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October 8, 2014**

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FOR BFFM, REQUESTS GENERAL PLAN FUTURE  
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DESIGNATION OF 3.86± ACRES FROM RURAL/  
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Approved w/conditions

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REQUESTS REZONING TO CHANGE THE  
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REQUEST TO REZONE FROM R-1 (RESIDENTIAL,  
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Approved w/conditions

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**MINUTES OF THE  
REGULAR MEETING OF THE  
GOVERNING BODY  
Santa Fe, New Mexico  
October 8, 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, October 8, 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**

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

**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**

**MOTION:** Councilor Rivera moved, seconded by Councilor Trujillo, 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.

Councilor Bushee said she would like to recognize the people in attendance from Food & Water Watch and let them know their item of interest will be approved on consent.

## **10. CONSENT CALENDAR**

An Action Sheet from the Public Works/CIP and Land Use Committee meeting of Monday, October 7, 2014, regarding Item 10(o), is incorporated herewith these minutes as Exhibit "1."

- a) **REQUEST FOR APPROVAL OF AMENDMENT NO. 3 TO LEGAL SERVICES AGREEMENT – REPRESENTATION OF THE CITY CONCERNING THE NORTHWEST WELL APPLICATION AND RETURN FLOW/DISCHARGE CREDIT APPLICATION; STEIN & BROCKMAN, P.A. (MARCOS MARTINEZ AND NICK SCHIAVO)**
- b) **REQUEST FOR APPROVAL OF AGREEMENT – DIRECT PURCHASE OF SERVICES FOR SENIOR SERVICES DIVISION; NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT NON-METRO AREA AGENCY ON AGING. (RON VIALPANDO)**
- c) **REQUEST FOR APPROVAL OF AGREEMENT – NUTRITION SERVICE INCENTIVE PROGRAM FOR SENIOR SERVICES DIVISION; NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT NON-METRO AREA AGENCY ON AGING. (RON VIALPANDO)**
- d) ***[Removed for discussion by Councilor Dominguez]***

- e) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – WATER METERS AND SUPPLIES AND WATER SERVICE CONNECTION EQUIPMENT FOR WATER DIVISION. (ROBERT RODARTE)**
  - 1) **BAKER UTILITY SUPPLY CORPORATION**
  - 2) **HD SUPPLY WATER WORKS, LTD**
  - 3) **SANTA FE WINNELSON COMPANY**
  
- f) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER COOPERATIVE PRICE AGREEMENT – FIRE AND LAW ENFORCEMENT MAINTENANCE, REPAIR AND OPERATIONAL SUPPLIES CITY WIDE; GRAINGER, INC. (ROBERT RODARTE)**
  
- g) **STATE OF NEW MEXICO SEVERANCE TAX BOND (STB) AGREEMENTS FOR A CAPITAL IMPROVEMENT PROJECT FUNDED BY 2013 AND 2014 NEW MEXICO STATE LEGISLATURE; STATE OF NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION. (DAVID CHAPMAN)**
  - 1) **REQUEST FOR APPROVAL OF TWO (2) 2013 STB CAPITAL APPROPRIATION PROJECT AGREEMENTS FOR A TOTAL OF \$100,000 FOR EL MUSEO CULTURAL AND LA COMUNIDAD DE LOS NINOS HEAD START IN SANTA FE COUNTY.**
  - 2) **REQUEST FOR APPROVAL OF FIVE (5) 2014 STB CAPITAL APPROPRIATION PROJECT AGREEMENTS FOR A TOTAL OF \$1,480,000 FOR SANTA FE AIRPORT; GENOVEVA CHAVEZ COMMUNITY CENTER; MRC COMPLEX; SANTA FE PARKS SHADE STRUCTURES AND SALVADOR PEREZ PARK IMPROVEMENTS.**
  - 3) **REQUEST FOR APPROVAL OF BUDGET INCREASE – SEVERANCE TAX BOND FUND.**
  
- h) **REQUEST FOR APPROVAL OF AMENDMENT NO. 3 TO PROFESSIONAL SERVICES AGREEMENT – MANAGE CITY’S ADOPT-THE-RIVER AND ADOPT-AN-ARROYO PROGRAMS; SANTA FE WATERSHED ASSOCIATION. (BRIAN DRYPOLCHER)**
  
- i) **CONSIDERATION OF RESOLUTION NO. 2014-80 (COUNCILOR DOMINGUEZ). A RESOLUTION RECOGNIZING THE UNIQUE VOLUNTEER SERVICES OF I 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 I RIDE NM, TO PROVIDE VOLUNTEER MAINTENANCE SERVICES AT THE BUCKMAN MX TRACK. (ISAAC PINO)**

- j) **REQUEST TO PUBLISH NOTICE OF PUBLIC HEARING ON NOVEMBER 12, 2014: BILL NO. 2014-29: AN ORDINANCE RELATING TO SEWER SERVICE CHARGES – AMENDING RULE 8 OF EXHIBIT A OF CHAPTER 22 SFCC 1987, TO INCREASE THE MONTHLY SERVICE FEE AND MONTHLY USAGE FEE FOR THE WHOLESALE RATE; RELATING TO EXTRA-STRENGTH SURCHARGES – AMENDING RULE 12 OF EXHIBIT A OF CHAPTER 22 SFCC 1987, TO INCREASE THE MASS BASE CHARGE; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY (COUNCILOR IVS). (BRYAN ROMERO)**
  
- k) **CONSIDERATION OF RESOLUTION NO. 2014-81 (COUNCILOR IVES ~~AND~~, COUNCILOR LINDELL AND COUNCILOR BUSHEE. A RESOLUTION DIRECTING STAFF WHEN ACQUIRING FUEL POWERED EQUIPMENT, INCLUDING VEHICLES, TO BALANCE THE COST OF THE CITY’S NEEDS WITH THAT OF PRODUCING THE LOWEST CARBON FOOTPRINT THE CITY WOULD CREATE WHEN USING SUCH EQUIPMENT. (NICK SCHIAVO & JOHN ALEJANDRO)**
  
- l) *[Removed for discussion by Councilor Bushee]*
  
- m) **CONSIDERATION OF RESOLUTION NO. 2014-82 (MAYOR GONZALES, COUNCILOR BUSHEE, ~~AND~~ COUNCILOR LINDELL AND COUNCILOR IVES. A RESOLUTION DECLARING THE CITY OF SANTA FE’S CONTINUOUS SUPPORT FOR IMMIGRANT ISSUES IN SANTA FE, THE STATE OF NEW MEXICO AND THROUGHOUT THE UNITED STATES. (TERRIE RODRIGUEZ)**
  
- n) **CONSIDERATION OF RESOLUTION NO. 2014-83 (COUNCILOR BUSHEE ~~AND~~, COUNCILOR LINDELL AND COUNCILOR IVES. A RESOLUTION SUPPORTING A STATEWIDE AND NATIONAL BAN ON NONTHERAPEUTIC USE OF ANTIBIOTICS IN LIVESTOCK PRODUCTION AND SUPPORTING THE PROTECTION OF ANTIBIOTICS FOR MEDICAL TREATMENT ACT AND THE PREVENTION OF ANTIBIOTIC RESISTANCE ACT. (MELISSA BYERS)**
  
- o) **CONSIDERATION OF RESOLUTION NO. 2014-84 (COUNCILOR BUSHEE ~~AND~~, COUNCILOR LINDELL AND COUNCILOR IVES. A RESOLUTION CALLING ON THE PRESIDENT OF THE UNITED STATES AND OUR CONGRESSIONAL DELEGATION TO SUPPORT LOCAL EFFORTS TO KEEP THE OLD SANTA FE TRAIL NATIONAL PARK SERVICE BUILDING OPEN TO THE PUBLIC AS A CULTURAL RESOURCE AND ULTIMATELY DESIGNATED AS EITHER A NATIONAL HISTORIC SITE OR A NATIONAL MONUMENT. (MELISSA BYERS)**
  
- p) *[Removed for discussion by Councilor Rivera]*

- q) **REQUEST FOR APPROVAL OF MEMORANDUM OF UNDERSTANDING (MOU) – DAY REPORTING PROGRAM FOR JUVENILES THROUGH STATE OF NEW MEXICO CHILDREN, YOUTH AND FAMILIES DEPARTMENT FUNDING; SANTA FE COUNTY. (RICHARD DeMELLA). (Postponed at September 23, 2014 City Council Meeting) (Postponed to October 29, 2014 City Council Meeting)**

**8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – SEPTEMBER 23, 2014.**

**MOTION:** Councilor Dimas moved, seconded by Councilor Maestas, to approve the minutes of the Regular City Council meeting of September 23, 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)(1) PROCLAMATION – LORRAINE GOLDMAN DAY**

Councilor Dominguez read a Proclamation into the record declaring October 8, 2014, as Lorraine Goldman Day in Santa Fe.

**a) MUCHAS GRACIAS – ATALAYA HAND CREW. (COUNCILOR BUSHEE)**

Porfirio Chavarria, Santa Fe Fire Department, said the Atalaya Hand Crew is working to keep Santa Fe safe from wildfires, doing a lot of mitigation work, as well as being a presence in the community. He thank them for their professionalism in the work they have been doing in the community.

Councilor Bushee presented Muchas Gracias certificates to members of the Atalaya Hand Crew, and thanked them for the work they do on behalf of the people of Santa Fe..

Mayor Gonzales added his thanks to the Atalaya Hand Crew.

**b) PROCLAMATION – FIESTA FELA DAY – OCTOBER 11, 2014.**

Mayor Gonzales read the proclamation into the record declaring Livingston, Zambia in Africa the Sister City of Santa Fe., and declared October 11, 2014, at SF Railyard Park.

The representatives from Zambia presented Mayor Gonzales a hand carved cane which stands for wisdom.

**c) PROCLAMATION – SANTA FE PUBLIC SCHOOLS STUDENT PLEDGE AGAINST GUN VIOLENCE – “DAY OF CONCERN” – OCTOBER 22, 2014. (COUNCILOR IVES)**

Councilor Ives read the proclamation into the record. Declaring October 22, 2014, as Day of Concern in Santa Fe and presented the proclamation to the representative in attendance.

The representative of the schools thanked the Governing Body and asked their continued support in this effort.

**d) ONE-STOP FOR HOMELESS SERVICES AND WINTER SHELTER; INTERFAITH COMMUNITY SHELTER. (TERRIE RODRIGUEZ)**

A brochure on The Interfaith Community Shelter, entered for the record by Terrie Rodriguez, is incorporated herewith to these minutes as Exhibit “2.”

A copy of the Interfaith Community Strategic Plan 2014, is incorporated herewith to these minutes by reference, and is in the Council Packet.

Terrie Rodriguez thanked the Governing Body for the opportunity to present this report. She introduced the Chair of the Interfaith Council, Guy Gronquist, who will lead the discussion.

Chair Gronquist thanked the Governing Body, Terrie Rodriguez and Isaac Pino for the important roles they have played in making this One Stop come to fruition and for the success it enjoys today. He invited the Board members in attendance to stand. He said prior to opening the shelter, 25 people a year were freezing to death, and they have reduced the death toll to near zero. However, they can't become complacent because of their success.

Chair Gronquist presented information from Exhibit “2.” Please see Exhibit “2” for specifics of this presentation.

Chair Gronquist said they recently polled the guests about the name for the shelter, and the overwhelming favorite is Pete's Place, noting the ICS Board likely will adopt that name.

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

- Councilor Bushee said she is glad to meet the director, and is very grateful for the work that has been done by the Chair and the organization over the years. It is an important facility. She asked if we are able to offer legal advice.

Chair Gronquist said St. Elizabeth's has a legal clinic twice a month.

- Councilor Bushee asked if there is any way, financially, that can you expand the operation, your hours, your timeframe, commenting the City will have to look hard at this as well.

Chair Gronquist said they will be opening this year on October 19<sup>th</sup>, which is one week earlier than it historically has opened, and will be open through the middle of May, which is 2 weeks later. He said the real consideration is financial. He said the Council will be pleased to hear they have been working with the New Mexico Environmental Health Department to ensure we can continue to accept donated food. The Environmental Health Department has worked with them to help strengthen the food hygiene process. Even with all of this support, the cash budget is \$380,000 per year. The City Council provides \$130,000, the Santa Fe Community Foundation \$20,000. They have a large grant making donor, two individual donors that will provide an additional \$100,000, but they still have to find an additional \$130,000 every year, more than \$10,000 per month to keep the lights on. He said, "If you were saying to me Councilor Bushee that the City would like to step up and provide more of that funding, we will accept it very gratefully."

- Councilor Bushee said she "sorta started this thing with \$15,000 a long, long time ago, and you guys have had to carry that burden." She is grateful to the faith community for stepping up and filling the gap. She said, "We're going to look hard at the next budget cycle. It is a goal of mine, at least, I would love to put you out of business, but I don't know how we could do that either. I appreciate everything you do."

- Mayor Gonzales thanked them for playing an important and critical role in the community that is absolutely needed. He said, "I come from two points, one is creating some kind of financial stability. I think all of us would like to see an expansion of support, but the challenges are real. So I would hate for the Board to feel the City can fill the gap that exists. As we look to the future of the Interfaith Community shelter, to be known as Pete's Place, having a plan that moves to financial solvency for me, is critical in this effort. And I'm wondering where your assessment is on this today."

Chair Gronquist said Ms. Rodriguez shared our Strategic Action Plan with the Governing Body, which we finished in the Spring and that is the basis on which they will approach the financial question. He said, "To be honest, we will continue, as I said to look to the City to be a keystone funder, because the people that we talk to about committing additional funds.... and I'm not talking about the \$5, \$10, \$20 checks which we are grateful to receive. We have a great retail donor base, but the people who can make a significant impact with one check, want to know the City continues to take the lead on that. So I'm not going to varnish over that point."

Chair Gronquist continued, "Joe has worked very hard recently to engage federal funding, you will be surprised to know that we have zero federal dollars in our budget this year. We're working to rectify that. We are to be in discussions with the County. The County used to provide a relatively modest amount, and they do not provide that now. We are going to knock on their door again, because we think they have some skin in this game. And there are other avenues of funding we are exploring, but might be premature to discuss. But, we certainly are looking at the large grant

making bodies, foundations, and as we produce audited results, we become eligible for more of these grants, and we certainly are actively pursuing it.”

- Mayor Gonzales said, “The second point relates to the neighborhood. I had an opportunity to spend some time this summer with a couple of my colleagues, visiting with neighbors who, as you and I spoke about, are concerned about the customers that go to the facility and the impact on their own properties, certainly in the surrounding area. One of the things I asked the Manager to work on, and I just haven’t had the chance to follow up with him, is there an Operations Agreement that we have with you that details responsibilities that you have regarding some of the issues that happen on property and the cleanup that may need to take place. The stories are a little tough to hear, but they are a continuous pattern of stories from neighbors and business owners of customers being on their property and spending quite a bit of time there.

Chair Gronquist said they have worked with the neighbors and have more work to do. They had to explain to one of the neighbors who has provided food from her restaurant for the shelter, that if she offered our guests a burrito when they came to her door inebriated, that they would continue to come. She has now seen that, although it seems hard hearted in the first instance, it is probably in her interest and in the interest of our guests that she not do that. They are working with one of the neighbors to the north of us, and their parking lot is not always consistently well lit. And the Police have made clear to us, the key to reducing much of this anti-social behavior is adequate street lighting and adequate parking lot lighting, because people do not want to be seen when they’re getting to things they shouldn’t be doing. They work with their guests fairly aggressively, and they are aware that our writ does not run once they step off our property.”

Chair Gronquist continued, “So in our contract with the City, it requires the night shelter services and to manage the day services, but I do not believe it necessarily speaks to neighborhood cleanup, but we have worked to undertake that voluntarily ourselves and we certainly have to do more of that, because we do not want to be a bad neighbor.

- Mayor Gonzales said, “I think it’s important that we strive to that level as best that we all can, because I think you’re doing a great service to those who need a place to stay and access to critical services. But there is a cost that is being borne by neighbors, and what we have to do is to find a way mitigate those costs without the outright removal, which some have requested, which all of have said that it is important that it stay available. We also recognize there has to be a responsibility on our part. And if we are going to support the Interfaith continuing to manage the facility there needs to be some demonstrated outcomes that are met when it comes to the surrounding communities that show their concerns are being taken seriously.”

Mayor Gonzales continued, “And as part of your strategic planning process, there was neighborhood engagement and some metrics which were set to potentially reduce the number of complaints and concern that are coming in, minus the outright removal of the facility, which is the universal voice there, that the facility cease to exist. But I think there are things that can be addressed that would go a long way for the community. I know the Manager has the list, and

hopefully you guys can meet fairly soon and be able to modify any contract you have in place, so that we can represent to the community that we have a presence, and we have heard their concerns, and you have built-in a mechanism to address their concerns.”

Mr. Gronquist said they have informal contacts and would be very happy to regularize those contacts and work toward those metrics.

- Councilor Bushee said she really likes Pete’s Place as a name. She said perhaps they could have a piece through the Arts Commission nearby so people know the history.

Chair Gronquist said some of the guests have said they would like the dinosaurs to be returned and wearing backpacks.

- Councilor Trujillo said he has worked with this organization for about 4 years, and they do incredible work. He invited his colleagues on the Council who have never been there to go there one evening and volunteer for 4 hours and get to know these people who go there. He said you will find that a month before they had a job, were doing good and something took a turn for the worst and they were homeless. He said it could be us one day at that homeless shelter. He said there are concerns and he believes the Board will work hard to resolve issues with the neighbors. He said he and his wife Amber and their children are there to volunteer the first Saturday of every month, and invited the Governing Body to join them and to volunteer.

Chair Gronquist thanked Councilor Trujillo and family for their services. He said many of their guests have been written off by society and they don’t do that.

- Mayor Gonzales applauded the courageous Councils of the past who made the investment to provide a place for people who need shelter, especially on very cold nights.

## **CONSENT CALENDAR DISCUSSION**

### **11(d) REQUEST FOR APPROVAL OF AMENDMENT NO. 3 TO PROFESSIONAL SERVICES AGREEMENT – LEASE AND OPERATION OF RESTAURANT LOCATED AT MARTY SANCHEZ LINKS DE SANTA FE; NORTHERN VENTURES, LLC D/B/A THE LINKS BAR & GRILL. (JENNIFER ROMERO)**

Councilor Dominguez said this is a recommendation to do a three-year contract. He said there was discussion at Finance about these long contracts. He said in the past we have done one-year contracts. He proposed to approve this contract for one year, or put it out to bid for a three-year agreement.

**MOTION:** Councilor Dominguez moved, seconded by Councilor Dimas, to issue an RFP for someone to run this restaurant for three years.

**DISCUSSION:** Councilor Dominguez asked if this is something we can do.

Mr. Pino said yes. He said, "I would remind the Council that when the previous operator went belly-up, it was very difficult to find someone who was interested in providing this service until this company stepped up. He said we could go through the RFP process under the assumption that others have become interested in the past few months, but it was a difficult task to get this firm, which was the only one who qualified to provide this service."

Councilor Dominguez said if we are going to do a 3 year contract, we should try to get qualified people to bid on it, and run the restaurant. Or we can move forward with a one-year agreement with them.

**RESTATED MOTION:** Councilor Dominguez moved, seconded by Councilor Rivera, to approve this contract for one year instead of 3 years.

**CONTINUATION OF DISCUSSION ON RESTATED MOTION:** Mayor Gonzales said he doesn't know the operators. He asked Councilor Dominguez if the reason he wants to see a bid proposal is because there is an issue regarding performance.

Councilor Dominguez said he wouldn't mind going out to bid for a 3 year contract, which is the more appropriate thing to do.

Mayor Gonzales said then it is from a policy standpoint he wants to see that.

Councilor Dominguez said in the Memo, staff is saying they would like to extend the term of the agreement for 3 years. He thinks it's probably best, given the history with previous vendors including this vendor, that we do the contract for a year.

Councilor Maestas said he thought this was an amendment to an existing lease and the agreement is extended to December 30, 2015. He said on page 7, it says, "Term and Effective Date. This agreement shall terminate on December 30, 2015." Isn't this an extension to December of next year.

Mr. Pino said it is, noting that on Page 7 of the Agreement it says, "Lessee is granted, upon a satisfactory performance as determined by the Lessor on December 30, 2015, an option to renew this Agreement for an additional three (3) years."

**FRIENDLY AMENDMENT:** Councilor Maestas suggested amending Section 4, to provide that, pending satisfactory performance, the City can renew the agreement for an additional year, and then pursue an RFP. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

**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, Councilor Rivera and Councilor Trujillo.

**Against:** None.

**11(l) CONSIDERATION OF RESOLUTION NO. 2014-85 (COUNCILOR IVES). A RESOLUTION DECLARING THE GOVERNING BODY'S INTENT FOR THE CITY OF SANTA FE TO BECOME CARBON NEUTRAL BY THE YEAR 2040. (NICK SCHIAVO & JOHN ALEJANDRO)**

Councilor Bushee said we didn't see this Resolution at Public Works, and she isn't on Finance, so she doesn't understand a couple of things. She said, "We're going to get \$3.2 million in capital outlay, or it's going to require \$3.2 million in capital outlay."

Mr. Schiavo said it would require \$3.2 million in capital outlay.

Councilor Bushee said, "And the professional services contract would be with existing staff. It says, 'Professional Services \$320,000 and all other operating \$100,000', and so the total fiscal impact is almost \$4 million."

Mr. Schiavo said, "That's correct. What I've done is to look at what would be necessary for the City, over the next 10 years, to reduce our carbon output so the City ends up being 50% carbon neutral by 2025. And so I've generated a list of projects and an average cost or an average amount we would have to spend per for the next 10 years to achieve that."

Councilor Bushee said the detailed list of projects isn't in her packet.

Mr. Schiavo said he can go over those projects with her, if she's interested.

Councilor Bushee said the Resolution isn't that specific. She said, "I brought forward the 2030 stuff, I get this sort of intent, but I would really like to understand what the specifics are, and recognize that almost \$4 million in project would require, at the very least, the voters giving us some more money."

Mayor Gonzales said, "Here's what I understand the options as being, one as you've done before in the past, and Councilor Ives is doing here, a continuous statement of our goals. The way I would envision this is that every budget year, we will get an opportunity as part of our budget, to incorporate a series of capital projects that drive more energy efficiency and drive to this goal. If the Council chooses, because there aren't proper funds, or we just can't do it that year, we still have the option to not fund the energy efficiency investment. The way I understood this, in my discussions with Councilor Ives, and he can speak to it, is that is meant to be basically a goal, a target for us, that every year we'll have an

opportunity to strive toward. If we can find it in budget, if opportunities are presented through replacement of existing equipment, or other funding mechanisms become available, then we can choose to incorporate it at that fund. And correct me if I'm wrong, but I don't think, by adopting this tonight it mandates that the Council year over year will spend \$4 million on energy efficiency. It just means that's a goal and every year, you would provide us \$4 million of energy efficiency measures we could do to meet this goal, and we can either incorporate all, portions or none of it."

Mr. Schiavo said, "Mayor, you're absolutely correct. That's the intent. Staff would develop projects that would be brought forward during the budget cycle, each February, well thought out projects with exacting price tags. And then it would be up to City Council to adopt or pass on those."

Mayor Gonzales said, then it would just become part of the budget.

Councilor Bushee said, "We've passed plenty of Resolutions and I don't want them to be hollow words by any means. I want to what we can, but we've never had a price tag like this attached to it, so I wanted to be clear. And I don't have the specific projects, I would like those. But I'm just going to read, and I always skip the Whereas because they're always nice, but you know, and I read the part that says, '*Now, Therefore, be it Resolved,*' and this is what we would vote on, the action part, '*that the Governing Body hereby declares that it intends to have 50% percent of its energy come from renewable sources by 2025 and become carbon neutral by the year 2040, and direct City staff to provide options, remedies, alternatives, solutions and recommendations for how City government can achieve the goal of become carbon neutral by 2040.*' I note that we're bumping up from 2030 by 10 years, but we never attached prices tags to it."

Councilor Bushee continued, "I guess, more for me, I'm looking for the specifics, so if you could get me those, with a timeline as to how you envision us achieving them, and does that include going to the voters as we have for capital funds and all of that. I'm happy to support it. I didn't sign on, mostly because I didn't have the specifics."

Mayor Gonzales said he think those specifics will come up year by year and may change. We probably could present a series of investments now, but 10 years from now that may be modified based on technology or some other mechanism. He believes that this provides a goal and direction to make sure that every year, the staff gives us the options of \$4 million of energy efficiency investments that we can make. And some can be rolled into a capital program, which he assumes would already be in place, and can be achieved through the regular budgeting process. Some may require us to prioritize or to look at other things.

Councilor Bushee said she sees it as potential economic development in many ways, so she is hopeful. However, she just hear the Interfaith Shelter needs \$10,000 a month. "So I'm just putting it out there that we didn't to just do this on consent with a \$4 million price tag."

Councilor Maestas said it would have been helpful to see the proposed projects through the 2040 horizon year. He said, "I see this as aspirational. I think it's great. My issue is we have a sustainability

plan, we have a Sustainability Commission. We've been talking about tracking some of the various milestones in the sustainability plan, or metrics, to see how we're doing to achieve those. My question is how consistent is this aspirational goal with our sustainability plan and the Sustainability Commission that donates a lot of their time to talk about achieving the goals in our sustainability plan." He asked Mr. Schiavo to quickly address this.

Mr. Schiavo said, "The Sustainable Santa Fe [Commission] has done some work with the City of Santa Fe on the projects, and again this is for the City... these goals are for City government. So a lot of what Sustainable Santa Fe has been focusing on is the larger community. I know they are compiling their numbers now of where the town is and where City government is. We can get you those numbers, but it's definitely consistent. Honestly, most of the work that has been done for getting us to 25% of our electricity coming from renewable energy has been done by me. And they're simply taking those numbers. I've been responsible for all the retrofits within the City, and again those numbers come that way. I have those numbers and I know where we currently area. And I've taken a look at what it would take us to get to 50% by 2025. It's a more lofty goal, 100% by 2040. I thought I would just take it in bites. And again, I thought it was important that you heard as realistic a price tag as I could get you. This way, we don't go into it believing that oh, we can get to 50% by 2025 and spend no money."

Councilor Maestas said we're not approving specific projects, so he has no problem in supporting this. However, those projects are consequential from the action come before us, that's when we need to scrutinize them to ensure they are proportional and prioritized City-wide.

Councilor Dominguez said he agrees with what has been said. However, this is a good example of why we need to redesign our Fiscal Impact Reports so some of this stuff can be articulated in a different manner and the intent is much clearer to the Governing Body.

**MOTION:** Councilor Ives moved, seconded by Councilor Lindell, to approve this request, as recommended by staff.

**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.

**Explaining her vote:** Councilor Bushee said, "Yes, but I look forward to the specific projects and a timeline.

**11(p) PURSUANT TO RESOLUTION NO. 2014-70, REPORT ON ZOZOBRA BURN-OUT TOURNAMENT. (ISAAC PINO) (INFORMATIONAL ONLY)**

Councilor Rivera said he received several complaints regarding this, and thinks people didn't know who to call. He thinks they called Commissioner Anaya first and he directed them to call the City because it was something we were doing. He said, "So I wanted to get those complaints in the report. And I did receive them Saturday. I didn't receive any on Sunday, so I assume they were addressed. I did call the City Manager Saturday morning, and I believe he talked to appropriate staff, and they were handled correctly. But the complaints that I received, I received 3 of them on Saturday morning. One was about noise, specifically music after midnight, which stayed on for several hours. The other one was about drinking, and I assume it was people spending the night, and then the last one was with lighting in general. So, keeping the park lights on overnight as they did. I just wanted those added to the report, Mr. Mayor, as we reconsider this, probably for upcoming years. I do appreciate staff, Brian, you getting hold of people on Saturday and making sure everything was addressed, as I didn't receive any complaints on Sunday."

Councilor Lindell asked if this is reviewed annually, and Mr. Pino said this is the first one, so if they try to do it next year, we can put that condition on it so it is reviewed annually.

Councilor Dominguez said then the total cost to the City was \$567, and Mr. Pino said that is correct, our expense was in the salary and overtime for the employees that helped out.

Councilor Dominguez said that doesn't include the electric bill and some of the other expenses that the City may have incurred.

Mr. Pino said it is absorbed in the permit fees which are relatively low.

Councilor Dominguez asked if there is any way to separate that out. He is asking because we want to be able to show that the money was well spent, which he believes is the case. However, the more information we can get out of that, the better.

Councilor Dominguez asked how we can assess the positive economic impact of this event. Do we know how many people stayed in hotels. Is it unrealistic to ask the League to provide that information. He said there were 42 teams, and asked how many were local, and how many from out of the City. He would like to find out if there is a way to calculate the potential positive economic impact.

Mr. Pino said they can put together a method to do that. He said it is a little challenging, because the Resolution was passed on the 27<sup>th</sup> and the tournament started on the 29<sup>th</sup>, so we are a little pressed to have everything in preparation.

Councilor Dominguez said if we do this again, we need to do everything we can to get as much of that information as possible so we can properly measure the economic impact and the economic benefit.

Mayor Gonzales said that goes to Councilor Dominguez's point on the Fiscal Impact Report and how it can be used broadly in a number of cases.

Councilor Rivera said it doesn't look as if anybody was paid overtime, and it looks like straight time, and asked for verification of that information.

Councilor Trujillo said, "I think I've already told you to thank staff for all they did at the tournament. You know, Councilor Dominguez, I wonder if we can get those stats as to where people stayed in the City, I know they did. I know that majority of the teams were local, which I consider a good thing, because we're creating a tournament for our locals to play in. I do know that next year, I think they will get more teams. The reason being is I do know there was another tournament going on in Santa Rosa. And I've actually talk to some of those teams. And they said had they known earlier this tournament was going to be held, this is the place they would want to be, because of the correlation of it being held on that Friday with Zozobra. I think we, the League and the City, learned from this tournament. It's the first time we've ever done a 24 hour tournament. Other cities have done it. Las Cruces just finished their Whole Enchilada. I think we will learn from what happened this year, and this can only get better I truly believe."

Councilor Trujillo continued, "I do know that Councilor Dominguez was out there at three in the morning, because I saw it on his Face Book. And I went out there Friday evening at midnight, and I was there again on Saturday watching the games, and people were out there having a great time. A lot of good things were said about our fields, the MRC. It's a great facility. For those who have never been out there and been able to use it. I consider it tops in the State. So I look forward to... we'll have the discussion next year. I do know the League wants to keep it going, make it an annual event. I'm just grateful Kiwanis were able to lend the name Zozobra to this, because I think it gives it a better recognition. People know Zozobra. This was a long overdue tournament. So, again, I thank you and staff for all you did, because overall this was a successful tournament."

Councilor Dominguez said, "I think the tournament was a success. I think what we have to be careful about in the future, is that really so much of the responsibility is on the League. What I want to make sure is that the City is doing everything it can within reason to make sure the League is successful. And if there is no success, that the City is not to be blamed for that. And so that's why I think it's important that we have as much information as we can. The name is great. The whole idea is great, but we have a fiduciary responsibility on the finances, and the League plays an important role in that. So I just want to make sure the City does whatever it can, within reason, to make sure the League and the effort is successful as it can be. And the reason we need the metrics as discussed by Councilor Maestas"

11. **REQUEST FOR APPROVAL TO AMEND THE SANTA FE RAILYARD CONSERVATION EASEMENT BETWEEN THE CITY OF SANTA FE AND THE TRUST FOR PUBLIC LANDS. THE AMENDMENT WOULD REVISE THE EASEMENT BOUNDARY TO MATCH EXISTING CONDITIONS AND DOCUMENT AN EXCHANGE OF CITY RAILYARD PROPERTY ALLOWING FOR OUTDOOR RESTAURANT SEATING. (ROBERT SIQUEIROS) (Postponed at September 10, 2014 City Council Meeting)**

Councilor Ives recused himself from participation and left the Council Chambers.

Mr. Siqueiros presented information from his Memorandum of September 10, 2014, to the Mayor and City Council, regarding this matter, which is in the Council packet. Please see this Memorandum for specifics of this presentation. Mr. Siqueiros demonstrated the location of the Easement via overhead, using a map which is in the Council packet.

Mr. Siqueiros noted that the Trust for Public Lands, the Railyard corporation and staff are in support of the proposed amendment.

Mayor Gonzales said then there is agreement by all parties and Mr. Siqueiros said that is correct.

Mayor Gonzales said then we just need one more approval to make it work. He thanked Mr. Siqueiros for his work. He said, "I am hopeful that we are able to pass this quickly tonight, because I know this will allow for a more enhanced experience on the Railyard."

Councilor Bushee said, "I know you all control what happens there, but if we're going to have outdoor cafes, can we also considering street musicians as well in and around that area. I'm just throwing it out to you Rob, to bring to your committee. We're going to keep reviewing what happens at the Plaza in terms of activity, and I feel like we should have an equal effort at the Railyard."

**MOTION:** Councilor Rivera 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 Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

**Against:** None.

**Recused:** Councilor Ives.

Mayor Gonzales said, "And Bob, I just want to do a quick shout-out and thank you for the working you're doing out there. I had a chance, I'm not sure if the Councilors know that we were up for an Urban Land Institute Award, and many of the individuals involved gave huge amounts of credit to Bob and his ability to work with multiple parties and pull off that incredible park. So you've got to be thanked for that and so much more that you are doing here. So, I just wanted to say thank you."

## **12. 2015 NM LEGISLATURE PLANNING CYCLE. (MARK DURAN)**

A copy of *City of Santa Fe Legislative Timeline*, prepared and distributed by Mark Duran, is incorporated herewith to these minutes as Exhibit "3."

Mr. Duran said all of the State's constitutional offices are up for election in November including the Governor and State Representatives, and the interesting dynamic is that possibly, the Republicans could take control of the House of Representatives. He feels we will be successful in either scenario and we just have to let that play out in November to see what happens.

Mr. Duran said, "In terms of money, there is some good news on a couple of different fronts. And that is that in August, the State's economic forecast that they anticipated there would be \$285 million more for FY 2016, versus FY 2015. That is basically coming from gross receipts taxes, personal income taxes and corporate income taxes being slightly up from last year, but mostly because of the business that is happening in the oil and gas area. That is booming as you know. It is significantly impacting our State revenue coffers. They've always been a big percentage of our coffers and are now an even bigger percentage. It is important to note that was the August report and those are volatile numbers we will continue to track. For instance, some of the volatility associated with that, any ten cent fluctuation in the price of natural gas impacts the General Fund by \$9 million, and any one dollar fluctuation in the price of oil impacts the General Fund by \$6 million. That is why it is important to take the \$285 million with a grain of salt. We've seen decreases in those prices a lot since the August report, and we really want to track that and be on top of that as those revenue estimates come out in November and especially in December."

Mr. Duran continued, "There will be \$250 million, this is subject to less fluctuation, which will be available for capital outlay spending in the 2015 Legislative Session. So that's the money part of it. There is the political part we always look at. There is the financial part that we always look at, and financially, we look to be in pretty good shape, and because it is a 60 day session, we can introduce statutory language and changes without a call from the Governor. So that is the other component we would track."

Mr. Duran reviewed the information in Exhibit "3," noting the City Manager asked him to do this flow chart. He said on the right where it says Council Meeting, it also should say introduction of initial resolution, and the 11/12/14 Council Meeting also should say approval of final resolution. He noted they have limited our submissions to just our top 5 this year.

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

- Councilor Maestas said the ICIP was a discussion topic when the Municipal League Board met weekend before last. He said, "It seems the administration is using it, as you said, for vetoing. If there are any projects in the capital outlay bill that aren't in the top 5 they would be vetoed, so this is cause for concern for us. We discussed the possibility of submitting amendments to the ICIP after initial submittal. And the consensus was that we should. That's been a practice that has been allowed in the past. The individual who coordinated this administrative change is no longer the Local Government Division. I think we, as a government, should at least submit an amendment for strong consideration, despite this administrative prohibition. Because, again, I think when approved our priority list, we still assumed that the other projects would be in the list and be considered and not subject to veto. I think that should be part of our strategy."

- Councilor Maestas asked, with regard to capital outlay, are we on track to obligate all existing capital outlay on the books. He wants to make sure we have no funds which revert because of lack of obligation and encumbrance.

Mr. Duran said, "I can unequivocally say that we are on track to spend all the funds that have been given to the City of Santa on projects. Now, where we do a lot of work is serving as the fiscal agent for many non-profits. We also take that responsibility, working with DFA, to try to get those projects funded as the fiscal agent. But what we are able to do, and I think this may be where you're headed, and it's a good idea, to make sure on a yearly basis, and we have begun that process, to look at all outstanding projects, whether as the fiscal agent or coming directly to the City, to see where we are in terms of spend on those projects, evaluate them as to whether or not they are still valid scope of work and even valid projects, and flag those for reauthorization."

- Councilor Maestas said we need to look at the whole option of reauthorization. "If we are, at the end of the day going to be limited to our top 5 priorities, then we need to look at other innovative ways to obtain capital outlay. And I see the reauthorization process as a means to do that. And not just on our own projects, but I think we should look at other different sponsored capital outlay allocations that could be subject to reversion. They could be in year 3. Maybe we could negotiate with another legislator perhaps, not within the City but in the surrounding area. So we can identify capital outlay projects on the verge of reversion outside the City in the greater area and get those reauthorized. I don't know if you have done that in the past, but that has been done."

- Councilor Maestas continued, "When the League met, the intent was to prioritize all legislation passed by the Municipal League, and 3 of our Ordinances we sponsored and pushed made the priority list. The three were asking for comprehensive GRT reform. The other was in the event they can't tackle GRT reform, we are asking the Legislature at least remove the taxing authority on home rule cities. We made that a stand alone Resolution within League Policy. The last one was we are asking the State to adopt something like the Utah Telecommunications Act. The franchises aren't working for us, they're expired and we're having difficulty collecting, and we feel a Telecommunication tax might be a great alternate to the franchise fees."

- Councilor Bushee asked if we were going to have any attempt at tax reform during this 60-day session, in Mr. Duran's estimation.

Mr. Duran said it is hard to say. There are still several dynamics that need to play out. If we take a look at history, he said he would say no, but it's hard to say.

- Councilor Bushee said as we head into the first year of hold harmless and its damage to our coffers, she can't imagine there will not be some effort.

Mr. Duran said he thinks there will be efforts and those efforts can gain moment. He thinks, with some of the Municipal League Resolutions which we're supportive of through Resolutions the City has adopted, there is opportunity for diversification and hopefully some change. He said we can

push the reform that we need, and we have to let them know how much this is impacting us. He said the Senate will stay the same, noting the Senate passed the bill that took away hold harmless. He said he looks at realistically and know how difficult it is going to be, especially because people got smart along the way and they know how to separate small cities from big cities, so we're not able to approach the situation as a unified group. He said we're going to work hard on it and let them know how it is affecting us. He said there are some tough political realizations there also.

- Councilor Bushee asked, regarding the top 5 priorities if there is an associated dollar amount or just the top 5 priorities.

Mr. Duran said it's just the top priorities and there is no limitation on dollar amount. He said, "If I could speak to the strategy of how we get our other ICIP projects. We've been talking to DFA and working with DFA as to how we get those included. We can't amend the computer system into which we submit the priorities, because they stop it at 5. We're talking about do we just take the whole list and plop it on someone's desk. The good news is that lots of cities and counties, Indian tribes, lots of entities are concerned over this and are talking to the Governor's Office and DFA about the fact, and sometimes even Legislators without cities and counties knowing proposed projects that they assume are on the ICIP list. There are going to be projects passed for capital outlay that are not on the top 5 list, and it's going to cause big problems with systems on their end and political problems on this end."

- Councilor Bushee said we could just take the ICIP list and make it our number one priority.
- Councilor Ives thanked Mr. Duran for making these processes comprehensible. He said these top 5 priorities is something new this year. He asked if we know why the Governor's Office has put that forward, have they offered an explanation for that.

Mr. Duran said for the past 4 years the Governor's Office has complained about the amount of smaller projects that entities and Legislators fund that, in the end, don't have enough money to complete the project. He said two years ago, the Governor's Office instituted a policy that all capital outlay projects be over \$50,000, and that helped to some degree. He thinks this new policy is really a continuation of the administration's dislike for smaller projects, as if all projects and all money needed to be pyramided up into top projects and top priority projects. He thinks what they don't understand are the many projects that are augmented by the City and the State, and every through other diversified resources, where \$50,000, \$75,000, \$125,000 make a difference in regard to projects. If the directive would have just been that any amount of money you received had to go toward the completion of a project within a 2-3 year period, that would have been a better thought out policy.

- Councilor Ives said it sounds like there has been some pressure building up to this. He asked when was the first time we had an inkling on the limitation on the priorities list.

Mr. Duran said about January 1, 2011.

- Councilor Ives said in terms of it actually becoming a policy, because he doesn't recall having this as a policy last year. And indeed we put forth a number of priorities, and priorities by District, so there were a number of different items that came forward.

Mr. Duran said it's happened every year in different forms, and this is the form it has taken this year.

- Councilor Ives said he is trying to figure out when it became clear that that was going to be the form in which it was moving forward.

Mr. Snyder said, "The first staff became aware of it is when we submitted the ICIP listing. We submitted it at the counter and we were told we could no longer submit the full list, and we were to submit only the top 5 priorities. So that was the first we became aware of it several months ago."

- Councilor Ives said when we were developing that list this year, it wasn't brought forth as a priorities list. It was brought forward as an organizational construct that considered various types of deferred maintenance first, etc. He said, "When we took action on it, my understanding was that was the nature of that action. So what I'm hearing folks now say is that we're locked into priorities, that in my perspective, I never necessarily voted on as priorities, because that was not how it was brought forth to the Governing Body."

Mr. Snyder said, "Yes, you are correct. In the past we've looked at it, if it's on the list that's a good thing. And as I said, we became aware of it when we went to submit it, that's the first time we were ever notified that they were taking a different approach this, and only looking at the top 5 priorities. They have our entire list, but like Mark said, the only ones they're keeping in the computer are the top 5 and those are the ones that matter. And those are the top 5 off the list that we submitted."

- Councilor Ives asked if there is a process for amending that list at this point in time.

Mr. Duran said, "I think ourselves, and a number of different organizations, other cities and counties are complaining to DFA. I think DFA is being deluged with these items. I believe they're going to try to figure out some way to amend the process, but I'm not sure. But as I mentioned, we have Legislators are going to support other projects, and if those projects are going to be funded, and they're not going to be funded because they're not in DFA's Computer system, what we would like to do is submit all our ICIP projects. And either way, I can see us doing that. And that is we've already left them one list and that is to leave them a couple of other lists to let them know this is our entire, structured, organized governing process of coming up with ICIP priorities. We've been able to submit them in the past. We are submitting them again this year, one way or another."

- Councilor Ives asked how was the list submitted, and who actually took it to DFA.

Mr. Duran said that is something that Isaac Pino would handle. The second delivery of it would probably be by him, and "who knows the third."

- Councilor Ives said, "I don't know whether or not we heard about this top 5 priority structure before tonight. I can't say as I've been made aware of it at any point in time until now."

Mr. Snyder said, "My understanding, Mark is correct. When staff took it there they presented it at Public Works Committee, I'm not sure what meeting, the updated approach of DFA having only to be the top 5."

Mr. Duran said, "No warning. No policy. No issuance of a directive. Just couldn't submit more than 5 projects when we got to the point of submitting the projects."

- Councilor Ives said I presume we were pressing up against a deadline by that point in time and we were caught in some Orwellian circumstance where we had to submit that list at that point in time.

Mr. Duran said, "I don't think so Councilor Ives. I think that the list had been put together. The staff was well organized, it was just they couldn't submit more than 5 projects into the system, the very day the entire list was deliverable to them."

- Councilor Ives reiterated he doesn't recall discussing here at the Governing Body, the fact that there was any limitation on the numbers. So I'm not sure the action of the Governing Body in putting forth that list necessarily reflected the priorities of the Governing Body, especially given the way it was presented to us. I appreciate the clarification on those points. I'll be curious to seek some additional answers. Thank you."

- Councilor Rivera thanked Mr. Duran for the job he does for the City. He said it's very clear when we speak to our Legislative Delegation that you have a lot of respect in the Legislature and he appreciates his hard work. He thanked him for newsletter he sends out which is helpful.

- Councilor Rivera said, "My question is, with regard to the top 5 list, we have several non-profits as your mentioned that come through the City to fund its projects. My assumption is we'll put together a list of 5, our top 5 that we can send as an amendment, but what happens to the non-profits.

- Mr. Duran said that is a good question. He said, "They really never had a system by which to submit priorities like formally organized entities like the City and County. Our process is to provide them with a fiscal agent letter saying we will serve as their fiscal agent. The City Manager and I work on that. The non-profits come and pick up that letter. That is what they have had to deliver

in the past. It's a really good question. There's a lot of things up in the air. It's a good question for the non-profits is if the organized entities are limited to 5, what are non-profits to do in terms of their request for capital outlay with legislators."

- Mr. Duran continued, "I know that I've talked to a couple of Legislators and they're very frustrated with the process. They're aware of the process and want clarification from DFA. I think a couple of Representatives are going to be formally asking our Legislators, Santa Fe Delegation Legislators, for clarification from DFA. And that's building on the administration also. It's a great question, and that is what happens with the non-profits."
- Councilor Rivera asked Mr. Duran if he is going to "take what we ask here and try to get an answer that we can maybe receive an email about."

Mr. Duran said, "I think so. I think for now, what we've been doing is trying to get clarification and understand the policy and the genesis for the policy, understand if there's room for change in the policy, and how we would deliver our entire list. Now I think it's important for us to shift it to the Legislators to start making these requests and asking for these answers. And so what I am going to do is to work with our Legislators. We're already in the process of doing this. Work with the Legislators to formulate the formal letter that would go with DFA, and then I would be reporting to you on any comment coming back on those formal letters."

- Councilor Rivera asked Mr. Pino or Mr. Snyder if they can get him the entire ICIP list we submitted so he can start taking a look at it from a different point of view.
- Councilor Lindell said, "Mr. Duran could you tell us, inasmuch as it sounds like the list that we looked at wasn't allowed to be submitted, just the top 5. What were the top 5 that we submitted, because I don't think that we ever prioritized those."

Mr. Pino said, "I don't remember the top 5 specifically. I know that SWAN Park was #5, I know that, of the 4 that were above that. What we did though, Councilor Ives recalls that we categorized, at the request of the Finance Committee, the deferred maintenance projects first, then projects from the enterprise funds, then new projects and finally the fourth category was the non-profits in that order."

- Councilor Lindell said, "I think it's a little bit frustrating that we submitted a list that I guess we can't really amend at this point in time. And as a Council, we never actually prioritized the top 5 actual items on that list. Am I understanding this correctly, Mr. Duran."

Mr. Pino said, "The rule that we had been working under for the past 3 years, was that there was a wide open list. Some of the Councilors that were here before, might recall we used to turn in a list of 5 City-wide water projects, City-wide drainage projects, City-wide streets, and we did that year after year after year and that gave us great latitude on the projects we could call off the list. Then 3 years ago they told us to no longer submit 5, just submit the open list. And that's what we did"

the last 2 fiscal years, and it was accepted as such. And you might recall that some projects as low as the priority of 64 actually were funded. So we, not know there were any changes this year, we submitted, as we had the two previous fiscal year, a wide open list based on the category that we had selected as priority, only to find on delivery day, that was when we were first told about the 5 project list. And delivery day is simply that, just show up and give them your list. What clued them was our list was about two inches thick and they knew that was for more than just 5 projects. And that's when they told us to limit it to 5. We literally had to peel the top 5 off the stack and we insisted on leaving the rest of the stack with them."

- Councilor Lindell said that list is delivered on a deadline date and Mr. Pino said that is correct.
- Councilor Lindell asked if we delivered it on the date of deadline.

Mr. Pino said, "We did."

- Councilor Lindell said, "I hope our top 5 projects are 5 projects that we really want to see funded, because I don't know what they are at this point, and they are nothing that we prioritized. That's all I have Mayor, thank you."
- Councilor Maestas said past practice, of the entire capital outlay, was that the Senate would get 1/2, the House would get 1/3 and the Governor would get 1/3, and whatever capital outlay was funded by the House and the Senate, the Governor would hold harmless on their share, so there wouldn't be any vetoes. He asked, "So is this Governor pretty much looking at all capital outlay allocated throughout, and vetoing whatever the Governor chooses to veto. Can you clarify just that."

Mr. Duran said, "I think there has been a concentrated effort by the administration to not have smaller projects funded. And that's been normally the course of how money gets split up for capital outlay, and that's 1/3 to the House, 1/3 to the administration and 1/3 to the Senate. After that, in the last couple of years, the Governor has been indiscriminate in terms of any sort of policy of what gets vetoed and what doesn't. Sometimes things that get vetoed have the excuse that it is a smaller project, while then other projects get funded and don't get vetoed. It's hard to pinpoint any consistent policy in regard to that."

- Councilor Dominguez said, "I'm a little miffed about this whole process and this whole discussion, but I'll ask my questions off-line with the City Manager."

**13. CONSIDERATION OF RESOLUTION NO. 2014-86 (COUNCILOR BUSHEE AND COUNCILOR LINDELL). A RESOLUTION ESTABLISHING ADMINISTRATIVE PROCEDURES RELATING TO CIVIL PENALTIES FOR MARIJUANA AND MARIJUANA PARAPHERNALIA POSSESSION AND RESTATING THAT POSSESSION OF ONE OUNCE OR LESS OF MARIJUANA IS THE LOWEST LAW ENFORCEMENT PRIORITY OF THE CITY OF SANTA FE POLICE DEPARTMENT. (KELLEY BRENNAN)**

Kelley Brennan, City Attorney said, "I'll be brief. This is exactly what the caption says, it is adopting administrative procedures. These are designed to provide due process to someone if they elect to contest the civil fine for possession of an ounce or less of marijuana. That said, I stand for questions."

Councilor Trujillo said, "We have a Resolution that was enacted last year by Councilor Calvert, stating that if a resolution or ordinance does not get passed by one of the big two, Finance or Public Works, it doesn't come here. Now I know that there is a procedure that it came back, but what's the use of having this ordinance in place, if this ordinance now is coming back to us when, technically it died at both committees."

Ms. Brennan said, "I think that the rule is a rule of the Governing Body Rule, and it's cited in the packet. And it's designed to make sure that in terms of necessity or time pressures that the entire Council gets to consider it and vote on it."

Councilor Trujillo said, "I don't consider marijuana a necessity."

Ms. Brennan said, "I'm not arguing that it's a necessity, Councilor."

Councilor Trujillo said that is all he has.

**MOTION:** Councilor Bushee moved, seconded by Councilor Lindell, to adopt Resolution No. 2014-86, as presented by staff.

**CLARIFICATION:** Ms. Vigil asked if the motion includes amendments proposed by staff, and Councilor Bushee said yes.

**DISCUSSION:** Councilor Dimas said, "I've got a lot of comments and a lot of questions about this whole thing. Number one, this should never have gone forward, it should have been on the ballot as it was proposed. And I think there was absolutely no public debate on this, and here we are moving forward with this Ordinance and now we have a Resolution in place also as to how it's going to be done. I think this is a State and federal issue. I don't think this is a City Council issue. Again, I think we're superceding State law. It's still illegal by State Statute, and State Statute still supercedes the City in any way, shape or form. I think by doing this, we are encouraging trafficking marijuana. The people who going to buy the marijuana, are going to have to buy it from a drug dealer which is still illegal. Trafficking is still illegal in any way, shape or form that you look at it and trafficking marijuana will still be illegal."

Councilor Dimas continued, "I think we're just inviting more drug dealers into our community and they're not only going to be selling marijuana, they're also going to be selling heroin. They're going to be selling crack cocaine, prescription medication, whatever it is they sell. And we're just inviting more problems into Santa Fe and more drug dealers into Santa Fe. I think we're going to encourage more youth and a lot more young people to try marijuana."

Councilor Dimas continued, "I've spoken to several addicts over the years as a Judge, and I always ask them where they started and how they got started into the hard core drugs of heroin, and a majority of those people told me that they started with marijuana, and it just wasn't getting them high enough, so they graduated up. So whoever said it isn't a gateway drug is wrong, because it is. In anyway shape or form, it is a gateway drug into heavier drugs."

Councilor Dimas continued, "We already have a DWI problem in the State of New Mexico and right here in Santa Fe. I guess, now with this new marijuana law... the State Statute is very clear and it's impaired to the slightest degree. With marijuana, we have no baseline, we have no standards for testing for DUI with marijuana. So, I guess I have to ask the question, we've made it the lowest law enforcement priority of the City of Santa Fe for the Police Department. What exactly does that mean, the lowest priority. Does that mean when a Police Officer stops someone with marijuana behind the wheel that we just ignore it, and we say oh well, it's just a low priority so we'll just let it go."

Councilor Dimas continued, "I don't understand this at all. It's really perplexing to me. We have no guidance here whatsoever. There is nothing in this Resolution or Ordinance to actually tell us anything about this, so it's very confusing. The whole thing is confusing. I think this issue should be voted by all the citizens of the State of New Mexico, by referendum. It should be brought forward by the New Mexico State Legislature and not by this City Council. This should be a State issue, and not a City issue, again."

Councilor Dimas continued, "You know, it passed. Santa Fe Police Officers are still going to have the discretion to file their cases in State Magistrate Court and they can't be directed where to file their cases. It's very simply officer discretion and you can't interfere with officer discretion. You cannot direct the Santa Fe Police Officers to file in City Court or Municipal Court, they still have that discretion."

Councilor Dimas continued, "You know, we have drug alliances and so forth to discourage our youth against the use of alcohol, yet we're encouraging the use of marijuana through this Ordinance. I don't quite understand how this is going to come across for our youth. I think it is encouraging them to actually start using it. I just don't think this thing is well thought out. I got, I'm sure a lot of people got this same mailing I did, actually came to my wife. They probably knew how I felt about it, she feels the same way, by the way. But there is a statement from someone who says, "Instead of arresting and incarcerating someone for tiny amounts of marijuana we should be focused on real issues in our community." Boy I agree with that. I certainly agree with that. But it says, 'In making our world safer for our children.' How exactly are we making our world safer by decriminalizing a drug, marijuana. I don't think that's making this City any safer. I don't quite understand what we're doing here."

Councilor Dimas continued, "As far as incarceration of innocent people. I know that Councilor Dominguez brought up that he was a Corrections Officer. Well, I was a Judge, and I can tell you that I never sent anyone to jail for small amounts of marijuana. And if they're in jail, they're probably in jail for trafficking, more than likely. And it was probably for large amounts of marijuana which is illegal, and that's why they're in jail. There are very few judges in this country are sending people jail for any length of time anymore for marijuana. So that statement, I totally disagree with."

Councilor Dimas continued, "The Council can go in whatever direction it wants to go in. I can tell you right now, I will never vote for this Ordinance, this bill. I am just completely against it, totally and completely. Thank you Mr. Mayor, that's all I have."

Councilor Rivera said, "I agree 100% with what Councilor Dimas said. I think maybe we have a different perspective because we worked the streets and we know what happens out there. We see the results of alcohol and drugs, not just marijuana, but other drugs on the streets and the effect they have on people and families, relationships, so I'm sure we have a different perspective on it."

Councilor Rivera continued, "And my issue with it is that I don't think it does much in clarifying what decriminalization means. There are still people out there that think they can carry small amounts and not get into trouble, and that is simply not the case. If they get charged in Magistrate Court they will be in trouble, and this doesn't do anything to clarify that. And I still think it puts our Police in a tough position to have to decide who gets tried in municipal and who gets tried in Magistrate. And at some point, it's going to lead to, 'Well you're just picking on my son because he's Hispanic. Or you're picking on my son because he's wearing baggy pants.' And that's a tough position to put our officers in, and I continue not to support this in any way."

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

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

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

14. **REQUEST TO PUBLISH NOTICE OF PUBLIC HEARING ON NOVEMBER 12, 2014: BILL NO. 2014-30: AN ORDINANCE AMENDING SUBSECTION 20-6.1 SFCC 1987, TO CLARIFY THAT IT IS UNLAWFUL TO POSSESS ONE OUNCE OR LESS OF MARIJUANA AND CERTAIN MARIJUANA PARAPHERNALIA (COUNCILOR BUSHEE AND COUNCILOR LINDELL). (KELLEY BRENNAN)**

Ms. Brennan said, "Again, this just provides one sentence that clarifies in the language of the Ordinance that the use or possession of an ounce or less of marijuana or marijuana paraphernalia is prohibited. And this is just a request to advertise the Ordinance."

**MOTION:** Councilor Lindell moved, seconded by Councilor Bushee, to approve this request to publish notice of public hearing on November 12, 2014.

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

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

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

**15. PURSUANT TO RESOLUTION #2014-65, FINDINGS AND RECOMMENDATIONS REGARDING CREATING AN INDEPENDENT OFFICE OF INSPECTOR GENERAL. (KELLEY BRENNAN)**

Kelley Brennan said, "I could make this report at the end of the session, if you wanted to move right into Executive Session.

Mayor Gonzales said that would be fine.

**16. MATTERS FROM THE CITY MANAGER**

There were no matters from the City Manager.

**17. MATTERS FROM THE CITY ATTORNEY  
EXECUTIVE SESSION**

**IN ACCORDANCE WITH THE NEW MEXICO OPEN MEETINGS ACT, §10-15-1(H)(7) NMSA 1978, DISCUSSION REGARDING PENDING AND THREATENED LITIGATION IN WHICH THE CITY OF SANTA FE IS OR MAY BECOME A PARTICIPANT. (KELLEY BRENNAN)**

**MOTION:** Councilor Trujillo moved, seconded by Councilor Rivera, that the Council go into Executive Session for discussion of pending and threatened litigation in which the City of Santa Fe is or may become a participant, in accordance with §10-15-1(H)(7) NMSA 1978.

**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.

The Council went into Executive Session at 7:07 p.m.

**MOTION TO COME OUT OF EXECUTIVE SESSION**

**MOTION:** At 7:50 p.m., with Mayor Pro-Tem Ives presiding, Councilor Rivera 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:** Councilor Bushee, Councilor Dimas, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

**Against:** None.

**Absent for the vote:** Mayor Gonzales and Councilor Dominguez.

**18. ACTION REGARDING SOUTHSIDE TRANSIT CENTER LOCATION. (ZACHARY SHANDLER)**

Councilor Maestas said, "I will be recusing myself from this action, as I've had a relative involved in the litigation regarding this issue."

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

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

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

**Against:** None

**Recused:** Councilor Maestas.

**Absent for the vote:** Mayor Gonzales and Councilor Dominguez.

**Zachary Shandler, Assistant City Attorney,** said, "Mayor Pro-Tem, for the record. The motion on Item #18 is the result of the Southside Transit Center. The Santa Fe Place had previously been the Southside Transit Center, and now the Southside Transit Center will be moved to 2521 Camino Entrada. That is a City owned building, will have an indoor waiting area and it will be shared between the Police Department and the Transit Department. This project is federally and privately funded, and the Santa Fe Place will continue to be served. We anticipate this project will take approximately one year. The City will have a press release with all the details for the public immediately available. Thank you."

**19. MATTERS FROM THE CITY CLERK**

There were no matters from the City Clerk.

*Mayor Pro-Tem Ives exercised the prerogative of the Chair  
to move Items 19 and 20 to the end of the Evening Agenda, along with Item #15.*

**END OF AFTERNOON SESSION AT APPROXIMATELY 7:50 P.M.**

## **EVENING SESSION**

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

The Evening Session was called to order by Mayor Pro-Tem Peter N. Ives, at approximately 7:50 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 Pro-Tem Ives gave everyone 3 minutes to petition the Governing Body.

**Fonda Osborn** said she is the former President of District #1199 New Mexico. She said, "I have... after this negotiation is complete, I'm retiring. Our District has spent a year preparing for this transition, so the next President for #11199 will be Laurie McIver. She is a registered nurse from the University of New Mexico Hospital. So as we move forward in this transition, our emphasis will still be on safe staffing for all hospitals in New Mexico. Now, the good news is, I believe we are words away from getting an agreement with the Hospital that we can recommend to our members. It's not perfect. You know, we've been out on a picket line I think for 59 days now. A long time. But, I believe last week, after the Mayor brought the parties together, we had continued negotiations for 3 more days, and we still had a proposal that we could not live with, that didn't have any enforcement in it. And so, after... well even Mr. Tessin from the Hospital came to negotiations and Mr. Delgado, Chairman of the Board, came to the negotiations."

Ms. Osborn continued, "After these negotiations, the Mayor made contact again with the Hospital and asked them to move, because we needed that enforcement piece. And so the Hospital called us back to negotiations on Friday and they made a substantial move in their previous proposal. That move, the

Hospital agreed to look at the staffing shift by staff. Before they looked at it in an aggregate manner over a period of time which really didn't address it when we were very short shift. And so they made a big movement and agreed to a penalty if they did not provide the staffing that they should have to cover at least the average daily census for each unit. And so now, all we need is the ability to grieve if they don't pay the penalty correctly that they've agreed to pay."

Ms. Osborn continued, "So we feel like this is a positive movement. We've at least guaranteed the floor at the 40<sup>th</sup> percentile and that we will have stability when we come to work as nurses and techs, and knowing that we've got enough staff there to cover what we need every day. So we're a few words away, so any more phone calls you want to give them to let them know, that would be good. We now feel that we have other things are important to do. Now the Task Force can go, now our negotiations are concluding and I think as a community it's a very important thing to look at the health care here in Santa Fe and that the community have input into it, rather than just companies. And I'm not saying even Christus, but there really needs to be a way for the community to have input."

Ms. Osborn continued, "And then, in the winter, that's coming up pretty fast now. It's getting cold outside, we have legislation again. Because it shouldn't be us and we certainly thank the City Council for passing that Resolution that you all passed. This gives us a real tool to go out with when we're pursuing legislation. So we hope that you will all support us in our efforts to get safe staffing for all of New Mexico. Did I forget anything you guys, we want to tell them. We just want to thank the Council and the Mayor, especially. He has done a great job hauling this wagon a little bit further. So thank you all."

Mayor Pro-Tem Ives thanked Ms. Osborn for the update as well as your service. "And congratulations."

## **G. APPOINTMENTS**

Mayor Gonzales made the following appointment to the Library Board:

Latifah Alfonso Phillips – to fill unexpired term ending 07/2016.

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

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

## H. PUBLIC HEARINGS

### 1) REQUEST FROM 4320 CERRILLOS ROAD, LLC, FOR A RESTAURANT LIQUOR LICENSE (BEER AND WINE ON-PREMISE CONSUMPTION ONLY) TO BE LOCATED AT HYATT PLACE, 4320 CERRILLOS ROAD. (YOLANDA Y. VIGIL)

The staff report was presented by Yolanda Vigil, City Clerk, from her Memorandum of October 2, 2014, with attachments, to Mayor Gonzales and City Councilors, which is in the Council packet, noting there currently is a Restaurant Liquor License at this location. However, the business has changed ownership and this type of license is not transferrable, therefore this new application is before you for approval. Ms. Vigil said, the location is not within 300 feet of a church or school, there are staff reports in the packet regarding litter, noise and traffic and staff recommends this business be required to comply with all of the City's Ordinances as a condition of doing business in the City.

#### Public Hearing

There was no one speaking to this request.

#### The Public Hearing was closed

**MOTION:** Councilor Lindell moved, seconded by Councilor Maestas, to approve the request from 4320 Cerrillos Road, LLC, for a Restaurant Liquor License (on-premise consumption only) to be located at Hyatt Place, 4320 Cerrillos Road, with all conditions of approval as recommended by staff.

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

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

**Against:** None.

**Absent for the vote:** Mayor Gonzales, Councilor Bushee and Councilor Dominguez.

*Councilor Dominguez arrived at the meeting*

### 2) REQUEST FROM D & G RESTAURANTS, INC., FOR A TRANSFER OF LOCATION OF INTER-LOCAL DISPENSER LICENSE #2823 (WITH ON PREMISE CONSUMPTION ONLY) FROM D & G RESTAURANTS, INC., 4200 CENTRAL AVENUE SE, ALBUQUERQUE TO THE BLUE ROOSTER, 101 WEST MARCY STREET, SUITE 5. (YOLANDA Y. VIGIL)

Councilor Maestas said, "I disclosed at a prior meeting that I have an interest in a family business that owns an inter-local dispenser liquor license in Espanola that is currently for sale. And I stated on the record that I will be recusing myself until the family license is sold from voting on any inter-local license transfer request and from any discussions this body may have about inter-local transfer licenses in general. As a result, I will recuse myself from Item H(2) on tonight's agenda. And I would ask that you please come get me when you are done with this item."

The staff report was presented by Yolanda Vigil, City Clerk, from her Memorandum of , 2014, with attachments, to Mayor Gonzales and City Councilors, which is in the Council packet, noting the license is not within 300 feet of a church or school, there are staff reports in the packet regarding litter, noise and traffic, and staff recommends this business be required to comply with all of the City's Ordinances as a condition of doing business in the City.

### **Public Hearing**

**Doug Nava, 1401 Santa Cruz, Owner, was sworn.** Mr. Nava said he wants to assure the City that they will make sure all patrons of the establishment and the public will be treated safely. He said they are trying to add to everything, and he promises the Blue Rooster will set the standards for gross receipts filing and such, so everything is coming to the City.

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

**MOTION:** Councilor Dominguez moved, seconded by Councilor Trujillo, to approve the request by D & G Restaurants, LLC, for a Restaurant Liquor License (beer and wine on-premise consumption only), to be located at Hyatt Place, 4320 Cerrillos Road, with all conditions of approval as recommended by staff.

**DISCUSSION:** Councilor Dominguez said, "So Yolanda, this is a transfer from a different City into the City of Santa Fe."

Ms. Vigil said this is correct.

Councilor Dominguez said, "So that puts us over our quota by how much."

Ms. Vigil said, "I do not have exact figures for that. I don't even have a ballpark figure, I'm sorry."

Councilor Dominguez asked, "Is there a mechanism for us to be able to see that. I think last time, were at 300% over our quota on allowable licenses."

Ms. Vigil said, "I can request that information from State Alcohol & Gaming Division, and find out for you."

Councilor Dominguez said, "I'm just asking because, or it hasn't been clear to me about how it is that we can track that data. Is that not something you can track in the City Clerk's Office."

Ms. Vigil said, "I would be able to track probably the last 10 years or so, maybe longer, if I went back through Council agendas, but I think my best bet would be to go through State Alcohol & Gaming."

Councilor Dominguez said, "I'm not necessarily concerned about what's happened in the past. So, we know that we're over right now. We'll call it at zero right now with this application, but the next one that comes in from a different municipality or jurisdiction, we can count that one as one over at least."

Ms. Vigil said, "Just so I'm clear, starting with the next inter-local transfer, I am to start counting with that one as number 1 and then I'll have data for you from there on out."

Councilor Dominguez said, "Yes. Anytime something comes in from a different jurisdiction, we need to know about it, because that increases the amount we are over in our quota by State Statutes."

Ms. Vigil said, "Yes sir."

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

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

**Against:** None.

**Absent for the vote:** Councilor Bushee and Mayor Gonzales

**Recused:** Councilor Maestas.

*Mayor Gonzales returned to the meeting*

**3) CONSIDERATION OF BILL NO. 2014-26: ADOPTION OF ORDINANCE NO. 2014-31 (COUNCILOR LINDELL). AN ORDINANCE RELATING TO THE LAND DEVELOPMENT CODE, CHAPTER 14 SFCC 1987; AMENDING VARIOUS SECTIONS TO MAKE TECHNICAL CORRECTIONS AND MINOR CLARIFICATIONS; AND MAKING SUCH OTHER CHANGES THAT ARE NECESSARY. (GREG SMITH)**

An Amendment Sheet for this item, submitted by staff, is incorporated herewith to these minutes as Exhibit "4."

A letter dated October 8, 2014, to Members of the City Council, from Rod Tweet Second Street Brewery, expressing support for the proposed amendments to the Land Development Code, Chapter 14, is incorporated herewith to these amendments as Exhibit "5."

Mayor Gonzales said, "Mr. Mayor Pro-Tem, I just want to disclose for the record that I won't be participating on this vote, as my family owns a radio station in town with a tower that is used by telecommunications companies, so I am removing myself from, not only participation in this, but the vote. I just wanted to disclose that for the record."

The staff report was presented by Greg Smith from his Memorandum prepared September 25 for the October 8, 2014 Council meeting, with attachments, to Mayor and City Council, from Greg Smith, Director, Current Planning Division, which is in the Council packet. Please see this document for specifics of this presentation.

Mr. Smith noted that an amendment sheet was placed on the Governing Body's desks prior to the meeting, and there also is an amendment sheet in the packet. He noted that the text of the Staff Report highlights a dozen of the changes that are proposed to be made, and there is a matrix which summarizes each of the 51 Sections of the bill, noting the vast majority are correcting typographic errors. He said some are addressed in more detail in the Staff Report which are aimed at simplifying and making more consistent the various sections of the Code.

Mr. Smith said he will present a "brief summary of some of the highlights, and then is happy to stand for questions the Councilors might have on the individual sections."

Mayor Pro-Tem Ives said, "It is fairly well explained in the Memo in the materials. It might be more prudent and easier to ask if there are questions from the Governing Body directed toward specific items, if that would be all right with you. I don't want to cut you off."

Mr. Smith said, "You have before you an amendment sheet. One of the issues that was an amendment to the coverage regulations in the Residential District. The staff had, I think, over simplified those regulations. And after getting feedback from various concerned citizens, we've done an amendment sheet [Exhibit "4"] which essentially leaves the coverage rules the way they have been for the last 15 years. There is also an amendment sheet that corrects language with regard to payment of Impact Fees that is in the Councilors' packets. We ended up with an amendment inadvertently. The previous set of amendments said that the decision of the Department Director would be appealed to the Department Director. The amendment in the packet clarifies that appeals on those decisions would be made to the City Manager."

Mr. Smith said, "The form of the motion, if the Councilors concur with the recommendations of staff and the Planning Commission, would be to adopt the bill inputting the two amendment sheets presented at the hearing tonight. And with that, I'm happy to stand for questions."

Mayor Pro-Tem Ives said, "You are identified as the Director, Current Planning Division."

Mr. Smith said, "So I guess that is a little awkward in the way to phrase that. I am the Director of that Division, of course the Director of the Department that the Current Planning Division is located in the Land Use Department. Lisa Martinez is currently the Director of the Department."

Mayor Pro-Tem Ives said, "The only small criticism that I would have is when these come before us, they often are stated as 'An Ordinance relating to the Land Development Code, amending various sections to make technical corrections, minor clarifications and making such changes that are necessary.' And it sounds like they have come in from neighbors, from architects, from folks with experience in the Land Use Code. So they always sound like more than mere technical changes. I'm just saying, I'm not sure the description I would put forth without having real clarity on that."

### **Public Hearing**

*Mayor Pro-Tem Ives said each person will have two minutes to speak to this request.*

**Arthur Firstenberg** said, "I also think these are not just technical corrections and minor clarifications. These changes include two changes to the City's Telecommunications Ordinance, Chapter 14-6.2(e). One of the changes provides that antennas that are added to existing towers in Historic Districts, in the Escarpment Overlay District and in the South Corridor Overlay District will no longer have public hearings. The other change to this Ordinance is that the minimum 1,000 foot separation between cell towers is repealed. It's actually repealed in a kind of dishonest way in my opinion. It says we're still going to require that a new tower be at least 1,000 feet away from any other tower, unless the company and says that it's not technically feasible to collocate its antennas on the tower, in which case they can put them as close as they want. And these revisions are not technical revisions. They implicate the amount of input that the public can have into these decisions and they're not minor amendments. They deserve extensive discussion, and in my opinion, they should not be approved today. Thank you."

**Monica Steinhoff** said, "I was a little confused by the gentleman who spoke earlier, because I thought this must involve the cell phone industry, etc. And I'm going to speak briefly, two minutes. I wish I had a clock that was really big that could tell you minutes as they're passing.... The cell tower at the Hotel Santa Fe went up over a year ago now. I remember being here at the City Council where there was talk about doing a City Ordinance and doing a study beforehand, and then that was just dismissed, the study was never done, and the Ordinance is still existing was adopted. I think there are many things, like the World Health Organization has just come out with that cell phones are carcinogenic. The public does not know any of those things. In my little gallery in the Railyard on Guadalupe, I see people walking by as if nothing exists but their cell phones and they use in their car and everywhere, just making it even easier with more cell towers everywhere, without really checking what's already happened to businesses in the Railyard. We have the Farmer's Market which an immensely radiated place. I have a meter that checks these things, because I'm very sensitive. The trees. So many trees in Santa Fe are dying. I can also say my own business has gone down immensely in that one year plus, compared to the 2-3 years before that."

I think the City needs to check into that. We're a tourist destination and there are so many studies the birds, the bees, the human beings, the children are affected by these microwaves, and yet we feel nothing about supplying more and more of this. I don't think the price for every human being able to use their cell phone, instantly, every second of the day is worth humanity getting sicker and the birds and everybody. And it's a big driver, this whole technology is a big driver to global warming. Germany is one case. For two decades their use of electricity went down. All of a sudden in the last 3 years, it's gone up 30%. People don't think about this is electricity we're using. How do we drive all these microwaves everywhere. This is not a technical issue, it's a life and death issue, and this Council will be very regretful as more and more information comes out about the deadliness of this technology."

*Mayor Gonzales arrived at the meeting*

**David Salmon, 111 Calle Paisano**, said, "I'm here to speak in favor of your vote for the Ordinance to make these corrections to 2014-31. My family is a property owner in the Siler Road Industrial District, and we have owned and run Santa Fe Greenhouses for over 30 years now. And, unbeknown to us, this correction to the various zoning uses was made without any input from either ourselves or other property owners in the Siler Road Industrial District. And when we listed our property for sale, we were dismayed to learn that in spite of being in business for the last 30 years on the site, that we were a non-conforming use in that Industrial District. So I think that we are just one of many property owners in that very important business district in Santa Fe, who don't know or are just finding out that we are a non-conforming use. And I think this is very important that you and Councilors, Mayor Pro-Tem, correct this problem and vote for the Ordinance. As far as things regarding microwaves and other things like that, I think that's really beside the point. We've got a much more important thing in terms of land use, property ownership and use of property that's being correct with this proposed amendment and I am, again suggesting that you all vote in favor of it. Thank you."

**Sally Randall, 901 Alto**, said, "When you were speaking, I thought I was in the wrong place. Everything you read didn't even mention the towers, that you don't have to have a public hearing to have a tower added to within 600 feet of St. Francis and many other streets. And so I came tonight specifically because of one paragraph and I felt like I was in Washington, D.C., where they slip things into very complicated long bills to get them through. So I would like to take out just the part about the cell towers, because the citizens and taxpayers of Santa Fe do not understand why a City Councilor would even consider eliminating our already limited democratic process around telecom installations. I believe, and I hope you will answer these questions, because anyone who wants a chicken coop has to get a permit, so why would you allow a corporation to install whatever, whatever they want without any public, democratic process. So I felt that it was quite confusing. Thank you."

**Brooke Pyatt, 310 Lomita**, said, "I've also come to understand, maybe belatedly, that one of the elements in what's being considered here does state that we will relieve telecom companies of going through the permitting process if they add equipment to already existing structures. And I believe that they also would be relieved of some requirements as to the spacing between the structures. So far, we have at least had a public forum in which to bring forward our opinions and concerns on these telecom matters. I don't know why you would consider removing that opportunity for the public to express its opinions on these matters. There is rising evidence all over the world, studies are beginning to congeal and come together, indicating strong reasons for concerns. All right, my main objection is that another piece of our democratic process seems to be threatened, removing the public forum on a matter that concerns many many people in this community. Thank you very much."

**Jim Siebert, 915 Mercer**, said he is here to speak in favor of one segment to this amendment and that is the expansion of uses in the I-2 District. Let me explain two aspects of that. One is that when they modified the ordinance about 3 years ago, they cut back permitted uses. And what happened is that several of those uses existing when the I-2 became non-conforming. And what that means is if they burn down, they can't rebuilt. It is very difficult to go to the bank and get financing if the banks know they are a non-conforming use. So, we certainly are in favor of modifying that. And the other thing was just from a purely planning standpoint, is when the I-2 was initially established for this area was when the City's Wastewater Plant was right across the road. Siler Road didn't go through to Richards Avenue. This area is changing and it is important to allow those uses that in the past were permitted to take place. One example, what would be wrong with having a restaurant across the street from City offices where they have 200 or 300 people. They could walk there. I just came from a Planning Conference, state-wide, in Albuquerque. And the aspect now is to broaden the uses, not to limit the uses. And a lot of that has to do with the fact that we are seeing uses that we never saw before, and that is exemplified in what takes place with the internet. So we have other people, raise your hands, in support of the amendment, and we encourage you to adopt that. Thank you very much."

**William Bruno**, said, "I'm a PhD physicist. I actually have served on the World Health Organization as an advisor, and I also served on an expert international panel on electromagnetic field health effects for the Electric Power Research Institute in California. I have scientific papers that have been cited over 2,000 times. I support the concerns you've heard tonight about the telecommunications portion of these changes, and I'm holding a book, I thought I would read... I'd like to enter the book into the record, but I guess that will take a while. But I would at least like to read the blurb in the front. 'This book shows how radiation emitted by electronic devices can cause biological harm. It describes how to reduce our emission and exposure. These issues matter to anyone who uses technology, therefore everyone should read this book. And that's a quote from Frank Kleig, who is the former President of Microsoft Canada. I also read in the New York Times a week ago that Steve Jobs was interviewed 2 years ago when the iPad came out. And the reporter asked, well what do your kids think of the iPad. And he said, oh, I don't let my kids use the iPad. He doesn't believe it is a good thing for his own kids to use iPads. So, I don't see why you can't just table the telecommunications portion of these minutes, and instruct the staff

to make the necessary modifications so the bill would only cover the other parts. Thank you.”

**John McFie**, said, “I’m here as a private citizen. Many of the people in the room know me as the Safety Specialist for Children for the Health Department, and I’m also a Consumer Product Safety Commissioner, representative for the State for the past 18 years. I’m very familiar with all of the regulatory process. I was involved when the EPA tried to establish standards until 1995, and was defunded and is no longer involved. There is no State Agency involved with cell towers. People call me and I refer them, of course, to the FCC in Washington. There’s not a single FCC employee in the State of New Mexico to even refer with regarding. There are so many issues here from the esthetic appeal, starting with the Chamber of Commerce’s concern with retaining an Historic District. It is the City different and why people come here, to not see cell towers since they’re proliferating. There are more than half a million nationwide. If you do AntennaSearch.com, within my house which is near downtown by Santa Fe High School, there are 31 towers and 211 antenna within 4 miles of his house. The question comes is how many do we need for service when there is not the emphasis to do other things, in other ways of doing this. The continuing focus on WiFi, where so many modern countries in the world are now divesting themselves of WiFi and going elsewhere. The other enormous issue for the City, the County, the State and all the school districts is the insurance companies are no longer insuring.... they read the materials 5 years ago and said it’s like mold. They can anticipate the lawsuits are going to be successful inevitably, because there are 6,000 studies about the health issues, which of course we’re not allowed to speak about, which in itself is amazing. But let’s move from the health issue to the liability. When the lawsuits start and the first plaintiff wins because of the amount of health evidence that shows that WiFi antennas are dangerous, who’s going to pay for it. And of course the taxpayers are going to pay for it. Thank you.

**The Public Hearing was closed**

**VERBATIM TRANSCRIPT  
REQUESTED BY ARTHUR FIRSTENBERG  
OF A PORTION OF ITEM H(3)  
ON THE CITY COUNCIL EVENING MEETING AGENDA  
October 8, 2014**

**MAYOR PRO-TEM IVES:** That concludes our public hearing. What is the pleasure of the Council.  
Councilor Lindell.

**COUNCILOR LINDELL** Thank you Mayor Pro-Tem. I would like to ask Ms. Brennan, the City Attorney, to comment on the telecommunications section of these changes.

**KELLY BRENNAN,**

CITY ATTORNEY:

Mayor, Mayor Pro-Tem, Councilors, Councilor Lindell, "There is, and Greg may have more to say to this. I'll read you the reason the language relating to hearings in the districts for the replacement of antennas is modified, is to conform to Federal law. What is typically referred to as Section 6409, Federal law, Codified at 47 U.S.C, Section 1455(a) provides: *Notwithstanding Section 704 of the Telecommunications Act of 1996, or any other provisions of law, a state or local government may not deny, and shall approve, any eligible facility's request for modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station. Eligible Facility's Request means any request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment, removal of transmission equipment, or replacement of transmission equipment.* That is the category of things that will no longer require a hearing. And the reason they would no longer require a hearing is because federal law has preempted that and a hearing would basically be a waste of time. That said, permits are still required. There is still an administrative approval process required. There are opportunities for input. There is notice and so this is really to address that specific federal law. With respect to the 1,000 foot distance between towers, originally that was intended to encourage collocation on towers. And we had some incidents where, for instance, on the Hotel Santa Fe, there are now antennas mounted on the roof. It's a stealth facility. They are concealed behind a parapet. There was one antenna mounted on top of a telephone pole in the vicinity. There was no possibility of collocation. So I think the pressure is still to collocate and use existing facilities and minimize visual impact, while at the same time, complying with federal law to not prohibit, or effectively prohibit the provision of telecommunications services. So that is the basis of these two changes.

COUNCILOR LINDELL:

Thank you Ms. Brennan and I yield the floor, Mayor.

MAYOR PRO-TEM IVES:

Councilor Dominguez.

COUNCILOR DOMINGUEZ:

Thank you Mayor Pro-Tem. So, not that I am disagreeing with anything that you said, but I know in the State we have great police power in our zoning. Is that not the same with this.

KELLEY BRENNAN:

Mayor, Mayor Pro-Tem, Councilor Dominguez, no. This is specifically preempted by federal law. And this is the same issue that arises in terms of basing our decisions on the health effects of EMFs. Again that is

preempted specifically by federal law.

MAYOR PRO-TEM IVES: Other questions of the Council. What is the pleasure of the Governing Body.

COUNCILOR MAESTAS: I'll move for approval to adopt the Ordinance with the submitted amendments in our packets. I'm not sure.... there's two amendment sheets, but I think we all know what I'm talking about.

COUNCILOR LINDELL: Second.

MAYOR PRO-TEM IVES: Any further discussion. Roll call.

YOLANDA VIGIL: Mayor Pro-Tem Ives

MAYOR PRO-TEM IVES: Yes.

YOLANDA VIGIL: Councilor Lindell.

COUNCILOR LINDELL: Yes.

YOLANDA VIGIL: Councilor Maestas.

COUNCILOR MAESTAS: Yes.

YOLANDA VIGIL: Councilor Rivera.

COUNCILOR RIVERA: Yes.

YOLANDA VIGIL: Councilor Trujillo.

COUNCILOR TRUJILLO: Yes.

YOLANDA VIGIL: Councilor Dimas.

COUNCILOR DIMAS: Yes.

YOLANDA VIGIL: Councilor Dominguez.

COUNCILOR DOMINGUEZ: Yes.

YOLANDA VIGIL: Thank you. The Ordinance has been approved as amended.

I certify that this is a true and accurate verbatim transcript of a portion of Item H(3) on the City Council Evening Meeting Agenda on October 8, 2014, as requested by Arthur Firstenberg.

  
Melessia Helberg, Council Stenographer

**MOTION:** Councilor Maestas moved, seconded by Councilor Lindell, to adopt Ordinance No. 2014-31, as presented, with the amendment in the packet and the amended which was handed out [Exhibit "4"].

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

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

**Against:** None.

**Recused:** Mayor Gonzales

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

- 4) **CONSIDERATION OF RESOLUTION NO. 2014-87. CASE #2014-63. 2750 BOYLAN CIRCLE AND 1400 BOYLAN LANE GENERAL PLAN AMENDMENT. SOMMER, KARNES & ASSOCIATES, LLP, AGENT FOR BFFM, REQUESTS GENERAL PLAN FUTURE LAND USE MAP AMENDMENT TO CHANGE THE DESIGNATION OF 3.86± ACRES FROM RURAL/MOUNTAIN CORRIDOR (1 DWELLING UNIT PER ACRE) TO INDUSTRIAL. (THE RECOMMENDATION OF THE PLANNING COMMISSION WAS TO DENY THE REQUESTS TO AMEND THE GENERAL PLAN FUTURE LAND USE MAP TO INDUSTRIAL, AND TO AMEND THE GENERAL PLAN FUTURE LAND USE MAP TO INDUSTRIAL, AND TO AMEND THE GENERAL PLAN FUTURE LAND USE MAP FROM RURAL/MOUNTAIN CORRIDOR TO COMMUNITY COMMERCIAL) (DAN ESQUIBEL).**

*Items H(4) and H(5), were combined for purposes of presentation, public hearing and discussion, but were voted upon separately.*

A Memorandum prepared September 29, 2014, for the October 8, 2014 Meeting of the Governing Body, with attachments, to the Members of the Governing Body from Daniel A. Esquibel, Land Use Planner Senior, Current Planning Division, regarding Case #2014-63 and Case #2014-64, is incorporated herewith to these minutes as Exhibit "6."

Daniel Esquibel, Case Manager, presented information in this matter. Please see Exhibit "6" for specifics of this presentation. Neither change in use.

### **Questions and Comment from the Governing Body Prior to Public Hearing**

Mayor Gonzales asked the reason the Planning Commission moved to zone it C-2 General Commercial versus Industrial. He said it seems this is somewhat of a light manufacturing location and industrial would be more of a proper use.

Mr. Esquibel said, "That is correct. However, at the Planning Commission meeting there was some discussion at the podium from adjoining property owners, and the adjacent property owner wants to come in with a large scale residential development in the PUD, which we annexed from the County, was opposing the Industrial use because of the heavy industrial connotation versus the C-2 District which allowed for a lighter sense of use. Again, the differences between the two we decided to place in the Memo so you would be able to see that while both uses for light manufacturing would be allowed, there are some specific uses that are more generally used in the Light Industrial as with the Heavy Industrial, which you just amended."

Mayor Gonzales asked if the designation under the Code under General Commercial will allow for light manufacturing.

Mr. Esquibel said that is correct.

Councilor Maestas said in Mr. Esquibel's Memorandum, paragraph 1, he summarizes the vote by the Planning Commission recommending community commercial, but you mean general, or are community and general the same thing.

Mr. Esquibel said, "Within the Resolution, Community Commercial is the designation that would be established for the zoning for General Commercial. General Commercial is C-2 for the zoning aspect. Community Commercial would be the Resolution portion to amend the underlying map."

Councilor Maestas said, "I went through the minutes of the Planning Commission meeting on page 20 of the minutes, packet page 31, the last full paragraph on the bottom. It seems a representative of the requesting party stated if C-2 was approved for rezoning, it would be acceptable. So I'm wondering why you still included the Industrial option."

Mr. Esquibel said, "The applicant chose to move forward with the present application, rather than make any changes necessary that may have expanded any time to make any changes. So the request by the applicant was steadfast with the Industrial recommendation. However, the applicant does not mind a change to C-2 or a change to I-1. Both would be conducive to the proposed use that went forward under the application."

Councilor Maestas said, "On page 40 of our the packet, the last page of the Findings of Fact and Conclusions of Law, if you look at the recommendation at the very bottom before all of the signatures. Recommendation 1 is a generic recommendation. It recommends that we approve the Plan Amendment. It doesn't specify the option. And Recommendation 2 recommends a C-2. So part of this action, we adopt these Findings of Fact. So how do the Findings of Fact differ from our action. And why didn't the Planning Commission specify which plan amendment that they recommended for our approval."

Ms. Brennan said, "I would read this as saying, we recommend that the plan amendment be approved, and that it be approved in this way with C-2 zoning. I agree, it's not the most crystal clear formulation, but I do believe that is what it is saying."

Councilor Maestas said we have two actions, the Plan Amendment and the Rezone, so there are two separate actions.

Mr. Esquibel said that is correct.

Councilor Maestas said he doesn't know why the Planning Commission didn't specify a specific recommendation to the Governing Body, with regard to the Plan Amendment, since there are two options.

Ms. Brennan said, "Yes. I can't explain that, and all I would say is that you could accept the Findings, adopt them as your own with the modification that it reflect the Plan Amendment, and it wouldn't be C-2, Dan. What would it be."

Mr. Esquibel said the recommendation was for Community Commercial and General Commercial which is C-2. The applicant wanted Industrial I-1, so the applicant's proposal is the request before you now, with the Planning Commission recommendation which is not for the application request, but for the recommendation of Community Commercial and C-2, i.e. General Commercial.

Ms. Brennan said, "So Councilor, you would be modifying that paragraph, "The Commission recommends to the Governing Body, that it approves this land amendment for Community Commercial."

Mayor Gonzales said then the applicant is in support of the recommendation to go to C-2.

Mr. Esquibel said, "I believe the applicant did not mind, but the applicant is here to basically address those concerns."

Councilor Ives said he is trying to understand the specific uses, C-2, Industrial I-1, and making sure he understands what the “p” and “s” stand for in one column, which don’t appear in the other columns. He asked Mr. Esquibel to run through that quickly for him.

Mr. Esquibel said, “In Chapter 14, in the matrix for specific uses, a blank cell is prohibited, an “s” is a use that’s allowed within that District, but requires a special use permit, so a higher level of review going to the Board of Adjustment or the Planning Commission depending on type. A “p” would be permitted outright, and if it has an asterisk attached to it, then there are additional conditions, notes at the bottom of the table that would identify what those conditions were. Such as, if they’re within 200 feet of a neighborhood, then would go automatically to a Planning Commission review, versus just being permitted outright. Or perhaps, in other instances there might be conditions on the limit of time for a specific like a nightclub not being able to operate at certain hours. So those are the differences between a “p,” a blank and an “s.” And if there is an “a” in there, I don’t think I put the “a” in there, but that would be accessory use. If it’s a “p” they go straight to building permit. It’s reviewed under building permits. If it an “s” it comes to the Current Planning Division for review and shipped off to one of the public bodies. If it is blank, it is a prohibited use.”

Councilor Ives asked the current use.

Mr. Esquibel said, “The current use for what they are proposing, Awesome Harvest, that would be a permitted use under either District I-1 or C-2.

Councilor Ives said as he looks through the chart, he doesn’t see any spot with a “p” on both sides.

Mr. Esquibel said, “I did place a full use list in one of the exhibits. I believe those are listed in your Exhibit F, which had both the I-1 and C-2 uses. What I did in the Memo is to identify the differences between the two. It would be page 93 in the packet.”

Councilor Ives asked about the uses surrounding the subject property.

Mr. Esquibel said, “Across the street, along Agua Fria, you have one piece of property that is identified as R-5, Residential. And then, right adjacent to that you have mixed use. And then from that all the way to the intersection is I-2. On the north side, the side where particularly is, we annexed from the County, so it is peppered with non-conformities of both residential as well non-residential uses. Some of them have just been in existence for a long long time, and there’s no record of them at the County, but they’re non-conforming. The County came into effect in 1981, so anything adopted prior to that would be legal non-conforming. As you move further toward that intersection, we came up with the Rivera property, which is the Club Alegria which came before this. And then from that point forward, it’s all C-2. So there’s kind of a mix and a peppering of non-residential uses along that saddle between the Santa Fe River and Agua Fria on the north side. And then you have almost nothing but non-residential I-1 and I-2 all the way to the intersection along the southern end of Agua Fria.”

Councilor River said on page 4 of the Memo, the last category says, "Wholesaling and Distribution Operations, 3,000 sq. ft. of less of storage," and it's prohibited under I-1. Does that mean there will be no wholesaling or distribution operations out of this facility."

Mr. Esquibel said, "We did have some discussion with regard to that particular category, as we did see that too. But when we looked at the old category before the Code changed as of March 12<sup>th</sup>, what it was intended for was a separate distribution warehouse, similar to the Amazon where they would have their warehouse and distribute this. This is clearly another type of use that would fall under the category for manufacturing. Otherwise you wouldn't be able to have a light manufacturing in the C-2 at all, even though it is allowed, because what would they do with the product. The product is allowed to be sold through this, regardless of the 3,000 sq. ft., because you're going to have storage, their product, their material and then they ship it. As to how they ship it is a detail the owner will have to address, but it did fall within the category allowed under C-2, separate from that particular category that was listed in the C-2 use list."

Mayor Gonzales asked, "Could it serve as a retail center, meaning it doesn't have to be retail to a customer, but will it serve as a place where traffic will go in, purchase bulk items, and then come out from a wholesale standpoint. Would that be permitted."

Mr. Esquibel said, "That is correct. Because of the nature of both Districts, they both allow for retail sales. The C-2 is more prominent for that, but it is allowed in an I-1 District."

Mr. Esquibel said, "I want to make sure to everybody here, this isn't a development plan. It is only a rezoning, so a lot of the information we have presented to the Governing Body is specific to a rezoning. The potential of what could be there are any uses that would be approved as part of the change associated with the rezoning."

Mayor Gonzales said then those would have to come back in.

Mr. Esquibel said, "They would be, depending on the size and how they trigger various sections of the Code. It would either be a building permit or a public hearing."

## **Public Hearing**

### **Presentation by the Appellant**

**Joseph Karnes, Sommer Karnes & Associates, 200 West Marcy Street was worn.** Mr. Karnes said he is here tonight on behalf of the property owner and Applicant, BFFM, LLC. The managing partner is John Fox who is present tonight. Also present tonight from Awesome Harvest are Saad Van Anda and Dennis Carter who will be speaking briefly during the public hearing. He said, "I want to make it clear that the Applicant is the property owner, BFFM, LLC, and not Awesome Harvest."

Mr. Karnes said, "Initially I want to thank Mr. Esquibel for a thorough staff report and the Planning Commission for its thorough consideration of the application. As has been discussed, when we initially sat with staff and identified what we thought to be an appropriate request for this application we didn't want to bite off more than we were ready to chew and we focused on the I-1 designation as part of the application. In response to some property owner comments in the area, there was discussion before the Planning Commission, as Mr. Esquibel explained, about the appropriateness of C-2. And we have reviewed the Staff Report, the Planning Commission recommendation and conditions. And the applicant concurs with the recommendation of the Planning Commission and of Planning staff that is in your Staff Report tonight, so C-2 would be an appropriate use. I think it would both facilitate the use of the existing building on the property as well as the front property, up next to Agua Fria."

Mr. Karnes said, "I want to speak real briefly to the history of this property. Back in 1983 or so, it was a 9,000 sq. ft., more or less, metal-sided building, constructed on the northerly portion of the subject property. For years that building was used as part of the Boylan Well Drilling operation. Larry Boylan owned the property at that time. So the property was in the County. The building was constructed in the County, and as Mr. Esquibel explained, when the Phase 2 annexation came into the City, we actually went, Karl Sommer, my law partner, and I went to the ELUC & ELUA. There were a number of changes requested by property owners. And the recommendation at that time was that this property, as well as most of the property on the north side of Agua Fria, including the Rivera property where Club Alegria was, all of that was brought in under the R-1 Zoning designation. We requested that this property, in light of the long-standing use of the 9,000 sq. ft. metal sided industrial building, be zoned accordingly. That was not done by the ELUA and the same thing happened with the Club Alegria property. And so that necessitated the property owners to come in and apply for the General Plan Amendments and the Rezoning. That's what we are here for tonight."

Mr. Karnes continued, "And so the building on the property is suited for a light industrial use. Fortunately, for the property owner and the City, and for this area, Awesome Harvest needs to expand business as Mr. Van Anda will talk about in a few minutes. And this building, rather than building a new facility, this building in this location is a perfect location for them and it's a good use of this building. As Mr. Esquibel said, the reason we're here is that the building is a non-conforming use at the present time. The uses of the building are very limited, so that's what generated the application and the process that we've gone through to get to this point. So, in summary, we are happy with and request your approval of the C-2 Zoning designation and the corresponding General Commercial land use designation. We appreciate all the attention that has been paid to this application. I think the Rezoning will facilitate uses that benefit both the immediate area and the City as a whole. So I'll stand for any questions you may have."

### **Speaking to the Request**

Mayor Gonzales asked to keep any conversations specific to the request before us.

**Saad Van Anda was sworn.** He said, "We are Awesome Harvest. We used to operate over at 901 Early Street. We've taken on a few new accounts and are a rapidly growing company here locally. We should be having approximately 32 employees with the next year, and 64 within the next 2-3 years. The Boylan facility is perfect for our applications, and we view ourselves an asset to the community. We would like to have your blessing on this Zoning.

**Eric Fouts, 54 Paseo Aragon, was sworn.** Mr. Fouts said he is one of the owners of the property next door, toward town, which is 2725 Agua Fria and they also have an option to purchase another 12 acres which also adjoins this property at 2639 Agua Fria. He said, "We are currently in design of an apartment complex. That property currently is zoned C-1 PUD, but we would like to do a residential complex there. Just wanted to let the Governing Body know we hope to have residential use next to this property. And we see the C-2 Zoning as the more appropriate zoning than the I-1 Zoning, next to a residential property. We think it provides a little less uncertainty to future business for the neighbors and the neighborhood. We do support this zoning change, and we support Awesome Harvest, and I just want to say we would like to see the C-2 versus the I-1. Thank you."

**The Public Hearing was closed**

Responding to Councilor Lindell, Ms. Brennan said, "Councilor, I think you can, if your intention is to move to accept the recommendations of the Planning Commission and approve the designation of C-2 or the Planned Amendment of Community Commercial. And the second motion would be to rezone to C-2. You can do that."

Councilor Dominguez asked if the Applicant would have to reapply if we take this action, and Ms. Brennan said, "No. Your approval is your approval."

**MOTION:** Councilor Lindell moved, seconded by Councilor Maestas, to adopt Resolution No. 2014-87, accepting the recommendation of the Planning Commission approving the General Plan Future Land Use Map Amendment from Rural/Mountain Corridor to Community Commercial, with all conditions as recommended by staff, and adopting the Findings of Fact and Conclusions of Law of the Planning Commission with the modification to Finding #1, to accept the Plan Amendment to Community Commercial.

**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.

Mayor Gonzales congratulated Awesome Harvest and thanked them for betting on our community to build this incredible business, and we're all going to be rooting for you and wished them the best.

- 4) **CONSIDERATION OF BILL NO. 2014-27 AND BILL NO. 2014-28: ADOPTION OF ORDINANCE NO. 2014-32. CASE #2014-65. 2750 BOYLAN CIRCLE AND 1400 BOYLAN LANE GENERAL REZONING. SOMMER, KARNES & ASSOCIATES, LLP, AGENT FOR BFFM, REQUESTS REZONING TO CHANGE THE DESIGNATION OF 3.86± ACRES FROM R-1 (RESIDENTIAL, 1 DWELLING UNIT PER ACRE) TO I- 1 (LIGHT INDUSTRIAL). (THE RECOMMENDATION OF THE PLANNING COMMISSION WAS TO DENY THE REQUEST TO REZONE FROM R-1 (RESIDENTIAL, 1 DWELLING UNIT PER ACRE) TO I-1 (LIGHT INDUSTRIAL) AND TO REZONE FROM R-1 (RESIDENTIAL, 1 DWELLING UNIT PER ACRE) TO C-1 (GENERAL COMMERCIAL. (DAN ESQUIBEL).**

**MOTION:** Councilor Maestas moved, seconded by Councilor Trujillo, to adopt Ordinance No. 2014-32, approving the Rezoning from R-1 to C-2, 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.

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

A copy of "Bills and Resolutions scheduled for introduction by members of the Governing Body," for the Council meeting of October 8, 2014, is incorporated herewith to these minutes as Exhibit "7."

### **Councilor Dimas**

Councilor Dimas introduced a Resolution adopting the City of Santa Fe Multi-Hazard Mitigation Plan. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "8."

### **Councilor Maestas**

Councilor Maestas introduced a Resolution in the interest of public safety, directing Parking Division staff to remove four parking meter spaces on Canyon Road eastbound, from Paseo de Peralta to Delgado Street. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "9."

Councilor Maestas asked if there has been a response from the Attorney General regarding a clarification of specifically prohibited taxing authority.

Ms. Brennan said we have not received a response, nothing we checked-in with our Legislative Delegation and we have received no response. Ms. Brennan noted we urged our Delegation to request an Attorney General's Opinion. Ms. Brennan said she assumes at this point we might not get a response until after the election.

Ms. Brennan reminded Councilor Maestas that she has not done the IG report which she will be happy to make, now or later.

Councilor Maestas said we can do Matters from the Governing Body and then cover that.

Councilor Maestas said some of the people out there who are concerned about the recent modifications to the Busker Ordinance, are inquiring about the evaluation. He said that Ordinance required a formal evaluation of the Ordinance. He asked if we have passed that deadline.

Ms. Brennan said she believes the work has begun, but can't say with certainty it has. She said Councilor Lindell is indicating it has been done, and she believes the Committee is working on some matters with respect to that Ordinance.

### **Councilor Ives**

Councilor Ives introduced a Resolution endorsing the efforts of New Mexico Mission of Mercy ("MOM") to provide no cost dental care to the indigent residents of Santa Fe and authorizing the waiver of fees for use of the Santa Fe Community Convention Center for the MOM event on April 29-30, 2016. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "10."

Councilor Ives said he would like to join as a co-sponsor on the Mayor's Resolutions, Councilor Dominguez's Ordinance and Councilor Maestas's Resolution.

## **Mayor Gonzales**

Mayor Gonzales introduced the following:

1. A Resolution directing staff to analyze the potential opportunities of establishing public banking functions for the City of Santa Fe and projecting whether a public bank would provide a long term benefit for local businesses and residents. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "11."
2. A Resolution relating to the challenge of First Lady Michelle Obama to end veteran homelessness by 2015; accepting the challenge and directing staff to explore the resources and programs provided by the federal government that would help end veteran homelessness in our community by the end of 2015. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "12."

## **Councilor Dominguez**

Councilor Dominguez thanked Mayor Gonzales for attending the Breast Cancer Walk this weekend, and thanked staff for their efforts in making sure that event happens.

Councilor Dominguez said on Saturday, 1:00 to 4:00 p.m., at Zona del Sol they will be having a block party with music, food, face painting, to celebrate the work done so far to improve the quality of life for people living on the south side. It is also to set the stage for the next annual symposium we will be having in December, and he will be providing more information about that.

Councilor Dominguez introduced an Ordinance relating to redistricting; creating a new Section 6-18 SFCC 1987, to establish an Independent Citizens' Redistricting Commission; amending the Santa Fe Election Code, Section 9-1 SFCC 1987, to require that the Independent Citizens' Redistricting Commission shall review and revise the City of Santa Fe District boundaries at least every ten years; and making such other changes as are necessary. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "13."

Councilor Dominguez said he would like to have input on this Ordinance from the Governing Body sooner, rather than later. He said staff has done a good job getting us to the point where the Governing Body has as little influence as possible over the Commission. He is open to any ideas from the Governing Body.

### **Councilor Lindell**

Councilor Lindell introduced an Ordinance relating to the City of Santa Fe Animal Services Ordinance, Chapter 5 SFCC 1987; amending Section 5-8 to establish that trapping furbearing animals for commercial or recreational use is prohibited on lands within the municipal boundaries of the City of Santa Fe. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "14."

### **Councilor Trujillo**

Councilor Trujillo said he would like to be added as a cosponsor on Councilors Ives' and Dominguez's Ordinances.

### **Councilor Rivera**

Councilor Rivera introduced a Resolution declaring the Governing Body's ongoing support for the homeless community, local businesses and established residential neighborhoods; directing staff to analyze and report back to the Governing Body on the overall operation of the One-Stop for Homeless Services and Winter Shelter, located at 2801 Cerrillos Road and whether the shelter should be expanded or relocated to meet the ongoing needs of the homeless community. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "15."

## **15. PURSUANT TO RESOLUTION #2014-65, FINDINGS AND RECOMMENDATIONS REGARDING CREATING AN INDEPENDENT OFFICE OF INSPECTOR GENERAL. (KELLEY BRENNAN)**

A copy of Resolution No. 2014-65, A Resolution directing staff to identify the benefits, feasibility, needs and options for creating an independent Office of Inspector General, introduced by Councilor Joseph Maestas, is incorporated herewith to these minutes as Exhibit "16."

Kelley Brennan, City Attorney said, "You had asked us to look into the benefits, the possibility of an Inspector General, the benefits of an Inspector General, of creating an Office of Inspector General, identifying any issues, and suggesting perhaps a model for how the City would create the office. The initial question was why an Inspector General. We have an Ethics Review Board, we have an Internal Auditor. However, both of those offices are insufficient to fully protect the public interest.

Ms. Brennan continued, "The Ethics Review Board addresses violations of ethics ordinances based on complaints. It does not pro-actively address fraud, waste and abuse. The Internal Auditor addresses financial and performance issues and, again, does not pro-actively address fraud, waste and abuse issues. An Inspector General performs audits but also has the additional authority to investigate fraud, waste and misuse of government funds. And we would recommend it also have subpoena power and the power to enforce the subpoena in court."

Ms. Brennan continued, "We found in our research that establishment of Office of the Inspector General functions is expanding. It started out as a federal office typically and then expanded into federal agencies, to states, I think New York has had one for a long time, and now has expanded to municipalities. And the Inspector General both detects and reduces waste and reduces wrong-doing. So they identify efficiencies in government that result in savings on operations but aren't sort of cash in the bank, and at the same time their role is to look for fraud and abuse that may result in overpayments, over-billing on contracts and to recover actual cash in the bank."

Ms. Brennan continued, "The issue in creating an Office of Inspector General is typically one of assuring independence. Most people want a high degree of confidence that the people who have a stake in the outcome of investigations have minimal effect on the Inspector General. But at the same time, you don't want to create a free-flowing person that might go off and be sort of a rogue investigator. They're typically.... New Orleans uses its Ethics Review Board to select the Inspector General. Albuquerque has a Government Oversight Committee which takes applications for the office, ranks 3 according to specific criteria and then submits those to the Council. And the Council chooses the Inspector General from that list."

Ms. Brennan continued, "Other entities will have a judge appoint, will establish a nominating panel that dissolves once that office is filled. The term ranges in municipalities and counties that have inspector generals from one year through however long before they are removed or leave the office. Removal is typically for cause and some organizations require a 2/3 vote of the committee that appointed them, or a public hearing or those kinds of things. Powers. They need to provide for subpoena power so they can get the records they need to conduct their investigations. That might be, for example, for an outside contractor that is suspected of over-billing. Obviously, City offices would be required to turn over documents, but outside entities would not. And they would need the power to enforce the subpoena in Court."

Ms. Brennan continued, "Limitations on powers. Typically you would not want an Inspector General to investigate current litigation, employment litigation and discrimination matters, because those have effects on liabilities. Once a litigation was completed, I think it would be within the purview of an inspector general to look at whether litigation was being handled properly or whether there was not discrimination. For instance, I would sue one person over here for something, but not someone over here because they were a friend of my husband. That would be a proper investigation, but the actual circumstances of the litigation would not be, and you would want to make that distinction."

Ms. Brennan continued, "And then, of course, a big concern are public records. Are records generated by an Inspector General public, when do they become public at the conclusion of an investigation, or are they always public. And obviously something that hampers an investigation you would try to protect until the investigation was complete and a report was rendered."

Ms. Brennan continued, "Funding. The big question. Most entities that have Inspector Generals do allocate funds from their General Fund for the office. But what they have found is that the office fundamentally pays for itself through the savings it generates in the recovered cash. And I have two examples. Miami, Dade County, between 2008 and 2009 had a budget of \$5.5 million, and they recovered in that same year, \$9.1 million in questionable costs and losses and averted \$9.1 million in losses. So they had both kinds. They recovered real cash and they generated efficiencies in how they operated. And Montgomery County Maryland, over a 5 year period, had a \$2.8 million operating cost and identified \$13 million in questionable costs or potential savings, and recovered or recommended the better use of \$25 million in county funds."

Ms. Brennan continued, "Almost across the Board, our research indicated that they paid for themselves. Nevertheless there is an appropriation required to fund the office, at least initially. As an example that is closer to home in every respect in terms of size and geography, Albuquerque has an Office of Inspector General and they allocate about \$330,000 a year and they spend about \$300,000 a year on outside investigators. And they have 3 employees, one person staffing. I think that's a little larger."

Ms. Brennan continued, "So we looked at our Ordinances and we could see to create an Office of Inspector General, perhaps the most efficient way to start in the City would be to use the Internal Auditor function that's currently existing. There is an Ordinance that created an independent committee or as independent as you could expect, the Audit Committee. Make the Committee into an oversight committee and create a position within to either co-exist or be under the management of the Internal Auditor. And Ms. Kerr thought she could find a Certified Fraud Investigator which is a category of certification for a salary for something between \$60,000 and \$65,000. And so that would be a start and could perhaps over time, if very successful, be moved into an independent office. And I think the next step, if you direct us to, would be to draft an ordinance for consideration."

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

- Mayor Gonzales said, "The examples you stated and the recoveries all seem, including Albuquerque, substantial governments. What is the size of Albuquerque's budget and the total number of employees."

Ms. Brennan said they have three, what she assumes are investigators.

- Mayor Gonzales said, "The total Albuquerque budget. Do we know what it is."

Ms. Brennan said no.

- Mayor Gonzales said, "I guess where I was going on this, it's a move in the right direction. For sure, the issues, I don't want us to kid ourselves that we will be able to recover the cost. I don't know that we do enough transactions to find enough of the waste *per se*. Now there can be direction that is certainly given. I think the proposal you offered seems to make some sense, if

there is some authority by the Independent Auditor to engage fraud specialty services where they fell there is something that rises to that occurrence. It seems like that could make some sense. And I don't know, do we have the ability to change the name of the Independent Auditor to an Inspector General."

Ms. Brennan said that would be part of the Ordinance. She said, "And the Internal Auditor, I believe, had asked for an expansion in the last budget cycle because she felt she could use another person. And this would allow her to pick up some of that load. And already items from the fraud and abuse hotline are directed to her. She also receives, sort of independent complaints. She's the person they get directed to. So some of those things are already moving in the direction of her office. I think it could be changed. So it would be a modest beginning, and an experiment that could then be built on."

- Councilor Dominguez said the authority needed by the Internal Auditor, needs to be incorporated into that piece of legislation. He said as is, the Internal Auditor is an employee of the City Manager. And so that autonomy to be a functional OIG needs to be built into some of that legislation.
- Councilor Rivera asked the size of the two entities Ms. Brennan stated, Miami Dade and one other.

Ms. Brennan said one in Maryland and Miami Dade. She said, "They are much larger. They have offices with 50 employees, and very sophisticated operations. We didn't find, certainly I didn't find any references to cities the size of Santa Fe, which doesn't mean that they don't have Inspectors General. I think it means they are not getting written about. The larger entities probably were formed longer ago and have a longer record to be written about. It's a relatively new phenomenon for municipalities. I will say that New York, Chicago, Philadelphia, Miami Dade, the Maryland counties, all did have dramatic results. I think part of the issue is not that there is rampant fraud, but that there are things that can be buttoned down and yield savings."

Ms. Brennan continued, "I think that one of the things that seemed evident in some of the articles, was there was an element of surprise that it generated as many efficiencies in the governments that took them on."

- Councilor Rivera asked how much money Albuquerque has recouped in its program.

Ms. Brennan said, "I could not find that out. I talked to a couple of people down there, and I didn't hear that, but I have heard that the program is successful.

- Councilor Rivera asked if the salary stated of \$65,000 includes benefits and such, or is it just salary.

Ms. Brennan said that's correct, it's just salary.

- Councilor Rivera said typically it's a little more or less than double.

Mr. Snyder said typically we use 1.4 or 1.5, so it would be somewhere around \$100,000.

Councilor Maestas said, "First of all we already have some processes and groups that are dancing around really addressing fraud, waste and abuse. We have an Ethics Board, but they don't quite do that. We have an Internal Auditor who doesn't quite do that. I think we're raising expectations in terms of the City's intent to investigate fraud, waste and abuse. For example, the Fraud Hotline. But if you look at the Internal Auditor's function, that's really important, but I think we need some dedicated resources are independent. And as Councilor Dominguez said earlier, a lot of employees contact us, anonymously, to raise complaints and concerns. But I am sure they still feel like the current arrangement is not as transparent and objective as, for example, having an independent IG would create I think maybe less concern about fear of retaliation."

Councilor Maestas continued, "So I think employees would come forward. I think we would get more anonymous disclosures of fraud, waste and abuse by creating this independent function that does focus on investigating fraud, waste and abuse. And not only that, I think it would send a message that we're serious about this issue, that the City Government is beyond reproach when it comes to fraud, waste and abuse. And I think the recommendations put forth are very very modest. It's a very modest start and I would ask my colleagues to be open to this, to consider this and we can always take a look and investigate the cases coming in, the case load and then make decisions from there whether to expand or stay the same, or reconsider it. There are also, I believe, Kelley, there are provisions for the establishment of an IG in the Ethics Ordinance, correct."

Ms. Brennan said that is correct. There is a provision authorizing an independent Office of Inspector General.

Councilor Maestas said we are fulfilling our role per the Charter and our ethics framework by taking this step.

- Councilor Ives asked if we have statistics on the number and nature of matters reported on the Fraud and Waste Hotline, and what investigations have been done and the results or conclusions about those efforts.

Ms. Brennan said no. She said Ms. Kerr indicated in the summer that she had received a number of complaints and tried to look into them or to work them into her schedule. It seemed clear to me that she had enough complaints that it constituted a question in her mind about handling them.

- Councilor Rivera said, "Since I brought up the Resolution regarding the Fraud, Waste and Abuse Hotline, I'm been tracking it. And I think it was last month that they finally went out to bid for a company that could receive the complaints from employee which would be anonymous and figure

out a way the complaints would get to Lisa and then filter to whichever department. However, this was just done last month. As far as the way the Hotline is supposed to function, I'm not sure we're even quite there yet. I know the contract was a small amount, less than \$5,000, which was within the City Manager's approval to budget within the amount that he's given authority to do. I don't know if that's come to you yet."

Mr. Snyder said he hasn't seen that yet.

- Councilor Rivera said then we're probably not functioning the way the Ordinance and the Hotline are meant to function.

Ms. Brennan said, "Which is to provide, I think, a fraud monitor or a call monitor that will assure anonymity to the callers."

- Councilor Ives said, "And I suppose what I'm trying to figure out is, what is the extent of our problem. If somebody is saying.... the possible complaints could range from the mundane to the deeply troubling, and I would love to understand the nature of the problem before trying to figure out what I think is the best and appropriate solution. So I would love to have some statistics on what kinds of calls we've been getting. I think it would be helpful to have Lisa indicate her capacity to follow up on those. Again, I'm in just a little bit of a vacuum in terms of my knowledge."

Ms. Brennan said, "I understand. I think that what Lisa indicated to me is that she didn't have much capacity to follow up and was a little concerned about that. We could attempt, along Councilor Dominguez's lines, to look at what an ordinance would look like and bring something forward with data that would explain why certain choices had been made."

- Councilor Ives said he would be interested in the data, first and foremost, but yes, if we could get that, it would be very helpful to him.
- Councilor Dimas said, "We'll have our own internal Affairs Division within the City, basically. Will this person have authority if they do find criminal activity, to take that directly to the District Attorney's Office for investigation and possible indictments, or however that happens, rather than going through any divisions or departments."

Ms. Brennan said, "Yes, that is typical of Inspectors General that if they identify criminal activity that they take it to a prosecuting authority."

- Councilor Dimas said, "So they would be, in essence, certified. They would probably have to be certified police officers within the State of New Mexico, I would assume."

Ms. Brennan said, "A background in law enforcement is one of the typical qualifications for IG's, and I'm not exactly sure how that would work, rather than prosecuted, perhaps a referral to the DA for further investigation which I don't believe would require an officer. But very typically, a background in law enforcement with experience in investigations is one of the qualifications that many jurisdictions look for."

- Councilor Dimas said he thinks it's a good idea and something that has been needed. He said, "We've had instances within the City, within the Parking Division and other areas that have been under investigation and, in my opinion, those were never thoroughly investigated and there was really no outcome on it. So with that being said, I think a lot of times, they can continue a lot of the investigations that were started and never really completed if they were in that position, so there may be some cold cases out there also from some of these complaints that could be reinvestigated and brought forward again. So, great idea. Hope we can find the funding for it."
- Mayor Gonzales said, "It does seem, as has been indicated, that the City taken a lot of steps in toward the direction of being able to create an independent auditor or inspector to do all the things we've talked about. So, the issue of the Ethics Committee, it's strong. There's an Internal Audit requirement now as part of our Charter. I think the State has a sunshine law in terms of IPRA and making things available. It seems like the issue would be, and as Councilor Maestas said, this is a modest step, but the issue is really to pull it all together in a way that allows for the true objectives to be achieved ultimately. If it's discovering fraud and addressing it, having the means to do it. If it's driving savings, I think those are all areas we can do. But short of that or a complement to that, it doesn't abdicate us as Councilors to find things we can do on our own through policy, like going through a review of how much of our records could go on line. Or funding ways to get more of our own records on line so we don't have to spend so much time going through IPRA request. Being able to challenge ourselves to find more efficiencies through business processes, those are all the opportunities we have to do that work."
- Mayor Gonzales continued, "And I know you guys at Finance Committee and at Public Works and other Committees are doing that constantly, and constantly providing that oversight. So, I look forward to it coming back. I am, obviously, wanting us to be very conscious of the costs associated with this, especially if it could be minimal or modest when it comes to tightening it up and maybe giving, through Ordinance, a little bit more power that might be needed and create a little bit more independence. But I think we have to be smart and measured in how we proceed forward on this. So cool. Good work Councilor Maestas in bringing this forward."

## **I. ADJOURN**

The was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 9:45 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

CITY COUNCIL MEETING  
EXECUTIVE SESSION  
October 8, 2014

The governing body of the City of Santa Fe met in an executive session duly called on October 8, 2014 beginning at 7:12 p.m.

**The following was discussed:**

- 1) In Accordance with the New Mexico Open Meetings Act §10-15-1(H)(7) NMSA 1978, Discussion Regarding Pending and Threatened Litigation in Which the City of Santa Fe Is or May Become a Participant.

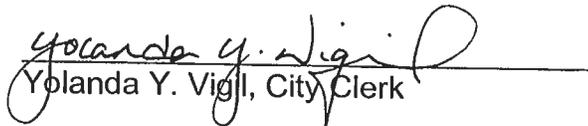
PRESENT

Mayor Gonzales  
Councilor Bushee  
Councilor Dimas  
Councilor Dominguez  
Councilor Ives  
Councilor Lindell  
Councilor Maestas (out 7:27 p.m. – 7:32 p.m.)  
Councilor Rivera  
Councilor Trujillo

STAFF PRESENT

Brian K. Snyder, City Manager  
Kelley A. Brennan, City Attorney  
Yolanda Y. Vigil, City Clerk  
Blake Whitcomb, Assistant City Attorney  
Marcos Martinez, Assistant City Attorney  
Zachary Shandler, Assistant City Attorney  
Nick Schiavo, Acting Public Utilities Director  
Terrie Rodriguez, Youth & Family Services Division Director  
Matthew O'Reilly, Asset Development Director  
Jon Bulthuis, Transit Director  
Ken Smithson, Transit Division Director of Operations and Maintenance  
Chief Eric Garcia, Police Department  
Jeffrey Albright, Attorney, Lewis, Roca and Rothgerber (out 7:27 p.m. – 7:45 p.m.)

There being no further business to discuss, the executive session adjourned at 7:45 p.m.

  
Yolanda Y. Vigil, City Clerk