



**SUMMARY OF ACTION  
FINANCE COMMITTEE MEETING  
Monday, February 17, 2014**

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**MINUTES OF THE  
CITY OF SANTA FE  
FINANCE COMMITTEE**  
Monday, February 17, 2014

**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, February 17, 2014, in the Council Chambers, City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico.

**2. ROLL CALL**

**MEMBERS PRESENT:**

Carmichael A. Dominguez, Chair  
Councilor Christopher Calvert  
Councilor Bill Dimas  
Councilor Peter N. Ives

**MEMBERS EXCUSED:**

Councilor Patti J. Bushee

**OTHERS ATTENDING:**

Marcos A. Tapia, Finance Department  
Yolanda Green, Finance Division  
Melessia Helberg, Stenographer  
Elizabeth Martin, for Melessia Helberg.

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**

Mr. Tapia said Item #12 is being pulled, for indefinite postponement.

Mr. Tapia said there is a Finance Committee meeting scheduled for March 3, 2014, and he and the Chair had discussed canceling it, or carrying it forward to March 17, 2014.

Chair Dominguez said we'll handle that when we get to Matters from the Committee.

**MOTION:** Councilor Dimas moved, seconded by Councilor Ives, to approve the agenda, as amended.

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

**4. APPROVAL OF CONSENT AGENDA**

Councilor Ives said he needs to be added to Item #25 as a cosponsor, but he doesn't need to pull the item.

**MOTION:** Councilor Calvert moved, seconded by Councilor Ives, 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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- 7. **REQUEST FOR APPROVAL OF MEMORANDUM OF UNDERSTANDING – 2014 DAY REPORTING PROGRAM FOR JUVENILES; COUNTY OF SANTA FE. (RICHARD DeMELLA)**
- 8. **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – INSTALLATION OF AUTOMATED OVERHEAD TRACK GATE AT BUS YARD FOR TRANSIT DIVISION; GATE-IT ACCESS SYSTEMS. (KEN SMITHSON)**
  - A. **REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND.**
- 9. **REQUEST FOR APPROVAL OF CHANGE ORDER NO. 2 TO CONSTRUCTION CONTRACT – SANTA FE RESERVOIRS INFRASTRUCTURE IMPROVEMENTS PROJECT UNDER ALTERNATE A – OWNERS CONTINGENCY; RMCI, INC. (ROBERT JORGENSEN)**
- 10. **REQUEST FOR APPROVAL OF ALAMEDA RAIN GARDENS PROGRAM – CONSTRUCTION OF STORM WATER IMPROVEMENTS ALONG EAST AND WEST ALAMEDA STREET; SANTA FE RIVER VOLUNTARY RIVER CONSERVATION FUND. (BRIAN DRYPOLCHER)**
- 11. ***[Removed for discussion by Councilor Ives]***
- 12. **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – COMPRESSED NATURAL GAS (CNG) FUELING STATION UPGRADE AND EXPANSION PROJECT FOR TRANSIT DIVISION (RFP #13/23/P); CLEAN ENERGY. (JON BULTHUIS) Removed from the Agenda and postponed indefinitely.**

13. CIP HIGH SPEED INTERNET PROJECT. (SEAN MOODY)
  - A. REQUEST FOR APPROVAL OF TELECOMMUNICATIONS SERVICES AGREEMENT; CYBER MESA COMPUTER SYSTEM, INC.
  - B. REQUEST FOR APPROVAL OF MEMORANDUM OF UNDERSTANDING; STATE OF NEW MEXICO DEPARTMENT OF INFORMATION TECHNOLOGY.
  
14. REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO DIRECT PURCHASE OF SERVICES VENDOR AGREEMENT FOR SENIOR SERVICES DIVISION; NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT NON-METRO AREA AGENCY ON AGING. (RON VIALPANDO)
  - A. REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND.
  
15. REQUEST FOR APPROVAL OF GRANT AWARD AND AGREEMENT – STATE GRANTS-IN-AID TO PUBLIC LIBRARIES; NEW MEXICO STATE LIBRARY AND SANTA FE PUBLIC LIBRARY. (PATRICIA HODAPP)
  - A. REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT AWARD.
  
16. REQUEST FOR APPROVAL OF A RESOLUTION RELATING TO A REQUEST FOR APPROVAL OF SECOND QUARTER (MIDYEAR) BUDGET ADJUSTMENTS FOR FISCAL YEAR 2013/2014. (CAL PROBASCO)
  
17. REQUEST FOR APPROVAL OF A RESOLUTION AUTHORIZING AND APPROVING SUBMISSION OF A COMPLETED APPLICATION FOR FINANCIAL ASSISTANCE AND PROJECT APPROVAL TO THE NEW MEXICO FINANCE AUTHORITY FOR THE PROCUREMENT OF SEVEN HEAVY DUTY TRANSIT BUSES (COUNCILORS CALVERT AND BUSHEE). (JON BULTHUIS)
  - A. REQUEST FOR APPROVAL OF PUBLIC PROJECT REVOLVING FUND EQUIPMENT APPLICATION – REPAYMENT PLAN FOR PROCUREMENT OF SEVEN (7) REPLACEMENT TRANSIT BUSES; NEW MEXICO FINANCE AUTHORITY. (JON BULTHUIS)

Committee Review: Public Works Committee (approved) 02/10/14; and City Council (scheduled) 02/26/14). Financial Impact – Yes.
  
18. REQUEST FOR APPROVAL OF A RESOLUTION AMENDING THE ADMINISTRATIVE PROCEDURES FOR THE SANTA FE HOMES PROGRAM TO REFLECT THE AMENDMENTS TO THE SFHP ORDINANCE APPROVED BY ORDINANCE 2014- \_\_\_\_ (COUNCILOR WURZBURGER). (ALEXANDRA LADD) Committee Review: Public Works Committee (approved) 02/10-14; and City Council (scheduled) 02/26/14). Financial Impact – No.
  
19. REQUEST FOR APPROVAL OF AN ORDINANCE AMENDING SUBSECTION 6-4.2 SFCC 1987 REGARDING MEMBERSHIP REQUIREMENTS FOR THE CITY COMMUNITY DEVELOPMENT COMMISSION (COUNCILOR WURZBURGER). (ALEXANDRA LADD) Committee Review: City Council (request to publish) 02/26/14; and City Council (public hearing) 03/26/14). Financial Impact – No.

20. **REQUEST FOR APPROVAL OF A RESOLUTION SUPPORTING THE CONTINUATION OF THE COMMUNITY DEVELOPMENT PROCESS TO REVITALIZE CENTRAL SANTA FE AND OUTLINING THE NEXT STEPS OF THE REMIKE PROJECT (COUNCILORS WURZBURGER AND IVES). (KATE NOBLE) Committee Review: Economic Development Review Subcommittee (approved) 02/02/14; Public Works Committee (approved) 02/10/14; City Business & Quality of Life Committee (scheduled) 02/18/14; and City Council (scheduled) 02/26/14. Financial Impact – Yes.**
21. *[Removed for discussion by Councilor Dimas]*
22. **“ARTS + CREATIVITY CENTER” (COUNCILORS WURZBURGER, RIVERA, IVES, MAYOR COSS AND COUNCILOR CALVERT). (KATE NOBLE)**  
**A. RESOLUTION DIRECTING STAFF TO WORK TO SUPPORT DEVELOPMENT OF THE SANTA FE “ARTS + CREATIVITY CENTER” AS AN ECONOMIC DEVELOPMENT PROJECT TO PROVIDE AFFORDABLE LIVE, WORK, CREATION, PERFORMANCE, SALES SPACE FOR ARTISTS AND CREATIVE BUSINESSES IN SANTA FE AND TO STRENGTHEN SANTA FE’S ECONOMY.**  
**B. REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT, CREATIVE SANTA FE, SITE SELECTION AND SITE CONTROL**  
**Committee Review: Economic Development Review Subcommittee (approved) 02/03/14; Public Works Committee (approved) 02/10/14; City Business & Quality of Life Committee (scheduled) 02/18/14; and City Council (scheduled) 02/26/14. Financial Impact – Yes**
23. *[Removed for discussion by Councilor Calvert]*
24. **REQUEST FOR APPROVAL OF A RESOLUTION RELATING TO THE REPLACEMENT POWER/ENERGY PLAN PROPOSED TO REPLACE 836 MEGAWATTS AT THE SAN JUAN GENERATING STATION; URGING THE NEW MEXICO PUBLIC REGULATION COMMISSION TO REJECT PNM’S REPLACEMENT PLAN AND CLAIM FOR COST RECOVERY OF STRANDED ASSETS AND SUPPORT AN ALTERNATIVE RENEWABLE-ENERGY BASED REPLACEMENT PLAN (COUNCILORS RIVERA, DIMAS, CALVERT, DOMINGUEZ, TRUJILLO, AND-BUSHEE AND IVES). (NICK SCHIAVO). Committee Review: Public Utilities Committee (approved w/amendment) 02/05/14; and City Council (scheduled) 02/26/14. Financial Impact – No**
25. **REQUEST FOR APPROVAL OF A RESOLUTION DIRECTING THE TRAFFIC ENGINEERING DIVISION TO RECONSTRUCT THE MEDIAN AT ZIA ROAD AND GALISTEO ROAD SO AS TO RESTRICT LEFT TURN MOVEMENTS TO AND FROM GALISTEO ROAD AND TO INCREASE THE LENGTH OF ZIA’S EASTBOUND DUAL LEFT-TURN LANE AT THE ST. FRANCIS DRIVE SIGNALIZED INTERSECTION (COUNCILOR DIMAS). (JOHN ROMERO) Committee Review: Economic Development Review Subcommittee (approved) 02/03/14; Public Works Committee (scheduled) 02/10/14; Public Safety Committee (scheduled) 02/18/14; and City Council (scheduled) 02/26/14. Financial Impact – Yes**

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**END OF CONSENT AGENDA**  
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**5. APPROVAL OF MINUTES: REGULAR FINANCE COMMITTEE MINUTES – FEBRUARY 3, 2014.**

**MOTION:** Councilor Ives moved, seconded by Councilor Dimas, to approve the minutes of the Regular Finance Committee Meeting of February 3, 2014, as presented.

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

**INFORMATIONAL AGENDA**

**6. UPDATE ON CITY'S CASH AND INVESTMENT PORTFOLIO AS OF DECEMBER 31, 2013. (HELENE HAUSMAN)**

Ms. Hausman said it has become apparent from questions and comments over the past several months, that the purpose of this report is confusing. She said there is confusion as to whether this is extra cash. She said this is a report on the bank statement of the City, and just because there is money in the bank it can't be spent. This is only one piece of the management picture, and then the Finance Officer and Budget Officer will tell her what they are doing with this money. It is then necessary to look at the budget, if revenues and expenses are as expected, and then it is possible to see if there are funds to other things. This report tells you only how much cash we have in investments at a particular point in time. She said, "Every dollar in this report is tied to a fund in our accounting system."

Ms. Hausman said her thoughts about the Bernalillo County Finance Officer problem are included at the back of her Memorandum. She referred to the letter from the State Auditor, saying she is comfortable without an investment committee at this point, but you may reach the conclusion at some point where that would be advisable.

Ms. Hausman presented information from her Memorandum of February 17, 2014, with attachments, which is in the Committee packet. Please see this Memorandum for specifics of this presentation.

*The Committee members commented and asked questions as follows:*

- Councilor Ives thanked Ms. Hausman for the cogency of her statements. He said the issue of Bernalillo has been on the mind of every elected official, and it is good to see Santa Fe isn't in that type of bind. He said the Bernalillo County had full authority to make the subject investments, and asked about the checks and balances. He asked what process she uses prior to making investments, and if there are other approvals or "eyes" on it before the decision on a particular investment is made.

Mr. Hausman said she has the authority just to transfer cash between bank accounts. Two signatures are made to transfer of Wells Fargo, two signatures are required. She said she does no investments without talking to the investment advisor. She described the process, commenting she prefers to have someone knowing what I'm doing.

- Councilor Ives said he has "great and sincere " confidence in the duties she performs for the City. He said if we do have a check and balance, for example, for moving all of our cash into 10 year C.D.'s, that would be a good check balance. He understands this exist by virtue of how it is structured currently.

Ms. Hausman said given that the CD's are all outside of Wells Fargo at this point, she can't move money into any of those banks without a second signature. She prefers having someone to back her up on all of this.

- Chair Dominguez asked how much of the checks and balances is State law, or regulated by the State in terms of the number of checks and balances we have. Is there anything that we are doing that is not required by the State.

Ms. Hausman State Statutes provide what we can invest in and those are clearly defined and very limited and reiterated in our investment policy. She said, "The only thing I can do that is not governed by State Statutes specifically has to do with the management of our bank accounts, and we don't really want them telling us what we can and can't do with our bank accounts." She said we need the flexibility to move money among the various accounts or to create new accounts which requires 3 signatures.

Chair Dominguez asked if the 3 signatories are required by the bank or another entity.

Ms. Hausman said it is required by City policy. She made the decision that we needed 3 signatures in the event something needed to be done and she wasn't here, and that there was plenty of backup for who knew what was going one. Every bank account in the report has 3 signatures on it, which are Marcos Tapia, Teresita Garcia and herself. She said the claims accounts for workers compensation and general liability also have the people who are the claims agents at CCMSI, because they cut those checks. We get the register and reconcile the account.

- Chair Dominguez said, in terms of what is happening in Bernalillo, it seems the decisions they made were not breaking State law, and it was just decisions they made, and they broke no State law.

Ms. Hausman said, according to the memo from the State Auditor they were breaking the law, because we can't invest City funds longer than 5 years, or in C.D.'s in banks outside the City limits, can't invest in corporate paper, and several other things we can't do. She said they didn't invest in corporate paper, but the investments were definitely past the 5 year limit and they had C.D.'s in banks which were not within the Bernalillo County limits.

- Chair Dominguez said then the State has these laws in place so that we don't get in trouble. He said, "I suppose it is your job Marcos to make sure we are complying with all the rules, regulations and State law. How is the Governing Body going to know, because they're complicated. There's a lot of them. How is the Governing Body going to know what the red flag would be to determine that."

Mr. Tapia said, "Some of the investments, like Helene has talked about, are reviewed by a third party. We also have attorneys that review it. And both of them, Dwayne Brown and George look at this. And then the other thing that you're forgetting here is that it is reviewed by our Audit Committee. We have to present to them and they have to notice. We know the statutes and what we can invest in, and so does Helene and what those are." He said in Bernalillo County they were chasing interest, and we can't do that. He said we have a lot of money going out in the last 5 weeks of the fiscal year. He said Bernalillo County didn't have the money to pay the bills coming due and the reason they had to sell a lot of their investments, and at a loss. He said a training session with Helene, outside the Finance Committee, would be enlightening to the Governing Body to know about this.

Ms. Hausman said the relevant State statutes governing municipal investments, are quoted in our annually approved City Investment Policy. She said sometimes we come back to modify a policy for some reason. She discusses this policy every year with the City's Investment Policy. She said the State statute says what we can invest in, but not how we have to do it, so that flexibility gives us choices within those statutes. She said, "Constant cash flow is always my guiding light."

- Councilor Wurzbarger thanked Ms. Hausman for all her work and for making something which is complex sometimes seem sufficiently simple for those at the policy level. She said the most important thing for her, in terms of Ms. Hausman's work, is that every day she's doing something on investments.

## **CONSENT CALENDAR DISCUSSION**

### **11. REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – WATER AND WASTEWATER SERVICE LINE PROTECTION PROGRAM (RFP #14/12/P); SERVICE LINE WARRANTIES OF AMERICA, INC. (SLWA). (NICK SCHIAVO)**

The staff report presented by Nick Schiavo, from Robert Rodarte's Memorandum, with attachments, to the Finance Committee in this matter, which is in the Committee. Please see this Memorandum for specifics of this presentation.

*The Committee commented and asked questions as follows:*

- Councilor Ives thanked Mr. Schiavo for his dialogue today regarding the number of questions relating to this. He said on packet page 11, it calls for insurance, "...with limits of coverage in the maximum amount which the City could be held liable under the New Mexico Tort Claims Act for

each person injured and for each accident resulting in damage to property." He said this is designed to be a private contractual relationship between Service Line Warranties of America, Inc. ["SLWA"], and customers of the water system. Therefore, it would seem that if SLWA were to fail in its obligations, instead of the City worrying about the City's level of insurance, it might be more appropriate to ask that they provide liability insurance in an amount in which a homeowner might be damaged. He asked if an assessment has been made of the amount for which the City could be liable, versus what we anticipate a homeowner might be charged for a warranty services, if those are equivalent, what they cover – what is our sense of that, if we have one.

Mr. Schiavo said the inserts for the terms and conditions are in the last pages of Section 11, for both water and sewer line warranty, and there is discussion of dollar amounts. He said, "With a sewer line blockage this company sends a plumber who is signed-up and has been approved, and the first thing they do is rotor-rooter the line to make sure it can't be fixed that way. If there is still an issue with blockage, then they actually come and do the repair. So, I think the dollar amount they're talking about in here, the maximum, should work in almost every case."

- Councilor Ives said that is \$4,000 per occurrence, and Mr. Schiavo said this is correct.
- Councilor Ives asked, based on our experience, if \$4,000 is a reasonable amount.

Mr. Schiavo said he thinks it is reasonable, noting for approximately \$500, the line can be rotor-rooted out and that fixes about 95% of the cases. Obviously, if there is a lot of excavation to be done, it could be quite expensive, but \$4,000 does cover quite a bit.

- Councilor Ives asked if a homeowner could experience additional damage tied to this warranty. If a toilet backs up and floods a house with sewerage, then there is a much bigger bill.

Mr. Schiavo yes, and those bills easily can go to \$25,000 and beyond. This is strictly intended if a line collapsed, and it has to be taken out or rebuilt – "that's what the \$4,000 could go toward."

- Councilor Ives said, in the marketing, he wants to make sure people understand those limitations, so they are not thinking it might deliver more than it does.

Mr. Schiavo when there is a blockage in the sewer line, there is quite a bit of sewerage that is flowing down, it goes to the lowest point. He said, "So if you're unfortunate enough that's your home, the water is jetting up out of toilets and out of tubs into your home. So if your service line failed at your house, it wouldn't be quite as catastrophic. It's only going to be what you've put in and you're not going to continue to feed water in, so this is something that may back up in a bathroom, but certainly not flood into the whole home and cause damage in the realm of \$25,000 to \$50,000."

- Councilor Calvert said the point of this coverage is to help the homeowner with piece of the plumbing that is their responsibility – from the house to where it connects to the City's infrastructure. The City can't take on the liability for things that are not its responsibility. He said,

"However, on the bigger ones that Nick mentioned, yes, we have that. And of course, unfortunately, we have to invoke the tort limit on that one when those occur."

- Councilor Ives, referring to the reference in the Memo to 24/7, specifically to C(i) and (iv), on packet page 8, said it talks about "i) Provide customer service on a continual basis: 24 hours a day, seven (7) days a week;..." and then "v) Provide a response time window for the qualified local contractor to respond to customer." He said they will have someone answering the telephone 24/7, but it doesn't tell him how quickly someone can be at someone's house.

Mr. Nick Schiavo said, "It should have been in this document. They will have someone out within 24 hours. The 24/7 is, again, they have someone manning a hot line to take that call. It has to be within 24 hours. Obviously, if someone's water line or sewer lines have collapsed, the yard line, they want to get out there as soon as possible."

Judy Amer, Assistant City Attorney, said, "The only thing I can add about the insurance paragraph is, in the unlikely event that a homeowner would sue the City for something we really were not involved in at all, it does happen, that's what the insurance paragraph is for. That they will name us as an insured, if Service Line Warranty gets sued for some sort of damage to the house or some person. And so, it is a standard protection, but in this case, you're right, we're not actually performing any of the duties, but that doesn't mean we wouldn't necessarily get sued."

- Councilor Ives said he understands, and he isn't questioning that we have the coverage. He said, "However, it is a question to the extent of we have a capacity by virtue of our contracting with SLWA to say annual carry coverage of XXX against your damage. So to some degree, we can project requirements on them by virtue of lending them our good name. That was more the nature of my question, rather than why it was in there in the first instance. I like that it's in there."

**MOTION:** Councilor Calvert moved, seconded by Councilor Dimas, to approve this request.

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

- 21. REQUEST FOR APPROVAL OF A RESOLUTION SUPPORTING EFFORTS TO RETAIN YOUNGER TALENT AND INVIGORATE SANTA FE'S NIGHTTIME ECONOMY AND CREATING A TASK FORCE TO MAKE ACTION RECOMMENDATIONS TO THE GOVERNING BODY (COUNCILORS WURZBURGER AND IVES). (KATE NOBLE) Committee Review: Economic Development Review Subcommittee (approved) 02/03/14; Public Works Committee (approved) 02/10/14; City Business & Quality of Life Committee (scheduled) 02/18/14; and City Council (scheduled) 02/26/14. Financial Impact – Yes.**

Councilor Dimas said, page 2 of the Resolution, Section 1, provides, "Economic development staff is directed to design and execute a selection process for a portfolio of nighttime economy pilot projects," with Scholarships of up to \$1,000 of each up to a total of \$5,000."

Ms. Noble said it is a \$5,000 total, noting the idea was to not be entirely prescriptive with that and that we would word proposals as a call for ideas with this pot of money. There could be 10 at \$500, 5 at \$1,000, and the Development Review Committee would review the proposals, with an understanding that anything with a larger number on it would have a higher bar to get funding.

Councilor Dimas said then these ideas would come from the community at large.

Ms. Noble yes.

Councilor Dimas said then whoever comes up with these ideas is awarded some kind of scholarship.

Mrs. Noble said, yes, with the idea that we would look at it as a portfolio that would test the ideas at roughly \$1,000 each, but we would have to look at what we received from the community at large.

Councilor Dimas said that wasn't clear to him in reading the resolution. He didn't realize that it was the "community at large," and we may want to include that language just to make it clear to others reading this for the first time.

Councilor Dimas said he is in favor of this request, and thinks it's a great idea and to invigorate our local community and youth for some kind of night life in Santa Fe. He said he was concerned with the language, "Investigate incentives and way to lower costs including, not limited to the use of City owned buildings, parks and other properties, and the part that really got my attention was, 'Use of a municipal liquor license.' Have we really looked into the liability issues that we may come across as the result of that, using City buildings and municipal liquor license."

Ms. Noble said, "Not at all. The intent was there was a group of folks that did some brainstorming around these ideas which were generated, put in there, but that the work of the study group would be to investigate some of those liability issues and any that would impact the City with the use of publicly owned resources. No. That work has not been done at this time."

Councilor Dimas said a lot of these issues will be presented to Governing Body for approval before they are implemented.

Ms. Noble said, "Yes. I would imagine a municipal liquor license, and any activation thereof would need the Council."

Councilor Dimas said, "There's enough liquor businesses that already are suffering liability issues, and a lot of the businesses don't want to be in the liquor business any more because of these liabilities, so I just can't see that the City would like to include themselves as a liquor business, which is just... in my opinion you're asking for problems and liability issues. I'm in favor of this. I would like to see a little bit more done on that perspective going forward."

Responding to a question, Councilor Dimas said, "I think Kate's already got the idea of what I'm particularly looking for, particularly the liability issues and so forth. I think we need to look a little bit more into it."

**MOTION:** Councilor Dimas moved, seconded by Councilor Ives, to approve this request, with direction to staff to look at the particular liability issues as discussed.

**DISCUSSION:** Councilor Calvert said, "Since the Resolution 'is what it is' and states in the caption 'Supporting efforts to retain younger talent and invigorate Santa Fe's Nighttime Economy...' I would hope that the age of the appointees would be taken into account in that statement, and that we don't have people like me on there making some of these recommendations. I think it would help to take into account the age of the people. I also think taking into account, looking at locations. I've had people talk with me about facilities, maybe a new facility or something like that. I always tell them new facilities are tough. If you can find an existing facility that doesn't have a use at night, or something like that. I'll be honest, if you want to avoid problems..... you do yourself a favor if you look at situations like that so you're not starting out with conflicts with your neighbors and stuff like that. I think that's an appropriate use. If you want to do it in a residential section, hey go for it, but I'm saying you're just asking for more discussion than you probably had intended."

Chair Dominguez said he would add that zoning has a lot to do with that, and Councilor Calvert said he understands, and reiterated that you should pick a place that doesn't cause conflict, so you're starting out on the right path.

Councilor Wurzbarger said, with regard to Councilor Dimas' comment about location, "One of the most fun things I've been to was Saturday night." She said the other best one for her is the Baille de Cascarones, so it seems we could use that space more.

Councilor Dimas said he thinks it's possible to have mixed uses for the space.

**FRIENDLY AMENDMENT:** Chair Dominguez would like to amend the Resolution, page 3, line 19, as follows: "... to the CBQL and the Governing Body." **THE AMENDMENT WAS FRIENDLY TO THE SECOND AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY."**

**VOTE:** The motion, as amended, was approved unanimously on a voice vote.

23. **REQUEST FOR APPROVAL OF AN ORDINANCE RELATING TO STREET PERFORMERS ON PUBLIC PROPERTY; AMENDING SECTION 23-8 SFCC 1987 (COUNCILOR CALVERT). (ZACHARY SHANDLER) Committee Review: Public Works Committee (approved w/amendment) 02/10/14; Public Safety Committee (scheduled) 02/18/14; City Council (request to publish) 02/26/14; and City Council (public hearing) 03/26/14. Financial Impact – No.**

A proposed Amendment to this bill, submitted by Councilor Calvert, is incorporated herewith to these minutes as Exhibit "1."

**MOTION:** Councilor Calvert moved, seconded by Councilor Ives, to approve this request, with the amendments in the packet and the amendments on your desk as well

**DISCUSSION:** Councilor Calvert said the intent of the amendments are to "take an existing Ordinance and tweak it a little so it works better for everybody involved – buskers, merchants, police that have to enforce it. He said one change he would point out specifically is on Ordinance page 3, line 18, "At all times street performers shall have available," and we're adding 'and display' the performer's business license. This makes it easier for everybody and the license owner doesn't get interrupted while they are performing their music, and the police don't have to stop them because it's on display that they are complying and they can move on. It just makes it easier for everybody involved. That's the nature of these amendments. Zach if you want to go over a couple of the other amendments that would be fine."

Mr. Shandler and Councilor Calvert reviewed the proposed amendments which are in the Committee packet and Exhibit "1" which is on the Committee members desks. Please see these documents for specifics of this presentation.

Councilor Calvert said there was discussion about the business license, and the possibility of deleting Section C, Line 14, on Ordinance page 3. He said during certain times of the year there are panhandlers that get a Busker's License for \$15 to solicit funds. Councilor Calvert said they are then competing with people who are here year-round who spend \$45 for a license.

Councilor Dimas asked if there are a limited number of these licenses we authorize, or is it unlimited.

Councilor Calvert said there is no limit on the number of license, but it is somewhat self-limited by the prime location – 150 feet apart, can be there only for 2 hours. He said, "It is somewhat self-limiting because any number of people can have them, but not every place is productive. If you want to go and play to your heart's content where there is nobody located, that's fine."

Councilor Dimas said he things having an unlimited number of licenses, eventually we are start to run into problems with fights out there over who has the select position.

Councilor Calvert said, "To a certain extent, I think it requires some coordination among the buskers themselves. And I'm not going to tell you there haven't been fights, there was one at the Railyard, I believe. But that's something that, what, do we want to legislate all of those things, personal behavior and stuff like that. In all those instances, I'm not sure we want to get into that level of detail. I think for the most part this has been working. I understand that some merchants aren't happy with it, but I think that they are confusing the buskers with the panhandlers. And so I think that's why I had that concern about the temporary license, because I think that makes it easier for the panhandlers to quote, be legitimate. This is the way it is right now, and as we have further discussion, if anybody wants to change that, that's

fine. I think the few changes we've made, will make it work better for everybody. Is everybody happy about everything. No, but I think that's the nature of any legislation and compromises that nobody gets everything they want. So I think this will make it work just a little better, and that's all I can say."

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

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**END OF CONSENT CALENDAR DISCUSSION**  
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Chair Dominguez asked that the Committee hear Items #27, #28 and #29, before hearing Item #26.

**MOTION:** Councilor Ives moved, seconded by Councilor Calvert, to reconsider the previous action to approve the agenda, to amend the agenda to hear Items #27, #28 and #29, before hearing Item #26, and to approve the agenda as amended..

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

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**DISCUSSION**

**27. STAFF SUMMARY ON PARKS BOND AUDIT. (ISAAC PINO)**

A notebook of information was provided to the Committee by staff. A copy of the notebook is on file in and copies can be obtained from the Public Works Department.

Chair Dominguez said this has been taken to POSAC, and from what he has read, there are still lots of questions.

Isaac Pino said, "You are correct, we are at Finance in November, and subsequent to that, we published the questions POSAC had put together and provided them to all of you. And then subsequent to that, we provided the questions along with our answers, such as they were at that time. We went to the Public Works Committee in January and did a brief presentation there. We've been on the POSAC agenda in December, January and now again in February, so it's a rolling item for additional information, questions that come up, more detail requested. And we were at BTAC in January. We had about a 3 hour meeting that particular evening to vet everything they were interested in."

Mr. Pino continued, "And so we have been available for all of the committee meetings where it made sense to go through those questions, or any associated information. Now the thing that is missing still that apparently is very tedious work, because every single time she's asked for it to be reviewed, is the

specific request that you made, Mr. Chairman, back in November, which was to see a spreadsheet that had the listing of everybody who was paid by the Parks Bond, every individual, all their time and any overtime they were paid. So that work continues. And as you can well imagine, there are literally thousands of timesheets that have to be pored through and entered. And I'll let Finance tell you more about the detail of putting something like that together. So that is still at work."

Mr. Pino continued, "Now tomorrow at POSAC, we'll present more information, individual project descriptions, everything that was done, money spent, who worked on them and that sort of thing. And so I think all of this information could potentially be vetted through your next item, which is the discussion on the audit. And so, with that, Mr. Chairman, I'll stand for any questions."

Responding to the Chair, Mr. Pino said it was at the Public Works in January 2014.

Councilor Wurzbarger, Public Works Chair, said each time it was at Public Works they have had an update.

Responding to the Chair, Councilor Dimas, Councilor Calvert and Councilor Ives said they have no questions.

Chair Dominguez said, "One of the things I would like to see.... when I look at this, I see various references where staff was given the authority to re-obligate certain things. And so what I would like is some more clarity on that, including minutes from meetings where that authorization was provided by the Governing Body. That's one of the things I would like to see. I know at least two that I know of, where we were providing FTEs to administer the bond and work on the bond. And there was some that was specific in the amount of, I think, \$750,000. What I'm looking for is where the authorization was given expressly by the Governing Body on the re-obligations, and some clarity on how monies were spent and authorized and approved by the Governing Body for employees out at the Marty Sanchez Golf Course."

Mr. Pino said he will get all of this information.

Councilor Wurzbarger said, "Isaac, thank you and staff for all the work. I know you have been slaving away at this for months. What I'm wondering, in terms of process, is whether we need to get additional reports, Councilor. Or, by going ahead with the Resolution and having the Audit Committee look at this selective information as it's been outlined in that proposal and I need your comment on that, Isaac, again, I apologize, I haven't had time to meet with you since we got back., if that isn't a more efficient way to get at the key question. Excuse me, there are two questions. One, did we spend the money on what we're what we're supposed to spend the money, that's the question as I understand it, as we've all been talking about this. And secondarily, particularly, when it comes to the issue of paying staff, was the authority there. Now can we get at the question by the kind of sampling that we're talking about doing through the audit without doing 100% of the analysis that you're requesting."

Councilor Wurzbarger continued, "And I don't have a total opinion on this, I'm just raising the question. And I guess what I just want to say for purposes of discussion that, again, we can't redo some of the things that we did. So I would like to look at this as a process by which we learn how to do whatever it

is we, you all now, can do it better. I'm not trying to minimize it at all, but at some point, I think we need to back up and say, focus this question, try to learn from this what happened, what didn't, what procedures needed to be in place, and have an independent group do that, rather than to continue just to take this through the mill looking at the information. And I don't have a specific idea on that, so that would be my comment. But I would just like to know if Isaac has an opinion on that. I haven't even talked to him about it, okay."

Chair Dominguez said, "I think it's a good idea. I think that part of what needs to happen is that if there are specific questions that they want the Audit Committee to consider, that needs to be brought up there. What I don't want, necessarily is for.... I want the hard questions to be asked, and I want them to be asked by the Governing Body and maybe even members of the public.

Councilor Wurzbarger said, "And I think we all want that, and the question is how do we, at this point in time, given what we know and given the information that has been flowing toward us, is there another way to put our arms around us, with less effort on the part of the staff, although they will be involved in the budget, if there is a way not to short-cut it, but really to focus on the key questions. And I can't find my notes that I had a few minutes ago when I came in here an hour ago from the recommendations from the Audit Committee. It seems to me that they have a handle on some of the key questions that need to be asked, and I think you've seen that in previous meetings. I've got it somewhere here. Maybe Bette Booth has a copy of it."

Chair Dominguez said, "You're right. I think having it come from the Audit Committee makes more sense."

Councilor Wurzbarger said, "Because if it just keeps coming back here, and it's not because I won't be here and I'm going to miss you all, I'd love to get some kind of closure, personally, on this, since it came out of Public Works, and at least be able to say here's our path forward for getting a more concrete consideration of the key questions that have to with making sure, and showing the information that is needed to demonstrate that, indeed we have done what we're supposed to. Or, if we discover that we haven't, then we come up with a policy rectifying that."

Chair Dominguez said, "I think that's what's important, is to find out if there was any time where there wasn't policy, or where policy was not clear enough, that we remedy that.

Councilor Wurzbarger said, "Rather than look at, oh, well there's this person and that person and this person, I really think we need to ratch it up to a higher level of policy discussion. That's my concern."

Chair Dominguez said it almost sounds like we can have some of this "discussion on 28."

Councilor Wurzbarger said, "Which item is that, number 28. Yes 28, yes that's it, 28, asking for this independent audit and get on with it."

Chair Dominguez said, "I still want that information, Ike, if you can."

Mr. Pino said, "We'll get it for you."

Chair Dominguez thanked Mr. Pino and staff for the work done to provide the Committee with this information and "we'll just keep moving on."

**28. REQUEST FOR APPROVAL OF A RESOLUTION REPEALING RESOLUTION NO. 2013-80 THAT CALLED FOR A THIRD-PARTY INDEPENDENT AUDIT OF THE 2008 PARKS, TRAILS AND OPEN SPACE BOND; AND AUTHORIZING A SPECIAL EXTERNAL AUDIT OF THE ENTIRE EXPENDITURE OF 2008 PARKS, TRAILS AND OPEN SPACE BOND ("2008 BOND") (COUNCILOR WURZBURGER). (ISAAC PINO AND MARCOS TAPIA) Committee Review: Public Works Committee (approved w/amendment) 02/10/14; and City Council (scheduled) 02/26/14. Financial Impact – Yes**

Mr. Tapia said, "From this Resolution, it's what the Governing Body wants, and I think a lot of people from public want this. I think, with the addition of a POSAC member and the additional people that will be on the task force to come up with the questions to be asked, if you approve this. The only thing I come at, is there is a lot of information that has been gathered by Teresita and by the staff and Isaac. So there is plenty of information that we have available, and us doing part of this work will help an independent auditor. If you pass this resolution, all I need to do is find out and figure out we're going to pay for it. Depending on the task force and the length or amount of the questions that are asked or posed for the agreed upon terms or tasks we want to do on this review audit, that will determine the price, but I'm not worried about this. If the Governing Body and the public out there, which it seems like that's what they want, an independent audit can be done, and it can be done with the timeline. The only thing is I'm getting ready to go out for RFP and put in for the CAFR and the annual audit. Right now, as a standing resolution, I have to include additional work on the Parks Bond as part of that audit currently."

Councilor Wurzbarger asked Mr. Tapia if he is comfortable with that.

Mr. Tapia said he is.

Councilor Wurzbarger said, "I want to make sure everybody understands that. I got back, and I heard, don't you love the grapevine in Santa Fe that this was subterfuging staff. And I really appreciate what Isaac has done, and you as well, that we are trying to be responsive to questions that have been raised, and it's not illintentioned. And step 1, again, back to your point Councilor Dominguez, step one of this committee is to define the questions. And the one change that needs to be made, which I thought I had caught this and I didn't, is that the POSAC... did you guys pass that at... you did that at Public Works. So those amendments would need to be incorporated, including the erroneous omission of having POSAC being represented."

Mr. Tapia said that has been corrected.

**MOTION:** Councilor Ives moved, seconded by Councilor Dimas, to approve this request, with the amendments from Public Works in the packet.

**DISCUSSION:** Councilor Calvert said, "I think this is the way forward, because otherwise, there will be this endless back and forth between us and staff, and whether the public trusts that or not. And I so I think going forward this will cut through all this and bring us to a completion."

Councilor Wurzburger said, "And that was my objective."

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

- 29. REQUEST FOR APPROVAL OF AN ORDINANCE RELATING TO THE CODE OF ETHICS, SECTION 1-7 SFCC 1987; AMENDING THE CODE OF ETHICS TO ESTABLISH THAT WORKPLACE BULLYING BY GOVERNING BODY MEMBERS WOULD BE A PROHIBITED ACT AND SUBJECT TO A VIOLATION OF THE CODE OF ETHICS (COUNCILOR WURZBURGER, AND COUNCILOR DOMINGUEZ). (SANDRA PEREZ) Committee Review: Public Works Committee (tabled) 02/10/14; Public Works Committee (scheduled) 02/24/14; City Council (request to publish) 02/26/14; and City Council (public hearing) 03/26/14. Financial Impact – No.**

Councilor Wurzburger said, "In all seriousness, and I don't want to belabor this, and I'm sorry to have done this later, rather than sooner. I introduced this, because having been on the Council, over 12 years, I have seen at different times, by very few Councilors, what I consider to be inappropriate behavior. And we have a certain kind of protocol amongst us that we don't call one another, and we should. And the issue for me is, quite simply, does this Council agree that it is appropriate for a single Councilor or two Councilors, or whomever decides they disagree with whatever decision, to go in and threaten the City Manager that they have, quote, five votes to get rid of them. I think that is wrong. I think that our policies are not clear with respect to that. And I think it should be an ethical violation to commit something, that for me, is clearly an abuse of your power as a Councilor."

Councilor Wurzburger continued, "And what I have seen over the years, is that when this is happening, we act like the elephant's in the room, and there is ripple throughout City Hall, waiting to find out what's going to happen for months. It's out there, it's not out there in a way that we're dealing with it. It's not brought to a forum through a formal process of, this is how we're going to take you. We don't like what you're doing. You're going to approve these following five areas. It's simply a threat. And I do not believe that is the way to conduct public business. Again, in my experience, I've worked with three Councils. It's sad in life when one needs to make laws and ordinance changes that apply to the few, the very few, but in this case, I think it needs to be done, and that's why I brought this forward. And I firmly believe, and it was brought up at the meeting in December, the Neighborhood Law Center. Robert Romero and he did courageously say, without names, that indeed he was bullied, and he was threatened, and that was part of why he left. The notion, when we discussing his departure, and comments were made by certain Councilors that City Managers leave because they're just ready to go on PERA. I was so offended by that, after what I knew had happened."

Councilor Wurzbarger continued, "So I'm not trying to pick on one Councilor or two, I'm trying to say this is a systemic problem that should not be occurring in our City. It sets up a climate that is demoralizing in terms of morale, and ultimately, it affects our ability to deliver better public service, and that's why I brought this forward. And I see that it was so late that it won't be voted on while I'm here, but I'll be back if we can get it passed through for consideration. I know that Councilor Rosemary Romero wants to speak on this, because this was an issue long before this Council. When Rosemary was here, we had a similar kind of situation, so I would like to see this addressed and I thank you for your consideration."

*The Committee commented and asked questions as follows:*

- Councilor Ives said, "When this came before Public Works there was an interesting and what, for me was a fairly compelling argument in favor of this, which was that these measures, effectively put in place as a rule of conduct for Councilors, the rules that currently apply to City employees. And Sandy, I'm hoping you can address that point, because it certainly seems that we should be held to the same, if not a higher standard, than public employees, given the public trust that is placed in us by the electorate, so thank you for addressing it."

*Sandy Perez, Interim Personnel Director, at Public Works, spoke to the issue, but was inaudible because the microphone obviously wasn't turned on. She said something to the effect that as she read this and did an analysis, this is putting a policy in place that the Councilors are saying out loud to themselves and everyone else, that they hold themselves to a higher standard than employees. This actually defines what workplace bullying is. In our personnel rules we are a bit vague on that.*

Ms. Perez said another question was if the Council already is covered by policies for employees. [inaudible here]. She said they found by definition, you are not a city employee. She said there already is a definition in personnel rules. Officials elected by public vote or appointed to a vacancy, members of boards or commission [inaudible]. The Personnel Rules adopt that coverage. In interpreting this rule, the City Council is exempt from those policies, so this ordinance and resolution would establish this for yourselves.

Chair Dominguez asked to be added as a cosponsor.

**MOTION:** Councilor Calvert moved, seconded by Councilor Ives, to approve this request.

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

**26. PRESENTATION AND REQUEST FOR APPROVAL OF THE CITY OF SANTA FE COMPREHENSIVE ANNUAL FINANCIAL REPORT [CAFR] FOR FISCAL YEAR ENDING JUN 30, 2013. (TERESITA GARCIA AND MARTY MATHISEN)**

Mr. Tapia said Teresita and staff have been able to accomplish what we've been trying to do for

years at the City to reconcile and make sure our books are correct. He has confidence in Teresita and staff to do that again, because this pressure has been put on him by the City Manager and this body.

Teresita Garcia said the Comprehensive Annual Financial Report for the fiscal year ending June 30, 2013. This was submitted to the State Auditor timely, and any funding would not be jeopardized. she introduced the Auditor to review his modified opinion and findings.

Marty Mathisen, Atkinson and Company, noted the audit was timely submitted for the first time in 6 years, noting this is due to planning, hard work and strategies with a real will to move forward to cause this to happen. Mr. Mathisen reviewed his letter of December 13, 2013, containing the statement of auditing standards. Please see this letter for specifics of this presentation.

In your packets you have statement of auditing standards. Mr. Mathisen went through the information in the statement and audit document. It is unqualified. No problems performing the audit. No real problems to report. You will have new auditors next year. This is our 6<sup>th</sup> year so we have to rotate off.

*The Committee commented and asked questions as follows:*

- Chair Dominguez thanked Mr. Mathisen for their work over 6 years and the presentation. He thanked City staff for all they've done to help him in fulfilling his duties..
- Councilor Ives said, "Marty, I've said this before, but to you as the external auditor and staff within the City, to have met our deadline to get the report to the State, given our track record in the past, my hat is off to you. And, on behalf of the City, I extend great thanks for allowing us to look good, having met that State requirement and gotten the report in on time. Secondly, as has been indicated, it was an unconditional report, that speaks to the quality of the system we have in place the efforts being used to maintain those systems. Again, my hat's off to staff for ensuring that, and for all the past 6 years in which we've had helpful suggestions from our auditors on how to improve those systems to bring us to the point we're at today."
- Councilor Ives said, "I do note the various findings in the report, beginning at page 224. I look forward to working with staff to address each of those, and I'm hopeful and hope that staff may be able give us an update before too long, specifically on what's being on those points in detail, so hopefully we can remove all of those from next year's efforts. That would be a goal I would have on behalf of the City, if at all possible. And Marty, I would only say that I'm sorry it's only 6 years. I understand that within the State, but it's obviously been a great run, and as with this meeting tonight, saving the best for last, so thank you.

Mr. Mathisen we definitely are ending on a high note, and he just sent out a thank you to Marcos, Teresita, Erica and everyone on staff.

**30. OTHER FINANCIAL INFORMATION:**

**A. UPDATE ON GROSS RECEIPTS TAX REPORT RECEIVED IN FEBRUARY 2014 (FOR DECEMBER 2013 ACTIVITY) AND LODGERS' TAX REPORT RECEIVED IN JANUARY 2014 (FOR DECEMBER 2013 ACTIVITY). (MARCOS TAPIA)**

Mr. Tapia reviewed the GRTs and Lodger's Tax, noting both are up. He said this is the GRT we usually count on, the December number, as we expected. He said there are across the board categories which tells him the economy as a whole is improving a little bit. The Lodgers tax is up, but we are still below where we should be, as a total, although we're doing better than previous years. We are up 5.4% in GRTs right now, which is good..

Chair Dominguez asked when is the next critical month.

Mr. Tapia said it is the next one, and the biggest reason is it will have the numbers from GRTs in the annexation. He won't be able to tell right away but he wants to see how much we go up.

Chair Dominguez asked if there is any way we can account for the potential increase in GRTs, commenting it probably will take legislative action by the Governing Body to create some of the opportunities that exist for him to do that.

Responding to Councilor Calvert, Mr. Tapia said there is a way to get ballpark numbers. He can speak with some of the personnel from Taxation & Revenue, noting there were reports from Taxation & Revenue which provided information along those lines.

Chair Dominguez there are not a whole lot of revenue generating businesses in the newly annexed areas. He asked if we have an inventory of existing business licenses in the area.

Mr. Tapia said we have a list of businesses in Phase 2 annexation which are licensed. He said we need, in the near future, to put more bite on businesses which are not licensed.

Chair Dominguez asked Mr. Tapia to do whatever he can do to inventory that and reconcile that.

Councilor Ives asked if the economists at UNM could do a trend analysis for us, and come up with a model.

Mr. Tapia said he was going to create a model based on the information he has.

Councilor Dimas said if the City gets a bump and the county gets a similar drop, you can deduce that is the number.

### 31. MATTERS FROM THE COMMITTEE

A copy of "Bills and Resolutions scheduled for introduction by members of the Governing Body," for the Finance Committee meeting of February 17, 2014, is incorporated herewith to these minutes as Exhibit "2."

Councilor Calvert introduced a Resolution on behalf of Councilor Wurzburger, as follows:

A Resolution authorizing the City of Santa Fe Transit Division to provide free rides on all bus routes and Santa Fe Ride vehicles on election day, for the 2014 Municipal Election, March 4, 2014. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "3."

Chair Dominguez said a Finance Committee meeting is scheduled for March 3, 2014, and asked if the members want to meet, because he doesn't want to meet.

Councilor Calvert asked if there are any time sensitive issues.

Chair Dominguez said he will meet with Brian Snyder, but he does not anticipate a meeting on March 3, 2014.

### 32. ADJOURN

There was no further business to come before the Committee, and the meeting was adjourned at approximately 6:50 p.m

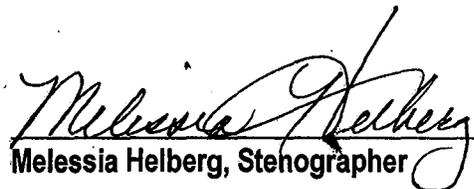
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Carmichael A. Dominguez, Chair

Reviewed by:



Marcos A. Tapia, Director  
Department of Finance



Melessia Helberg, Stenographer