

**MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
October 29, 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 29, 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

Mayor Gonzales said the City launched a mentorship program two weeks ago called *Inspire Santa Fe*, with the idea of connecting our youth to mentors in our community. He said as part of that effort he is mentoring two High School students: Bailey Colfax and Jesus Castillo. He encouraged the Councilors to consider mentoring. He said Bailey and Jesus are very bright, excited, ready to graduate and go on to other things. He looks forward to working with the students. He said Miss Colfax is very interested in political science, wants to go to law school, and come back to Santa Fe and working with many people in the community who need assistance on a regular basis from the law.

6. APPROVAL OF AGENDA

Mr. Snyder asked to remove Item 10(b) to reconsider the way it was advertised and bid.

Councilor Dominguez asked if Item #12 on the Agenda is for final approval tonight, noting there will be further discussion at Public Works and Finance Committee.

Mr. Snyder said it is not for final approval. He said Mr. Pino going through a status summary, as well as the schedule. It is going to Finance on Monday, Public Utilities on Wednesday, Public Works the following Monday, then back to the City Council in November. This isn't the last time the Council will be seeing, but it will initiate the conversation.

Mayor Gonzales said there will be discussion tonight, and the Governing Body will act on this item at the meeting on November 12, 2014. He said Mr. Duran indicated direction was given at Public Works that we would work to identify the projects in the CIP as those that likely would be supported, given some of the direction given by the Governor and the Legislature on capital projects. He said, given the current environment, we can look and understand what might be actually funded if included by any of our area legislators. He said this way we can do more diligence before coming before the Governing Body, so we can select those with a better chance for funding at the Legislature.

MOTION: Councilor Dominguez moved, seconded by Councilor Trujillo, to approve the agenda, as amended

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

7. APPROVAL OF CONSENT CALENDAR

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

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

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

Against: None.

10. CONSENT CALENDAR

- a) **BID NO. 15/01/B – FY 2014/15 WASTEWATER MANAGEMENT DIVISION, RUFINA STREET SANITARY SEWER LINE REHABILITATION PROJECT AND AGREEMENT BETWEEN OWNER AND CONTRACTOR; SASQUATCH, INC. (STAN HOLLAND)**
 - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – PROJECT FUND.**

- b) **BID NO. 15/05/B – SECURITY SERVICES AT SANTA FE MUNICIPAL AIRPORT; AAA SECURITY. (FRANCEY JESSON)**
 - 1) **REQUEST FOR APPROVAL TO INCREASE COMMERCIAL AIRCRAFT LANDING FEES.**
 - 2) **REQUEST FOR APPROVAL OF BUDGET INCREASE – AIRPORT FUND.**
This item was removed from the Agenda for consideration of the way it was advertised and bid

- c) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – PROJECT MANAGER FOR CAPITAL APPROPRIATION PROJECT #13-L-1772; EL MUSEO CULTURAL DE SANTA FE, INC. (DAVID CHAPMAN)**

- d) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – PROJECT MANAGER FOR CAPITAL APPROPRIATION PROJECT #13-L-1774; LA COMUNIDAD DE LOS NINOS HEAD START, INC./PRESBYTERIAN MEDICAL SERVICES. (DAVID CHAPMAN)**

- e) **REQUEST FOR APPROVAL OF GRANT AWARD AND SUB-GRANT AGREEMENT – 2013 STATE HOMELAND SECURITY GRANT PROGRAM; NEW MEXICO DEPARTMENT OF HOMELAND SECURITY & EMERGENCY MANAGEMENT. (ANDREW PHELPS)**
 - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND.**

- f) **REQUEST FOR APPROVAL OF MEMORANDUM OF UNDERSTANDING (MOU) – DAY REPORTING PROGRAM SERVICES FOR JUVENILE JUSTICE SYSTEM THROUGH STATE OF NEW MEXICO CHILDREN, YOUTH AND FAMILIES DEPARTMENT FUNDING; SANTA FE COUNTY. (RICHARD DeMELLA)**

- g) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – CITY OF SANTA FE VOLUNTEER TRAILS COORDINATOR; SANTA FE CONSERVATION TRUST. (LEROY PACHECO)**

- h) ***[Removed for discussion by Councilor Bushee]***

- i) ***[Removed for discussion by Councilor Bushee]***

- j) **REQUEST FOR APPROVAL OF AWARD AND AGREEMENT – 2012 GENERAL OBLIGATION BOND CAPITAL APPROPRIATION PROJECT FUND FOR LIBRARY BOOKS, MATERIALS, EQUIPMENT AND SUPPLIES FOR SANTA FE PUBLIC LIBRARY; STATE OF NEW MEXICO DEPARTMENT OF CULTURAL AFFAIRS, NEW MEXICO STATE LIBRARY DIVISION. (PATRICIA HODAPP)**
 - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – GO BOND FUND.**

- k) **REQUEST FOR APPROVAL OF GRANT AWARD AND GRANT AGREEMENT – FY 2014 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM; DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE ASSISTANCE (BJA). (DEPUTY POLICE CHIEF MARIO SALBIDREZ)**
 - 1) **REQUEST FOR APPROVAL OF MEMORANDUM OF UNDERSTANDING – JOINT APPLICATION; COUNTY OF SANTA FE.**
 - 2) **REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND.**

- l) **REQUEST FOR APPROVAL OF GRANT AWARD AND GRANT AGREEMENT – PROJECTS AIMED AT REDUCING TRAFFIC-RELATED INJURIES AND DEATHS; NEW MEXICO DEPARTMENT OF TRANSPORTATION. (MARIO SALBIDREZ, DEPUTY POLICE CHIEF)**
 - A. **END DRIVING WHILE IMPAIRED (ENDWI)**
 - B. **BUCKLE-UP (BLKUP)/CLICK IT OR TICKET (CLOT)**
 - C. **100 DAYS AND NIGHTS OF SUMMER (100 DAYS)**
 - D. **DISTRACTED DRIVING (DNTXT)**
 - 1. **REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND.**

- m) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER COOPERATIVE PRICE AGREEMENT – TEN (10) EMS GURNEYS FOR FIRE DEPARTMENT; STRYKER EMS EQUIPMENT. (JAN SNYDER)**

- n) **REQUEST FOR APPROVAL OF SOLE SOURCE PROCUREMENT AND PROFESSIONAL SERVICES AGREEMENT – DRUG AND DUI COURT PROGRAMS FOR SANTA FE MUNICIPAL COURT; MILLENNIUM TREATMENT SERVICES, INC. (JUDGE ANN YALMAN)**

- o) **REQUEST TO PUBLISH NOTICE OF PUBLIC HEARING FOR DECEMBER 10, 2014: BILL NO. 2014-32: AN ORDINANCE RELATING TO EARLY NEIGHBORHOOD NOTIFICATION (ENN); AMENDING SUBSECTION 14-3.1(F)(3) SFCC 1987 TO REQUIRE THAT AN ENN BE CONDUCTED FOR NEW PARKS OR RECONSTRUCTION OR EXPANSION OF EXISTING PARKS; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY TO CARRY OUT THE INTENT OF THIS ORDINANCE (COUNCILOR DOMINGUEZ AND COUNCILOR BUSHEE). (DAVID PFEIFER)**

- p) **CONSIDERATION OF RESOLUTION NO. 2014-88 (COUNCILOR BUSHEE AND COUNCILOR LINDELL). A RESOLUTION AMENDING RULE 16A OF THE CITY OF SANTA FE PERSONNEL RULES AND REGULATIONS REGARDING DRUG AND ALCOHOL TESTING POLICIES FOR TRANSIT DIVISION EMPLOYEES WHO PERFORM SAFETY SENSITIVE FUNCTIONS. (DEBBIE ROUSE)**
- q) **CONSIDERATION OF RESOLUTION NO. 2014-89 (MAYOR GONZALES, COUNCILOR IVES, AND COUNCILOR MAESTAS, COUNCILOR BUSHEE AND COUNCILOR DOMINGUEZ). 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. (KATE NOBLE)**
- r) **CONSIDERATION OF RESOLUTION NO. 2014-90 (MAYOR GONZALES, AND COUNCILOR IVES AND COUNCILOR BUSHEE)). 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 2015 (MAYOR GONZALES AND COUNCILOR IVES). (ALEXANDRA LADD)**
- s) ***[Removed for discussion by Councilor Bushee]***

8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – OCTOBER 8, 2014.

MOTION: Councilor Trujillo moved, seconded by Councilor Rivera, to approve the minutes of the Regular City Council meeting of October 8, 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) **EMPLOYEES OF THE MONTH FOR SEPTEMBER 2014 – DANNY ZIMPLEMAN, SWIM INSTRUCTOR; LUIS CASTILLO, WATER SAFETY INSTRUCTOR; AND ANDREW GONZALES, POOL TECHNICIAN.**

Councilor Rivera presenting. Councilor Rivera read the letter of nomination into the record, and presented them with Muchas Gracias Certificates, and a check for \$100 from the Employee Benefits Committee, to be split among them.

Councilor Rivera said during his years at the Fire Department, he was a paramedic and without quick acting people like Danny and the team, that situation could have ended up much much worse.

Danny Zimpleman said none of this would have been possible without his team, and spoke about the event. He said the team trains together.

Andrew Gonzales said he has been in the industry and a City employee for a long time. He said teamwork such as they did that day which really makes a difference, and which makes him proud to be a City employee and a part of this team and this community. He thanked the members of the staff and the staff at the Chavez Center and the Recreation Division. He said it is a pleasure to serve this community.

Councilor Rivera said they should be proud of themselves, and said he and the rest of the members of the Governing Body are very proud of them and thanked them for what you do every day.

b) EMPLOYEE OF THE MONTH FOR OCTOBER 2014 – WILLIAM PERDUE, POLICE DEPARTMENT PUBLIC SAFETY AIDE.

Councilor Dimas presenting. Councilor Dimas read the letter of nomination into the record and presented Officer Perdue with a Muchas Gracias Certificate, and a check for \$100 from the Employee Benefits Committee. Councilor Dimas spoke about his relationship with Officer Perdue and his wife in coaching girls basketball at Santa Fe High School.

Mayor Gonzales said he tries to ask the Councilors to come up for these kinds of items, because although his name is on each certificate as Mayor, he knows every Councilor appreciates the hard work by our employees. He thanked all employees for working to make Santa Fe a better place, and said we are thankful to all of the employees and their families for the services they provide.

c) PROCLAMATION – DYSLEXIA AWARENESS MONTH – OCTOBER 2014. (MAYOR GONZALES)

Mayor Gonzales read the proclamation into the record, and presented the original Proclamation to the representative in attendance.

The representative in attendance Introduced the members of the Board in attendance, and recognized the faculty and students in attendance. She said these students learn to read in a different way, and with appropriate instruction, understanding and intervention, they can go on to become leaders in our country and the City. She thanked the Governing Body for recognizing this is an important issue.

**d) KIWANIS CLUB OF SANTA FE'S DISTINGUISHED SERVICES AWARDS –
LIEUTENANT MARVIN PAULK, SERGEANT JAMES LAMB AND SERGEANT CHRIS
McCORD. (RAY SANDOVAL, ZOZOBRA EVENT COMMITTEE CHAIR)**

Ray Sandoval presenting, assisted by Mayor Gonzales and Chief Garcia. Mr. Sandoval said this is an example of the three individuals who worked to make things work. He said they had the most successful Zozobra on record, which is due to cooperation with the Police Department, in particular 3 these individuals. They listened to neighborhood emerging concerns. He said this is an example that when we “roll up our sleeves,” we can accomplish anything. He said with their help we delivered a “world class event for our world class City.”

Mr. Sandoval, assisted by the Mayor Gonzales and Chief Garcia, presented the officers with an award. He recognized the members of Kiwanis in attendance. He presented the members of the Governing Body with Zozobra chocolates.

Mayor Gonzales thanked the Kiwanis for their help to the youth of the community, as well as putting on Zozobra. Kiwanis provide scholarships to our youth to go College. He said it means a lot to us that the Kiwanis are continuously looking at how to take an iconic event and use it to generate more money for the youth in the community. He thanked the Police Officers for their work in demonstrating that with 40,000 plus people, that creative, innovative, out-of-the-box thinking, willingness to work along with organizers, which showed this community that we have a police force which ready to assist, as well as incredibly smart, talented, creative and can execute a plan that protects our community. He said we are thankful for the work they do every day, as well in these very large events which we just want to get through safely.

**e) MUCHAS GRACIAS – MIRANDA VISCOLI – CREATING AWARENESS OF THE
PROBLEM OF GUN VIOLENCE AND PROMOTING POLICIES AND MEASURES TO
ELIMINATE GUN VIOLENCE IN OUR SCHOOLS, COMMUNITY AND STATE.
(COUNCILOR IVES)**

Councilor Ives presenting. Councilor Ives read the Muchas Gracias Certificate into the record, and presented it to Miranda Viscoli. He said she has been very involved in the pledge against gun violence in the school, and asked her to update that effort..

Ms. Viscoli thanked Mayor Gonzales and the City Council, and said she accepts on behalf of everybody at New Mexicans For Gun Safety. She said thousands of students signed the Student Pledge Against Gun Violence, as well as parents locking up their guns. She said they care about this because the third leading cause of death in 2013 for kids 1-18, was homicide, and 74% in New Mexico were done by a firearm. She said the effort speaks to keeping our children safe. She thanked the City, commenting we wouldn't be where we are today with gun violence prevention in new Mexico without the City. For the past two years, Santa Fe has stood behind them, signing resolutions, paying for bus adds, noting the Mayor just did a proclamation for the Student Pledge against Gun Violence. In addition, the City has sponsored their

rallies to gut HB-77 to close the gun show loophole past. She said this means when you are being courageous leaders when many national and State leaders are ignoring the gun violence epidemic in the Country, they can take this Resolution to all of New Mexico. The New Mexicans for Gun Safety gave Rio Arriba the same Resolution passed last year, and Rio Arriba passed it unanimously. Espanola is doing the same thing and then they're taking it to Las Cruces. She said, "we owe a big super applause for this City for not ignoring gun safety."

Mayor Gonzales thanked Ms. Viscoli for the work she and the people of this community do to prevent gun violence, especially among the youth. He said he was invited to participate in the Pledge at DeVargas Middle School, and it was very moving to watch all the 7th and 8th graders line up to take the pledge, and understand the pledge was more than their signature on a piece of paper. It was their commitment to ensure they never turn to guns or use them to act out in violence and to walk away from others as well as education others on the importance of walking away. He said, "I left there feeling so helpful about the promise of our future with our children, because they're getting it too. So thank you very much for the work you're doing. We appreciate it."

CONSENT CALENDAR DISCUSSION

11(h) REQUEST FOR APPROVAL OF AMENDMENT NO. 3 TO PROFESSIONAL SERVICES AGREEMENT – ON CALL ENGINEERING SERVICES FOR PHASE I RESERVOIR INFRASTRUCTURE IMPROVEMENTS PROJECT FOR WATER DIVISION; SANTA FE ENGINEERING CONSULTANTS, LLC. (ROBERT JORGENSEN)

Councilor Bushee said she wants to make sure we will be ready for the next season. She asked if this is additional work on the two reservoirs or just one. She said there has been concern from people who thought we were letting water run down the River when we didn't need to. She asked what explicitly is the additional and what this means for next season.

Robert Jorgensen said, "This Change Order is actually for engineering services to oversee the construction. That is a requirement of the State Engineer. We are draining McClure now, and I think your concern is we're getting a late start on the construction of McClure Reservoir. We were unable to drain the reservoir using the existing valves because they malfunctioned. And currently, at this time, the reservoir is being pumped down. We hope to have it pumped below the valve. The City was under obligation to de-water the reservoir. It's actually down to that valve now and they are getting ready to either open it or cut it out. And then we will continue so that we can ready to start the work at McClure."

Councilor Bushee asked if we will be okay next year, or do we have to keep this drained longer than we want, and catchment for this winter and the hopeful El Nino season we might have.

Mr. Jorgensen said, "Per the existing construction contract, the contractor has 280 calendar days after notice to proceed has been issued. Notice to proceed has not been issued to start the clock so to speak, until we get the reservoir to the contractual level. And in practical terms, you can't start before that

anyway. So the construction schedule has slipped by at least two months, and winter will tell, weather conditions, will tell if there is further slippage. But I believe the reservoir can be placed back into full service in August 2014.”

Councilor Bushee said, “Okay, as long as you keep the public apprised whether through Op Eds, or press releases. I just feel that people enjoy the water running down the River throughout the summer. But we need to make sure people aren’t used to that all summer long. I want to know that we’re getting things fixed up.”

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

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

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

Against: None.

11(i) REQUEST FOR APPROVAL OF PROCUREMENT AND PROFESSIONAL SERVICES AGREEMENT – SANTA FE LIBRARY COURIER SERVICES (RFP #15/08/P); CREATIVE COURIERS, LLC. (PATRICIA HODAPP)

Councilor Bushee asked about the two Santa Fe companies with the same evaluation. She asked if we guided and coached the other, Thunderbird Express, into getting a local preference option as well.

Councilor Hodapp said 3 firms applied this year. She said they have gone back forth with two firms, depending on their bid and reliability, and talked with the two companies that were the finalists this year regarding what we need and the terms of accuracy, delivery and timeliness.

Councilor Bushee said her question was about the second Santa Fe Company, and the reason didn’t get a local preference, and asked if they were guided into the process.

Ms. Hodapp said, “I believe they did get a local preference.”

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

DISCUSSION: Mayor Gonzales asked, “On the procurement process, do we allow, before the bids go out, do we invite vendors to come in and ask questions, just generally, and you may only be able to speak to your issue, but being able to put out a call for vendors to come to the City Hall and be informed about a pending RFP, and allow people to ask questions.”

Ms. Hodapp said, "I don't believe that is done on small contracts. I've certainly been involved in those, when we were building the library, with major vendors, and I can certainly talk with Robert Rodarte about having that to be a part of the process."

Mayor Gonzales said, "I think generally, Brian, it's good practice.... I know there should be a threshold, because you don't want to do it on every item that is out there. But I think being able to allow people to come in and ask questions and offer input sometimes, as to how an RFP could be written so they could bring back the best response. It seems like that is a good opportunity for small businesses to really understand what the City wants before they start putting money into responding to bids, and making sure we give everyone a fair chance."

Councilor Bushee said she has asked that of Robert Rodarte in general. She wants to encourage more local vendors, noting we often don't have them and they always aren't small contracts. She thinks they don't know how to get through the paperwork.

Mayor Gonzales said, "If we can work that in, that would be great. And if you could just communicate to the Council at some point in the future, it doesn't have to be in a public meeting. But I think we should roll out some pre-bid conference that allows for vendors to come in, ask questions and learn about upcoming opportunities. And maybe we do them twice a month, just generally."

Mr. Snyder said he can do that. He said when he was in Public Utilities, they typically did pre-bid conferences, but they were for engineering and construction contracts primarily. He said, "You are right, that there might be a threshold we should focus on, but I will definitely follow up with Robert Rodarte."

Councilor Maestas said one of his issues with procurement is that often, as a matter of convenience, our staff will procure equipment or other goods on statewide cooperative agreements, without making an earnest initial attempt to try to hire a local business. He said, "Since we are going to revisit our procurement process, I would like us to revisit the procurement summary we get in our packet, and at least have a justification that includes the description of steps taken to try and solicit any kind of bids from local businesses before we get to these statewide [contracts], or sometimes there are existing contracts outside the State that we piggyback on for certain services. I realize it is an effort to get the best and lowest unit price, but I think we need to think about the consequences of denying local businesses that opportunity. So I would like to see, at least an explanation of steps taken to try and pursue local procurement opportunities before we go with these cooperative agreements. Often times, the established vendors are outside the City. I think we ought to broaden the scope of the procurement assessment to look at that."

Mayor Gonzales said, "It sounds like a good opportunity to bring forth a policy as it relates to procurement from the City. So if you can ask Mr. Rodarte to visit with Councilors and develop a policy, I think it would be helpful, even if he has to do it via phone because people are busy. I think this kind of individual outreach would be good for us."

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, and I'm grateful for any follow through. I'll sponsor, co-sponsor anything else on procurement.

11(s) CONSIDERATION OF RESOLUTION NO. 2014-91 (COUNCILOR DIMAS). A RESOLUTION ADOPTING THE CITY OF SANTA FE HAZARD MITIGATION PLAN. (ANDREW PHELPS)

Councilor Bushee said she appreciates the work, and thinks it is thorough. She said she knows it is a City effort and these are federal dollars we're spending, and asked the reason we didn't involve our one and only community hospital. "You have human caused hazards as one of the sections. We had the recent sort of potential *ebola* scare, or you name it, if there are issues. But I would really expect that in the next step you've involved the public schools. We've said human caused. And we've also had a concern over whether or not... you know we're so close to the Lab and any kind of hazardous waste issues there. It feels like we should have some involvement with our community hospital."

Andrew Phelps said, "Absolutely. Every planning initiative that the Office of Emergency Management undertakes, we try to involve the whole community as best we can. The School District was involved a little more heavily because they have the option of the quasi governmental organization to adopt the plan. Whereas the hospital, as a private entity, wouldn't have had that option. We really wanted to focus this plan on things that the City of Santa Fe had the opportunity to mitigate or reduce the impact of various hazards. Public Health in the State of New Mexico, of course has a State managed response and mitigation program, so we would rely on them to undertake mitigating measures, and we would support them through the establishment of pods and activation of our Pandemic Plan which is part of our Emergency Operations Plan. But I can assure you that we'll make every effort to include the entire community in further iterations of this Plan. We'll be updating this Plan annually, and undergoing formal review every 5 years as part of that process."

Councilor Bushee said, "I don't know if it's allowed for, but if you could formally in the future, involve at least the hospital and any other medical or health response teams, that would be, I think, important."

Mr. Phelps said, "Perfect. We'll continue to invite everyone to the table."

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

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

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

Against: None.

11. UPDATE ON SCHOOL RESOURCE OFFICERS PROGRAM. (LATIFAH PHILLIPS AND CHIEF GARCIA)

A copy of a power point presentation *School Resource Officers in Santa Fe Public Schools*, prepared by and entered for the record by Latifah Phillips, Chief of Staff and Gabe Romero, Director Safety & Security, Santa Fe Public Schools, is incorporated herewith to these minutes as Exhibit "1."

Latifah Phillips said she is here this evening representing the School District, but Gabe Romero, Director of Safety and Security, will be making the presentation.

Gabe Romero, Director of Safety & Security, presented information in this matter via overhead, because of technical problems in presenting via power point. Please see Exhibit "1" for specifics of this presentation.

The Governing Body commented and asked questions as follows:

- Mayor Gonzales thanked Mr. Romero for his presentation.
- Mayor Gonzales said regarding the outcomes list those are pretty big goals – reducing truancy, detention, suspension – and it seems a lot to ask from a single Police Officer in the schools. He asked if we are setting outcomes which are realistic in the presence of a School Resource Officer, although they can contribute toward those. Ultimately there are others in the School that determine detention, suspension, pro-active relations and some of the other things.
- Mayor Gonzales said, "Really, the reason I'm asking is that I am trying to understand, when the school boards and superintendents across the nation are saying we need armed officers in high schools, really what the root of that is. Is it because it is a deterrent from people coming into the school and inflicting harm through gun violence. Is it really about the truancy. And I want us to understand as a community of what is the true intention of having an armed officer present at these comprehensive high schools. Because the outcomes you're looking for, or what you would hope for out of their presence are outcomes that can be achieved without their presence there through other coordinated efforts between the City and the schools. Or if we're going to say that year after year we're going to get baseline data this year, and next year it didn't go up, it actually stayed flat or went down, do we say well this isn't a good investment of the public's money to pay for a Resource Officer to be there so we should allocate those monies in other areas. I guess I'm

really just wanting to get to, for Superintendent Boyd and others around the country, obviously this is a priority and something he feels is important or he wouldn't be proposing it. What is that issue that he thinks about that is really important as superintendent by having an armed officer at the School."

Mr. Romero said, "That's kind of a large question, but I think if we look at this in terms of this is a team effort, the truancy program that we're hoping for reduction with, yes, it's possible we can make some advances without a School Resource Officer there. But having that Resource Officer there being able before we have referrals and have to send those to the District Court, and working with families and explaining what the next steps are, we're hoping will reduce that. So it is a team effort between the administrators, the teachers and the School Resource Officer to have an impact in that. And I can say kinda the same for all these other items, because the School Resource Officer, on his own, is not going to be able to reduce crime and detentions, like you said, Mayor, but I think with a team effort and working with the administrator and staff and us looking at the data on a regular basis and seeing if we are having an impact and making adjustments. So the MOU we proposed is a three-year MOU, and we would like that time to see if these programs can be a successful and positive enhancement to our schools, so I hope that answered your question sir."

- Mayor Gonzales said, "Yes, and what I feel like I heard you say is that the Superintendent feels like this is important ingredient that is not there right now that would achieve the objections because it is an actual Police Officer is armed. I'm assuming that's what it means and minus the presence of that officer you really don't have the full formula in place."

Ms. Phillips said, "I think the community may not be aware that we already have a presence on our campuses, and being able to have a School Resource Officer there who gets to know our community, the administration, can foster a more positive relationship between the local authorities and our schools, just so we can get the most out of that relationship, because we already call officers to our schools for a variety of reasons. So this is just an opportunity to be pro-active in building a relationship, rather than having officers rotating through our schools. Someone is there to actually know the students, know what's happen and an expert in that field, and to share that expertise in partnering with our principal to just create a safe environment as well as to build relationships between authorities and our students and families."

- Mayor Gonzales said, "On the point of officers already arriving at the schools, do we have data that shows how many visits Santa Fe PD actually has paid to both Capital and Santa Fe High Schools since the year started. Chief, do you have that data."

Chief Eric Garcia said to date from January 1, 2014 to October 21, 2014, we have responded to Capital High School approximately 178 times, responded to Santa Fe High School approximately 261 times. He said Michaela Gonzales did a study on the past four years, and for the past four year we have responded to Capital High School 1,165 times, and for Santa Fe High School 1,486 times.

- Mayor Gonzales asked the top 2-3 reasons the Police are responding to the schools.

Chief Garcia said fights in progress, disputes between students, civil stand-bys, traffic stops that started off grounds that went onto the grounds involving students and even administrators. He said the reason we left the administrative issues is so you will have a general idea that this is not just a program that is going to be based on addressing issues with the students. It will be a program addressing issues across the board within the entire schools grounds.

- Mayor Gonzales asked, "So would the protocol be with the school resource officer on the premises, if there is an event, it is protocol that they still would call the PD to come in and assist so that we would continue to see these types of statistics of Santa Fe PD responding to both high schools."

Chief Garcia said, "The goal is to reduce the overall numbers across the board, from Santa Fe High, Capital High School. And like the Santa Fe Public School staff noted, the ultimate goal here is to show a reduction. So we will have a matrix in place to show how we're going to reduce these numbers across the board."

- Mayor Gonzales said he will start with Councilor Dimas, Chair of Public Safety.

- Councilor Dimas said, "You already know and I'm going to ask, I brought this up at our last meeting. First of all, I do want to say that I support the program, but I don't support the amount of money, first of all, that the Schools are contributing for this particular project. When I asked questions at our Public Safety meeting, it was determined then, for one officer, salary, benefits, car equipment and such, costs the City \$150,000 per officer. We are providing two officers, one at Capital and one at Santa Fe High School, for a cost of \$300,000 to the City. The Schools on a very sweet deal, are going to pay \$70,000 of the \$300,000. So \$230,000 is what it's going to cost the City to fund this program. I just think this not a real fair deal as far as I'm concerned. It's not even a 50-50 deal. Because the schools are benefitting and of course the City is going to benefit from the two in many respects. Money-wise the City is hurting like every other community and I would like to see a much larger split of that, at least a 50-50 split."

- Councilor Dimas continued, "We normally have these costs, but we also are losing two officers off the street. We're trying to fill positions now, and losing those two officers, if we were to replace those two officers that were going to be in the schools will cost the City another \$300,000 to replace those officers. So you've got a total of \$530,000 a year it will cost the City to provide these services to the schools, at a \$70,000 cost to the Schools. In the past, these were positions that we had in the schools previously, and I know we had them at the middle schools and the high schools. So we had resource officers at all the schools at one time, but those were all grant funded, and it didn't cost the City anything. It didn't cost the Schools anything. It was all grant money, and once that grant money ran out, coincidentally the program ended. The Schools couldn't afford to do any more, nor could the City."

- Councilor Dimas continued, "These are the problems I have with this particular program is the money it's going to cost the City. I'm all for the program, I think it's a good program, I think the ideas are great. Another thing is, because it's going to cost the City so much money, I'm wondering why this didn't come before the Council to begin with. I think this is a Council issue that should have come to the Council, should have gone to the Finance Committee for approval. It should have gone to Public Safety for approval, and other committees for approval before it reached this portion. My understanding is there is already an MOU in existence that needs to be approved, but I don't know who it's being approved by. So these are the issues I have with this particular program. And since we're not voting on this, those are the things that I have to bring forward."
- Mayor Gonzales asked Mr. Snyder to address the question of the status of this program in terms of Council participation in the presence of School Resource Officers.

Mr. Snyder said, "A Cooperative Service Agreement was signed between the City and the Public Schools, 14-0196, that addresses and directs the City to move forward and partner with the Schools on this. And I'll read it:

Police Officers in the Schools Program. Both the District and the City recognize the importance of having uniformed police officers based at each of the comprehensive high schools. And those entities are in agreement to review annually the addition of these officers in the high school campuses, based on available funding through the District, the City or future grant opportunities. The City Manager, Police Chief, Deputy Superintendent and High School Principals will meet prior to annual budget meetings to review such a possibility'.

So the approach is, that's why we're coming here to follow up as an informational item before you, because we feel that we have been given direction to move forward on this. The City is receiving \$70,000 for two Resource Officers. However, these are existing officers. I understand there are up-front, one-time costs. If we are going to look at the full picture, we need to look at one-time costs and recurring costs. The \$70,000 goes toward the actual personnel costs. These are existing officers on staff. Councilor Dimas is correct, we are short staffed. We've been short staffed for, I don't know, I can't answer that question, a long time. We're down 20 officers."

Mr. Snyder continued, "The other thing we have had, in the last 4 years, 1,400-1,500 calls. So the goal of this program as I understand it from talking with the Schools and the Police Chief, is we establish a presence at the Schools. We build a camaraderie, we build a relationship with the students and the administrators, so we don't have to have those 1,400 to 1,500 calls in a four-year time frame."

- Mayor Gonzales asked when the Joint Cooperative Agreement was approved by the Council.

Mr. Snyder said, "In March of this year."

- Councilor Bushee said, "Point of information. We have never voted on this issue. It's never been to Committees. This shouldn't be up here, it should be in committees."

Ms. Brennan said, "The Council meeting date this was heard was March 26, 2014. This is the Cooperative Agreement between the Santa Fe Public Schools and the City of Santa Fe, January 1, 2014, to June 30, 2016."

- Mayor Gonzales said so there is a provision in the Agreement subject to budget availability. And when the budget was contemplated in April, I'm assuming it passed. He asked, "Are you using those numbers as budget available for the Resource Officers, or has there been a Fiscal Impact Report done to determine what the budget would be, as Councilor Dimas stated in his concerns."

Mr. Snyder said, "I can't speak to whether a Fiscal Impact Report has been done. I believe there may have been, but I don't have that before me. I was speaking to that Police Officer positions have been funded, a School Resource Officer has not been funded specifically."

- Mayor Gonzales said then you are using existing funding.

Mr. Snyder said, "Existing funding for existing resources that currently are positions that we have on the books that are not filled currently."

- Councilor Maestas said, "Thank you for coming. I think any time we have an opportunity to partner with the schools, I think it's a great thing, in terms of student safety, student development and trying to improve public safety over all in our community. So, I commend you for that. When I was a Mayor, we did have School Resource Officers in the community I represented. And we had one in the middle school and one at the high school. And these were funded through grants as well, the COPS grants, and there was a commitment where the funding would exist for 3 years, but you had to continue funding it on your own and we did that. And it was a successful deterrent. Our call volume did go down. But schools are different, circumstances are different and I recognize that. I do wholeheartedly support the concept of SRO's, and I'm confident that they will make a difference."

- Councilor Maestas continued, "Now, the cost issue. I'm on the Finance Committee. We had to make some hard choices with very limited funding, and incredibly expensive needs with respect to Public Safety. Specifically, a request was made for 10 additional positions in the Police Department, just to cover the areas that have been recently annexed here in the City. And we couldn't approve that. We only provided half of those officers, 5 of them. And here, we're going to basically convert two existing Police Officers to SRO's. Which means, what little coverage we have now, in general, we're going to take two officers off and assign them to the Schools. Will that help, it probably will, but I'm more concerned about the currency vacancy rate, the need to cover these newly-annexed areas."

- Councilor Maestas continued, “We need to know what these tradeoffs are, and if we did take action on the Cooperative Agreement, we obviously didn’t talk about what those tradeoffs are. And so where we go from here, process-wise, I’ll just defer to my colleagues. But in summary, I think the concept is great, I do support it, but we need to look at the mechanics of financing, and we, as a body, need to determine collectively what tradeoffs we are making. Are the benefits going to far outweigh the costs.”
- Councilor Bushee said she is concerned about the process and some of the questions raised by Councilor Dimas. She asked if the Public Safety Committee has had an opportunity to vote on this.
- Councilor Dimas said no, it was an informational item.
- Councilor Bushee said, “I pulled out an item, Brian, and I understand that you believe we perhaps have made a decision, and no one is opposing the concept. I have to say every budget we have to determine our priorities. And this was not spelled out as a specific priority. But I pulled out a page of something we approved tonight on the Consent Calendar which was a Trails Coordinator position. It started back in March 2013, and it’s a \$50,000 annual position, so it could be done administratively. That thing has gone through 10 committees, even tonight. It took forever to get it done. And so I’m perhaps dismayed, maybe disappointed that we’re conceptually talking about this as if it was a done deal. I read about this in the paper, and I thought, when did we vote on that. In all reality, if this hasn’t even gone to the Finance Committee in terms of how we’re going to designate the resources is a concern.”
- Councilor Bushee continued, “I’ve been through when we had the COPS funding. At one point we didn’t have to have a match, under Clinton, and in later iterations we had to have a match. But realistically we need to have a debate collectively, but I think the work needs to be done in Committee. I’m disappointed that we’re here tonight, because nobody wants to not have a good discourse with the Public Schools about the needs, but City-wide, we haven’t talked about our crime rates. It was property crimes that was the concern forever in the residential areas and now it moved on to the commercial crimes.”
- Councilor Bushee said, “In general Chief, this is precipitous from my perspective. It needs to have a thorough vetting. And the other piece for me that I would like to have a discussion about, is that some of the end goals that you mentioned, Mr. Romero, do we have officers that are trained in truancy and those kinds of things. Do we need armed officers in the schools. There are lots of policy decisions and ramifications, but most importantly the fiscal concerns have yet to be addressed.”
- Councilor Bushee said, “I would ask, if I had a chance tonight, we’re not going vote, that this be sent to Public Safety, Public Works and Finance, for a thorough vetting. And specifically, around the priorities you have Chief, I think it’s time for you to probably present us a plan. Your, you know whatever it is, a 3 year plan, whatever plan. Because we’ve had some decisions recently. We

now have officers driving cars further south. There's a cost to that. I would like to see what your long range plan is for this community and see how this SRO fits into the whole plan."

- Mayor Gonzales said, "Brian, let me ask you again, because we're going to stay moving down, but we've got to address the issue as it comes up. Because what I'm concerned about is the Council acted on this in March, you're saying, and the Council is saying right here that they weren't part of this or it wasn't vetted. Was there a committee process that this went through. Because part of the issue is if we're concerned now, and we all have the prerogative to bring up School Resource Officers at any point, and offer our concern and direct the Chief to do something that is in the broader interest of the Committee. But we can't pass an agreement with the Schools in March, and then come back and say there's no such thing as this agreement. It didn't happen. It didn't get vetted. I think that have to focus on, if the issue is School Resource Officers, and our concern let's send direction to evaluate the agreement and come back and talk about it. But, if the agreement was passed and it sent the direction to the Manager and the Chief to do it and they're doing it, I just don't want us to be up here unfairly penalizing them if they're just following the direction the Council passed."
- Mayor Gonzales continued, "So what I would like to know, because it was brought up, is was there a process for consideration of this agreement that allowed committees to look at it before the Council considered it."

Mr. Snyder said, "I'm not sure of the process that it went through for approval back in March of this year, what committees it went through and did not go through, but we can track the history."

- Mayor Gonzales said, "I think it's a valid concern of the Council in terms of process on this big issue. But clearly, if we have a record of action by the Council that sent that direction, then I would prefer that the Council focus on the issue of the agreement that currently exists that we have concerns over. And if it's School Resource Officers and the budgetary impact and allocation of resources, let's focus on that, and not so much on it in its entirety if we've already voted on it. And the record is reflecting that we have."

Mr. Snyder said, "We just found out that it went through Finance Committee and Public Works Committee, and approved ultimately at Council on March 26, 2014."

- Mayor Gonzales said, "I don't think there was anything in that agreement that you read that was conceptual in nature. It's spelled out, what the relationship would be, or was there a conceptual discussion. Was there any direction given by the Council to come back on any of the items that was laid out between the Schools and the City."

Mr. Snyder said, "I don't see the word conceptual in the agreement, but at the same time, it is subject to funding as being requested. I felt, and I still feel and the City Attorney has also reviewed it, that we had clear direction here to move forward. If the Council is directing staff to do something different we will take it through whatever committee process is designated and

whatever review process. The goal is to work with the Schools. The other goal, our hope was, to have this on board, the start of school, September first, whenever the first day of school was. Obviously November is right around the corner. So I'm willing to continue to work with the Schools and moving this forward. I thought I had clear direction. I guess I did not have clear direction, so I would request clear direction on how you would like me to proceed."

- Councilor Ives asked Chief Garcia if he can support the operation without depleting the existing resources. He said, "This doesn't come with an FIR or any request for replacement officers. It doesn't come with any understanding that we don't need more officers on board, anything like that. So that would be my first question to you."

Chief Garcia said, "Yes, we do have existing manpower to support such operation without depleting our existing resources."

- Councilor Ives said, "I must admit, having also over at one of our high schools participated in the reading of the Pledge Against Gun Violence. Personally, I'm a fan of trying to eliminate guns from schools. And granted, an Officer comes in a different context in that regard. But has any thought been given to having these officers as they're going about their duties to not carry weapons on School grounds."

- Chief Garcia said, "The only requirement in the State of New Mexico is that we secure our weapons when we enter District Court, we put them in a lock box. A secondary request is that when you enter a detention facility we secure our weapons. Otherwise, the Officer will maintain his weapon at all times when he is on duty."

- Councilor Ives asked, "If that an affirmative requirement, or is it simply the fact that it's only prohibited in those two circumstances. So one presumes that the rest of the time that it should be done."

Chief Garcia said, "The rest of the time, the Officer will carry his weapon."

- Councilor Ives asked the anticipated typical day for one of the Police Officers as an SRO assigned to the School.

Chief Garcia said, "I presume I will see the officers greeting the students when they get to school in the morning. I will see the officers patrolling the area such as the grounds of the School system. I will see the School Resource Officer building bridges with the students. And, I'm going to speak selfishly here, I do see the School Resource Officer building that conduit with the students to recruit them to be future Police Officers or Firefighters. So I see this as a win-win situation in this agreement."

- Councilor Ives said, "On the one slide introduced on training, it says, 'Topics may include.' I get a little nervous when something says this may happen, because that also suggests that it may not happen. Is there a rigorous curriculum that officers serving as SRO's are required to undertake and demonstrate that they are qualified to interact at this level, because it's certainly very different than out on the streets. So, curious really about what that training component is going to be."

Chief Garcia said, "The SRO will be provided a substantial amount of training across the board, not only from the Police Department but the Santa Fe Public Schools. Superintendent Boyd's office has offered a substantial amount of training for our officers. So this is a collaboration between all of us."

- Councilor Ives said he would be more comfortable with this if he knew training was going to occur rather than it may occur.

Chief Garcia said, "I can say honestly, it will occur."

- Councilor Ives said it is interesting to hear the number of calls, which is more than he would have anticipated. He is curious as to how the calls break down in "more serious versus less serious" items, and specifically between crime versus detention and suspension, which would seem to matters of school disciplinary policy that wouldn't necessarily involve the Police Offices. He asked how the Chief sees the officers being involved in those 3 different categories.

Chief Garcia said, "As far as the administrative part, the Superintendent's Office has made it very clear, as well as our office, that the separation of the two will remain separated. There will be administrative sanctions for the students that we will not get involved in. If there's criminal activity on site our officers would be responding there anyway, so they would be addressing those in-house."

- Councilor Ives asked if there is a statistical breakdown of the types of crimes that were being committed at the Schools.

Chief Garcia said no. He just has the general calls for service to date, but it can be broken down from priority 1 and 2 calls if he would like.

- Councilor Ives said he would like that information. He said the raw statics don't give him sufficient information and he would like for them to do that. He said it also would be helpful to have more specifics on the training which will be provided by the Schools and the Police Department, noting training is a source of potential liability for the Schools and the City Police Department. He asked if there are national certifications which is available for training for School Resource Officer, and would like any information about that.

Ms. Phillips said, "Also in response to the number of service calls, we take student safety very seriously and one of our top priorities. And when something is outside our realm of expertise and understanding we call the Police Department to intervene. I think part of having a School Resource Officer on site is sharing that knowledge between the School and the Department and being able to diffuse that, instead of leaving the administrator with uncertainty."

- Councilor Ives asked what shortening of response time is anticipated by the Schools.

Mr. Romero said in conversations with School administrators that was key to them. He said what ended up happened are a couple of things. One is that they would wait sometimes for hours with the student in an office in an area waiting and waiting for the response because of the type of the call and the priority of the call. That preempted administrator from doing what they should be doing as well as not having a good affect on the student. things. This is where sees the efficiencies being very beneficial.

- Councilor Ives how many of the 439 incidents between January 1 and now involve weapons.

Chief Garcia said he doesn't have that answer right now, but he can get it for him.

- Councilor Ives asked if the School has any information.

Mr. Romero said he gets weekly calls about weapons in schools, and they end up calling the Police the majority of the time.

- Councilor Ives said he would appreciate staff following-up on the information he has requested..

- Councilor Dominguez noted he has experience serving on the Board of Education where this was attempted. He thanked the School staff for talking to us about this. He said, generally speaking the Governing Body wants to make sure students are successful, in a safe environment, and whatever we can do to help to facilitate that is great.

- Councilor Dominguez continued saying, "I think in the MOU that the City Manager was alluding to that we did approve, it speaks about how we recognize the importance of having safe schools. I've got some questions for the School District and some questions for management. For the School District you have a security force in place. Gabe, you want to..."

Mr. Romero said yes they have security officers at the high schools and middle schools currently.

- Councilor Dominguez asked if they are trained to some level of security officer training, not that of a police officer, but they have some security training.

Mr. Romero said yes, noting they are Level 1 Officers, so they don't carry any weapons, but they do have additional training.

- Councilor Dominguez asked how many officers there are.

Mr. Romero said there are 18, at a cost of approximately \$550,000 annually.

- Councilor Dominguez said, "So, we don't have any financial information that was attached to this. I have not seen any financial information about this program from the City whatsoever. So I'm just going to go off what Councilor Dimas said, so we're basically matching your security force. \$500,000, I think he threw a number out there. Your security force cost about \$500,000."

Mr. Romero said, "I think we do have to talk about real or actual cost of purchase of equipment."

- Councilor Dominguez said, "I don't want to get into the minute details of it, because... well you don't want us to get into the minute details of it. So is that safe to say, more or less, give or take \$100,000."

Mr. Romero said, "I think we're comparing two different items, and really to look at it in more of an analytical...."

- Councilor Dominguez said this is why it is important to have that financial information in front of us, because there are finances involved with this.

- Councilor Dominguez said, "So you all are governed by the State. Correct."

Mr. Romero said, "We do have regulations we do need to follow."

- Councilor Dominguez said, "But primarily it is the State government that funds you."

Mr. Romero said, "Well there are different funding sources, when we are talking about salaries or talking about capital."

- Councilor Dominguez said, "There is a Public Education Department that has some oversight over the work that you all do."

Mr. Romero said, "Yes sir. I think Latifah Phillips would probably be the best to answer the financial questions in regard to the overall District."

- Councilor Dominguez said, "You have schools in Santa Fe County. Correct."

Ms. Phillips said correct.

- Councilor Dominguez asked, "Have you approached the Santa Fe County Sheriff's Office or State Police to help with some of these efforts."

Ms. Phillips deferred to Mr. Romero, commenting she is unaware whether that has or has not happened.

Mr. Romero said, "We do work cooperatively with those agencies. Currently, one program they're doing is providing training in our schools, free of charge, to our staff members, along with the City."

- Councilor Dominguez said, "But, specific to this program, have you asked the State Police to provide SRO's."

Mr. Romero said, "No. We have not."

- Councilor Dominguez said, "So you're basically asking the City... when you talk about collaboration and partnerships, that means it's not just the City of Santa Fe. The City of Santa Fe has some responsibility, sure, but there are other agencies out there that could help out as well. And so, I think it would have been helpful maybe. Has your School Board approved the agreement that creates those resource officers."

Mr. Romero said, "Yes sir, they have."

- Councilor Dominguez said, "So your governing body approved it, but our Governing Body didn't. Is that correct."

Mr. Romero said, "It appears so, yes."

- Councilor Dominguez said that seems to be just a little unfair.
- Mayor Gonzales said, "Councilor Dominguez can you elaborate on that a little bit, because we keep going back to what you're saying, that we didn't approve it. And they're reporting to us that there was actually a process where we did approve it."
- Councilor Dominguez said, "I'll do that Mayor. There are two different things going on here. There's the MOU that we approved in March that generally speaks about the concept of Police Officers in the schools, and I'll get to staff questions to that in a little bit. So there is a general statement about that in the MOU that we passed in March. If I understand correctly, there is a specific MOU that has been signed by the School District, the School Board and the City administration specific to SRO's in the Schools. Is that correct."

Mr. Snyder said, "I don't believe I've signed that, or anybody from the City has signed that agreement. The second agreement."

- Mayor Gonzales asked if there is a second agreement, and Mr. Snyder said yes, the SRO Agreement.

- Councilor Dominguez asked, "Is there a second agreement."

Mr. Snyder said yes.

- Councilor Dominguez said then there is a second agreement, and Mr. Snyder said yes.
- Councilor Dominguez asked where is that agreement.

Ms. Brennan said, "That agreement is the specific to the SRO and then there is the Cooperative Service Agreement that outlined a number of things."

- Councilor Dominguez said, "I'm hearing two different things. I'm hearing Brian say that he didn't sign the specific SRO Agreement, but now you're saying that there is a specific SRO Agreement."
- Mr. Brennan said, "I'm saying there are two agreements. The first is the Cooperative Agreement that was approved by the Council. And then the SRO/MOU that was drafted in furtherance of that which Brian has not signed."
- Councilor Dominguez said, "So there is no agreement in place then with the School District."

Ms. Brennan said, "It has not been executed by the City."

- Councilor Dominguez said that would have been nice to know from the very beginning.
- Councilor Dominguez said, "It all comes down to communication. It's something we have asked for from the administration for a long time. I didn't find out about this until I read about it in the paper. That's troublesome to me, especially when we're trying to things like open libraries at less cost and other things we've done."
- Councilor Dominguez continued, "Now I want to get to the specifics of the MOU that we did agree to. It says, basically, the very last sentence, '*The City Manager, Police Chief and the Deputy Superintendent and High School Principals will meet prior to annual budget meetings to review such possibilities.*' We approved our budget in June. When did you have meetings with the School District to talk about specific SRO's. Was it prior to our budget meetings."

Mr. Snyder said, "I don't recall the dates when I had meetings with the schools."

- Councilor Dominguez said, "Do you know when we met, well I'll ask the School District. Do you know when you met with the City to talk about this program, relative to annual budgets."

Ms. Phillips said, "I'm sorry, if you can clarify the question."

- Councilor Dominguez said, "The Agreement said we will all meet to consider this prior to annual budget meetings to review such possibilities. When did you meet with the City to talk about the SRO Program."

Ms. Phillips said, "I became involved with meeting with the City about a couple of weeks prior to bringing it to our Board."

- Councilor Dominguez asked, "Which was. What I'm trying to find out is whether or not we had an opportunity to consider SRO's prior to our annual budget meeting. Because that would have been the time to bring up this possibility so we could fit it into our budget and make sure we complying with our fiduciary duties of approving and managing a budget. So I'm just trying to get some dates down here to find out when things happened. What was the process."

- Ms. Phillips said, "And I can share that with you, and I didn't come prepared to share that with you, but I definitely can. It was likely sometime in September, but I absolutely can give you all of that information, but I want to make sure that it's accurate information for you."

- Councilor Dominguez said, "Chief, are there SRO officers in the schools right now."

Chief Garcia said, "No sir. There are not at this point. We currently respond on a day to day basis to calls for services when requested."

- Councilor Dominguez said, "So you do not have SRO Officers in the Schools right now. You have Police Officers responding."

Chief Garcia said, "That is correct sir."

- Councilor Dominguez asked, "When did you start to have discussions with the School District about the SRO Program."

Chief Garcia said, "August/September timeframe."

- Councilor Dominguez said that means it was way past our budget cycle.

Chief Garcia said, "If August/September was after your budget time frame, yes sir."

- Councilor Dominguez said, "I'm asking you, was it."

Chief Garcia asked, "When was the budget timeframe that you are referring to."

- Councilor Dominguez said we approve our budget in June.

Chief Garcia said, "Then yes. The answer is yes. It was after that timeframe."

- Councilor Dominguez said, “So I think Mayor, this is a little bit troublesome to me. There is no way that this Governing Body doesn’t support, at least I don’t think so, I don’t want to speak for the Governing Body, but based on the agreement that we have that we don’t support some sort of collaboration, some sort of resource, for lack of a better word, to the School District so we can make sure our kids are safe. It’s a little bit troublesome to me that things have gone this far without really us being able to have a policy discussion about it. Apparently the School District has, but we have not. I was under the impression, just based on what I’ve read in the paper, based on what I’ve heard tonight, and based on some of the question that were asked, that basically there was an agreement signed between the City of Santa Fe and the Santa Fe Public Schools about providing Resource Officers in our Schools.’

- Councilor Dominguez continued, “Now I’m not saying that’s not something that can happen, I think it is a possibility, but I think there has to be enough discussion about it. And at the very least, the Finance Committee has to have the opportunity to weigh the fiscal impacts of it. We have not been given an opportunity to do that. So I would recommend that, we’re not making any decisions here tonight, but that before the City Manager signs any agreement with the Santa Fe Public Schools as it pertains to School Resource Officers, that it get vetted through the City/Governing Process first. At the very least, the Finance Committee. I’m just going to make that recommendation. It’s going to be up to the Governing Body, and really, your administration to just say whether or not we want to take that route. Thank you Mayor.”

- Councilor Lindell said, “I think, in light of the direction this conversation is going, I think that I am going to be able to.. I do have program questions, not specific to the process. The questions I have are based on the data with this type of program that is a tried and true program. I can’t find data to support that. I’ve looked at a longitudinal study of 740 schools that went from 2003 to 2008, and it tells me there is no evidence suggesting that SRO’s or other sworn law enforcement officers contribute to School safety. I know that seems counter-intuitive, but I’m looking at a lot of studies and I’m not coming up with that.”

- Councilor Lindell continued, “I have a lot of procedural questions on a program like this. The Chief assures us that Officers will have a substantial amount of training. I want to know what that training would be, when it is required, do they have it prior to being placed in the School, what are the responsibilities of law enforcement in the schools, how will students and parents be informed about the programs, the roles, the expectations of this program, what training will the staff have in regard to this program. Will there be a clear and well publicized complaint process for students, parents and staff to utilize.”

- Councilor Lindell continued, “It’s a lot of resources for this program, at a time when I seems like, I don’t know, is this the best use of our resources. Is this the best staff. Our officers aren’t social workers, counselors, psychiatrists, perhaps they could be mentors. The entire program is called into question for me. I don’t support more guns in schools. I don’t see any evidence that this program leads to increased safety for our children. There’s already 18 security officers and the kinds of calls the Chief indicated we are being calle in on, are fights and disciplinary things that I’m

not sure that this is appropriate work, and that's part of the appropriate work for the existing security force. I have many more questions about this program than the budget, although I do think this program does need to go back through, minimally, the Finance Committee. I would think probably also Public Safety. But I think it would be inappropriate for us to move forward on this at this point."

- Councilor Trujillo said, "I think Councilor Dominguez stated it best. This needs to come back. The first time I heard about this was in October. I read it in the newspaper, and when I'm reading the paper, I'm thinking when did this come before us. And I called you Brian, and asked you what is this all about. And you told me that it was going to start the process of it coming back through committee, so I assumed we were going to start hearing it. That's what I was waiting. Now I'm hearing a totally different thing. That we have this MOU in place. As you can tell, by everybody up here, we're clueless on it. And I don't think it's right. And Councilor Rivera and I had this sidebar, it's going to make us look like we don't want this. And that's not what it's about. It's about the process which, in my opinion, was not followed. So I definitely want it to go back to the Public Safety and to Finance because there is a fiscal impact."
- Councilor Trujillo continued, "I have a lot of questions too Chief. I will give you one that I will be asking you. Here we're talking about putting these officers in the schools and we want them to have relationships with our children. I want to make sure that it is a person from Santa Fe, not from Rio Rancho, that is one of the mentors, that lives in this community that has a relationship. So when a kid's walking down the street says, hey that's Officer Soandso, not, oh look, I saw him in Rio Rancho. So there's a lot of questions that all of the Governing Body needs to ask. I want to see the Superintendent here as well. And we want to have answers from him as well. He's the chief over there, so we'd like to have him over here."
- Councilor Trujillo continued, "Geno, I don't know, you're on that side of the fence with that. I just don't know how it got this far without all of us not knowing. I just want you to be involved as well. And another thing, when I was reading this, and I'm just going to quote from the paper. You had one of your student advisors on the Board and 'she was wondering why students at the Schools had not been told about this plan.' Have you vetted this with the students at Santa Fe High and the students at Capital. You want to make it safe for them, but at the same time, make sure they're involved in the process as well. Make them feel involved. That's all I have Mayor."
- Councilor Rivera said, "Obviously, everything good to say has already been taken. I'll be brief. Are you planning this, was it your plan to do this immediately, or are you looking at this for the next School year."

Chief Garcia said, "The plans were to get us started as soon as possible. If we couldn't get it started this school year, then yes, we'll push it back to the next School year. But the hopes for this School year. I know the allocated amount reflects a certain amount, but that will be prorated to the time the officers would actually be there."

- Councilor Rivera said, “I agree with Councilor Dominguez based on the Cooperative Agreement. It says this will be discussed prior to the annual budget meetings, and we are past those. So, if this were for the next School year, I think we would be well in line and probably well ahead of the game. I don’t know if we can change the MOU. I know the School Board already approved it.”
- Councilor Rivera said, “The other thing I want to say is that it probably feels like we’re beating you up a little bit, and probably staff a little bit, and really, this is something we approved, so I hope you don’t feel you are being beaten up over this. I think this is something... Mayor you and I discussed this after the joint City-County meeting we had recently, a joint School Board and City Council Meeting. We’ve had them before and they’ve been successful, and we can sit together and discuss this, figure out the details, where we want to go, how we want to go, the financial impacts, and approve whatever is going to be approved by both bodies right away so we don’t put one body against the other in this situation like we are now, and potentially making somebody look bad and somebody looking like they’re doing their best, when really, we’re all trying to do the best for our kids. That’s my recommendation. Not only go through the process, but when it does that we get together and really hash this out together.”
- Councilor Maestas said he thinks a joint meeting is a great idea, noting there are a number of programs under the umbrella of the Cooperative Agreement. He said we need to make it crystal clear, in terms of what our plans are and how we’re going to collaborate on all those programs within that Cooperative Agreement. He said having it in there as one of many programs does not give anyone license to go ahead and implement it with cost impacts.
- Councilor Maestas continued, “And just for the record, at the risk of folks thinking that we don’t know what we approved, I want to read just the Agenda item in the Consent Agenda that really constituted the action to approve this Cooperative Agreement. It was on the Consent Agenda and the title was, “*Request for approval of Cooperative Services Agreement, access to public facilities for annual Summer Youth Program and other community uses.*” There was no mention of School Resource Officers. So we need to be very careful when we make these policy decisions. In fact, I would like to turn the floor over to the Councilor, just read the passage in that Cooperative Agreement.
- Councilor Bushee said, “And just so everyone understands, it’s a four-page document. The first page is full of a value statement, and then you go on to Indoor Facility Use, Summer Youth Program, and then on the third page Outdoor Field Use, and then there are two lines, and it says:

‘Police Officers in the Schools Program. Both the District and the City recognize the importance of having uniformed officers based at each of the comprehensive high schools, and both entities are agreement to review annually the addition of these officers to the high school campuses based on available funding through the District or the City and future grant opportunities. The City Manager, the Police Chief, the Deputy Superintendent and the High School Principals will meet prior to annual budget meetings to review such a possibility.’

Councilor Bushee said, "Not once did we review this with any specificity in our budget process. So Brian, it's kind of a leap to say this is part of an MOU we approved. There's nothing specific about it, and this has nothing to do with the efforts you're bringing forward. We're now just getting the details, so you're just seeing the reactions. We would love to have a deeper conversation about this, although I have to admit I agree a little bit more with my colleague Councilor Lindell in terms of I'm not sure of the efficacy of the program. I've seen it in the schools over the years. We should have something to base that on, some empirical evidence to base the success. In the past we've just done it in a pro forma way because we had grant money, and now it's looking at a half million dollars potentially that the City does not have. We have Officers yes, but is that our priority. So that is a deeper conversation and we haven't had it among ourselves yet. I thank you for your time in coming this evening."

- Councilor Ives said, "As I read that provision in the Agreement that we passed, its process is not necessarily so clear to me. The fact that it was in that action taken back in March certainly suggests that there had been meetings between the City and the Schools in regard to placing Police Officers in the Schools, or it wouldn't have been in the agreement, and that was prior to our budget process that says it will be evaluated based on available funding. Chief, that's why I was asking my questions about, you're not looking for additional officers. You're saying it's being accomplished within the ambit of the currently available funding approved during the budgetary process."
- Councilor Ives continued, "I think what you're seeing is obviously an increased sensitivity on this Governing Body on how funds are allocated, and I would suspect we didn't have full comprehension of what was implicated by the language that was in the MOU, and you're sensing some of the discomfort based on that. I think you've also heard the very positive statement of support for these types of programs, again wanting to see a little bit more of the efficacy in the real quality that they are capable of delivering. Again, I'm personally satisfied that nobody was acting inappropriately here from my perspective, and I think what you're hearing is a desire from the Governing Body to want to understand this better and enter into a closer relationship with the schools on these kinds of issues."
- Mayor Gonzales said, "Going forward, Latifah, what I would take back to the School Board as it relates to the School Resource Officer provision, is that the City is going to put on hold moving forward toward that direction. I think the request by Councilor Rivera is timely, to sit with the schools and to review the existing agreement in place and to have a dialogue with the Board."
- Mayor Gonzales said, "For me personally, I view the 2,800 plus students at both schools as citizens of our community who deserve the protection of our Police Force. We don't abdicate that responsibility when they go onto the property. And what you've told us tonight, that we can have a conversation on, is that there are limitations to your ability to fully secure a high school, that minus the presence of a School Resource Officer, puts some risk, at least in the view of the School District, to our citizens, which are the youth that are participating there."

- Mayor Gonzales continued, “So I think what we need to do is to have that conversation with the School Board so we can understand a little more as a Governing Body what it means, and what are those outcomes, and we assure, and it goes to the point I spoke about early, is it really about this presence of an armed police officer that really will help be that deterrent to keep those students safe. And I think you did a really good job, Gabe, of coming over and making a presentation to us. But it really is the responsibility, I think of the School Board to have the conversation as a body-to-body entity. Clearly the Superintendent and the City Manager are having those conversations, but it does need to be delegated to both governing boards so we can share in that.

- Mayor Gonzales continued, “This document was passed, I think, before a few of us came in – it was moving through the process, it might have been one of our first meetings. So I agree, and hear the concerns of the Councilors about this being issue that needs to be brought back through this process. And you guys have gotten a little bit caught up in that dialogue here tonight.”

- Mayor Gonzales continued, “So, we’re going to hold off on moving forward on the School Resource Officer Program. We’re going to submit a request for a joint meeting with the School Board, so we can talking about this Cooperative Agreement. And then, from there, we will be able to provide direction to both staffs on how we go forward and execute the relationship. And let’s keep in mind that the closer we can act as integrated group, the better off those students are going to be that are going into the schools. Do you have any questions before you leave on that point.”

- Ms. Philips said, “No. Thank you Mr. Mayor, City Councilors, I will take this information back to our School Board and Superintendent. Thank you for your time.”

- Mayor Gonzales said, “Thank you. And so the direction to the staff will be to put on hold any further movement or execution of this agreement so we can meet with the School Board, and after the completion of that meeting, we’ll come back and provide the direction on how to move forward with elements of the Plan.”

- Councilor Bushee asked, “Would we not be better served to send this potential program through the committee process before we meet with the School Board. We’ve yet to have this conversation among ourselves.”

- Mayor Gonzales said, “I’m open, but what I would really like to do is to listen to the School Board tell us why they’re asking what they’re asking for before we start deliberating. And having a conversation with them to understand why the request came, I think provides the Council more information so your deliberations in committee is not absent participation by the elected leaders of the School District. We need to do the meeting anyway and I don’t sense anyone is in a rush to get this School Resource Officer Program in place. So let’s bring the groups back and talk first

among the two governing bodies. And then we can determine, even if that point we may determine the School Resource Officer won't be a component of the Cooperative Agreement, and so the committees may not need to consider it at that point. Okay. Thank you."

12. REQUEST FOR FINAL APPROVAL OF LEGISLATIVE PROJECTS PRIORITIES FOR FY 2015/2016. (ISAAC PINO)

A copy of a working draft of a proposed Resolution in this matter, dated October 28, 2014, sponsored by Mayor Javier Gonzales, is incorporated herewith to these minutes as Exhibit "2."

Mayor Gonzales said, "We need to let the record reflect, like, that this is not final approval as is stated here, and I'm assuming you are presenting and final approval will happen on November 12, 2014."

Mr. Pino said, "That is correct Mayor, and the presentation I have is very brief. Primarily what we wanted to do tonight was to pass out the skeleton Resolution [Exhibit "2"]. This will be the Resolution you vote on in November, and we'll fill in all of the blanks between now and then using the Committee process. We have a lot of the blanks moving toward completion now. And Mark Duran is going to furnish some additional information on projects that likely would be more acceptable for our delegation to sponsor, or not. And that will be available at Finance Monday, then Public Utilities and then Public Works. I would urge the Councilors to continue to communicate with me directly on their preferences and we will keep track of them as we change and modify throughout the process."

Mayor Gonzales asked Mr. Pino for his insight on projects that are better aligned to be funded by the Legislature and approved by the Governor. He said we can spend time on the ICIP list between now and the time the deliberations take place so we are at least prepared to support projects that have a better chance of being funded. He asked Mr. Pino for a check list we can use when we prioritize our projects.

Mr. Duran said, "The ICIP list is big. To go through the ICIP List from my perspective, me being the one that will work with the Santa Fe delegation to sell those priorities and hopefully get that group to fund the priorities or priority. There are certain things they will want to know and want to be a part of. And those are projects which potentially are City-wide, projects with a leverage component, a matching component, are potentially planned and designed, are phased property, if funding the funding can be utilized immediately."

Mr. Duran continued, "With the last committee meeting and your input Mayor, in that direction, I have been working with my staff, and going through the entire ICIP building a new spreadsheet that elevates certain projects, based on the nomenclature and the filters I just spoke about, to the top of the list for the Councilors, through the Committee process to look at those projects with those sell-points. And hopefully, have that be beneficial and eventually the Council making the decision on the top five City-wide priorities."

Mayor Gonzales said, "Obviously, when you bring in those filters, Mark explained to me that requesting money for Senior Centers when those go on G.O. Bonds, while we support these, is probably not the best way to prioritize or if, in the case of the Rodeo Grounds, which is kind of my favorite pet project itself, they're coming back with estimates of \$30 million to build the facility with no way to fund it. And that might be something they might veto because we haven't shown them that there are pathways to funding. We really need to think about this before we start gathering as a group and get the benefit of your assessment on where they are. And then if the group decides to go counter to what you're doing, so be it, but at least it will be with the knowledge of how the Legislature looks to funding some of these projects. And we can go forward from there."

The Council commented and asked questions as follows:

- Mayor Gonzales continued, "I do want to ask one quick question, because I know the Councilors have been approached by groups and others with the question of, if there is a project that is in need of funds and did not make it onto the ICIP plan that is in front of us, could the Council, during its review process at the Committee level, add projects to the ICIP list that ultimately may make its way to a Legislator who will put into their component for funding. What is the rule on that if you will."

Mr. Pino said, "Mayor, just to be clear on that, because that question keeps coming up. We were in contact with DFA today, and they were clear that only the projects that were on the list that was submitted in August are under consideration. And in fact, they send us some modifying language to clean up some of the project descriptions, but they are only for the projects that were on the list that was approved in August."

- Mayor Gonzales said, "So when DFA sets that rule, that basically is the rule of the Governor. Basically, if it's not on the list, whoever the Governor is has the ability to line item veto that project."

Mr. Pino said we call that the Governor's first veto test – does it have an ICIP number. If it does not, then it is automatically vetoed.

- Mayor Gonzales said hopefully we can lobby for changes in that because there are needs that come up in our community, post-August that we need to be able to have the flexibility of adding as we prepare for any Legislative Session.
- Councilor Bushee said this is the reason we used to have an ICIP list that was 40 pages long listing every project, and we've culled it over time. She would like to have this discussion at Public Works before it goes forward to other Committees. She said there is no mention of the money we received for the airport. She said she spoke with Nick Schiavo about a water project, a storage project which was partially funded. She asked if there is a way to group some of the projects for City-wide funding, noting there are numbers on the list that need to be cleaned up.

Mr. Pino said they have started the process with DFA to clean up glitches, and that will be all cleaned up by the Council meeting.

- Councilor Bushee said the Acequia Trail is on the list and we know we have \$3.2 million, and asked if we can include it as match.

Mr. Pino said those are the things which he and Mr. Duran will be looking at as this goes through the Committee process.

- Councilor Bushee asked if any of the needs can be grouped to make them more substantial and City-wide.

Mr. Duran said, "I believe we can, even just by title initially. And then through further descriptive items on what the project is. I think there are going to be several of them we will be able to group."

- Councilor Bushee said and then we will strategize with you as we go through Committee.
- Councilor Dominguez said we were able to get clarification at Public Works, and it will be a little bit cleaner going forward. He said, "Again, communication is key in communicating with DFA's mandates and our limitations. I can tell you that had I not seen it as a wish list the way we have done it in the past, I would have been a little bit more strategic in supporting the list that was sent to DFA. The one question I have, just so I can get it in the record, this is intended to be a draft, so if there are other issues or items that are legislative priorities, we can continue to add to this document. It's not just capital outlay project piece of Legislation."
- Responding to the Mayor, Councilor Dominguez said, "We have sections here and I guess it is referring to the Hold Harmless provision."
- Mayor Gonzales said then you're talking about other legislation we might be seeking outside of CIP funding, and if it isn't included in this Resolution, if it would be allowed to be pursued, and Councilor Dominguez said yes.

Mr. Duran said the idea is for anything the City intends to lobby for and pursue with your name attached to it, that it be included in the Resolution.

- Mayor Gonzales asked if this includes legislative changes outside of the CIP funding.

Mr. Duran said yes, including statutory changes, general operating funding, noting capital outlay funding has been included in the skeleton Resolution, even water funding for which we will apply through the Water Trust Board. The idea is to make it an all encompassing Resolution.

- Mayor Gonzales asked if there is non-monetary legislation which the City wants to introduce, does that legislation have to be included in the Resolution. He said, for example, the NMML probably will have its priorities for lobbying, and asked if we need to include those priorities in the Resolution because we may introduce legislation.

Mr. Duran said they already have included the Resolutions that have been adopted by the Governing Body in the skeleton Resolution, Hold Harmless and others. He said perhaps to really make the Resolution all-encompassing we should add language that says other Municipal League legislation that is moved forward with which the Council agrees.

- Mayor Gonzales asked if the League has agreed to the City's priorities.
- Councilor Maestas said, "Yes, we have. And all of our Resolutions that were related to tax policy made it onto the priority list for the League. But I agree with you Mayor, I still think we need to set that priority. In fact, as you know Mark, the Revenue Stabilization Committee is already beginning to hear some of those issues like lifting limitations on the taxing authority of home rule cities which, to me, I think should be number one. And perhaps the telecommunications tax issue, and then third would be the full blown reform of the gross receipts tax policy. We suspect that the Legislature probably won't be able to tackle that in this next session. However, it could surprise it."
- Mayor Gonzales asked Councilor Maestas to take the lead in bringing forward a Resolution that will accompany this to make sure we are deliberating and passing Municipal League priorities, and Mr. Maestas said yes..
- Councilor Dominguez said he would like to have some of the liquor legislation we tried to get approved last year to be included in this Resolution as well.
- Mayor Gonzales asked if there is legislation that we would like to pursue at the State level that doesn't make in time for consideration at the Committee level, if there is agreement among the Council there would be a request to add legislation at the November 12th meeting if it didn't make through the Committee meetings.
- Councilor Dominguez said he thinks that is appropriate. He was always under the impression that this was a capital outlay Resolution, but it's not, because there are other pieces of legislation such as Hold Harmless, that we haven't seen at Committee.
- Mayor Gonzales said, "I think the recommendation by Mr. Duran is that we do all of the legislation that we would like considered to make this Resolution as all encompassing as possible, both the CIP and the non-monetary items.
- Councilor Maestas said he would like to reiterate the need for us to look at the possibility of reauthorizing capital outlay funds that are in danger of lapsing in the City and the County. This is another opportunity for us to seek funding and it's almost entirely administrative. He would like a

list of state capital outlay funds in danger of lapsing, noting there could be opportunities for the City to reauthorize those.

13. SIX MONTH REVIEW OF STREET PERFORMER ORDINANCE. (ZACHARY SHANDLER)

Zachary Shandler reviewed the contents of the Council packet in this regard. He said the only new information is that the Police Department has told him in the last 6 months there were 12 Criminal citations for Municipal Court. The main cause of those were selling goods and wares, and amplification during long hours. He understands the amplification pieces were dismissed and the one dealing with other matters resulted in community service.

The Governing Body commented and asked questions as follows:

- Councilor Bushee said it is hard to decipher some of the handwriting. She said you had input from food vendors, downtown merchants and the buskers. She said the idea was to have the Plaza be more lively, and she viewed this an ancillary to the Mayor's People to the Plaza initiative. She was hoping we would be able to solicit input from the public, but she doesn't know how to do that. She asked how many surveys were sent out.

Mr. Shandler said he hand-delivered it to people on the plaza and it was on the website, so he doesn't have a calculation of how many people accessed the website and then submitted results.

- Councilor Bushee said for her this didn't produce much new information. She said from what she could read, she presumes they were food vendors, vendors in general, Plaza merchants and the rest are buskers. She said we're starting from the same place we were when we passed the new Ordinance from her perspective. She said the buskers think there are tweaks needed. Some people think it's better, others felt enforcement is still an issue, and the Police Officers weren't well versed or trained on the specifics of the Ordinance. She said she may be bringing changes forward, but she still would like more input from other than the same places, but she doesn't how to change that.
- Councilor Bushee asked Mr. Shandler to address training on the Ordinance as it exists, noting she understanding the new Ordinance isn't on our website. She said the cases that went to Court have been tossed out because the information they had available was old. She is trying to move forward with this, because it is part of her District. She wants to receive input. She asked the Mayor if the Plaza initiative is going to be expanded next year, if there will be more food vendors, more potential spots for music at different hours of the day. She wants to be comprehensive in her approach.
- Councilor Maestas said, "I was one of the sponsors of this legislation that led to some of the changes, and I hate looking through raw data without some kind of staff analysis and synthesis. But I think it's good for us to look at all the handwritten comments, all the email comments, and I

read through all of them twice. Most of them, I think, favor the changes that were made. Now, I agree there could be some tweaks that need to be made. There's certainly an additional educational component we need to incorporate, not just to administrative staff, but to the folks that enforce it out there, our Police Officers."

- Councilor Maestas continued, "But I too want to maybe broaden this review to include feedback from the staff that grant the licenses. I want to know what they can suggest on how we can improve the administrative process, the issuance of licenses. I think Sgt. McCord I think worked hand in hand with us when we were deliberating over making these changes. And I would like whoever is handling the unit there assigned to the Plaza to maybe give us that feedback in terms of what tweaks, what was their impression with the changes, was it clear."
- Councilor Maestas continued, "The only change I'm willing to consider at this point, and again this is just with the limited information we have now, is possibly moving the time frame for amplification. Perhaps it should be during the lunch hour to maximize profits for the performers. I realize a lot of people ask for some of these street performers to audition to ensure they have talent. I think that's just going to open a box of Pandoras as Bruce King used to say, so I don't think we need to go there. But I think it wouldn't hurt to maybe get some more feedback, in addition to the primary stakeholders the vendors and the street performers. I want to hear from our staff. And I want to get some recommendations from you and other City staff in terms of how can we kind of increase the level of education and awareness on these changes, and how to make it go smoothly."
- Councilor Maestas continued, "And then the last thing, I'm still kind of the rookie here on the Council, and I thought there was a set process for a review and apparently there is not. And so, I think, in the future whenever we enact any legislation that requires a review, that that legislation have the scope and the different components of that review. That way, we're not just making it up as we go along, because it's not fair, especially to the parties that are impacted the most, the vendors and the street performers. I feel we're kind of defining the scope of this review as we're going along. I'm certain if I sponsor legislation that does require a review, I'm going to sit and do the extra work and due diligence and at least define the scope of that review. That way, we know exactly what we're going to do as a part of that review. And that way the folks out there know exactly what this review entails."
- Mayor Gonzales said, "I certainly appreciate that clarity, I think it's important. What I heard tonight is more analysis, input, especially from staff. I think we do have the ability through Kate Noble's office and through Deborah Garcia y Griego and some of the others who interact on the Plaza and in the arts community, to offer some analysis to the Council in terms of how it's worked. And then, of course, just the continued engagement however we can of allowing participants and vendors to give us ideas on how we can not only expand, but improve this for people."

- Mayor Gonzales continued, “Generally, I did, in spending time around the Plaza heard from a lot of the buskers who were happy. It seemed like I saw even the mariachis out quite a bit, and that was kind of neat to see. But I do know that you, and I think Councilor Trujillo were part of leading these efforts and Councilor Lindell, in trying to drive to an Ordinance so we could have some type of governance model in place as we prepared for the summer. And I think, from a review standpoint, it would be timely at least to bring back the legislation, possibly in the Spring as we get ready. That allows for the analysis, more participation and input. And that we announce a date certain by which it will start the process to actively go through the committees again, on either affirming what’s been passed, expanding, modifying, doing something that there is an actual calendar associated with so we know there is some finality to this particular Ordinance that people can prepare for, for the upcoming Summer season.”
- Councilor Maestas suggested that we incorporate the Municipal Judge in that process. He said, “Obviously some of the charges associated with amplification were all dismissed, so maybe that could be a new element in this, to include the whole 360 degree type deliberation and feedback. And maybe find out what we can learn from the judicial side of the house.”
- Councilor Bushee said, “Again, if there are new initiatives for the liveliness or People to the Plaza, I would like to somehow incorporate that as sort of a general movement. Because if there is to be more activity, and the possibility for more entertainment, I would work with that as well.”
- Mayor said, “So, are we clear. And I would ask Councilor Maestas and Councilor Lindell, as the initial authors, to work with you to determine a calendar by which this review will come back for active consideration through the committee process, and then a vote again by the Council. And you can work with Kate Noble also, because the People to the Plaza initiative will be coming back for the Spring process, as well as other initiatives for more vibrancy. Thank you.”

14. CASE #2014-96. REQUEST FOR APPROVAL OF THE RECOMMENDATION OF THE CITY ATTORNEY, PURSUANT TO SANTA FE CITY CODE SECTION 14-3.17(D)(6) THAT THE GOVERNING BODY DISMISS THE APPEAL OF STEWART KANE FROM THE SEPTEMBER 15, 2014, ISSUANCE OF AN AMENDMENT TO BUILDING PERMIT 13-1876; 133 VALLEY DRIVE. (ZACHARY SHANDLER)

A Memorandum prepared October 22, 2014, for the October 29, 2014 Meeting of the Governing Body, with attachments, to the Members of the Governing Body, from Zachary Shandler, Assistant City Attorney, is incorporated herewith to these minutes as Exhibit “3.”

Zachary Shandler reviewed the information in the Council packet. Please see Exhibit “3 ” for specifics of this presentation.

Councilor Bushee said, “I actually just need to make some declarations, okay, and I believe Councilor Lindell maybe received the same communications from Mr. Kane and Mr. Johnson. I forwarded

them to staff. They were a series of, I don't know, I gave them to Brian. So, communications, I think they're in the packet, I assume everybody else has them. I don't think it's *ex parte* in any way, so I actually didn't spend time with them, I just forwarded them to the City Manager, so I just wanted to make it clear that I did receive written communications previously from the Appellant."

Mayor Gonzales said, "Thank you, for the record."

MOTION: Councilor Maestas moved, seconded by Councilor Dominguez, with respect to Case #2014-96, to approve the recommendation of the City Attorney pursuant to appropriate Santa Fe City Code, to dismiss the appeal of Stewart Kane from the September 15, 2014 issuance of an Amendment to Building Permit #13-1876, with regard to 133 Valley Drive.

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.

15. MATTERS FROM THE CITY MANAGER

There were no matters from the City Manager.

16. 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)

Mayor Gonzales said he asked the City Attorney if we can postpone the Executive Session to the next meeting, and Ms. Brennan said yes, that there is nothing urgent.

MOTION: Councilor Maestas moved, seconded by Councilor Rivera, to reconsider the previous approval of the agenda, to postpone Item #16 to the next meeting of the City Council on November 12, 2014, and to approve the agenda as amended.

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

17. MATTERS FROM THE CITY CLERK

There were no matters from the City Clerk.

18. 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 29, 2014, is incorporated herewith to these minutes as Exhibit "4."

Councilor Rivera

Councilor Rivera had no communications.

Councilor Trujillo

Councilor Trujillo had no communications.

Councilor Lindell

Councilor Lindell introduced the following:

1. An Ordinance relating to the Plaza Pushcart Vendor Ordinance; amending Subsection 23-5.5 SFCC 1987, to change the number of licenses issued and the term of each license and making such other changes as are necessary to clarify the Ordinance. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "5."
2. A Resolution amending Resolution No. 3003-79 to change the annual license fees for Plaza Pushcart Vendors. She noted the Resolution is cosponsored by Councilors Dominguez, Ives and Mayor Gonzales. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "6."

Councilor Dominguez

Councilor Dominguez thanked staff for their work to get Zona del Sol in shape for the block party which was a great success, noting Mayor Gonzales and Councilor Lindell attended.

Councilor Dominguez said on December 5-6, 2014, at Zona del Sol, they will be hosting the second annual symposium which will be specific to youth and teens. He hopes we can utilize the efforts in the Children, Youth and Families Cabinet to complement that symposium as well.

Councilor Ives

Councilor Ives had no communications.

Councilor Bushee

Councilor Bushee had no communications.

Councilor Maestas

Councilor Maestas introduced a Resolution relating to the Living Wage Ordinance, §28-1 SFCC 1987; directing staff to explore and recommend to the Governing Body a living wage program that will educate and assist Santa Fe businesses in complying with the Living Wage requirements and a mechanism for City staff to perform field compliance reviews of businesses to ensure compliance with the Living Wage Ordinance. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "7."

Councilor Maestas said he attended the Infrastructure Finance Conference and the Buckman Direct Diversion was recognized as a best practice in utilities for the construction of two solar arrays, generating at total of 2.5 MH and saving Buckman about \$400,000 a year. He said this is a joint City/County project, but the City has a lot of which to be proud in terms of its participation and making that happen, and being recognized across the State as a best practice.

Councilor Dimas

Councilor Dimas said, " College basketball seasons starts Saturday. Go Lobos. And Go Cowboys."

Mayor Gonzales

Mayor Gonzales introduced a Resolution establishing City of Santa Fe Legislative Priorities for consideration by the New Mexico State Legislature during the 52nd Legislature – State of New Mexico – First Session 2015. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "8."

Mayor Gonzales said we have to start a strategic planning process for the Governing Body in terms of where we want the City to go, and preparing direction for the upcoming budget. He is looking for volunteers among the Councilors who want to lead the effort to begin to develop drafts which the Council can begin to deliberate on, and providing a document to give direction to some of the committees and the

committee in terms of where we want to go in the future. He would like the Councilors to visit with him before the next Council meeting on how this can be put together in the best possible way with a good timeline.

Councilor Maestas said we all need a baseline understanding of the status of the City. Councilor Maestas said several months ago, the Mayor agreed to have Quality New Mexico to come in and do a quality assessment, and we applied for an award. He said this exercise will be very beneficial in implementing the Baldrige Quality criteria. He would like to incorporate the results from the Quality New Mexico application and assessment into the strategic plan so we have a good sense of how we're doing now.

Mayor Gonzales said the staff is already preparing that, and pulling some of the Baldrige Awards that have been given to local governments for strategic funding, so we will have some documents in place for the Council committee that will lead this effort that can reference local governments around the country of similar size.

Mr. Snyder said he sat in interviews almost all day today with Quality New Mexico, along with several staff, noting they also did some tours. He said we expect to hear prior to Thanksgiving how we proceed. He said we will get an Executive Summary back and we will meet with them for a follow up interview, so we should know before the December meeting and he will provide that information.

Mayor Gonzales said he would like to have 3 Councilors lead this effort from different districts, and we don't want to tilt it to the level of a quorum. He believes there are 3 Councilors among us that can take the initial effort of preparing and working with the staff to get some drafts documents in place for the Council. He will visit with the Governing Body as we go forward and ensure there is a team in place to lead that effort.

END OF AFTERNOON SESSION AT APPROXIMATELY 7:55 P.M.

Break 8:05 p.m. to 8:20 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 8:20 p.m. Roll Call indicated the presence of a quorum as follows:

Members Present

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. Councilor Maestas
Councilor Christopher M. Rivera
Councilor Ronald S. Trujillo

Members Excused

Mayor Javier M. Gonzales

Others Attending

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

F. PETITIONS FROM THE FLOOR

A copy of a letter from the Santa Fe Prevention Alliance dated October 29, 2014, is incorporated herewith to these minutes as Exhibit "9."

Shelley Mann-Lev, Director, Santa Fe Prevention Alliance, read a letter into the record from the Santa Fe Prevention Alliance, expressing thanks and appreciation for the City Council's commitment to underage drinking prevention, and its involvement in the recent . Please see Exhibit "9," for the complete text of the letter.

Ms. Mann-Lev said they heard the disappointing results of the case today, but their group very much wants the Governing Body to know they took a brave and courageous stand, which is appreciated, and they hope in the future the Judicial System as well as the Legislators will see fit to provide the kind of clarification they believe was the legislative intent. She said, "This emphasizes even more the importance of local governing bodies, local option districts using the authority they do have to set policy and appropriate actions regarding the harms of alcohol. How we can have alcohol sales and service in the most responsible way. So thank you so much. We'll be submitting this for the record."

Ms. Brennan said this is one item she would have discussed in Executive Session. She said, "We did receive notice today that the Supreme Court decided that the Cert had been improvidently granted and quashed it. Which means they're sorry, they started to hear it and decided not to proceed, and therefore it rests on the Court of Appeals Decision. But I'll explain more about it in our Executive Session at the next meeting."

G. APPOINTMENTS

There were no appointments.

H. PUBLIC HEARINGS

- 1) **CASE #2014-87 & CASE #2014-89 – CONSOLIDATED APPEALS. 1640 HOSPITAL DRIVE, LLC (APPLICANT APPELLANT) AND OLD SANTA FE ASSOCIATION (ORGANIZATION APPELLANT) BOTH APPEAL THE AUGUST 12, 2014 DECISION OF THE HISTORIC DISTRICTS REVIEW BOARD (HDRB) IN CASE #H-13-095, APPROVING THE DEMOLITION OF NON-CONTRIBUTING COMMERCIAL STRUCTURES AND CONSTRUCTION OF NEW STRUCTURES WITH CONDITIONS AT 321, 325, 329 W. SAN FRANCISCO STREET, LOCATED IN THE DOWNTOWN AND EASTSIDE HISTORIC DISTRICT. (DAVID RASCH AND ZACHARY SHANDLER)**

A Memorandum prepared October 23, 2014, for the October 29, 2014, Meeting of the Governing Body, with attachments, to the Members of the Governing Body from Zachary Shandler, Assistant City Attorney, regarding this matter, is incorporated herewith to these minutes as Exhibit "10."

A copy of Applicant *Appellant's Exhibits A through E*, submitted for the record by Karl Sommer for the Applicant Appellant, is incorporated herewith to these minutes as Exhibit "11."

A copy of a series of drawings, submitted for the record by David Rasch, are incorporated herewith to these minutes collectively as Exhibit "12."

A map, aerial photograph and a series of color photographs of the subject site, submitted for the record by David Rasch, are incorporated herewith to these minutes collectively as Exhibit "13."

A series of color photographs of the site, submitted for the record by Karl Sommer for Applicant Appellant, is incorporated herewith to these minutes as Exhibit "14."

Zachary Shandler, Assistant City Attorney, presented information via overhead, noting the handouts on the desk that will be used in the City's presentation. Please see Exhibit "10" and Exhibit "12," for specifics of this presentation.

David Rasch presented information via the overhead using the documents and photographs in Exhibit "13." Please see Exhibit "13" for more detail regarding this case.

Mr. Rasch said, "I'm going to walk you through the visuals of how this streetscape looks right now and the buildings that are involved with it. Following your map, first I start with an overview, aerial photograph, again exactly following your map. I want to show you specifically how this significant building in a u-shape creates this beautiful courtyard. And everything from the left side of my pen is where this property dispute is over, and it also comes up to this Courtyard, and I'll show you photos of the Courtyard as well. But as I go around with my photographs, I'll travel west on San Francisco Street and north on North Guadalupe Street.

Mr. Rasch said, "Here's a general overview of the street section, starting at the corner of Guadalupe and West San Francisco, and you can see eastward to the Eldorado Hotel, and you can see westward almost to the edge of the property. I have put the street addresses at the top of each image so you can remember which building we're talking about. First of all, I want to show you the interior of this San Francisco Plaza, late 19th Century Plaza, very typical of that style. This is a view looking southeast toward the significant building in the Plaza. This is not part of the appeal, but at the northwest corner of the Plaza this section of the building is 325, that also has street frontage [on Guadalupe] so there is a slight section in this Courtyard that is part of this appeal."

Mr. Rasch continued, "Here, we see mostly the significant building with its facade being rather tall. From my pen left, is part of this appeal. From my pen right, is that significant building, but that significant building is part of that essential street block section of these minimal openings and the building right to the sidewalk edge. This is Building 325 from 'here' to 'here,' it is listed as non-contributing due to non-historic alterations, even though the building is an early 20th Century building, it is listed as a non-contributing building. And when I get to the corner of Guadalupe, here's 329, the Thai Café, with a very distinctive parapet as well as minimal openings. As we go to the corner, you can see the diagonal facade of the Thai Café with 329. That's a non-contributing building also, an early 20th Century building, but with non-historic alterations. That's why it's listed as a non-contributing building."

Mr. Rasch continued, "From the Thai Café, looking east, you can see part of that essential street section with a very narrow sidewalk, no portal. The building mass comes right up to the edge of the sidewalk. This is very typical of Spanish Colonial towns. Architecture quite different than current American zoning standards, this is previous to that, and Santa Fe was developed in much this fashion, and this is a last remnant on West San Francisco. As we go around to Guadalupe Street, here's that west facade of the Thai Café. This is not.... the Guadalupe section of this project is not part of that unique street section that the H-Board was concerned with. It really is just that West San Francisco Street facade, but this is quite similar to that South facade of the Thai Café with that unique parapet and the small openings."

Mr. Rasch continued, "This is a 1960's addition to The Spanish Table, that non-contributing building at the far northwest corner of the project. As you can see here, that northwest corner of the project has quite a different street frontage, very much unlike the one on the other side of the property where we have that strict building footprint right up to the curb. Here we have the more typical things that we see around. Even here, you see 325, that's the building that has frontage in the interior courtyard as well, so you can see it from North Guadalupe, and I stand for any questions during the hearing. Thank you."

Questions from the Governing Body prior to Public Hearing

Councilor Dominguez asked, "What is the definition of non-historic alterations. What is the timeline and what is the general definition of it."

Mr. Rasch said, "We follow the federal standard which is the 50 year rule, so at this moment in time, 1964, or earlier, can be considered historic. After 1964 it cannot be considered historic."

Councilor Dominguez said, "So you are saying that they are non-historic alterations because of those dates, anything previous to the date."

Mr. Rasch said, "That is correct, although the H-Board has the authority to determine if, even is historic alterations totally removed original material or original character, they can still consider that to be not appropriate alterations."

Councilor Dominguez said, "So we don't have our own definition of what non-historic alterations are except whatever the H-Board is governed by."

Mr. Rasch said, "Plus also considering that 50-year rule."

Staff Summary of anticipation of issues to be discussed

Mr. Shandler said, "We anticipate the applicant is going to talk about lack of substantial evidence to support the Board decision, and that the Board mis-applied the law regarding a unique street section and block. And the legal definition of substantial evidence does not mean the Board must find a certain percentage of evidence that supports one side. It means that this Governing Body must identify evidence that is particularly persuasive, and evidence that a reasonable mind might accept as adequate to support a conclusion. We believe there is material in the record that will justify the Board's actions under substantial evidence rule."

Mr. Shandler continued, "As to the application of the law, the demolition requirements do not refer to streetscape, which is a much longer section. It refers to the block section, and the buildings that comprise San Francisco Street Plaza, including the building designated as significant, do constitute this smaller unique street section block. As to the application of the law of sidewalks, the ADA does not require an expansion unless the sidewalk is part of the project. And the building can be demolished here and rebuilt separate and apart from the sidewalk."

Mr. Shandler continued, "As to the portals the Applicant might argue about the BCD Standards which do discuss portals on San Francisco Street, but those are permitted at the Board's discretion. And the City Code goes on to say that provisions of overlay districts, including Historic, may override these standards, and the Land Use Code talks about the more restrictive code standards should trump. And since the BCD portal standard is permissive, while the standards about the unique street section, are mandatory in terms of that consideration. Those will trump the BCD standards."

Mr. Shandler continued, "Finally, we expect the organizational [Appellants'] issues also to discuss substantial evidence and also to talk about the evidentiary weight given to letters from engineers. And it's true that the demolition process does talk about that the Board shall consider the state of repair and structural stability of the structure. This requirement, however, does not mean a letter from the City Building Officials is the absolute authority on the matter. Here the Applicant submitted a letter from their engineer, and the Board found that more persuasive and entered a finding that the Applicant provided a written exhibit from a professional engineer that stated, the structural stability of the roof could fail under a full PSF snow loading."

Mr. Shandler continued, "So in overall conclusion, the City Attorney's Office believes the best legal position is to affirm the Board's ruling. However, at the conclusion of the public testimony, we do stand ready to provide advice on different options and motions the Governing Body may wish to make. I stand for questions. I will be available afterwards, too."

Mayor Pro-Tem Ives moved forward to the Public Hearing, and asked the order of hearing from the parties.

Ms. Brennan said, "You have two Appellants here, and yes, both of them should make a presentation of their case before the Public Hearing."

Public Hearing

Mayor Pro-Team said each Appellant will have 10 minutes to present their case before the Council.

Presentation by the Appellant for 1640 Hospital Drive

Karl Sommer, P.O. Box 2476, Santa Fe, Attorney for Appellant 1640 Hospital Drive was sworn. Mr. Sommer provided the handouts described in Exhibits "11" and "14." Mr. Sommer said he is here with Wayne Lloyd, the design professional on this project, and said he is here with Greg Gonzales who is one of the representatives of the owners, a local development company headed up by Jeff Branch, and Greg is one of Jeff's partners, not in this project, but he's here, he represents the owner and we can answer any questions from that standpoint.

Mr. Sommer said, "Wayne [Lloyd] is going to through just what is this project about. I'm going to get up and give you just a brief background of the salient facts that are important to this appeal, not the history of this block, but the important salient facts about this particular appeal, and then I'm going to address the legal points and why we believe, plainly and simply, the Board got it wrong. This plan and this project meets the letter of the Code, and the spirit of the Code. Plainly and simply, this case is about a redevelopment, revitalization project involving commercial and residential redevelopment on this block which was halted by the Board which, simply stated, when you dig down to the bottom of it and when we get to the end of this, did not like the design. They did not make that finding. I'll get to that in my conclusions in my closing remarks. At this point, I'd like to turn it over to Wayne so he can tell you about the project, Mayor Pro-Tem."

Wayne Lloyd, Lloyd & Associates Architects, previously sworn. Mr. Lloyd presented information on the subject site using an enlarged drawing which is in the Council packet. Mr. Lloyd said, "I presented my first case to the Historic Board in 1979, so I've been doing this for 35 years. I've taken successfully through the Board, 80 to 100 projects in the historic. And I want to start with the process I go through."

Mr. Lloyd continued, "So, with that, I need to look at not only the Historic Ordinance, but the San Francisco Plaza Subdistrict, which is part of the Business Capital District, which encourages residential construction in the downtown which we've got included in this project. The San Francisco Street Subdistrict, includes 4-5 key elements within that that I try to put into this project along with the Historic Ordinance. One of those is a continuous street facade, which we have. San Francisco Street being 'here,' our addition is from 'here to here,' so we certainly have a continuous street facade. Walls that shield the parking area, those walls already exist. The parking is to the north side."

Mr. Lloyd continued, "The second element in the District is that it encourages the use of portals for pedestrian use. Now, you've already heard the City Attorney imply that we're looking at just a block or subsection. However, to comply with the height ordinance, we average the heights each way on the street within 600 feet, so get to that height for even 'this' block, we go 600 feet in each direction. So, here's the Eldorado Hotel, here's San Francisco Plaza, here's the buildings that are non-contributing and we're taking down. To get to that height, we go down 'here' 300 feet, we go 'this' way 300 feet and within that, there are 7 portals within that short section, that same section that is being utilized to average the height. And each one of those portals are shown in these images."

Mr. Lloyd continued, "So, from the get-go and when I started laying out this project, I analyzed all this information. I know the Historic Ordinance very well, so I know that I need to average the height. I know that I need to look at the streetscape and within that same distance of streetscape, there are 7 portals. That's if I don't count the porte-cochere at the Eldorado Hotel as a portal. If I counted that, it's 8. That same Subdistrict limits landscape and it limits landscape to courtyards. We're not affecting that courtyard. That's where the landscaping is that meets the Ordinance."

Mr. Lloyd continued, "And finally, that District says we want to emphasize verticality. Well how do I do that in a fairly low, horizontal building. Part of that emphasis of verticality is not only the vertical columns in the portal, but a vertical element at the corner that, in working with the owner and complying with their wishes, give this whole project this iconic element. What am I talking about in terms of iconic element. There are many buildings in the court area, and had they been going through the process now would be disapproved. This is an iconic element. This is an iconic element, Inn of the Alameda. The Lensic has this center iconic element. State Capitol. La Fonda. These are elements that go above and beyond that height averaging or that height limitation. The buildings at the Railyard. These are turrets, or architectural elements that break the plane and add uniqueness and character to those buildings. So that's exactly what we're trying to do to 'this' corner."

Mr. Lloyd continued, "We agree that the building should set right at the street. We believe that 'this' building not only sets at the street, it comes out over the street. We've just increased the width of the sidewalk to allow people to pass and pause in front of retail space that is recreated at this new facility, and have a little more grace space to that section of that street. With that, I stand for questions."

Councilor Maestas said, "I know one of the conditions that the Historic Design Review Board placed on the portals had to do with West San Francisco. And I can see that the bell tower kind of integrates the *portales* that you propose on Guadalupe and San Francisco. I can't see how that bell tower is going to work without the *portales* on San Francisco. That's my observation. What would you propose if we upheld that condition that there be no *portales* on San Francisco. Would you keep the bell tower."

Mr. Lloyd said, "I think 'that' has to be redesigned, and I think, in fact, that's the Board's position that, if 'this' comes down, I have to come back for 'this' anyway. But I think 'this' is the unifying element that ties those two together. Yes."

Karl Sommer [previously sworn] said, "I'll move through the legal questions and the legal issues that we've raised as quickly as I can. If you have any questions, certainly feel free to ask me. I don't mind being interrupted. I've provided you Exhibits A through D there [Exhibit "11]. What these are essentially, provisions of your Code that I've taken out so that you can see what the standards are in a very simple format so that we can ask the right questions.'

Mr. Sommer continued, "We are here on an appeal and that appeal comes through your Ordinance. Your Ordinance has very specific criteria, seemingly specific, but they are very broad and general. When you look at Exhibit A, you will see there are 3 criteria contested on compliance of the final action with Chapter 14(B), Exhibit B contests the application of Chapter 14, which we have done and Exhibit C to appeal a decision lacking substantial evidence to support it. We have appealed on all 3 of these grounds, not just whether there is substantial evidence. And you all have seen many many cases. The issue of substantial evidence is, is there something in the record. I'll get to that in a minute. There's nothing in this record, but I'll get to that in a minutes."

Mr. Sommer continued, "This Board had no evidence and then misapplied the actual provisions of the Code, so we've appealed on those 3 grounds, not just on whether there's evidence in the record to support the decision. I put that in there because this is a *de novo* hearing in front of you all. You all sit brand new to hear this case and apply the standards as you see them and as you read them. You're not bound by the decision below, and you're not limited to finding whether or not the decision has evidence to support it. That's not your job. Your job is to decide this case and the Code gives you that authority and you retained that authority to decide this case on its merits, not on the record."

Mr. Sommer continued, "If you move to Exhibit B, you will see two critical definitions and why they are important about this property. The background of this property is the 3 buildings which are part of this project, which have all been designated as non-contributing. Why is that important. If you look at the specificity, that this Ordinance says the H-Board must make a finding about, you will find why this idea of unique streetscape that they relied upon is pretextual. In order for these buildings to have been designated non-contributing, they had to have a study, a historical architectural study done on these properties to determine whether or not the structure helps to establish, and I've highlighted it and bolded it, to maintain the character of the Historic District. If this set of buildings maintain the character of the Historic District, it is contributing. And if it does not, and they make the finding that it does not maintain the character of the H-District, it is non-historic."

Mr. Sommer continued, "The H-Board had the opportunity actually 3 separate times, the initial designation many many years ago, and the last two in the last several years, to look at these buildings and say, do these buildings, forget about whether they've been offered, do they in some way maintain the character of this District. And they said no, they don't. What character did they rely on. They said the character of Spanish Colonial, and it's unique to this street, is that buildings are built up against the sidewalk, and that's the uniqueness of this street section in this block. That is a pretext. And I'll show you why, in just one moment."

Mr. Sommer continued, "If you move to the next, Exhibit C, you will see this is the sole basis of their decision. Why do I say that, sole basis. Because the City Attorney has said in its Memorandum in his point on page 7, that if the Governing Body finds that the Board had the authority to exclude a portal and a two-story bell tower, if these architectural do not achieve harmony. That is not the standard that the Board relied on. The Board said this is a unique street section and block. It did not say that these design

elements were not harmonious. The harmonious standards are found in another section of the Code that the Board didn't cite, and had every opportunity and the advice of counsel in a very controversial case to say these elements are not in harmony. Why didn't they do that. Because every element of this design meets the standards of design in the H-Board. They could have easily said, they are disharmonious. The City Attorney's office has said if you find that there was evidence to support that these were not harmonious, or that they have the authority to make that decision about harmony, you should deny the Applicant's appeal. That is flatly wrong. That is not the legal standard in front of you. That is not the basis of the Board's decision."

Mr. Sommer continued, "If you turn to the Findings of Fact which are on pages 9 and 10 of the specific Findings of Fact, you will find the precise basis of the Board's decision. The structure is an essential part of a unique street section of block front. The proposal does not reestablish the section. It does not say anything about harmony, and there's a reason for it, and we'll get to that in just one moment. That's the decision that they made, that this is a unique street section or block."

Mr. Sommer continued, "I have handed you Exhibit E [Exhibit "14"]. Exhibit E is a bunch of photographs of photos of the downtown area. And I'm starting with the project site, that Exhibit E-1 is looking west on West San Francisco Street. That's our project. And if you look at the characteristics of this site, you will see, as has been described, the unique block front are buildings up against the sidewalk. This is unique. That's what the finding was. Just up the street, different street front, different block, you have the same characteristics, buildings up against the sidewalk. Up on West San Francisco, buildings up against the sidewalk. This isn't the same block. It's not the same street section, but it has exactly the same characteristics, buildings up against the sidewalk."

Mr. Sommer continued, "Go further up West San Francisco Street. Again, different block. What do you see. Buildings up against the sidewalk, but now we have *portales* over the sidewalk. And that is one of the elements that the Board said, oh this unique streetscape, you've got to redo it and don't put *portales*. On the same street, right up the street, you have *portales* all over. I don't have to go very far in the District to demonstrate to you. Galisteo Street, looking right down, what do you see. Do you see a unique block, a street. What you see are buildings right up against the sidewalk, exactly the same as this street front. There is nothing unique about this block. And I provided you the other side of Galisteo Street, same things. The exact same thing. The same Historic District standards. 'This' is, and 'this' is a very interesting one, you see 'this,' you all recognize this as Don Gaspar, standing on West San Francisco Street looking down toward Pasqual's. 'That's' the sidewalk and it is not unique. It is very characteristic of the Downtown District. It is very characteristic of the entire downtown area to have buildings up against the sidewalk. This is not some rare example in the downtown area, when I say this, our project is not some rare example, some remnant of Spanish Colonial design. It's all over downtown."

Mr. Sommer continued, "And if you look across the street from this very narrow sidewalk, you will see, again, buildings right up against the sidewalk, but what do you see: *portales* over the buildings., over the sidewalk. There's nothing, nothing, unique or different about what's being proposed. This is East Water Street. Buildings right up to the sidewalk. East Water Street, E-10, buildings right up to the

sidewalk, narrow sidewalks. Other side of Water Street, E-11, buildings right up to the sidewalk. This is Shelby Street, from Alameda, looking back at the Plaza. Buildings right up to the sidewalk, narrow sidewalks, again characteristic.”

Mr. Sommer continued, “So why have I gone to all these lengths to show you all these examples. This is the Old Santa Fe Trail on E-14. That is the West side of Old Santa Fe Trail, and what do you see. You see buildings right up against the sidewalk. But in almost every one of these instances that it has been changes, like ‘this’ one. When I was a kid, that sidewalk was more narrow in front of La Fonda. You have a wide sidewalk all the way around La Fonda now, but you have buildings right up against the sidewalk. They widened the sidewalk. Did it destroy the unique characteristics of the downtown area. I submit to you, it did not. What it did was it made it more pedestrian friendly. It made it easier to walk downtown. It made it easier for disabled individuals to pass comfortably by pedestrians or pass one another.”

Mr. Sommer continued, “Again. E-16. If you look at ‘this,’ ‘this’ is less than 100 yards away, Burro Alley. What do you find, buildings right up against the sidewalk. And you all know, because you all approved the redesign of this alley, the sidewalks were widened. They are more pedestrian friendly. So why do I go to all the lengths, it is because what this demonstrates is the Board had no information in front of it that makes this section unique. And in fact, the Board found, on 3 separate occasions, that there was nothing about these 3 buildings that helped maintain the character that the downtown has with these photographs. They said, specifically, these buildings don’t help maintain that character. And then, when the composition of the Board changed and this project came forward, all of a sudden, we have a different standard apply.”

Mr. Sommer continued, “I said to you at the beginning, that the decision to rely on this section of the Code was pretextual. And by that, I mean they had to find a reason to deny this project. And what they did was deny the project, have no doubt about it. They didn’t approve it. What they said was, oh, we approved the demolition but you design it the way we want you to design it. Take the *portales* off, take the tower off, and move it up against the sidewalk. Those are, each and every one of them, design elements.”

Mr. Sommer continued, “The Code as I pointed out to you in Exhibit D says that the full responsibility of design and development of a structure is left to the Applicant. What happened here is we had a change in the composition of the Board, sufficient enough to look back and say, oh, we can’t have it this way. You have to do it differently, and they got deeply involved in the design. And they told Mr. Lloyd, I’m sorry, we don’t like your design. Take these elements of your design out. They did not say the design elements are disharmonious. That is key. That Board often finds things disharmonious, too big, too massive, too too something. They said here, take the design elements out that we don’t like and you can tear these buildings down if you build it back the way we want it. That is not their function, and I submit to you, it is not the function of the Ordinance.”

Mr. Sommer continued, "When I started, I said this was about a downtown revitalization and redevelopment project by local individuals that was halted because the Historic Design Review Board didn't like the design, and they relied on the pretext of this unique block front or street front to deny this project. I submit to you that is not property, and this Appeal should be upheld on that basis. We would stand for any questions you have. I know it was longer than 10 minutes, and I apologize. It was the best I could do."

Mayor Pro-Tem said, "The thoroughness is always appreciated. Questions from the Governing Body."

Councilor Bushee said, "For a moment, I was wondering why we didn't hear the other Appeal first, in terms of the demolition. Is that just...."

Ms. Brennan said, "I don't know [that] there was any specific order, but the other Appellant will be heard next."

Councilor Bushee said, "Maybe back to what Karl had to say in terms of the law and the Code. He keeps calling it pretext, but the Board's reliance on the unique street section and block is within the Code."

Ms. Brennan said, "Yes Councilor, it is. And Zach will speak to that at the conclusion."

Presentation by the Appellant Old Santa Fe Association

Penn LaFarge, President, Old Santa Fe Association, and Randy Bell, member of the Association, were sworn.

Penn LaFarge, President, Old Santa Fe Association, said, "What I would like to give you is an overall context for why we are appealing the decision that was made. And then Randall Bell, who is also on our Board, and who wrote the Appeal, will give you more chapter and verse and detail. I want to start off by saying you may be wondering why we're appealing this, because ever since I have been President, I have been saying to everybody that will listen that the Historic Design Review Board should be supported in its decisions. And one of the problems we have is so frequently it is not supported, and that this is an important Board because it supports Santa Fe and what makes us unique and what brings people here and what makes us valuable. So why are we appealing the Historic Design Review Board. Now the people I've spoke to, such as the Mayor and City Manager and some of the City Councilors seemed to be sympathetic. The Mayor has been sympathetic, and I think you deserve an explanation as to why we're appealing this."

Mr. LaFarge continued, "We consider the Historic Design Review Board to be our ally and our friend, and we work with them and we support them. But our mandate, as an organization, the Old Santa Fe Association, since 1926, has been to monitor and preserve the heritage of Santa Fe, and to look after the quality of life in Santa Fe. In effect, we are the guardians, or we want to try to be the guardians, of the heritage and authenticity of Santa Fe. Now the problem is that every so often, the Historic Design Review Board does not comply with the Ordinance. It makes mistakes. The Ordinance needs to be upheld, and we believe that the demolition of these buildings is a mistake, and a misreading of the Ordinance. This particular project is wrong-headed. It's destructive of the historic fabric of the town and destructive of the historic fabric of the street. This is an historic structure on an historic street. We ought not to tear down just any building just because it is not considered, quote, significant. That does not necessarily mean that the building has no importance. These buildings, this structure is part of the fabric of our town as is the streetscape of this street. This streetscape of that street is unaltered for longer than I've been alive, goes back hundreds of years. It is exactly the way the counsel has described it, is right up against the street. It looks and feels like Old Santa Fe. It is important, that streetscape, and the building is crucial to maintaining that streetscape."

Mr. LaFarge continued, "There have been alterations to the building, which is why it was not considered contributing or significant, but we maintain that the alterations to the building are reasonably minor and do not mean the building is no longer part of the historic fabric of the town and is not valuable. And the same with the streetscape. The narrow sidewalk, the narrow street, the feel of the entire street is important. This is part of what Makes Santa Fe, Santa Fe. The narrowness of the streets, of the sidewalks, the lack of *portales*. These are part of what make that particular block unique. As was pointed out by the counsel for the other side, these *portales*, and the wide sidewalks which were added, in many cases, in the 60's has changed the feel of the downtown, has changed the feel of the sidewalks of the downtown. This has not change. None of that has changed on this block. This block is the way it was when I was a child."

Mr. LaFarge continued, "And as much as we admire our friends on the Historic Design Review Board, we are troubled on occasion by the direction they have taken, especially recently. They don't seem to be paying quite enough attention to the Ordinance, and are being too accommodating, we believe, of the developers and architects in this town, to the detriment of the historic fabric of this town and our heritage. There are other towns that actively work to preserve their heritage. Remembering that our main industry at this point is tourism and tourism relies upon the heritage of this town and the authenticity of this town, as well as its beautiful skies and as well as our culture. The heritage of this town is what is crucial to Santa Fe and why we live here, why we stay here, why we want our children to stay here and why people come here from around the world – the authenticity of our town."

Mr. LaFarge continued, "Other cities look to promote the preservation of their towns, not just their development. This distinction is crucial to Santa Fe and it's future. Look to the towns, we ask, that do stress preservation, New Orleans, Charleston, towns that put preservation, authenticity and truth above and beyond everything else, that protect their heritage first, foremost and always. That is why we are here. That is what makes this town the City Different and makes it unique, and what brings people to our town."

We believe that these buildings, although many are not designated contributing, are, in fact, a contributing part of the streetscape, not only of the downtown, but crucial to that narrow sidewalk, buildings right up against the sidewalk, look of old Santa Fe. And that is the authenticity of this town and the authenticity of that street.”

Mr. LaFarge continued, “The demolition of these buildings, we believe, would be a mistake. Putting on *portales* would be a mistake. A bell tower is ahistoric and has no precedent on that street. These are mistakes, some of which the Board agreed with, and some of which they did not. And we want to appeal the demolition of the buildings which are over 100 years old and which are important. And I’ll turn this over to Randall Bell who wrote the appeal.”

Randall Bell, Esq., previously sworn, said, “I’m a little unclear about procedures, because I have comments about the appeal that was just heard and I’m not sure whether it’s appropriate for me to do that now, or address our appeal and then comment on all the different issues that are before us tonight.”

Mayor Pro-Tem Ives said, “The plan is to hear each of the Appellants on the particular matters they have brought forward this evening, conduct the public hearing and offer the opportunity to each of the Appellants and provide some time for rebuttal after the public comment. That way, you have the benefit of hearing the public comments and anything else you might wish to address.”

Mr. Bell said, “I have some serious rebuttal to the appeal that was just presented, so I won’t address those at this time. Our appeal addresses some of the specific Findings of Fact. And I do want to just somewhat get into this question of the status of the building. My understanding, and I’m understanding this from what has been presented tonight and also from City Attorney Shandler’s letter, that when the Board took a vote as to the status of the corner buildings, what is now, I think, the Thai Restaurant and the ones just up San Francisco from that. My understanding is they did not issue Findings of Fact and Conclusions of law on that issue. So I question whether or not that has ever been made a final determination, and thus, as Mr. Shandler said in his letter, one option would be for the Board to consider sending this back to the H-Board.”

Mr. Bell continued, “So in terms of specifics, we have challenged the third Finding of Fact which has to do with the demolition issue. And that also gets to the issue of non-contributing status. We do feel that these structures have been there for a very very long time. The Applicant had a study prepared which actually established that in the building with the Thai Restaurant, there had been any number of well known Santa Fe businesses for a period of 100 years. That building, if you look at it, with the big brick cornice on it, is a very distinctive building and very emblematic of the Santa Fe style and that particular block of being on the street and abutting each. The fact that the openings to that building have changed which is really common in historic structures, that windows have been changed out, a door is a little different. We feel that fact, in and of itself, should not allow the automatic demolition of the building. It is still part of the streetscape and the block front.”

Mr. Bell continued, "The Board made a finding that these structures were, in fact, essential parts of the street section and block front. So, from there, you go to §3-14(G), where it says that:

The Board shall consider the historic importance of the structure, and that they have, in the status review, whether the structures are a central part of the unique street section, block front, 'which they determined there was, 'whether the street block front will be reestablished by a proposed new structure which they dealt with in their way by limiting.

Our position is that, to reestablish that street block front, that it in fact, should not have portals on either side, nor street widening and actually, the building should not be demolished. That the best way to maintain that unique street block is to leave the buildings alone, restore them. And the state of repair and structural stability of the structure."

Mr. Bell continued, "This is one place where I really diverge with Mr. Shandler, in that the finding we have challenged as to that is #11, where it says 'Applicant provided a written exhibit from a professional engineer that stated structural stability of the roof could fail.' Now, that to me is in fact not an effective finding to the point of how they're trying to use it. All it says is, we find that a letter was submitted. Now earlier, they didn't make it part of their findings, but in the case they indicate that they also got a letter from City staff that established that the building was, in fact, structurally sound. If the Board wanted to issue an effective finding of fact on that, what they should have said, not just that we got a letter from the Applicant's engineer, but they should say we got letters from our staff that said it was fine, from their engineer that said it wasn't. We weighed them and we made a decision. They didn't do that. They made no conclusion about the structural stability in their finding of fact. So we challenge that as the basis for the determination to demolish."

Mr. Bell continued, "I think I've already addressed... we challenged the Legal Conclusion #2, that the demolition would reestablish the character of the street, section and block, and we believe that in light of their finding it being an essential part of the character of the block, not having portals, it was an error for them to allow a portal on the west side of the project which faces Guadalupe Street. If you go up Guadalupe Street, there aren't any portales all the way up to like Bert's Burger Bowl, nor are there portals going the other way until you get further across the River."

Mr. Bell continued, "Anyway, I will leave you with that. I do have comments in response to the other appeal."

Mayor Pro-Tem Ives thanked the appellants for their presentations.

Speaking to the Request

All those speaking were sworn en masse, and each person was given 2 minutes to speak to the request.

Raymond Herrera [previously sworn], said he has been involved with preservation for the past 30 years. He has seen all the changes that have occurred downtown and throughout the City, and said, "I appreciate Mr. Sommer's photos of the downtown area. Having been present for the H-Board meetings for the past 30 years, I have seen the changes made and the approvals and disapprovals. And some of the ones that were presented shouldn't have been approved, but they were at the time, and we're going through the same thing now."

Ms. Herrera continued, "These are the last sections of downtown that are original that are unique. And just because they allowed *portales* here and there in other sections, doesn't mean that this area should be designated for *portales* or change. The streetscape right in that area is so unique, that by changing it, you're ruining that section of town. I don't know if most of you are familiar with the history of Santa Fe. San Francisco Street is original. It should be kept original. That's the only thing we have left. Everything else has been 'up you know.' So let's try and leave this area the way it is, and preserve just that little bit that's left. Thank you."

Marilyn Bane [previously sworn], said, "I think it might be worthwhile for us for a moment to talk about the spirit and intent of the Styles Ordinance. I'm going to read you the general purpose, because I think this is an overarching issue. This is not a small thing guys, incidentally. This is really important, so I thought if we sort of moved up and looked at the scope of it that maybe it would be helpful. The General Purpose:

In order to promote the economic, cultural and general welfare of the people of the City, and to ensure the harmonious, orderly and efficient growth and development of the City, it is deemed essential by the Governing Body that the qualities relating to the history of Santa Fe and a harmonious outward appearance which preserves property values and attracts tourists and residents alike, to be preserved, some of these qualities being the continued existence and preservation of historical areas of buildings, the continued construction of buildings in the historic styles and a general harmony as to the style, form, color, height, proportion, texture and material between buildings of historic design in those of more modern design.

Now I read that because I think the spirit and intent of the Styles Ordinance is important. I would like to focus a little bit on the economic growth aspect of this. It was touched on earlier. But I can tell you, the benefit of this project as currently designed is of economic benefit to very few. It will not be to the City of Santa Fe for the reasons you heard earlier."

Ms. Bane continued, "Tourism is huge. If Randy Randall were here, he would be standing up here, I think, arguing for, at least I'd bet a lunch on it. The streetscape is hugely important. Having a tower there is horrible, and this isn't subjective. It's horrible because it doesn't fit the Ordinance. It isn't that I don't like it, I don't like it, but that's not my decision. It doesn't do what the Ordinance wants the project to do, and so I would ask that the Council grant our appeal, overturn the Board's decision to approve the demolition of the buildings, and asked Mr. Lloyd to come back with a plan compatible with the existing streetscape."

Ms. Bane continued, "What is most important and what you could also do, which would be equally good, is to remand back to the H-Board that would consist of a full complement of members for further action in accordance with the direction of the Governing Body. And we don't want the buildings demolished. Thank you."

Barbara Fix, 610 Alicia [previously sworn], said, "It is unique, this area around the buildings that are proposed to be destroyed. But they are unique because they are ordinary, they're normal. I bicycle there, I go to Il Vecino. It's part of my regular route. And they're not cute, and they're not... they feel at home. They feel like normal structures of what used to be of what Ray was talking about. And they're a remnant I think we should preserve and I hope you'll give it deep consideration."

Brad Perkins, Camino Pequino [previously sworn], said, "In my view, Pen said it all, and I think he got the focus dead center on the point that is involved. I view all of you as lifers in Santa Fe. I think you're going to live here the rest of your lives, and you're going to die here. And people will follow along behind you. And if the City is going to be a success economically, it is not going to change successfully from being a great, historic community with a wonderful culture. That is the thing most to be protected. I don't think there is a legal decision to be made here anywhere tonight. This is a judgment call. You are the custodians of Santa Fe, and you need to make a judgment about whether what you view is going to be built in that section of town is going to be consistent with the image and reputation of Santa Fe, or whether it's going to be another drift away from what the City has been and the community has been. I urge you, well, it's too late, you can't do it. If I had this opportunity before the meeting I would have said, walk down that street again. Look at the County office building. Look at the Eldorado Hotel and look at the Hilton Hotel, and make your decision based on what you see among those 3 choices."

Mr. Perkins continued, "I could add one little factual bit. I read in the paper that La Fonda had the best month in its history in August. La Fonda. Did you hear that about the Eldorado. Did you hear that about the Hilton. The people who came to Santa Fe made their choice where to stay. Traditional, old style architecturally, decoratively, they decided to stay in the Hotel La Fonda and there is no big difference in prices among those 3 places. Keep that in mind."

John Eddy, 227 E. Palace, Suite D [previously sworn], said, "I'll try to make this simple. I'm not capable of speaking legalese in this, and I really do not envy the chairs that you sit in tonight. Because I think all of a sudden, you're expected to be experts in architecture, experts in historic preservation, experts in Historic Santa Fe Architecture, even though some of you grew up here, as I did. What we have as Santa Feans is a certain sensibility. And I know that's a word that the City Attorney doesn't like in this context. But that is the truth as I see this site. The streetscape of this corner is very important as a corridor into Santa Fe, as we all know. Many of us drive into Santa Fe on that corridor. It's very often the first thing people see when they come down 285 into town. That corner contains a couple of historic buildings and this has not been something that has been mentioned in the record."

Mr. Eddy continued, "Directly across San Francisco Street, is a building that is 'plaqued' by the Historic Santa Fe Foundation. I wish I could cite the name of the building, but I can't. But the truth is, it was set aside and encouraged for preservation. Kitty-corner across Guadalupe is a building that is 'plaqued' by the State, also protected. It's on the State Historic Sites Register. There is a context in this corner that is in jeopardy if this building is demolished. I do believe that the street facade of that building is very unique. I don't agree that adding *portales* to make it look like the rest of the approach to the Plaza is appropriate or helpful in maintaining the historic streetscape. That building.... if you walk that building, it feels like a Colonial Mexican building with a high wall, limited openings into the building. And it is unique. There are not any other sites in Santa Fe that feel that way. What I would recommend to you is that you send this back to the H-Board and make them duke it out again, I hate to put everybody through that, but that's my recommendation. Thank you very much for your time and patience."

Marilyn Bane [previously sworn] said, I apologize. There was someone who was supposed to be here tonight to read a letter from Karen Walker. They didn't show up. May I please do that. Mayor Pro-Tem Ives said yes. Ms. Bane read the letter into the record as follows:

Dear Mayor Gonzales, and City Councilors:

You are dealing with disparate appeals tonight. Not an easy task. I served for nearly 7 years on our Historic Districts Review Board just resigning this past May, and so am familiar with our H-Code. Concerning demolition. This historic building on the corner of West San Francisco and Guadalupe does not qualify. Our own City inspector found it to be basically sound, as did Gayla Bechtol, a recognized expert on historic buildings. This one is 100 plus years old. The demolition criteria have not been met. The Board voted incorrectly. In concerning the architect's request for a spire, a tower, and portal, such request violates our Code. The reason is that such features are not an integral part of this Guadalupe streetscape and therefore not in harmony with it. The Board voted in accord with the Code. We all benefit from the preservation of our historic buildings. Santa Fe's reputation for historic integrity draws much attention world wide. This integrity and pride in our heritage attracts many visitors and new community members who, one way or another, contribute to the funding of our City government through the vehicle of gross receipts tax. Besides, our historic building and spaces are beautiful and one of a kind.

*Most sincerely,
Karen Walker*

Rebuttal by Karl Sommer for Appellant 1640 Hospital Drive

Mayor Pro-Tem Ives allowed 3 minutes apiece for rebuttal from each of the Appellants.

Mr. Sommer said, "I'll be brief. One of the gentlemen, Mr. Eddy got up and spoke about the historic building directly across the Street and that it's been plaqued. We have a picture of it here, right across the street, this historic building that has been plaqued, it's built up against the sidewalk, has a portal running down the entire south side."

Mr. Sommer continued, "Again I come back to we're dealing with, it's not history. The history is all over this town. We're not dealing with something unique. This is everywhere in town, portals, building up against the sidewalk. Factual issue. Gayla Bechtol who is the independent professional didn't find these were contributing. She recommended they were not contributing, these buildings. I think the issue that has been brought up from the public and from the other side is basically one of, these are not harmonious. That's not what the basis of the decision was, and they could have said that very easily. What they said was that this is a unique block front, and I think we have demonstrated that that was not the case. We would ask that you uphold our appeal. We submit to you that you have the authority to tell us, as one of the questioners said, well what about this design element on the corner. You have the ability to say, why don't you redesign that element for the following reasons. I think that's part of your purview, because you are looking at this application as it comes in front of you *de novo*. And if you think that's important, then we would stand for any questions you might have about design elements and what you might like to see. Thank you."

Rebuttal by Randy Bell for Appellant Old Santa Fe Association

Mr. Bell said, "I'll try to make this brief. I am going to rebut the Applicant's appeal. Mr. Sommer made a rather impassioned [presentation], and I respect him for his advocacy for his client. But frankly, I think he has gone rather far afield in many ways, both physically in terms of showing you pictures of Galisteo Street which really are a long way from where this is. The lady who spoke earlier I thought was quite eloquent about the fact that this is unique in feeling as a remnant. It hasn't been altered. Yes, as Mr. Sommer said, there are a lot of buildings that front on the sidewalk that abut each other. That's common. That doesn't mean that we shouldn't preserve this unique block front. And I think he's sort of distorted the interpretation, and you can refer to your City Attorneys on this, but it is a unique block front. I mean, this is a very... if you go to places in Ciudad Chihuahua you see just this kind of thing. You can find other examples which are somewhat similar, but not in this simplicity. It is rare. It may not be the only example, but it's a key example of what this City really ought to be preserving. Because, as Ms. Bane said, people come here because they're looking for authenticity. They're not looking for a new, sort of mini shopping mall with a gimmicky tower to draw them in, and that's a little subjective, but frankly, there aren't any towers on that part of Guadalupe. There is the Church of the Guadalupe tower, and that's an appropriate tower. But having a tower that.... and it has a sign they are proposing that says something like Santa Fe Plaza which, I think, is going to confuse people, is totally not historic."

Mr. Bell continued, "And I want to go back to the actual appeal, because everything I was hearing from the Applicant and their counsel on appeal didn't seem to relate to what I reviewed before coming here tonight. There are two exhibits which constitute the appeal. Exhibit A. Exhibit A says that the Applicant

will be harmed by denial of this application because it will not be allowed to redevelop its property in a manner allowed by the Code. I'm paraphrasing. Applicant's harm will be substantial economic harm, as the buildings currently on the property do not make efficient and economically viable use of the property. Now, and I'll just be a little bit more, because I want to do Exhibit B. This body cannot make an economic judgment about the Applicant's business, nor can the HDRB. It is not in a position to. It has never been part of the charge of either of these bodies to do an economic analysis, to know whether Mr. Branch's rents are adequate for the property or not. You can't do that. So he's asking you to do that, effectively, to give him more development so he can do whatever he wants economically. You can't address that concern."

Mr. Bell continued, "His other, Exhibit B, is that they have challenged Findings 9 and 10, and Findings 9 and 10 are factual, and they're very limited. He didn't challenge any of the other Findings, okay. And in fact, they did not challenge any of the legal conclusions, because the decision is made in two parts. There are the Findings of Fact and there are legal Conclusions. There was nothing in his appeal that challenged the legal conclusions. The Findings that he did challenge, were #9, that the structures were in the central part of the unique street, section block front. I agree with Mr. Shandler, there is abundant evidence justifying their determination of that. And #10, he challenges the finding that the proposal does not reestablish the street front section block. And I think we've heard a lot of testimony about that."

Mr. Bell continued, "I think the Board was trying to do their best. We disagree with them on the demolition, and so we would ask you to either certainly deny the appeal, and I believe that Mr. Shandler's reasoning on his recommendation to deny the appeal of the applicant is very well reasoned. I think, as to our appeal, I feel very strongly the demolition should not occur. I think the Board may want to consider remanding this matter to the HDRB further findings on the fact they never did make a final determination by a finding of fact on the status of the building. I think that could be reopened as well, and that the Board revisit this."

The Public Hearing was closed

Mr. Shandler said, "The City Code does explicitly state that 'when the Board is determining whether to grant a request for demolition in the Historic District, it must consider whether it is an essential part of a unique street section or block front, which the Board did check, and whether that street section or block front will be reestablished by the proposed structure. And the Board also looked at this. The Applicant says this destroys their project. They're really talking about the west elevation. All the other elevations can proceed as they planned. All we're talking is the bell tower coming down and no portals, and if you don't have portals, you don't need to widen the sidewalk to put the post down. So, we believe the City's best position is to deny both appeals."

[Unidentified inaudible remarks from the audience]

Questions from the Governing Body

Councilor Bushee said she got confirmation from Mr. Shandler for her earlier question that they can decide on the unique street section or block. She said, "To be honest, I don't think you find a more unique section or corner, or more prominent corner of town, and I am looking at the minutes on page 49, where you make this statement:

Mr. Rasch said the furthest East building was significant and was where the courtyard was located. And the Code said, if a project would affect the adjacent significant structure, it shall be denied.

Maybe this is a Zach question, but is that, maybe the two of you can tell me, is that a true statement."

Mr. Rasch said, "Yes, that is true. It is a very strong standard in the Code, that if an adjacent structure will cause that significant building, where that plaza is located, to be degraded in its integrity, that application shall be denied. I don't think that that the Board felt that the proposed structure would cause that significant structure to lose its status."

Councilor Bushee said, "It wasn't about status, because I'm now referring to the unique street section or block front, so compounded for me. But what I didn't discern in the minutes is that discussion taking place at the H-Board. You already told me that the least historic section of the extension or add on in the 60's over there in the Spanish Table building was still, probably in the mid-60's, which would potentially kept.... I'm not so interested in the status, you know as far as... when I look at that streetscape, the significant structure, the small openings. It does remind me of Old Mexico, although in Old Mexico those walls would probably be blue and red and some other great colors. But what I have to say is, I can't even reconcile the two visually. I didn't see any discussion in here about these big windows, these big open window fronts. It does look like a mall that is stuck on a historic section of building. I can't put the two together visually. I mean, never mind the portals and that bell tower. Any of the bell towers in the last so many years, the one they stuck over there in Sanbusco. There's no place for them in my mind. But I'm having some serious difficulty in that I don't feel like the Board.... I'm not going to say they didn't do their job, but I don't feel like they finished the conversation. And I don't know whether that had to do with the fact that there were only 5 of them present and the Chair did not vote. I feel very strongly, and I don't know if I'm going to make the right motions, but I would like to put something on the table to start this debate."

MOTION: Councilor Bushee moved, with respect to the appeal by 1640 Hospital Drive, LLC, to deny the appeal, and with regard to the appeal by the Old Santa Fe Association to send it back to the H-Board to have a more thorough discussion. **MOTION DIED FOR LACK OF A SECOND.**

Councilor Bushee said, "I think it would be detrimental to demolish those buildings. That's my personal feeling, but I think the discussion has to be had if you demolish those buildings what you replace it with, it can't look like that in my estimation. So maybe you want to give me some guidance, and I can finish my motion and hope somebody seconds it."

Councilor Dominguez said, "Clarification on that motion. There isn't a second, but are you picking

the order just based on the fact that that's the order that it's in."

Councilor Bushee said yes.

Councilor Dominguez said, "So it has nothing to do with whether you think one or the other should be denied, it's just the way...."

Councilor Bushee said, "It's just the way they listed it and advertised and how we're hearing it tonight. I thought we should have the discussion around demolition. But to be honest, I feel like the H-Board needs to finish that discussion and that's where I would like to see this go. And I think you're right in saying it's not ours to determine, nor is it the H-Board's, to determine the economic viability of this project. We're looking at the preservation of a very unique and prominent in corner, particularly the West San Francisco Street side of this. The Guadalupe side is less significant to me, but this is significant. So that's my motion. Did I make it correctly and would you like me to change any part of it, legally."

Ms. Brennan said, "I think there should be two motions, but I understand that you want to make one with the intention that the other one would be related because there is a relationship between the two motions, but I do think because they are separate cases they should be separate motions."

Councilor Bushee said, "I'm upholding the Board in the sense that I agree with their esthetics, but I seriously feel like they didn't make a good or final discussion conclusion and I think they need to see it again."

Ms. Brennan said, "I think that you can make two motions on the record that they're connected."

Councilor Bushee said, "To remand it back to the H-Board and the other is to deny the order of appeals that you listed, the Hospital, LLC. Yes, I would just remand it, but I have to be strong in my intention that I do not want to see a bell tower or portals or an expanded sidewalk, but even with that, I just can't.... these windows this mall feeling, this whole thing just doesn't fit."

Ms. Brennan said, "I would say that if you're remanding to the H-Board and do so with direction, that's one motion. You're remanding on one issue and then you're moving to deny the other and that those are related motions."

MOTION: Councilor Bushee moved "to remand to the H-Board, with direction that they not consider a bell tower, not consider portals or not consider the sidewalk, and I don't to know what to say about these windows, maybe they should have more discussion, let's get into it, you know. Anyhow, that's my similar motion. I need a second, though."

SECOND: Councilor Lindell said, "Second."

DISCUSSION: Councilor Ives said, "Well, but on that point, they do have in here the following. Finding of

Fact #6, which says:

The Board has the authority to approve an application for alteration or new construction on the condition that changes relating to exterior appearance recommended by the Board be made in the proposed work and no permit is to issue until new exhibits satisfactory to the Board have been submitted.

So the Board, has, in effect, as a part of their findings, said that, while they deny the capacity to proceed with this design, they do want it to come back before them. So, I'm not sure, necessarily, a remand is required, because any new plans will need to come back to them, presumably to be evaluated against their conditions in Sections 9 and 10."

Councilor Bushee said, "Okay, but all I want to mention in whatever Findings of Fact, or whatever you need from us, is I want that statement that if a project would affect the adjacent significant structure, it shall be denied. That's what I'm relying on, along with the block and the presence of that, not streetscape, but the whole section."

Councilor Maestas said, "I have a procedural question. So, can you concur with Councilor Ives. If we uphold the Districts' decision and deny the organizational appellant's appeal, does it go back to H-Board to look at the revised design with their conditions incorporated. Can you confirm that."

Ms. Brennan said, "Yes Councilor, the Board would have to approve the design that reestablished the streetscape using the features that you would have affirmed through your decision."

Councilor Maestas said, "And what if that design, with their conditions, does not satisfy that requirement, by actually looking at it, because who has seen the new design with the conditions placed by the H-Board incorporated into it. That's my concern, is no one's really seen that."

Ms. Brennan said, "The H-Board hasn't seen it."

Councilor Maestas said, "Neither have we. So, if they incorporate those conditions into the design and if we uphold that, it goes back to the H-Board, is it automatic that they'll simply bless it and say, okay, you incorporate our conditions, when they look at the revised elevations, particularly the south elevations. It's just that no one has see the design with their conditions incorporated. That's what I'm struggling with here."

Ms. Brennan said, "Right. You are merely acting on the appeal. The follow-up would be the submittal of a design that is in accordance with the conditions and you would either see that through an appeal, if someone didn't agree that it met the conditions. And those conditions really are established with reference to what they have identified as the essential elements of that street block. So, in affirming that, I think you would be affirming those qualities."

Councilor Maestas said, "I have other questions, but I think I'll yield to Councilor Dominguez."

Councilor Dominguez said, "I was hoping we could send it back and not get an appeal by anyone. But the question, I guess it's for one of the Appellants, Karl, I just want to get your response to this. In the Finding of Fact #9, it talks about the structure as an essential part of a unique street section/block front. Now when you look at the minutes of the meeting, I think it's page 43 of the packet, page 18 of the minutes, there is discussion about, 'Mr. Katz pointed out that it was not streetscape.' And I guess he was responding to Mather, but he recognizes that a streetscape is different than a block front. So, indeed, the Findings of Fact to relate to some discussion in the minutes of the Board."

Mr. Sommer said, "I would say to you that he is merely saying that streetscape, as used in the Ordinance, streetscape is something broader than street and block front, and I agree with that as a distinction, but that is comments of the Board are not evidence to make a decision. That's just by a comment by him on the Board, and as I pointed out, the photographs I've given you are not of streetscapes either, they are of street sections, unique block fronts, the same kind of comparison. I tried to give you apples to apples, not like a streetscape which is 600 feet one way and 600 feet another way."

Councilor Dominguez said, "But in your Exhibit C, when you talk about standards B, it talks about a unique street section or block front, and whether this street section or block front would be established by a proposed structure. So are you saying then, that the Board should be looking at the street section and the block front, or as they put it block front or street section."

Mr. Sommer said, "What I'm saying in my appeal, Mayor Pro-Tem and Councilor, is that the Board found something that doesn't exist. They found a quote, unique block front, and that is the part that we're appealing, is there is no unique block front or street here. This is not unique to the downtown. It's all over the downtown. So the question of whether this is unique, the Board said oh yes, it's unique, but there's no evidence in the record. In fact, all the evidence is, it's very similar to just about everything else downtown. So the standard that they applied, doesn't apply here. They shouldn't have been even having the discussion about that, because you don't get there if there's no unique front. That's what I'm saying."

Councilor Dominguez said, "Okay. So I have a question then for staff, I don't know Zach, if you want to take it. When I do look at the minutes, there is very little discussion.... there doesn't seem to be like there is significant discussion regarding street section or block front, or facade, or streetscape, especially as it pertains to the application. It's just general kind of, how do you define unique kinds of conversations. So, how is it that that Finding of Fact was incorporated then into the discussion. I see pieces of it, but, I don't see a whole lot of it. I don't see it being that significant in the contest of the discussion. And, in fact, I am looking at the motion, the motion doesn't even, maybe it does. Go ahead. I'll wait."

Mr. Shandler said, "Looking at page 31 of this particular part of the packet, that's the 26th minutes on page 19 of those minutes, that's how it's tabbed on the corner here. I guess it's page 19 of the November 26th minutes, there the Board in bold makes their motion where they discuss those essential elements they have reviewed based on the testimony and evidence, they determine "makes it unique and must be reestablished."

Ms. Brennan said, "So, if I may add, when they adopt their final decision and they vote on it, they adopt its statements."

Councilor Dominguez said, "There are specific essential elements of reading it as 3 separate elements. That's the part you're talking about in the motion where it refers to street block and streetscape. I guess that's what this is supposed to relate to, street block and streetscape, etc."

Councilor Dominguez said, "But the Code specifically talks about those things, not whether narrow sidewalks are part of that streetscape or street section. It specifically talks about street section and block front."

Mr. Shandler said, "You are correct, the Code demolition refers to that more precise term, and you'll see that as they go to the July meeting they use that term more precisely. But I think the intent of their motion was always that term found in the Code."

Councilor Rivera said, "Zach, if we were to deny the approval of the demolition, would that then, by default, deny the second Applicant, the Hospital Drive, LLC Applicant, from its appeal."

Mr. Shandler said, "If you would deny the approval for demolition you probably would be back near square one, in terms of their design. What the Board attempted to do was to give a green light to this project as long as they did these 3 things."

Councilor Rivera said, "I think I agree with Councilor Bushee that the buildings to me are authentic. They are unique. I grew up in that part of town. I used to run from people that were chasing me from the old bus stop on Water Street through the portal there. And knowing the area, if you knew it well, you knew how to get away and that was one of the places we would run through. So, to me, it's a little more personal. There's a country song that says, Give me back my home town. And sometimes, I agree with some of the people that spoke, our home town is being sort of taken away from us slowly, so whatever we can do to preserve that. So, I'm not sure if remanding it back to the HDRB would do anything. If they were to come back with the same finding, my feeling about the buildings would still be the same."

Councilor Bushee said, "Then I withdraw my motion."

Councilor Rivera said, "Let's wait for Councilor Maestas. That's all I have for now."

Councilor Maestas said, "I think before we make a decision, or come to a conclusion, I agree, we find ourselves.... this is one of the most difficult appeals I've had so far and I actually went through the packet materials two sometimes three times, but I agree with a lot of what has been said, in terms of the design. It looks kind of like a retrofit that's out of character. But when we talk about unique streetscapes, to me, the historic anchor in this block is the significant structure, 323 and 321, and thank God it's there and significant. Because had it not been significant and deemed non-contributing, I would have been a lot more liberal about the proposed design."

Councilor Maestas continued, "But as it stands now, if you look at, just for example, the first floor plan, you have that portal that kind of terminates abruptly right there because the building is in its way, the contributing structure, if you look at that. When you go down a portal you like to see an open hallway, you like to see beyond the block. You don't want to see the corner of this historic adjacent building. So the sidewalks have to remain, I agree with that recommendation. So the portals go away. The tower, in my opinion, I'm not an architect, I'm an engineer, but the tower I think would be out of place without the *portales* on San Francisco. And I read the discussion by the Historic Board. I think the logic behind the conditions is sound. The only thing I'm struggling with is not seeing that in the final elevation, but that will happen, even if we deny both appeals. If we deny both appeals, the design gets modified to conform with the H-Board's conditions and they get to take a look at the final product."

Councilor Maestas continued, "So I was concerned. I'm glad Councilor Ives clarified that, so, with that, I'm prepared to deny both appeals, and send it back to the H-Board with the revised design."

Councilor Bushee said that isn't the motion.

Councilor Maestas said, "I know but I'm just saying...".

Ms. Brennan said, "I wanted to clarify the motions and clarify what I think you're saying which is basically to deny both appeals, based on what the H-Board found, but you want the H-Board to look at the revised design, and that would need to be part of your motion, because otherwise, the revised design would not have portals, would not have the tower, but it would be approved by staff. So I think that needs to be part of the motion, if that's the wishes of the Council."

Councilor Maestas said, "We'll just see how this fares, but I wanted to let the Council know what I was thinking about and what I thought about the conditions and the deliberations by the H-Board."

Mayor Pro-Tem Ives said, "And on that point I think, obviously in 10 they have identified 3 attributes of this section and block that are significant. I would assume we have the capacity to add additional elements. For instance, another item that was mentioned were the limited openings along that block front, so if we could add that in there again to preserve that character as it goes back, or presumably would come back up to the H-Board for that review, once new plans were formulated."

Ms. Brennan said, "Yes, Mayor Pro-Tem, that's correct."

Councilor Trujillo said, "So we are going to send this back to the H-Board. That's your motion, is what it's going to be."

Councilor Bushee said, "So far."

Councilor Trujillo said, "What your motion is technically saying is this is how I want you to build it, this is what I want you to do. Why do we even have the H-Board then. If we're going to tell them how to do it, can't stop, just make that determination now. The way I read what you're saying is you're going to send this back to the H-Board. You're telling them to actually take out all these conceptual plans, this is how I want to build it. That's what you just said. That's how I took it."

Councilor Bushee said, "I'll let the second to the motion speak to that."

Councilor Trujillo said, "Okay. I'll just have my two cents worth. I do agree with Councilor Rivera, you know, there are certain things in this community that must stay as they are, it's what makes Santa Fe unique. In my opinion, it's the people that make Santa Fe unique. If we're going to build all these buildings for tourists, I'm sorry, I was elected by the people of the City of Santa Fe, not the tourists, so that's always been my top priority."

Councilor Trujillo continued, "Mr. LaFarge, you said what's unique with Santa Fe is commonly unique with New Orleans. I've been to New Orleans it's one of the dirtiest cities, ugliest, in my opinions. There's bars on every corner, strip joints. I just hope Santa Fe never turns out like that. That's not the Santa Fe I want to live in."

Councilor Trujillo continued, "In all due respect to you guys, I like the concept. I like what you guys have done. I'm not choking on the bell tower, I can tell you that right now, but I think it's out of character. Many times in the history of this community things have been built... what if a bell tower were being built on La Fonda, would it still be La Fonda and would it have that unique characteristic. When I was a little boy when they build the Eldorado, I still remember that. There was an outcry. It was possibly the worst thing that could ever happen to the downtown area. I didn't live in the downtown area, I've always lived on the South side. I can't afford the downtown area, never could. But I don't know where this is going, I'm going to wait to see, as Council Bushee said, for the second to state what was stated, and we'll just take it from there."

Councilor Lindell said, "Just a couple of things I'd like to speak to. First of all I would like to thank staff for the very clear and concise packet they presented to us tonight. It's a complicated case. The H-Board struggled with it. That's clear from reading the minutes. They heard it a couple of times. They didn't hear it with the full H-Board. And we do struggle with these things. And having sat on a different board for a

number of years, the people that sit on these boards donate hundreds and hundreds of hours of their time, and we should all be extremely thankful for that. And they are very necessary to moving the City's business forward. On this particular case, it's interesting to have two appeals at one time. I haven't actually seen that before. What I would like to know is, at this point to try to move this along some, what is the motion exactly that we're hearing right now."

Ms. Brennan said, "I believe the two motions would be move to deny the appeal of Hospital Drive, LLC, that's the straightforward one. The second, I believe, is to move to remand the matter of the design to the Board with certain directives which I believe you wanted to add to, to remand the decision to the Board for reconsideration based on certain premises."

Councilor Ives said, "On that point, I would actually affirm the decision of the Board but add that additional condition."

Mr. Sommer said, "Just to be clear, I don't want to muddy the record, and I know this is all within your purview. I understood the motion to say the following, that the appeal that we filed, the Applicant would be denied, and that the other appeal would be remanded for consideration of whether or not the buildings would be torn down at all. That's what I heard. And I'm clarifying that, because I don't want there to be some confusion, because I think that Councilor Maestas is saying something very different than that particular thing and I know it's a little confusing, but I understand the motion to be to deny and remand to determine whether the buildings should be demolished at all. That's what I understood. If that's not what the motion is then...."

Councilor Bushee said, "That was more or less my motion."

Councilor Rivera said, "The HDRB approved the demolition of the buildings and we have authority to reverse that decision."

Mr. Shandler said yes.

FRIENDLY AMENDMENT: Councilor Rivera would like to amend the motion to deny the demolition of the structures. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

Councilor Bushee said, "Now we need to vote."

Mayor Pro-Tem Ives said, "I think there is room within the Code for a building to be non-contributing, and yet still, if you will, contribute to the unique section and block. And presumably, if you do have that non-contributing building, then it's subject to demolition under the Code. But if you were preserving that unique block, that would be a requirement that when plans were submitted, those former elements would need to be preserved in that same streetscape. And I think that's where the Board was coming from, having had earlier determinations that these were non-contributing buildings and therefore could be demolished under

the Code. They were still trying to preserve the unique streetscape by requiring those elements to be put back into any type of plan that might come back from the Applicant.”

Mr. Shandler said, “Let me weigh in to try to explain. The way I hear the Friendly Amendment to the motion is you would be denying the request to demolish. And what that would result in is that the Applicant would either have to come up with a new plan, or they could try to come back and see if someone can change the status of the building, but now they’re non-contributing. If they’re made to be contributing the demolition process is still allowed under Code. It would have to go through the same analysis we’ve gone through here, plus they would have to ask for an exception where they have to meet 6 additional criteria.”

Mayor Pro-Tem Ives said, “But we’ve heard a request to call the question, I believe.”

Councilor Maestas said, “I just wanted to remind everyone of all the work that’s gone into where we are today by both sides, by staff, by the H-Board. I still think there’s a chance to keep this effort from going all the way back to square one. So, I just wanted to say that.”

FRIENDLY AMENDMENT: Mayor Pro-Tem Ives said, “I’ll propose another amendment to try and capture that and express where I’m coming from, which is similar to yours, which is to deny both appeals, but add to the Findings of Fact, the requirement that Section 10(d) be added to include within the uniqueness of the section block, limited openings as seen on the 321 and 323 properties on the sidewalks. **THE AMENDMENT WAS NOT FRIENDLY TO THE MAKER WHO SAID IT WOULD BE COUNTER TO THE OTHER FRIENDLY AMENDMENT THAT WAS ACCEPTED.**”

Mayor Pro-Tem Ives said, “Understood. I’m not saying it’s necessarily friendly, I’m merely proposing an amendment.”

Councilor Bushee said, “But we would have to vote on this motion before you could make that motion and you are the Mayor Pro-Tem and the Parliamentarian. I thought I would remind you of that.”

CLARIFICATION OF THE MOTION BY THE CITY CLERK: Ms. Vigil said then the vote is to deny the request to demolish and asked if there was anything else.

Mayor Pro-Tem Ives said, “Well, should we vote on each one separately. Okay. I think the first one was to deny the appeal of the Applicant 1640 Hospital Drive LLC.”

Councilor Bushee said, “We heard them in the wrong order, that’s why this is confusing.”

Councilor Rivera asked, “Which one are we voting on.”

Councilor Maestas said, “Yes, which one.”

Councilor Rivera asked, “To deny the demolition.”

Mayor Pro-Tem Ives said, "Guys, we're going to take the vote here. I think everybody is ready to do that."

Randy Bell said, "I have an objection, just to say that this one counsel for one applicant has been intervening and rearguing and pushing the discussion. I wasn't given the same opportunity, and I don't know why."

Mayor Pro-Tem Ives said, "I actually disagree. I think he helped to clarify a prior motion which I think helped the Council understand, so anyway, we move on to the vote on the first motion."

Councilor Trujillo asked, "Is this is to demolish."

Mayor Pro-Tem Ives said, "No."

Ms. Brennan said, "This is to deny the appeal of Hospital Drive LLC."

Councilor Bushee said, "The bell tower and the portal and all of that, which you said you agreed with me on."

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

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

Against: None.

Mayor Pro-Tem Ives asked for clarification on the motion that is now before us.

CLARIFICATION BY ASSISTANT CITY ATTORNEY ZACHARY SHANDLER: Mr. Shandler said, "The vote that was just taken was to deny the Applicant's appeal, and the reason they came first is they submitted at 2:24 and the other one came at 4:44. The second motion from Councilor Bushee is to deny the demolition."

Mayor Pro-Tem asked if that is granting the second appeal.

Councilor Bushee said, "Nope. Nope."

Mr. Shandler said, "That goes beyond the auspices of the appeal. They were just looking for a remand for status review."

Councilor Bushee said, "I need to clarify something Kelley."

Ms. Brennan said, "This is a *de novo* hearing."

Councilor Bushee said, "I need to clarify something. My acceptance of his friendly amendment to deny the demolition was in conjunction with remanding it to the H-Board. Is that correct, or do we no longer need to remand because.... I mean they've got to start over somewhere, so help me out with that."

Ms. Brennan said, "If you deny the demolition, they will have to start over."

Councilor Bushee said, "Then we do not need to remand. Correct."

Ms. Brennan said, "That's correct."

Mr. Shandler said, "And I stand corrected. That was part of their original request."

CLARIFICATION OF THE MOTION BY MAYOR PRO-TEM IVES: Mayor Pro-Tem Ives said, "So the motion is..."

Ms. Brennan said, "To deny the demolition approved by the HDRB."

Councilor Lindell said, "We're granting the appeal and denying the demolition."

Councilor Bushee said, "Not necessarily."

Mayor Pro-Tem Ives said, "That's what I'm going to get clear on."

Councilor Bushee said, "Well, okay, sure. I'm not."

Ms. Brennan said, "I think the simplest thing is to phrase it for what you're trying to accomplish, because as I said this is *de novo* and you're making a decision. You want to deny the demolition that will drive a new design process."

Councilor Bushee said, "Councilor Lindell is asking if we are going to uphold the second Appellant in this process or not."

Councilor Lindell said, "I'm just taking from the packet where it gave our choices. It's on page 9 of the packet. It says, the choices that we had, to grant the appeal and deny the authorization to demolish."

CLARIFICATION OF MOTION BY THE MAYOR PRO-TEM: Mayor Pro-Tem Ives said, the motion is simply to deny demolition of the structures at 325, 329 West San Francisco Street and 109 North Guadalupe Street."

Councilor Bushee said, "Okay, can I just make a further splitting of the hairs. I would, if it were me, I would not uphold.... I would allow for the demolition of 109. The streetscape that is most important to me is the West San Francisco streetscape. That's why I was not to play H-Board and was remanding it in the first place. I'm honoring Councilor Rivera's sentiments, and I'm just saying to you, that would be me if I were to make that motion. I was remanding initially, but I'm not going to split hairs. I don't think this motion is going to pass, so I'm just gonna see where it goes. I could be wrong."

RESTATEMENT OF THE MOTION BY THE MAYOR PRO-TEM: Mayor Pro-Tem said, "So restating the motion, it is to deny the demolition of the three buildings."

VOTE: The motion failed to pass on the following Roll Call vote:

For: Councilor Bushee, Councilor Lindell and Councilor Rivera.

Against: Councilor Trujillo, Councilor Dimas, Councilor Dominguez, Mayor Pro-Tem Ives and Councilor Maestas.

Councilor Maestas said, "No, we've already denied the appeal of the Applicant, so we're done with that, so there is still the appeal of the organizational applicant."

MOTION: Councilor Maes moved, seconded by Councilor Trujillo, to "deny the appeal from the organizational Appellant, and remand it back to the H-Board to make an affirmation and determination that the new design, with the conditions imposed by the H-Board reestablish the uniqueness and character of the block."

DISCUSSION: Councilor Maes said, "Just for clarification, by denying the appeal of the Applicant, we affirmed the Board's decision which includes the imposition of the conditions on the design. Correct. That was our first motion that passed."

Mayor Pro-Tem Ives said, "If I may, if we deny the appeal then we are affirming the determination of the H-Board which includes their subsequent review of any plan which is prepared for those structures, so I don't think they need the remand."

FRIENDLY AMENDMENT: Mayor Pro-Tem Ives said, "As a friendly amendment, I would add in the additional requirement as 10(d) which I mentioned earlier which was...."

Mr. Shandler said, "The Street characteristics are listed in the minutes, so I don't think you need to add that particular language, I think it's captured already in."

Ms. Brennan said, "You wanted to consider..."

Mayor Pro-Tem Ives said, "The limited openings that are evident in the 321 and 323 structures."

Ms. Brennan said, "And Mayor Pro-Tem, I believe you also wanted to assure that this decision is the Board's decision, not by staff. In other words you needed to go back to the board."

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 Pro-Tem Ives, Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

Mayor Pro-Tem Ives said, "Thank you for your patience, your attendance and your presentations."

There was a short break at this time

- 2) **CONSIDERATION OF RESOLUTION NO. 2014-92. CASE #2014-71. 5704 AGUA FRIA ROAD GENERAL PLAN AMENDMENT. JAMES W. SIEBERT AND ASSOCIATES, INC., AGENT FOR PAUL AND ROSINA GALLEGOS, REQUESTS APPROVAL OF A GENERAL PLAN AMENDMENT TO AMEND THE EXISTING GENERAL PLAN FUTURE LAND USE DESIGNATION FOR A 1.79 ACRE PROPERTY FROM NEIGHBORHOOD CENTER TO INDUSTRIAL. THE PROPERTY IS CURRENTLY VACANT AND LOCATED AT 5704 AGUA FRIA ROAD AT THE INTERSECTION OF SAN FELIPE ROAD AND AGUA FRIA ROAD. (ZACH THOMAS).**

Items H(2) and H(3), were combined for purposes of presentation, public hearing and discussion, but were voted upon separately.

A Memorandum prepared October 10, 2014, for the October 29, 2014 Meeting of the Governing Body, with attachments, to the Members of the Governing Body from Zach Thomas, Senior Planner, Current Planning Division, regarding Case #2014-71 and Case #2014-72, is incorporated herewith to these minutes as Exhibit "15."

The *5704 Agua Fria General Plan Amendment & Rezoning Report* prepared for Paul & Rosina Gallegos by James W. Siebert & Associates, Inc., dated June 2014, is on file in and copies can be obtained from, the City of Santa Fe Land Use Department.

Zach Thomas presented information in this matter via overhead from the materials in the packet. Please see Exhibit "15" for specifics of this presentation.

Questions by the Governing Body Prior to the Public Hearing

Councilor Dominguez said he doesn't see a list of appropriate or approved uses under Light Industrial in the packet, or he may be missing it

Mr. Thomas said it can be provided from Zoning Code. He said, "Basically the Zoning Code has a matrix that has approved and different types of uses that are allowed in every Zoning District. There is a small section that talks about, in the middle of page 2, the different types of uses that are kind of different between the two. It reads, "Many of the uses that are permitted in Current SC-1, the Shopping Center District, would also be permitted in the proposed I-1 District. This includes restaurants, retail establishments and offices." He said, "Additionally, beyond that, things such as auto repair, various light industrial warehouse and outdoor storage uses would also be permitted only in I-1. So those types of uses that I read secondly, like warehouses, outdoor storage and things like that would be permitted in I-1 but not the current Shopping Center zoning."

Councilor Dominguez said, "Many of the Shopping Center uses would be allowed in I-1."

Mr. Thomas said this is correct.

Councilor Dominguez said, "So you can go down, but you can't go up."

Mr. Thomas said, "Yes, generally speaking. There would be some overlap and it would allow more under light industrial. It is my understanding that the applicant, and perhaps Mr. Siebert could speak to this, is interested in marketing the property, due to its nature, due to its proximity to other light industrial zoned property, marketing it to light industrial uses."

Councilor Dominguez said, "So there are no differences in traffic impacts between those two uses, those two zonings. There are no significant traffic impacts between the two."

Mr. Thomas said, "Generally speaking, light industrial would have a lesser impact than a traditional large retail center, so generally speaking, going down. I might add that the project has also been conditioned to ensure that no access is taken directly from either Agua Fria or San Felipe Road, but rather from the City right-of-way south of the property."

Councilor Dominguez said, "These are the conditions that are on page 21 from the Traffic Engineer John Romeo and Sandra Kassens. So it talks about dedicating sufficient right of way. They would be required though, to comply with standards like sidewalks, curb and gutter, some of those street standards that are automatic, for lack of a better way to put it, and are not part of these conditions."

Mr. Thomas said, "That is correct. It is currently conditioned to require development of the access road within the right of way to City standards up to a point. I believe it reads, to an approved access point within the future development. Whatever that might be."

Councilor Dominguez said, "So, in other words what they're responsible for."

Councilor Maestas said, "A question for Kelley. Kelley, why don't we reference the Findings of Fact and Conclusions of Law in the Resolutions and Ordinances. Because, in this particular Resolution, we reference the conditions set forth by staff for the approval of the change in land use classification, but we don't.... and those conditions were adopted as Findings of Fact by Planning & Zoning. So, just from a policy perspective, why don't we just reference the Findings of Fact and Conclusions of Law in the Resolution and the Ordinance."

Ms. Brennan said, "I don't really think it's necessary. It could be done. It might burden the Ordinance. They're long and we do keep an independent record of them. I think what's important in carrying the Ordinance and Resolution forward are the conditions that are applied by staff. And if there is a Plat, those will be entered on it. Whereas the Findings, at some point, sort of fall away."

Councilor Maestas said, "Just by reference, not verbatim."

Ms. Brennan said, "Oh. You could."

Councilor Maestas said, "I was just curious, because why do we just pick out the conditions placed by staff which are already adopted as part of the Findings of Fact by the Commission. So I was just wondering why not just reference the Findings of Fact and Conclusions of Law."

Ms. Brennan said, "I think we try to attach the actual conditions that we have, I hope, to the Ordinance as an exhibit, so those are the actual conditions, rather than through reference. But it sounds to me like you're suggesting both things go in."

Councilor Maestas said, "By reference. Just maybe in the future. I was just wondering why we don't do that."

Ms. Brennan said, "Because we've found it useful to have the actual conditions attached., because sometimes those get lost track of down the road, and when they're attached to the Ordinance they do tend to stay with the approval."

Public Hearing

Presentation by the Applicant

James Siebert, 915 Mercer, representing the Applicant, was sworn. Mr. Siebert said, "What this really does is simply correct an error in zoning that was made at the time that the City adopted zoning for the extraterritorial area in 2009. And these kinds of things happen. So we're just asking for that to be corrected. And we agree with all conditions as stated, and I'll answer any questions you may have."

Councilor Lindell asked if the Applicant was in agreement with the modifications suggested by the Planning Commission.

Mr. Siebert said, "Yes, they were."

Speaking to the Request

There was no one speaking to the request.

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The Public Hearing was closed

MOTION: Councilor Lindell moved, seconded by Councilor Maestas, to adopt Resolution No. 2014-92, approving Case #2014-71, 5704 Agua Road General Plan Amendment, with all conditions of approval as recommended by staff.

FRIENDLY AMENDMENT: Councilor Rivera asked to amend the motion to accept the Findings of Fact and Conclusions of Law of the Planning Commission. **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 Pro-Tem Ives, Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

- 3) **CONSIDERATION OF BILL NO. 2014-31; ADOPTION OF ORDINANCE NO. 2014-33. CASE #2014-72. 5704 AGUA FRIA ROAD REZONING. JAMES W. SIEBERT AND ASSOCIATES, INC., AGENT FOR PAUL AND ROSINA GALLEGOS, REQUESTS REZONING OF A 1.79 ACRE PROPERTY FROM SC-1 (NEIGHBORHOOD SHOPPING CENTER) TO I-1 (LIGHT INDUSTRIAL). THE PROPERTY IS CURRENTLY VACANT AND LOCATED AT 5704 AGUA FRIA ROAD AT THE INTERSECTION OF SAN FELIPE ROAD AND AGUA FRIA ROAD. (ZACH THOMAS).**

MOTION: Councilor Lindell moved, seconded by Councilor Maestas, to adopt Ordinance No. 2014-33 approving Case #2014-72, 5704 Agua Fria Road Rezoning, with all conditions of approval as recommended by staff and accepting the Findings of Fact and Conclusions of law by the Planning Commission.

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

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

Against: None.

I. ADJOURN

The was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 10:50 p.m.

Approved by:

Mayor Javier M. Gonzales

ATTESTED TO:

Yolanda Y. Vigil, City Clerk

Respectfully submitted:


Mellessia Helberg, Council Stenographer