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August 13, 2014

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**MINUTES OF THE  
REGULAR MEETING OF THE  
GOVERNING BODY  
Santa Fe, New Mexico  
August 13, 2014**

**AFTERNOON SESSION**

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor Pro-Tem Peter N. Ives, on Wednesday, August 13, 2014, at approximately 5:00 p.m., in the City Hall Council Chambers. Following the Pledge of Allegiance, Salute to the New Mexico flag, and the Invocation, roll call indicated the presence of a quorum, as follows:

**Members Present**

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

**Members Excused**

Councilor Christopher M. Rivera

**Others Attending**

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

**6. APPROVAL OF AGENDA**

**MOTION:** Councilor Dominguez moved, seconded by Councilor Dimas, to approve the agenda as published.

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

**7. APPROVAL OF CONSENT CALENDAR**

**MOTION:** Councilor Dimas moved, seconded by Councilor Maestas, to approve the following Consent Calendar, as amended.

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

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

**Against:** None.

**Absent for the vote:** Mayor Gonzales

**10. CONSENT CALENDAR**

- a) *[Removed for discussion by Councilor Bushee]*
- b) **BID NO. 14/25/B – SOUTHSIDE TRANSIT CENTER – BUS SHELTERS AND AGREEMENT BETWEEN OWNER AND CONTRACTOR WITH CONSTRUCTION CONTINGENCY; PRO-FAB, INC. (MARY MacDONALD)**
- c) **BID NO. 15/02/B – CITY-WIDE UNIFORMS. (ROBERT RODARTE)**
  - 1) **BOOT BARN**
  - 2) **CAPITAL CITY UNIFORMS**
  - 3) **NEVE’S UNIFORM**
  - 4) **SANTA FE SPORTS AND IMAGES**
- d) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – CONSTRUCTION SERVICES AT NORTH RAILYARD DISTRICT INCLUDING ALCADESA STREET, RAILYARD PLAZA EXTENSIONS AND COMPLETION OF CAMINO DE LA FAMILIA; SANTA FE RAILYARD COMMUNITY CORPORATION. (ROBERT SIQUEIROS)**
- e) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER COOPERATIVE PRICE AGREEMENT AND PROFESSIONAL SERVICES AGREEMENT – FIRE STATION #7 AND MARTY SANCHEZ LINKS CLUBHOUSE & PRO SHOP REROOFING PROJECTS; COOPERATIVE EDUCATION SERVICES (CES)/J3 SYSTEMS, LLC. (JASON KLUCK)**

- f) REQUEST FOR APPROVAL OF GRANT AWARD AND AGREEMENT – TRACK DEVELOPMENT AND MAINTENANCE AT BUCKMAN MX TRACK AT LA TIERRA TRAIL AREA IN SANTA FE; NEW MEXICO DEPARTMENT OF GAME AND FISH. (DAVID CHAPMAN)
  - 1) REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND.
  
- g) REQUEST FOR APPROVAL OF GRANT APPLICATION AND AWARD – AIRPORT FEDERAL IMPROVEMENT PROGRAM PROJECT; U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION. (FRANCEY JESSON)
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- j) REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – DWI REHABILITATION SCHOOL FACILITATOR FOR POLICE DEPARTMENT (RFP #14/37/P); KATHLEEN LAWICKI D/B/A SANTA FE DWI SCHOOL, LLC. (POLICE CHIEF ERIC GARCIA)
  
- k) REQUEST FOR APPROVAL OF BUDGET INCREASE BASED ON THE ALLOCATION FROM FY 2015 STATE FIRE PROTECTION FUND. (JAN SNYDER)
  
- l) *[Removed for discussion by Councilor Ives]*
  
- m) CONSIDERATION OF RESOLUTION NO. 2014-65 (COUNCILOR MAESTAS). A RESOLUTION DIRECTING STAFF TO IDENTIFY THE BENEFITS, FEASIBILITY, NEEDS AND OPTIONS FOR CREATING AN INDEPENDENT OFFICE OF INSPECTOR GENERAL. (KELLEY BRENNAN)

- n) **CONSIDERATION OF RESOLUTION NO. 2014-66 (COUNCILOR MAESTAS). A RESOLUTION CALLING ON OUR STATE LEGISLATIVE DELEGATION TO REQUEST A STATE ATTORNEY GENERAL'S OPINION TO CLARIFY THE TAXING POWER A HOME RULE MUNICIPALITY POSSESSES PURSUANT TO THE N.M. CONSTITUTION AND STATUTORY LAW AND WHETHER A HOME RULE MUNICIPALITY HAS THE AUTHORITY TO IMPOSE A TAX ON ITEMS THAT ARE NOT EXPRESSLY PROHIBITED FROM TAXATION PURSUANT TO STATE LAW. (KELLEY BRENNAN)**

**8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – JULY 30, 2014**

**MOTION:** Councilor Trujillo moved, seconded by Councilor Dimas, to approve the minutes of the Regular City Council meeting of July 30, 2014, as presented.

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

**9. PRESENTATIONS**

- a) **UPDATE ON YOUTH SOCCER PROGRAM – DREAMERS IN ACTION AND THE DEFERRED ACTION FOR CHILDHOOD ARRIVALS (DACA). (JUAN DEOSIS)**

A copy of all material in the handout provided by the New Mexico Dreamers in Action and DACA, are incorporated herewith collectively to these minutes as Exhibit "1."

Juan Deosis, Community Organizer, New Mexico Dreamers in Action said he left a folder [Exhibit "1"] on the desks for the Governing Body. He is here along with the others to brief the Governing Body on the work of Dreamers and with undocumented immigrant youth. Mr. Deosis described the contents of Exhibit "1."

Mr. Deosis said Deferred Action for Childhood Arrivals [DACA] is a federal program that allows young individuals to get a work permit, social security number and have legal protection from deportation. Mr. Deosis said there are approximately 2.5 million undocumented youth in the United States, and every year 80,000 turn 18, 65,000 graduate from high school, but only 5-10% go to college. He said of those that go to college that are undocumented only a small fraction 1-3% graduate from college.

Mr. Deosis said he is one of the 1-3% that graduated from college, saying he is a young, undocumented individual who has lived in Santa Fe all of his life. He graduated from Santa Fe High School, Santa Fe Community College then attended Highlands University and he is in the process of completing his Master's degree in Albuquerque.

Mr. Deosis said the soccer was a 10 week project with two main goals: First, using soccer as a way to engage young people, they engaged 180 Santa Fe Public school students, 50 of which were able to successfully request their deferred action. Secondly, all 180 students were educated and engaged in their right to go to college. He said SB 582 passed by the Legislature in 2005, allows any student, regardless of immigration status to receive in-state tuition and access to the State Lottery Scholarships. He said many students are not aware of this. He said soccer was used to educate and engage undocumented students, and to try to make sure all can work legally, have the opportunity to contribute to the economy and be safe in Santa Fe.

*Mayor Gonzales arrived at the meeting*

Carla Romero is a student at Santa Fe Community College. Ms. Romero said she came to the United States when she is 12 and she is documented which is a huge thing which changed her life. It opened many doors which were closed previously. She said having a social security number let her go from working long shifts at Wendy's to be a educational assistant for the Santa Fe Public Schools. She said DECA has been good for some, but not everybody. She said many of their friends and family members were left out. She said there is a lot of potential within their community which needs to be recognized, noting without a social security number opportunities are limited, and it needs to be limitless. She wants to expand DECA to others so their life can be changed like hers was and to be able to work in something they enjoy.

Mr. Deosis said many opportunities and jobs are not available to them because of their immigration status.

Mauricio Lopez said he was born in Mexico and came to New Mexico with the idea to look for opportunities, happiness and prosperity for his family. He said he is one of the 1-3% of students. He graduated from Santa Fe High School, attended the Community College and then Highlands University, and next year he will finish his Masters in Social Work. He is a mentor and social worker for organizations in Santa Fe and a dance instructor for a dance company, and loves this community and the opportunity he received. He acknowledges the privilege of being documented, and being able to learn and further his education mostly through New Mexico Dreamers in Action. He said his parents were born in Mexico, but are here with him now, and introduced his mother Letitia Marquez, whom he was able to bring to the United States.

Mr. Deosis translated Spanish to English for Ms. Marquez, who spoke about her deep feelings for the United States, and DECA which has changed the lives of her children which has changed her life. Her oldest child wanted to quit school because he had no hope of finishing school, but she encouraged him to continue school which he did with the help of DECA. She said parents are encouraged to continue their education as well. She said she is working to expand the work of DECA to others because it changes lives and makes people productive in America. She said, "Thank you, United States for all of the opportunities."

Mr. Deosis said his own mother got her GED from the Community College. He acknowledged key partners and allies in attendance in implementing this program, Monica Sanchez for Representative Ben Ray Lujan's Office and Letitia Delgado from Senator Udall's office, noting both Congressmen Lujan and Senator Udall have helped them in their efforts.

**Alegria Love, Immigration Attorney**, said her work is funded through the Adelante Program in the Public Schools, and she is a volunteer with New Mexico Dreamers and Action, which does the organization that brings the clients. She said over the past 1½ years, they have filed more than 200 cases. She said to pay a private attorney on a DACA case is \$1,500, which is a low estimate, noting \$300,000 in work has been through Adelante and DACA. There 100 approvals and 100 cases pending and they have consulted with "hundreds and hundreds and hundreds and hundreds of families." She said not every family qualifies for DACA, but it valuable for them to understand their rights and to connect with organizations such as NM DIA so they can be part of a community which is fighting for their rights. She said they have obtained 31 Fee waivers in working with homeless children in Santa Fe, and each fee waiver is worth \$500, so that is \$15,000 in that effort. She said the opportunities for these students would not exist without the work of Adelante, DACA and NM DIA.

**Miguel Angel Acosta** said he is not undocumented, having been born in the United States. He said things have worked well for him because of the things which were put in place. He said these young people have not had these opportunities, but they now are being created. He is working with the Santa Fe Public Schools in its establishment of a new high school called Engage Santa Fe. It is a new alternative high school, based on the south side. He same to qualify for DACA youth must be enrolled in school. He said most undocumented students are not in school because they have to work and help support their families. He was contracted to recruit 75 students, and there already are 160 students. He said this is an example of partnerships which are being developed under the leadership of Mayor Gonzales, the School Superintendent and the City Council to support the development of the entire community. They would like to continue a conversation around a long term partnership to keep this program moving forward in the long term.

Councilor Dominguez thanked Mr. Deosis and the others for taking time from their day to come and visit with the Council. He said he was excited when they agreed to make this presentation. He said it seems most often we are disconnected from the challenges and struggles which you and your families are experiencing. He said this is an opportunity for us to hear this from your perspective. He said he attended one of the soccer tournaments, and there is a real sense of community at the soccer games. He said it exists as well in the baseball leagues which are offered by the immigrant community as well. He encouraged the Governing Body to take advantage of these opportunities which are provided.

Councilor Dominguez said he would like the Governing Body to have a more formal relationship with this group so we can educate ourselves about the importance of the immigrant community to our community, and how important you are as human beings and people to society. He said he will work with Mr. Deosis on this.

Councilor Bushee thanked the group for coming, saying she knows about the organization. She would like to know "how we can help you." She asked if the Community College is doing what it can to promote this program, and asked if this presentation has been made to the Santa Fe School Board.

Mr. Deosis said the next presentation will be to the School Board. He said Santa Fe Community College is one of its partners. He said Fabian Trujillo, Economic Development as well as Former Mayor Coss have supported their work directly previously, so they do have numerous allies.

Councilor Bushee noted there is an Immigration Committee with the City, and suggested they get on that Agenda, to see how we can follow up with Councilor Dominguez's suggestion for a more formal relationship.

Mr. Deosis said they know the Santa Fe Immigration Committee very well and its Chair Alejandra Seluja. He suggested it would be good to have a young student to represent "our community on that committee."

Mr. Deosis introduced two students from Capital High and SF High who through the process for their work permit and now have that opportunity – Ruben Guzman and Jonathan Aragon, both of whom play soccer for their schools and have received their deferred action.

Councilor Bushee asked who helps to fund the scholarships and there is some way that we can help with the \$465 to enroll.

Alegra Love said one of the problems with the program is that \$465 is a lot of money for a lot of families, especially when they have more than one student in the family. She said the only way students can qualify for a fee waiver is if you are homeless, or unaccompanied and under the age of 18. She said Guadalupe Credit Union is doing micro-loans for people for this process. However, the fee remains one of the biggest stumbling blocks. She has a pile of applications ready to send, but the families are waiting to get the money together.

Councilor Bushee would like to explore through the Immigration Committee, or working with some of you, to find ways to help the waiver system move forward or find funds for scholarships.

Ms. Love said it would be better to create a community fund from which to give loans or scholarships to kids to go through the process, noting they have tried to get the waiver changed and they are not budging.

Councilor Bushee said it seems wrong they have to be homeless or unaccompanied to qualify..

Ms. Love said the renewal is \$465 as well..

Mayor Pro-Tem Ives said a member of the School Board is in attendance and asked if she would like to speak to this issue.

**Susan Duncan, School Board Member**, said she is here as an individual citizen and not representing the School Board. However, she is familiar with the work of the Dreamers in our schools, and it has been outstanding and helped so many students to get their Deferred Action. She said it is an incredible service they are providing that nobody else really is doing. She said the Schools are thankful for the help they've given to so many of our students to go through this process and get the help they need to get their Deferred Action.

Councilor Maestas thanked everyone for coming this evening. He said this program was established by Executive Order and is not the result of federal legislation.

Ms. Love said this is correct, noting that would be The Dream Act that Congress still refuses to pass. It is an Executive Order from the President and can be revoked at any time.

Councilor Maestas noted that the effective date of the program was June 15, 2012, and we passed the initial two-year period of the program, but there are no renewal guidelines.

Ms. Love said that is outdated, and the renewal guidelines came out this Spring and went into effect two months ago. The problem is the renewal is very expensive, but it is a fairly easy process, noting it takes her about 20 minutes. She said the President and White House have started to talk very publicly about expanding the program to include women like Letitia, people with children who are citizens and dreamers. We are going to start thinking seriously as a community and a City about how to get services to everyone who might benefit from that process if it does happen.

Mayor Gonzales said, "I think because of that very fact, that any changes to this program are not dependent on federal legislation, really allows us, even as a Governing Body to work with our Congressional Delegation and appropriate departments within the Obama administration, such as Homeland Security, to really be vocal and improve and change some of these rules that make it so burdensome to get in the program. I agree with Councilor Dominguez, I think we really can maybe sponsor legislation here urging our delegation to work with Homeland Security and the Obama administration to improve this program. To begin, we're not dependent on Congress, which is really a good thing these day. I think there are opportunities to improve this program and make it easier for you, not just to get into the program, but stay in the program and get an education. I really thank you for being here and I pledge my support. Councilor Dominguez, thank you for bringing this to our attention, and I think there's a lot we can do to help formally."

Mr. Deosis said, "In closing, we are working extremely hard and we are organizing our community through our organizing the undocumented youth in the schools, we are organizing our parents. And we definitely look forward to a sustainable, long-term relationship with the City of Santa Fe, with Mayor Gonzales in continuing to fund and invest in Deferred Action and our undocumented immigrant youth. Thank you for your time."

Mayor Gonzales said, "First, I want to directly address, as Mayor, every Dreamer that is here and tell you that you matter to our community, your families are part of our community, we're grateful, we're a stronger community because of your presence here. And I just want to continue to encourage you to do everything you can when you graduate from high school. Because, even when you look at the statistics of Dreamers and graduation rates, they are at a higher level proportionate to the rest of the general population, so we know you're going to graduate. We know you're going to go to College. In many respects we want you to come back to Santa Fe because this is your home and we need your talents in our community. I know that all of us are here, as we are for the entire youth of this community, to continue to support your efforts, but we want to, because you are a part of this community. Your families are a part of this community and it is important that you communicate that to your parents and to your aunts and uncles and other out there that this community stands with you. Thank you for continuing to Dream the American Dream, and doing everything that you do to make our community a very special place. And I look forward, Juan, to working with you at the national level. The U.S. Conference of Mayors has made immigration reform a top priority. Mayors across this country are continuing to advocate in the Congress that Congress does something, and I will continue to be certainly an advocate and a voice at the national level through the U.S. Conference of Mayors on ways we can get the government to expand the program for families and other. So thank you for being here."

Mr. Deosis said, "Mayor Gonzales, we're excited to work with you. Thank you."

#### **CONSENT CALENDAR DISCUSSION**

- 10(a) BID NO. 14/24/B – COLONIA PRISMA PARK AND AGREEMENT BETWEEN OWNER AND CONTRACTOR; LEE LANDSCAPES, INC. (MARY MacDONALD)**  
**1) REQUEST FOR APPROVAL OF BUDGET ADJUSTMENT – PROJECT FUND**

Councilor Bushee said she raised a concerns at Public Works, and she doesn't see that anything has changed. She is concerned that the deletion of the shade structure was the wrong deletion. She said this area is pretty exposed and there are not a lot of trees, and wonders if this is the best move for families. She said she took it off to vote against it. However, she is more interested in knowing if there is any adjusting. She understands the amount of money not in line with the bid. She said, "It seems to me, maybe losing a little bit of cement here or there, and coming up with an alternative material and still keeping some way for families to have a shade structure over some picnic tables would be something I would want to pursue."

Ms. MacDonald said she is right about the need for shade. In this case, it was planned to go over one picnic table with room for a second picnic table later on, hopefully. Or if we don't need the construction contingency, which is very small, we can afford the second ADA picnic table. She said they already have included some replacement of concrete, and we are now down to one remaining ADA accessible path and we likely are to "cross wires with the ADA Committee if we eliminate any more concrete." She said this isn't a sure thing at all. She said there is hope on the near horizon, noting the Chair of POSAC found out about our shortfall.

Councilor Bushee said she thought somebody was pursuing impact fees.

Ms. MacDonald reiterated that there is good support at POSAC for an approval for a significant amount of Park Impact Fees. She said if that happened, she has a good idea that the shade structure would be the first item added back into the project.

Councilor Bushee asked if we need to delay this in any way to facilitate that so you don't have to come back

Ms. MacDonald said that was seriously considered, but if we delay approving the contract, due to the time it takes to cycle through for approval after the meeting to get an executed contract, we will run out of planting time this year.

Councilor Bushee asked if part of her motion to approve, could be that if new funds become available that we will include at least the shade structure and perhaps the other picnic table. She is trying to facilitate this in the hope you don't have to come back to this Committee.

Ms. MacDonald said that would be a helpful recommendation and approval.

Councilor Bushee asked Ms. Brennan if "I can make that motion."

Ms. Brennan apologized saying she didn't hear all of the discussion.

Councilor Bushee reiterated that they had to delete almost \$50,000 of amenities from a new park, Colonia Prisma because the bid came in higher than available funds. They are going to pursue impact fees this week. She asked if we move this forward so they can get started with plantings and such, can we not have them come back if the impact fees are forthcoming.

Ms. Brennan said, "Yes."

**MOTION:** Councilor Bushee moved, seconded by Councilor Dominguez, to approve this request, "in hopes that you receive some additional funds, and we will fund the remaining amenities that have been deleted."

**DISCUSSION:** Councilor Bushee said she is holding out for the shade structure.

Councilor Maestas asked if are we allowed to dedicate certain impact fees to specific projects, and is this precedent setting in any way.

Ms. MacDonald said, "Not at all. This has been routinely done. A portion of impact fees do get allocated to Park Impact Fees and the Capital Improvement Advisory Committee routinely considers and considers apportionment of yearly or available Park Impact Fees for various parks."

Councilor Maestas said then the revenues are insufficient to cover the amenities, so we need a budget adjustment as well to go along with this.

Ms. MacDonald said, "What I understand about the follow up to that Park Impact Fee Consideration Committee, the CIAC, is that once they have approved the funds they normally can move it into the Park Budget, and additional Council approval isn't needed to transfer those funds into the Parks budget.

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

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

**Against:** None.

**Explaining her vote:** Councilor Bushee said, "Yes. And I did not limit my pursuit to the impact fees. I hope there is some money available to get this done and completed."

**10(I) CONSIDERATION OF RESOLUTION NO. 2014-67 (COUNCILOR TRUJILLO). A RESOLUTION ADOPTING THE 2016-2020 INFRASTRUCTURE CAPITAL IMPROVEMENTS PLAN (ICIP). (ISAAC PINO)**

Councilor Ives said in his Memo dated July 29, 2014, Mr. Pino notes that the list has been priorities, but when it came to Public Works there was a statement that it was reorganized to cover deferred maintenance issues and other categories. He said he understands this as a list that is categorized to include easily 100 projects, and we also seem to be saying we have various priorities within the reorganized list which is confusing to him. He asked if this is meant to represent a priority list in terms of those matters we would want to put forth to the Legislature in terms of our priorities, or it simply a cataloguing of a multitude of projects we prepare annually that we want to be potentially available to the Legislature to take action on, in terms of allocation of CIP funding.

Mr. Pino said the list before the Governing Body is something DFA requires to submit annually in order to be considered for legislative funding. He said, "The way the projects are listed was provided by the Finance Committee two meetings ago. But I need to add that the list is inconsequential ultimately to what projects get presented for funding by the Legislature. It has been very typical that when we have our annual meeting with our Legislative delegation that project will come from the bottom of the list, or middle of the list. To DFA it is neither here nor there. When a State Legislator decides they are going to sponsor a bill to fund a project, nobody from DFA runs back to them and says it's not that high on the list. At the Finance Committee, they listed deferred maintenance projects as priorities, traffic projects as priorities and to have the non-profit pass through be our 5<sup>th</sup> priority because those are mostly administrative pass-throughs, such as the Rodeo Grounds, soccer fields."

Councilor Ives in the Memo of July 29, 2014, it says that SWAN Park would be included in the City's top 5 priorities, which suggests that at least Items 1-5 represent the top 5 priorities for the Governing Body in terms of ICIP projects. He said the listing in the area of deferred maintenance, was the Calle Po Ae Pi road in the newly-annexed part of the City which is indicated it is added to the list in the top 10 projects list. The word priority is not use, but it certainly doesn't appear to fall within that category of deferred maintenance. He said, "I'm just trying to understand. Are we talking about a simply seminal listing of all the potential projects that we would like to potentially have the Legislature look at. Or, are we intending on creating a priority list, in which case, I'm not sure the discussion has been really engaged in. I attended Public Works because I was curious about what I saw as the inconsistencies in the Memo in how it was describing how this was coming forward. I have no problem saying this is a list of all the projects that the City puts forth on that ICIP list. My problem is in saying that these define our priorities because that is a discussion I haven't been engaged in, and it certainly represents a significant departure from some of last year's listings. So, if that were the case, I would love to see further discussion on that."

Mr. Pino said, "I would advise you to simply look at it as the ICIP list, without category, or without priority. The sun shades that were funded came from almost dead last off the list last year to get funding. I think the very same thing could occur this year, depending on which project we present in our priorities. When it becomes critical is in December, when we have that Legislative breakfast and we pass out our document, and we've already looked for sponsors. That's when it's critical to have our priorities in order and says these are the top three projects we want funding for this year. And as long as they appear on the ICIP list, that's the purpose the ICIP list serves. So I wouldn't be concerned. You correctly point out that SWAN Phase 2 can't be deferred maintenance since it's not built yet, but it would have remained down on the expansion list to move up. If that winds up being a priority of the Council when the time comes, it doesn't matter where it comes in from the list. So I wouldn't concern myself too much with categories or this being viewed as a priority, but I would in December when we present our priorities to the delegation."

Councilor Ives said he agrees with everything Mr. Pino said, and agrees both projects should be within the ICIP listing.

**MOTION:** Councilor Ives moved, seconded by Councilor Trujillo, to "approve the ICIP list, understanding that it is a list of all the ICIP projects across the City, and not necessarily in prioritized order."

**DISCUSSION:** Councilor Maestas said he would like to look at this exercise in reverse, instead of deferring our focus on establishing a real priority list to identify our Legislative agenda, he would like to see it done when we develop the ICIP. He said this is the final format, but he doesn't think we're wedded to this format in identifying our ICIP, and particularly in coming up with a ranking. We can develop our own ranking criteria for our own ICIP projects. He would like us to develop our own ranking criteria for the top 20, and get that well done in advance of the December meeting. He said we are looking at all the needs of the City on this list. This is another option that may be better instead of kicking the can down the road and waiting until December to start looking at these. He doesn't think we are limited to the State's format for ICIP, and shouldn't dictate our prioritization process because we can have our own process, and then put it in the form acceptable to the State.

Mr. Pino said, "I agree with everything you said, except for one thing. The format is all DFA seems to care about, as long as it's in the format it's in. They don't pay attention to priority, but everything else, including the subordinate pages and everything has to be exactly according to form. And we've made mistakes in the past and they call us out, and it turns into a big drama to make sure that we have everything properly listed. But getting started early on our priorities and what to present, getting sponsors lined up and everything else certainly make sense."

Councilor Maestas said all he is saying is let's make it meaningful for us, instead of considering to be a formality, because these are all capital improvements that are on the table. He thinks it's the right context and even the right time, so it is only a matter of looking at the current ranking in December, although there might be some minor changes.

Councilor Bushee said this process should start when we are considering our every two-year CIP bond. She said there was \$500,000 for drainage on West Alameda, and asked why that didn't make this list and asked if it can be added.

Mr. Pino said it can be added, but this is our last shot.

Councilor Bushee wants to be sure Salvador Perez is on the list, and asked if the Soccer Complex made the list. Unidentified said the Soccer Complex is on the list.

Councilor Bushee asked if we funded all of the needs for the GCCC.

Mr. Pino said we'll never be able to fund all of the needs at GCCC.

Councilor Bushee said, "Well then we should just have a running slush fund for the needs of the GCCC." She said this is the shortest ICIP list she's seen.

**FRIENDLY AMENDMENT:** Councilor Bushee would like to amend the motion to add \$500,000 for West Alameda and the widening of the Old Santa Fe Trail at \$1 million and City Hall renovations for \$500,000.  
**THE AMENDMENT FOR \$500,000 FOR WEST ALAMEDA AND THE WIDENING OF OLD SANTA FE TRAIL WAS FRIENDLY TO THE MAKER.**

**DISCUSSION ON FRIENDLY AMENDMENT PRIOR TO AGREEMENT BY SECOND:** Councilor Bushee asked about the Old Santa Fe Trail widening at \$1 million which wasn't funded.

Councilor Dominguez said there are some categories that are vague in general so we can fit some of these things that aren't specific into those categories. He asked, "That's part of the intent of this as well. Right."

Mr. Pino said, "That came from Finance Committee. It was a well thought out approach actually, to put the deferred maintenance from General Fund projects first, traffic safety second, deferred maintenance from Enterprise Funds third, then expansion items like some of the ones Councilor Bushee just mentioned, and then finally the pass through to the non-profits. So some of these, for instance, West Alameda drainage

would be an expansion, and the Old Santa Fe Trail widening and the City Hall renovations would all be expansion. And renovations might be deferred maintenance, depending on what we put in there for renovation.”

Councilor Dominguez said in the past, aside from priorities, there wasn't much consideration given.... it could be expansion or maintenance. It was as long as there was something on the list that had something vaguely related to that project and it was okay. It was acceptable.

Mr. Pino said, absent any structure for categorizing the projects, the Finance Committee gave us that structure. And one could argue whether it's in the right order or not, but with the growing list of deferred maintenance, it makes sense to him to have that at the top.

**THE AMENDMENT WAS FRIENDLY TO SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

**CLARIFICATION OF FRIENDLY AMENDMENT.** Councilor Ives clarified that he agreed that the Friendly Amendment should include the improvements at City Hall.

Councilor Maestas said we need an ongoing, updated, annual consolidated infrastructure assessment of infrastructure needs with rankings, and find a way we are comparing apples to apples, “what you're recommending to us as Public Works Director, instead of letting the political projects carry the day and overshadow a lot of the deferred maintenance, a lot of these possibly high risk infrastructure rehabilitation projects. I think we need something consolidated, something we have at all times updated and prioritized.”

Mr. Pino said he has all of the data, and prioritizing it into a single document would make a lot of sense, because that would give us our priorities when we come to you on CIP every two years. He said if we decide to do another GO Bond and it is already prioritized and quantified, it would be a matter of going to what we have all agreed are our priorities. He said staff will work on consolidating all data they have so we can start considering such a report.

Councilor Trujillo agrees with Mr. Maestas, and said we need to deal with it at Public Works earlier. He said he has seen some priorities which were pushed by one Councilor. He said last year it was the Airport, on which he wasn't in favor, when there are other priorities he thinks should have done. He said this is an excellent idea.

Councilor Bushee said perhaps Councilor Trujillo could formulate something for the next list, because she thinks we need to look at some ADA and/or railing improvements at Ft. Marcy ball field..

Councilor Trujillo said his concern is, “the minute we start doing any kind of thing at Ft. Marcy, doesn't something kick-in with ADA compliance, meaning the entire park. I know we put in the one railing, but the minute we start doing something like that, we will have to look for the \$6.5 million to renovate the entire park. So that's my whole concern. If we start doing little bits and pieces, will we have to tear out what we've already done.”

Mr. Pino said, "I think small projects like that can just be done like the last set of rails that was put in on an individual basis, because there is a project in the ICIP asking to redo the whole park, knowing exactly the point that you just made Councilor, that ADA kicks in for everything at that point."

Councilor Bushee said she just wanted to see if it was on the radar screen.

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

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

**Against:** None.

**11. UPDATE ON NEW MEXICO MUNICIPAL LEAGUE POLICY DEVELOPMENT. (COUNCILOR MAESTAS)**

A copy of *NMML Proposed 2014-2015 Statement of Municipal Policy and Proposed 2014-2015 Annual Resolutions*, are incorporated herewith to these minutes by reference, and are contained in the Council packet.

Councilor Maestas said he was appointed to the Intergovernmental Relations and Taxation Committee and the Resolutions Committee. He noted on packet page 19, 3.2.04 Home Rule Municipalities is existing policy that is what we are requesting by Resolution – our taxing authority be returned to us after changed by the Legislature subsequent to the creation of Home Rule Municipalities in the Constitution.

Councilor Maestas noted on packet page 22, Section 4.3.29 Public Transit Funding. He said part of our strategy should be how we can relieve the demand for General Fund revenues, which is asking for appropriate such as Transit Funding. He said staff of the League crafted this brand new policy, working closely with Jon Bulthuis and himself, and it has been adopted by the Resolutions Committee.

Councilor Maestas said on packet page 54, Resolution 2014-19, is the Resolution adopted by this Governing Body, summarizing all the issues we have as municipalities. The only change to which he agreed in the Resolutions Committee was on page 55 which struck redundant language, because we passed a separate resolution on that issue. He said a staff committee of Brian Snyder, Kelley Brennan, Ike Pino, noting Melissa Byers and Marcos Martinez helped as well, and thanked all of them for doing a great job in researching a lot of these issue. The strategy was to pass a stand-alone resolution in the event that the Legislature cannot address GRT reform policy in the next session. The Legislature has acknowledge it is a need, but is taking a go-slow approach, study it, hold hearings, and our backup plan is to at least get full taxing authority as a home rule municipality.

Councilor Dominguez thanked Councilor Maestas for his work at the NMML, noting he has attended committee meetings in the past, noting we can be very instrumental in policy. He asked if these statements been approved by the NMML

Councilor Maestas said these have been approved by the Resolutions Committee, and they then will be ratified at the Annual Business Meeting at the NMML Annual Conference. Once approve, it can't be changed.

Councilor Dominguez asked if there is any sense of priority, or is this where the battle is going to be.

Councilor Maestas said the Committees are asked to prioritize this legislation, but that is a huge fight, and the Committees generally punt and rank them all high.

Councilor Maestas said on Page 58, Resolution 2014-22 concerning the GRTs on food, stems from the League's desire to reinstate that tax on food. He said they felt this was counter to what we're trying to do in terms of reform. He said the NMML is split on this issue, and he was the only one in Committee to vote against this in the Policy Committee. However, other cities that have enacted the 3/8% GRT, which was given to us when they repealed the hold harmless, and aren't happy about trying to reinstate the tax on food, the legislation calls for repealing the 3/8% GRT.

Councilor Dominguez said he doesn't necessarily want this Governing Body to fight that fight for the NMML, but if there is something we are unanimously in support of, that we do whatever we can to bring that to the attention of the NMML. The NMML has the ability along with our lobbying efforts to change existing State law which can have a significant impact or lessen the impact on the City. He said, "Just a general statement, if there is anything we can do to help, let us know."

Councilor Maestas said on page 59, Resolution 2014-23, is the Resolution we adopted here, and that passed with no opposition or amendment. This is our backup plan if the Legislature is unwilling or unable to tackle gross receipts tax reform policy.

Councilor Maestas said on page 60, Resolution 2014-24, is also the identical Resolution adopted by the City, requesting an enactment of a tax on municipal telecommunications. He said our Resolution is modeled after the Utah Act, noting the one we adopted had the draft Act attached to it as an exhibit. However, the League as a matter of policy, does not include the actual legislation in the Resolution. "We scored another victory here and the members of the Committee liked the Utah model we advocated, thanks to staff for the research."

Councilor Maestas said another collaborative effort on behalf of public transportation, Jon Bulthuis and New Mexico Transit Alliance, which is not in the packet. It is a resurrection of an old Resolution calling on the Legislatures to establish a State Transit Fund to support municipal and regional transit capital and

operational needs. He said there was a big effort in 2007-2008, which has waned. He said there will be a big effort to get this done, as well as encouraging our Congressional Delegation to reauthorize the Federal Transportation Bill.

Mayor Gonzales thanked Councilor Maestas for his leadership on this and in informing the Council. He said, as previous Mayors have done, he took the liberty to appoint Councilor Maestas to serve as the City's Representative at the Municipal League, so he is our formal representative and serving us very well. He assumes the entire Governing Body is to participate in the Municipal League general meetings.

Councilor Maestas said yes, and the next Annual Conference is August 27-29, 2014 in Albuquerque. He encouraged his colleagues to go.

Councilor Maestas said he "threw my hat in the ring" for an At-large Board seat, which is a two-year term. He said there are 3 open positions and 3 candidates, and there could be candidates running from the floor. He said it would be nice to have an endorsement from this Governing Body.

Mayor Gonzales asked if Councilor Maestas is elected to the at-large seat, can this Governing Body add another member to represent the City.

Councilor Maestas said every City can appoint a delegate to the Business meeting, and he has been appointed as the delegate to vote on behalf of the City. He said there can be no more than one representative from any single City on the League Board.

**MOTION:** Mayor Gonzales moved, seconded by Councilor Ives to endorse Councilor Maestas to serve on the Board of Directors of the New Mexico Municipal League.

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

Councilor Ives said, regarding Resolution 2014-20 on page 56, relating to telecommunications, there is a reference to a telecommunications fee not to exceed 5%. He would urge him to speak with the City Attorney with regard to what that is 5% of might be potentially significant in determining what that means.

Ms. Brennan said, "In fact, we did, in Utah model that was attached, one of the first things you do is to define what body of revenue you are going to assess the fee against. And we had done that, but by taking it out, I think whatever the legislation is, that will be the first thing that they will look at."

**12. MATTERS FROM THE CITY MANAGER**

There were no matters from the City Manager

**13. MATTERS FROM THE CITY ATTORNEY**

**EXECUTIVE SESSION**

- A. IN ACCORDANCE WITH THE NEW MEXICO OPEN MEETINGS ACT §10-15-1(H)(7) NMSA 1978, DISCUSSION REGARDING PENDING LITIGATION IN WHICH THE CITY OF SANTA FE IS A PARTICIPANT, QWEST CORPORATION V. CITY OF SANTA FE, CASE NO. 14-2008 IN THE U.S. COURT OF APPEALS FOR THE TENTH DISTRICT.**
- B. IN ACCORDANCE WITH THE NEW MEXICO OPEN MEETINGS ACT §10-15-1(H)(2) NMSA 1978, DISCUSSION OF LIMITED PERSONNEL MATTERS REGARDING PERFORMANCE FACTORS FOR CITY ATTORNEY KELLEY A. BRENNAN**

**MOTION:** Councilor Ives moved, seconded by Councilor Trujillo, *with Councilor Ives noting his recusal on Executive Session matter Item 13(A), as my wife has represented the City in that matter*, that the Council go into Executive Session for discussion regarding pending litigation in which the City of Santa Fe is a participant, Qwest Corporation v. City of Santa Fe, Case No. 14-2008 in the U.S. Court of Appeals for the Tenth District, in accordance with §10-15-1(H)(7) NMSA 1978, and discussion of limited personnel matters regarding performance factors for City Attorney Kelley A. Brennan, in accordance with §10-15-1(H)(2) NMSA 1978.

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

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

**Against:** None.

**Explaining his vote:** Councilor Ives, "Yes. With the exception as noted."

The Council went into Executive Session at 6:25 p.m.

**MOTION TO COME OUT OF EXECUTIVE SESSION**

**MOTION:** At 7:05 p.m., Councilor Trujillo moved, seconded by Councilor Maestas, that the City Council come out of Executive Session and stated that the only items which were discussed in executive session were those items which were on the agenda, and no action was taken.

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

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

**Against:** None.

**14. ACTION REGARDING PENDING LITIGATION IN WHICH THE CITY OF SANTA FE IS A PARTICIPANT, QWEST CORPORATION V. CITY OF SANTA FE, CASE NO. 14-2008 IN THE U.S. COURT OF APPEALS FOR THE TENTH DISTRICT.**

**MOTION:** Councilor Trujillo moved, seconded by Councilor Dimas, to instruct the City Attorney to take final action consistent with the discussion held during Executive Session.

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

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

**Against:** None.

**Recused:** Councilor Ives.

Mayor Gonzales said, "For the record, the performance requirements for the City Attorney will be made available to the public upon request. You can ask Ms. Brennan for that."

**15. MATTERS FROM THE CITY CLERK**

Yolanda Vigil said, "I just wanted to inform you that I am still verifying petition signatures. I do hope to be completed either by Friday or Monday at the latest. Upon completion and certification, I will present a letter to the Board of County Commissioners to get on their August twenty-sixth agenda."

Mayor Gonzales asked Ms. Vigil, for the record, if she can describe what petitions you are currently certifying.

Ms. Vigil said, "Yes. This is the Initiative and Referendum petition which is reducing the marijuana penalties. As stated, upon completion of verification and certification, I will send a letter to the County Commission asking to be on their agenda. If required, I will ask the Mayor to co-sign that letter with me. Any questions."

Mayor Gonzales asked if there are question on this process, which is separate from what the Governing Body will be considering on August 27, 2014.

Ms. Vigil said, "If I could just conclude. The letter will ask that the questions would be placed on the November election ballot. That is what the letter will entail."

## **16. COMMUNICATIONS FROM THE GOVERNING BODY**

A copy of "Bills and Resolutions scheduled for introduction by members of the Governing Body," for the Council meeting of March 12, 2014, is incorporated herewith to these minutes as Exhibit "2."

### **Councilor Dimas**

Councilor Dimas wished his youngest daughter Jessica a Happy Birthday, noting her birthday was on August 9, 2014. And his oldest daughter Angelique, has a birthday on Friday, August 15, 2015. He wished a very Happy Birthday to Angelique and Jessica, and he loves them both very much..

### **Councilor Maestas**

Councilor Maestas had no communications.

### **Councilor Bushee**

Councilor Bushee said the weeds along the Rail Trail and River Trail are out of control. She said there is a lot of dirt that is still on the trail, and it is dangerous to ride a skinny tire bicycle. She is sure every Park is in need because of the rains. She said we have Trails Coordinator funded at one-half, and also should be volunteers. She asked the City Manager to coordinate with City staff to keep up with the weeds and sprouting elm trees..

### **Councilor Ives**

Councilor Ives introduced an Ordinance amending Subsection 11-9.1 SFCC 1987 and Section 18-9 SFCC 1987, to require the City of Santa Fe to conduct a public hearing the Governing Body votes on reallocation of proceeds from a voter-approved General Obligation Bond or tax that deviates materially from the information provided to the electorate. He said this is to codify the measure we are pursuing currently regarding the reallocation of bond funds to ensure there are public hearings so the public has an opportunity to be heard on these issues. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "3."

## **Mayor Gonzales**

Mayor Gonzales welcomed the new Deputy Chief of Administration, Mario Salbidrez and thanked him for attending on behalf of the Police Chief.

Mayor Gonzales said he had the opportunity to do a ride along with the Police on Friday evening. He said the 10 hour shifts which has been dated, in terms of its effectiveness. He went to about 6 calls and, he is unsure if it is due to the change in shifts, or the way the staffing is, on any given call there were 3-6 units which were able to respond very quickly and effectively and to be able to mitigate and reduce any associated risks. He said, "At least in the observation that I saw, traveling that night, I thought that the City was well covered on a very busy night. So I would encourage the Councilors, if you get a chance to do a ride along, there is nothing like meeting a first or second year Police Officer working the graveyard shift having to be away from their families protecting the City. It was a pretty cool experience to be out there."

Mayor Gonzales noted Councilor Dimas is overseeing this from the Public Safety standpoint. He said, "If these 10 hour shifts are allowing for that type of powerful response, very quickly, I think the early signs are promising. And I, of course, do want to congratulate the men and women on the front lines. The recent statistics are showing there was a reduction in property crimes, the lowest that it's been, in terms of the report that is coming out, Mario, that there was a reduction of the property crimes."

Deputy Chief Salbidrez said this is correct.

Mayor Gonzales said, "I just want to send... if you can relay it to the rank and file troops, because they are the individuals that are out there doing everything they can to keep the community protected, but those are promising signs, obviously. And I know those are stats that didn't necessarily tie to the 10-hour shifts, but they are stats that are tied to the men and women that are working for the Police Force, and I want to make sure you convey the appreciation of the Governing Body for what they are doing out there."

## **Councilor Dominguez**

Councilor Dominguez thanked Mayor Gonzales and Chief Garcia for attending the Las Acequias Neighborhood meeting we had last Thursday. He said the community is glad to see the new energy the Police Chief is bringing, especially regarding their concern of some illegal use of the park, which is a good thing.

Councilor Dominguez said, "For the public, School is starting. I just want to remind everyone to abide by and obey the laws that govern our Public Schools and traffic around them. Please be safe. Please look out for the little folks."

Councilor Dominguez said we are going to be starting the Food Plan, taking a closer look at the Food Plan. He will be working on the Healthy Food Zones along the Airport Road Corridor and possibly around the entire City. He said there will be a Listening Session hosted by the Quality of Life Committee,

on Saturday, at 10:00 a.m. at the Southside Library, which will be a first look at the food plan. He will make sure all members of the Governing Body get information on this meeting.

Councilor Dominguez acknowledged the run last weekend and thanked Mayor Gonzales for being at the Plaza. He said the next time, they can switch and he can be at Tesuque at 5:00 a.m. He said it was a great event, and he is thankful for the City's participation in the run.

### **Councilor Lindell**

Councilor Lindell thanked everyone that participated last Saturday in the cleanup and paintup on the Plaza. She said 100 people showed up. She said, "I will publicly thank Buddy Roybal for taking the lead on that, Team Brad & Julie, the Boys and Girls Club, Hotel Santa Fe, Chuck Higgins provided coffee, Swiss Bakery provided goodies and I want to also to thank Matt O'Reilly, and man he's a neat and tidy painter, which I am sure surprises no one. All the benches were taken apart and cleaned with wire brushes and then the paint was carefully applied. If you drive on the open side of the Plaza, San Francisco Street, or if you take a stroll around the Plaza, it really looks nice. It was a tremendously successful effort. It was fun. Thanks to everyone for participating in that."

### **Councilor Trujillo**

Councilor Trujillo introduced the following:

1. A Resolution authorizing the City of Santa Fe to enter into a cooperative project agreement with the New Mexico Department of Transportation for receipt of Highway Safety Improvement Program Funds for a City-wide pedestrian signal head upgrade project. A copy of this Resolution is incorporated herewith to these minutes as Exhibit "4."
2. A Resolution recognizing the first annual Santa Fe Adult Softball League *Zozobra Burn-out Tournament*, and directing staff to assist in facilitating the event. A copy of this Resolution is incorporated herewith to these minutes as Exhibit "5."

He spoke with the new President of the Softball League and Ray Sandoval, Kiwanis, and got the together, and they were able to collaborate. He said this is something Santa Fe has needed for a long time. Other cities in the State have these huge tournaments such as The Whole Enchilada and just last week the Chama Days. He hopes this will bring a lot of teams from throughout New Mexico and other States to Santa Fe to play in these tournaments. He said it will bring in GRTs. He said the nice thing is the tournament will start at midnight on the night of Zozobra. So, after Zozobra, you may want to drive out to the MRC and watch some baseball. It is going to be a 24-hour tournament. Hopefully, this will become an annual event.

Councilor Trujillo asked Brian Snyder to thank staff for the median work being done on Zia Road

with the trees and irrigation. He has been getting complimentary calls from a lot of his constituents in District 4 saying it is looking beautiful. He is hoping this can be extended to all of the medians along Zia Road as we did on Rodeo Road.

Councilor Trujillo said as Councilor Bushee mentioned, regarding the weeds, we really need to look at herbicides and the use of them on medians. He said it is good to have our staff go out. He said for the past two days, Parks workers "cleaned the heck along Rodeo Road," and it looks beautiful.

Councilor Trujillo continued, saying, "However, if you look at the work and effort went into cleaning that, if we were to put herbicide on there as other communities do, we wouldn't have this problem, Councilor Bushee, of waiting three weeks when the rains come. I know people hate herbicides, but guess what, I use them in my yard and my yard looks immaculate because I control the weeds. I do understand Parks and all that, and I know there's things we can look at. But, we've got to look at ways.... it's not always about the downtown area, keeping that clean, because the Plaza always looks nice. I don't see weeds in there, but I sure see weeds in my District and District 3 and District 2 and other parts of District 1. I do see them. I'm just saying it's high time we look and assess the way we control weeds in this town, because we want to make our town look nice. But, driving on Cerrillos Road off I-25, it doesn't. We need to look at that. So, Melissa I ask you to bring up the herbicide resolution and I would definitely like to relook at that and revisit that."

Councilor Trujillo proudly announced that the Santa Fe Fuego were the 2014 Pecos League Champions. So in 3 years they went from worst to champions. He said the fans came out and supported this team, and it has been a fabulous adventure over the past 3 years. He said there were 800 people at Ft. Marcy Park for the playoffs, noting some were fans from the opposing team in attendance as well. He is hoping that next year, we can get some of those players in here, because unfortunately the season ended and lot of them went to the east or west coast to try to get on another team, so they can continue to play baseball all year long.

Mayor Gonzales said there was internal discussion about doing something for the team. He would like to do that before the next season starts, perhaps a barbecue during the trials when the players are here.

Councilor Trujillo said, "All my colleagues on the Council, you received a letter from the Santa Fe Youth Football League ["YAFL"] stating that I interfered with City staff and told them to take away fields from Santa Fe YAFL. I have never done that. The only thing I have ever asked of staff and Brian and I know that, and anybody that's been in any of the Committees I've sat on, is to treat people fairly, treat all leagues fairly. I think our job as a City is we have Parks and we have Leagues in this community. And the Leagues do a wonderful job in providing sports for our children to play. But if there are Leagues, we, as a City, need to be able to provide those fields for all of the children. It doesn't matter what League you play in, we need to be able to provide a field so they can practice and play. I just feel it is unfortunate that blatant lies were sent out that I would interfere in something like that, when all my colleagues know, and you all know me. I've always been about fairness. What's good for one part of the City is good for the other part. What's good for one League is good for the other. And I just want to reiterated that that's not

what I'm about. It's about children. It's about making sure they all have leagues. And it's just unfortunate that a letter like that was sent out that was nothing but lies. So, that's all I have to say on that, Mayor. I have spoken with you. I have spoken with Kelley and Brian on that as well. So I will leave it at that."

Councilor Trujillo wished his son and daughter, Krystianna and Hunter, best of luck in the new school year. He said, as Councilor Dominguez said, people be careful, watch the cross walks and lower your speed, especially in the school zones. He wished all school children and youth a good and safe School year.

**END OF AFTERNOON SESSION AT APPROXIMATELY 7:30 P.M.**

## **EVENING SESSION**

### **A. CALL TO ORDER AND ROLL CALL**

The Evening Session was called to order by Mayor Javier M. Gonzales, at approximately 7:30 p.m.. Roll Call indicated the presence of a quorum as follows:

#### **Members Present**

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

#### **Members Excused**

Councilor Christopher M. Rivera

#### **Others Attending**

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

### **F. PETITIONS FROM THE FLOOR**

*Mayor Gonzales gave each person three minutes to petition the Governing Body.*

**Robert Francis Mudman Johnson**, said he had a brain injury and this is first meeting he has attended since that brain injury. He said "The Mudman" is a gift from the School when I would teach them how to play in the mud and make beautiful art, noting he is a Scorpio so his life's lessons are learning how to be shallow and superficial. It was a part of his healing when he was traumatically brain injured. In the Holy City of St. Francis, let's make mud and not war. On the twentieth of September at the labyrinth he conceived of and 75 people to collaborate with him 16 years, they played in the mud and made a beautiful earth mother labyrinth entitled an Earth Prayer for World Peace. He said playing in the mud is playing and we've forgotten how important play is for our lives. You can join us in the refurbishing of the labyrinth on the twentieth, but September 21<sup>st</sup> is the International Day of Peace Day. He said he wants the Resolution to address is... he had a journal at the beginning of the labyrinth so they could talk about what they experienced in the labyrinth, and one person thanked him for doing it, and his thoughts were that unless

we actually believe the dream of world peace it will never happen. He said, "So what I'm wanting to do is to take this day seriously on the 21<sup>st</sup> and we're going to have a celebratory time of walking the labyrinth after refurbishing it on Saturday. And also to make a Resolution so us all remember the words of St. Francis, 'Make me an instrument of world peace,' so we can do that with playful loving kindness. I was a specialist and I'm also a counselor, and I've been a specialist in conflict resolution, and anger, rage and war is love looking for a door is one thing I came up with. So we need to do these things with love and playfulness, and maybe to include in the Resolution, are corporations, according to Citizens United are a real person. I kind of question the ruling, but the supreme corporation didn't really question that. And our corporations do not have a value attached to them, so to put into their structure, because of living in the Holy City of St. Francis, make me an instrument of world peace as their goals in life. And to make that part of the Resolution. So that is what I have come up with for the International Day of World Peace in Santa Fe. And that's why I'm here, so thank you."

**Anna Marie Villegas, Northern New Mexico Football league**, said, "I come today with my husband, Zeke Villegas. We are with the Northern New Mexico Childrens Football League. I come to you tonight, first of all to apologize. I feel as though the letter that was sent out has very much gone beyond whatever needed to be. The immaturity of trying to break up our League has now spilled over into City Council, and I apologize for that. What I would like to let you know where we're at. My husband and I started this League. We worked with Santa Fe YAFL for 10 years. We started this League, because when you're not happy with something, you do it yourself. And so that's what we did. We thought that we could provide an option for the kids of Santa Fe and the families to Santa Fe to have a different football league in town. We have a lower price. We provide upgraded equipment, safest equipment. And so what we came to the City asking last year was for parks, parks for practice, parks for playing."

Ms. Villegas continued, "We were met with a lot of negativity from our rival League in town, which is YAFL. And at that point, we kind of said, you know what, we're new. We're not going to do this. All we need is practice space. We spent \$4,000 on City Schools to be able to play at their parks for our game days. Mr. Dimas was at our opening ceremonies, Mr. Trujillo was also there. We appreciate all of the support of Santa Fe and that's what we came to the City to ask for, support with practice and fields, fair support."

Ms. Villegas said, "And so this year coming forth, we decided, you know what, that's just not in our budget, we'd like to provide more for our kids and less having to pay out on fields, when we have 200 children of Santa Fe, taxpayer families, that will be playing in our League. So, we came to the City and asked Parks and Recreation for practice fields and play fields. We've been met also with negativity again, saying that seniority is above what we do for our kids. We are bringing in outside affiliates which brings in, as far as we are concerned, more money to the City of Santa Fe, and more excitement to the City of Santa Fe. What we need, is for our kids to be educated, excited and learn the fundamentals of football, but let's incorporate our community, and that's what we're here. We're not here to fight over parks, we are here for the basic fundamentals of our kids."

Ms. Villegas continued, "Now the parents have every right to have fields that are fully equipped and safe for their children to play on. What we have asked of the Parks again this year, is if we could please have a fair chance of having one playing field and then we have also asked for practice fields. We were granted practice fields, and we were met again with negativity with the playing fields. What we did ask for is if YAFL could get one playing field and we can get one playing field, which we thought was very fair. I do have all of the emails back and forth again. I apologize again for this silliness. What we think should be fair across the board is that taxpayers within our communities should also be able to use practice fields and playing fields. We just ask for fairness."

Ms. Villegas continued, "But we greatly appreciate all that you do. We have opening ceremonies on September 5, 2014, and we hope to see you all out there. Thank you."

Mayor Gonzales wished them good luck this season.

**Stephanie Beninato** said, "I wanted to bring a couple of things to your attention. One, again is a disconnect and that's between facilities and in this case, Recreation and Parks. At Salvador Perez as all of you know, because I said something about it a couple of weeks ago, there was cleaning project there that went awry. And when we went back, the paint and new tile that was put in 6 months ago, some of the tile were damaged and cracked and all the paint was off the floor. So I understand there was a disconnect between the Recreation and what they were doing to improve the building and then what Facilities does to improve the building. I'm really not sure why Recreation doesn't take care of their own buildings, because it would seem to make more sense that way, or at least to centralize it in some way, shape or form. Because when you have to wait until eight o'clock when something's not working at six, it doesn't actually work that well. And again, when you pay money to improve something and then it's just washed away 6 months later, it's really a waste of money, so I'm bringing that your attention."

Ms. Beninato continued, "I'm also bringing another waste of money to your attention and is that is the lawyer that you all, that as we, the taxpayers are paying for, in the lawsuit against me. He just recently put in a motion and basically all the law was mis-stated. And I'm talking about some pretty blatant things like the City is not a corporation. Well actually, in all these legal things, research, things you look up, it's called a municipal corporation, and that is how the City is run. To say it is not a corporation, that is just a [inaudible] statement to avoid acknowledging that I actually have the case. So, we have already spent \$12,000 on that lawyer just through May, that isn't June and July where he deposed me for 9 ½ hours, 3 round trips from Albuquerque. That wasn't the bogus settlement we had with another round trip from Albuquerque, and two other people sitting in it. So I'm sure we're up to \$24,000 easily now with discovery and things like that."

Ms. Beninato continued, "The other thing is the public records. Again, it's very slow getting public records. Even when they're there, I have to wait two weeks. And I just found out that there are certain records like architectural plans, plats, maps, diagrams of storm drains, what do you know, that are actually

required by the State to be permanent records. And I've been told they are not here. But what does that mean, that they are not here, and they're in the State archives and somebody has to go and request them. Or does it mean that the City doesn't comply with the State law about retaining the records. So I think this is a really major problem. And again, this Public Records request, how it operates within the City, it just seems like it's a lot of stonewalling and you could parse out this and that. And you know, you don't give the people what they're requesting and what you are required to give by law. So I'm willing to ask another time, and this time actually cite to the State Public Records that these things I've been asking for for over a year are supposed to be retained as permanent records. And I would like to know where they are, and I'd like a copy if they're there, as they should be. Thank you."

**Michael Moquin** said, "I'm a historic preservationist and a local historian. I'm also a teacher at heart. I love New Mexico. I love Santa Fe. I love it's people. It's history is incredible. We actually have the most incredible written history of any of the states in the United States. So I have a question for you, for everybody but the Mayor, since he received an email from me. And it's a question about Santa Fe's history. When was Santa Fe named Santa Fe and settled. It happened at the same time, Mr. Dimas.

Mayor Gonzales said, "This is actually petitions from the floor, so it is your time to address the Council, not so much for there to be Council interaction back with you."

Mr. Moquin said, "Where I'm getting at is, I'm not sure the City of Santa Fe knows its history and a lot of money was spent very poorly, in fact. We have no reports. There were no committee reports done. People like myself were excluded from public comment repeatedly. I was bullied extensively. There should have been a lawsuit. I'm here to help Santa Fe. I'm here to help New Mexico. I'm one of many people who could help. We had no historic conscientiousness involved in the commemoration which was the word I introduced in January 2007, after reading a letter from the leading Indian Chief in Virginia asking that the word commemoration be used in any acknowledgment of Jamestown's history, four hundred years. We have that four hundred years of history, too."

Mr. Moquin continued, "I doubt that anybody on the Council actually knows when we were settled and named Santa Fe. And that's incredible. This is probably the only city in the country who could have that type of a claim. And unfortunately, it's due to politics, and I'll just leave it at that. But I will tell you what the answer is, is anybody listening. Okay. Okay. I think there was a conversation over here. 1607. And it's in the Martinez de Montoya papers. And okay, good, good, somebody does know that. Oh, okay. That's when we discovered stucco in Santa Fe. So, I'm also an adobe person. I'm the founding editor and publisher of *The Adobe Journal*, so I have a great concern for conservation and I see really little of it, including on the Plaza."

Mr. Moquin continued, "I wasn't going to say this, but I'll say it since I can't ask questions, but the paint job done on the Plaza was actually kind of backwards. We did no cleaning, we did no preparation. We put on a finish paint instead of a primer, and then there's... you have to see it folks. You just have to

go see how rough it is. There's a lot of work to be done. Normally, this would be City work and Pat, Mr. O'Reilly would have workers with skills to do this type of work, but it's incredible, it's stupefying to see how we rush into things and then do a poor job. Anyway, if you all could think about if it's important or not that we know our history. And I'll come back to future meetings, but thank you Mayor."

### **Public Petitions from the floor was closed**

Councilor Dominguez asked Bryan if we still have our joint agreement with the Public Schools any more, because he has been led to believe that that agreement does not exist.

Mayor Gonzales asked if he is speaking about the joint use agreement for facilities.

Councilor Dominguez said, yes, the MOU we have with the Santa Fe Public Schools.

Mr. Snyder said, "We do have a joint use agreement, that was discussed, I think back in, maybe 5-6 months ago, there was a discussion here at Council on adding some language and deleting some language, and that's when we talked about, for example Capshaw and the use and security of those fields. But I can verify."

Councilor Dominguez said, "The only reason I bring it up is I'm wondering if.... the lack of play space for youth leagues is not new, it's something that's been in existence for some time. And that was part of the purpose of having that joint use agreement, that MOU. And so, I don't know what the status is of it, I don't know what negotiations have happened with them between the City and/or the League, but I just wanted to find out whether or not it is in existence."

Mr. Snyder said he will look into it.

Mayor Gonzales said, "A good point. What I've heard recently is this need to... we can address being able to assure that all of the children of the community to high quality playing fields, because they're here, we just have to expand them and prepare them. I had the same question about whether the schools were providing facilities and doing so in a manner that is not so costly, or costly in ways that it is just too overwhelming to the Leagues."

### **G. APPOINTMENTS**

Mayor Gonzales said, as promised, he held off these appointments for the Council to offer some input into the appointments. He said before you, as you can see, the individuals that are recommended, and unless you want to talk about these individually, perhaps we can take an all encompassing motion to approve all these appointments.

Councilor Bushee said her preference is to take them one at a time.

### **Audit Committee**

Mayor Gonzales made the following appointment to the Audit Committee:

Loretta E. Valencia – to fill unexpired term ending 11/2015.

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

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

### **Historic Districts Review Board**

Mayor Gonzales made the following appointment to the Historic Districts Review Board:

William Powell (Old Santa Fe Association) – to fill unexpired term ending 01/2016.

**MOTION:** Councilor Bushee moved, seconded by Councilor Lindell, to approve this appointment.

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

### **Children and Youth Commission**

Mayor Gonzalez made the following appointments to the Children and Youth Commission:

Thomas Bustamente – Reappointment – term ending 01/2016;  
Joanne Lefrak – Reappointment – term ending 01/2017;  
Michael Multari – Reappointment – term ending 01/2017;  
Jill Reichman – Reappointment – term ending 01/2017; and  
Catherine Dry – term ending 01/2016.

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

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

### **Santa Fe Regional Juvenile Justice Board**

Mayor Gonzales made the following appointments to the Santa Fe Regional Juvenile Justice Board:

Mark Caldwell – Reappointment – term ending 10/2015;  
Mary Ellen Gonzales – Reappointment – term ending 10/2015;  
Judge Mary Marlowe-Sommer – Reappointment – term ending 10/2015;  
Deacon Anthony Trujillo – Reappointment – term ending 10/2015; and  
Sarah Jacobs – to fill unexpired term ending 10/2014.

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

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

### **Bicycle and Trail Advisory Committee**

Mayor Gonzales made the following appointments to the Bicycle and Trail Advisory Committee:

Gretchen Grogan – Reappointment – term ending 06/2016;  
Frank Herdman – Reappointment – term ending 06/2016;  
Tomas Rivera – Reappointment – term ending 06/2016; and  
Officer Faron Rodriguez (Santa Fe Police Department) – to fill unexpired term ending 06/2016

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

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

## H. PUBLIC HEARINGS

- 1) **CONSIDERATION OF BILL NO. 2014- 20: ADOPTION OF ORDINANCE NO. 2014-26 (MAYOR GONZALES, COUNCILOR DIMAS AND COUNCILOR IVES). AN ORDINANCE RELATING TO THE CITY OF SANTA FE UNIFORM TRAFFIC ORDINANCE; AMENDING THE PROVISIONS REGARDING ENGAGING IN A CALL WHILE DRIVING AND TEXTING WHILE DRIVING; AND AMENDING THE TRAFFIC VIOLATION PENALTY SCHEDULE TO DOUBLE THE PENALTY ASSESSMENT FOR USING A MOBILE COMMUNICATION DEVICE WHILE DRIVING AND TO TRIPLE THE PENALTY ASSESSMENT FOR USING A MOBILE COMMUNICATION DEVICE WHILE DRIVING IN A SCHOOL ZONE. (NOAH BERKE)**

A Memorandum dated June 11, 2014, with attachments, to the Public Safety Committee, from Noah Berke, Planning and Policy Administrator, replacing the Memorandum in the Council packet, is incorporated herewith to these minutes as Exhibit "6."

Noah Berke referred to the information in the Council packet, and said he would stand for questions.

*The Committee commented and asked questions as follows:*

- Councilor Bushee said Mr. Berke's Memo said, "To be consistent with State laws." She said the State does not have any kind of law addressing this concern that she knows about.

Mr. Berke asked her if she is speaking in reference to the School Zones, the double fine for the School Zones.

- Councilor Bushee said, "That's one thing, but they don't have a cell phone ordinance."

Mr. Berke said the State just passed a texting while driving ordinance [statute?].

Councilor Bushee said, "My big concern right now, I'm just going to state it. I want to know what consistency because the State doesn't have.... you don't get fined if you are driving outside of Santa Fe City, talking on the phone. My concern has to be with enforcement, and I saw this Memo saying, 'To be consistent with State laws pertaining to prohibited acts while operating a motor vehicle, the proposed amendments.' So you're just referencing texting in school zones. Correct."

Mr. Berke said, "This is referencing use of a mobile device and texting in School Zones as well. The language is to be more consistent with what the State has adopted."

- Councilor Bushee asked if the State has a cell phone prohibition, you can't talk on a cell phone.

Mr. Berke said, "Yes they have a cell phone law, with hands-free requirement."

- Councilor Bushee said after the public hearing she will talk about the enforcement aspect.
- Councilor Dominguez said, "And I don't want to get too into the weeds with this, but does this also pertain to tablets. It's not necessarily a mobile device in the general sense, but it is a device that is mobile and be used just like a mobile device. So I'm just asking."

Mr. Berke said, "I guess it depends on how it is defined and how the Judge or the Police Officer views the definition. This is a mobile device meaning cell phones, I think in this aspect."

- Councilor Dominguez said he thinks it is covered in Section 8, Subsection 1, in the fact that you are engaged in activity which interferes with safe driving. He said, "And I thought that would cover it anyway, but I guess I'm just wondering, and I'm not anticipating amending any of the languages, or like I said, Mayor, getting into the weeds too much. But believe it or not, I have seen people checking Face Book on their tablet instead of their mobile device anymore."
- Mayor Gonzales said, "That might be the point of the language on consistent with the State language where it probably does not address the use of tablets being in use, so this tracks that."

## **Public Hearing**

### **Speaking to the Request**

**Stephanie Beninato** said "I'm really happy that you're introducing this Ordinance. I think it is a really necessary accompaniment to having a hands free cell phone. Although, I do think probably prohibition of use of cell phones altogether would actually be better, because people cannot multi-task even though many people would like to think they can, they cannot. Their brain really only focuses on one thing. And I know there was one evening I was going to Home Depot, and just on Cerrillos Road in about a mile and a half, I saw three people texting. And how did I know, because they were kind of weaving in and out of their lanes and as I went by them, getting as far from them as I could, I could see them looking down. And one guy, we stopped at a light, and rolled down my window going no texting. And he looks at me and he goes right back to the texting. He was so focused on it, he couldn't even pay attention to somebody right next to him. I think it's extremely dangerous to be texting. Your eyes are not on the road for one thing, that's the beginning and then your brain is also not processing what you're seeing on the road, if you're even looking in that direction. So I think this is an important step. I have questions about enforcement, however, because I think that, although the Judge told me that she gets several tickets for cell phone use, I see many many people driving, using their cell phones, so I just hate to put another law on the books that we're really not going to enforce."

## The Public Hearing was closed

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

- Councilor Trujillo said, "I guess it all comes down to enforcement. That's the biggest thing. This is just part of it. We passed the no-texting 3 years ago, so my concern is, I see it all the time. I see people texting just as was stated. Unfortunately, I've seen our Police texting and talking on their phones as well. That's not cool, it really isn't. We should be setting an example. I've seen, and I'll say it, City workers driving the big trucks on the phone texting. Guess what. Who's going to win if a crash happens, a plow or a car, the plow is going to win. I think it's something, if we are going to pass this, we need to send a message to all of our workers, saying you are not above the law. This is a law we're passing and you need to abide by it as well."
- Councilor Trujillo continued, "Mayor, I've seen many times, and I've seen it in Albuquerque, where they have stings. They actually have a plain clothes officer standing at intersections with a walkie talkie saying, a blue Ford, whatever, you can see them texting and just up to the road. To me, that's what needs to happen in this town. If we're really going to address texting and talking on the phone, we need to have these types of stings. It's unfortunate that we do. I'll agree with Stephanie, I've seen people texting, in front of me zig-zagging through the road. I do understand you want to triple the penalty in the School Zone. Are we really going to enforce it in the School Zone. In the morning, we do have police officers there which is great, but some mornings we don't. We used to have the speed vans there. If we had those we could take pictures of people, but that's not part of the Ordinance, so it wouldn't hold up in Court. But that's my main concern is the enforcement. Are we just going to enforce it in the School Zones, or are we going to start enforcing it throughout the entire City, because I can tell you this. You can go every intersection, you'll see people stopping, texting, driving, just like at every intersection you'll see somebody running a red light every single day in this town. It just happens. That's all I have on that."
- Mayor Gonzales said, "Let me answer the question. There are challenges of enforcing all the Ordinance on the books. There's no doubt about it, but when you look at the level of risk associated to children in School Zones, and what it means when an individual is texting going through a School Zone., I think it is a worthy Ordinance to have. And, too, I will tell you, at our meeting at Las Acequias one of the comments that did come back from the public is that the Police Department.... while they can't be at every school, I know they do rotate in the mornings and they are citing people for moving quickly through or going around a bus when the stop sign is out, all these kinds of things they are doing. I think this would be another level. And I think your idea of the sting makes sense. And also, the issue of City drivers needing to set the example, including our Police Officers, for not texting while generally driving and following the laws is something we have to enforce over and over ourselves and take care of it."

- Councilor Dominguez said, "I stand in support of this obviously, but I think it's important to realize, that in terms of enforcement, really rules were meant for honest people. They aren't meant for people that aren't honest. We can't be.... I've seen it myself, breaking the law and not complying with the Ordinances we have. I think it is just a matter of consistently and continually on a sustained effort sending a message, and this is just part of that message to make sure that people do whatever they can, especially around School Zones to be safe, and to remember that we do have laws on the books. And if we enforce it one person, or cite one person for breaking the law, that is one less person that maybe that will do it again. It's a constant challenge to continually be enforcing these laws, and we just need to keep working at it."
- Councilor Bushee said, "I stand in support of the majority of this and the message it sends, but I have to say it's going to have to be accompanied with a message from the Police Chief and us that we intend to enforce this, not selectively, but across the board. And it's never risen to be a priority. Now, I can see how the School Zones would be easier to manage, but the doubling of the phone penalty is the one I'm having a hard time with, because we are so inconsistent. I have had a hands free phone system in both vehicles, long before even the Ordinances were in place. But, personally, I've had opportunities to stand on street corners over election cycles and other things, and every third person is on their phone at a minimum. The texting, that's ridiculous, and that should be easy to enforce. But we are literally not enforcing the existing Ordinance."
- Councilor Bushee continued, "And I would hate to see that poor person that, for whatever reason manages to get caught, when every third person is breaking the law today. And we don't have a plan to try and enforce that. And it's never risen to a priority level, because we've had drug issues, and crime issues that really have needed most our resources. I'm just curious. There's a part of me that, until I feel like I have some sense there's a program or maybe the Deputy Chief can address it, but I really feel like we need to do that along with this. I'm hesitant to double that, particularly the phone fee, just because \$100 is pretty high right now, and I can see in a School Zone, I don't think it's going to be any more preventative, that's my concern."
- Mayor Gonzales said, "I do know Councilor Dimas, as Chair of the Public Safety, this would be an ideal opportunity."
- Councilor Dimas said, "When this first came up, I made comments when it very first came up that this is going to be very hard to enforce in the first place. And I'm a cosponsor of it, because I believe in it, and I think a lot of times when you increase fines, it really opens peoples eyes a little bit more than not doing that. And I think it's something that we have to do, in order to get the message across to people that you can't drive and text and you can't drive and talk on your phone. The problem is going to be, and having been in law enforcement as many years as I was, is proving this in Court for a Police Officer. And I think Deputy Chief Salbidrez will agree with me. When you take these cases to court a lot of times, it's the Officer's word against the defendant's word, because the first thing that is coming out of the defendant's mouth is, I wasn't on the phone and you can't prove that I was. And it's going to be up to the Judge to make that clarification. A

lot of times they're going to believe the Police Officer, but you've got to give it the benefit of the double. Sig, we were just talking about an instance about that."

- Councilor Dimas continued, "So, they're difficult to prove, and that's one of the reasons I think that our Officers have given so few tickets is that every time, if you spot a Police Officer and you're on the phone, you can spot a Police Officer a long way off, all of a sudden the phone goes down and the Officer doesn't see it. They have to witness it, they actually have to see it. So we need a commitment from our Police Department that we need to run stings and special enforcement efforts to do this. I've seen recently on the corner of Richards and Governor Miles, a State Police Officer was standing on the corner there, out of uniform in plain clothes, holding a sign saying, 'If you can read this, it's too late. And they had an Officer with a walkie talkie and they were citing people as they were coming through the intersection and pulling them over."
- Councilor Dimas continued, "And I know, and you know, when we were standing on corners campaigning, everybody was driving through talking on cell phones, or texting. If we're going to make this work, we are going to have to have a concerted effort from our law enforcement agency to really enforce this and to tell people, and send the message out that we aren't messing around with this and we are really, actually going to do this. Since you're here Chief, this is an opportunity to actually put this into action and to get this going. And I think it can be realized, and I think it's a good Resolution. Mayor, you brought this forth, and I think it's a good Resolution. I completely agree with it, but like I said, it's going to take a real effort to get it done."
- Councilor Maestas said, "When we talked about this effort afoot to decriminalize possession of small amounts of marijuana and making it a civil infraction, there was substantial discussion about the State law still being in effect within the City limits, and should, or could, our own Police Officers enforce the State law in that regard. Does the same situation hold true for this, because our Officers are not bound just to enforce just the City Ordinance. So if they choose, they can enforce the lesser penalty, the State law. Can you clarify that for us."

Alfred Walker, Assistant City Attorney, said, "Because our Ordinance essentially tracks the State Statute, but has penalties that are more stringent than State Statute, the Ordinance can be enforced. There is no conflict with State law. And City officers can choose whether to cite somebody into Magistrate Court under the State law, or into Municipal Court under the City Ordinance. And that is always up to the individual officer, but I think most officers would probably cite them into Municipal Court."

- Councilor Maestas said, "Since you have the floor can you, or maybe, either one of you, tell me about the incidence of violations currently in a school zone of texting and talking on the cell phone. Is there any data to drive this. And there's a point... maybe you don't need to answer since we're kind of just discussing this. My rationale is that I agree with increasing the fee. I think it will be an effective deterrent, if we enforce it at large throughout the City. But if we look at tripling the fee in a School Zone without any evidence that there is a high incidence of high violation currently.

We're talking about a very small strip of highway. A School Zone is generally manned by a Crossing Guard who can tell who is speeding, you can't change lanes. So I'm trying to understand if this would be an effective use of our Police Department resources, doubling the effort to maintain safety in a School Zone in the absence of real problems with violations currently. So, where I'm getting.... I realize the consequences of violating in a School Zone, the risk is much higher. Really, we don't have any evidence of a major problem of violations in a School Zone, and I think drivers are pretty judicious in School Zones."

- Councilor Maestas continued, "I think what we've been talking about tonight is seeing people at large throughout the City talking on their cell phones, texting, weaving, but I don't think that really is any proof that's happening in a School Zone. What I would propose is maybe a reconsideration of the tripling of the fee and just make it a uniform fee of \$200 in a School Zone and throughout the City. Only because, I just can't see us doing a sting in a School Zone with Crossing Guards, with the traffic control devices engaged with School Crossing Guards already there with the prohibition of not being able to change lanes. I think School Zones have a lot of requirements already, and I can't see us adding to those resources, given all the safety measures that already are in place in a School Zone. And it might be easier to enforce if we have a uniform rate of \$200 just throughout the City, whether it is a School Zone or throughout the City. So I wanted to make that point."
- Councilor Maestas continued, "And the last point is that this is a change, and before we really jump into any kind of sting, I really recommend that we do some public relations, get the message out, encourage our Officers to give an initial warning before we start hitting them. So I want to make sure that we phase this in, and give the public an opportunity to know this is coming. I agree with this, but I think the fee for the school zone is excessive. I think we would be duplicating a lot of limited resources needed to cover the City at-large where I think there is the highest incidence of violation of talking on a mobile communication device happens. That's all I have."
- Councilor Ives said, "In our materials, and just on that particular point, on packet page 9, No. 3 Expenditure/Revenue Narrative, it notes that, 'based on the number of citations that were issued in 2013, staff projects that if the same number of citations were issued, there would be certain revenues that are listed, but then assuming that 298 regular violation occurred and that 148 citations were issued in School Zones,' that suggests there were 148 or a similar number of citations issued in School Zones and 298 other regular violations, presumably not in School Zones."
- Councilor Ives continued, "So, my sense is, we can certainly argue whether or not we are capturing a large percentage of the people who are violating the Ordinance currently. But, if 148 people are cited in School Zones, that is something that potentially has real impact in those school zones and provides, in my mind a basis for saying this is something we should be doing. And so I think we do have enough to infer that this does occur and that these violations can be caught, which is not saying that we certainly could not do more, or we certainly could do more, but that it's

a real circumstance, we should address it. And we don't have in front of us tonight any of the folks who have been hit by people who were driving vehicles while using cell phones and texting. If we can prevent those accidents and the impacts those have on peoples lives, I'm all for it."

**MOTION:** Councilor Ives moved, seconded by Councilor Bushee, to adopt Ordinance No. 2014-26, as presented.

**DISCUSSION:** Councilor Trujillo said Councilor Maestas brought up an interesting point. He said, "Okay, Alfred, you're saying an Officer is allowed to choose to send you to Magistrate or Municipal on this fine."

Mr. Walker said yes.

Councilor Trujillo said, "In my opinion the smart thing would be that these fines would go directly to Municipal Court. Can we mandate that."

Mr. Walker said, "No."

Councilor Trujillo said, "So it has to be shared between the County and the City."

Mr. Walker said, "The Officer, every Santa Fe Police Officer has the discretion to choose between filing under State law in Magistrate Court, or filing in Municipal Court under City Ordinance. The Police commanders cans tell their officers what, and under what circumstances, they want them to do. There may be reasons. This could be, for example, the traffic violation the officer sees and then the Officer may find other traffic violations, and may decide for one reason or another to choose one court over the other. But I would think that Officers could be asked to choose one."

Councilor Trujillo said, "I agree with you Mayor, I agree with you Councilor, we do need this. Too many people do this, but the unfortunate thing is there are so many violations in this community I see every day. I see bike riders zooming through stop signs. There are hundreds we could address. We could be here all night. We could probably make this a week long Council meeting just on violations. I will support this, and I do ask the Police that we start enforcing it, because to me, that's been the problem. Lack of enforcement. I understand they may be petty misdemeanors, but guess what, it is still an Ordinance, and I definitely think we need to start enforcing these."

Councilor Dominguez asked who prepared the FIR.

Mr. Berke said he did.

Councilor Dominguez asked, "With regard to the potential number of citations pointed out by Councilor Ives, the 148 citations that were issued in School Zones, which to me, is a significant number. Is that just was pulled from Municipal Court."

Mr. Berke said yes.

Councilor Dominguez said, "So, in fact, based on the idea of discretion, there could be more than 148 citations that were issued."

Mr. Berke said this is correct.

Councilor Bushee asked the amount of the State fines.

Mr. Walker said he believes the State fines are \$25 and \$50.

Councilor Bushee asked again, why this is considered to be bringing it in line with the State.

Mr. Walker said, "The violation is consistent with the State violations. The City may increase penalties up to a maximum of \$300, I believe."

Councilor Bushee said, "We had this Ordinance long before the State and the County and Albuquerque and anybody. When we first passed it, it was based completely on anecdotal evidence, there was nothing to substantiate it, and we were far ahead of the rest of the country. I'm disturbed by the Memo that says we are bringing it in line with the State's penalties."

Melissa Byers, Legal, said, "So when I was drafting this, I was assisting in drafting this bill, I noticed that when the State Statute was changed last year to include texting, the language was different and some of the wording was different, but not the penalties."

Councilor Bushee said, "For the public, the majority of the thrust of this changes the financial, the penalty side."

Ms. Byers said, "Ours mostly is addressing the penalties, but making the language consistent with definitions already in place."

Councilor Bushee asked the plan to promote the new fees to the public, if this is approved, and to visitors who may or may not know this is a text and cell phone free community. She said there is one sign at the entrance to the City on Old Santa Fe Trail. Do we have a radio program and can we follow it up with Police. She agrees with it in the School Zones, but is a little anxious about doubling it when it isn't evenly enforced. How are we going to enforce it and how we are going to get the message to the public.

Mr. Berke said, "Part of the FIR is how much the signs will cost. So we're going to increase the amount of signage around the City. And then we will work with our PIO to promote this, and with the Police Department to get the work out. I think there will be a grace period of one month. The Police Department has indicated it would do this the first month this takes effect."

Councilor Bushee would like to do something like we do in hotels on water conservation, because a lot of people don't experience this in other communities and she wants them to know this is our law.

Mr. Berke believes the signs will accomplish a lot of that with the increased signage around the City.

Councilor Bushee is concerned they won't look at the signs because they are on their phones.

Mayor Gonzales said, "To Councilor Bushee's point, there clearly is an opportunity for us to engage in a comprehensive communication effort. The City has numerous slots on radio around the town. We have our public TV. We certainly can make sure that the schools on first day notify parents in the take home packets of the new ordinance. That is an important component Councilor, that we do inform the public that this has gone up. And I think, in closing debate, unless there is other discussion, I introduced this, not so much so we can go through an educational campaign."

Mayor Gonzales continued, "The reality is, I was in a School Zone and saw the texting going on with kids moving across the streets. It was terrifying to have to witness and watch it. I fully expect, as was indicated here, Deputy Chief, that there is a program in place that creates an enforcement mechanism on this. And the reason and I hope the Council doesn't reduce the fine, it takes a couple of stings in the pocket book to make sure you don't do it again. And I think ultimately the public will appreciate that they went through this learning experience, so they don't do it again. As evident by the FIR, it is clearly an issue where violations happening in our School Zones, we don't have enough Police Officers to fully enforce it every day, but through education and enforcement, hopefully we'll be able to start reducing the amount of texting that is occurring inside the school zones. And then, of course throughout the City. I think you're right about the conversations and the illegal use of the hand-helds and the texting that's going on, but it was, for me, it was tough to actually witness what was going on."

Councilor Bushee asked that Brian Snyder to come up with a policy of how we will penalize City employees for doing this.

Councilor Trujillo said, "I guess I want clarification. Okay, you're saying School Zones. Is this going to be in the morning when the lights are flashing this citation is given. If it's not flashing during the rest of the day. Will it correspond to the hours the children are crossing, or will it be all day long."

Mr. Berke said it will be during the school hours that school is in session.

Councilor Trujillo said, "I just want clarification, so those flashing lights, they go off at 8:30 a.m. because kids are in class. As long as children are in class from 8:00 a.m. until 5:00 p.m., it is enforceable during school hours. That's what I want to be sure of."

Mr. Berke said this is correct.

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

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

**Against:** None.

The was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 8:25 p.m.

**Approved by:**

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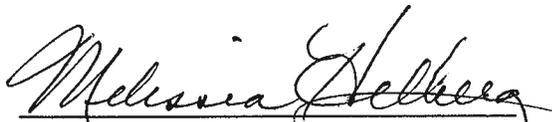
**Mayor Javier M. Gonzales**

**ATTESTED TO:**

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**Yolanda Y. Vigil, City Clerk**

**Respectfully submitted:**

  
**Melessia Helberg, Council Stenographer**

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Approved w/conditions

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Approved a/amended

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**MINUTES OF THE  
REGULAR MEETING OF THE  
GOVERNING BODY  
Santa Fe, New Mexico  
August 27, 2014**

**AFTERNOON SESSION**

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor Javier M. Gonzales, on Wednesday, August 27, 2014, at approximately 5:00 p.m., in the City Hall Council Chambers. Following the Pledge of Allegiance, Salute to the New Mexico flag, and the Invocation, roll call indicated the presence of a quorum, as follows:

**Members Present**

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

**Others Attending**

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

**6. APPROVAL OF AGENDA**

Councilor Rivera asked to postpone Item #3 from the evening session indefinitely, or until such time the Fire Department feels it is appropriate to revisit it.

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

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

**7. APPROVAL OF CONSENT CALENDAR**

Councilor Dominguez asked to be added as a cosponsor on Item #10(j) and Item #10(m)(1).

**MOTION:** Councilor Bushee moved, seconded by Councilor Dimas, to approve the following Consent Calendar, as amended.

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

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

**Against:** None.

**10. CONSENT CALENDAR**

- a) **BID NO. 14/41/B – FY 2014/15 METER CALIBRATION & TESTING SERVICES FOR WATER DIVISION; GREAT SOUTHWEST METERS TESTING, LLC. (MICHAEL MOYA)**
- b) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – THREE (3) DUMP TRUCKS WITH EQUIPMENT FOR STREETS & DRAINAGE MAINTENANCE DIVISION. (DAVID CATANACH)**
  - 1) **ROBERTS TRUCK CENTER OF NEW MEXICO, LLC**
  - 2) **MCT INDUSTRIES, INC.**
- c) **REQUEST FOR APPROVAL OF BUDGET INCREASE FOR HUD’S SHELTER PLUS CARE RENTAL ASSISTANCE FOR FISCAL YEAR 2014-2015. (ALEXANDRA LADD)**
- d) **REQUEST FOR APPROVAL OF EXEMPT PROCUREMENT AND ANNUAL HARDWARE AND SOFTWARE MAINTENANCE AGREEMENT – INTEGRATED LIBRARY SYSTEM SERVICES FOR LIBRARY DIVISION; INNOVATIVE INTERFACES, INC. (PATRICIA HODAPP)**
- e) *[Removed for discussion by Councilor Ives]*
- f) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – BOOKS AND LIBRARY SERVICES FOR LIBRARY DIVISION; BAKER & TAYLOR, INC. (PATRICIA HODAPP)**

- g) **REQUEST FOR APPROVAL OF EXEMPT PROCUREMENT AND PROFESSIONAL SERVICES AGREEMENT – REPAIR AND MAINTENANCE SERVICES FOR WATER SYSTEM SOFTWARE AND EQUIPMENT FOR CANYON ROAD WATER TREATMENT PLANT; WUNDERLICH-MALEC SYSTEMS. (ALEX PUGLISI)**
- h) **REQUEST FOR APPROVAL OF EXEMPT PROCUREMENT AND PROFESSIONAL SERVICES AGREEMENT – REPAIR AND MAINTENANCE SERVICES FOR WATER SYSTEM SOFTWARE AND EQUIPMENT WATER DIVISION; AUTOMATION ELECTRIC. (ALEX PUGLISI)**
- i) **REQUEST FOR APPROVAL OF CHANGE ORDER NO. 3 – HOSPITAL TANK COATING APPLICATION PROJECT; GUARANTEED WATERPROOFING & CONSTRUCTION (BILL HUEY)**
  - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – PROJECT FUND.**
- j) **CONSIDERATION OF RESOLUTION NO. 2014-68 (COUNCILOR IVES, MAYOR GONZALES, COUNCILOR MAESTAS, COUNCILOR BUSHEE, AND COUNCILOR RIVERA AND COUNCILOR DOMINGUEZ). A RESOLUTION CALLING ON THE GOVERNOR, THE LEGISLATURE, THE ATTORNEY GENERAL AND THE REGULATION AND LICENSING DEPARTMENT TO TAKE IMMEDIATE ACTION, WITHIN THEIR RESPECTIVE POWERS, TO CAP INTEREST AND FEES ON NON-BANK LENDING INSTITUTIONS IN NEW MEXICO. (MELISSA BYERS)**
- k) **CONSIDERATION OF RESOLUTION NO. 2014-69 (COUNCILOR BUSHEE AND COUNCILOR MAESTAS). A RESOLUTION SUPPORTING SAFE NURSE STAFFING LEVELS IN THE HEALTH CARE SYSTEM AT THE FEDERAL, STATE AND LOCAL GOVERNMENT LEVELS AND IN THE PRIVATE SECTOR. (MELISSA BYERS)**
- l) **CONSIDERATION OF RESOLUTION NO. 2014-70 (COUNCILOR TRUJILLO). A RESOLUTION RECOGNIZING THE FIRST ANNUAL SANTA FE ADULT SOFTBALL LEAGUE *ZOZOBRA BURN-OUT TOURNAMENT* AND DIRECTING STAFF TO ASSIST IN FACILITATING THE EVENT. (JENNIFER ROMERO)**
- m) **REQUEST TO PUBLISH NOTICE OF PUBLIC HEARING ON SEPTEMBER 23, 2014:**
  - 1) **BILL NO. 2014-25: AN ORDINANCE AMENDING SUBSECTION 11-9L1 SFCC 1987, AND SECTION 18-9 SFCC 1987, TO REQUIRE THE CITY OF SANTA FE TO CONDUCT A PUBLIC HEARING BEFORE THE GOVERNING BODY VOTES ON REALLOCATION PROCEEDS FROM A VOTER-APPROVED GENERAL OBLIGATION BOND OR TAX THAT DEVIATES MATERIALLY FROM THE INFORMATION PROVIDED TO THE ELECTORATE (COUNCILOR IVES AND, COUNCILOR RIVERA AND COUNCILOR DOMINGUEZ). (TERESITA GARCIA)**

2) **COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) 2013-2014  
CONSOLIDATED ANNUAL PERFORMANCE EVALUATION REVIEW (CAPER).  
(MARGARET AMBROSINO)**

- n) *[Removed for discussion by Councilor Bushee]*
- o) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – PUBLIC RELATIONS SERVICES FOR CITY OF ANTA FE, TOURISM SANTA FE (RFP #14/47/P); LOU HAMMOND & ASSOCIATES. (RANDY RANDALL)**
- p) *[Removed for discussion by Councilor Maestas]*

**8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – AUGUST 13, 2014**

**MOTION:** Councilor Trujillo moved, seconded by Councilor Ives, to approve the minutes of the Regular City Council meeting of August 13, 2014, as presented.

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

**9. PRESENTATIONS**

a) **MUCHAS GRACIAS – PLAZA CLEAN UP. (GILDA MONTANO)**

Gilda Montano said we are here tonight to thank some of the businesses that helped to coordinate the event and made donations for cleaning the Plaza, painting and such. There were over 100 volunteers and everything now looks nice, clean and new.

Mayor Gonzales thanked Councilor Lindell, Councilor Rivera and others who came out to help, with a very special thanks to Buddy Roybal and his wife for consistently "being there for our community," with their financial and personal support to make sure Santa Fe continues to stay a strong and vibrant community for everyone. He thanked everyone who participated in the cleanup of the Plaza, noting more work is needed, although this is a good start, and we will continue to work on the Plaza. He said this is the welcoming door to our community and we have to do everything possible to make it looking nice.

Gilda Montano and Mayor Gonzales presented Muchas Gracias to businesses that assisted with the Plaza Clean-Up.

Buddy Roybal thanked the Mayor and Council for this honor for doing the work we all need to do on a volunteer basis. He gave a special thanks for all the volunteers.

Mayor Gonzales thanked Hotel Santa Fe and Paul Margetson who came up with a creative idea, which is for hotels and business in the downtown area to adopt the Plaza for an evening, and to spend time with their employees cleaning after Bandstand and for greeting locals and tourists. He wants to continue the program.

Ms. Roybal said that program will continue and businesses are signing up as we speak.

Ms. Montano said the Fall cleanup day will be on September 27, 2014, 9:00 a.m. to 12:00 noon, and they need volunteers to help with that. She said the day after Zozobra they will be having a cleanup, and they can call her to volunteer at 955-2215, or go to the websites.

Councilor Bushee said under Fabian Chavez, Parks Director, we began an initiative, "Friends of the Plaza," and she would like to see that resurrected and she would nominate Buddy as first president. She said it is good to formalize these events so someone is formally keeping an eye on the Plaza. She said she will sponsor a Resolution if needed.

Mayor Gonzales thanked everyone for going above and beyond to do your part and doing your share to help the City to be great.

### **CONSENT CALENDAR DISCUSSION**

**10(e) REQUEST FOR APPROVAL OF CONSENT AND AGREEMENT TO CONVEY MORTGAGED PROPERTY, GRANT AGREEMENT, LEASE AGREEMENT, LEASE REPURCHASE AGREEMENT AND QUITCLAIM DEED – ACQUIRE TITLE FOR SANTA FE CRISIS TREATMENT CENTER BUILDING; BUILDING IMPROVEMENTS AND RENOVATIONS FOR DISTRIBUTION OF STATE ALLOCATED FUNDS ACCORDING TO SEVERANCE TAX BOND AGREEMENT; SOLACE CRISIS TREATMENT CENTER FORMERLY KNOWN AS SANTA FE RAPE CRISIS & TRAUMA TREATMENT CENTER. (DAVID CHAPMAN)**

Councilor Ives asked, in terms of the transaction and the City receiving the building, what due diligence have we done to "coming into the title of that facility."

David Chapman said the City hasn't yet received the grant appropriation from the State. In terms of due diligence, the most recent appraisal is October 2008, where the building was appraised at \$2,650,000. The amount outstanding on the property is approximately \$775,000. He said the ratio itself, in his mind, would counter the due diligence.

Councilor Ives asked about environmental studies and an updated appraisal. He said the agreement provides, 'If, after the renovations are completed, the City may agree to sell the presently existing improvements and renovations back to Solace, the fair market value will be determined by an appraisal. Solace may paid the fair market value by providing \$260,000 in cash or excess credits and

providing the remainder in cash or monthly credits." He asked if we anticipate a current appraisal would be significantly higher or lower. He said he is curious about the payback stream, presumably at least \$2 million in terms of value being covered. He is trying to understand this better.

Mr. Chapman said the City can request an appraisal for Solace and we can do that if that is what the Council would like them to do.

Councilor Ives said the agreement said we will, presumably, at the point in time we consider turning it back to them, and asked when that would be.

Mr. Chapman said the grant expires June 30, 2017. The project is anticipated to last 6 months, so we would be within that framework, and anticipate turning the building back to Solace.

Councilor Ives said presumably we're turning it back to them for fair market plus the repairs. He is curious how they will pay that back.

Zachary Shandler, Assistant City Attorney said, "When the City sells the building back, to avoid anti-donation issues, they have to purchase it back at that fair market, and so that's when the appraisal will come in that you've mentioned. And they can either provide that by cash, or services in lieu of cash. The way the transaction is set up is they could provide that as part of the monthly rent they are providing, or an additional \$218,000 in additional services provided in lieu of cash."

Councilor Ives said then they would have to provide the level of services for fair market value.

Mr. Shandler said this is correct.

Councilor Ives asked, as suggested by Mr. Chapman, if it is possible Solace would contribute \$2 million in services over the course of one year.

Mr. Shandler said he understands they do a significant amount of services in lieu of cash currently, and, "It's our expectation that that can be accumulated in a short time period, whether 12 months or 3 years." He said they have been working with the parties to try to quantify the numbers, so it's just a short term ownership for the City."

Councilor Ives said he is concerned it will become a longer term ownership and one in which it finds itself with a "bigger nut to crack," than justified by the \$216,000 in improvements being provided. He would like more background on the numbers, and exactly how the mechanics are meant to play out. He doesn't see this as necessarily being a great benefit to Solace, although this is the only way for them to access the \$216,000. He doesn't want to be an impediment to this, but wants to understand better the flow of the financing and services.

Mr. Chapman asked if it would be possible for Maria Jose, Solace Director, to speak to these issues.

Mayor Gonzales said that would be fine.

Maria Jose, Director, Solace, said, "We're trying to understand what the payback really means. When we initiated this process over a year and a half ago, we followed to a T every single recommendation we were told with regard to how the process works. As to where we are, right now, we're trying to figure the entire debt Solace would endure if we go ahead with the process. Because what we knew back then that we were going to be paying back the exact amount we were getting in, so that is no more than \$216,000. Solace is responsible from this moment on, even if the City were to take ownership of the building, to pay the mortgages and maintain the building. So the only increase, let's say that we will get in value will be the \$216,000, in place of contractual work that is going to make the building safer and sound. So I am trying to see if we could rationalize it that way, that the only money we owe is the money that we are getting, which is the \$216,000. So, if that was the case, indeed we can pay that back in services monthly. We can determine those numbers for you and you will see that roughly we can pay that back within one year."

Councilor Ives said he understands, and this is exactly what he wants to see happen, but that isn't what is in these agreements when it says, 'Solace may pay the fair market value.'" He presumes that is \$2,600,000 to be paid back, and by gifting or signing the quitclaim of the building to the City, the City comes into an asset worth \$2.6 million which has \$775,000 left on a mortgage, so the benefitting by about \$1.9 million. He said as a non-profit entity we can accept things like that, but I think the anti-donation will not allow us to turn it back to Solace, because it would become an asset of the City at that point, as opposed to an asset of Solace. He asked if it would be possible to postpone this for further discussions on this point. He said he doesn't understand how it is supposed to work, commenting he is happy to be educated in that regard.

Councilor Bushee said she asked these kinds of questions at Committee and Mr. Chapman assured her this wasn't going to complicate matters for either party. She would hate to hold this up because they need the funding.

Ms. Jose said, "This is not all staff, or our team of 18 employees that is working there every day. This is a partnership with 11 different entities in our community, including all law enforcement departments, prosecution, Attorney General's Office, CYFD. It is a service, unless we go back to north of Taos and south in Bernalillo, that our community will not be receiving, so it is imperative. There is no foundation, no other place we can go to get this money. And truly, we though, by the leadership of the Legislature that led us this way that there was a very good possibility to have this building safe and healthy through a partnership with the City of Santa Fe."

Councilor Bushee said we have other buildings where we charge a nominal amount of \$1 per year. She had concerns, but when she asked at Committee and Mr. Chapman allayed those fears, and asked if somebody can help us here.

Mayor Gonzales asked if this is time sensitive to be approved tonight and Councilor Bushee said yes.

Mayor Gonzales asked Councilor Ives if he feels the issues of concern are great enough that only through postponement those questions can be answered, or deal with the funding issues. He asked if there is any other way we could get this issue addressed. He said, "You're basically saying, if we don't do this within two weeks, there is some jeopardy."

Ms. Jose said, if the City doesn't approve this she is concerned about the roof which is in very poor condition, and there are difficulties every time it rains. She said she believes the winter will be hard as well. The roof needs to be addressed immediately.

Mayor Gonzales said he is asking Ms. Jose what kinds of issues would there be, if it is tabled, and allow Councilor Ives to spend time with her for the next two weeks, and brought it to the Council in two weeks.

Mr. Chapman said, "We can accommodate that if that is the Council's wish, yes."

Councilor Ives said his concern is that the current agreement requires Solace to repay full fair market value and services, which would be some \$2 million plus in services.

Councilor Bushee said, "Which they do already." She said we have worked hand-in-glove with Solace and our lobbyist to get federal funding, build the building. She was concerned initially that the City would have to do some maintenance. She said, "I'm pretty sure we have an equal arrangement as it exists now, but again the attorneys...."

Ms. Brennan said Ms. Shandler can clarify this.

Mr. Shandler said, "There is a separate policy for the policymakers if you want to get ownership of additional building in your inventory. So that's one issue initially. The issue that I'm focused on right now, this is a rent-own arrangement. And the reason we can't do it any other way, is because it is State Severance Tax money, and according to State officials, under State rule, this particular type of money cannot be done with nominal fees that are seen in maybe other building arrangements. So this is a rent-to-own type of arrangement. And it may take them some time to accumulate those credits, but traditionally, non-profits exceed services they provide. So it's our expectation that they will quickly accumulate the credits to provide the rent-to-own process."

Ms. Brennan said, "And those credits include the mortgage payments they're making and the other payments they make on the buildings. Am I correct?"

Mr. Shandler said, "That's right. As part of the monthly rent, first they have to pay cash payments to the bank to make sure the mortgage stays current and any additional amount becomes this kind of rent-to-own credits which will accumulate. And it's our expectation it will accumulate quickly to that amount."

Councilor Ives said he is happy not to pull this item, "if you are comfortable that the value of the services being provided are going to accrue at such a rate that they will equal the fair market value payback, within the time period of the expectations that folks are talking about. But, I'm not hearing anybody telling me, and I don't know if the organization delivers \$2 million worth of services a year, or whether the funding sources you have for those services. If you guys are comfortable that's the case, I'm happy to proceed forward. But, again, I have that concern that you are giving us an asset that has at least \$2 million in equity in it that you are going to have to buy back by providing services."

Councilor Bushee said it is a rent-to-own.

Councilor Ives said, "Understood, but functionally the rental payments are accruing toward that amount, so presumably if we're thinking this is going to flip in a year, then you're talking about \$2 million worth of services by way of rent payments over the course of a year. I don't know enough about the organization to know the value of the service delivery on an annual basis."

Ms. Jose said, "I'm hearing two things. And I hear that the amount might not be \$2 million, plus \$216,000, if it is on a rental agreement. So I think I need to get a little more educated by our team in regards to that. And you're asking if we can, in one year, pay back \$2,216,000, just like that, probably the answer is no. But, I'm not quite clear that that is the conundrum that we have in front of us."

Councilor Ives said he hasn't looked in depth at the arrangements, which is the reason he is raising the issues here. He said, "Forgive me, I can't answer that, without knowing more."

Ms. Jose said, "I would like to tell you also, that I really thank you Councilor, because if your concern is the one of not putting Solace in a bad position, I really would like you to be as cautious as you are right now. So I thank you for that, but I'm not sure we truly have that dilemma in front of us."

Mr. Shandler said, "If you want postpone for two weeks, so we can have a basis for the bargain here, if you feel it's just not quite there. We would be happy to do that. We think this is only arrangement that is going to get past State officials, but obviously, if you feel we need a little more time to give you a quantified table or spreadsheet, we can provide that for you."

Councilor Ives said, "I recognize that provision in the Constitution, with regards to the allocation of funding, that it has to then go to ownership by the agency to whom those funds are distributed. Again, there has to be some sense of equivalent values there. And by giving up total interest in the building, it just seems you're giving up too much for the \$200,000 that you're getting, understanding that you would have to pay back that \$2 million."

**MOTION:** Councilor Ives moved to postpone this item for two weeks "to clarify these issues and make sure all the parties are.... as long as you are comfortable we have those two weeks to the next Council meeting." **THE MOTION DIED FOR LACK OF A SECOND.**

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

**DISCUSSION:** Councilor Bushee said, "I would just suggest that Rape Crisis and Solace have been in existence now for 41 years, and they've been in the building now for almost a decade. I think we have to have this arrangement because of the way the State operates, but I really have no concerns the City at any moment is going to say give us \$2.6 million. I believe Zach and Kelley have reviewed this in ways they're comfortable with. I believe the Board of Directors of Solace has also reviewed this, and I know the dire they have to maintain this facility. And they have been very good community partners. I am hopeful there are no glitches and nobody is going to be asking anybody for any kind of big money any time soon."

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

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

**Against:** Councilor Ives.

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10(k) **CONSIDERATION OF RESOLUTION NO. 2014-69 (COUNCILOR BUSHEE AND COUNCILOR MAESTAS). A RESOLUTION SUPPORTING SAFE NURSE STAFFING LEVELS IN THE HEALTH CARE SYSTEM AT THE FEDERAL, STATE AND LOCAL GOVERNMENT LEVELS AND IN THE PRIVATE SECTOR. (MELISSA BYERS)**

Mayor Gonzales noted that item 10(k) was approved earlier this evening. He said there are individuals in attendance regarding this issue, and Councilor Bushee has asked for time to speak to this Resolution.

Councilor Bushee said, "Thank you Mayor. If you are comfortable, I could move to amend the Consent Agenda and we could vote on it formally."

Mayor Gonzales said, "I think we voted on it. I think if the Council will allow for some time discretion to be used on this, that would be good."

Councilor Bushee said, "I would like to welcome and thank many of the members of our audience this evening. If you could stand up if you are here for the State Staffing Levels Resolution for our nurses. And I want you for taking time off, and the time off the street corner that you're normally out there with your signs, for coming down here this evening. And I also want to recognize Fonda Osborn who is the President of #1199, and as well, former President Delma DeLora, an old friend. And I want to let you know that we already this evening, without any great fanfare, passed a Resolution supporting State safe nurse staffing levels and health care systems at the federal, State and local government levels and in the private sector. And then we have also asked that we have the City Clerk forward a copy of this Resolution, which I

believe also passed at the Santa Fe County Commission, to the City's New Mexico Congressional Delegation, the City's State Legislative Delegation, the City lobbyist and the executive officers of Santa Fe area hospitals."

Councilor Bushee continued, "So they will be hearing from us, collectively, both Santa Fe County and City, your government, here to support you and let the administrations know that we support safe staffing levels and I appreciate all the work and care you give to this community. Thank you."

Mayor Gonzales said, "I just want to affirm what Councilor Bushee has indicated to all of you, on behalf of a very grateful City. Thank you for the work you do, day in and day out. My father had a chance to visit all of you last week, unfortunately, but the care was incredible. I do want to say thank you to the nurses who every day give so much of themselves to making sure that our community is safe and that they feel cared for. And we are hopeful, obviously, that an agreement comes into play very soon. As I have indicated to Fonda and to the President of St. Vincents, that we need to have you guys back at the table. I know that's happening and I'm pleased to see that, and I fully expect and hope that the next time we get to hear from you that it is announcing an agreement that assures the community the staffing levels that would be appropriate, and we can go forward. So best of luck in that, and I'm hopeful that we could see a resolution very soon."

Councilor Bushee said, "It is my understanding we may see some of you at 7:00 p.m., under Matters from the Public, so please come down. Stick around. We have an interesting evening agenda. We have marijuana on the agenda."

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**10(n) REQUEST FOR APPROVAL OF POLICE OFFICERS ASSOCIATION AGREEMENT – CITY OF SANTA FE EMPLOYEES; POLICE OFFICERS ASSOCIATION. (CHIEF ERIC GARCIA)**

Councilor Bushee said, "I have my concern with the fact that, in particular, the vehicle regulations of the 45 mile radius from the City of Santa Fe, has been built into the contract. When we brought this forward before to discuss it as a policy, we had the opportunity to allow for discretion from the Chief, and we, as policymakers could weigh-in. So, if it's built into a negotiation, I have my concerns. And so I have a concern right now that this is in this contract. I like everything else in this contract. And I don't mind debating this as a policy, but I really don't want to build it into a contract, so unless there is somebody else that has another way to deal with it, I won't be able to support this contract as it stands, if that's built in there."

Mayor Gonzales asked if this went through the Public Safety Committee and if this is something that Councilor Dimas feels should go to Public Safety before being considered by the Council.

Councilor Dimas said it never came before Public Safety.

Mayor Gonzales asked Councilor Dimas if this is something that he feels should be deliberated and discussed at Public Safety.

Councilor Dimas said he has a point of view on it, which he will share during this discussion. He is unsure it needs to go to Public Safety at this point, commenting he doesn't know how it by-passed Public Safety. It should have gone to Public Safety, but it never got there.

Mayor Gonzales said, "Part of it is, from my standpoint because of the discussion on the take-home policy, it would be helpful for me at least to know that the Committee that is set up to advise the Council on public safety matters would be able to weigh-in on this. Is there a critical issue of having to get this resolved tonight, versus waiting a two week period."

**Sgt. Matthew Martinez, President, Police Officers Association**, said, "Since Appendix B is in our contract, it is negotiated through our contract, and I believe we cannot take it to Public Safety. That is the reason we didn't take it to Public Safety. It is negotiated between the management and the POA, so on negotiated type items, we do not take that in front of Public Safety, is my understanding."

Mayor Gonzales said, "You don't have to, or you're not supposed to."

Sgt. Martinez said, "I believe we're not supposed to."

Deputy Chief Lettenberger said, "Mr. Mayor, all negotiation has to be done at the table."

Councilor Bushee said, "That was my concern originally for the contract, it being built into the contract itself. I view it as a policy that the Council should have this discussion with the Chief and that it should not be a negotiated item."

**MOTION:** Councilor Bushee moved to approve the contract, minus the Appendix that deals with the vehicle take-home policy." **THE MOTION DIED FOR LACK OF A SECOND**

Ms. Brennan said, "I believe that the language was in the prior contract, but with a 15 mile radius. So it has been in the contract. The only thing I understand that has changed is the 45 mile. And it is correct. As a contract it has gone to Finance and to the Council for approval, however, I'm not sure it couldn't go to Public Safety for a policy discussion, not to discuss.... and that would lead, I think, if you wanted to modify the provision, to an executive session to give guidance to the management team if they went back to the table."

Councilor Dominguez said, "I guess the question I had was, if we start to get into the 'meat and potatoes' of this agreement, in essence we are negotiating, and that's not really our role. This is really to determine whether or not labor and management have agreed to a contract, not necessarily to debate the

terms of the contract. I think if Councilor Bushee wants to bring up a policy that contradicts the contract, that's something any Councilor can do. But, that's a whole separate discussion. I think, right now, as far as I'm concerned, looking at the contract and not necessarily some of the details of the contract, because we could be, to some degree, negotiating, and I think we need to be cautious about that."

Councilor Bushee said, "Kelley you weren't the City Attorney when we brought Resolutions forward, but under a different Chief, but it was just last year, right. Bill, didn't you bring forward a Resolution, it had to have been last year, it was under Chief Rael, 2012, that the Chief had discretion that... initially, we brought a Resolution forward, we had a discussion as policymakers. I believe it went to Public Safety, and the discussion was around the Vehicle Take Home Policy. I understand later it was built in, but in the past, at least we dealt with it as policymakers."

Ms Brennan said, "A contract negotiated would override any subsequent resolution. So the contract that would have been in existence at the time, would have been at the 15 mile, 60 mile grandfathered provision. And again, a policy discussion is one thing, but typically if you wanted to reopen this question, we would go into an executive session to get guidance for the management team, and then the management team would go back to the table."

Councilor Lindell said, "Ms. Brennan, on Appendix B which is the car plan, it's page 63 of our packet, Item 1(d). It appears to me that it does sound like this is policy because the Chief has the option of revising or terminating upon 120 days written notice."

Ms. Brennan said, "It does appear that Chief has the option of revising or terminating the agreement upon 120 days written notice of intent to the Association. And the employer will meet and attempt to solve problems relating to the program. Otherwise, said notice shall be final. That seems to be to be essentially creating a new bargaining situation, as opposed to being pure discretion on the part of the Chief."

Councilor Maestas said he is a member of the Finance Committee and the Committee had a discussion about this. He wasn't on the Council when the grandfather clause was created to allow officers to commute as far away as 60 miles if they were hired before April 1, 2012. He said a change was made to encourage officers to live in the City by limiting the vehicle take home radius to 15 miles. He is concerned there is such a large disparity in radius depending on when you hired. He noted currently, 53% of the police officers live in Santa Fe and 47% outside. He said the provision in Appendix B begs the question: how did residency fall out for those grandfathered-in and how "is it coming since April 1, 2012."

Councilor Maestas said, "The existing officers hired before April 12<sup>th</sup>, okay I'm separating them now. There's two groups. There's officers hired before April 1, 2012, that were grandfathered, and those hired after, subject to the 15 mile radius take home restricting. Those existing officers hired before April 1<sup>st</sup>, 52% live in the City, 48% live outside. Those hired April 1<sup>st</sup>, those subject to the 15 mile radius, 55% live in the City, 45% live outside the City. I think we're pinning our hopes on recruiting on our take-home policy. And I think the issue is bigger than that. I solicited some ideas about the housing issues, it's beyond just the vehicle take-home policy. It is about affordable housing, and what incentives can the City provide to

help our officers find housing. Not interim housing, because we've had stop-gap housing if you're entry level, but if you achieve management and start making a higher salary, you get bounded. I think anybody that wants a roof off their head, they want to live there and they don't want to feel insecure about it."

Councilor Maestas continued, "So, I think we're taking this totally out of context. I think the bigger issue is what is the whole package of incentives. Ideally, what do we want to attract the best and brightest to serve and protect our community, and how do we be fair to those who are currently service. I think we need to open a broader discussion about how we attract and retain our officers. I think it's bigger than a take home policy, and I'm concerned that we've let this policy take effect for just two years, but it doesn't seem to influence where the officers live. And I would feel much better working on the bigger picture and addressing the real issue which I think is housing."

Councilor Maestas continued, saying he knows there has been some bad press, reiterating we have some limited stopgap measures for housing. He thinks we have an obligation to have a focused, comprehensive Housing Assistance Program for police officers, which is the crux of the matter. He said he is prepared to support the agreement. However, he would rather us look at the true problems and true issues to recruit and retain, than pinning our hopes on a take-home policy, commenting we're not addressing the real issue by increasing the radius of the take home policy for vehicles. It hasn't changed where our officers live who were hired after April 1, 2012.

Councilor Maestas said, "When you're commenting about something that is part of a bigger agreement, it's going to cause disruption. But if it means having us focus on the real issue, which I think is housing, and in the total incentive package. I asked, give me a recruiting poster. How do we sell coming to work for the City of Santa Fe. I don't think it's a comprehensive housing assistance program. I don't think that's in there. So, I think it's a bigger problem, Mr. Mayor, and so, I'm asking my colleagues to reconsider that. And not just leave the status quo and keep the 15 miles. I'm saying let's open this up and take up the dialogue about what we can offer. Maybe that could be something we can put on the table if we go back to renegotiations. What housing assistance can we provide, even initially, and then we can continue working on a broader, more sustainable program. That's the way I see it, Mr. Mayor and colleagues."

Councilor Maestas continued, "So, I think we have a lot of work to do and again, the ideas that I received were numerous. I got about 10 ideas regarding incentives for housing that the officers would like to see. I think they all need to be vetted and discussed, and I think we have an obligation to make a decision on them, with the end goal of again, recruiting and retaining the best."

Mayor Gonzales said, "I do think, that before we start talking among ourselves, we ought to reach out to the Police officers themselves and plead your case. So tell us why you think.... if this is the area we're focused on right now, being the issue of expanding the radius, why is that better for the Police Department."

Sgt. Martinez said, "First of all, we can't negotiate housing, because it then become a bargaining issue in contract negotiations. Second of all, we've been here for almost two years. We finally reached a contract agreement, one that everybody was happy with. This spends no more money out of the budget. We didn't ask for raises. We didn't ask for anything monetarily. What we asked for was first, our shift schedule to be changed, which was not at all impossible. They changed our shift schedule, it's perfect. That actually shows on paper, that we're actually saving money in fuel consumption. So if that's the case that everybody's bringing up as far as fuel consumption, that's fine."

Sg. Martinez continued, "The second thing that we negotiated that was brought forth was the take-home policy. This is strictly a recruiting and retention school. Everybody within our region has some sort of take home policy, and you can call every department you want, they have take home policies. The County has a 39 mile take-home policy from the County line. Do you think they would ever get rid of that. No, they wouldn't, because it's part of the recruiting packet. And I don't know what the issue is, as far as if your constituents don't want to see us leaving the City, if they want to see us living in their areas. But you're never going to get an officer that lives in District 1, unless you bulldoze an area of Patrick Smith Park and we put a mobile home on there. But I don't want to tell these guys that they have to live in mobile homes. I'm tired of listening to the officer telling me that they're spending \$500 per month to come down in their personal vehicles because they have to work here. We went to school for this. This is our profession. We shouldn't have to be going through this."

Sgt. Martinez continued, "If you really want to bring up the bigger issue, it's a staffing issue. Just like you brought up in a Resolution. We have how many positions open. 21 positions. That's 15% of the Police Department. I know there are people waiting in line for this to pass so they can lateral over, because they want to work in Santa Fe. They just don't want to live here because it's too expensive. I'm not going to tell these people that they have to live in subsidized housing, they have to live in project housing areas or apartments, or mobile homes. That's not fair. Our officers deserve adequate housing, they deserve to make a home for their families in something they can afford. Just real quick, I tried to get through Homewise in 2004. I was denied because I made too much money. I had to settle for a house that was \$200,000. I paid \$1,800 per month, plus PMI because of my financing rate. I subsequently refinanced at a lower rate, but that was back in 2004."

Sg. Martinez continued, "I sacrificed to live here, because I wanted to live in the place that I worked. But you have some officers that feel that you guys are making them live in the place where they work, where they don't want to live here. They want to feel like they can go other places, that they can feel safe other places. They don't want to run into people they've arrested, or spend \$30 a plate just to go out to dinner. They want to be able to go to any place in Albuquerque that Santa Fe doesn't have to offer. There's more things in Rio Rancho, there's more things to do in Albuquerque. We need to afford our officers the opportunity to do that, and I don't see why letting them take home their vehicles 45 miles is a bad thing, especially when it's saving the taxpayers money."

Councilor Dominguez thanked both sides for their work in coming up with a contract, because there hasn't been one for some time now. He said this isn't a new issue and it dates back to before he was on the Council. He said the vehicle take home policy, recruitment, retention, all of it isn't new. He said it

has been a part of this community and definitely needs to be addressed. He thinks the first priority is to ensure there is a fully staffed, qualified Police Department, so our citizens and taxpayers can feel safe in this community. He said this contract, which has been negotiated, is intended to accomplish that, and provide us with the best police service we can get. He said Councilor Maestas is correct that it is a larger issue that needs to be addressed. He has heard stories like Sg. Martinez's, where they make too much money to qualify for housing, but not quite enough for Santa Fe.

Councilor Dominguez continued saying, the larger issue needs to be addressed and it's not just housing, it is schools, quality of life and such. A lot of things need to happen for us to get to the end result which is to have all our police officers to be residents, and baseball coaches and involved in kids' schools and so forth. He said until we address those larger issues, separate from this agreement, because he has not seen a comprehensive policy or policies intended to address issues in the police department as well as the people in this community, so everyone can afford to live here and don't have to move to Rio Rancho instead of living in a City where they have roots."

Councilor Dominguez continued, "It's a much larger issue than just the vehicle take-home policy. I think we need to honor the work that has been done. I'm not necessarily opposed to postponing it, but I don't think it is going to get us anywhere. We have to be careful, because we can have a large discussion about should it be 15 miles, 45 miles, let's cut it in half, but that's negotiating, and we don't want to do that for the groups that have done the hard work and taken a look at some of those details. And we, through the City Manager and the Police Chief and ultimately the officers have been providing us with the best safety that we can have in this community, given the various dynamics and issues that exist, again it's just not housing, it's a whole number of issues."

Councilor Dominguez continued, "I welcome any policy that anyone wants to bring forward that helps address that, not only for our police officers, but other people as well, and I think that would be a good thing. But that's not what's on the table today. I would encourage my colleagues to think about, yes it is good to address the larger issue and definitely we need to do that. Are we going to do that today. Are we going to get it done in a month when Public Safety next meets. Those things, policies and issues aren't going to get resolved over the course of one meeting. I'll end it by saying again, Mayor, thank you to both sides for finally getting us a contract that hopefully doesn't have to be renegotiated for a long time."

Mayor Gonzales said, "Before we continue, a reminder that Kelley has reminded me that we cannot move down a pathway where we are negotiating this contract. So let's keep the dialogue, if we want to talk about broader policy issues, that's fine, but ultimately, we're not going to propose to you to accept something different than what you've already agreed. So, this is either going to be an issue where we approve contract as presented, we deny it, or the option could also be to postpone and to move to an executive session at a future date where it can be discussed amongst the Council, with some direction given to the management. There are options here for us, but the option to ask the POA to do something other than what has been presented in front of us is not in place. So I would like for the discussion to stay on the merit of the contract that is in front of us, and not move down a pathway that is separate from that."

Councilor Rivera said, "Dale and Matt, I'd like to thank you for entering into good faith negotiations, and coming up with an agreement that was true to your word which wasn't going to cost the City any money, and I appreciate that. I told you that before. In some ways, I'm still involved in the public safety circles, not as much as I used to be obviously, but the best recruiting I think is word of mouth. And from what I'm hearing out there, is exactly what you said, that officers are waiting to come to the City of Santa Fe Police Department because of the 4/10, and because of this take home policy. And again, if we have people that are waiting to come in based on those simple changes, I think you guys are doing a good job."

Councilor Rivera continued, "I think it will help with recruitment and retention, and again, finding the best officers is what we're looking for. We were at 60 miles, we cut it down to 15, and now we're somewhere in the middle. I think that's what negotiation is all about. Coming to a good kind of mid-point that everybody can live with. In reality, the Chief still has the option, if the 45 isn't working to terminate the agreement, if he decides with the Union and labor management committee. If it's decided the 45 miles is not working, that you can terminate it and come back to the table and discuss something else."

Councilor Rivera continued, "When I was with the Fire Department... again, this issue has been around, and again Public Safety, with regard to this is pretty much the same. But when I went, person to person in the Fire Department, and asked them what it would take to move them back to Santa Fe, they said nothing. There's no way you can get me back. They said, I live in a 3,000 sq. ft. home in Rio Rancho for \$200,000. If you want to subsidize me that amount to live in a 3,000 sq. ft. home here, then that might bring me back, but at that time we were looking at a \$400,000(?) stipend to get them in the same sq. ft. home, and that's just not realistic. So I think what you guys has done is a good thing and I'm looking forward to seeing how it's going to go from here on out. I think we're going to see good things from it, so I support this 100%."

Councilor Trujillo said, "I too want to thank you. I'm glad we have a contract. I'll just reiterate what everybody has said. It's the same story, even when I got on the Council. We don't have enough staffing, we don't have enough police officers. We want them living here. I'll admit I want the police officers living here, there's no doubt. I would love to have a police officer living right next to me, and we do hear it from our constituents. The people in Albuquerque and Rio Rancho feel safe because there is a Santa Fe Police car parked right outside their door. That's the unfortunate thing. And you brought up a good point. We can't force you to live in a place. That's wrong, and we can't say that. And the number that stands out to me is 21 vacancies. When we have 21 positions that are open, that does send up a flag for me. I want those positions filled. And I'm hoping with this new contract, with the new take-home policy that we do get them filled and that we retain this, and you guys are coming back even month with, Councilor, we're 9 down, 10 down, I want to keep full staffing all the time. I've always said I think public safety is the most important thing we as a City can give to our constituents. We need to do that."

Councilor Trujillo continued, "I hear this talk, about forcing [people to live here], and there's a lot more things. As we've had the discussion, we do have to have a broader talk about how to keep people here. Anybody up here can tell you, our friends live in Rio Rancho and Albuquerque. Why. Just the issues we just discussed, more housing, more places to go. There's not a lot to do here in this City. They go to Rio Rancho, they go to Albuquerque. I've always said the City Council down there, they have a

larger GRT. I'd like to keep some of that GRT, but until we start getting those businesses that want to come here, but that's another discussion. You can hear that, and we need to hear that discussion later on. I'll just say, I'm glad the contract is here. I hope they're recruiting, and we get the 21 people. And I will support this and I thank you guys for your work."

Councilor Dimas said, "I don't want to beat a dead horse here 15 times, but. I'm glad the negotiations worked well and that we have a contract. I think that's the most important thing we can talk about this evening. I'm supporting this fully. The problems that I have with the take-home program, and I've discussed this with many of you, numerous times, is that 30 years ago when the take-home program took place, I was a Police Commissioner of the City P.D. At the time, an appointed position, and that's when this came into play. And the whole idea of the program, and I've talked to the Chief about this and everyone else, is that we wanted a police presence in our neighborhoods. We wanted our officers able to take their cars home, live in our neighborhoods. We encouraged our officers to take their units to the grocery store, to get a haircut, so we had units on the streets all the time, and it looked like we had a lot of police presence."

Councilor Dimas continued, "I'm not sure what happened during the period of time when I was no longer on the Council and to the period where I'm on the Council now. But it escalated to the point, I think there were more people living outside of Santa Fe than living in Santa Fe. Of course, I would love to see it again to do what it was intended to do and that was to get more police officers into our neighborhoods and on our streets. Things have changed and I understand things have changed immensely since then. And in order to recruit and retain officers is important, that we have programs like the 45 mile radius, and I totally understand this is something we are going to have to test and see what happens. While I've been on this Council, 2½ years, we have come back and forth about discussing housing and all kinds of things. Two and a half years ago I'm sure Chris and everybody else who was on the Council at the time, we came up with a Resolution to give a stipend to our Police Officers of \$375 per month. We just about had it approved, we had the money to do it. And that was for officers living in Santa Fe and to draw officers back to Santa Fe with that stipend. It was something that was going to be approved, and it somehow got cut down and we never discussed it again."

Councilor Dimas continued, "So these things have been discussed in the past. It's not like this is anything new. It just continues on and on and on, and I agree with Councilor Maestas that we have to look at the long range thing on this. Because if we don't look at it long range, and considering how we're going to attract new officers without having them living in another community, then officers aren't going to be a part of this community. I believe that if you're going to work as a police officer, as I did in this community for several years, and I was out there on the streets, I think that every time you go into a grocery store, or any of our local businesses here, that they recognize you as a law enforcement officer and have that respect for you, and can come up and say, hi Mario, how are you today, it's good seeing you. Yeah, you gave me ticket the other day, but I understand why. It's that part of it too, that we need officers living in our City. People in this community need to know who our police officers are. You can't just give somebody a ticket, drive to Rio Rancho and forget about who that person was. It's important, it's community policing. That's what it is. It's talking to the people in the community. And this is the kind of policing that we need here in Santa Fe. It's something that's important to the citizens here. They want to know who the police

officers are that live here. They don't want to run into you driving back and forth to Rio Rancho or Albuquerque or wherever they might happen to be, because they don't know who you are, and you don't know who they are. That's the importance of this too."

Councilor Dimas continued, "So I think there are important things here too. The people who are living in Rio Rancho and outside of Santa Fe are spending your disposable income in a City that you don't even work in. It's a City that really you don't have anything to do with the City, other than coming to work here. But your disposable income is going someplace else. What I would like to see from our Police Department and have our administration ask our officers who are living out of town. We can't mandate it to any officer, but we can ask that you, at least spend 25% of your local income at local stores here in Santa Fe to give a little bit back to this community and to also walk into the grocery stores, and walk into our local stores and restaurants and talk to people so they know who you are. I think that's an important part of this whole thing, and something we need to start looking at now and in the future. Yes, we can talk about housing, we can talk about all kinds of things, but I think that's a really important part of this whole thing. And I'm not going to say a word more, I've talked way too much already. But congratulations on this contract and just know that I support you in this contract. Congratulations."

Councilor Ives said, "It's interesting, because so many of things Councilor Dimas just indicated, resonate very sincerely and very true in my own thinking. I think it's critical we have a community based police force, and for me, that very much means having our officers living in our community among our citizens, participating in the daily life of Santa Fe. The point where I differ with Councilor Dimas is this policy seems to not enhance the likelihood of that, but to decrease it by allowing people to live further outside the City than the current 15-mile radius. So, from the perspective of wanting to send a consistent message that having our officers living in Santa Fe, in our communities, as our neighbors, I don't support this contract for that reason."

Councilor Ives continued, "And I will say, I certainly agree with Councilor Maestas and others who have expressed that we, as a Governing Body and a City need to address those much broader concerns in terms of, it sounds like housing is a major one. But I also firmly believe it is important to have our officers living here in Santa Fe, and I can't support this policy change as reflected in this contract. And that is unfortunate from my perspective, because I know everybody has worked very hard to try to get to this point over a long period of time. I certainly appreciate the efforts. That's where I stand on the issue, and stand committed to trying to figure out how we can make Santa Fe more affordable, if that ultimately is the issue that results in our officers not living in town."

Councilor Lindell said on packet page 64, under # III Vehicle Operation Regulations, the way she reads this is that officers that would have their cars for a 45 mile radius, can use that car any way they choose to use that car. Officers, however, that have the 60 mile radius can only use that car for 60 miles of roadway mileage. In other words, the way I'm understanding this is the people that have the car for 60 miles, it is for commuting back and forth from where they live. The officers that have the 45 mile radius, can use that car to commute back and forth to where they live, and go grocery shopping or do whatever."

Deputy Chief Lettenberger said, "The way it's addressed in here for the 45 mile radius, we actually have in our policies and procedures certain things officers can and cannot do. So what this is stipulating is just that the vehicle going back and forth, most of the things they can or cannot do while in the police vehicle, what they have to wear, what they can and cannot do is covered through our policy procedures."

Councilor Lindell said that doesn't address her question. She reiterated, "The way this is written, maybe I should ask Ms. Brennan."

Ms. Brennan said, "The practical effect of the language is as you expressed it."

Councilor Lindell said, "I'm uncomfortable with that, the difference of what someone with a 45-mile radius has, as compared to someone with a 60-mile radius. The person with the 45-mile radius can drive around and do pretty much... there's no limitations in this contractual language about that. That's the point I wanted to make. Aside from that though, I'm pained about this. I don't want you guys to live out of town. I want you to live in town. I want to find a way to incentivize you to live in Santa Fe. When I hear people say, we don't want to live in Santa Fe, that strikes a terrible cord that you don't want to live in Santa Fe. I'm pained to hear that. And I particularly don't want to pay officers not to live in town. I want to find a way to pay officers to live in town. I think, as Councilor Dimas said when this first came forward, this was about community policing. And this is away from community policing. And, in terms of recruiting, I hear what people say about that, but the numbers on this data sheet we got today, don't really support that. So, those are some tough things. I would way rather find a way to incentivize people to live here."

Councilor Lindell continued, "The economic development factor in the City to be not having people live here, we don't know what the impact of that is, it's undetermined. We just rolled out this week a new thing on environmental.... the footprint of the City environmentally, and driving a car back and forth to Albuquerque every day, or in some cases, even further, it's the equivalent of what it takes to heat a home. So, I'm pained by this. I just think we can.... It's hard to recruit, I understand it. I hear you guys say it. But you know what, we're Santa Fe, and just because it's hard we don't give up on it, and say, oh we can't do that, so we're going to pay people to live somewhere else. When I hear you say that people don't want to live in the town where they arrest people. We make hard decisions every other week, and we run into people that we've disappointed, so those are tough things, but that's what we signed up for. That's what we do."

Sgt. Martinez asked to answer a question, and Mayor Gonzales said, "Yes, just to the question."

Sgt. Martinez said, "The way it was written, the way it was negotiated, we made sure that it was negotiated that if it was brought to 45 from 15, that they would still under the same guidelines as the 60-mile take home, where it's just to and from work. That's pretty much it. And the people that reside in the City or within the 15-miles, we still do, we go to the grocery store, we go to the gym. We do what we need to do in our units. There are still people that live here, make no mistake."

Sgt. Martinez continued, "But to answer Councilor Maestas' question real quick, there really hasn't been any change in numbers for the Police Department. We're still at the same number, that's why there's no change on the numbers you have. So, from 2012 or 2011 to 2014, we've had the same amount of people since then. That's why there's no change. You still have the same amount of people living in Albuquerque, and the same amount living in Santa Fe. We're trying to get people to live here, but that's the problem. Nobody wants to do it. This is just another tool that other departments, pretty much every department in this State has, that we don't have, that if we had it this moment, we would get more officers."

Sgt. Martinez continued, "And just to bring up one quick thing. We've tied ourselves behind the back, and I'm going to say this and I brought this up today. And many of you guys may not care, but, all the cadets we've hired within the last year, we're going to have a period in time where you're going to have 45 retirements within a 6 month period. So how is the City going to look 23 years from now, when 45 people are eligible to retire and they leave all at once. We're going to be in a bigger mess than we are today. We need to spread that out and start recruiting laterals and other people with experience that are staggered-out. Basically, we're telling laterals, sorry, we're only going to try and recruit cadets from inside the area."

Mayor Gonzales said, "Not to debate the point. Are there questions to the contract. I think everyone has had an opportunity to express their point of view, so let's limit conversation to questions on the contract."

Councilor Lindell said, "I hear what you said about the car use, but that is not what it says in the document we were given, so I just want to clearly point that out."

Councilor Bushee said, "Actually, I haven't stated my opinions, I've just been concerned that it was built into the contract and that we didn't have a chance to have a discussion. I thought about the issues I have had, so I'm going to ask a couple of Matt because I think he's been around a while. Matt, obviously, I'm thrilled that we're here, that two years out, we now have a contract. I don't want to disrupt this, but I have to say, I've had these discussions for two decades now about what we could look like and how we could get there. We've had surveys. I've had surveys conducted of all public safety officers about what would help people here."

Councilor Bushee continued, "We've talked about community policing since I've been on this Council, and we've had not ability to actually put it into effect. But what I can say is that I remember the time when recruitment was a real issue and we were handing out \$10,000 signing bonuses. At that time, we had a take-home vehicle policy that you liked that went even longer, 60 miles. It was the same deal. That was kind of a wasted attempt, I thought at the time, and a lot of money was given out and there were laterals that were hired and they did not stick around. They did the one-year commitment and then they were gone."

Councilor Bushee continued, "And I guess what I'm trying to say is, I've kind of heard it all, and what I haven't heard is a positive approach to how we're going to have community policing with our officers parking their vehicles at homes here in Santa Fe. We have spent money on housing studies, we have

reams of information, resolution upon resolution to try and get some resolution to this issue. I see this as a step backwards. I honestly don't see how this changes the equation, other than, you know, 50% or less of your officers are happy. But what about the fifty whatever, six, or fifty five percent that are living in this more expensive town. It's not as if we're giving them some kind of bonus for the cost of living expenses here. I don't see this as step forward. I see this as a step backwards. And I know you're passionate about this. We've had many discussions privately, collectively. I just want to see something different that, you know, gee we've built this into the contract now, this is going to make everybody happy. I don't think it makes everybody happy, including half your officers."

Sgt. Martinez said, "We've had these discussions, and you're exactly right. Was I a proponent of the \$10,000 severance, come here, let's hire you. No, I was not. I believe if we stick with the tools that are known to work, we can recruit. And I will say this, it's not like having a car in the driveway is going to help any way. My car's been shot at, it's been egged, I've had my tires slashed, and it's not like neighbors are coming out and talking to me, even though I come out and talk to them. So the problem is how we address the community policing as a whole. And we can address that, we've addressed that already with the larger schedule change. Our officers are on the street for two more hours now, and I've stressed to those newer officers this is what we need to do: you need to go to the gym, you need to go to the grocery stores, you need to go to the schools. I've been passing out lunches at the schools during the summertime programs, and these kids are having a blast with it."

Sgt. Martinez continued, "But policing also has changed within the last 20 years, too. We're having to work more and we have no time with our family, at all. So the days of coaching, I would love to coach if I didn't work 12-13 hours a day, I would love to do that, but I would never have time with my family. That's the problem we're seeing now. Our officers are working too much and just need a time to go home and relax and to afford the opportunity to raise a family and raise it well. That's all we're asking."

Councilor Bushee said, "It does make me sad that you don't think you can raise your families well here in Santa Fe."

Sgt. Martinez said, "That's just the information that's been given to me. I chose to live here."

Councilor Bushee said, "My point originally was we had the 60-mile radius take-home policy when we had the \$10,000 bonuses. They were aimed at laterals. We signed laterals. They went after their contract was up, they kept the \$10,000 and moved on to wherever. The other thing I want to raise from my perspective. I see what's going on down in Albuquerque and I see the disconnect between the police and the community. And that's where I keep coming back to. I've got to think for the big picture here, and I want to see some changes, I really do. I want to see something different. I want to see something different offered to you all than what's been offered over time and seems to be rejected. I just feel like we need to start with something different. This is just not working for me."

Sgt. Martinez said, "We're not Ferguson. We're not New Orleans. We're not APD, this is Santa Fe PD and you have good officers. In a City where there are 40 plus shootings, they get a 5% raise."

Councilor Bushee said, "But the community needs to know you. Anyway, we can continue to have this discussion privately and publicly."

Mayor Gonzales asked if there are further questions.

Councilor Maestas said, "I'll be brief. I've received a lot of calls from folks that feel changing the radius for the take-home is contrary with a lot of our policies. For example, with regard to affordable housing. We have an incredible partnership with State, public, private, local. We've seen the latest housing assessment. There's a mass exodus of Santa Fe workers. They're leaving and we're doing everything we can to keep them here. Councilor Dimas and others have talked about the economic leakage. We've studied the leakage and we know how many millions of dollars our economy is losing because of the exodus of Santa Fe workers. I feel like I have been put in a difficult position by having this issue allowed to be put on the table as negotiable, when in fact, it is contrary to a lot of things we're trying to do. And the economic development proponents and the affordable housing proponents have called me and told me so."

Councilor Maestas continued, "I know we want to isolate this and fill positions, but we lead by example, and our actions have meaning, and they have a perception out there. And we all know perception can become a reality. And to a lot of people, they see this as a stand-alone issue, not part of a greater agreement we have to vote up or down, we can't amend or negotiate. But they see it as having negative connotations and it's perceived as being contrary to a lot of things we're trying to and accomplish. It's very difficult and I recognize what went into this, but this should not even have been put on the table. So I feel we've been put in a difficult position because, again, of the connotations that this amendment to Appendix B, Part 3, and we need to be mindful of that. It would be nice and convenient for us to say, no no, it's isolated. It's not isolated. It has huge implications and is sending many many messages, some that are not positive. I do need to say and share that I have been receiving a lot of feedback about that, and that perception is reality, and I think we need to be aware of that going forward."

Sgt. Martinez said, "Because of the last negotiations, we were at a flat line budget, so incentives or pay raises could not be negotiated because they weren't proposed. That was the problem. This was something that could address recruitment at the time, we agreed to that, we knew that, so that's why this was proposed on the City's end."

Councilor Rivera said, "Matt, because the 15 mile radius was in the contract previously, it was subject to negotiation regardless. Is that correct. Or Dale, whoever."

Deputy Chief Lettenberger said, "Yes, that is correct."

Councilor Rivera said, "In my experience, and I've negotiated on both sides of the table. With regard to Councilor Lindell's discrepancy that she brought up on page 64, with regard to the 45 to 60 mile radius, I know there are times when you negotiate a contract in good faith, and you go through it, and somebody reads something in there, like Councilor Lindell did that was an oversight on both parts really, from what I'm hearing. So I believe there is a method in the contract to address that through a Memorandum Of Understanding. Is that correct.

Deputy Chief Lettenberger said, "Yes sir."

Councilor Rivera said, "And that's the Labor Management Committee."

Deputy Chief Lettenberger said, "Yes sir, and we can negotiate that also in the next negotiations."

**MOTION:** Councilor Rivera moved, seconded by Councilor Trujillo, to approve the proposed contract.

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

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

**Against:** Councilor Ives, Councilor Maestas, Councilor Lindell and Councilor Bushee.

**Explaining her vote:** Councilor Bushee said, "Reluctantly, no."

**Explaining his vote:** Mayor Gonzales said, "Before I cast my vote, I want to say a couple of things. One to the POA, there's not a Councilor up here who stands opposed to the Police Officers. I think it's really important that everyone understands that. The questions that were brought up tonight should be viewed by anyone as wanting to stand opposite. I think that's incredibly important. But one of the things, certainly as being Mayor and being put into this position of casing a vote is not to move in the policy of does 15 miles work better, does 45 miles work better. How do we create more incentives to get more people from Santa Fe to join our force. It's how do we have the maximum amount of people, protecting the people of this community. Ultimately, that's our job. And I will tell you that in at least a dozen community meetings, people were talking about wanting to see more police officers. Last year, we had 1,000 reported cases of domestic violence in our community. We have an active drug trade moving through Santa Fe. I don't know if we have the luxury at this time to talk about having a contract that puts more people from Santa Fe to work in our Police Department, versus people from outside of Santa Fe. What we have is a real need to fill positions to protect our community to the best we possibly can do. That's our obligation. It's the oath that we took when we became elected officials, that we were going to do everything we possibly could, to make sure our neighborhoods were safe and that our community was safe. And I know all of us want to see that happen. Now, I've never walked a step in the shoes of an officer, nor have I been part of a family that has

supported officers. I can't imagine what you go through every day, and all of us are thankful for that. We took an oath to make sure our neighborhoods are safe. And so, I can't stand up here and say what was negotiated between management and the union was right or wrong. All I can do is rely on the people who have chosen to protect our community. And that's in our management and that's in the Police Officers Union. When you say this contract will help us recruit people and make sure we fill 21 positions that hopefully will be more present in neighborhoods and in businesses. As Mayor of this town, my responsibility is to say go do. Go protect this community. Make sure we have the number of positions that are vacant are filled with quality officers that can be a part of this community. I will point out that we launched the downtown initiative. And you go talk to downtown merchants and people who spend time downtown, they say the name of Officer McCord. They know Officer Rooney. Those guys live in Rio Rancho or Albuquerque, I'm not sure where they live, but I know they don't live in Santa Fe. But they are on a first name basis with merchants in the downtown area because they are knocking on their doors. They're spending time with them. We can achieve community policing by relationships that our officers choose to have with neighborhoods and with businesses. Not by the address that they go home to every night. And so, I'm going to cast my vote in favor of this contract, and ask, as we go forward, that the issues that have been discussed tonight, and Councilor Maestas brought many of them, and others have, in terms of trying to find a holistic approach to improving the delivery of policing in our community. I think that's what we have to focus on, not whether... I'd love for 100% of our people and police officers to live here in Santa Fe, but what I want more than that, is I want to see property crimes go down. I want to see the drug trade eliminated from our community. I want to see domestic violence go down. That is what I was elected to make sure happens. Not to try and increase the number of police officers living in Santa Fe versus living in Rio Rancho. And so, my request of all of you as you leave here tonight, is that this a community that all of you have sworn to protect, whether you live in Santa Fe or outside of Santa Fe, and we expect that to happen. That to me is number one and I know you're doing it. And I know, we are no APD, and we are not going to become APD and there is no way that is going to happen. But we have to just use the tools available to try and attract and retain individuals that are here. And I'm thankful, we all are thankful for the work you do, and for what you do on a daily basis to protect this community, and I look forward to seeing you guys go out there and achieve those big results. And hopefully, we put this behind us and we can move forward and move on. So, thank you. That's a yes vote. That's a yes, after all that. Thank you."

**10(p) REQUEST FOR APPROVAL TO CREATE NEW POSITION FOR A PUBLIC  
RELATIONS MANAGER FOR TOURISM SANTA FE IN-HOUSE MARKETING TEAM.  
(RANDY RANDALL)**

**1) REQUEST FOR APPROVAL OF BUDGET ADJUSTMENT – MARKETING  
LODGERS' FUND**

Councilor Maestas said the creation of this new position was discussed at the Finance Committee, and he was very concerned that we are creating a new position. He said, "I still feel, even today, and I want to explain the information I've received from Randy to better understand how this proposed new

position is going to be integrated into the existing organizational structure. And I feel any new position that is created here has to be scrutinized at the highest level. It has to make sense. It has to have context. It definitely has to save money, and I realize this position is being created within the existing budget by reducing a lot of the contracted services. And I think that's great, but I just felt it was important for me to kind of finish this discussion and explain what I've learned since the Finance Committee meeting."

Councilor Maestas continued, "When I looked at the organizational chart, there is a Marketing Manager, it is an existing position, and a Marketing Coordinator position, which is an existing position. And I wanted to see, well how is this PR Manager going to fit in. And I've looked at the job description, and I think Randy and I have had a discussion about this. And anytime we do create a new position, we know it's a recurring expenditure. And given the rough road and the rough waters the City has been through, budget-wise, revenue-wise, we need to be very very careful in vetting in the creation of any new positions. And so I just wanted to explain that since then, I have a better understanding of how this proposed position is going to function."

Councilor Maestas continued, "But it just needs to be said that going forward, if we have any kind of, and you may not consider it an expansion request, but any request of this nature needs to have proper context, make sense with where we're going. And when we were considering the creation of this new position, I was thinking about how long we've carried vacancies in certain departments and the incredible work load impact to existing staff. All in the vein of balancing our budget. And so I want to be respectful and courteous and aware of the staff that have picked up the extra load throughout the year since 2008. So, I just felt an obligation to explain the nature of my comments regarding this action item. And I think, Randy, we want you to succeed. I think this is an exciting time for Tourism Santa Fe, and I have no doubt that this PR Manager is going to put to great use, but I just wanted to.... I pulled it to thank you for working with me to understand how this position fits in with your existing structure and what your vision is to it. And I'm not going to bring up all the questions that we discussed prior to the meeting."

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

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

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

**Against:** None.

## 11. MATTERS FROM THE CITY MANAGER

There were no matters from the City Manager.

**12. MATTERS FROM THE CITY ATTORNEY**

There were no matters from the City Attorney.

**13. MATTERS FROM THE CITY CLERK**

Yolanda Vigil, City Clerk, said, there will be a Special Fiesta Presentation on Tuesday, September 2, 2014, in the Council Chambers at 4:30 p.m., prior to the Finance Committee meeting.

**14. COMMUNICATIONS FROM THE GOVERNING BODY**

A copy of "Bills and Resolutions scheduled for introduction by members of the Governing Body," for the Council meeting of March 12, 2014, is incorporated herewith to these minutes as Exhibit "1."

**Councilor Dimas**

Councilor Dimas had no communications.

**Councilor Maestas**

Councilor Maestas said he has a comment about this whole issue about the militarization of local law enforcement agencies, the donation of military equipment from the pentagon. He went on line and noticed that Santa Fe County has received some of this donated equipment. He said he would hope our Police Department does not accept any of these donations, but if we have that's fine. He said he would call on the Police Chief to refuse any donated military equipment from the Pentagon. He said the President's administration is reviewing this program. It was eye-opening to see Ferguson confronting its own people in these M-wraps and incredible high powered weapons. He wants to make sure that we're not the community that needs to accept equipment such as this.

**Councilor Bushee**

Councilor Bushee wished everyone a Happy Zozobra and Labor Day weekend and to be safe.

**Councilor Ives**

Councilor Ives introduced a Resolution directing Public Utilities Department staff to identify and apply for federal and State funding sources for water and wastewater projects. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "2."

## **Mayor Gonzales**

Mayor Gonzales introduced the following:

1. A Resolution relating to the People to the Plaza Resolution; amending Resolution #2014-29, to extend the time period in which people can enjoy the Plaza with reduced traffic. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "3."
2. A Resolution authorizing the City of Santa Fe Transit Division to provide free rides on all bus routes and Santa Fe Ride vehicles for all Santa Fe Municipal Elections and Santa Fe County Primary and General Elections. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "4."

Mayor Gonzales said the School Superintendent called him today, and they will be having conversations on what we can do as a community make sure we're doing our part in addressing any rise in violence against people of color. He said across the country we are seeing a pattern of increased violence against our youth, particularly those of color. He wants to make sure we are having those discussions here so we can preempt and be as pro-active as possible to ensure we don't see an increase in violence to all people, but particularly to our youth in Santa Fe.

## **Councilor Dominguez**

Councilor Dominguez said Que Viva Nuestra Senora, noting that is going to be coming up here pretty soon, so keep that in mind.

Councilor Dominguez thanked staff for their work to open the Southside Library on Sundays, and the numbers are pretty good, noting 122 people were there last Sunday, which demonstrates the need to have the library open on Sundays. He thanked the Governing Body and for supporting this during our budget process.

Councilor Dominguez said on August 31, 2014, 1:00 to 3:00 p.m., the group with whom he has been working, the Quality of Life Group, is hosting a pizza party for people at the Southside Library. He thanked Patricia Hodapp for working with that group on that party.

Councilor Dominguez introduced the following:

1. A Resolution calling for the redistricting of the four City of Santa Fe Council Districts prior to the Municipal Election of 2016; and directing that the Governing Body and staff collaborate to develop an Ordinance establishing the Citizens' Redistricting Commission as required by the *Santa Fe Municipal Charter*. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "5."

Councilor Dominguez would like this Resolution to go straight to the Council.

2. A Resolution recognizing the unique volunteer services of 1 Ride NM, a nonprofit dedicated to maintaining the City of Santa Fe's Buckman MX Track; and authorizing the City Manager to enter into a professional services agreement with 1 Ride NM to provide volunteer maintenance services at the Buckman MX Track. . A copy of the Resolution is incorporated herewith to these minutes as Exhibit "6."

Councilor Dominguez would like this Resolution to go to the POSAC, Public Works and Finance Committees.

**Councilor Lindell**

Councilor Lindell had no communications.

**Councilor Trujillo**

Councilor Trujillo wished his wife Amber, a Happy Birthday tomorrow.

Councilor Trujillo asked Mr. Snyder to get information for him regarding the proposed skateboard proposed to be built at Ragle Park. He wants to know the time frame, and exactly much is allocated for the skate park.

**Councilor Rivera**

Councilor Rivera wished his daughter, Rebecca, a Happy 13<sup>th</sup> Birthday, on August 21, 2014, commenting he will now officially have four teenage daughters in his house.

**END OF AFTERNOON SESSION AT APPROXIMATELY 6:55 P.M.**

## **EVENING SESSION**

### **A. CALL TO ORDER AND ROLL CALL**

The Evening Session was called to order by Mayor Javier M. Gonzales, at approximately 7:05 p.m. Roll Call indicated the presence of a quorum as follows:

#### **Members Present**

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

#### **Others Attending**

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

### **F. PETITIONS FROM THE FLOOR**

*Mayor Gonzales gave Fonda Osborn, as the leader of the nurses union, 3-5 minutes to speak to the issue with regard to the nurses, and 1 minute for everyone else to add to the discussion or to present items they feel are of importance for the Council to understand; or for anyone else speaking on an unrelated topic. Mayor Gonzales asked people to be respectful of the time requirements and when they hear the beep to start winding down their comments.*

**Fonda Osborn** thanked the Council for adopting the Resolution this evening. She said the Resolution addresses something very important, noting every 3 years they go into negotiations, and the last time and this time, "we've had a big fight over staffing." She said, "We are able to have the big fight over staffing because we have a union, where nurses and health care workers in other hospitals aren't able to have the big fight over staff, because they are employees at-will and have to do whatever management says. We feel that, because we do have a union, that we are able to let the community know at least our perception of our lives in the hospital and talk about the patient care we give and are not able to give, but would like to give. There should be legislation that addresses this for hospitals, and so they wouldn't be the only hospital. We feel kind of like this, the tail that's wagging the dog. And it's not just us in this

country that are fighting this fight. Nurses all over the country are fighting the fight now. You hear about them in California, in Ohio, in Massachusetts. We're all having the same fight over safe staffing as the health care industry changes. And we understand the hospitals have concerns about finances in this period of change."

Ms. Osburn continued, "Unfortunately, I've been through this when the hospitals went to DRG's and the first place they always look to cut is staff. The people who are doing the direct, hands-on caregiving. And it's not just the nurses. The nurses get a lot of the claim, because there are more of us, but we're also negotiating with the technical workers right now who are actually at the 33<sup>rd</sup> percentile. And not just the nurses and technical workers, but it applies to all of the workers in the hospital. The housekeepers, they can't keep up with the areas they are expected to do. The Nursing Assistants can't keep up with the workloads that they're given. And so, at some point in time, we're really going to have to look at how this is being done. So you're fortunate and we're fortunate to be here in Santa Fe."

Ms. Osborn continued, "One of the things some of you may not know is, this is actually the 40<sup>th</sup> anniversary of our union. It was started by Donna DeLora and Lomie Sandoval out here. And so, we've been negotiating contracts with St. Vincents or Christus St. Vincents now for 40 years. This negotiation has been very hard and we're working without a contract now, which means we're not able to collect union dues from the hospital, they're not deducting the union dues. It means right now, being without a contract that is something important, Councilor Ives. We may not be able to take it to arbitration. And so we are, of course ourselves, anxious to come to some resolution in this situation here over staffing. But our members, have sent the negotiating committee forth with the mission to negotiate something that we can live with. We're not asking for the best staffing in the whole world. Other hospitals have better staffing and are able to afford it. What we're asking for is just really a minimum level that is consistent every day and the hospital makes the commitment to having what we need there every day."

Ms. Osborn continued, "So we did meet with the hospital for the first time in almost a month. They have refused to come to the table with us, but through the federal mediator on Friday, we went a letter telling them that we were prepared to address some of their key concerns around the staffing article. And so we came in today. We made some concessions in our staffing, but they gave us the same staffing article that was rejected resoundingly by both the nurses and the techs on July 25<sup>th</sup>. There is absolutely no enforcement in it, nor is there any commitment to us to make sure the staffing is there every day that we need to have to deliver the care the hands-on caregivers think we should be able to deliver."

Ms. Osborn continued, "So again, I thank you very much for taking on this resolution, but if you'll just go one step further, and call the local Board members, because they're the ones that are responsible for the Hospital, is the Hospital Board, and let them know there has to be some way they can make a commitment to not luxurious staffing, but to staffing and to make sure there is some enforcement. It can't cost that much. And so again, thank you so much for doing this for us. We really appreciate it."

Mayor Gonzales thanked Ms. DeLora for her service to the community and for caring for so many people from the community.

**Cleo Fowler** and granddaughter Eliza Fowler. She thanked the Governing Body for passing the Resolution supporting state safe staffing levels. She has been a nurse for 35 years, noting her son was born at the Old St. Vincents, and her granddaughter at the new St. Vincents, and spoke of her family's experiences with St. Vincents. She said she became a nurse because she loves helping people who need help, noting her specialty is caring for women in labor and the babies born. She said, "I'm speaking to you tonight because we have a problem with our hospital. Our hospital is not being responsive to the community. We do not always have enough staff to care for the patients that come to the hospital, highly respected, independent medical journals, such as the New England Journal of Medicine have shown how well people recover in the hospital depends on the number of nurses at the bedside. All of us deserve to be well cared for in our community hospitals. The nurses want to care for you. We need your help. The hospital can guarantee a minimum number of staff to take care of a specific number of patients with specific needs. In California, there is a State law that mandates this. This is a health and a safety issue. Please help the nurses accomplish this. Ask the hospital to be responsive to the community. Please contact the Board of Trustees of the Hospital and ask them to tell the administration to continue negotiating with the nurses to establish a guaranteed minimum staffing. Thank you so much."

**Roland Trujillo, 620½ Baca**, said his wife has been a nurse at St. Vincents Hospital for 42 years, his sister retired after being a nurse there for 44 years, his aunt worked there as a nurse for 15 years. His mother-in-law has worked there for 28 years, and she is 82 and still working. He said, "I would say the issue in front of you is not just about this contract. It's about the well-being of the patients and the staff. Christus Corporation has 40 facilities in 7 states and in Mexico. They have assets in excess of \$4.5 billion. And that is all information taken from the website. I would suggest to you today that the issue at hand has to do with a long-term condition and what happens with this hospital." The real question for him is whether Christus St. Vincents just a chain in that link that needed by the corporation to come into line and being managed out of Texas, or if this is truly our community hospital. If it is, he would suggest further that there is a need for a public forum to be run by the City Council, the Mayor, the County Commission and members of this community where we talk about the reason this hospital is here. "If it is to serve the corporation out of Texas, we've lost our hospital."

**Gail Williams, 1914 Tijeras Road**, thanked the Governing Body for adopting the Resolution this afternoon. She worked as a nurse at St. Vincents until she resigned 15 months ago, so she has first hand experience with patient care concern. In 2007 when Christus was thinking of partnering with St. Vincents, they made promises publicly to respect the union and the collective bargaining process, but they seem to have no concept of what that means and no desire to keep its promises. She said seem intent on destroying the union, noting it is the only union hospital among the 40 in its system. She said the union wants a staffing plan at the fiftieth percentile level with enforcement provisions. She believes most people

in Santa Fe would agree with that. She said the administration claims they can use staff more efficiently and therefore manage at the fortieth or the thirtieth percentile. She believes it is a cover for staff to work harder, faster and less safely. She commends the workers at the hospital who try to give the best care and outcomes for patients. She was upset to learn the service and maintenance units, secretaries, monitor techs, central supply, the unsung heroes of the medial team were "denied their first amendment rights when they were told by the Hospital administration they would be disciplined if they joined the picket line. She said, "I just want to thank you again for all of your support, and I urge you, Mayor Gonzales and members of the City Council to not stop with this action, continue to be vigilant and monitor the progress toward maintaining safe staffing levels at our hospital, because one day your or a loved one will be a patient at the hospital and you'll be glad you did. Thank you."

Mayor Gonzales again cautioned the speakers to move the points that haven't been expressed to the Council, that would be appreciated and make sure that you have the time you need.

**Mark Fitzgerald, 848 Camino Consuelo**, said he isn't here to talk about the health care issue, but he stands with the people who are here to talk about it, and hopes the hospital comes around to a minimum staffing level to guarantee good care. He attended the August meeting of the Airport Advisory Committee, because he feels the Airport is a diamond in the rough for Santa Fe. He said it needs attention from the Council, the City, and County. For the oldest State Capitol to have an airport which is trying to serve the people, they feel they get no support from anyone else. He sat in the meeting for 2 hours, and at the end, there was discussion about the minutes which were to be approved. This is a volunteer board and one of the members said portions of her statements from the last meeting were totally omitted from the minutes. And the person who was transcribing said that could be a possibility because we have only one microphone, and if it doesn't reach the person or the person isn't talking loud enough, then it isn't picked up by the transcriber, etc. I ask that you look at what they are trying to do for this community to grow and better the Airport for residents and tourist alike, and give them the bare minimum of what is needed, so first of all they can have minutes that everyone understand, and the minutes are recorded correctly. Maybe they need a different place to meet that has a better recording system, get different recording equipment. They want to do their best out there, but they're doing it with one hand tied behind their back, I feel. "I come to you tonight to ask for support and resources to be given to the Airport so it can keep growing and going in the right direction. They have a great manager who is dedicated, working hard, and the Board is working hard as well. I will continue to attend their meetings, and if there is an opening on the Board, I would like to apply for it, because I feel that, again, the Airport is an area of Santa Fe that is total under developed. And with just a little bit of resources and time given by all members of the community and the County, the airport can be something we're all proud of in Santa Fe."

**Chris Garner** said without the nurses he wouldn't be here today, and one person can't do it alone, so let's hang on in there, right. And thank you."

**Evan Roher, Technician**, said he is here to support the nurses and thanked the Governing Body for passing the Resolution. He said the nurses and technicians are the ones that know what they need on the front lines to do their job. I would really ask that you listen to them and not to the Hospital administration, because many hospital administrators have not been on the front lines, they're not nurses and don't know what they need to do their job. It is a very cut and dried issue in the labor dispute – it's this community against an enormous corporation. He said, "So you have a choice. You can do everything in your power to support the people in your community that are taking care of the people in Santa Fe, or you can't. So I would ask you to do that, to support the nurses and the technicians 100%, with all of the resources that you have at your availability, your staff, your bully pulpit, Mr. Mayor. Everything that you have. Thank you."

**Sharon Arcembright** said she has been a nurse for 20 years and a teacher for 20 years in Santa Fe. She said the turnover at the Hospital is more than 100 nurses per year, and the Community College doesn't graduate that many nurses each year. She said our community cannot sustain the nurse turnover rate, much less the cost this hospital is putting into. She said, "They do not care. It's disrespectful, and I'm asking if you could please call the members of the Board to please listen to the nurses and pass enforcement language for safe staffing. Thank you."

**Jean McKinney**, said she is has been a masters prepared nurse for 43 years, and in Santa Fe for 13 years. She is here representing the Behavioral Health Unit. She thanked the Governing Body for passing the Resolution today for safe staffing. She said two years ago Christus hired Horizon Health to run the Behavioral Health Unit, Horizon Health for, she imagines, for the purpose of meeting CMS requirements. She said every month for the past two years they have had "yet another piece of paper we fill out on the patients. She said, "So we assess the patients beyond belief. The nurses are charged with, for the most part the nurses are doing the assessments, so we fill out paperwork after paper after paper and do computer work. The nurses at the hospital also stopped bringing in nurses aides in our unit and secretaries, so the nurses are answer the phone which rings a lot, and we're answering the door because it is a locked unit. And that kind of keeps us in one spot in the nurses station so the care the patients get often is limited to approaching the window and asking for what they want." She said they have a counselor that works part time, 5 days a week, 4 hours a day. So many times the patients get no counseling and the nurses don't have time to teach about medications or disease or coping skills. Three hears ago the Hospital tried to close the Behavioral Health Unit because it was a money loser, and there was a community and they didn't close it. She said we're still a money user, but they are using that to their advantage by saying, "Look how we're helping the community." Her concern is that the care for patients is often limited to custodial care and not a good utilization of the nursing skills and it is a disservice to the patients. She urged the Governing Body to contact the Hospital Board of Directors and ask them to settle this strike and get safe staffing."

Mayor Gonzales reiterated his request that those speaking focus on items which haven't been expressed yet and when they hear the beeping sound, to try and wrap up their final comments.

**Harry Eberts, Pastor, First Presbyterian Church**, said he is representing many faith leaders across the community. He has a letter which was sent to the CEO of Christus St. Vincent today to ask for a meeting of faith leaders with Bruce Tessin and his representatives to address some of the concerns you've heard tonight. He said he wasn't going to go through those concerns at this time, except to let the nurses and technicians know the "faith community has their back," for all they do for all of us in the community. It is amazing the work they do for healing. He said, "The name of our Hospital is Christus St. Vincents. If it is to reflect the name of Christus, then the Hospital better be a place where there is healing, compassion, generosity and integrity. If this Hospital is to reflect the name of St. Vincent, then it better reflect the name and the good work of a Saint in the 1600's, who was known for compassion and generosity and serving the poor. So thank you for all your work in this endeavor. Thank you."

**Reverend Holly Beaumont** said the letter referred to by Reverend Everts is a project of Interfaith Worker Justice New Mexico, noting she is an organizing director of that organization. They released the letter on Monday and continue to receive names, currently they have 17 names. She will send a copy of the letter to the Governing Body electronically. She said in response to the reason the clergy has such an interest in the Hospital, it is that congregational clergy spend more time in hospitals than anyone in the community, other than hospital personnel. They are there at all times of the day and night at the beginning, in the middle and the end of life. They have a personal first hand experience of the events in the hospital and the role played by nurses and techs. She said this is a Non-profit Catholic Institution.

Reverend Beaumont continued, "I want to share with you the words from the Catholic Church that this Hospital is called to embrace for its non-profit Catholic status, 'It has always been clear that the pursuit of greater economic justice is not carried out primarily by the statements of religious bodies, but in the broader market place where investments are made, contracts are negotiated, products are created, workers are hired and policies are set. The search for economic justice is always carried forward in the public square. We renew our pastoral call for believers to shape their choices in a marketplace and public arena according to the values of the scriptures and the moral principles of the Catholic Church. Whatever our economic status, political identification or ideological preferences, we are called, as Catholics, to work for an economy more respectful of human life and dignity. In our work and citizenship, our economic, political and personal choices, we must reach out to seek the common good.' She said this comes from a document entitled *Economic Justice for All*, which she also will make available to the Governing Body.

**Nicole Holmes, Labor Delivery Nurse**, said Christus St. Vincents is the only hospital at which she has worked as a nurse, obtaining her nursing degree from the Santa Fe Community College. She is honored and proud to work for this community and to be part of our families and our growing families. She

said, "I thank you all for hearing us tonight and for passing the Resolution. And I just really want to encourage you to support us. We are at the front lines, and the women and men that I work with in this community that are taking care of all of our families. We do an amazing job and we need you to support us and to really just let the Board know this is about our community and us being strong for our community and being a strong hospital in our community, being we are the only one here. I appreciate everything you do and I feel honored to serve you all and to serve your families, so thank you."

**Betty Sperlich** said she has been a labor/deliver/postpartum nurse for 33½ years, having retired one month ago. She said those who work in the hospital need your help. She said under Christus it seems there has been more and more pressure with charting and how it looks on the charting and how it would look in the newspaper with our advertising. And we have less and less and less time to give patient care. All of us probably will patients at Christus St. Vincents at one time or another. She said, "I urge you to please continue to support our staff in the Hospital. Thank you."

**Loretta Gonzales** said she has worked at the Hospital for 24 years. She said, "All I want to say to the Mayor and Councilors is, what happened to our community hospital. It's our hospital, so I urge you to call the Board of Directors." They are going through a lot right now, a lot of turnover – no one wants to come here to work and she doesn't blame them. She said, "But we're doing it. I'm just asking for your help and I thank you all for listening to us and having us here, and give us your support because we need it. We serve our community, your family, friends and relatives, we are here to fight for you, for your safety and ours." There is a lot of turnover because of the work injuries "at our place. It's unsafe for the workers."

**Gilbert Martinez** said he is a CT scan/MRI Tech at the Hospital, with which he has been affiliated for more than 25 years, and doing for radiology 30 years. He is a Navy veteran and medic. His concern is the state of readiness at the Hospital which serves everybody from Santa Fe all the way to our northern border, more than 300,000 people. He staffing concern, particularly with radiology, is there are only two CT scanners, and 75% of the time there is only one CT tech working in Radiology. He said two CT scanners can't be managed with one CT tech. He is a native Santa Fean from a family going back generations. He said if there is a major accident in Santa Fe, and if your loved one isn't the first one through the doors, you're not going to get diagnosed in time to save your life. We need to demand to staff those two CT scanners with someone 24/7. He thanked the Governing Body for passing the Resolution. He said we have to be at the same state of readiness as the fire and police, but we aren't there. He thanked the Governing Body for its support.

**Anna Babankova** said her mother is a nurse and is working this evening. She said, "What I see, my mom comes from work all tired, and then it's kind of like if you were sitting here with just rags on you and the chair was breaking under you, and your computer is really slow and wouldn't type and stuff like that. And then your bosses would be telling you to work harder, you have to do more and more stuff. So it's kind of the same thing. It would work like that. Thank you."

**Michelle Shortl** said she has been a nurse for almost 30 years at St. Vincents and appreciates the Governing Body passing the Resolution. Her concern is going forward. Safe staffing, good care is like apple pie and motherhood. No one is going to be against it, and the Hospital is going to say, "Hey look, you know, we can make all these cuts and our care is still better than ever." It's like Chevron saying, "We're Green," and McDonald's saying, "We've got healthy food." It's all PR and everybody has to be for safe staffing, but you can only cut so much and this is society wide. We're cutting, cutting, chipping away at everything and there are trade-offs. And it is reality, we live in a material world. She said, "I hope that the conversation can be real about what those trade-offs are. And you would just be wise, which I know you are, to just look at the motivation of the people who are telling you things. What's their motivation. We're not being paid to do this. We're probably risking our jobs. We're taking our time to tell you there is a problem, while people are saying there is no problem, but they have an economic reason to say that. Just look at the source and consider all that. So thank you."

**Jessica James, 7109 Callecita Loop**, said she has been a nurse at the Hospital for 10 years, noting her mom has been a nurse for 43 years. She does the best she can every day, but sometimes it isn't the best for the patients. She said if she doesn't answer the call bells fast enough you could be in trouble. She said, "So I think that's all I want to say, and I'm efficient, but I can't do more than I can do."

**No name given**, said she has been a nurse for many years at the Hospital, and the incidence of patient illness has increased. The time given to take of patients has decreased remarkably, and there is a greater, much faster turnover, and people are sicker. Instead of compensating for that by increasing staff and giving us more time, Christus has chosen to go in the opposite direction and decrease the number of staff and give us less time which isn't safe staffing. She said safe staffing should be a given in any hospital, and the foundation of care given by the nurses. She would like more than just safe staffing, and wants to give good nursing care, and you should expect more than just to be kept alive and not injured – that's what safe means. She wants to be able to do more than that. She said, "Right now, it's not even safe."

**Ann Marie Gallagher** said she has been at Christus St. Vincent for 8 years. She told a story about a woman and her husband who are well known, and the husband was in the hospital with a broken shoulder. After surgery and such, he had not had a bath in 3 days, and the woman was upset and made

phone calls to the administration and a patient advocate came down immediately. The patient advocates are there to help patients solve problems and feel better about a situation gone awry. The woman called the administration right back and said, I want to see a nurse and I want a CNA. She said, "My husband needs a shower and I can't keep on tolerating this situation." She said she thought it was interesting as to how problems are handled. She said we need bodies on the floor, nurses such as herself and CNA's, to help take care of these patients so they have a pleasant Hospital stay.

**Christina Romero** said she is an RN at the Christus St. Vincents Cancer Center. She said they are staffed really well at the Cancer Center, noting one of her roles is as a triage nurse. She said one of her priorities is to take incoming calls from patients or someone who needs help from the Cancer Center. She said on one Monday, 3 patients/family members called saying they were in the Hospital over the weekend, on Sunday because they were having serious issues, potentially life threatening issue. One woman told her she was unable to get the diagnostic scan she needed in the Emergency Room, and the Emergency Room advised her to call the Cancer Center on Monday to get a scan ordered for her, which they did in another facility which isn't Christus. Another person called as instructed by the ER physician to call the Cancer on Monday to get a CT scan. She said some of the radiology probably couldn't be done because of lack of staff and equipment. She said we need housekeeping, secretaries, tests, nurses and doctors. It takes all of us to help take care of patients safely. She spoke about other nurses who couldn't be here this evening, and the issues they have with being able to give good care without adequate staffing. She has lived in Santa Fe for 18 years and she strongly believes our community deserves better so we can take care of ourselves and loved ones.

**Bruce Weatherbee, Rosario Hill,** said he works with and for the nurses, although he isn't a medical person. He has never worked with or for a group of people for which he has been more proud. He has worked for 40 years in community organizing, politics and other things. He has been at more than 100 shift changes at the Hospital in the last year and two months. He's met people coming out and handed them literature trying to keep their spirits. He said, "I've had a nurse almost fall off the curb. I helped her as she got off her shift and she was crying. And I said are you okay. And she said, I'm okay, but one of my patients became an organ donor last night at 44 years old and she didn't have to be an organ donor. She should be alive today because we didn't have enough people to take care of her. Okay. That's the truth, and I challenge anybody from Christus to get up here and challenge me on that. That ICU unit, when the quality committee was meeting with the press a couple of weeks ago said, everything's just fine. Trust us. The ICU unit had 3 patients per nurse. That is unheard of in this country. I asked the doctor a couple of days later, forget your role as a board member, can you condone that as a doctor. He couldn't answer me. He wouldn't answer me. You need to do something. You need to make that local board to stop worrying about a gala coming up and worrying about the people who this community serves, and your family and friends who are there. These people have dedicated their lives. They have put their careers on the lines with the Hospital. You have already seen over 300 nurses leave this Hospital. People who had to be replaced at the cost of \$65,000 year as a minimum."

Mr. Weatherbee continued, "You heard one of the nurses talk about nurse turnover, that Hospital in 3 years has spent almost \$20 million, a minimum of \$19.5 million to bring and recruit people to replace those who left. Most of those left because, and they said this, the Hospital stopped doing exit interviews because they didn't want to hear it. We talked to them we sent information and asked them to write back to us. They left because they felt the staffing was unsafe for their patients, not safe for them and it was not safe for them to be able to continue in their careers. Thank you very much for passing the Resolution, which will help us in trying to address the issues of staffing, both legislatively at the national, State and local level. But you can do something here tonight, one step further. And that is to call the Board, every single member and ask them to start sticking up for Santa Fe and stop worrying about the people in Texas who run that place."

Mayor Gonzales said, "Once again, thank you all very much for what you do for our community. Your message has been heard loud and clear. And clearly, there is enormous opportunity to continue to advocate that the right thing is done between the hospital and the nurses in coming to an agreement that assures that there are safe staffing levels. That when people go into our hospital, they know they're going to have the level of care that we all want for our families, and I know that's what you guys are asking for and we stand and decide and we stand in support of that. And my hopes are, I think Fonda said earlier, the fact that it is disappointing to hear the Hospital showed up exactly where they left. And the point of me pushing them to get back to the table was to move off the point where they were before. So I clearly have more work to do, Fonda, in terms of trying to get the Hospital to move where they are. And I'll certainly continue my conversations with Mr. Tessin to do better than what he did today. And I look forward to seeing that happen. All right."

## **G. APPOINTMENTS**

There were no appointments.

## **H. PUBLIC HEARINGS**

- 1) **REQUEST FROM LIFEHOUSE SANTA FE OPERATIONS, LLC, FOR A TRANSFER OF OWNERSHIP OF DISPENSER LICENSE #27997 FROM RAINBOWVISION SANTA FE, LLC, D/B/A RAINBOWVISION SANTA FE TO LIFEHOUSE SANTA FE OPERATIONS, LLC, D/B/A THE MONTECITO OF SANTA FE. THIS LICENSE WILL REMAIN AT 500 RODEO ROAD. (YOLANDA VIGIL)**

The staff report was presented by Yolanda Vigil, City Clerk, from her Memorandum of August 22, 2014, with attachments, to Mayor Gonzales and City Councilors, which is in the Council packet, noting the business is not within 300 feet of a church or school. She said the application includes a back patio, and as a condition of approval, the applicant is required to enclose this patio. She noted there is a letter in the

packet from attorney Linda Akin confirming this business will not use this patio for the sale, service or consumption of alcoholic beverages until the enclosure is in place. The applicant also has removed the front courtyard and the patio from its application. Additionally, as per special exception granted on September 18, 2007, in Case #SE-2007-04, conditions of approval were imposed that non-resident club memberships shall not exceed 200 members and shall be for a period of not less than 30 days and that the lounge shall not extend hours beyond 10:00 p.m. She said there are staff reports in the packet regarding litter, noise and traffic, and staff recommends that this business be required to comply with all City ordinances as a condition of doing business in the City.

**Public Hearing**

There was no one speaking for or against this request.

**The Public Hearing was closed**

**MOTION:** Councilor Lindell moved, seconded by Councilor Ives to approve the request for a transfer of ownership of Dispenser License #27997 from Rainbowvision Santa Fe, LLC, d/b/a Rainbowvision Santa Fe to LifeHouse Santa Fe Operations, LLC, d/b/a The Montecito of Santa Fe, with the license to remain at 500 Rodeo Road, with all conditions of approval as recommended by staff.

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

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

**Against:** None.

**Absent for the vote:** Councilor Bushee

- 2) **CONSIDERATION OF BILL NO. 2014-22: ADOPTION OF ORDINANCE NO. 2014-27 (COUNCILOR DOMINGUEZ). AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF SANTA FE, NEW MEXICO GROSS RECEIPTS TAX IMPROVEMENT REVENUE BONDS IN AN AGGREGATE PRINCIPAL AMOUNT OF \$18,000,000, FOR THE PURPOSE OF DEFRAYING THE COST OF PUBLIC PROJECTS RELATED TO PUBLIC UTILITIES, PUBLIC WORKS, PARKS AND RECREATION AND COMMUNITY SERVICES AS AUTHORIZED BY LAW AND THE CITY'S HOME RULE POWERS; PROVIDING THAT THE BONDS WILL BE PAYABLE AND COLLECTIBLE FROM THE GROSS RECEIPTS REVENUES DISTRIBUTED TO THE CITY; ESTABLISHING THE FORM, TERMS, MANNER OF EXECUTION AND OTHER DETAILS OF THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT; APPROVING CERTAIN OTHER**

**AGREEMENTS AND DOCUMENTS IN CONNECTION WITH THE BONDS; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION WITH THE BONDS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND RELATED MATTERS (COUNCILOR DOMINGUEZ). (HELENE HAUSMAN)**

A copy of the bond book *City of Santa Fe New Mexico, \$15,460,000 Gross Receipts Tax Improvement Revenue Bonds, Series 2014*, is incorporated herewith to these minutes as Exhibit "7."

The Final Ordinance dated August 27, 2014, entered for the record by Dwayne Brown, is incorporated herewith to these minutes as Exhibit "8."

Yolanda Vigil, City Clerk, said there will be minor changes to the Ordinance, part of which is involving the monies, and Dwayne Brown is here to identify those changes.

Dwayne Brown, Bond Counsel, said, "With regard to the Ordinance, what is in your packet was the earlier version of the Ordinance. The bonds were actually sold yesterday. So what we've done is we've filled in the interest rates, completed other information relating to the issue size which actually went down from an estimated \$18 million to a number of \$15,460,000, but because of the structure of the transaction, we'll still end up with \$18 million of proceeds for the project. And George Williford from First Southwest Company is here, as your financial advisor, I'll let him explain that detail to you. John Archuleta, the Bond Underwriter, from George K. Bond is also here, and Helene Hausman is here as well."

Mr. Brown continued, "So, with respect to the Ordinance, the changes from what is in your packet to what is the final, is really reflecting that pricing data and making a few other minor changes with respect to some language. I can go through that detail if you want, but would probably suggest that you should hear from Helene or George with regard to the actual pricing of the bond issue."

Mayor Gonzales asked, "Is there any desire to hear on the pricing issue?"

Councilor Maestas said, "I just think we don't need to go through it item by item, but do we have like maybe an errata sheet that we can enter for the record, and say, based on the errata sheet, we incorporate this into the Ordinance as an amendment. Is that something we can do, or are we going to go through and itemize all these changes without taking all night. How many changes are there?"

Ms. Vigil said, "You handed out a revised copy for everyone, correct."

Mayor said, "What we have here should have the updated information right."

Mr. Brown said, "In the packet. That has the updated information with respect to the pricing. The Ordinance itself, I delivered a final version of that electronically to Yolanda, and to everyone else on the working group, so we do have that, it exists. And I have hard copy of it which I can hand out to you now, if it would be useful. But to go through each one of the potential changes would be time consuming."

Mayor Gonzales said, "I think the Councilor is looking for something to enter into the record, so if you could go ahead and submit what you have Dwayne, to the Clerk as part of the record, then we don't need you to go through everything, but we could just have you state for the record that you submitted the final numbers."

Mr. Brown said, "I have a hard copy right here that I'll give to Yolanda to evidence the changes [Exhibit "8"]."

Councilor Dominguez asked, "Kelley, just the way it has been noticed, and the information coming forward, is this acceptable, and are we in compliance, I just wanted that for the record."

Ms. Brennan said, "For the record, it is in compliance. It is a lesser amount than that advertised."

Councilor Dominguez said, "There's this red statement, can you tell us what that means in English."

George Williford, First Southwest, said, "Dwayne can probably do that better. This is the preliminary official statement, so there's a final version based on, like Mr. Brown said, the actual interest rate, the actual issue size and so on, and the preliminary, that's a red herring statement. The preliminary official statement is just used for marketing purposes and not in final form. And just to clarify one that Dwayne said, because it may be a question. The City will still get \$18 million of actual proceeds for projects. The bond pricing, the coupon rates resulted in an over \$2.8 million premium, and that's why the issue size itself is actually smaller, but the full \$18 million was produced for project costs."

Councilor Dominguez said, "Okay, just because it's preliminary doesn't mean that this isn't the final."

Mr. Williford said, "It's not the final version, because the final will have the final rates, size and so on."

Mr. Brown said, "In plain English on that red language you're looking at is that this document can't be used to sell bonds in any jurisdiction where it would violate the security clause. That's what that means, and it's a cautionary statement that we use on all bond offering documents."

Councilor Dominguez said, "On the ratings that have been assigned, any comments on those."

Mr. Williford said, "Yes. The ratings were AA+ from both Fitch and S&P, and that's equivalent, in the case of Fitch to the G.O. rating which is very good, and these are only one notch below AAA, which is the highest, so very good ratings for the City's GRT debt."

Councilor asked if there has been any change.

Mr. Wiliford said, "No sir. We had conversations, Brian and Helene, with both rating agencies about two weeks ago, so this is a fresh affirmation of the rating levels."

**Public Hearing**

There was no one speaking for or against this request.

**The Public Hearing was closed**

Councilor Dominguez thanked everyone for their work on this matter.

**MOTION:** Councilor Dominguez moved, seconded by Councilor Trujillo, to adopt Ordinance No. 2014-27, as amended.

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

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

**Against:** None.

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

- 3) **CONSIDERATION OF RESOLUTION NO. 2014- \_\_\_\_ (COUNCILOR RIVERA, COUNCILOR TRUJILLO, COUNCILOR LINDELL, COUNCILOR BUSHEE, COUNCILOR IVES, COUNCILOR DIMAS, COUNCILOR MAESTAS AND COUNCILOR DOMINGUEZ). A RESOLUTION PROCLAIMING SEVERE OR EXTREME DROUGHT CONDITIONS IN THE CITY OF SANTA FE; IMPOSING FIRE RESTRICTIONS, RESTRICTING THE SALE OR USE OF FIREWORKS WITHIN THE CITY OF SANTA FE AND PROHIBITING OTHER FIRE HAZARD ACTIVITIES. (FIRE MARSHAL REYNALDO GONZALES). (Postponed at July 30, 2014 City Council Meeting)**

This Resolution was removed from the Agenda by Councilor Rivera, and postponed indefinitely, or until such time as the Fire Department feels it is appropriate to revisit the Resolution.

- 4) **CONSIDERATION OF BILL NO. 2014-23: ADOPTION OF ORDINANCE NO. 2014-28 (COUNCILOR BUSHEE). AN ORDINANCE RELATING TO IMPACT FEES – AMENDING SECTION 14-8.14(C), (E) AND (F) TO ADOPT A NEW IMPACT FEE SCHEDULE AND INCORPORATE DEFINITIONS RELATED TO LAND USE TYPES; AND RELATING TO PARK DEDICATIONS – AMENDING SECTION 14-8.15(C)(2) SFCC 1987, THE PARKS DEDICATION SECTION; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY. (REED LIMING)**
- a) **CONSIDERATION OF RESOLUTION NO. 2014-71 (COUNCILOR BUSHEE). A RESOLUTION ADOPTING THE “IMPACT FEE CAPITAL IMPROVEMENTS PLAN 2020 FOR ROADS, PARKS, FIRE/EMS AND POLICE,” TO MEET THE STATE REQUIRED IMPACT FEE PROGRAM 5-YEAR UPDATE, AS CALLED FOR IN THE STATE DEVELOPMENT FEES ACTION (5-8-30 NMSA 1988) (REED LIMING)**

*Items H(4) and H(4)(a) were combined for purposes of presentation, discussion and public hearing but were voted upon separately.*

The staff report was presented by Reed Liming from his Memorandum of August 27, 2014, with attachments. Please see this document for specifics of this presentation.

Mr. Liming noted that Clancy Mullin, our Impact Fee Consultant with Duncan Associates, Austin, Texas, is here to answer any questions you may have.

Councilor Lindell said, “In the definitions, the determination of a single family detached, on packet page 9, under page, a(1), Single-Family Detached means a *single family dwelling, which may consist of a manufactured home or mobile home*. Is it mandated by the State that mobile homes be included in this definition. Because when I look at the fee schedule for this, the fees, for example, on a 1,500 sq. ft. or less dwelling, at \$3,000 seems so disproportionate to charge on a mobile home.”

Mr. Liming said, “I know that if homes qualify as affordable, they do not pay impact fees. I don't know to what degree Matt may be able to help us with mobile home and where it fits into the affordable definition.”

Matthew O'Reilly, Land Use Department Director, said, “Mr. Liming is correct. It's not necessarily the home. It's the owner of the home can apply to have impact fees waived and they apply through the Affordable Housing Office, and that's usually what happens with a mobile home or a manufactured home, so they end up paying nothing.”

Councilor Lindell said then they can come in and make an application.

Mr. O'Reilly said at the time they come in for a "placement permit," to place a manufactured home or mobile home on their lot, they will be informed of the impact fees, and if they wish to have those impact fees waived, they can apply to the Affordable Housing Office. They go through a procedure where they verify their income, and at that point, almost all of them have their impact fees waived because they income qualify for that.

Councilor Rivera asked if "mobile home" is still the appropriate term to use here.

Mr. O'Reilly said, "Yes. And the reason is that, as you refer to correctly, Councilor, a mobile home technically, under State law, is a product that was created/manufactured prior to June 15, 1976. There are still some mobile homes floating around the City. However, most of what you see out there are properly termed manufactured homes being constructed after that date. Mobile homes are only allowed in mobile home parks now, as the result of the Ordinances passed two years ago. Manufactured homes by State law have to be allowed anywhere that a single-family stick built home could be placed, with the exception of restrictions in the Historic District. So it is still a needed term in the Code for as long as we have 40 year old mobile homes floating around out there."

### **Public Hearing**

There was no one speaking for or against this request.

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

**MOTION:** Councilor Bushee moved, seconded by Councilor Lindell, to adopt Ordinance No. 2014-28 as presented.

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

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

**Against:** None.

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

**Explaining his vote:** Councilor Dominguez said, "Yes. And I just want to thank staff for the work they've done in considering the special impact districts or whatever they were called, so yes."

**MOTION:** Councilor Dimas moved, seconded by Councilor Trujillo, to adopt Resolution No. 2014-71, as presented.

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

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

**Against:** None.

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

- 5) **REFERENDUM AND INITIATIVE PETITION REDUCING MARIJUANA PENALTIES:  
(KELLEY A. BRENNAN AND YOLANDA Y. VIGIL)**
  - a) **PETITION CERTIFICATION**
  - b) **CONSIDERATION OF BILL NO. 2014-24: ADOPTION OF ORDINANCE NO. 2014-29. AN ORDINANCE AMENDING SECTION 16-15 SFCC 1987, TO REDUCE THE PENALTIES FOR POSSESSION OF ONE OUNCE OR LESS OF MARIJUANA AND POSSESSION OF MARIJUANA PARAPHERNALIA; AND CREATING A NEW SECTION 20-6 SFCC 1987, TO ESTABLISH THAT POSSESSION OF ONE OUNCE OR LESS OF MARIJUANA AND POSSESSION OF MARIJUANA PARAPHERNALIA ARE CIVIL INFRACTIONS.**
  - c) **UNA RESOLUCION QUE CONVOCA UNA ELECCION MUNICIPAL ESPECIAL QUE SE LLEVARA A CABO CONCURRENTEMENTE CON LA ELECCION GENERAL DEL CONDADO DE SANTA FE, EL 4 DE NOVIEMBRE, 2014, PARA EL PROPOSITO DE VOTAR A FAVOR O EN CONTRA DE LAS PREGUNTAS MUNICIPALES QUE RESULTARON DE UN REFERENDO E INICIATIVA RELACIONADOS A LA RESOLUCION DE PENAS POR LA MARIHUANA.**
    - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE.**

A copy of a Substitute Resolution, Referendum & Initiative Petition, *A Resolution Calling for a Special Municipal election to be held in the City of Santa Fe on March 1, 2016, in conjunction with the Regular Municipal Election, for the purpose of voting for or against municipal questions resulting from a Referendum and Initiative related to reducing Marijuana penalties*, is incorporated herewith to these minutes as Exhibit "9."

A copy of a proposed Amendment to the Resolution proposed by staff, is incorporated herewith to these minutes as Exhibit "10."

A copy of *Options for Referendum and Initiative Petition Reducing Marijuana Penalties*, is incorporated herewith to these minutes as Exhibit "11."

Yolanda Vigil said, "I received a Referendum & Initiative Petition from Drug Policy Action & Progress Now New Mexico, and I released this petition for circulation on June 24, 2014. The last pages of the petition were submitted on August 14, 2014, as well. And I certified this petition on August 18, 2014, as being valid, and had been submitted within the time period prescribed by law, and contained the minimum number of valid names, addresses and signatures as mandated by law. On August 22, 2014, I revised this Petition Certification. We went back, we were looking for a duplicate which we could not find. And at that point, we went in and actually counted each page and looked at the numbers on each page. In reviewing that, we actually added an additional four (4) ballot signatures on August 22, 2014. A total of 5,673 valid signatures were required for certification, including 10% from each Council District. Those District Numbers were in District 1, they needed 546, District 2, 463, District 3, 262 and District 4, 431."

Ms. Vigil continued, "As I said before, I did certify this petition as being valid. There were 10,925 signatures submitted, of those, 5,167 were purged, and we had 5,758 valid signatures. In District 1 there were 2,087 valid, District 2 had 1,623 valid, District 3 had 916 valid, and District 4 had 1,132 valid. I would stand for any questions you have regarding the Petition Certification."

Councilor Dominguez asked if we know how many were purged from each District.

Ms. Vigil said, "I did not do those counts, however if you would want those we do have the data to go back and get you those numbers."

Councilor Dominguez said it isn't necessary.

Ms. Brennan said, "Mayor, Councilors, I put on your desks for the evening session, Options for Referendum & Petition reducing Marijuana penalties [Exhibit "11"]. This is a slightly different animal than we're used to. In this case, we received a Referendum repealing a criminal provision of Ordinance and an Initiative to enact a new Ordinance still prohibiting possession and use of marijuana one ounce or less, and marijuana paraphernalia, and establishes a civil penalty for it. You are required either to adopt the Ordinances proposed, or if you do not, if there is a motion to approve and the motion fails, you are required to adopt an Election Resolution. The Election Resolution can establish a date certain for the election, and it would be a special election which might be independent or it might be concurrent. The only Election Resolution in your packet is a Special Election concurrent with the November General Election."

Ms. Brennan continued, "This Option 1, before you take action, because you must adopt an Election Resolution on the same night if the Ordinance request fails. You can also have the public hearing, have discussion, not take action and postpone to another time. Those two times would have to be within 30 days, and those meetings would be on September 10, or September 23. In case you scheduled the vote and Election Resolution for that night, it would not allow the question to be on the November ballot because of timing."

Ms. Brennan continued, "The second option you have is the option to approve the adoption of the Ordinance. If that motion passes, the Ordinance is adopted and we have no further work to do, and the Ordinance becomes effective within 5 days of publication as usual."

Ms. Brennan continued, "Option three, if the motion fails, then you have to adopt an Election Resolution. Again, there is a Resolution available for the General Election with the Special Municipal Election to be held in conjunction with the November election. I believe Melissa can answer this. There is also an Election Resolution available for the March 2016 Regular Election. It would be a Special Election concurrent with the March 2016 Regular Municipal Election. I think Melissa's passing that out now [Exhibit "9"]."

Ms. Brennan continued, "In addition, you have the option of having a Special Election, an independent election, at a date set by the Governing Body."

Ms. Brennan continued, "Again, I want to emphasize that this does not legalize marijuana. The possession of one (1) ounce or less remains prohibited. My opinion appears on packet page 3. As you no doubt know from reading it, I have opined as to the legality and form of the Ordinance, that they are legal and that they are sufficient as to form. I analyze why they are not inconsistent with State law, and have further discussion about equal protection issues and prosecutorial and police discretion. And I address the lowest law enforcement priority. The new Ordinance makes the possession of one (1) ounce or less the lowest law enforcement priority. And as I say here, it appears to address the concerns identified in Resolution No. 2012-66, adopted by the Governing Body establishing the Law Enforcement Assisted Division Task Force, which was focusing enforcement attention on trafficking and looking to divert for lower levels of possession and to address addiction through that Resolution. The form is sufficient and I also discuss briefly the unintended consequences, which is that person if charged with an ounce or less of marijuana are subject to both the civil penalty under Municipal Ordinance and to the criminal penalties under State Statute without it being double jeopardy."

Ms. Brennan continued, "So that's simply a very general outline. I want to say that Legal staff worked very closely with me on this. We discussed several times, reached consensus and they did careful editing of this Memo. Alfred Walker is here, Marcos Martinez is here, and perhaps Zach Shandler, but I don't see him, so I stand for questions."

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

- Councilor Bushee said, "On the cost, Yolanda, I assumed, given the aim was to get it to the November election that it would not be as expensive as our special elections usually are. So whose salaries are we paying, and who is overtime, and who is contractual services, and the operating supplies and the printing and publishing."

Ms. Vigil said, "I prepared a budget not knowing exactly what we were doing, if we were going to go to a special election, or if we were going to have this in conjunction with the General Election. We have to, if this is going on the General Election ballot, we do have to have a Memorandum Of Understanding with the County Clerk and the Secretary of State. I believe that there are still going to be some costs. We are not sure what those costs will be. We may have to pay printing costs for ballots. I'm not sure until we have the discussion with the Secretary of State's Office and the County Clerk. I'm not exactly sure, but I had to get a budget in place."

- Councilor Bushee asked if it is close to "this if it goes on the General Election" ballot.

Ms. Vigil said, "I don't believe so. I think it will be less, but not knowing exactly what the Secretary of State and the County Clerk would require us to pay, I couldn't give you exact numbers. They could ask for payment of the programming, for the ballots and for additional precinct officials to help with the processing of the signature rosters and ballots and whatnot."

- Councilor Bushee asked, "Can we assume, given that the County passed a supportive Resolution, that the Secretary of State is even willing to get it on the ballot."

Ms. Vigil said the Secretary of State was at the meeting yesterday with the County. We have emailed back and forth to the office yesterday and today. We do want to set up a meeting the early part of next week to start going through the discussions. We have sent our questions to them in English and Spanish and they are preparing mock ballots to see if there is sufficient space on the General Election Ballot to contain these questions."

Ms. Brennan said, "And if I can interpolate that there are a number of logistical details that need to be covered, and we have already started discussions and the County Clerk and Secretary of State both indicated a willingness to sit down and work those out."

- Councilor Bushee asked what happens if it doesn't work out – "I'm trying to try to understand what motions to pursue."

Ms. Brennan said, "If for some reason, it didn't work out with the logistical details, we would simply come back to you for a new Election Resolution."

- Councilor Bushee said, "It seemed Kelley, from your introduction, that perhaps one needs to make a motion to move for the Ordinance and have it fail."

Ms. Brennan said, "Or not. If you don't wish to postpone the matter, there would be a motion to approve. If the motion passed, that would mean the Ordinance was adopted. If it failed, then you would have to move to an election resolution and the motions are outlined here very briefly."

- Councilor Bushee asked if this is a public hearing, and Ms. Vigil said yes, this is a public hearing.
- Councilor Maestas said, "If we put this on the March 1, 2016, ballot, would the cost be a lot less than the cost to get this on the November 2014 ballot."

Ms. Vigil said, "Yes, because we would already be having an election, so it would be incorporated at no extra cost."

- Councilor Maestas said, "My only concern, and the proponents aren't here, and I know we talked extensively about the uniqueness and the novelty of having.... oh here's Emily. I hope we can hear from Emily at some point, Mr. Mayor Pro-Tem, Mr. Mayor, members of the Council, because we did talk about this option that is before us, which is we could take action on the Ordinance and see how it goes, or let this petition go through and get it on the November ballot. But, I'm concerned about the fiscal impact of the election. And I think our Clerk just said \$80,000. It could be plus or minus. It could be more, it could be less. And, I am satisfied, in reading our City Attorney's Legal Opinion, that we are on solid ground in regard to the Ordinance before us. So I would ask my colleagues to be open to considering taking action on the Ordinance tonight, because there is so much uncertainty with the Secretary of State Office and trying to fit this on the ballot. I don't know how much time is a factor, or we can further postpone any decisions until we can get a definitive answer as to whether or not this can fit on the ballot. Do we have any more time to allow you and the County Clerk and the Secretary of State to work this out – to say yes, 100% it fits, it's a go for November."

Ms. Vigil said, "If we are going for the November ballot, we would not have another regular meeting prior to the deadline of September 9, 2014, which is when the County and the Secretary of State have to get the ballot language to the printer."

- Councilor Maestas said, "I think March 2016 is just too far down the road. I think this petition effort, this desire by the community has incredible momentum, at least the way my District responded to the petitions. I'm very encouraged that my District, maybe not entirely supports it, but most members of my District support this effort. I think we should be open minded in avoiding the uncertainty of trying to get this on the November ballot and avoiding the potential impact of \$80,000, maybe more, and consider the option of approving the Ordinance tonight. That's all I have."

- Councilor Trujillo said, "I have a question dealing with the cost and all of that, but I will wait until after the public hearing to make my remarks."

Ms. Brennan said, "There is an amendment sheet on your desk as well that speaks to the issue raised by Councilor Maestas, that adds, "Be it further resolved that the Governing Body authorizes staff to administratively amend this Resolution, make such expenditures and execute such agreements or other documents as may be necessary to carry out the purposes stated in this Resolution [Exhibit "10"].' That's if you adopt an Election Resolution for the November Ballot. Because, as you mentioned, there are a number of logistical details that we will need to resolve to carry that out if you do that. So I just point that out to you in relation to your question."

- Councilor Dominguez said, "To quickly respond to Councilor Maestas's suggestion to move forward with the Ordinance. In many ways, I have no problems with that. I would say though, that the community has worked very hard to get the signatures that it needs to get this on the ballot. And in some ways it's a very important social issue that I think the community needs to speak about via their vote on. I am in support of the Ordinance. The only concern I have is given how hard the community has worked to get on the ballot. I wasn't quite sure what you said in response to Councilor Bushee regarding the idea that we have to vote the Ordinance down to be able to go the Election Resolution route. Is that correct."

Ms. Brennan said, "Assuming that you do not want to postpone the action on the matter, then your first motion would presumably be to approve the Ordinance. If the Ordinance were approved, it would be adopted. If it failed, then you would move to the Election Resolution. So I think the vehicle to determine what is going happen probably would be the motion to approve."

- Councilor Dominguez asked if we could move straight to an Election Resolution, and Ms. Brennan said no.
- Councilor Lindell said, "I think the unknown here is whether we can pass this tonight and have zero cost. We can move this forward to go on the ballot in November, which is uncertain, because we don't know what the Secretary of State is going to say. And there is some risk we get on that ballot and maybe we don't, the and cost of that could be in the general area of \$80,000. The one question I don't know the price tag on, is how much is the absolute cost if we did a special election dealing only with the question."

Ms. Vigil said, "The price for a special election not held in conjunction with another election, I would say would be roughly between \$90,000 and \$100,000."

- Councilor Lindell said then it might cost us \$80,000 if we decide to put it on the November Election ballot.

Ms. Vigil said, "I don't think that we are going to be at the \$80,000, but it was unknown."

- Councilor Lindell said, "It's kind of an unknown on a couple of different fronts. We don't really know the cost, and we don't know if we can get on that ballot. The other thing is, if we had a special election specific to this, it would be give or take \$90,000. And the other option is if we put it on a ballot for March 2016, it wouldn't cost us anything, but it is a year and a half away. Correct."

Ms. Vigil said this is correct.

- Councilor Lindell said, "I want to clarify those things one more time, and it does seem that a lot of people in the community worked very very hard on this, and they gathered these signatures in a fairly short amount of time, and that it was a significant number of signatures. I think that I agree with Councilor Maestas, because I would like to see us vote on this, and also, probably Councilor Bushee, I think what you said. And if we could save ourselves \$80,000 and some uncertainty, I think that would be grand, so I'll yield the floor with that."
- Councilor Rivera said, "I believe I read or heard the County's adoption of a similar Resolution was contingent on the City's passing the Resolution, or I guess deciding to go to referendum. Is that correct?"

Ms. Brennan said, "It's correct, because their Resolution was adopted in advance of any Resolution you may adopt tonight, that they need to receive a certified copy of a Resolution you adopt before they will move forward on working on the election with us, and those logistical details. However, assuming you do that, we can get a certified copy to them immediately which is what we discussed with them."

- Councilor Rivera said, "Then if we were to approve the adoption of the Ordinance, and not go to the voters, would that affect their ability to go forward?"

Ms. Brennan said, "Their Resolution has a lot of recitals, but basically the Resolution is in support of putting ours on the ballot if adopted by this body. If you do not, if you adopt the Ordinance, then there is no need for an Election Resolution."

- Councilor Rivera asked, "Would they still continue with it?"

Ms. Brennan said, "No. Their Resolution is purely in support of putting our questions on the ballot for November."

- Councilor Rivera asked, "Does that keep them from paying into it, any costs?"

Ms. Brennan said, "If the Ordinance were adopted, there wouldn't be any costs associated with our part of it. It wouldn't be on the ballot. There wouldn't be any problems with the Secretary of State working out the logistical issues, entering into an MOU, those kinds of things."

- Councilor Rivera said, “And if we decided to go to the voters along with the County, they would have to pay into it as well.”
 

Ms. Brennan said, “They run this election in any event, so they would be paying for the bulk of it, but any charges to us would be for what we added. We might need, for example, more poll workers, additional machines, additional printing costs if we have a separate, those kinds of things. Yolanda can correct me if I’m wrong.”
- Councilor Rivera asked Chief Lettenberger, “Assuming this goes to the voters and it passes, which it probably would, how does this affect you guys on the street. How do you handle it right now.”
 

Deputy Chief Lettenberger said, “Right now, we have misdemeanor citations and we can go through municipal court or criminal complaint through Magistrate Court under State Statute.”
- Councilor Rivera asked, “And how do you decide whether it goes to Municipal or Magistrate.”
 

Deputy Chief Lettenberger said, “Usually, if it’s a lone incident, most likely we would go through Municipal Court. If it is an arrest or an additional charge to a higher crime, we most likely go through Magistrate Court.”
- Councilor Rivera said, “And how would passage of this affect you or change the way you do business now.”
 

Deputy Chief Lettenberger said, “It would change a little bit, because again, we still have State Statute that our officers can cite under, so they still could go through State Statute and cite them or file a criminal complaint in the Magistrate Court. That’s going to be the difference with us.”
- Councilor Rivera asked how each officer would decide or if it would be dependent on each officer.
 

Deputy Chief Lettenberger said, “It’s going to be the discretion of the officer. The officer can write the administrative citation or cite them to Magistrate Court.”
- Councilor River said, “So two people caught on the same day with less than one ounce could be treated completely differently.”
 

Deputy Chief Lettenberger said, “Yes sir.”
- Councilor Rivera asked, “If it were to pass, would there be any steps taken by the Police Department to standardize how they are handled.”
 

Deputy Chief Lettenberger said, “We can look into our policies, but we cannot direct our officers as to what they can or can’t do. It’s up to the discretion of the officer.”

- Councilor Rivera said, “I almost feel like we’re putting our Police Department in a tough situation because it seems at some point, we’re going to be accused of profiling in some way. How do we avoid that.”

Ms. Brennan said, “If the Ordinance is adopted, either by you tonight, or after a vote of the public, you would have to adopt administrative procedures, and we could, for instance channel offenders into community service under the Ordinance, which is the relationship with the LEAD Program that I discuss briefly in the Memorandum. But the Police exercise discretion every day in their decision-making. What they are trained not to do is to profile or to use that discretion to fulfill a discriminatory intent. And so if there were discriminatory pattern, that’s not legal. The exercise of discretion in their professional duties is.”

- Councilor Rivera said, “So in those administrative policies, we could also set rules for multiple offenses and things like that, or is that set somewhere else.”

Ms. Brennan said, “You could do some of that. Again, the Police retain their discretion, but also, through Resolution of the Governing Body, you can provide direction, a Resolution being an expression of the wishes of the Governing Body.”

- Councilor Rivera said, “I agree with Councilor Dominguez, that I think this is important enough to probably have the voters weigh in on it. That’s all I have Mayor Pro-Tem.”

- Councilor Bushee said, “What is the scenario if we go forward and say yes, we want to see this referendum on the ballot, that’s just for the City voters in November. The Secretary of State says no, sorry. We’ve already said no to an Ordinance to get to that ballot. How quickly, if that’s a non-go with the Secretary of State, can we bring it back for Ordinance passage.”

Ms. Brennan said, “We would be bringing it back to you for a new Election Resolution, because the vote already would have failed. So we would be coming back and saying, please adopt an Election Resolution setting a date.”

- Councilor Bushee asked, “What if we wanted to go back to that figuring that didn’t get to the voters, and part of it is an election push. And so how does one just... I don’t think anybody wants a special election, it’s too costly. So I’m wondering if we can bring the Ordinance back, this is a big what if scenario.”

Ms. Brennan said, “Well, I’m not sure that’s covered in the Charter, but thinking about it, I’m not sure you couldn’t just adopt the Ordinance at any time on your own initiative.”

## Public Hearing

**Emily Kaltenbach, State Director, Drug Policy Action**, thanked the Governing Body for this discussion, and the City Clerk's Office and the City Attorney's Office "who have been incredible to work with.. She said this is the first time a citizen initiative has gone through the process and our citizens have been engaged at this level.

Ms. Kaltenbach continued, "I stand here representing the sheer numbers of signatures of voters in the community that have voiced their strong support for having the right to vote on this really important issue. As the City Clerk mentioned, there are almost, 6,000 certified registered voters who signed on. Now we know there are more. We submitted close to 11,000 signatures. It's our understanding that some of those signatures were thrown out. They actually were registered voters, they just put down their wrong address. And so we know that actually there are more than 6,000 registered voters in the City of Santa Fe who have signed on to have a voice in this issue."

Ms. Kaltenbach continued, "The majority that signed on really did say they are supportive of reducing penalties, but there were also residents who said I'm signing because I don't support this and I want to have a voice. So I do think it's really a major tenet of our democracy to send such an important issue to the people of Santa Fe to have a vote."

Ms. Kaltenbach continued, "Now, from a policy perspective, we've heard our residents say that this issue impacts all of them. It impacts us as taxpayers, it impacts our law enforcement who could be freed-up to do more pressing crime in our City – property crime, violent crime – by not arresting and incarcerating people with small amounts of marijuana, we can really shift some of those dollars to deal with more important issues in the community."

Ms. Kaltenbach continued, "We heard from families who were really impacted. We don't think that a criminal misdemeanor is really that significant, but in fact, it really is to people's lives. Having a simple arrest and perhaps even being incarcerated can haunt you for the rest of your life. That can impact opportunities for school loans, potential future employment. Even in New Mexico, that can impact you from adopting a child, even 15-20 years down the road. So a simple criminal misdemeanor for having an ounce or less of marijuana on your record could be very devastating to an individual and their families. But it also is important for what we're going to be doing state-wide. The voice of the people in this issue is really important in pushing what happens at a State level. And two years ago, the State Legislature actually introduced an even broader piece of legislation in the house that passed with bipartisan support. That was actually up to 4 oz. marijuana or less would be brought down to a civil penalty."

Ms. Kaltenbach continued, "And so there is momentum growing so our law enforcement don't have to have the conflict of, do I charge under a State law, do I charge under a City law that hopefully in a few years will have one standard for the State, and Santa Fe will lead this effort. The voice of the people will make an impact. So I think it's very important that this goes to the voters, for reducing penalties for all people of our State, so that everyone has the opportunity to not be impacted so greatly by having a simple

criminal misdemeanor on their record. So thank you for the opportunity. And I thank you from all of those voters who signed on. That was a lot of work in 52 days, and hopefully we've all learned something for the next Citizen Initiative that comes before all of you. So I hope that we helped create lessons learned. Again, I thank your City staff for their support and help, so thank you."

**Tanya Chavez, resident of District One**, said she signed the petition. She has two voters that live in her house that signed the petition at different times. She said, "I was a little late to the party this evening, because I went to go talk to some of my neighbors that have been impacted by some of the marijuana laws that are on the books right now. People that have lost their family members to prison, people who have had to raise their children alone, people who have had to raise their grandchildren, people that believe they lost the opportunity to vote because they had to go to jail." She said if somebody is charged with a misdemeanor who is under 18 years old, 17 years and 6 months, and they are with a friend who is 18 and 1 month, the 18 year old gets charged with the misdemeanor as well as a felony charge. She said despite the fact that they tell you can pay hundreds of dollars off, they can no longer get a job – caring for children, at a museum. They can lose opportunity that nobody would think they could.

Ms. Chavez continued, "The particular incident I know about is a young man studying engineering, and he was some people that were putting graffiti – they actually were putting a smiley-face on the wall. They got caught, and that felony charge.... he wasn't convicted, but it's going to follow him forever. It was a very long time ago. That's emotional for me, because I know that child who is now an adult, but can't work in a museum, that always has to explain this felony charge every time they go apply for a job where they might need to be fingerprinted. I work in health care. I get fingerprinted more than anybody I know, and I've never been arrested, but that would come up if I had been in that kind of situation. I know a nuclear engineer, I know people that work on public policy, I know attorneys, I know judges, I know City Council candidates and actual City Councilors, present company excepted of course, that have used marijuana. Whether it was youthful indiscretion, whether it was a medical condition, whatever it might be, if for some reason they were caught with that it would be a really large impact. I just want you all to understand. There are few of us here, but there are large numbers of people that stayed home, feeling like there were a large number of us that were going to come up and do this. Thank you very much."

**William Wadsworth, 129 Michelle Drive, age 74, retired Electrical Engineer**, said, "I have worked in the public, private and military sectors during my career. I've had a good life, and I've smoked marijuana for approximately 60 of those years. I think something that may elude us right now, is that we are deciding whether or not to create a crime to actually set the conditions for a crime to exist. Marijuana has been with for a millennia, and it will be with us indefinitely in the future. I would urge you to pass this Resolution tonight. Get this done with. There's been enough damage done to our young people. I was one of the fortunate few that never got caught. But, I will admit that it is safer than alcohol, and any of the other recreational mind altering substances available, this is a pretty tame one really. Do you have any questions for me."

**Jennifer Love**, said "I think the idea to pass the bill through you tonight would be ideal in my mind, because of the amount of money it would save. not only through the voting process, but the process that it takes to give everybody a misdemeanor who is found with less than an ounce of marijuana. I was in a situation a couple of years ago where I was at a house with several roommates, on a Wednesday night and we had a noise complaint from a neighbor. Well, 6 cops came to our door. We had about 5 people in the house. There was a bong on the table and probably about a gram of weed, if that, in the building. So, all 6 cops were at this residence with us for over an hour, grilling us, trying to find out if we had any more. And then the party who owned the gram or so of weed 'fessed up' to it and they were charged about \$150, I can't say for sure. And the State actually paid for counseling and massage therapy, so they got free massages, that was great, but not really a way to spend voters' money for a little gram of weed. So if we just kind of consider stuff like that and how much the City and the State are paying for just minor misdemeanors, it would basically just be better to nip this in the bud. That's all I have to say. Thank you."

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

**MOTION:** Councilor Bushee moved, seconded by Councilor Maestas, "to adopt Ordinance No. 2014-29, amending Section 16015 SFCC 1987, to reduce the penalties for possession of one ounce or less of marijuana and possession of marijuana paraphernalia, and creating a new Section 20-16 SFCC 1987, to establish that possession of one ounce or less of marijuana and possession of marijuana paraphernalia are civil infractions" with the amendment..

**DISCUSSION:** Councilor Trujillo said, "Okay Yolanda. I don't have a problem with this going to the voters. I do have a problem with us voting on it right now, because you all went out there, did the signatures, and I think that's what you want. That's what you've asked us to do, is send it to the voters. And you just mentioned too that some of the people that signed the petition that are totally against this. They want to have that right to vote, so that's where I'm at."

Councilor Trujillo continued, "But when it comes to the cost of this, that is my biggest concern. I'm not going to spend \$80,000 on a special election to pass this marijuana legislation. I want to make sure. So, Yolanda, if we have it in March 2016, it costs us nothing, because it's part of our election, so that's my concern. I hear some people saying well it's a year and a half away. You're talking an ounce of marijuana, and I give you guys credit, you went out there, you got the signatures. My concern is, what's next. Are we going to say, 'Well, it's just an ounce of cocaine. It's just an ounce of meth. It's just an ounce of heroin. It should be that bad, I'm sorry.'"

Councilor Trujillo continued, "As someone who has never done drugs, I don't like them, I never have, never will. Growing up, you see what is done. I guess my biggest thing is that I see one person that always stands out in my mind, Len Bias, probably one of the greatest basketball players that was ever going to play. And look what happens to this guy, gets drafted number one, and what happens, the next night he died of cocaine overdose. I see what happened to some of these great people."

Councilor Trujillo continued, "I'm just saying right now, I'll let it go to the voters. I have no problem with that. I will support that, and I will support that it doesn't cost us anything, because I don't believe we should be spending that kind of money on a special election, or be it any other election, if we can hold an election in conjunction with our own election in March 2016, then so be it. It doesn't cost anything. So that's where I stand."

Councilor Maestas said, "I must admit, this is a little unexpected. I think that when we first discussed this subject, we thought, great. Clean democracy let it go to voters. We didn't anticipate the schedule crunch and this conflict with the Secretary of State's office, and the jeopardy of potentially not being able to get it on the November ballot. And there is a time sensitivity associated with that, that I didn't anticipate. There is the cost impact. I think \$80,000 is a lot of money. And if you look at the process that got us here today and the movement in the community. Look at what it entails. It's decriminalizing, not legalizing. This is entirely consistent with what we've done for traffic parking violations. As a Home Rule City, we can decriminalize some of these nuisance violations and make them a civil infraction."

Councilor Maestas continued, "I think this proposed action is consistent with that, and it's also consistent with the LEAD Program. We're trying to reform non-violent drug addicts that are getting caught in burglaries, so I think we're really trying to reform those out there that are addicted to drugs and we're investing money in that, a significant amount of money. I think the LEAD budget combined is, I think, \$350,000, \$500,000. So we're sending that message that we do want to reform these individuals and try and address a chronic crime problem in our burglaries."

Councilor Maestas continued, "The action before us, does not affect or take away, or inhibit the discretion of any officers. We just asked questions of Dale a while ago, this is not going to curtail the discretion of the police officer. The State Statute is still going to be intact. So, officer discretion and leaving the State Statute intact will not be affected by this action."

Councilor Maestas continued, "And the last think I want to say, is I don't believe we are truncating the democratic process. I think we could consider this as kind of relay that Progress Now New Mexico and the Drug Policy Alliance is handing the baton to us. And with that baton, is an incredible message from the community, in terms of what they want. So I don't believe we are cutting short the democratic process, if we are to take action and approve this Ordinance. We are the elected representatives. We have a tremendous statement by the community in the form of these petitions. They've separated those petitions by District, so you know how your District spoke on this. This is democracy at work. This is a continuation of this community movement. So I don't believe, again, that it is cutting short or truncating this democratic process, but ideally, I wish we could have just acted on the election resolution tonight and said let it go to the voters. But we didn't anticipate the difficulties with the ballot, the fiscal impact, because I don't believe we have \$80,000 budgeted for this. So we would need to probably enact a BAR, Yolanda."

Ms. Vigil said, "Yes. That's part of your packet this evening for a budget increase. I do want to clarify again this \$80,000 is not set in stone. This is just, if necessary, I would have these dollars to accomplish anything required out of the MOU. Right now, I can foresee that we would have to pay for all the publication costs, additional workers, things of that nature, but this \$80,000 I don't believe is what is going to be charged if we combine with the General Election."

Councilor Dominguez said, "I'll just say my final words on this. I'm somewhat torn because really, I support the Ordinance, and I'll get to why in a little bit. But, I'm also trying to be considerate of a continuation of the democratic process by the people, not just action by the Governing Body. The most democratic process is really the right to vote, and the ability to do that and registering your vote. Having said that, I'm leaning towards... I just want to thank Emily for everything she said, because that is the direction I was leaning in, taking it to the voters and allowing them to get out the vote, if you will."

Councilor Dominguez continued, "But having said that, I've had the unpleasant experience on a personal level to work in corrections. And I have seen the damage caused by incarceration, from people who are really good people who do get incarcerated and come out because of the bad influences in jail or in prison. The reality is, the drugs are there as well, and so that's the part that really gets to me in supporting this Ordinance, is that the cost from enforcement through adjudication through incarceration, those are the things that can go into things like rehabilitation. The real reason I'm in support of this is because I've seen, first hand, what incarceration does to good people sometimes. I think the intent and the Legislation points not to the legalization of drugs, but to the managed reality of what drugs are doing in our community. And so, the reality is that, as Councilor Maestas said, there already is discretion. And I don't think by supporting this that there are going to be many more pot-heads. It's not going to increase that number. And so, I'll just say that I am in support of the motion as it is on the table. Thank you Mayor."

Councilor Trujillo said, "Kelley. Okay, say a State Police Officer catches a person with one ounce or less of marijuana here in Santa Fe. Being it's a State Police Officer, what trumps what. State law usually trumps City law, and I'm pretty sure the State Police aren't going to be up to date on our laws. So what happens there."

Ms. Brennan said, "I believe State law would prevail."

Councilor Trujillo said, "Okay. Let's go another scenario, County. Remember, we had that discussion. I was hoping one of the fines we could just send straight to Municipal Court, but you guys told me it has to go through Municipal. It can be wherever the police officer wants. A County Sheriff catches somebody within the City of Santa Fe with one ounce of marijuana. Where does it go – municipality, magistrate, or does he get to choose as well. And the same thing, dealing with the State Police Officer, if State law trumps, how does that work here. We're allowed to make our own laws now, shouldn't City law trump State law."

Ms. Brennan said, "I don't think it's a matter of trumping. I think it is a matter of the exercise of discretion. I think State Police will enforce State law. I think that's their charge. I actually am not sure about the County officer. I'm getting the.... and I don't know what that means, from Councilor Dimas."

Councilor Dimas said, "What it means is that the County has jurisdiction throughout the entire County. So they can either cite City, Municipal or Magistrate. They still have that discretion. Just like the State Police also has that same discretion."

Ms. Brennan said, "The City within the City."

Councilor Dimas said, "Right."

Councilor Trujillo said, "That's my concern. Say somebody gets caught with less than one ounce, they're caught by a State Police Officer. That's going to be their argument in Court. Wait a minute, there's a City law that states if I'm caught with less than one ounce, and that's nothing, but yet you're charging me with State law."

Ms. Brennan said, "There is law on that point, and the Police are allowed to exercise their discretion and it is not discriminatory unless it is, in other words, they're doing it the proper *[inaudible]*."

Councilor Trujillo said, "That could end up costing somebody going to the Court process to protest their innocence. I just wanted that clarification. Thank you Kelley."

Councilor Dimas said, "I'm the only one that hasn't spoken yet and I'm probably the expert here on law enforcement, I'm not an expert, but I do know law enforcement, having been in the positions I've been in. My drug expertise comes from, and everyone knows this, my daughter who I lost to a drug addiction and long term drug use. I lost her 3 ½ years ago. I don't know what she started with. I have no idea if she started with marijuana or where it started, but she graduated up to heroin and eventually became an addict. And ended up with a blood disease which eventually killed her, that she die from, 3 ½ years ago. She was only 32 years old, still a baby in my eyes."

Councilor Dimas continued, "While I support this going to the voters, I, as a citizen can tell you I support it going to the voters because it gives me the opportunity to decide if I want to vote for it, or against it, based on what's happened in my personal life with my daughter. And I would urge this Council to let this go to the voters so those people who have experienced the same thing I have, to make a decision if they want to go with this the way it is, or let the voters make that decision. And I think the voters should have the opportunity to vote on this. I don't think this Council should make this decision this evening, that's just my opinion, but I think this Council should let it go to the voters just as it was done. And Emily I appreciate your words this evening, and what you said was exactly right on, and it should go to the voters. That's what people signed the petitions for. They signed it to go to the voters, not for this Council to make this decision tonight. I don't think this Council should make that decision tonight, and it should go to the voters. And that's how I would vote. I would never support the Council approving this tonight."

Councilor Ives said, "First, I would express gratitude to the folks who conducted the petition drive, and bringing this matter before this Governing Body. It does echo very strongly, in terms of the people of Santa Fe and their interest in this issue and seeing something done in connection with this."

Councilor Ives said, "I'll take a few moments to explain my position on this. I've certainly seen the reports as no doubt everybody has about how American society as a modern industrialized country has the highest rate of incarceration of any of those countries around the world. I know we were called upon last year, if my memory serves correctly, to find an additional half million dollars to cover the increased jail costs that we incurred as a result of arrests and the time our citizens spent in jail. So the cost for me is not simply an issue of what happens with this particular measure moving forward. But there are real costs, and I don't know, obviously, how many of those necessarily relate to marijuana possession. But when I consider the fact that we criminalize behavior such as this, we clearly create an opportunity to put a lot of people in jail for what I think is a relatively minor infraction."

Councilor Ives continued, "The issue that one of our members of the public raised, with regard to voting and the sort of civil disengagement that occurs as a result of having an arrest or a conviction on these types of charges is one that has real impact. The number of people who are disenfranchised across our community for, again, relatively minor offenses is something I think we need to fight against, and we need to figure out ways to do that sensibly."

Councilor Ives continued, "The cost of the election has been talked about, and again, I would be highly in favor of trying to make sure we don't have to incur those costs. But I think the fact that the folks who were gathering petitions got so many petitions so quickly, suggests to me that putting this off till March 2016, is as much a disenfranchisement of their efforts as is affected by people being arrested and jailed for, again, what I think is this relatively minor infraction. I do think it is a better expenditure of our police resources to chase traffickers, as opposed to those who have minor amounts in possession, and I do wonder about those people who, once arrested and convicted and who then can't find a job, again, I think that's one of the things we're trying to fight here. To some degree, society wants to write them off simply by virtue of those types of minor infractions, and I don't think that's appropriate. All that is by way of saying I am satisfied that moving this measure forward tonight makes sense, and I look forward to voting on it."

Mayor Gonzales said, "Before we call for a vote, just a couple of comments. One, I believe it was June 24, 2014, that the Memo states that the Clerk approved the circulation. So, I'm assuming since early June, we've known that there is an interest, and an initiative in the community to reduce the penalties and take them from being a criminal to a civil violation. And we've had opportunity, as a Council, as the motion is asking us to do to pass this Ordinance. To take it from criminal activity to a civil, but we have not proposed it. We actually allowed for the petitioners to go out, and through hundreds of hours of civic engagement, get 11,000 signatures of people who are asking this Council to put this measure to a vote."

Mayor Gonzales continued, "Now, I've been very clear where I stand on this issue, and I am in favor of decriminalizing marijuana. I think it has hurt too many lives. But I don't feel that tonight we have adequately told the public this is actually what's being considered. I think we've said and the public has believed is that there are some requests for a vote to take place by the public. So I think if we were to pass it tonight as a motion, there are a lot of people that probably would weigh into this discussion that didn't come out tonight to have their comments heard."

Mayor Gonzales, "Secondly. I understand the issue of cost, and I've listened to all of you tonight. We've talked about democracy. Democracy does come at a cost, and it comes, whether through the social contract that we have where we give up some of our liberties for the protection of everybody, or it comes through paying for elections. I think there are costs associated with democracy, and we have to make sure we do what we can to try to minimize those costs. And whether it's in the November election, which I think people are advocating for, or whether it is an election down the road, it is going to come at a cost. But our Charter contemplated that. They said through citizen initiative we were going to be compelled to hold an election, if they meet the required number of signatures,. So, I'm opposed to the motion and in favor of taking this out to the public. I think they've asked for the vote. They should have the vote. And as Councilor Dimas indicated, this is a very personal issue for many families, who I think want to be able to exercise their view of this at the ballot box as opposed to through this Council tonight. So with that, we're going to go ahead and call for a roll call."

Mayor Gonzales said, "This is in favor of the motion to pass the Ordinance as proposed."

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

**For:** Councilor Bushee, Councilor Dominguez, Councilor Ives, Councilor Lindell and Councilor Maestas.

**Against:** Councilor Dimas, Councilor Rivera, Councilor Trujillo and Mayor Gonzales.

**Explaining her vote:** Councilor Bushee said, "I think the war on drugs has been a colossal failure, and it's high time we nipped it in the bud tonight, all pun intended. Yes."

Mayor Gonzales said, "Then the next steps would be for administrative procedures, and Kelley, as I understand that would be forthcoming."

Ms. Brennan said, "That is correct. We will need to adopt administrative procedures."

Councilor Bushee said, "Just on that Kelley. By Resolution, is there a possibility, I think I've asked this before and I didn't get a real definitive answer, just as we did in regard to a policy on immigration and arrests, we suggested to our police force that it was not our priority. Can we do so in a similar way to our police force, now that this is going to be the law of the land."

Ms. Brennan said, "The Ordinance that you have just adopted provides that this is the lowest Police priority. A Resolution would be weaker than that."

Councilor Bushee said, "I mean in order to ask them to choose the discretion of the Ordinance, which is making it decriminalized."

Ms. Brennan said, "You could do that. Yes."

Councilor Bushee said, "So, a Resolution would just reinforce that."

Ms. Brennan said, "Yes. I think it might be a little duplicative, but you could do that. And I think that we may also have a conversation about an administrative procedure. You've recently decriminalized some parking things, established administrative procedures. And perhaps, their hearing officer and processes can be merged into a single process."

#### **I. ADJOURN**

There was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 9:30 p.m.

**Approved by:**

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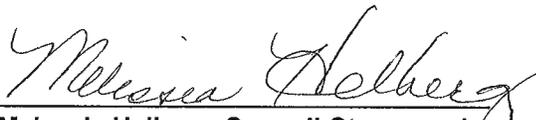
**Mayor Javier M. Gonzales**

**ATTESTED TO:**

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**Yolanda Y. Vigil, City Clerk**

**Respectfully submitted:**

  
**Melessia Helberg, Council Stenographer**