did money go for that."

Mr. Nassar said, "To the Anasazi Gallery Trading."

Mr. Sommer asked, "Did it go to your brothers."

Mr. Nassar said, "No."

Mr. Sommer asked, "Did it go to your father."

Mr. Nassar said, "No."

Mr. Sommer asked, "What are the last two invoices examples of."

Mr. Nassar said, "These are monies that I owe for merchandise, basically taken on credit and will pay."

Mr. Sommer asked, "To who."

Mr. Nassar said, "The first one is to Pueblo House out of Albuquerque, New Mexico."

Mr. Sommer asked, "And what do they sell."

Mr. Nassar said, "They sell Native American pottery, arts, crafts, etc.

Mr. Sommer asked, "What about the next one."

Mr. Nassar said, "This is for Ray's Trading Company in Gallup, New Mexico and they specialize in Zuni jewelry."

Mr. Sommer said, "Tell the Committee where it is you get your merchandise and your inventory."

Mr. Nassar said, "I deal with a couple of dealers here in New Mexico, but most of the merchandise I get is direct from the Natives, because of my family's time in the business. We have some great relations with artists from 12 different tribes in New Mexico."

Mr. Sommer said, "Look at Exhibit 5. It's the handwritten sheet. Could you tell the Committee what Exhibit 5 is."

Mr. Nassar said, "These are some artists that, ever since this problem has arised, I have had to put on hold buying stuff."

Mr. Sommer asked, "Who are these people."

Mr. Nassar said, "These are Native American artists, some are jewelers, some are potters, some make figurines, some make sculptures."

Mr. Sommer asked, "How long have you known these people, you personally."

Mr. Nassar said, "Some of them as far back as 5 years old, and some of them more recent, in my early twenties."

Mr. Sommer asked, "Are these the people you do business with."

Mr. Nassar said, "Yes sir."

Mr. Sommer said, "I would like to ask you to tell me what Exhibit 4 is."

Mr. Nassar said, "That is my tax return."

Mr. Sommer asked, "For what year."

Mr. Nassar said, "2014."

Mr. Sommer said, "I notice that on your tax return you itemize your deductions."

Mr. Nassar said, "Correct."

Mr. Sommer asked, "Do you ever... have you ever deducted lease payments on the Anasazi Gallery, Inc., lease.

Mr. Nassar said, "No sir."

Mr. Sommer asked, "Why not."

Mr. Nassar said, "Because it's not my company."

Mr. Sommer said, "And today, on the return, your personal return, do you deduct those payments."

Mr. Nassar said, "Yes."

Mr. Sommer said, "Just tell the Committee what these two are. These two pictures."

Mr. Nassar said, "These are, you know that whole documentary was about Santa Fe has a problem with sale signs and things like this. I've been singled out. These are right next door to me."

Mr. Sommer asked, "And how long have they been up, these sale signs."

Mr. Nassar said, "This one, probably about 3-4 months, this one over 3 years."

Mr. Sommer asked, "Have you ever brought it to the City's attention that these signs have been up."

Mr. Nassar said, "Yes, when.."

Mr. Sommer asked, "What were you told by City officials about that."

Mr. Nassar said, "That every time that we would put a sale sign up that somebody in the business association, the Santa Fe Business Association doesn't like us, and that every time we put a sign up they keep calling and calling until somebody comes and either...."

Mr. Sommer asked, "Have you ever seen a City official at these two businesses next door to you."

Mr. Nassar said, "No sir."

Mr. Sommer asked, "When were these pictures taken."

Mr. Nassar said, "Today."

[At this time Mr. Sommer passed out copies of these photographs to the members of the Committee, and entered them for the record [Exhibit "7"].

Mr. Sommer said, "If you would look back at Exhibit 2, and look at a letter from Jerry Martinez dated April ninth. What is that. Read it to the Committee."

Mr. Nassar said, "He was the bookkeeper from the Anasazi Gallery, Inc., my brother's corporation, and I carried him on for my company as well. And it's basically a letter stating that I was an employee of Anasazi Gallery, Inc., and not the owner, and that I started my own business December 1, 2014."

Mr. Sommer said, "I'll pass the witness to Mr. Shandler."

Chair Dominguez said, "In the process we are here at cross-examination and we'll ask questions."

Mr. Sommer said, "And then I have the right to re-direct, and I think it will be brief, if I do it at all."

Chair Dominguez said, "Okay."

Mr. Shandler said, "In the interest of time, I won't ask any questions. I'm sure you have the questions. I just want to say, for the record this is a *quasi-judicial* hearing, but we do have a Judge in the chamber, that's why the documents can speak for themselves, I didn't hear anything that he said that was inaccurate, and that's why I didn't object to all the hear-say. I'm, in the interest of time... I'll have no questions and I'll just let you ask you questions when you want to. You can just go to the witness if you want."

Mr. Sommer said, "I would open it up to questions you all might have of Mr. Nassar. He's here to answer any questions you have about this matter whatsoever."

Chair Dominguez said, "Very good. Very good. Well thank you very much. So what we'll do, is we'll move on to questions from the Committee. Is there anyone who wants to ask questions. Councilor Trujillo, you have questions."

Councilor Trujillo said, "I have one question."

Chair Dominguez said, "Go ahead."

Councilor Trujillo said, "I guess Mr. Sommer you might also be able to... during testimony that you gave, Mr. Nassar, you told me that your brother was out of town and you signed on the signature. How did you sign that. And I didn't see anything."

Mr. Nassar asked, "Are you talking about the lease."

Councilor Trujillo said, "I guess it was the lease. Yes. How..."

Mr. Nassar said, "It was negotiated over the phone, and he's the one who told me to go and sign it. I signed it. I was basically his agent, representative for the company."

Councilor Trujillo asked, "But how did you sign it. How did you sign it."

Mr. Sommer said, "I'll represent to you, one, the amendment has the signature on it, and it is exactly the same form he signed in the lease itself. I don't have the lease with me, but the lease is about a 45 page document. But the City's Exhibit 2 has a signature line, that's exactly how he signed it."

Councilor Trujillo said, "Okay, Karl and the reason I bring it up Karl, is I guess, you know, if I'm signing for something for somebody else, I will always sign my signature for so-and-so, being I'm not the direct person making that thing, because I don't want anything exactly coming back on me. That's the only question I wanted to know is how did he sign it."

Mr. Sommer said, "I'll address that when we have our final closing remarks."

Councilor Trujillo, "That's the only question I had is how he signed it."

Chair Dominguez said, "So a couple of questions. Speaking of the lease, you said your brother was out of town."

Mr. Nassar said, "He lives in Colorado full time, so during the corporation when that was open, he would come down a couple times of month, sign checks, make sure everything was going and then go back."

Chair Dominguez asked, "Was that where he was when you signed the lease for him."

Mr. Nassar said, "No. He was actually abroad. He was in Israel."

Chair Dominguez said, "He was in Israel."

Mr. Nassar said, "Yes. For a family obligation."

Chair Dominguez said, "Do you have anything that shows he was in Israel."

Mr. Nassar said, "I don't have anything on me. No sir."

Chair Dominguez asked, "Does he have anything that he may be able to provide at some point that shows he was in Israel."

Mr. Nassar said, "I would have to look and see."

Chair Dominguez said, "Two other questions. It says.... in part of the documentation you gave us, there's this 2014 Tax Return, and it says here that you are filing single. So are you married."

Mr. Nassar said, "I am married in my traditional way."

Chair Dominguez asked, "What is that."

Mr. Nassar said, "I have a marriage license, but it's in Arabic."

Chair Dominguez said, "Forgive my ignorance."

Mr. Nassar said, "No, no, no."

Chair Dominguez said, "I just know what it means relative to this filing."

Mr. Nassar said, "My wife is actually Hispanic. She's from Albuquerque. And we decided to get married in a mosque, and we got married in Albuquerque, New Mexico, about 5 years ago, and I have the marriage certificates written all in Arabic."

Councilor Dominguez said, "So you're married in that way, but here on your tax return you're not married."

Mr. Nassar said, "No. My wife works also, so you know, she does her own tax return, I do my own tax return."

Chair Dominguez said, "Then the other thing is, I know part of your exhibits, there's all these checks that are provided. Do you have bank statements that show these transactions actually took place."

Mr. Nassar said, "Absolutely. Yes sir. I think we don't have them today, but I can provide them."

Chair Dominguez said, "And this Exhibit 5, I guess, is what this is with all these names."

Mr. Nassar said, "Yes."

Chair Dominguez said, "It looks like it's one person that wrote them all down. So is that just your summation of people that..."

Mr. Nassar said, "Yes. Because I told him I haven't been able to buy anything, you know, I didn't know what was going to happen with the business, so he asked me to write all my artists that are basically waiting."

Chair Dominguez asked, "And do we have anything, any statement from these artists specifically that indicates that. I mean, I have no idea who any of these people are, so I."

Mr. Nassar said, "Yes. Like I said, I kind of went through my artists list and artists that I'm usually buying from this time of the year. This season is just kicking-off. So, these are all things I put on the side, and my attorney asked me to write them down. I wrote them down, but one of them is the Governor of Santa Fe Pueblo, Daniel Coriz, he's up toward the top. He's the Governor, he's pretty well known. The other artists, some of the up and coming, some of them established some of them a very long time, but these are the basic people that depend, not just on me, but any kind of business who is selling this kind of stuff to buy from them and provide for them."

Chair Dominguez said, "Okay."

Mr. Nassar said, "I want to make one statement.... oh, go ahead."

Chair Dominguez said, "So, I'm just looking at these checks, and it looks like, well I guess the sequence is not, I thought maybe the sequence was not in order, but it looks like they are."

Mr. Sommer said, "They're there to provide examples of how he is doing business."

Chair Dominguez said, "No. I understand. Okay. I'll go Councilor Lindell, Maestas, Rivera."

Councilor Lindell said, "Good afternoon."

Mr. Nassar said, "Good afternoon."

Councilor Lindell said, "Just a.... so you worked for your brother from when to when."

Mr. Nassar said, "Anasazi Gallery, Inc., opened sometime in 2012 until the end of the distress merchandise sale. I actually worked a month earlier. October third was my last day. The last month I didn't work it."

Councilor Lindell said, "So then 10-3-2014."

Mr. Nassar said, "I got my last salary check in October."

Councilor Lindell said, "Thank you. When did you start your own business."

Mr. Nassar said, "It's open, first day opening was December 1, 2014."

"Councilor Lindell said, "I see on the Tax Return on line 19 that you had collected unemployment."

Mr. Nassar said, "I did. I was in a car accident in late September. I was hit, rear-ended from behind."

Councilor Lindell said then you didn't work from September 2014."

Mr. Nassar said, "No."

Councilor Lindell said, "I'm just pointing out that you just said a minute ago that the last check that you got from working for your brother was in October."

Mr. Nassar said, "I believe it was at the beginning of October, I'm sorry the end of September. See, I get paid after every month. It was a salary pay."

Councilor Lindell said, "That's all I want to point out right now. Thank you."

Mr. Nassar said, "Thank you."

Chair Dominguez said, "Okay Councilor. How did I do this, I said Maestas and then Rivera."

Councilor Maestas said, "Let's start with the lease. If you look on page 4 of Exhibit 1 up there on the top, it designated you as the tenant. Correct."

Mr. Nassar said, "Correct."

Councilor Maestas said, "Now, why wasn't the corporation, the defunct Anasazi Gallery named as the tenant."

Mr. Nassar said, "They wanted a personal guarantee, I think. And my brother asked me to put it in my name. He's my brother. I'd do anything for him, and that's why you see my name there."

Councilor Maestas said, "If you turn to Exhibit 2, the Distress Merchandise Sale Application."

Chair Dominguez said, "This is City's Exhibit 2, right."

Councilor Maestas said, "Yes, I'm sorry, the City's Exhibit 2. If you look at number 3, what is the nature of occupancy of the place where such sale is to be held and it says lease. I guess it has lease, owner or other. So does this imply Anasazi Gallery, Inc., was the tenant and the holder of the lease.

Mr. Nassar said, "To do this type of sale it had to be the President of the company to sign it out, so my brother filled this out. I don't know how to answer that."

Mr. Sommer said, "If... just answer his question if you know the answer."

Mr. Nassar said, "Can you repeat the question."

Councilor Maestas said, "Yes. It seems that the lease was between this Crow-Hobbs as the landlord and he was an individual tenant and not any corporation. So I'm trying to establish if there's any connection between any corporations and the lease. Was there any connection."

Mr. Nassar said, "No. I owned zero shares of the Anasazi Gallery, Inc., I was basically a manager."

Councilor Maestas said, "Okay, but yet, you signed the lease for your brother, correct."

Mr. Nassar said "Correct."

Councilor Maestas said, "At the lease the Amendment no. 2, we don't have the full lease.

[Mr. Sommer's remarks here were inaudible because he was away from the microphone]

Chair Dominguez said, "Go ahead and speak into the mike if you can there."

Mr. Sommer said, "I'm sorry. I represented to you that the lease has the same designation, I think in answer to Councilor Trujillo's question. "

Councilor Maestas said, "So what was your position on the Board with The Anasazi Gallery, Inc."

Mr. Nassar said, "They had me as a Vice-President."

Councilor Maestas said, "And you probably had a registered agent, correct.

Mr. Nassar said, "Correct."

Councilor Maestas asked, "And who was that."

Mr. Nassar said, "Douglas Azar."

Councilor Maestas asked, "So why wasn't Douglas empowered to sign business documents on behalf of..."

Mr. Nassar said, "He was just the attorney that prepared the documents, and he did mine as well for my company."

Councilor Maestas said, "Right, but he is your Registered Agent. I think he can represent the corporation in all business affairs."

Mr. Sommer said, "Mr. Chairman, Commissioner, I mean Councilor, a registered agent is a

registered agent for one purpose in New Mexico and that is for the purposes of service of process. So when an attorney signs a document, an affidavit as registration for agent of a corporation, they are saying you can serve this person if you ever sue the company. That's the statutory power of a registered agent."

Councilor Maestas said, "Okay, let's get to City's Exhibit 4. This is the new license application. You filed it on December first, but yet you didn't file your articles of incorporation until the ninth, why was there a time lag. Why did you file and become a corporation in the eyes of the State, but yet sign a document on behalf of the corporation as the President prior to the filing of your corporation."

Mr. Nassar said, "Basically, Mr. Azar, who did the filing of my corporation, just, I guess it takes time."

Councilor Maestas said, "All right, but Mr. Azar is not the registered agent for The Anasazi Gallery Trading. You're the agent."

Mr. Nassar said, "I am, but he's the one who prepared the documents. And once the documents were prepared, he lives in Albuquerque, he delivered them here to me and then I went to, I don't know what that building is called, the Federal Building, and filed them."

Councilor Maestas said, "And based on your Exhibit B, Certificate of an Incorporation, there are no corporate officers designated in here. You have yourself as the Agent, you're a director, you're an incorporator, but there are no officers, but yet you've been signing documents as the President. Why is that. You've not apparently elected officers, or if you have, you haven't filed a change in your articles. So I'm not sure, legally, that you're the President, number one. And then number, I'm not sure that New Mexico corporate law can allow the President to also serve as agent. You can't serve in more than one capacity if you're the President, I believe. I'm not a corporate lawyer, and maybe Zach can clarify that. But I'm trying to understand what your legal position is now, and based on your own articles of incorporation, there are no officer. You're the incorporator, the agent, and I'm not even sure if you can serve in both capacities, being the agent and the President."

Mr. Sommer said, "Just answer his question."

Mr. Nassar said, "My understanding was, my attorney Douglas Azar, was the agent. He prepared the documents for me. And as far as I know, I'm the President of the new company, because there was a document that showed all the shares, I don't know if it's in here."

Mr. Sommer said, "No."

Councilor Maestas said, "You testified earlier that you signed the lease individually, but I think earlier you said you intend to write off lease payments in your corporate return. So if you have a personal lease, how can you deduct the least payments as a corporation,"

Mr. Sommer asked, "May I answer the question. Just quickly, as a legal matter, he is a Sub-S Corporation, and so what comes off his personal return is a deduction for lease payments. It flows through

his personal return in his Sub-S corporation. And with respect to the corporate articles, and who is the officer, you have Mr. Nassar's sworn testimony that he is the president of this company and the sole shareholder, and he has signed documents before the State Corporation Commission or the Secretary of State related to his formation and designation of the corporation. So if this board wants to see his by-laws, we can present those. If this board wants to see and hear from his attorney, who did that, I think we could provide that you, but it but hardly seems necessary."

Councilor Maestas said, "I'm just I think clarifying his legal role in the corporation. I think it is important to the proceedings. And the current filing documents don't show you as the President, they show you as the agent and as the incorporator and a director, but not as President. And I don't think you can serve in allo those capacities and President. And these are documents you gave me. So I'm concerned about the lease that it's between you personally and the landlord, but yet it's being used for corporate purposes. And then in this new corporation, you're representing yourself as president in some of these legal documents. And based on your filings, there really are no officers at this point. You have a Board of Directors, and you're the designated agent, but you don't have any officers in your filings just yet."

Chair Dominguez asked, "Is there a question there Councilor Maestas."

Councilor Maestas said, "I have a question maybe for Zach. Where's Zach. Does the City do any kind of checks on the corporate standing. Do we require a certificate of good standing from these corporations, especially new ones that want to purchase a business license."

Mr. Shandler said, "Mr. Chairman, I don't know the answer to that question."

Councilor Maestas said, "Okay, would the City have a problem if a business comes to us and requests a business application prior to their corporate filing establishing the new corporation, which I think is the case here. They signed the Business License Application on December first, and they didn't file their corporate papers until December ninth. Would that be an issue. Do we allow some kind of lag. Do they have to be in good corporate standing and filed if this the City is to consider a business license for this new business."

Mr. Shandler said, "Mr. Chairman, I would have to research that issue and get back to you."

Councilor Maestas said, "That's all I have for now Mr. Chair, but I think I might have a few more."

Chair Dominguez, "Okay. Councilor Rivera, and then we have a budget hearing here pretty soon."

Councilor Rivera said, "Thank you Mr. Chair. Mr. Nassar on the Exhibit 1 that you presented, you stated that all your brothers haven't signed the letter of agreement because they haven't been at the same place at the same time. What says they have to be at the same place at the time. Couldn't you get each one individually and have them date it."

Mr. Nassar said, "We wanted to get it notarized, you know, make it official."

Councilor Trujillo said, "Has there been any attempt since November twenty-ninth to really get them all together."

Mr. Nassar said, "In about a month or so, it should be done."

Councilor Rivera said, "So you're anticipating that."

Mr. Nassar said, "Correct."

Councilor River said, "All right. Then the document in the back, right behind it, who wrote that one."

Mr. Nassar said, "That's my brother."

Councilor Rivera said, "Which one."

Mr. Nassar said, "Majdi."

Councilor Rivera said, "And that's the one in Colorado."

Ms. Helberg asked, "And how do you spell that."

Mr. Nassar said, "Majdi. M A J D I. And I'm the one who signed it. That's my signature."

Mr. Sommer said, "But his brother wrote it."

Councilor Rivera said, "Your brother wrote the note but you signed it."

Mr. Nassar said, "Correct, this is basically saying that I'm receiving, this is the total merchandise, you know. And then..."

Councilor Rivera said, "On the second exhibit, I believes this yours, correct, The Anasazi Gallery Trading, Inc. On the second page it lists a Board of Directors which looks like you and one of your brothers."

Mr. Nassar said, "My youngest brother, yes."

Councilor Rivera asked, "Was there Board of Directors for the Anasazi Gallery."

Mr. Nassar said, "My brother created that company, so I can't tell you exactly."

Councilor Rivera said, "I assume there's a document that would show.."

Mr. Nassar said, "I don't know if they have one."

Mr. Sommer said, "There is."

Councilor Rivera asked, "Are you a Board of Director of Anasazi Gallery."

Mr. Nassar said, "Was I a Board of Director."

Mr. Sommer said, "I don't recall. The documents reflect officers of that company, and I have not seen a document that reflects who the Board of Directors were of that company, but we could supply that. We don't have those corporate records. I have just a couple of them."

Councilor Rivera asked, "Did I hear you a while ago say that you were a Vice-President of that company, your brother's company.

Mr. Nassar said, "That's the title that he had in the corporation, yeah."

Councilor Rivera said, "At one point, you said you were a manager, and then later you said you were a Vice-President."

Mr. Nassar said, "He also had me there in case something happened to him, you know, but in terms of the shares, I own nothing, I received none of the profits."

Councilor Rivera said, "Were you given the title of Vice President, probably in that other document, maybe."

Mr. Nassar said, "I would say so."

Councilor Rivera said, "Zach. We were handed these pictures of sales signs, which I assume are next to Mr. Nassar's business. Is there anything illegal about these sales pictures. I assume you've been able to look at them."

Mr. Shandler said, "Mr. Chairman, Councilor Rivera, I have not looked at them. I don't believe they're relevant to this particular proceeding. I will be happy to forward it to the Land Use Department for their review."

Councilor Rivera said, "On Exhibit 1 that Mr. Shandler presented, which I believe is the Lease for your company. You decided for the name Anasazi Trading Company. Why did you decide on that name."

Mr. Nassar said, " I'll be honest with you, you know, it's very expensive to start a business and I wanted to keep the name similar so that, you know, my brother authorized me to keep the mailing list because he's out of this business. And I wanted to keep the name similar so I didn't have to pay for brand new signage and all this stuff, and it's very expensive, and that's why I kept Anasazi in there and added Anasazi Gallery Trading."

Councilor Rivera said, "So you did change it enough to have to have to.."

Mr. Nassar said, "Yeah, of course, because it's a new entity."

Councilor Rivera said, "So you did it enough to have to change signage and to have to change..."

Mr. Nassar said, "But not to the point where I had to order new lettering, new signs for the outside. The signs that my brother had purchased are wooden signs, and we basically, the guy who makes them, his name is David Gillian, he's from Santa Fe. He's just adding the word Trading in there and that's basically it. But it saves me, I'll be honest with you about $5,000 for the two hand made wooden signs."

Councilor Rivera said, "I may have missed this, but on Exhibit 2 from the City, who signed the Distress Merchandise Sale Application."

Mr. Nassar said, "That's my brother Majdi Nassar's signature."

Councilor Rivera said, "That is his signature."

Mr. Nassar said, "Yes sir. Yes. He came down, filled out this application. He was here during this. He also provided the City with a current record of the inventory that they started the sale with. And when he asked for the extension, he also provided them with the current inventory record. For those times, he was here in town."

Councilor Rivera asked, "How many people do you employ, Mr. Nassar."

Mr. Nassar said, "Currently, right now, nobody."

Councilor Rivera said, "So it's just you. You're the only one."

Mr. Nassar said, "Yes sir."

Councilor Rivera said, "Running the business."

Mr. Nassar said, "After this type of press in the media, it's very tough. You know, people look at you in a different light, ask a lot of questions. And you know, it's been very tough for me, I'll be honest."

Councilor Rivera said, "Okay, that's all I have for now, Mr. Chair."

Chair Dominguez asked, "So where is your brother right now."

Mr. Nassar said, "My brother right now is in Littleton, Colorado."

Chair Dominguez said, "But he was in Israel before when you signed the lease."

Mr. Nassar said, "I believe at that time, and I might be able to provide either airline tickets or credit card bills showing something from him, but I would have to, of course, get that from him, sir."

Chair Dominguez asked, "Are there any sworn statements, from your brother in any of this, besides the documents that he signed."

Mr. Nassar said, "No. No."

Chair Dominguez said, "So there's a lot riding on your brother's testimony."

Mr. Nassar said, "Uh, well, you know."

Chair Dominguez said, "Because you're giving us your sworn testimony, but your brother is not here to really ask or answer any questions that we may have of him and for that motive."

Mr. Nassar said, "He works full time in Littleton, Colorado, and I asked him to come down for the hearing, but he just couldn't do it, you know."

Chair Dominguez said, "I'm not even talking about him coming down, I'm just talking about a note or something, an email."

Mr. Nassar said, "I can get something for you. I can get an email, get a statement for you."

Chair Dominguez said, "Okay. Councilor Maestas."

Councilor Maestas said, "Yeah, Mr. Chairman, I think my main concern is the lease, the status of the lease, the use of the lease in going from one company to the other. I don't know how any corporation would responsibly allow an individual to take out a lease and have that business occupy that building that's the subject of the lease. So it just seems to me on the surface, that the lease was being used conveniently. I think that if the lease documents clearly showed appropriately a tie to the corporations, then I think that the deception, maybe the perception of deception, would not be as great in my mind. So it's the use of the lease, and then I think a representation of the President of the new company, Anasazi Gallery, Inc., again signing legal as President and really not having any kind of officers elected or recorded with the State Corporation Commission. Those are my two major issues."

Mr. Sommer said, "Mr. Chair, may I address those two issues."

Chair Dominguez said, "What I'm going to do, is I'm going to go ahead and allow you to make some closing statements, and then we're going to have to take some action on this."

Mr. Sommer said, "If I may address the Councilors concerns about those particular issues, or can wait until..."

Chair Dominguez, "Why don't you do as part of your..."

Mr. Sommer said, "Why don't you let Mr. Shandler go first and then I'll.... however you would like to do it.

Chair Dominguez said, "That's fine. That's fine. Zach go ahead and then.."

Mr. Shandler said, "Given the late hour, I waive closing statements. The discussion was excellent. Thank you for having them. But I waive my closing. I will be asking for a vote, when this is done to move it to the City Council. Thank you."

Chair Dominguez said, "Okay, go ahead, Karl."

Mr. Sommer said, "Members of the board, I'll address Councilor Maestas's question specifically, and then I'll state generally. Under New Mexico law, it is both legal and common practice for agents to sign on behalf of an undisclosed or a disclosed principal and bind the principal. And in this particular instance, the testimony is and the documents are that Amjad Nassar signed because his brother was out of town, and the landlord required someone to sign in a personal capacity. He signed and bound that company, with his brother's authority, to that lease. That's both legal and it's proper and it is common practice. All of those things are."

Mr. Sommer continued, "The second thing is, with respect to his corporation, it is *bona fide*, he has a federal liability, he has a federal tax number, he has State liability, he has State tax numbers, and he has represented himself here tonight as the only officer of that company. And in New Mexico, it is proper to have a President, and if those documents are what's concerning you, we could easily provide you the resolutions that make him a President. But I would point out Councilor, the City's process over here does not require a resolution from a corporation saying that the person signing the application has any authority whatsoever."

Mr. Sommer continued, "The second thing is that the lease that we're talking about tonight was presented, and is required by the City to present. So when the City issued it's first business license to Anasazi Gallery, Inc., they relied on the lease that he signed, and they issued a license to a corporation that was occupying that space. So the City's process allowed for this particular methodology, both in the first instance and the second instance, and they noted that the Business License was in the name of the corporation. All of the corporate... all of the City's documents with respects to both business licenses are in the name of these corporations."

Mr. Sommer continued, "I submit to you that it is extraordinary for a young man to submit to the City his personal tax returns. And in his returns you will see what he has reported to the federal government is that he received wages for the year 2014. He did not take deductions for business expenses or anything like that. If he was the owner, if he was anything other than an employee, he would have been to report, and he would have been entitled to deduct expenses. He took extraordinary measures tonight to tell what he swore to the federal government was, I was an employee of this company, and all I received was wages. And he has the income taxes to back it up. If you look at the back of that exhibit, you will see the records he was able to find showing him as an employee, reported to the State of New Mexico by that corporation. There is no doubt and the documents show, and there is nothing else to contradict it, that Mr. Amjad Nassar was an employee of that company."

Mr. Sommer continued, "And what he did was purchase the inventory and equipment and he

started his own business, and he put his future at risk, invested his money and is paying his bills. He is, and operates his own business, separate and apart from what his brother did before him. And I submit to you, that is not very dissimilar to what happens generation after generation in this town and in this State."

Mr. Sommer continued, "So why are we here tonight. The City says something happened. Something happened, but we don't know what. Yes, we do know what. In the middle of the sale, this young man decided to take a risk, buy the inventory, put his future at stake and follow all of the necessary requisites to set up his own business at every level, State, federal and local. And he's been operating that business on his own ever since. And the only reason he is being questioned, the only reason he's being question has to do with what's gone on in the downtown area that has never been brought before you before. And what did Mr. Shandler say to you when we started, send a message, we're going to send a message. Send a message to whom. You're going to send a message to a young man who starts his own business that you can't do so if other people are doing shady things in the downtown area and the City has done nothing about it. Is that the message you're sending. I submit to you, that is both wrong and it's illegal. A vote to revoke this young man's business license is a vote to condemn him to be unable to provide for his family. And I submit to you the City has not provided one shred of evidence, other than a lease that is signed by Mr. Nassar as an agent for a previous corporation, which he extended as agent for his corporation. And we request that you dismiss this Notice of Violation, or this Notice of an Order to Show Cause, because the evidence is unequivocal that he has his own business, and that in fact everything he has said to you here tonight and everything that he put on his applications was true. Thank you very much."

A. ACTION BY FINANCE COMMITTEE ON WHETHER ANASAZI GALLERY TRADING, INC., HAS SHOWN CAUSE WHY THEIR LICENSE SHOULD NOT BE REVOKED.

Chair Dominguez said, "Thank you. So what are the wishes of the Committee. Anyone. Councilor Maestas."

Councilor Maestas said, "Well, I think I've said enough. I think it's never a good thing to revoke a business license, but I think in light of the evidence that we've seen tonight, there aren't clear connections between I think legal documents that really are important and instrumental in taking such actions, whether it's a sale, a distress sale, whether it's granting a new business license, this is something that I hate to do, but I think in light of what I've seen, I'm prepared to agree with the City in this regard."

MOTION: Councilor Maestas moved, seconded by Councilor Lindell for purposes of discussion, "that this business failed to show cause why their business license should not be revoked, and therefore I, part of my motion, I recommend that we issue a cease and desist order closing the business."

DISCUSSION: Councilor Lindell asked, "Are we being asked to send this forward to Council, or are we being asked to adjudicate this now."

Mr. Shandler said, "Mr. Chair, Councilor Lindell, only the full Council can revoke a business license, so the request from the City Attorney's Office is to make a motion to issue a cease and desist order, forward it to

the City Council, and when that meeting can be scheduled, then a vote can be taken whether to revoke or not to revoke this business license."

Councilor Lindell said, "Thank you."

Chair Dominguez said, "Okay, any other discussion on this one, hearing..."

Councilor Maestas said, "One last thing Mr. Chairman, too, I stated my concerns about the lease and how I think the lease and the agreement that was in place was used out of convenience for these corporations. I mentioned again, the lack of formal designation and election of the President, even though that individual signed as President. And then the other thing too that concerned me, too, is that in the new Business License there was a December first opening for that business. But based on the corporation commission documents, the incorporating documents weren't filed until the ninth, so I think there was a misrepresentation of the officer, a misrepresentation of when the business was actually legal, I guess, in the eyes of the Secretary of State and their legal requirements for recording new corporations. And then, just the personal nature of the lease. I would have preferred to see a lease with a corporation, and that was not the case."

Chair Dominguez said, "So I will say that I want to thank you for your testimony, I want to thank the City for their testimony as well. As far as I'm concerned, you're going to have decide for yourself, in your heart of hearts whether or not there was any kind of, what's the word I'm looking for, deception or anything else. And you can better answer that than all of the legal documents and all of the things that have been presented, and so, you know, good luck to you."

Ms. Helberg said, "I need to ask for clarification of what the City Attorney said, that you should issue a cease and desist order and forward to the City Council. Councilor Maestas's motion does not say forward to the City Council."

Councilor Maestas said, "I'll amend that."

Chair Dominguez said, "I think it's implied, but just to make it clear."

Ms. Helberg said, "I just want to be sure. Thank you."

Chair Dominguez said, "Councilor Rivera."

Councilor Rivera said, "Thank you Mr. Chair, in light of what I've heard tonight, and really reading, really the last page which no one really talked about, was the undercover investigation by KRQE by Larry Barker. What I don't want to do is to make a decision based on emotion I guess, or really what many people might want us to do. I think, from what I've seen, we're being asked to judge intent, and I don't think that I'm in a position to judge Mr. Nassar's intent. He's obviously stated why he kept the business the same, what he was thinking. If it was any other family member of any other business, I could see that happening. I could see the desire to want to keep the business name somewhat similar. If this happened, maybe multiple times that this has been happening on different fronts, that's a different story, but I'm not sure that what

I've seen here really proves to me that he was intentional between what he and his brother did, so I'm just convinced of that point. Thank you Mr. Chair."

Chair Dominguez, "Okay, any other discussion. Hearing none, all those in favor signify by saying aye."

Councilor Maestas and Councilor Lindell, "Aye."

Chair Dominguez said, "All those opposed say no."

Councilor Trujillo and Councilor Rivera: "No."

Chair Dominguez said, "Aye."

VOTE: The motion was approved on a voice vote, with Councilors Maestas voting in favor of the motion, Councilors Trujillo and Rivera voting against, which resulted in a tie vote. Chair Dominguez voted in favor of the motion to break the tie and approve the motion.

17. CONTINUATION OF REVIEW OF FISCAL YEAR 2015/2016 OPERATING BUDGET

A copy of *City of Santa Fe Annual Operating Budget – Fiscal Year 2015-2016 City Manager's Recommended Plan*, is incorporated herewith to these minutes by reference as Exhibit "9." Copies are on file in the Finance Director's Office.

A copy of *Average City Wide Vacancy Percentage* by department, prepared by staff, is incorporated herewith to these minutes as Exhibit "10."

A copy of *City of Santa Fe – FY 2015/2016 Variance Justification*, dated May 1, 2015, prepared by staff, is incorporated herewith to these minutes as Exhibit "11."

A Memorandum dated May 1, 2015, to Oscar S. Rodriguez, Finance Director, from Cal Probasco, Budget Officer, regarding Fire Department Service Cost (Cost Per Response), prepared by staff, is incorporated herewith to these minutes as Exhibit "12."

A copy of *General Fund Services Cost Allocation Method – Formulas*, prepared by staff, is incorporated herewith to these minutes as Exhibit "13."

A copy of *Current + 5-Year Summary – Police Sick Leave*, prepared by staff, is incorporated herewith to these minutes as Exhibit "14."

A copy of *City of Santa Fe, Finance Department – Expenditures Summary – Fiscal Year 2015/16 Proposed Budget*, prepared by staff, is incorporated herewith to these minutes as Exhibit "15."

Chair Dominguez said he would like to give the Committee an opportunity to go back and ask questions that have come up since our last convening and questions they thought about over the weekend.

Councilor Rivera said at the budget hearings on Thursday, we approved the Convention Center's budget, the Tourism Budget and then received the information after the fact about how additional funding is going to be spent. He asked the City Manager which positions the City plans to transfer to the Tourism Division, in light of their proposal [Exhibit "1"].

Mr. Snyder said he hasn't decided on any specific positions we will be transferring, but it is in the plan to evaluate all the positions we could internally transfer.

Councilor Rivera asked if it inappropriate to ask for that information, prior to those positions being transferred once that information is available. He said the plan was approved prior to us seeing it, but he would like that information.

Chair Dominguez said technically isn't approved until the budget is approved by the Governing Body. He asked Mr. Rodriguez when that will be available.

Mr. Rodriguez said that will be provided by Mr. Randall tomorrow morning.

Chair Dominguez said this is a quite appropriate request by Councilor Rivera.

Councilor Rivera asked Mr. Snyder if that is sufficient time to try to figure it out, and Mr. Snyder said yes.

Mr. Rodriguez said if we can transfer people who fit the description and they are in places where we want to create a vacancy in the general fund, for example, they would try to move them over. He said to the extent we don't find the perfect fit, in essence what we will do is create these positions here and eliminate the positions somewhere else, saying he will get the full plan for the Committee.

Chair Dominguez said he has questions on Tourism and the memo we received [Exhibit "1"]. He asked if the incentive pool being created is strictly for sales personnel, commenting he would like to see an incentive pool for all City employees. He said he doesn't necessarily disagree with this, but it seems odd it is being provided for only one group of employees.

Mr. Snyder said the Chair is correct, it is for the sales managers and similar to what is in the private sector in the lodging industry. He said sales managers have their base commission and there are incentives on top of that depending on what they sell. He said this is a similar concept with the goal to set certain metrics, and if the sales managers meet those, they will get the incentive.

Chair Dominguez said then it is going to be based on performance, and that's how it differs from other City employees generally.

Mr. Snyder said that is correct.

Chair Dominguez asked, regarding the 5 new positions, if these are all classified positions.

Mr. Snyder said he believes these are exempt positions. The sales managers are either exempt or term, and contingent on the Lodgers' Tax revenues coming in.

Chair Dominguez said then the National Sales Manager is exempt and Mr. Snyder said yes.

Chair Dominguez said the Convention Specialist is exempt.

Mr. Snyder said he knows the sales managers are exempt, and the other positions are either exempt or term, which means they are limited to the revenues being brought in by Lodgers' Tax. If Lodgers' Tax isn't sufficient to pay the position, then we can eliminate the position, and the reason they are a term position and not classified.

Chair Dominguez asked if the positions will be advertised and Mr. Snyder said yes.

Councilor Maestas said, on that point, in the first paragraph of the memo, we had a discussion about all the other City services that support Tourism Santa Fe. And we had a discussion about how we're not budgeting for and allocating resources for supporting special events. He said in the first paragraph it says in last year's budget there were $600,000 for Transit, Police, and Fire overtime, Solid Waste and other administrative needs. In the next sentence it says in FY 2015/16 the budget recognizes $9 million with the same $600,000, and asked why this number isn't higher. He said instead of having all these incentive pools and new positions, he would like to see a Special Events budget, noting he spoke with Mr. Randall about that. He said Mr. Randall said he wouldn't want to pay for support from other departments for community events because the entire community benefits. He said there are a lot of promotions done by Tourism Santa Fe to attract large conferences. He asked if it is typical for non-community events to try to bring a conference over, is it typical for us to say garage parking to be waived, or are there parking fee waivers in our packages to attract conferences.

Mr. Snyder said he isn't sure of all the details, but depending on the size of the conference there definitely are incentives that can be factored-in. For example, reduction in room rate if you rent the whole Convention Center for a certain period of time.

Councilor Maestas said, on that point, we are starting to treat our funds and enterprises as true business enterprises, noting last year he pushed phasing out the debt for the parking garage, getting it off Tourism's books and then shift it to parking. However, now parking is getting "dinged" by not gathering any revenue for conferences. These are non-community events and it's part of a routine package. He said his point is that the Parking Division, as an example should be paid. If we offer that waiver, there should be a budget in here for payment in lieu of parking revenues. He said he sees a lot of expansion and is unsure if he supports all of them. He thinks we should focus on changing the way we do business, and that's one change we should make. He said this is done in other departments. He would like to see a Special Events budget included.

Councilor Maestas continued, saying the last thing he would like to see a City-wide Events Coordinator because we don't always community, noting all these entities have their own events and we don't do enough City-wide coordination, reiterating he would like to see a Special Events budget routinely in Tourism Santa Fe. He wants to be able to deliberate this before we finalize the budget.

Councilor Maestas said he's a little confused on what we're including the budget, and what we're not including. And we've found the proposed expenditures for Tourism Santa Fe are not in the current budget, specifically.

Mr. Rodriguez said, "To be perfectly clear, what's recommended to you as the budget for 2015-2016, as I explained earlier, does not change. That is the request. This extra $1.2 million is for the current fiscal year, so this plan could only be for the current fiscal year, in other words, the next few months. And if he isn't able to expend it between now and the end of the fiscal it just rolls into the ending balance. And it would be a question of coming back to you if the Council wants to spend that money, and it would come back to you as a possible amendment."

Chair Dominguez said, "In terms of process, my intent is to get through all of the departments and give staff an opportunity to present their numbers and their budget. And then we'll probably have to go back to kind of clean some of this stuff up. Some of the policies still need to be worked on a little bit, but that's where we're going to really have our debate. And now is the opportunity to ask the questions you need to ask and ask for the information you need in order to make some of these decisions. There is this possibility, it is a very very small possibility that we could approve the budget tonight, but we still have a little bit of time to be able to ask these questions, get the information we need and make specific motions if we need to on specific items in the budget, so I hope that helps."

Councilor Maestas said we did make a policy decision on the changes to the health plan, but those changes are not in this budget. He said he understands we need to renegotiate the union contracts, so what comes first, the City Council policy or the Union Contracts. He said, "I would say for budgeting purposes that we should have incorporated the health plan changes, then made any amendments and reversed it if we don't come to agreement on the Union Contracts. I really think... we didn't give them direction and I think that is Council policy. I realize there's some legislation coming forward, but I think it would have more responsible of us to incorporate those changes in this proposed budget, and then deal with any changes if there is an agreement."

Chair Dominguez said we can do that, and we need to make sure the budget encompasses everything, but we have legislation that still needs to be debated that could have an impact on the budget. So, in the end, I think we still have time, but we don't have a whole lot of time.

Councilor Maestas said he still has a tally of things he would like to see in the budget. He said, "I'm going to keep my powder dry and assume there's going to be a point at some time to really look at the budget and the final figures and see if we can't incorporate some of these things we'd like to see."

Councilor Lindell said then back to the $3.8 million in the Water Division payment in lieu of tax. She asked if other departments pay a similar percentage of administrative costs.

Mr. Rodriguez said it is important to distinguish between two concepts, one is administrative cost and the other is payment in lieu of taxes. He said the $3.8 million isn't to pay administrative costs, it is a cost that is passed to them in a different way as utility related costs. The City Manager's time, the Finance Department's time, the Council's time, we deem those to be utility costs. The $3.8 million is straight ahead a payment in lieu of taxes, a different concept.

Councilor Lindell asked if other departments pay a similar percent of administrative costs, "forget about the 3.8."

Mr. Rodriguez said, "No. The administrative support has to do, in the case of finance, with a percent of the budget that we have to manage for them versus all the other resources we manage for the City, so in that case it would be a percentage. For H.R., for example, their overhead is spread to them as a percentage of the FTEs that utilities has versus everybody else. That percentage will change according to the issue that is there. The Attorney's Office has a different formula to distribute costs to the utility, and so on and so forth depending on what issue you're talking about. But Councilor, just to make sure, are you talking about the administrative overhead or the payment in lieu of taxes."

Councilor Lindell said she is talking about right now, administrative overhead. She said, "So other departments don't pay a similar percentage."

Mr. Snyder said General Fund departments, it's a formula, not a percentage, of the administrative costs.

Councilor Lindell asked, regarding the payment in lieu of taxes, where would the $3.8 million go.

Mr. Rodriguez said it would go to the General Fund.

Councilor Lindell said, "We need to take a very hard look at this, because It appears to me that that tax was approved by the voters of this town, and it was very specific about what that tax was to be used for, that percentage of gross receipts tax, and it wasn't to be used for the General Fund. I really think we need to spend more time on that and make sure.... and not even make sure. It's clear enough what that money is to be used for and it's not the General Fund."

Mr. Rodriguez said, "Correct. And that's strictly a policy discussion and you are the ones to decide that. I would just point out to you, even as it stands right now, and this is sort of a continuation of a discussion we had a little bit on Thursday. If you don't do that right now, budget it this yeas as all the previous years are costs that are thrown over to the utility. And you heard from Nick Schiavo that to him, and I think there is a very good argument, represents non-utility costs that are just thrown over there because they have the extra money. Let me give you perhaps... the clearest example is not the water utility but solid waste and wastewater. Solid waste and wastewater provide free services to the City, that's a substantial amount. And yes, it's not a straight-ahead tax, but free service does have value. And if we were holding strict to the interpretation of their money stays with them, etc., and if that was a policy, I would

have to come here and recommend to you then an increase in General Fund expenditures to pay for those free services, not to mention a lot of other services that are out there that when we do a full accounting may very well become at that point finally apparent. But it happens every year."

Councilor Dominguez said, "On that point, Councilor Lindell, what you are saying is if we were to abide by the letter of the law essentially what we would do then is just use that $3.8 million to pay for debt that other parts of the City have anyway, it just looks different."

Mr. Rodriguez said, "If we were to abide by the spirit, perhaps, that you're talking about here, then the General Fund would have to come up with a whole lot more money to pay for costs it, right now, throws to the utility funds. They're not utility-related costs. The solid waste services does not need to give the General Fund free services to operate a solid waste utility. The wastewater department does not need to give free services to the General Fund to provide wastewater. Those are not utility-related costs. And Nick, being the number of positions that he questions whether or not they truly are utilities costs. All we're trying to do with this, the amount actually goes up as well, but just to do in a very transparent fashion, a very predictable fashion, to set a policy that says no more than this ever."

Mr. Snyder said the conversation he's had with Councilor Maestas regarding the dedicated 1/4% GRT which generates about $7.8 million for the water division, right now is dedicated to capital projects, and it will be dedicated to capital projects in subsequent budgets. The bill that is being crafted now and for consideration, and not as part of this budget, will contemplate moving that money to the General Fund, making it a true enterprise fund within the Water Division. He said, "That is separate from what we're talking about here, as I understand it. The $3.8 million is a calculation on services that are provided to the General Fund. The $7.8 million which is the 1/4% GRT that is collected is still going into the Water Division, still going to pay for capital projects. And in the future, and working with Councilor Maestas, there is a bill coming forward that contemplates pulling that out of the Water Division to make the Water Division a true enterprise fund where it is self sufficient, but that is not part of this budget at this time."

Councilor Lindell asked, "Pulling what out of the Water budget, Brian, which monies."

Mr. Snyder said, "The 1/4% GRT is not part of this budget... pulling the 1/4% GRT dedicated water capital infrastructure money that generates about $7.8 million worth of revenue a year, pulling that out of the Water Division is not part of this budget."

Mr. Rodriguez said, "The argument here is that if the water company were a private corporation, it would pay property tax and a franchise fee. And what we're saying is that the combination of our recommendation to you, based on the going rate or the established rates out there is 12%. And that's the argument, and it comes after net revenue. So after a fee, revenue goes in is $38 million a year, and then another $7.8 million of GRTs, all go into a bucket and then they pay all their operations, and all of their debt service. And then also pay for what they're programmed to do in capital we heard. So they would be put out some $14 million, it could escalate a little bit more, after they're done all that. And then on top of that, on top of that, raised enough that year to pay for 45 days worth of operating capital which is considerable. After they had done all that, then there is this 12% tax, if you will."

Councilor Lindell said, "I'm just still trying to figure out this payment in lieu of tax. Do we ask anyone else for that."

Mr. Rodriguez said, "No, well, this is the first time that we looked at it explicitly saying that's what the tax is. Up until now, it just kind of happens and there's not a specific policy for that."

Councilor Lindell asked, "How is that costed out. How did we come up that that's what that cost is."

Mr. Rodriguez said, "No, it's not based on cost. I mean, again, we're not associating it with a cost recovery mechanism. We're associating it with just what the market can bear, or what the market has proven for a franchise being for a tax on the operation. And for the wastewater utility and for the Solid Waste utility, well that's part of the accounting we're going to be doing this summer and tell you this is how much that service cost. There's no question that it costs capital and operations to provide solid waste not to mention the treated effluent that is put in the parks, that would otherwise represent revenue. So I guess, in essence, they're paying that tax too, although we're saying, look just leave it the way it is right now, because they will be looking up with the extra on top of everything else is 12%."

Councilor Lindell said, "I'll just tell you that that makes no sense to me. I can't follow that we're asking them to pay that tax, no one else does and we haven't costed it out. Then, with the water company, we have over $1 million in salaries that don't report to the Water Company. How did that happen. How are we going to stop that from happening."

Mr. Snyder said, "It happened over numerous years. I don't have all the details, and that's part of what Oscar and Nick had mentioned, I believe on Thursday during the budget hearings, that we need to dig into it, and make sure we are aware of which positions are where. I was not aware, until Oscar and Nick showed me the numbers, that we had about 20 positions being funded out of water. But we do need to untangle that web, similar to the GRT and those kinds of things, simplify things. When we can understand it we can present it to you as well so you can understand it."

Mr. Rodriguez said, "And we will bring that study back to you, and you'll see those numbers, and our arguments for why those numbers, and ask you to approve them, or not. Anyway you'll have all that information. And as Brian was explaining it happened one position at a time over many years. I guess that is also the way... it's been around for a long time, but I guess that's the way. The General Fund sort of became used to not paying for solid waste services or for wastewater services."

Councilor Lindell said we know about it now.

Mr. Rodriguez said, "That's the whole point. It's all on the table now and a clear policy in black and white that everyone knows, or you can say yes or no to, and that's way it's very transparent."

Councilor Lindell said that's not the kind of policy we want to operate under. She said, like Brian said, it's pretty tangled, and over the course of time that's not the way to run an enterprise. She wants to see a plan to pay those people paid from where they should be paid from. She said, "That's a lot of positions."

Chair Dominguez said it's not something that was created in one year, and it won't be solved in a year, but we need to continue to strive to make sure we have a clear picture and a better plan about how we do these things. He is unsure how far we will go this year with regard to that specific issue, but we certainly need to be moving in that direction.

Councilor Ives said he has a few general questions.

Chair Dominguez told him to ask his questions before we move into Department Reviews.

Councilor Ives said, on the points made by Councilor Lindell, he heard it described as a payment in lieu of taxes, as a franchise fee, as a payment in lieu of property taxes. How is it being described.

Mr. Rodriguez said, "It is simply a way the utility pays for the right of doing business inside the City limits now. A cable company pays franchise fees, a phone company pays franchise fees. When this utility operated in the City, it paid property taxes and also paid a franchise fee. The full concept of franchise fees is they absolutely depend upon the public right-of-way to do business, and so that costs something. Unlike the cable companies where a lot of those utilities are overhead and we don't see cuts across the street, etc., it's a perfect candidate for paying a higher franchise fee. What we're saying is that fee would be 12% based on what the going rate is, if you will. In some places it's higher, in some places it's lower, and I would recommend to you 12%."

Councilor Ives asked if the water used at City Hall results in a payment from the City Hall budget to the water company.

Mr. Rodriguez said we pay for water, but not for wastewater or solid waste.

Councilor Ives asked if this is true of every City department.

Mr. Snyder said, "Water is paid for by various City departments, all City departments that utilize water and wastewater and solid waste services are not."

Councilor Ives said he doesn't understand how those payments are reflected in our budgeting process, and doesn't want to spend time on it this evening. He said, "But know that I would like to see something that suggests how and why that is accomplished, including Parks and Recreation. And why don't we then do it for wastewater."

Mr. Rodriguez said, "To repeat a refrain that I've heard a lot since I've been here, is that's how we've always done it, you see. You recall in the BAR, we cut $400,000 out of the Parks water budget, so they'll be paying us around $1.6 million this year for water, weather permitting, etc."

Councilor Ives said, "I share Councilor Lindell's puzzlement. It seems a mechanism to move funds within the City platform that seems to justify an expense, rather than a rationale that explains the expense, so I'll just leave it there. And say I have those same concerns certainly."

Councilor Ives said Mr. Snyder said non-General Fund departments pay overhead according to a formula, not a percentage, and asked if that is correct.

Mr. Snyder said that is correct.

Councilor I've said, "I would like to see what that formula is, who it applies to, and how it's been applied over the last, say, 2-3 years, because I have no clue what that is or how it's applied. And is it a uniform formula for everybody that is a non-General Fund department."

Mr. Snyder said it is a budget prepared by Budget and Finance and he can provide that information.

Mr. Rodriguez said there was a handout explaining the math of that, commenting it's known as "Andy's Spreadsheet," and he is glad to provide that to him.

Councilor Ives said he recalls the spreadsheet, and he appreciates that "you understand everything that's on it. I am certainly not in that same position."

Councilor Ives said, of the 20 positions we say the Water company is picking up at this time, he would love to see how many positions similarly have been funded by the Water company over the past 5 years, so a little beyond the history of the current moment, to understand the burden in the past.

Mr. Snyder said, "We are not picking up an additional 20 Water positions. Those 20 Water positions are in the current fiscal year budget and they have evolved over time. I think I heard you ask for somewhat of a 5-year history, so there are no new positions being absorbed within the Water Division budget, this year's budget, that don't already reside in year's budget."

Councilor Ives asked if in the past five years, we've added an additional 10, that's what he wants to know.

Mr. Snyder said, "That's exactly what we're also trying to figure out, and that's part of the tangled web of how that came about, and a better understanding of that."

Mr. Rodriguez said, "I will tell you that Nick and I have a friendly disagreement as to what that number is, and so the way we're going to settle it, is that we're going to actually do that accounting, you're going to see that accounting, and it's going to come to you. At the end of the day we're going to ask you to vote on whether or not those positions are inside the utility, recognize that cost. And if it turns out that those positions are fewer than 20, then the utility will have to make up the difference of the $900,000 which we said sort if is the thing. I'm betting that it's less than $900,000. Nick is saying that it's higher, so you will ultimately decide that."

Councilor Ives said, "Nonetheless what I'd love to see is how many positions it has been over the past 5 years so I can have some perspective on it, as you bring that information forward."

Mr. Rodriguez said, "Yes. Right. You'll have that report in detail. It will be coming this summer. There's nothing we can do immediately, other than the print-out you got."

Councilor Ives asked if we build contingencies into our budget.

Mr. Rodriguez said, "Yes sir. Well, this budget has a contingency. In the past, it was sort of a general fund thing and you saw at the mid-course of the years. An official contingency."

Councilor I've said, "A budgeted contingency."

Mr. Rodriguez said, "No sir. For the first time that I, at least the budget size in the past, for the first time you're going to see a contingency reserve. Really, that's 5 days of operations, after meet a contingency, that's just to be absolutely clear. The State requires we have a reserve. You could call that a contingency. For our purposes, the State reserve isn't a contingency, we have to meet that any way. And if we dip below, then the State says things about that. So what we're talking to here is an amount slightly above that. The State's contingency is 30 days, and we are recommending 5 extra days of extra reserves and we're calling that specifically, a contingency. So in that sense, yes."

[Councilor Lindell's question here is inaudible because her microphone wasn't turned on]

Mr. Rodriguez said it's about $210,000 a day per day if there's a contingency, so the extra million dollars, etc., will be another 5 days approximately.

[Councilor Lindell's questions here are inaudible because her microphone wasn't turned on]

Mr. Rodriguez responded that was an amount above the State mandated balance, noting that nomenclature is new, and in the past it used to be an ending balance, and "so now we're trying to start to start the tradition of how much is in contingency so we don't have to talk about how much is in the State required minimum."

Chair Dominguez said if Councilor Ives has additional questions he can email Oscar or Brian, and "I'm sure they'll do the best they can to get us the information they need."

Councilor Maestas asked if it varies, and hopes he has one snapshot.

Mr. Rodriguez said yes, and the end of February.

a. **DEPARTMENT REVIEWS**

1) **ENTERPRISE AND SPECIAL REVENUE FUNDS (CONTINUED)**

2) **SUPPORT SERVICES**

3) **GENERAL GOVERNMENT**

Municipal Court

Judge Ann Yalman said they can live with the budget as presented.

Chair Dominguez asked if there is an expansion request.

Judge Yalman said no.

Chair Dominguez asked about her relationship with City-ITT.

Judge Yalman said they met with the ITT Director and talked about they would like to do, but she is looking forward to what is going to be happening. She said, "We don't have any in-house ITT and we are dependent on them, very."

Councilor Rivera asked if she is fully staffed.

Judge Yalman said they have two vacancies they are hoping to advertise for ASAP.

Councilor Rivera asked how long the positions have been vacant.

Judge Yalman said 2-4 weeks.

Councilor Rivera said the last time the Judge was before this Committee she was talking about a paper list system she was going to do, and she was having problems with scanning documents.

Judge Yalman said they asked for an office aide to help scan the old files which they have now, but in terms of new cases, they have been scanning everything. She said the problem is we don't have a "paperless judge," and she is really the bottleneck.

MOTION: Councilor Rivera moved, seconded by Councilor Trujillo, to approve the Municipal Court budget as presented.

VOTE: The motion was approved unanimously on a voice vote.

City Clerk

Yolanda Vigil, City Clerk, said she can go with the budget as presented. She said the only thing that is not here at this time is the request for the rank choice voting software which won't be available until the end of the year, possibly December. She spoke with the company that is creating the software which is thinking it will be ready by December, and then getting the software certified by the Secretary State. She said, "I don't think that this is something we can use for the 2016 election. However, I don't know if this Committee wants to consider funding a portion of the software or waiting. The current estimate for the software is $350,000 to buy the software."

Chair Dominguez said then the only thing which is missing from her budget is the Rank Choice software, and Ms. Vigil indicated it is.

Chair Dominguez asked if she manages the public financing, and Ms. Vigil said yes.

Chair Dominguez asked what is on the table for public financing, what is being discussed in terms of changing the numbers.

Ms. Vigil said nothing has been finalized, commenting everything is still at the ECRB [Election and Campaign Review Board] and she would hate to comment on any proposals, because nothing has been voted on at this point. She said for the current system, there is approximately $570,000 in the account for public financing, noting City Ordinance requires $150,000 to be deposited every year to maintain balances.

Chair Dominguez said this is money that sits in the City Clerk's budget for this specific purpose, and asked if the $570,000 will increase and Ms. Vigil said yes.

Chair Dominguez asked Mr. Snyder if the $570,000 is in the Clerk's office budget and asked if the $1.9 million includes the $570,000.

Mr. Snyder said on page 141, at the bottom it indicates public financing for elections, so the budget includes a recommended $300,000, noted the election expenditure for 13/14 was about $280,000. He said they will be replenishing what was expended for the last election is the recommended budget for the upcoming fiscal year.

Chair Dominguez asked if we are anticipating more expenditures in an Off-Mayor Election cycle.

Ms. Vigil said it's hard to say, noting they calculated 20 candidates for the upcoming election, and for a Judge and Council election in 2016, they would each get $15,000 if they qualified. She said, "My crystal ball is a little fuzzy right now and I'm not sure how many candidates there will be. And this is replenishing what was used last cycle which was about $285,000."

Chair Dominguez asked if there are a lot of candidates, where Ms. Vigil "would recommend taking money from to comply with the public financing."

Mr. Rodriguez said, "With the guidelines that we followed to build the budget which is don't lay anybody off, don't cut services and don't increases taxes, yes I guess I would go with a recommendation like that and maybe go up to 15%."

Councilor Maestas said, regarding rank choice, he thought the main issue in going to rank choice voting was the County provides voting machine. He asked if we can use the software to interface with these machines and implement rank choice.

Ms. Vigil said the software is being created by Dominion which is the company that supplied the new voting machines to the Secretary of State and the Counties, and they are making the software to be compatible with the machines.

Councilor Maestas said about 6 months ago a department came to us with a contract to begin digitizing records, and asked the status of digitizing records.

Ms. Vigil said she thinks that was a request by the Land Use Department to do its maps and plans and believes they are proceeding with that.

Councilor Maestas asked if each department decides how to manage its records, retention policies and determining whether or not to digitize.

Ms. Vigils said the Records Management Program is under the City Clerk's Office, and she thinks Land Use is one of the few that does its own records, noting everyone has to follow the State Records and Retention Schedule which the City adopts.

Councilor Maestas asked how she would characterize our records management system – 100% paper based, Land Use Department aside.

Mr. Vigil said she has mixed feelings about that. In the City Clerk's Office, all of the contracts, Resolutions, Ordinance and Minutes are available electronically and on the web. She said every department is trying to do that as well, noting election records, and financial documents are digitized and on the web. She said each department is going in that direction.

Councilor Maestas said he would like to look at a comprehensive records management system in next year or two to start digitizing records.

Ms. Vigil said she is trying to do early voting off site, as requested by Councilor Dominguez, Councilor Rivera and Mayor Gonzales and others. The goal this election cycle is to try to have off site voting at Genoveva Chavez for early voting. There would be early voting at the Clerk's office as well as at Genoveva. She will be proposing dates in the future, noting the County does Tuesday through Saturday, closed Saturday and Sunday, or they want to stick with Monday through Friday as in the City Clerk's Office. The other thing is that she, Mayor Gonzales and Mr. Snyder are working with the schools to try to move one of the in-service teacher training days to election day so the schools can be closed on election day. They would be doing voting convenience centers throughout the City so any voter could go to any

site, like early voting, and vote there. She would propose 3-4 convenience centers in each Districts, noting she is leaning toward 3.

Councilor Maestas said there are a lot of changes and asked if she has resources for public education.

Ms. Vigil believes there may be savings in going this way, because we won't use as many poll workers. She has a budget of $14,000 for postage to send district changes and any type of information to the voters. She said, "I believe we have it covered. And thank you for bringing it up, we will be having some District changes."

Councilor Rivera asked the annual cost to run the packets/binders for the Council meetings, and Ms. Vigil said she doesn't know.

Councilor Rivera asked the budget for duplicating and Ms. Vigil said it is $149,000. She said she would have to break out the number of copies.

Councilor Rivera asked if a significant amount is for Council packets.

Ms. Vigil said it's hard to say, because it includes all 70 committees established at this point.

Councilor Rivera said there had been discussion of looking at iPads instead of packets which would save considerable funds, and if there has been further thought about that.

Mr. Rodriguez said, "We took your okay to be a promise that you are going to migrate to that, so we are moving forward with that. We have the devices, and are in the process of selecting the software, and that will be debuting soon. The budget process kind of held anything back, but we should be having that in the next few Council sessions."

Responding to Councilor Rivera, Mr. Rodriguez said it will save $2,200 and $3,600 a month in doing that.

Ms. Vigil said, with regard to rank choice voting, the way the Charter reads is that we will purchase the software as soon as possible, also provides when it is available and reasonably priced. So at some point we'll have to have the discussion if $350,000 is considered reasonable.

MOTION: Councilor Rivera moved, seconded Councilor Maestas, to approve the budget of the City Clerk as presented.

VOTE: The motion was approved unanimously on a voice vote.

Human Resources

Lynette Trujillo presented information regarding the proposed budget from the budget book. Please see Exhibit "1" for specifics of this presentation.

Ms. Trujillo said in the last year Human Resources has processed manually: more than 1,600 personnel actions, 378 background checks, more than 370 Police and Fire, assisted in 36 disciplinary actions, and certified 2,583 applications with a list of 314 of eligibles analyzed. They also have: transcribed 19 investigations and disciplinary proceeds in-house, and 231 requests for training and tuition assistance and monitored more than 200 requests for medical leave. She said there is a request to increase the overall budget based on some of these processes: Arbitration hearings, conduct background checks, copying and processing the applications, certified mailing as required and training. She requested consideration of these increases to the HR budget.

Councilor Rivera said there is no itemized list in the packet of where the increases are proposed. He asked about the Other Operating Costs on page 134.

Mr. Rodriguez said this is the area of the increased costs requested by Ms. Trujillo and services that don't fall otherwise under contractual and utilities.

Councilor Rivera asked if Other Operating Costs are considered to be part of the General Fund.

Mr. Rodriguez said, "Yes, of course, but H.R.'s budget is distributed to the Utilities and Enterprise funds, so they pay for some of this. So the entire amount that's here.... and you see how it's broken out here. The entire amount that is here is not borne solely by the General Fund, because this is part of what is distributed to the other utilities."

Councilor Rivera said then there is a request to increase the General Fund by $300,000, Other Operating Costs is also being increased, and asked if this is for the increases Ms. Trujillo just described.

Ms. Trujillo said this is correct, noting H.R. is mainly funded by the General Fund noting Risk Management and the Safety are the only ones paid out of a different funding source – the Legal, Arbitration all of the other things she mentioned will be coming out of that operating cost.

Councilor Rivera asked if the background checks are done only on new hires.

Ms. Trujillo said, "No. It is done on Police Officers, Fire Candidates and for promotions and on some fraud issues. So yes, unless there is a transfer or promotion and they have not had a background in the past, we will do it now."

Councilor Rivera asked if we do routine random personnel background checks.

Ms. Trujillo said no, it has to be part of the job description with "those qualifications and the background has to be presented in there."

Councilor Rivera asked what is Transfers to Other Funds in the amount of $75,000.

Mr. Snyder said it is the GCC for the Wellness Program, noting he spoke with Parks & Recreation on Tuesday, Sue Perry. Mr. Snyder said, "To add to the background checks, years ago it is my understanding we did, many years ago, maybe 5 plus years ago, we used to do background checks on all employees and that was scaled out of the budget because of the costliness of it. And it was put into Police and Fire Public Safety type positions."

Ms. Trujillo said backgrounds also are done on those employees with access to children.

Chair Dominguez asked if they do background checks for the BDD and Ms. Trujillo said no. He asked if background checks are done on Water, and Ms. Trujillo said no. He asked if Water pays for its own background checks.

Ms. Trujillo said no background checks are done for Water or BDD.

Mr. Snyder said there also are no background checks for utilities employees at all.

Councilor Rivera asked if background checks are done on all new hires.

Mr. Snyder said no, and because of the cost it was scaled back just to Fire & Police, employees at GCCC or employees that work with children and youth.

Chair Dominguez asked if we are going to start doing background checks on everyone.

Mr. Snyder said, "No. The proposed budget, the City Manager budget is no different from the standpoint of what we're doing in terms of background checks in the current year's budget."

Councilor Trujillo said his concern is about people who drive City vehicles, and asked if there is a background for a CDL, asking if this is where we find out if there is a DWI or something like that on their record.

Ms. Trujillo said they will do a Drivers License check to look at the driving history to assure they have a valid Drivers License or a DWI.

Councilor Trujillo said, then that is mandatory with all new hires and Ms. Trujillo said yes.

Mr. Snyder said we get reports every time there is a license status change for a City employee. It is also the employee's responsibility to report any change in their license status to their supervisor and H.R.

Councilor Ives asked how many FTEs are in H.R.

Ms. Trujillo said there are 13.

Councilor Ives said he received an email earlier today from Mr. Rodriguez showing City employee account by fund and HR is listed as having 9 FTEs and asked what he is missing.

Mr. Rodriguez said there are a number of different departments that fund employees in H.R., noting if he will look at the list he will see how some of those funds are allocated. The list is given by fund and by department, noting it is toward the bottom of the list.

Councilor Ives asked if there is sufficient funding for training of City Employees that is required to help people into career paths and becoming more efficient in their job duties.

Ms. Trujillo said, this is part of the reason for the request to increase the Training budget, noting they have one trainer, Patrick Gallagher. She said not too long ago they hired a company under contract to do some of the leadership training. She said she and Patrick are trying to do this in-house, and Patrick has been working with different State agencies and different counties to get some of their materials. She has given him some materials from her previous employer to start this training to give the appropriate tools to the supervisors and managers to assist them on a career path, as well as those needing CDL license. They are also are working with universities and colleges, including the Community College, to bring in some accounting courses for the Financial people, and such, so they are planning to do that.

Councilor Ives asked Ms. Trujillo if she would say they have a robust career path program within the City.

Ms. Trujillo said no, not at this time.

Councilor Ives asked what it would take to get us there.

Ms. Trujillo said looking at the classification and compensation package together, making sure those career ladders are in place, and then giving the tools to those employees to get to those careers.

Councilor Ives asked what is needed to do this – a reasonable time and what do you need to get there.

Ms. Trujillo said it takes 1-2 years to do the full thing – a compensation and classification study, and the training. She said it depends on the staffing and how deep we go into it.

Councilor Ives asked if this is something she would contract or do in house.

Ms. Trujillo said it likely would be contracted, because currently she is only one with compensation study experience. She said she can do it, but it would take a very long time.

Councilor Ives asked if there is anything in the budget that could be used to do that, and Ms. Trujillo said, no, not at this time.

Councilor Ives asked if there is a built-in contingency in the budget, and Ms. Trujillo said no.

Councilor Ives asked how much such a study would cost.

Ms. Trujillo said it would cost $652,000.

Chair Dominguez said part of the performance evaluation takes us in that direction.

Mr. Snyder said it was part of his performance evaluation and it was removed. He said he thinks it's a very good idea. He said currently we do a piecemeal approach. If something comes up, we look at it section by section, but to get a full evaluation of all 1,500 employees, we need a true compensation classification study. He said to truly to this right, it would take years to implement the changes, build the career ladders – it's a long term process.

Councilor Ives said it sounds like we're not planning on doing the first step in this budget year.

Mr. Snyder said that is correct, noting "I was told not to do it last year and I did not propose it this year."

Chair Dominguez said, "It was part of the Memo that I gave to the Governing Body the night that we approved the contract. It wasn't specific to just that. There was other stuff in there, but in my own defense."

Councilor Ives said this is a very important thing for the City to undertake, and asked when the last such study was done.

Sandra Perez, Outgoing H.R. Director, said the last complete study was done when they contracted to do the Evergreen Study in 2008 or 2009. It was not expensive, and the contract was under $50,000, and basically they came in studied the jobs, told us exactly what we already knew, and provided us with some makeshift job descriptions which were given to H.R. staff to expand upon, complete, put in all the levels. She said when they started to match the classifications with the jobs they were describing, they found that the boilerplates they had used and mirrored from another organization didn't match our work, so it would mean a massive rewrite – basically redoing the classifications descriptions. There were some job measurement and compensation recommendations saying take the separate pay plans, and put it into one plan, and pushing merit pay and going after a merit based system. She said they didn't have the performance measurement tools in place at the time, so it "really just fell flat." It was a nice contract to tell us basically what we already knew.

Ms. Perez said they have used a good portion of that work as springboards forward when they did mini classification series, rewrites, or right sizing some jobs. They still refer back to it periodically. She said to do what needs to be done, she priced it through Pay Scale, and they gave us the amount without the classification work, plus the implementation costs and what it takes to move employees up, and you're talking about a lot of money. She said, "To do it right, that's what you've got to look at."

Councilor Ives asked what would be covered by the $662,000.

Ms. Perez said it would cover right-sizing the jobs by description, a market study on the compensation and pay plans as is. It would include the identification and recommendation of pay philosophy, and then decide the comparative and competitive markets, what are you paying on the recession line and the median line. So it would be all of the compensation work to set up and establish a baseline pay system, and not just make-shift with what we've done. So you have to start from scratch and move from there.

Councilor Ives asked the best practice in terms of doing such studies for entities such as the City.

Ms. Perez said the best practice set there by industry standard, is the Hay System out of California and in all of the HR 101 textbooks. It's a job measurement system.

Councilor Ives asked how often this should be done.

Ms. Perez said you establish the pay scale and monitor that against the market every year, and do a classification review ever 5 years. You either need to contract with someone, or someone on staff to keep up with everything.

Councilor Ives said then we're 10 years behind.

Ms. Perez said, full scale, cover to cover, she doesn't know when the City has done it, and it has been handled in the series as they stand. She said Gary Bartlett and Vicki Gage have done a good job trying to keep track. The ones that have stayed up to date as far as job descriptions would be Fire and Police, but not necessarily in the comparative market on pay.

Councilor Ives said we've discussed an annual review process, and asked if there are funds in the budget to ensure there is such a robust process within the City.

Ms. Perez said there was a small expansion put in, to hire a performance management expert to put together a group at the top of the house that would help design the system. If it's accepted at the top and flows down, it is more likely to be adopted. They did start with the leadership program and knew it would be some of the "same people at that group that would be in the other, and it really would have been too much and the performance management system would not have been served well and it would have fallen flat." She recommended that we back off and wait until next fiscal year. She said the magic isn't in the form, it's in the process. She said that work could begin with some of the expansions, those discussions.

Councilor Ives said all of these are high on his priority list for the workforce, and he will talk more later about the programs needed and to acquire those programs and implemented.

Chair Dominguez asked if the City had a study done in 2006-2007, saying he recalls discussions.

Vicki Gage, Human Resources, said they haven taken stabs at a compensation and classification program. One was brought before the Council 2010, the one Ms. Perez talked about, with the finished

product coming in 2010 which was lacking, and gave examples of that. She said they realized that even if they spent, as a group, every single day all day, we weren't going to get it done.

Chair Dominguez asked the number of desk audits that have been done.

Ms. Gage said she doesn't know the number, but they have done various desk audits throughout her time with Human Resources. They look at a lot of petitions from employees who feel they are in a pay inequity, especially in AFSCME, based on City Seniority and pay rate.

Chair Dominguez said those are more like individual classification and compensation studies, and Ms. Gage said yes.

Chair Dominguez said it's okay, as long as we're fair across the board about who gets those done, and not just handpicked people getting the desk audits being done.

Councilor Trujillo said he agrees with Councilor Ives that we need to get this done. He said they had a study at the State and then it just died. He wants to be part of those discussions.

Councilor Lindell asked about the policy relating to the medical and not having that in the budget.

Ms. Perez said she is unsure if that is in the budget, but thinks it would be wise to include it in the budget and make that adjustment. She understands negotiations with the Fire Department have gone well, there was significant agreement at the table and they are now meeting with their members. She said the Police Department hasn't gotten to the table. She spoke with the Chief earlier and they are meeting with the members of the negotiating team, noting those with whom she has spoken is that they are positive about co-payments and the massage benefits.

Councilor Lindell asked when it will be reflected in the budget.

Mr. Rodriguez said there is legislation being considered that could change it, but the assumption was that whatever savings that came out of that wouldn't affect the rest of the budget and would go into the Employee Health Fund. The impact to the budget is that there would be a higher balance in that fund than what is projected.

Councilor Lindell asked about the legislation that could impact that.

Mr. Rodriguez said he understands there is legislation to hold off on that until the union negotiations are done which could impact savings, if any. Once they get those numbers they can know the impact on the rest of the fund.

Councilor Rivera asked, regarding the 2008 Compensation and Classification study that was done, what was the amount to get everybody right City-wide in terms of salaries.

Ms. Trujillo said she doesn't remember that figure, noting a handful of positions was recommended to be looked at and then make decisions on how the rest were going to fall into place. She doesn't want to speculate on that number, but it was quite expensive.

Councilor Rivera said we have to be able to do what any study recommends, or just save the money, commenting he thinks that's what happened in 2008.

Councilor Rivera asked how the HR budget came to be overspent by $70,000 in the current fiscal year.

Ms. Perez said several things, we are double filling positions as a means to transition from one H.R. Director to the new H.R. Director, the College intern wasn't budget and she stayed on payroll 1-2 days a week when she went back to school to finish a project to clean up data for the E1 system so we can turn on the position control module as we prepare for the migration to a new ERP system. Additionally they hired an additional employee to help at the front desk and prepare for Rosemary Mendonca's retirement so she could take over that recruitment and selection process without a hiccup.

Councilor Rivera said then it was primarily salaries.

Ms. Perez said yes.

Councilor Ives said across the City there is a significant amount of accrued leave of all kinds. He asked what is the plan to deal with that and how is the value of that reflected in the budget, if at all.

Mr. Rodriguez said it is reflected in the reserves. He said in the unlikely event that hundreds of people should suddenly leave, then we would go to Council for permission to tap those reserves. He said currently, when someone leaves, the department assumes responsibility for the cost of that payout and they try to budget accordingly for that. They will have to increase vacancy savings to pay off the payout.

Councilor Ives asked if it makes sense that the contingency should be an amount equal to the estimated value of the accrued leave.

Mr. Rodriguez said, "No sir, I wouldn't recommend that, we would be getting to the more radical conservative territory. Here's what I think we do here, and it's been my experience everywhere else is that you expect to go more less than normal and there won't be a sudden migration of employees. We had a lot of people to leave because of PERA changes, etc., and that's one of the largest migration we've seen from organizations like this and that was assumed with the reserves at the time. Our plan is eventually to get to 45 days in reserves."

Councilor Ives said that amount would be roughly $9-10 million.

Mr. Rodriguez said yes.

Councilor Ives asked Mr. Rodriguez if he is comfortable with that amount.

Mr. Rodriguez said for him to recommend reserves in that amount would be because he believes a large number of employees are going to leave this year, and doesn't believe we are at that stage.

Councilor Ives asked, given 30 days is required by the State, is this is a valid use of the reserves required under State law.

Mr. Rodriguez yes. He said the State doesn't legislate how we can use it, but provides we should keep that amount to pay bills and such. He said in January we were down to $50,000 above the required 30-day reserve. He things are looking a lot better now.

Councilor Ives asked, in terms of the excess value of leave over reserves, is there a requirement to reflect that in the budget.

Mr. Rodriguez said no, unless you think there is something impending that will cause a lot of people to leave.

Councilor Ives asked the policy when someone leave who has significant accrued leave, and Mr. Snyder said they typically stay on the books until all annual leave is expended.

Councilor Ives asked the highest total amount of annual leave for any City employee, the total number of accrued annual leave hours.

Mr. Snyder doesn't know. He said, for example, when Marge Sandoval, Executive Assistant to the Mayor, retired she was on the books for almost a year.

Councilor Ives said presumably there are employees with that level of accumulated leave.

Mr. Snyder said he can't answer that question. He said he gave an example to Council several meetings ago of himself. He has been with the City for 11 years, but he doesn't take much time off, and he has over 900 hours of annual leave, and he's not halfway to retirement.

Councilor Ives said he wants to highlight present policy which is rather than fill a position which was left by a fairly high level exempt employee, we leave a vacancy open until the amount is paid out, and that could be a year or more, leaving that position vacant. He thinks that creates some difficulties. He looks forward to a discussion about that in the future, noting he has more information to share with the other Councilors.

Chair Dominguez said the challenge is in defining what is critical and important, and certainly warrants more discussion.

MOTION: Councilor Lindell moved, seconded by Councilor Rivera, to approve the Human Resources budget as presented.

VOTE: The motion was approved unanimously on a voice vote.

Finance

Mr. Rodriguez noted the handout correcting the error made in the Finance Committee budget, noting the actual numbers go down, but the number which ties to the ending balance doesn't change [Exhibit "15"]. He said this doesn't free-up any money in the General Fund. Mr. Rodriguez explained the change. He said they are trying to change the business model from control to more of a service where we enable the department to handle its financial resources. Mr. Rodriguez said next year Finance will assume responsibility for the CIP plan, as well as to plan for a new ERP. You will hear about that when we do our capital improvement planning. A new ERP is a new financial accounting system. The one we have right now is a manufacturing operation accounting system which we modified, which has left us with limited capability for payroll and budgeting as well as other areas. He said it has to be supplemented with Excel Spreadsheets or pay for extra software to keep these going. This will be the big project next year and these are sufficient resources to do that.

Mr. Rodriguez said, "There is only one thing that doesn't appear here, and appears as a small little line item in many of the different source of funds, and I say this to put you at ease about one area. We are going to be buying a $54,000 debt management software. Right now, all of that lives in spreadsheets in Helene Hausman's head. I sleep well at night because of her, and just knowing how *[inaudible]* she is and how everything is running over there. The problem is it's only there and that is not a good situation for an organization like this. She manages many millions of dollars and we desperately need to put that into a software, so when she retires or as she says, gets hit by a truck, that we can go to a standard software and find out where everything is and that can time things, generate reports, etc. right now, it's all in her mind and I just feel very uncomfortable with that, despite having Helene there who I think does a great job. Anyway that does not appear, this specific thing, but I do want to point it out to you because it's an important change and we should all feel more comfortable with that going forward."

Councilor Rivera said the budget shows an increase of 5 people for FY 15/16.

Mr. Rodriguez said, "We are increasing by no positions. But what that does there, it counts the latest positions that were counted last year. There were a number of positions that were counted that were spread out in different places, and until last year were counted in other departments, for example the Utility Department. Now all of those are being counted in our Department, but there is no increase in FTEs.

Councilor Rivera said then the new number of personnel in the Finance budget will be 55.

Mr. Rodriguez said yes, and it is the same as it always has been, but all those people are appearing in one place.

Councilor Ives asked about the new ERP system.

Mr. Rodriguez said he will be bringing it to the Council as a proposal to be considered along with all of the other capital investments the City has to make. He said, "We're going to launch a study of that this year, and hope to get the result sometime in the late summer, maybe early fall, with enough time we can tell you, look, if we've got a new ERP, this is the general direction we would go and that would cost X

dollars. These days there's two very big areas of different ways we can go. We buy the mainframe the machine, the hardware itself and keep it here, or we subscribe to a service and work in the cloud."

Councilor Ives asked if this will allow us to right size payroll and similar functions.

Mr. Rodriguez said yes, among other things. For example we won't have to go to spreadsheets and the uploading and waiting for up to ½ an hour for the system upload, but we expect to have a budget module, a straight ahead payroll module, and a lot of information we have will be part of this system and it will be a lot easier.

Councilor Ives would like to understand what the efficiencies and savings will be, once that system is in place.

Responding to Councilor Ives, Mr. Rodriguez said the $54,000 for the software upgrade appears as a piece of the line item in many different funds – Utilities, Capital Improvement, Recreation – up to $54,000 and mentions this to be totally transparent and put you at ease.

MOTION: Councilor Maestas moved, seconded by Councilor Lindell, to approve the Finance Department budget as presented.

VOTE: The motion was approved unanimously on a voice vote.

City Attorney

Kelley Brennan, City Attorney said, "I stand for questions."

Chair Dominguez asked if our liabilities are increasing in terms of terminations or tort claims, "or any of that stuff."

Ms. Brennan said she can't give a specific report, but said, "I think I can say that over time we have a very good record on claims and that should continue."

Chair Dominguez said it would be helpful to see a report.

Ms. Brennan said, "I think I could do a report in Executive Session that probably would be helpful.

Chair Dominguez asked how much we are planning on outsourcing.

Ms. Brennan said, "We don't really outsource very much. I did ask for money in this year's budget, because we do see a number of things coming up. As you know, we've discussed some of them in Executive Session. Usually if we have some litigation we want to actively pursue or want to take depositions or something, we either have to do without or we have to go hat in hand to departments that may have some funds and may support litigation. And so I have asked that we have a fund that when we

talk about litigating something, the Hold Harmless GRT for example, we might discuss, or an arbitration over water rights, or something like that, that rather than have to see if we can scare up some money to do that, we have the funds we can go to when authorized. We can't undertake any positive litigation or other litigation without going to you in any event so you would always know where those funds were going."

Councilor Ives asked if the budget contains the fund within the department.

Ms. Brennan said, "It is built into the City Manager recommendation amount."

Councilor Ives asked if it is in Other Operating Costs, and what amount is being recommended.

Ms. Brennan said it is $50,000.

Mr. Snyder said, "It is rolled into Other Operating Costs or Contractuals and Utilities. One of those two line items will have the $50,000 recommendation for the City Attorney's Office. Page 141, the middle table, Other Operating Costs or Contractuals and Utilities depending on how it is characterized."

Ms. Brennan said, "I just wanted to add and this goes back to Chair Dominguez's question, we did have a contract with an outside attorney to assist our prosecutor. And I did eliminate that contract, and we have a part time person who is helping back up that position."

Councilor Ives said he presumes Ms. Brennan has all of the spreadsheets that feed into these tables, and Mr. Probasco said yes.

Councilor Maestas asked what would be the formula to more fairly spread department shares of legal costs burdens among divisions. What is an example factor – how do you spread the Department's share of legal costs.

Mr. Rodriguez said it should be done based on an annual assessment of where people spend their time.

Councilor Maestas asked who oversees this process.

Andy Hopkins said, "You're looking at him. I pretty much created that spreadsheet and do it all, and the case of the Attorney's Office, that's done, based on the allocation of risk costs which is based on the number of claims. Risk costs also are based on things such as personnel, vehicles in a fleet assessment, but mostly the basis is personnel in the case of the risk assessment that the larger the department, the more risk. You can make an argument against the general notion of using the risk assessment as a basis for the attorney's assessment. I didn't have anything out there really better that I saw that would allocate those costs necessarily or provide a better allocation of those costs than simply assessing the risk on the assumption that more risk equals more legal involvement by Kelley and her folks."

Mr. Hopkins continued, "And just as with the rest of this, I certainly make no claim to it being perfect. It's something I update ever year. I'm not saying I'm not proud of my work on it, but like Oscar was saying, that's what a lot of cities do, including where I used to work, in Wichita, there would be a cost allocation plan where they would actually go through and measure peoples' times."

Mr. Hopkins continued, "But I will tell you, one of the reasons it's not something we've really pursued here is that just doing a rough calculation with Cal the other day, based on how much it cost in Wichita to do it back when I was there 15 years ago, and the relative size of Wichita and its budget, compared to ours, I estimate probably in today's dollars a cost allocation plan would cost us probably about $200,000 to do. So yes, while we would capture a lot of costs that way and have a much firmer basis for it, that comes with a pretty hefty cost. Yes, $200,000. I don't claim to be perfect, but I am a bargain and I cost you far less than $200,000 and you pay me anyway."

Councilor Maestas thanked him for the information, and said then the cost allocation is being done more on an informal basis at a much better price. He said this make sense. He said, "But what I don't want this to do is that we set the budget and then we allocate the risks to set the budget. The overall risk, should determine the overall budget, and I don't think we're doing that when you think about all the issues in IT and not having a backup generator. So this is good for a relative allocation of risk, but I think the budget is still controlling, and so I want to see us move beyond that. And at some point, I think we should look into this black box and actually see what those factors, see how these vary from year to year, see what your methodology is."

Mr. Rodriguez said we could make this come to the Finance Committee every few months and approve the methodology, etc., on it.

Mr. Hopkins said he is available at the convenience of the Finance Committee and the Governing Body to explain everything. He said it is very complicated and the reason he gave only the short explanation. He said if he puts the whole thing out for you, it doesn't fit on a page of paper so some of it you can't read without a magnifying glass. Mr. Hopkins said he doesn't balance anything based on this. All this does, the cost allocation plan, takes last year's actual costs and allocates them. So that leaves him a year behind, but it has the benefit of saying he isn't allocating costs based on budget, projections or anything else. He is basing it on actual dollars that have left the General Fund and have been spent. The advantage is that he knows actually what he's allocating.

Councilor Maestas said the longer we continue to defer things that translate into the higher and higher risk, without resources to match the increased risk because we're deferring a lot of things, is the danger in this. He said we need to start allocating some costs to this, and the total costs should be increasing. He said this is a philosophical point he wanted to make.

MOTION: Councilor Trujillo moved, seconded by Councilor Maestas, to approve the City Attorney's Office budget as presented.

VOTE: The motion was approved unanimously on a voice vote.

Chair Dominguez said we aren't going to get to ITT this evening.

b) PUBLIC HEARING

There was no one speaking to the request.

18. REQUEST FOR APPROVAL OF RESOLUTION ADOPTING CITY OF SANTA FE'S OPERATING BUDGET AND ORGANIZATIONAL CHART FOR FISCAL YEAR 2015/2016. (OSCAR RODRIGUEZ)

No action.

19. OTHER FINANCIAL INFORMATION

There was no other financial information.

20. MATTERS FROM THE COMMITTEE

Chair Dominguez said at the next meeting we will continue the discussion on the budget

Chair Dominguez said we have to "have something out the door from the Finance Committee," not later than May 15, 2015."

Mr. Rodriguez said we have to submit the budget to DFA by June 1, 2015.

Chair Dominguez said that means it has to be approved by the Governing Body by May 27, 2015, and Mr. Rodriguez said that is correct.

Chair Dominguez said he will work with staff to set up the next meeting, perhaps a half day session on the budget on May 14th, with the regular meeting on May 18th to wrap up anything needed.

Councilor Maestas said he has additional questions, and suggested that Committee members submit all of their questions to staff, so staff can get the answers prior to the next meeting.

Chair Dominguez agreed, and said if we want those presented publicly we can do that.

Councilor Dominguez said at the next meeting we will consider the budgets of Parking, Internal Audit Department, ITT Department, the City Manager, the Mayor's Office and the City Council. He will be working with Mr. Snyder to schedule a special meeting.

Councilor Maestas said it would be better for him if the meeting is set for mid-afternoon.

Chair Dominguez said he will ask Mr. Snyder or Mr. Rodriguez to poll the Committee to make sure we consider everyone's schedule, and then they will get together and set a date.

21. ADJOURN

There was no further business to come before the Committee, and the meeting was adjourned at approximately 9:15 p.m.

Carmichael A. Dominguez, Chair

Reviewed by:

Oscar S. Rodriguez, Finance Director
Department of Finance

Melessia Helberg, Stenographer