



SUMMARY INDEX  
 SANTA FE CITY COUNCIL MEETING  
 February 12, 2014

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
<u>AFTERNOON SESSION</u>		
CALL TO ORDER AND ROLL CALL	Quorum	1
APPROVAL OF AGENDA	Approved [amended]	1-2
APPROVAL OF CONSENT CALENDAR	Approved [amended]	2
CONSENT CALENDAR LISTING		2-4
APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – JANUARY 29, 2014	Approved	4
<u>PRESENTATIONS</u>		
MUCHAS GRACIAS – CLAUDIA BORCHERT	Postponed to 02/26/14	4
UPDATE ON LEAD TASK FORCE	Information/discussion	4-7
<u>CONSENT CALENDAR DISCUSSION</u>		
REQUEST FOR APPROVAL OF CHANGE ORDER NO. 5 – MARKET STATION TENANT IMPROVEMENTS; SARCON CONSTRUCTION CORPORATION	Approved	7
REQUEST FOR APPROVAL OF FUNDING FOR IMPROVEMENTS AT MOTO CROSS TRACK LOCATED IN LA TIERRA IN THE NORTHWEST QUADRANT THROUGH 2008 PARKS, TRAILS AND OPEN SPACE BOND FUND	Approved	7-12
REQUEST FOR APPROVAL OF BUDGET INCREASE – FY 2013/2014 RENT AT MONTOYA FEDERAL BUILDING	Approved	12-13
*****		
END OF CONSENT CALENDAR DISCUSSION		
*****		

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
REQUEST FOR APPROVAL OF APPOINTMENT OF MUNICIPAL COURT PRO-TEM JUDGE PURSUANT TO § 2-3.4(C) SFCC 1987, STEPHEN PFEFFER	Approved	13
STATE OF MUNICIPAL COURT REPORT	Information/discussion	13-15
MATTERS FROM THE CITY MANAGER	None	15
<u>MATTERS FROM THE CITY ATTORNEY</u>		
EXECUTIVE SESSION	Approved	16
MOTION TO COME OUT OF EXECUTIVE SESSION	Approved	16
ACTION REGARDING PENDING OR THREATENED LITIGATION IN WHICH THE CITY OF SANTA FE IS OR MAY BECOME A PARTICIPANT, CAMERON-SWINERTON, LLC, GROSS RECEIPTS TAX REFUND DISPUTE, PROJECT CIP #684	Action approved w/direction	16-17
MATTERS FROM THE CITY CLERK	Information	17
COMMUNICATIONS FROM THE GOVERNING BODY	Information/discussion	17-18
<u>EVENING SESSION</u>		
CALL TO ORDER AND ROLL CALL	Quorum	19
PETITIONS FROM THE FLOOR		19-21
<u>APPOINTMENTS</u>		
Audit Committee	Approved	21
Community Development Commission	Approved	21

**ITEM**

**ACTION**

**PAGE #**

**PUBLIC HEARINGS**

REQUEST FROM JOE WADE FINE ART FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/ CONSUMPTION OF WINE AT JOE WADE FINE ART, 102 E. WATER STREET. THIS LOCATION IS WITHIN 300 FEET OF THE CHURCH OF ANTIOCH AT SANTA FE, 207 OLD SANTA FE TRAIL. THE REQUEST IS FOR THE ARTFEAST EDIBLE ART TOUR TO BE HELD ON FEBRUARY 21, 2014, FROM 5:00 P.M. TO 8:00 P.M.

Approved

22

COMMUNITY HEALTH CARE STUDY GROUP  
CONSIDERATION OF RESOLUTION NO. 2014- \_\_\_\_ . A RESOLUTION AUTHORIZING THE ESTABLISHMENT OF A HOSPITAL STUDY GROUP FOR THE PURPOSE OF GATHERING INFORMATION AND MAKING RECOMMENDATIONS RELATED TO THE CURRENT GENERAL STATE OF CHRISTUS ST. VINCENT REGIONAL MEDICAL CENTER

Postponed to 02/26/14

23-45

CONSIDERATION OF RESOLUTION NO. 2014- \_\_\_\_ . A RESOLUTION CALLING FOR THE FORMATION OF A COMMUNITY HEALTH WORKING GROUP TO EXAMINE THE EFFECTS OF THE AFFORDABLE HEALTH CARE ACT ON THE DELIVERY OF HEALTH CARE SERVICES TO THE SANTA FE COMMUNITY, THE COST OF HEALTH CARE IN SANTA FE AND DELIVERY OF HEALTH CARE SERVICES TO THE INDIGENT

Postponed to 02/26/14

23-45

CONSIDERATION OF BILL NO. 2014-2: ADOPTION OF ORDINANCE NO. 2014-5. AN ORDINANCE RELATING TO THE PROHIBITION OF THE PROCUREMENT OF TOBACCO BY MINORS; AMENDING SUBSECTION 16-15.4 SFCC 1987, TO AMEND THE DEFINITION OF "TOBACCO PRODUCT" AND CREATE A NEW DEFINITION FOR "ELECTRONIC SMOKING DEVICE"

Approved [amended]

45-55

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
CONSIDERATION OF BILL NO. 2014-3: ADOPTION OF ORDINANCE NO. 2014-6. AN ORDINANCE SMOKE-FREE ORDINANCE, SECTION 10-6 SFCC 1987; AMENDING SUBSECTION 10-6.2 TO INCLUDE FINDINGS RELATING TO ELECTRONIC SMOKING DEVICES AND AMENDING SUBSECTION 10-6.3 TO INCLUDE DEFINITIONS FOR "ELECTRONIC SMOKING DEVICE" AND "TOBACCO PRODUCT"	Approved	45-55
CONSIDERATION OF BILL NO. 2014-1: ADOPTION OF ORDINANCE NO. 2014-07. AN ORDINANCE AMENDING VARIOUS PROVISIONS OF THE CITY OF SANTA FE ANIMAL SERVICES ORDINANCE, CHAPTER 5 SFCC 1987	Approved	56
CONSIDERATION OF BILL NO. 2013-42: ADOPTION OF ORDINANCE NO. 2014- _____. AN ORDINANCE RELATING TO THE CITY OF SANTA FE ECONOMIC DEVELOPMENT PLAN ORDINANCE, ARTICLE 11-11 SFCC 1987; AMENDING ORDINANCE NO. 2013-2 FOR THE PURPOSE OF APPROVING AND ADOPTING A SECOND AMENDED LOCAL ECONOMIC DEVELOPMENT PROJECT PARTICIPATION AGREEMENT BETWEEN THE CITY OF SANTA FE AND RODEO PROPERTY, INC., FOR AN INDOOR MULTIPURPOSE FACILITY, A LOCAL ECONOMIC DEVELOPMENT PROJECT	Postponed to 04/09/14	57
REQUEST FOR APPROVAL OF ECONOMIC DEVELOPMENT SECOND AMENDED PROJECT PARTICIPATION AGREEMENT BETWEEN THE CITY OF SANTA FE AND RODEO PROPERTY, INC.	Postponed to 04/09/14	57
REQUEST FOR APPROVAL OF MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF SANTA FE AND SANTA FE COUNTY	Postponed to 04/09/14	57
ADJOURN		57

**MINUTES OF THE  
REGULAR MEETING OF THE  
GOVERNING BODY  
Santa Fe, New Mexico  
February 12, 2014**

**AFTERNOON SESSION**

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor David Coss, on Wednesday, February 12, 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 David Coss  
Councilor Rebecca Wurzbarger, Mayor Pro-Tem  
Councilor Patti J. Bushee  
Councilor Christopher Calvert  
Councilor Bill Dimas  
Councilor Carmichael A. Dominguez  
Councilor Peter N. Ives  
Councilor Christopher M. Rivera  
Councilor Ronald S. Trujillo

**Others Attending**

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

**6. APPROVAL OF AGENDA**

Brian Snyder said he would like to postpone Item #9(a) under Presentations to the next meeting of the Council, because Claudia Borchert couldn't attend this evening.

Mr. Snyder would like to move Items #H(4) & #H(5) before Item #H(3) on the Evening Agenda, due to a staffing conflict.

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

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

**7. APPROVAL OF CONSENT CALENDAR**

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

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

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

**Against:** None.

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

**10. CONSENT CALENDAR**

A copy of an Action Sheet from the Public Works/CIP and Land Use Committee meeting of Monday, February 10, 2014, regarding Item 10(i) is incorporated herewith to these minutes as Exhibit "1."

A copy of an Action Sheet from the Public Works/CIP and Land Use Committee meeting of Monday, February 10, 2014, regarding Item 10(k) is incorporated herewith to these minutes as Exhibit "2."

A copy of an Action Sheet from the Public Works/CIP and Land Use Committee meeting of Monday, February 10, 2014, regarding Item 10(l) is incorporated herewith to these minutes as Exhibit "3."

- a) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE AND COOPERATIVE PRICE AGREEMENTS – TEN (10) POLICE PATROL VEHICLES AND REQUIRED UP-FIT EQUIPMENT FOR ANNEXATION EXPANSION; CES/DON CHALMERS FORD, MHQ OF NEW MEXICO, GRANTS & TECHNOLOGY, CDWG GOVERNMENT, CMS COMMUNICATIONS, MOTOROLA SOLUTIONS, DIGITAL ALLEY, MHP INDUSTRIES. (DEPUTY POLICE CHIEF JOHN SCHAERFL)**
  - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – POLICE PROPERTY TAX FUND.**

- b) **REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO CONSTRUCTION AGREEMENT – CITY-WIDE WATER UTILITY CONSTRUCTION AND REPAIR PROJECTS; SUBSURFACE CONTRACTING, INC. (BILL HUEY)**
- c) **REQUEST FOR APPROVAL OF WATER RIGHTS PURCHASE AGREEMENT – WITHIN THE NAMBE-POJOAQUE-TESUQUE (NPT) RIVER SYSTEM; THE CLUB AT LAS CAMPANAS. (RICK CARPENTER AND MARCOS MARTINEZ)**
- d) *[Removed for discussion by Councilor Bushee]*
- e) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE AND COOPERATIVE PRICE AGREEMENTS – INSTALLATION, MAINTENANCE AND MONITORING SERVICES OF CITY-WIDE FIRE AND ALARMS SYSTEMS; ATI SECURITY, INC. (ROBERT RODARTE)**
- f) **REQUEST FOR APPROVAL OF GRANT AWARDS – 2011 AND 2013 STATE HOMELAND SECURITY SUB-GRANT PROGRAM; UNITED STATES DEPARTMENT OF HOMELAND SECURITY AND FEDERAL EMERGENCY MANAGEMENT AGENCY. (ANDREW PHELPS)**
  - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND.**
- g) *[Removed for discussion by Councilor Dominguez]*
- h) **REQUEST FOR APPROVAL OF GRANT AWARD AND GOVERNMENTAL SERVICES AGREEMENT – YOUTH CONSERVATION CORPS COMMISSION PROJECT FOR FIRE DEPARTMENT; STATE OF NEW MEXICO YOUTH CONSERVATION CORPS COMMISSION AND CITY OF SANTA FE. (PORFIRIO CHAVARRIA)**
  - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND.**
- i) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – FORT MARCY SWIMMING POOL ROOF AND SKYLIGHT REPLACEMENT AND RENOVATION PROJECT; COOPERATIVE EDUCATIONAL SERVICES AND ROOF CARE. (LISA MARTINEZ)**
- j) **REQUEST FOR APPROVAL OF EXEMPT PROCUREMENT AND PROFESSIONAL SERVICES AGREEMENT – SANTA FE COMMUNITY TELEVISION PUBLIC ACCESS; SANTA FE COMMUNITY COLLEGE. (JOE ABEYTA)**
- k) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENTS – PURCHASE OF MAINTENANCE MATERIALS AND SUPPLIES FOR THE STREETS DIVISION; 3M COMPANY, SAN BAR CONSTRUCTION AND J&H SUPPLY. (RANDY BLAKE)**

- l) **REQUEST FOR APPROVAL OF CONTRACT – PARKING EQUIPMENT AND RELATED SERVICES FOR PARKING DIVISION; IPS GROUP, INC. (P.J. GRIEGO)**
- m) *[Removed for discussion by Councilor Bushee]*
- n) **IN ACCORDANCE WITH RESOLUTION NO. 2013-107, ONE DAY COMMUNITY CONVENTION CENTER AND PARKING FEE WAIVERS FOR NON-PROFIT FUNDRAISING EVENTS. (JIM LUTTJOHAN). (INFORMATIONAL ONLY)**

**8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – JANUARY 29, 2014**

**MOTION:** Councilor Domínguez moved, seconded by Councilor Rivera, to approve the minutes of the Regular City Council meeting of January 29, 2014, as presented.

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

**9. PRESENTATIONS**

- a) **MUCHAS GRACIAS – CLAUDIA BORCHERT**

This item is postponed to the Council meeting of February 26, 2014.

- b) **UPDATE ON LEAD TASK FORCE. (CAPTAIN JEROME SANCHEZ AND MONICA AULT.**

*Councilor Wurzbarger arrived at the meeting*

Monica Ault, Attorney, Drug Policy Alliance, said she has been working with the Team since it started. She said a lot of progress has been made as follows: they drafted and released an RFP, overhauled Seattle's protocols to fit Santa Fe and awarded a contract on January 29, 2014, to LifeLink. They are very excited about the partnership and are working with Carol Luna Anderson to get the service provider up to speed and to have a program roll-out by the beginning of March.

Ms. Ault presented information regarding the recent LEAD Team trip to Seattle December 2 through 5, 2014, to visit its LEAD program, which was paid by a private grant. She said those going on the trip included, in addition to herself, were Captain Jerome Sanchez, Property Crimes Unit Detective Casey Salazar, District Attorney Angela Pacheco, Head Narcotics District Attorney Jason Widyand, and Detective Roberto Rodriguez. They met with all Seattle's stakeholders and the purpose of the trip was to see the program in action and learn from their progress as well as their mistakes.

Ms. Ault said they observed Seattle's Policy Coordinating Team Meeting, their Operational Work Group meeting, the prosecuting attorneys, their service provider Treatment Professionals, caseworkers, Down Seattle Association which was instrumental in Seattle's LEAD program, and with the Seattle Police Department. They were able to spend 5 hours with Seattle's ACT Team, and go on a buy bust with them, interact with them and ask questions about the program.

Captain Jerome Sanchez introduced Casey Salazar who will be helping on the project, noting he is a front line Detective that works with these individuals and "our clients" in the near future. He talked about the wide variety of stakeholders who are collaborating on the best way to target their particular issues there.

Detective Salazar reiterated that they were lucky enough to spend time with groups in Seattle that normally wouldn't be in the same room that are coming together working toward a common goal. He this is what he sees happening here which is impressive and gives him hope. On the trip, he was lucky enough to work with the anti-crime team on the streets and see how they operate. He said Seattle's problem is different from ours, but we can tailor it to work for us. They have a lot of open area crack sales on the street corners, and they are working to deal with that. He was impressed with the way law enforcement and stakeholders are approaching the problem.

Mayor Coss thanked everyone for the work they put into the LEAD report and making the trip to Seattle.

Terrie Rodriguez said there has been substantial interest in LEAD during this Legislature. She said two bills have been introduced in this session, and they would like to thank Representative Lucky Varela for being the sponsor in the house, noting he has committed \$40,000 of the \$200,000 requested. She said she also wants to thank Senator Nancy Rodriguez, the Senate sponsor. She said Representative Stapleton of Bernalillo County has introduced a House Joint Memorial asking for a study of LEAD across the State, noting Senator McSorley of Bernalillo County also expressed interest.

Ms. Ault said, with regard to the funding model, they are seeing the public/private partnership coming to fruition. She said the State funding is pending, and the funds received from Santa Fe have helped them to leverage other public funds as well as get the interest of major national foundations for support. She said the Drug Policy Alliance and the Santa Fe Community Foundation are partnering to do an analysis of what local and national foundations can do. They are in dialogue with the Ford Foundation, Open Society Foundation and Tide Foundation, and they are excited to see how Santa Fe can replicate a LEAD-like model and how we will create LEAD in a more rural setting. She is hopeful that we will have a true public private partnership for this and will keep you posted on that.

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

Councilor Dominguez said he is glad to hear there is some private money involved. He asked if they are looking at a 3-year sustained program for now for the short term.

Ms. Ault said it is 3 years to find funding to move and implement the program into a long term program.

Councilor Dominguez asked if the money from the private side is for the pilot program, and Ms. Ault said this is correct. He thanked her for her work and looks forward to the success of this in the short and long term.

Councilor Bushee asked when we will have the funding model in place.

Ms. [unidentified] said, "For the legislative dollars, right now HB 2 has to pass through the house. We already know that the \$40,000 is already in the language in HB 2, but it needs to pass and go to the Senate side for Senator Rodriguez's funding to amended into that. Unfortunately, we're sort of waiting to see if it passes. Beyond the Legislative dollars, I'm going to have Monica speak to the proposal they're working on for one large foundation."

Ms. Ault said, "With the pilot fund, we've been working on a large proposal, and hopefully we will know by April if we will secure that larger particular grant, but we also have some smaller grants, but they're all coming in at different time, because they have different deadlines."

Councilor Bushee asked if these are in-state or out-of-state.

Ms. Ault said, "The really large one is a national grant, so it is out of state, and there are some in-state local funds we've been trying to get at as well, but we're constantly keeping our eyes open for anything. So if you guys hear of anything, please tell us."

Councilor Bushee said it looks like a young, energetic group of folks are spearheading this, so it's pretty exciting.

Councilor Wurzbarger said, "I am very interest in the transfer aspect of what you're talking about. I spent ten years at the University of Southern California with a federally funded grant from the Justice Department that was transferred all over the country, so I would be happy to share some of that experience with you, because again, that's a dimension that can get a federal agency or, as you're looking toward the private foundations to bring money in, early on, even during the pilot if you are developing a model for how it can be transferred. Call me."

Councilor Dimas said, "I just want to tell you personally how excited I am about this program, and the community should be excited as well. I want to applaud each and every one of you for all the hard work you've done on this program. I've been there since the beginning and I have seen the progress, and I am excited for the future of the program, and praying that it's long term. It's been needed for many years now, and it's so heartening to see it's actually happening."

Ms. Ault said, "We couldn't have done the work if you hadn't allowed us to do the work, so thank you all for supporting such an innovative project here in New Mexico."

Mayor Coss noted Councilor Dimas was an original sponsor two years ago.

### **CONSENT CALENDAR DISCUSSION**

#### **10(d) REQUEST FOR APPROVAL OF CHANGE ORDER NO. 5 – MARKET STATION TENANT IMPROVEMENTS; SARCON CONSTRUCTION CORPORATION. (LeANN VALDEZ)**

A copy of an Action Sheet from the Public Works/CIP and Land Use Committee meeting of Monday, February 10, 2014, regarding Item 10(d) is incorporated herewith to these minutes as Exhibit "4."

Councilor Bushee said she removed this item to vote against it, to be consistent with her vote so far.

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

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

**For:** Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzburger.

**Against:** Councilor Bushee.

#### **10(g) REQUEST FOR APPROVAL OF FUNDING FOR IMPROVEMENTS AT MOTO CROSS TRACK LOCATED IN LA TIERRA IN THE NORTHWEST QUADRANT THROUGH 2008 PARKS, TRAILS AND OPEN SPACE BOND FUND. (BEN GURULE)**

A copy of an Action Sheet from the Public Works/CIP and Land Use Committee meeting of Monday, February 10, 2014, regarding Item 10(g) is incorporated herewith to these minutes as Exhibit "5."

A matrix, *MX Track Proposed Cost Estimate*, submitted for the record by Ben Gurule, is incorporated herewith to these minutes as Exhibit "6."

Councilor Dominguez asked if we received a State grant through Game and Fish in the amount of \$10,000, and Mr. Gurule said this is correct.

Councilor Dominguez said there is a Schedule attached to Exhibit 3, Planned Development during the period of October through December 2013, the City shall submit documentation as described in paragraph A.9, no later than January 15<sup>th</sup> of the following calendar year," but it doesn't give a year on the dates.

Ben Gurule said the grant money was used for the assessment and the development of the guidelines. He said the funding they are seeking tonight is for the implementation of those guidelines.

Councilor Dominguez said then the State funds were for development of the plan.

Mr. Gurule provided the breakdown of the costs [Exhibit "6"].

Councilor Dominguez said it looks like the improvements listed in Exhibit "6" are peripheral to the track, and not necessarily improvements to the track itself.

Mr. Gurule said the original problem we had was that Travelers couldn't insure the track because of the liability with the track. And these guidelines we're going to incorporate, there's "actually a station by station, site by site, on the track, different things that are going to happen to the track. He said there is a map in the packet that goes into specifics about what we're going to do at each location.

Councilor Dominguez said he understands and he read the plan, but the question he asked was, "These improvements, the \$54,450 are mostly for improvements to the, not the course itself, but the perimeter of the track. Maybe that's not the right way to put it, but it's not the track surface."

Mr. Gurule said this is correct. He said the funding is for materials for fencing, drainage improvements for the culverts, the waddles that are necessary whenever you do earth work, reseeding to reclaim areas that we've disturbed. So the actual improvements on the track itself, will be done by employees from Streets and Parks with City equipment, at the direction of the Governing Body and the Parks Department to go ahead and move it forward.

Councilor Dominguez said he is interested in the track itself. He said, "I understand that some of these things help reduce the liability, such as the signage with direction. How much is it going to cost us to upgrade the track itself. Or, is that all being done by in-house staff."

Mr. Gurule said it will all be done by in-house staff with City owned equipment, and "we are estimating it will be 4-6 weeks with heavy earth moving, grading and that kind of work."

Councilor Dominguez said, "There's no reason to delay that part of the improvements to the track, outside of what may be relevant to this. In other words, you can start working on the track as soon as you can."

Mr. Gurule said this is correct. He said, "However, Councilor, we can't allow it to be opened until we incorporate the remainder of those guidelines which is fencing, signage and so forth."

Councilor Dominguez asked who is supervising the building of the track.

Mr. Gurule said, "It will be myself, Richard Lopez, Chris Ortiz. We're going to have periodic visits from David Chester, who works for Great Outdoors, the other consultants we hired."

Councilor Dominguez asked if we are paying him more money to do that.

Mr. Gurule said, "No sir. It's part of the contract, as part of the original agreement with the Great Outdoors they would provide us with some on-site visits to see if we're headed in the right direction, or what's going on."

Councilor Dominguez asked, "Is he the only one that has any sort of qualifications to determine whether the grade is adequate. How are you going to determine whether there is sufficient grade, or anything on some of that track."

Mr. Gurule said, "David Catanach at Streets, has a tremendous amount of experience with grading and drainage and setting points and all of that. So he will also assisting us with making sure that we're following those guidelines as far as slopes and all of that."

Councilor Dominguez said, "But there is no MotoCross expert, necessarily, that is supervising this work."

Mr. Gurule said, "No sir."

Councilor Dominguez asked, "Is there any liability that we are subject to because of that."

Mr. Gurule said he doesn't know that answer.

Barbara Boltrek, Risk Manager said, "The insurance company is okay with the City doing what Great Outdoors has designed, as long as Great Outdoors comes back and inspects every so often."

Councilor Dominguez said, "So then Great Outdoors is going to be liable if something happens. Where does the liability stand. Do we have the proper people to determine whether or not Great Outdoors has designed an appropriate track."

Ms. Boltrek said, "The insurance company feels confident, because this company is a certified design engineer company, that is licensed and bonded, they feel confident that they have enough experience to direct us, and we can then follow what they've asked us to do."

Councilor Dominguez said, "Are you sure of that. I mean, if something happens, is Great Outdoors then liable for faulty design."

Ms. Boltrek said, "They could be, if that was the case, but ultimately it is our park, so we would need to insure it."

Councilor Dominguez asked Mr. Gurule the timeline to get the track open. He said, "The bottom line for me is that the whole reason that this exists is because we wanted to make sure we eliminate some of that activity from other parts of the community and centralize it, if you will. And so what are we looking at, in terms of opening it."

Mr. Gurule said, "Upon approval tonight, we'll do some take-offs on the materials necessary. We should hopefully get Recs by the middle of next week and we will do a Notice To Proceed, and we'll break down, probably starting Monday, with assistance from the Streets Department who is going to be working on Saturday and Sunday. He's going to be paying his staff overtime, because he can't afford to allow them during the week, but Parks will be there during the week with a grader, a loader and a backhoe. We'll have 3 operators there, we'll have our water truck there. So we're thinking about 4-6 weeks."

Councilor Dominguez asked Mr. Gurule if we will be soliciting the help from any of the people who actually are going to use the track to help with some of the design as it relates to what Great Outdoors recommended.

Mr. Gurule said, "Yes. It's City staff, with the assistance of volunteers, specifically Daniel Coriz. He's a member of the *I Ride*, the MX Group, and he has asked if he can assist in any way. And I said of course we would allow him to come in and help us where he can, because he has a lot of experience. So if the guideline says to cut it 3 to 1, or whatever, and it might be a little off or whatever, he probably could help us with stuff like that."

Councilor Bushee said, "I would really like to know if we build this with all the additional changes, if the non-profit is still being established, and if they're going to take this on and how that's going to work with the City, back to liability, but just oversight and maintenance and all of that. It's just been such a long haul. And then part two, is to know that whatever audits we conduct for that bond, this project will be included to make sure that the details are you know.... it's costing about double what we had initially talked about and with all these additional changes. I would like to see it open. And then you know, if they build it they will come, and it will be managed and all of those good things."

Mr. Gurule said, "During this process we were working with *I Ride*, that they would take over the maintenance portion of the track, and at that time they were not able to acquire the non-profit affiliation, which they now have acquired. So, we'll be working towards that with that *I Ride* group to hopefully assist with the maintenance and so forth. Based on the guidelines, it does not require an operator, so there's no need for an operator, but there's going to be a need for periodic maintenance and that's where we're hoping that volunteers will assist the City."

Councilor Bushee asked if we will have some kind of arrangement.

Mr. Gurule said it will be done through a joint powers agreement.

Councilor Bushee asked if they are willing to take on some of the maintenance, and Mr. Gurule said yes. Councilor Bushee asked if that is put together.

Judith Amer, Assistance City Attorney, said, "There are a variety of agreements that could be formed, and as has been stated, it was something we were very interested in entering into, I want to say, 8 months ago, but the organization hadn't been formed yet. I heard that was just recently formed, and we're going to work with them with some type of lease agreement, lease operating agreement, services agreement. We'll have to negotiate it with that organization."

Councilor Bushee said, "I never understood why the insurance company was able to dictate, and this might be for you Judy. I know it's motorized and there are liability concerns. Should we have a similar arrangement with our skate parks. We do the maintenance there. What I don't want to see are well intentioned non-profits.... I know they'll be there, because they helped create the thing. It puts a lot on a volunteer operation to keep it alive. And so, I just want to make sure that we have a backup plan if any of that falls through, in terms of the City being able to maintain it and take it on. You've already said you don't need to have that as a requirement to get this insured. It seemed picked on a little bit by the insurance company."

Ms. Amer said, in terms of the insurance, the City normally has to consult with their insurance company and find out what requirements they have in order to be able to provide sufficient insurance for any of our projects or facilities. Barb [Boltrek] might be able to speak to that."

Ms. Boltrek said, "I would just say that, like the State Parks, they were designed by a company and then accepted by the City and insured as part of that. So this is similar to anything that we actually undertake in the City."

Councilor Bushee said she wants to be sure it is going to be maintained if we invest this additional funding, and Mr. Gurule said, "Yes. It is our intention to continue to maintain it.

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

**DISCUSSION:** Councilor Ives said, "In the Buckman MX Track report on page 19, it says, 'A trained staff member with track riding experience should conduct regular maintenance and keep a track maintenance log to ensure consistency and thoroughness.' And they talk about 'maintenance and inspection should be conducted at least once a week.' Are those activities that are being taken on by the non-profit, or will the City be doing that."

Mr. Gurule said, "The City of Santa Fe Parks Department will upkeep all the maintenance until we have volunteer group that's willing to do it, and if there's ever a gap that the volunteer group falls apart or whatever, well yes, we will make sure that it is usable and functional."

Councilor Trujillo said, "It is a MotoCross Track. Can this also be used, maybe for a BMX".

Councilor Dominguez said, "I was under the impression that the Game & Fish grant indicated that it needed to be open and accessible for more than just MotoCross, and so I think that some of the other uses are a part of future phases. And if this is the case, do we still comply with the conditions of the grant."

Mr. Gurule said, "So there is a BMX almost in the same location. As far as ATV's, in these guidelines, there is like a training facility we will be building. And if we build that training facility, pretty much, the State has promised that we will continue to get grants for educational and maintenance purposes. So, inside that same footprint where the MotoCross is currently located and where we will be building a training

facility, there is additional space for expansion for an ATV track. It will have an ATV, motorcycle, real basic little training facility. But for a person who goes for recreational use of an ATV, that isn't the location. Right now, pretty much, it's going to be built for motorcycles, two-wheel vehicles."

Councilor Dominguez asked if there is an estimated amount for that part of the facility, so we can continue getting State funds."

Mr. Gurule said, "Inside these guidelines, it does have a training facility which we are going to build. So once that's built, we will continue to seek grant funding."

Councilor Dominguez said, "Let me ask it like this. Are we going to build it in-house."

Mr. Gurule said, "We're going to build it at the same time we're doing this."

Councilor Rivera talked about a bicycle event, the old la Tierra Torture, which brings many mountain bikers into the City on a yearly basis. He asked, "Have we spoken with them to make sure that things like the fence, or some of the gates, aren't going to affect their race, which I know isn't just isolated to the track itself, but runs along many of those trails."

Mr. Gurule said, "This fencing doesn't infringe on any of that course."

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

**For:** Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzburger.

**Against:** None.

**10(m) REQUEST FOR APPROVAL OF BUDGET INCREASE – FY 2013/2014 RENT AT MONTOYA FEDERAL BUILDING. (MARCOS TAPIA). (POSTPONED AT JANUARY 29, 2014 CITY COUNCIL MEETING)**

Councilor Bushee said, "I took this off because I continue to have the same issue, but also, the concern really was that it was projected, and I know that didn't occur, four months rent is due, but it was projected as a savings. One of the reasons to move to Market Station was the savings that would be exacted. So I'm going to be consistent, but also really protest a little bit here and say that savings didn't occur to another \$167,400 will be added to the cost. That is not a savings, so somebody else will have to make the motion to approve it.

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

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

**For:** Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzburger.

**Against:** Councilor Bushee.

**Explaining her vote:** Councilor Wurzburger said, "Yes. And I should comment, my vote was made on the basis on the very clear justification that the staff made for the rationale as to what occurred that was not predictable.

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**END OF CONSENT CALENDAR DISCUSSION**

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**11. REQUEST FOR APPROVAL OF APPOINTMENT OF MUNICIPAL COURT PRO-TEM JUDGE PURSUANT TO § 2-3.4(C) SFCC 1987, STEPHEN PFEFFER. (JUDGE YALMAN)**

Judge Yalman said she is pleased Retired Judge Pfeffer is willing to serve in this position. She said she has a few pro-tems, but most are retired and very busy, so it's really hard to find someone to cover for her at times. She requested approval for Retired Judge Pfeffer.

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

**DISCUSSION:** Councilor Calver said, "Is there is there any limitation on their ability to say no.

Judge Yalman said, "We had someone who just never showed, and after a couple of years, we just stopped renewing their contract. We got the hint."

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

**For:** Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzburger.

**Against:** None.

**12. STATE OF MUNICIPAL COURT REPORT (JUDGE YALMAN)**

Judge Yalman thanked this City Council for its support. She said she believes she is only Court that didn't have its budget cut, didn't have to lay off staff or reduce hours. She said, "So I really, really want to thank you for that because it was very rare. I would also like to thank my staff, particularly for the last

few months. We have really been struggling with our new software system and also hardware problems which we had not expected. And they've really made an effort. We're still struggling, but they've really worked very hard and I just wanted to take this moment to thank them."

Judge Yalman presented information from her Memo to the Mayor, City Councilors, and City Manager, dated February 6, 2014, regarding the State of the Municipal Court. Judge Yalman talked about the software and hardware issues they have been experiencing. She said they aren't functioning the way she would like. She said they have decided to bring the server in-house, and once that is done, they won't be experiencing the number of problems they are experiencing.

Judge Yalman said there has been an increase in Traffic cases. And she expects it to be even busier with the annexation, so she will be asking for more staff in the budget. She spoke about the issue of parking, noting Parking Division has been able to automate in a way it didn't before, which allows it to track 12,000 people per month, and she can't do that many new cases per month. She said they would like to tie in parking to our computer, but she hasn't pushed that until the issues are resolved and the server is in her office.

Judge Yalman said, "I don't know if we can handle parking now that they are automated." She is hoping to hire a temp to scan in all cases. She said it is necessary to hold onto DWIs for 25 years. She said the staff can't do their regular job and do that scanning. She said, "I also think we're probably going to need several new people because of increased traffic."

Judge Yalman commended the Council for the Living Wage. However, one of the things that a living wage does is that skilled people aren't making a whole lot more than unskilled people, at least at the Court. She really would encourage the Council to increase peoples' pay. She said, "I have very skilled staff, and basically what happens, because they haven't been getting lots of raises, is we're not paying a whole lot more to skilled people than to unskilled people. I just think it's a concern the Council should consider. We lose people to other agencies." She had one employee leave because she earned \$5 more per hour by moving to the State and she can't compete with that. She needs to work to raise the pay of her staff to keep them, and this probably is true throughout the City. She encouraged the Council to look at this, if they can afford to do so.

Councilor Dimas asked Judge Yalman if she has done a comparison between Municipal and Magistrate Court clerk salaries.

Judge Yalman said no, but she spoke with City Human Resources, which was going to look at it. She isn't losing people to Magistrate Court, she is losing them to the AOC and DA where they move right into higher salaries.

Councilor Bushee thanked her for her work. She has been pleased with the Judge's ability to get the Municipal Court in order, and believes that does save the City money.

Councilor Bushee asked if the bump-up on traffic tickets is due to the speed vans.

Judge Yalman said, "No. These are real tickets."

Councilor Bushee said, "What are your needs on that front."

Judge Yalman said, "More time. More hours of the day. The original settings are set by the Police Department, so we don't have a lot of control and when you show up on Monday morning, you sometimes see 200 people, and it's like, I don't talk that fast. Are we ever going to get through this." She said the holidays fall on Fridays or Mondays, and she wants to spread out the traffic a bit.

Councilor Bushee asked if there is something we could tweak to lighten the load, commenting that Judge Yalman should get her requests into Finance as quickly as possible so they can be considered in this year's budget.

Judge Yalman said, "I'm sure there's something, but I don't have an instant solution, a straight answer for that. I think it just takes a lot of staff and a lot of my time, and the police have put in a lot of time. That's why we have an increase in tickets and I don't see that as a negative. I see it as a positive, it's just we have to deal with it."

Councilor Bushee asked if the forms are in both Spanish/English. She said the traffic tickets, which are produced by the State, are in English. She said they under guidelines from the Supreme Court with regard to interpreting, noting the costs will increase because of the increased regulations.

Councilor Dimas said he thinks the increased traffic has to do with the Police Department finally being up to full force, and he likes to call it "Rookieitis." He said new officers love to come in and write an abundance of tickets. Once they become seasoned, they don't write as many tickets.

Judge Yalman said, "I would say that the drivers in Santa Fe are terrible, so I'm a big fan of Rookieitis."

Councilor Rivera thanked Judge Yalman for taking him on a tour of the Court, and being able to see what happens behind the scene, commenting that Arlene Sisneros does great work and runs a tight ship.

Mayor Coss thanked Judge Yalman for her report.

### **13. MATTERS FROM THE CITY MANAGER**

There were no matters from the City Manager.

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

- 1) IN ACCORDANCE WITH THE NEW MEXICO OPEN MEETINGS ACT §10-15-1(H)(7) NMSA 1978, DISCUSSION REGARDING PENDING OR THREATENED LITIGATION IN WHICH THE CITY OF SANTA FE IS OR MAY BECOME A PARTICIPANT, CAMERON-SWINERTON, LLC, GROSS RECEIPTS TAX REFUND DISPUTE, PROJECT CIP #684. (KELLEY BRENNAN AND JUDITH AMER)**

**MOTION:** Councilor Wurzburger moved, seconded by Councilor Rivera, that the Council go into Executive Session, in accordance with §10-15-1(H)(7) NMSA 1978, for discussion regarding pending or threatened litigation in which the City of Santa Fe is or may become a participant, Cameron-Swinerton, LLC, Gross Receipts Tax refund dispute, Project CIP #684.

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

**For:** Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzburger.

**Against:** None.

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

**MOTION TO COME OUT OF EXECUTIVE SESSION**

**MOTION:** At 6:35 p.m., with Mayor Pro-Tem Wurzburger presiding, Councilor Trujillo moved, seconded by Councilor Dominguez, that the City Council come out of Executive Session and stated that the only items which were discussed in executive session were those items which were on the agenda, and no action was taken.

**VOTE:** The motion was approved unanimously on a voice vote with Councilors Calvert, Dominguez, Ives, Trujillo and Wurzburger voting in favor of the motion, no one voting against, and Councilors Dimas, Rivera, and Bushee absent for the vote.

- 15. ACTION REGARDING PENDING OR THREATENED LITIGATION IN WHICH THE CITY OF SANTA FE IS OR MAY BECOME A PARTICIPANT, CAMERON-SWINERTON, LLC, GROSS RECEIPTS TAX REFUND DISPUTE, PROJECT CIP #684. (KELLEY BRENNAN AND JUDITH AMER)**

**MOTION:** Councilor Dominguez moved, seconded by Councilor Dimas, that staff proceed, in accordance with the guidance of the Governing Body in Executive Session, to recover the full amount of monies refunded by the New Mexico Department of Taxation and Revenue to Cameron-Swinerton, LLC, for gross receipt taxes paid in conjunction with construction of the Santa Fe Community Convention Center, or certain tangible personal property that is exempt from gross receipts tax.

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

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

**Against:** None.

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

**16. MATTERS FROM THE CITY CLERK**

Yolanda Vigil, City Clerk, reminded everyone that Early Voting is taking place here at the City Hall in the City Clerk's Office, and Early Voting will end on Friday February 28, 2014, and the election is Tuesday, March 4, 2014.

**17. 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 February 12, 2014, is incorporated herewith to these minutes as Exhibit "7."

**Councilor Rivera**

Councilor Rivera said, "I would like to wish my lovely wife a Happy Valentine's Day.

Mayor Pro-Tem said, "I would like to entertain a motion that we all wish the relevant happy people in our lives, Happy Valentine's Day, so we don't all have to do that, not to take away from you Councilor."

**MOTION:** Mayor Pro-Tem Wurzburger moved, seconded by Councilor Rivera, that each of the Councilors wish their relevant happy people in our lives a happy Valentine's Day.

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

Councilor Rivera said when he toured the Friedman Recycling Center, they said they do recycle political signs, which we don't have in Santa Fe. He asked Mr. Snyder to ask Leonard to look into recycling the signs, and maybe the week after the election we can put a roll-off somewhere where everyone can dispose of their signs for recycling.

**Councilor Dimas**

Councilor Dimas wished his beautiful wife Candy a beautiful Valentine's Day.

### **Councilor Calvert**

Councilor Calvert asked Mr. Snyder to work on getting a Muchas Gracias for Rick Carver who did a great job in organizing the homecoming in Hawaii – he did an excellent job.

### **Councilor Dominguez**

Councilor Dominguez wished his wife a Happy Valentine

### **Councilor Wurzburger**

Councilor Wurzburger wished her daughter and future son-in-law, with whom she just spent 10 days in Australia when they were engaged, a Happy Valentine's Day.

Mayor Pro-Tem Wurzburger Introduced the following on behalf of Councilor Bushee:

1. A Resolution directing staff to explore the options for constructing "single track and stacked "loop trails in a 30 minute zone surrounding Santa Fe; supporting efforts for Santa Fe to be designated as a Ride Center by the International Mountain Biking Association; and calling on Santa Fe County and the Santa Fe Fat Tire Society to support and join the City of Santa Fe in such efforts. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "8."
2. A Resolution authorizing a discount bus pass sale program for non-profit social service organizations who purchase bus passes in volume for distribution to indigent clients who utilize the City of Santa Fe's public transportation system: Santa Fe Trails. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "9."

### **Councilor Ives**

Councilor Ives had no communications.

### **Councilor Trujillo**

Councilor Trujillo wished his wife Amber a Happy Valentine's Day.

**END OF AFTERNOON SESSION AT 6:40 P.M.**

## **EVENING SESSION**

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

The Evening Session was called to order by Mayor David Coss, at approximately 7:00 p.m. Following the Pledge of Allegiance, salute to the New Mexico Flag, and Invocation, Roll Call indicated the presence of a quorum as follows:

#### **Members Present**

Mayor David Coss  
Councilor Rebecca Wurzbarger, Mayor Pro-Tem  
Councilor Patti J. Bushee  
Councilor Bill Dimas  
Councilor Carmichael A. Dominguez  
Councilor Peter N. Ives  
Councilor Christopher M. Rivera  
Councilor Ronald S. Trujillo

#### **Members Excused**

Councilor Christopher Calvert

#### **Others Attending**

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

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

A copy of a Motion to Rescind/Reconsider Vote on Dismissal of Appeal in Case #2013-0127, submitted for the record by Stefanie Beninato, is incorporated herewith to these minutes as Exhibit "10."

**David McQuarie, 2997 Calle Cerrada** said he is here to speak about accessibility. He said Chamisa Trail was worked on between Yucca and Siringo, and "we" were never asked to comment on it. He had Pueblos del Sol Trail has never been fully to ADA requirements as we requested. The Committee requested and advised developing a trail access plan, but it hasn't been done it yet. He said the Committee was never involved on the trail out of SWAN Park Committee never involved, and we were told it was too late, and asked why. He said the Courthouse on Sandoval is inaccessible to people with mobility devices or moms with strollers. He said the Engineering Department said "we can use the other side of the street. He said it is discrimination when he has to go down to DeVargas or use Cerrillos Road. He asked why he can't use Sandoval. He said, with regard to the Tafoya Bridge, the Engineer came to their Committee last month and asked us to build a 5 foot sidewalk on the bridge. We were advised it is not required, just recommended. He said there is no pedestrian crossing on West Alameda, which means

there is no access for people with disability on West Alameda between St. Francis Drive & Guadalupe  
there is no access for people with disability other than one about 100 feet from St. Francis. He asked if the Engineering Department automatically eliminating people of disability, and isn't this against civil rights. He said when appeal comes up, because they didn't like what the H-Board said, he hopes you remember there is no pedestrian access.

**Stephanie Beninato, P.O. Box 1601, Santa Fe**, handed out a Motion to Rescind/Reconsider Vote on Dismissal of Appeal in Case #2013-0127 [Exhibit "10"]. She said she is asking for a motion to rescind the vote done last week on a consent calendar that dismissed her appeal from the H-Board. She is doing this for several reasons. One, the Ordinance requires the City Attorney to make that recommendation. She said, "We don't have a City Attorney. We have an interim City Attorney." There is supposed to be a discussion, but it was on consent, so there was no discussion. She said what you're really trying to do is to dismiss the case, therefore you are acting in a *quasi judicial* manner, and you need to look at the whole record. You only had a summary which the City Attorney gave out, it was 4 pages. In the Appeals Ordinance, it says under Due Process, "Interpretation of this section shall be made in favor of a party's opportunity to be heard at a meaningful time and in a meaningful manner. She said she was not informed it was going to be on the agenda. In the Ordinance it's normally noticed 15 days by mail, email and notice in the paper. Also, the case the City Attorney used is not the right standard. That is for when somebody says I don't have any interest, I wouldn't be harmed by what happens. So it's a different fact situation which she laid out in the Motion To Reconsider the Vote. She said she laid out the actual standard in terms of looking at somebody's standing interest. She said, "I do meet that interest fairly easily, both economically and esthetically. And I also have due process rights as a participant in those hearings. Again, there are certain things, such as complying with your own Ordinance and using evidence in the record. That was not done. And so again, I'm asking that you rescind the vote, you allow and appeal to come in front of the City Council. I understand there is at least one Councilor who was involved in that vote who asking for the Interim City Attorney's advice, so that the next time you meet, there will be some action on putting this on the agenda for a hearing. Again, I believe it is my right to have a hearing as described in your due process ordinance under the appeals ordinance."

**Jeff Green** said he here to speak about sustainable food and the importance of supporting our local farmers in getting more good food into the School system. He said in December 2013, you adopted a Resolution in support of Farm to School, specifically the funding request to the State Legislature in the amount of \$1.4 million to get more healthy local food into our schools. He said that request was reduced to \$100,000, noting that bill is stalled and has been sent back to Committee. He said if it ever gets to the Senate, he would urge you to speak out on restoring the funding. There may be a special session called to deal with the budget. He said, "I'm also proud to announce that the group I work with, a national non-profit working for healthier food on college campuses. We're holding our Southwest Regional Summit here in Santa Fe, February 27 to March 2, 2014, at the Santa Fe University of Art and Design. We'll be bringing together students from the Southwest, the best and brightest sustainability students will assign. The Santa

Fe University of Art and Design is doing a great job in integrating healthy, local food into the cafeteria. We want all of our colleges and universities to start doing the same. So we will be training students to start local campaigns and source more local food into the college cafeterias.”

## **G. APPOINTMENTS**

A Memorandum dated February 14, 2014, to the City Council from Mayor David Coss, regarding appointments, replacing the Memorandum in the Council packet, is incorporated herewith to these minutes as Exhibit “11.”

### **Audit Committee**

Mayor Coss made the following appointments to the Audit Committee:

Hazeldine Romero – Reappointment – term ending 11/2016;  
Marc Tupler – Reappointment – term ending 11/2016; and  
Cheryl Pick Sommer – to fill unexpired term ending 11/2016.

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

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

### **Community Development Commission**

Mayor Coss made the following appointments to the Community Development Commission:

Tobe Bott-Lyons – to fill unexpired term ending 03/2014; and  
Carla Lopez – to fill unexpired term ending 03/2014.

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

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

## H. PUBLIC HEARINGS

- 1) **REQUEST FROM JOE WADE FINE ART FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/ CONSUMPTION OF WINE AT JOE WADE FINE ART, 102 E. WATER STREET. THIS LOCATION IS WITHIN 300 FEET OF THE CHURCH OF ANTIOCH AT SANTA FE, 207 OLD SANTA FE TRAIL. THE REQUEST IS FOR THE ARTFEAST EDIBLE ART TOUR TO BE HELD ON FEBRUARY 21, 2014, FROM 5:00 P.M. TO 8:00 P.M. (YOLANDA VIGIL)**

The staff report was presented by Yolanda Y. Vigil, City Clerk, from her Memorandum of February 5, 2014, with attachments, which is in the Council packet. She said the event is within 300 feet of the Church of Antioch at Santa Fe, noting there is a letter of support in the packet from the Reverend Daniel P. Dangaran of the Church of Antioch at Santa Fe.

### **Public Hearing**

**Stephanie Beninato was sworn.** Ms. Beninato said she would think the City could better use its time going to the Legislature to get the 300 foot rule with regard to churches just taken away. She said the City spends a lot of its time giving waivers, especially for one time events, since it is so regularly allowed anyway.

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

**MOTION:** Councilor Bushee moved, seconded by Councilor Wurzburger, to grant the waiver of the 300 foot location restriction and allow the dispensing/consumption of wine at Joe Wade Fine Art, 102 E. Water Street for the ARTfeast Edible Art Tour on February 21, 2014 from 5:00 p.m. to 8:00 p.m..

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

**For:** Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzburger.

**Against:** None.

2) **COMMUNITY HEALTH CARE STUDY GROUP**

- a) **CONSIDERATION OF RESOLUTION NO. 2014- \_\_\_\_ (COUNCILOR BUSHEE AND MAYOR COSS). A RESOLUTION AUTHORIZING THE ESTABLISHMENT OF A HOSPITAL STUDY GROUP FOR THE PURPOSE OF GATHERING INFORMATION AND MAKING RECOMMENDATIONS RELATED TO THE CURRENT GENERAL STATE OF CHRISTUS ST. VINCENT REGIONAL MEDICAL CENTER. (KATE NOBLE). (Postponed at January 29, 2014 City Council Meeting)**
- b) **CONSIDERATION OF RESOLUTION NO. 2014- \_\_\_\_ (COUNCILOR IVES). A RESOLUTION CALLING FOR THE FORMATION OF A COMMUNITY HEALTH WORKING GROUP TO EXAMINE THE EFFECTS OF THE AFFORDABLE HEALTH CARE ACT ON THE DELIVERY OF HEALTH CARE SERVICES TO THE SANTA FE COMMUNITY, THE COST OF HEALTH CARE IN SANTA FE AND DELIVERY OF HEALTH CARE SERVICES TO THE INDIGENT. (KATE NOBLE). (Postponed at January 29, 2014 City Council meeting)**

*Items H(2)(a) and H(2)(b) were combined for purposes of presentation, public hearing, discussion and voting.*

A copy of a Substitute Resolution combining the two Resolutions, submitted for the record by staff, is incorporated herewith to these minutes as Exhibit "12."

Councilor Bushee asked how the Substitute Resolution gets introduced.

Mayor Coss said everyone has a copy of the Substitute Resolution, on which he has been working with people in the community, primarily with Christus and with #1199 and community supporters to come up with a merged Resolution which puts both Resolutions together. He said Christus St. Vincent and Bruce Weatherbee have a copy. He said there is not yet agreement between the two parties on the Substitute Resolution and he can go over the Resolution now, or have the hearing and then he can review it. There is an attempt to merge the two Resolutions.

Councilor Bushee said she thought when she left his office there was some kind of agreement. She noted Councilor Ives' name is on it, commenting she thought it was a merging of the two bills. She would be willing to sign on as a cosponsor if there was an agreement. She would like to hear the details before people talk about one of the other.

Mayor Coss said, "We are talking about health care for our community in the face of the Affordable Health Care Act, which has now become a reality. The largest employer of health care works and provider of health care services in the community is Christus St. Vincent Hospital. Of all the health care providers in Santa Fe and the region until you get to Taos or Albuquerque, is the only union health care provider. I've

been very interested in that relationship. In talking to Christus, I am also very keen that the City Council and the Governing Body and the City of Santa Fe do not do collective bargaining between Christus St. Vincent Hospital and the nurses union at the Hospital. So I've tried to uphold the idea that we don't sit at the bargaining table. The union does and Christus does. that the City not be doing collective bargaining between Christus and the nurses' union."

Mayor Coss continued, "That being said, how Christus is doing is still a big part of how well health care reform is going to work, but it's not the only part of how health care reform is going to work. And so some of the things we've done in this attempted merger, and we have agreement on all but one point right now, and I'll get to what that one point is. Because we've tried to make it clear that the City of Santa Fe isn't doing the collective bargaining for the nurses' union or the Hospital. We've tried to put a place at the table for the other providers who are critical to the success of community health care, and implementation of the Affordable Health Care Act. So Southwest Care Center, La Familia and other groups have been added into this. So we've made it broader than just the focus on the Hospital. We've made it broader for other health care providers as well."

Mayor Coss continued, "But we have put, I think, almost all things on the table. So Christus has agreed in this back and forth, that they will: one participate, two share information about plans, finances, worker training, worker opportunities, those types of issues. And so I think you can see that in working through the merged Resolution."

Mayor Coss continued, "We've had a lot of discussion about what is the scope of work, and I think there is general agreement for the scope of work. And the latest thing that I added was that the work group, which is now called *The Hospital and Community Health Care Work Group* will not just report its findings, but also make recommendations to the Governing Body and the community. Then the membership of the group, I've actually lost count, twenty-seven I think is where I was, but it's grown since we talked Chris, and that's where the rub is. And I said, early on, that I want to respect the Collective Bargaining relationship between the union and the Hospital. The union and community members supporting the union, have had an insistence that, this term that I was unfamiliar with, but the hospitalists, doctors that work for the Hospital, be on the work group."

Mayor Coss continued, "Christus St. Vincent does not think it is appropriate for the City of Santa Fe or the union to appoint members of their work force to a task force without their say-so. I think it's totally appropriate for the union, #1199, to appoint people, their democratically elected union representative, to appoint your members. The rub is that the Hospital does not agree to have the union or the City appoint their representatives to this working group. And there will be opportunity, if I just misstated that, for the Hospital or the union or their supporters to correct me."

Mayor Coss continued, "What the Hospital has agreed to this afternoon is to have their Director of Emergency Medicine appointed to the work group. I have agreed this afternoon to add 4 more, to raise the number that the union appoints from 2 to 4, which now are thirty-something people on the committee. I've

seen large committees work before. We have a blended approach and it was suggested we use a facilitator for a minimum of 4 meetings. Knowing how busy City staff is, I thought that was a good idea, but Bruce had suggested that there will be a Chairman, which I think is a good idea. So it calls for this work group, once appointed, to appoint a Chairman and then work with a contractor facilitator so we get from point A to B on this community discussion that these Resolutions are calling for."

Mayor Coss continued, "And I think I've covered the main points. I think for me the main points are the state of health care, the state of health care reform, the state of the Hospital, but the state of the other providers are germane and of interest to the City of Santa Fe and the Governing Body. I want us to respect that there is a collective bargaining relationship in place and try our best not to tread on that. And we're very close, but I do have to say before this hearing starts, we're not there on one doctor."

Councilor Bushee said on page 7 of the Substitute Resolution, it has added 'Four representatives from District #1199 NM Hospital Workers Union,' and asked if that is part of the bill. She said, "That's where I see this.'

Mayor Coss said, "I'm saying that's where the rub is. I'm willing to have the Union appoint 4 members. The Hospital is not willing to have the union appoint their employees, their doctors to this task force."

Councilor Bushee said with the exception of the Director of Emergency Medicine.

Mayor Coss said it would be called out by title, who I understand is a contract employee and not a Christus employee.

Councilor Bushee asked if there is another contract doctor, not an employee of Christus St. Vincents that would be acceptable.

Mayor Coss said there may be, but we haven't found the job title yet.

Councilor Bushee said maybe we'll find that tonight.

### **Public Hearing**

Mayor Coss said the union and community members had talked to me about a little more time for one person instead of the 3 minutes each for everyone, and asked Bruce Weatherbee to speak to this.

Bruce Weatherbee said for the record he lives on Rosario Hill in Santa Fe. He said, "I don't want to preclude others from testifying. There are a couple of people that will defer their 3 minutes to me. I don't know what the limit is, and I would be happy for you to extend the courtesy to folks on the other side of this issue as well. Because it's complicated and we'll try not to belabor the points."

Mayor Coss said in view of the numbers, he will give each person 3 minutes to speak to the issue. He asked Mr. Weatherbee if he is the spokesperson for the union.

Mr. Weatherbee said no, and Tracy Neal also is going to speak. He said, "I do work with the union and I'm going to speak as an advocate for this year, so there will be other people who may want to speak on behalf of the union. I'm not a member of the union."

Mayor Coss gave Mr. Weatherbee 5 minutes to speak and said, "and then I hope the speakers that follow you aren't repetitive."

Mr. Weatherbee said, "Understood, and I might add, if it's helpful, I'm sure there may be questions of the Council, and we would be prepared to answer those as it relates to the document before you, and some of the experiences that have existed elsewhere where we've done this."

Mayor Coss said the Council will take very good notes, there will be questions and "I will recognize the spokespersons to answer the questions after the hearing."

### Speaking to this issue

**Bruce Weatherbee, Rosario Hill, Santa Fe**, thanked the Governing Body for the opportunity to appear before them. He thanked the folks from Christus corporate, the local Christus Board for engaging in this discussion, although it has been difficult. He apologized if he offended anybody on the other side, that wasn't the intent, saying he is very passion about this issue about the community being involved in the development of the health care it deserves.

Mr. Weatherbee said, "This Resolution came before the Council. Councilor Bushee approached the folks at District #1199, because she said she heard and read about what they did in Taos, a very similar proposal which was unanimously approved by the Town Council, which is basically the same kind of body, it's just a town versus the City, the Mayor and the County Commission in Taos. And I have been told that I can say two things about this from the folks in Taos. The Holy Cross Hospital was not excited about this at all. They did not really want to participate in this. It came about for similar reasons, because the community felt it was, in many ways, detached from the decision-making that was going on about health care. There was a major layoff at Holy Cross Hospital as it has been here, and people were concerned about what does that mean for health care."

Mr. Weatherbee continued, "So what happened shortly after the Town and the County Commission put together this committee, a hospital study committee, made up of basically the same components, the Hospital Board and they chose to send the Hospital Administrator, the County Finance

person, the Town Council and their Town Manager, local hospitalists at the Hospital, doctors affiliated with the Hospital, but were not employees of the Hospital who had privileges, consumer representatives and representatives from the employees.”

Mr. Weatherbee continued, “After 6 meetings, these meetings running from the shortest being 2½ hours to as long as 4½ hours, and that 4½ meeting would have gone on even longer if the janitor didn’t have to clean the place late that night, that community came together on this. And last Wednesday, Gus Cordova who is the Vice Chair of the Board at Holy Cross Hospital, was asked in an open meeting what he thought of the process and where he thought they were. He said, ‘You know, we were really angry about this idea when the Town and the County said we should do this. We felt that we were volunteers, we work hard, we felt we were being second guessed on everything, and we were really annoyed, but we felt we had to participate.’ And his words were, ‘I have come 180 degrees on this. This has been one of the best experiences for our hospital, because we got things out across the table. It is not about collective bargaining, it is not about the contracts coming up there or it wouldn’t be here. This is about the community having a say, the people there having some input and to put their ideas on the table.’ And he said and a Doctor who also was on the Board, said this has been constructive for our community and our hospital.”

Mr. Weatherbee continued, “I spoke to one of the executive officers today, because we’ve been working very hard, as has Christus, to make sure there is funding available through the legislature because of the loss of sole community provider. I know Councilor Ives was concerned about having that discussion and that being involved, and we agreed with him. Our original proposal didn’t exclude that, maybe he thought that, but it didn’t. In fact we communicate every day with the hospital in Taos and try to provide help. We have a representative from Christus which is helping them at the Roundhouse, and knows we want to see some accountability of the money at the State level actually going to patient care. It’s complicated and it’s hard to do what we would have liked, but we withdrew that. We want to see them get their resources so they can provide the services here. The members that work at the Hospital, that are members of #1199, I know there’s been a lot of discussion, there’s been a lot of anger sometimes, but they really support this hospital. They believe in it and they want an opportunity to bring their ideas to exchange them. They don’t expect everything that they come up with is adopted, but they believe that discussion needs to take place.”

Mr. Weatherbee continued, “So I want to commend Christus for coming this far with us and on this discussion, and if it’s about a doctor... I understand the concept that they don’t want... we didn’t want it to be the union suggesting the doctors. We just put in the position of two or three hospitalists. Basically, the doctors who are the direct caregivers every day on that front line. That’s our concept. If the nurses are involved, they felt strongly. The technicians, the CNAs and others, felt strongly that we need that participation. And I understand it may be a turf issue and I apologize to some of the Board members if we haven’t been able to reach that point, but maybe we talk about it a little differently. What we want is we want to make sure the doctors have some participation in this. And it’s not just doctors from the top down. We were prepared, when the Mayor said he offered...”

Mayor Coss asked Mr. Weatherbee to wrap up soon.

Mr. Weatherbee continued, "When the Mayor said we wanted 4 positions, we didn't want 4 positions for the union. We came to the table with 2, which in the original proposal, was equal to everyone else around there. It was pretty diluted across the Board. It was suggested that, because we figured if the hospital doesn't want the doctors.... we felt strongly that.... the Mayor suggested 4 people appointed by the union. I was given permission from the Union President to say we wouldn't fill those other 2 positions with union members, we would put doctors, or find some other way to have a fairer representation and get that voice heard. We want to do that. We want to see this move forward. We think this can be constructive. It's working in Taos, it really is. And we invite people even to be skeptical, to be upset about it initially, but just let's come to the table and try to move forward. We're happy to get into the details of it, but concept is this is a community, it's not about collective bargaining. We appreciate your concerns. If you look at the makeup of the committee, the union representation is very minor in the whole structure of this thing. This is something that is starting to pop up around the country as a way to get the community involved in the facilities that serve their members. Thank you."

Mayor Coss gave Mr. Aldrich 7 minutes to speak to the issue because that is how long Mr. Weatherbee spoke.

**Ron Aldrich, Board Member, Christus St. Vincent Regional Medical Center**, said he has lived here for 11 years. He said the process of bringing the community into the process to develop an understanding of everything that is happening is valuable, and he supports that. Mr. Aldrich gave a brief history of his experience, saying he serves on a variety of related boards. He said in his 45 years of involvement in health care, there has never been as much uncertainty as we have in health care. The Affordable Health Care Act represented a significant improvement. There were a lot of opportunities, obviously, the rollout of that law has been problematic and difficult.

Mr. Aldrich continued, "Also, we are blessed by being in a State with a Republican Governor who also decided to do the medicaid expansion and the exchanges. That's not a common pattern. And again, there's been challenges with the rollout of the exchanges, medicaid expansion. These are very much still works in progress. The issue around sole community provider funding and the hearings held over the weekend and again today, I think are really helpful in moving forward. So there are lot of different parts that are moving. A lot of different issues. One area that I wanted to comment on, that I'm very proud of our work is, I serve as Chair of the Community Health & Wellness Committee of the Board of Directors of Christus St. Vincent. This last year we did complete a comprehensive community needs assessment in collaboration with a large number of organizations including Santa Fe County, and that has been published and widely distributed and appears on our website. We learned so much about the needs of this community and how we could respond to them. We've worked with a large number of health care related groups and provided substantial funding to help begin the process of making those improvements in a wide variety there, from care to seniors to children for moms, whole different categories, behavioral health, the different areas are being supported.

Mr. Aldrich continued, "This is a significant time we've had in that process a number of hearings that were conducted in various locations and had great feedback. So the concept of being engaged in dialogue with our community is not a new concept. We welcome that opportunity, and I just wanted to express support for the concept. My hope is that we can resolve the issues that need to be resolved so this process can move forward. Thank you all very much."

**Sharon Archembright**, said she is speaking for the nurses, is a nurse at Christus St. Vincent, having worked at the Hospital for 20 years. She is proud of the Hospital and what it has done has been wonderful in a lot of ways. They have raised the standard of care in many ways. She said the turnover of nurses is incredible, off the scale. She said they are hemorrhaging money because of the nurse turnover, and we are running into the billions. They have lost many nurses since Christus came on board, but even before they came the nurse turnover was a problem. She has been teaching nursing in Northern New Mexico for 20 years, but believes we will never have enough nurses if we keep turning them over like this. She said the Governor could bring more nurses into the State. They will come and they will work, but they leave. She said they just hired a new batch of traveler nurses with whom they work to train them on their ways, the computer system, and then they leave, and it's inefficient. She said we knew about medicare cuts long ago. We knew in 2012 that medicare was not going to be reimbursement for never never mistakes – mistakes that should never never happen. She said the incidence of never never mistakes increases when there is understaffing. There are many ways we're losing money. They want to have a voice in this.

**Tracy Neal** said he doesn't work for the union or the Hospital, and represents only himself as a citizen. He knows people who work at the Hospital, and there seems to be climate of fear at the Hospital with regard to we don't know what's coming our way, but we're probably not going to have enough money because of the Affordable Care Act, so we have to cut staff. He has seen disastrous results of that, a lot of turnover and some scary stories, about people not getting the care they need, from friends whose parents were in the Hospital. He said we need to figure out how our community hospital can best work to meet our community needs – community means the people that work there and all of their relatives, all of the patients who end up there, and their relatives and out of town visitors. This is the community whose needs we have to consider. And you all represent the community of Santa Fe, not the community of Christus St. Vincent administration. We all need to figure out how to make the hospital work to meet our needs. He had surgery there 4-5 years ago, and from what he hears, if he has to have surgery there again, he is scared and doesn't want to be there for anything more than outpatient surgery at this point. He wants it to work so that nobody is afraid to go there and our community hospital works for us.

**Dave Delgado, Board Chair, Christus St. Vincent Hospital**, thanked Councilors Bushee and Ives for bring up this important question. He is President of SVH Support, the non-profit organization that owns half of the Hospital. He currently is Chair of the Board of Christus St. Vincent. He thinks it is very important to have a discussion regarding the quality of care in Santa Fe. He thinks it is very important to

have a discussion regarding the quality of care in Santa Fe. He said the clinical results at Christus St. Vincent over the past 5 years have significantly improved, and they are very proud of that. They are very proud of their health care providers – nurses, doctors, partners in the community. He thinks we need to from a foundation of a positive health care environment in Santa Fe and not try to scare our community. We have a wonderful clinical results in Santa Fe. Secondly, he appreciates the discussion about Taos. He said when these resolutions came out, the Christus St. Vincent administration and board welcomed them, and didn't reject them. They believe a conversation with the community regarding this very uncertain time in health care is valuable and necessary. They also believe, regarding their relationship with their nurses "who we value incredibly, they are empathetic, caring and high quality..." we want to make sure that as "our relationship with out nurses is discussed, it is discussed, as Mayor Coss mentioned, between Christus St. Vincent and our nurses and our union."

Mr. Delgado continued, saying he agrees with the Mayor and Councilor Bushee there is a minor point stopping this which is related to this membership. He absolutely believes we can resolve that issue. There are suggestions to do 4 different forums, and there is a lot of work to be done. He said if we can accomplish this by November, the results will help our community better understand what is happening in health care in Santa Fe. He wants to make sure we're all talking about Christus St. Vincent, but there are wonderful other partners that need to be at the table – PMS, La Familia and Southwest Care. He has spoken with those organizations and they want to be at the table. The union representatives need to be at the table along with other parties. He said, "I can tell you, as this gets larger and more complicated, it makes it more difficult to complete." He said Christus St. Vincent is open to the dialogue and believes as that as the community understands what kind of health care we are providing, they will see Christus St. Vincent as the treasure it is."

**Kathy Armijo-Etre** said she is the Vice-President of Mission and Community Health at Christus St. Vincent and a lifelong resident of Santa Fe, and believes that Christus St. Vincent is one of our greatest treasures. She said in her role as Vice-President of Community Health and Mission, in collaboration with Santa Fe County, last year they did a comprehensive health care needs assessment. In addition to the data part of that study, we also wanted to hear the voice of our community. We conducted 25 focus groups involving more than 300 people from the community. What they heard is that the number one concern is health care access, then what health care reform means to them as an individual consumer. They also heard that they need help navigating the health care system because it is complex."

Ms. Armijo-Etre continued, saying the data revealed huge health care challenges – issues facing school age children and adolescents, our growing senior care population, victims of domestic violence, the homeless and mentally ill. They also looked at how the data shows up within the Hospital and the number of people who are using the emergency department in response to their health care needs instead of a focus on wellness. She said they are focused on addressing these needs. She said, "I am urging you to join us in asking the kinds of questions that look at these issues. Are we, as a community prepared to respond to the health challenges we face. And I also would like to encourage you to look at the issue that we're not one player. Mr. Delgado referred to some of the other health care providers, and it isn't limited to

formal health care providers. It takes the Santa Fe Recovery Center, the Mental Health Center, Lifelink, all of our partners that must address the complexity as health care needs. They welcome and look forward to a rich and robust community-wide discussion on how we, together can focus on the needs of our population.”

**Pablo Sedillo**, said the hospital was founded in 1865, so we're not newcomers to serving the health care of Santa Fe. Health care and technology has improved through the years, and we're all trying to do a better job. He spoke about his experience as a care giver for a sister-in-law age 65, who has lupus, osteoporosis, and fractured her femur last year. He transferred her to Christus St. Vincent from the hospital in Las Vegas, and they saved her life, commenting she was in the hospital for 8 weeks and in the in-patient rehab center. He observed the excellent care she received. He said there are countless stories about how the Hospital cares for our community. Christus St. Vincent serves 300,000 people. He recalls that Senator Bingaman was one of the “gang of six” that drafted and crafted the Affordable Care Act. Now that it is law, there is a lot to be improved because the entire nation is being impacted. He said Governor Martinez said we have a shortage of 3,000 nurses in New Mexico, and we need to do something about that, and the care in rural communities. He said he was involved with the Regional Coalition of Communities, of which Mayor Coss serves as the Chair, which was formed to protect the interests of the communities in Northern New Mexico from LANL going bankrupt. He said this is an analogy of how we should be protecting our health care system, and he welcomes this effort.

**Mary Ann Sanchez** said she has worked for St. Vincent's for 28 years as a State Certified Nursing Assistant. She said she is here on behalf of the nurses with whom she works, and we need more staffing and more nursing assistants on the floor. She said they don't have enough nurses' aides to take care of the patient and to help the nurses with the patients. She said, “So I am asking please, for the hospital, to help us and get us more help so we can provide good care for our patients, especially the elderly.”

**Franz Snelling, Chief Medical Officer, Christus St. Vincent**, said he is an emergency physician by training and has been working at the Hospital since 2000. He very much supports this Resolution, and it is extremely important. He said the Affordable Health Care Act is reality and will have a huge impact on health care across the Unites States. He is hopeful it gets from “sick care” to providing “health care” for the community. There are many unknowns, and tremendous stress going from point a to point b. It is important for the health care providers to get with the community to figure how we go along path. He agrees with much of what has been said. He said, “I would ask you, as a body, to consider who you have as far as representation on this body. I was fortunate to have the experience of sitting on the Santa Fe Health Policy and Planning Commission for over 5 years. The proposed membership strikes me as lacking in certain areas. It seems to be very focused on the hospital. Health care delivery hopefully will get more towards an out-patient type delivery system. I think some of the gaps I see in the proposed membership is you really don't have dental membership, and it is very light on mental health care resources, which is a fairly significant problem in the community, but we only have one representative. I think you should

probably should consider focusing more on the outpatient side, not ignoring the hospital. This isn't about the Hospital, it is about the community and our ability to provide health care to the community, some of which occurs in the hospital, but more and more it is going to occur in an outpatient setting."

**Scott Herbert, Medical Oncologist**, said he is the member of a private practice, but does have a relationship with the hospital and he is the elected Chief of Staff which he has done for 2 months, and it is amazing you have done it longer. He said has been here for 6 years, and he can say with absolute certainty that medical care has improved every year he has been here. His son was born here, his mother had surgery here and he is an active participant on the medical staff and in the community. He has practiced in Houston and in Indianapolis. He said, "I think we have a remarkable opportunity here, because we do have a community voice that can have an effect. In the places I trained, we were lucky if we could find parking, let alone speak to the issues in our community with health care and with the hospital. I am very much in support of these Resolutions and appreciative of the opportunity to participate."

Dr. Herbert continued, "The one that I think needs to be stated very clearly is that this is a global health care issue, and care is transitioning from the in-patient setting to the out-patient setting. And no one knows entirely how to do that or how that's going to be funded. And so I would support the broadest possible discussion group that we could have, focusing solely on the in-patient setting or on the hospital, which I think is going to really cover only about 20% of the way health care is moving. Dr. Herbert said the other point that I would to make, speaking specifically to the issues, is one that Dr. Melio made. Out patient physicians, employed or not, need to be part of this process. He said, "I would be happy to help in any way I could in the future, if needed or if the Hospital would like me to. Thank you for this evening and good luck."

**Chad Leet, nurse**, and #1199 member. Mr. Leet said he has been a nurse for 15 years, 4 of which have been in Santa Fe. He agrees with the previous two speakers, and commends St. Vincent for coming to the table. This is a community outpatient issue. He said we have to start somewhere and in the emergency department they see where they are failing at the community level. He said there is a conflict in the two Resolutions. He wishes there was hospice here this evening, which he believes is an essential piece of the puzzle for input. He agrees that the community must be addressed. He said, "With the membership we have on the Committee, for the time being we could be served." He said we should be looking at the Taos model as a pilot, in terms of how they have resolved some issues and how we could apply those in Santa Fe. He said #1199 initially asked for 2 members and for the Hospital member to be involved. He thinks there needs to be a mental health professional, a psychiatrist at the Hospital, Behavioral Health, in addition to someone from hospice. He said the Director of the Emergency Department is an essential piece, but he believes the Hospital needs to be involved. He commended St. Vincent's for coming to the table and asking for input and being cooperative.

**Alicia Montoya, concerned member of the community**, said she doesn't represent anyone but has been a member of this community for most of her life. She agrees that health care is improving and it is because of the quality of our outstanding physicians who are patient-centered and care about the quality of the health care they provide, and so do our nurses. She said, "I find it very shocking and what I would call a red flag that they aren't being invited in mass numbers to sit at the table. The purpose of this Resolution it says, is that the health-care providers, including City of Santa Fe, Santa Fe County and St. Vincent share a commitment and an obligation to improving the health status of our community, and I find it shocking that we would come together to honor a commitment or an obligation without including our physicians at the table. It doesn't need to be the union appointing them. Christus could say, let's have an election. All of our physicians nominate and elect 3 people to serve on this Committee. No one is stepping on anyone's turf. But if we want to talk about health care, if we want to talk about how to improve it, let's include the people who provide the health care. When I go the doctor, I go to the doctor, and when we talk about the positive effect we are having, our grandparents and kids, we go to the doctor. They're the ones that save our parents' lives when we come from Alta Vista. Those are the people that treat our kids, and those are the people that are the most important to include in this conversation, so I strongly urge City Council and the Mayor that all stakeholders as included in appropriate numbers." She said we have a whole lot of administrations, but woeful inadequate numbers of our actual health care providers.

**Charles Roth, citizen**, said he is very concerned about the hospital morale. He agrees with Ms. Montoya that it is a giant red flag that doctors wouldn't be represented, and absolutely they should be represented. He said there is a morale problem among doctors. There was a survey of doctors as well which reflected low morale, and we don't want to lose doctors or nurses. He said we don't want health care professionals with no ties to the hospital or the community replacing excellent doctors. He said, "We want to keep staff, we want to keep health care service, patient care excellent. There is no doubt that Christus has improved the Hospital and health care services by investing in them, but there is still a ways to go and doctors absolutely should be included in the committee analyzing what is wrong, what can be improved, what's working, and I hope that will take place.

**James Melisi, M.D., Board Certified Neurosurgeon**, said he and his wife came here 3 years ago from Washington, D.C., and he is on staff at the Hospital. He said, "We left and came to the Santa Fe area, and knowing nothing about it, we were completely unbiased with no issues with any of the politics. There are politics in every City. We came here because we thought we could make a difference in a community where they needed nurses and doctors. In the 3 years I've been here, we've doubled the size of the neurosurgery program in our hospital. And we provide care to not just the 70,000 or 80,000 people who are in this town, but 300,000 to 400,000 people. I operated on a man last week as far away as Carlsbad."

Dr. Melisi continued, "I would caution the Council to consider a Resolution that is more broad and widespread and not so narrow and includes the challenges that are affecting physicians and nurses in delivering health care today, it is not just a small issue. It is a very big issue. I chose to come to Santa Fe

and be employed by the hospital, because I and many of my colleagues share the vision and mission of the hospital to deliver excellent quality health care to Santa Fe and the Northern New Mexico area. We rapidly are becoming a regional medical center, hopefully of excellence, with the help of the nursing staff, the physicians, the other medical and ancillary staff. We are seeing people from all over New Mexico. I would also caution you to look closely at some of these other smaller hospitals when you hear data. Frankly, we are seeing all of their patients, at least in the sub-specialty area, because they are having problems with the financial burden of delivering that kind of health care."

Dr. Melisi continued, "I just want to address a couple of points. The nursing shortage is real. I don't doubt it, I've seen it myself, but as I said, I came from an area where there were 2.5 million people in my County alone and we had nursing shortages in the major metropolitan area. It is not the problem of any one particular institution or administration. It is a real problem. It is not the purview of this particular Council or this time to discuss why there is a nursing shortage, but I assure you it is nationwide and not easily treatable. I would also like to hear that the fear factor that I've noticed in the City with our Hospital in general, and specifically with patient care is really a fear of the unknown."

Dr. Melisi continued, "And I see it as my job in my office, one at a time, to make patients feel comfortable. My wife, who has been in health care her whole life, has extended me the opportunity to violate a "Hippo Rule," and tell you that she had surgery at St. Vincent a year ago. I am proud to say she was treated very well by our nursing staff and did very well. And I'm not ashamed to say that I would take any member of my family to that hospital. I would like to just end and say that I have worked with councils in the past in my career, and I would openly invite any member of the Council who wants to see how a hospital works and how subspecialists work in the hospital and the challenges we have are not just a week to week basis but on a moment to moment basis at any time of the day, to join me on any weekend when I am on call. I'm happy to take any of you around. I'm sure that we could work with our administrators to get you the necessary credentials to do that. My door stands ajar."

**George Gamble**, retired public health researcher, said he served on the County Health Policy Planning Commission for two years, during the time of the County health study which is almost complete. He commends the Governing Body for its interest in the health care of Santa Feans. He said the County is also interested. He said, "And I would offer just a few comments regarding these Resolutions. First to involve the County. There is a Health Policy and Planning Commission. We worked for 18 months on a health study in the County. Secondly, completing this study by May, or September or October is inviting disaster. Also, regarding personnel, I not there is no indication of any research people involved in the study. A facilitator is listed, but you need research people to have a creditable study that people can believe in and you can be proud of. You must have some kind of research personnel. The study as it is currently outlined is a bare skeleton. It needs to be fleshed out in all of its detail before you can begin to engage in the study."

Mr. Gamble continued, "So I would propose to you that you should have a planning phase with a small group of people which would go on for 3-6 months by itself." He said you could proceed with the

study after that. He reiterated he speaks from his recent experience on the Health Policy & Planning Commission, which spent a great deal of time with people from Christus, from the County. They had a forum of more than 100 people. It took them months to plan and implement that forum. He said, "You can't do a major study in 3-4 months and have a report at the end of that time, so consider that. Thank you."

**Bruce Tessin, President and CEO of Christus St. Vincent**, said they fully embrace the Resolution, noting he has been here about 5½ years, arriving right after the original partnership with Christus and SVH support, the local 50% not for profit. He said he heard horror stories that happened at the Hospital prior to the partnership. He said it was the only hospital for 148 years in the community, and there will be good and bad. What was prevalent on the street was how to improve the quality of health care in the community hospital, which has been the journey for the last 5 years. He said, "You've heard from a couple of our physicians, our leaders and our physician group that talked about that there has been major improvement in quality of care in the Hospital. We're not done yet. It is an ongoing journey of what we have to do to move this organization to the next level. And now a little bit of a complicating factor has come to play, called the Affordable Care Act. It's not about the act being bad. It's about the act being good in the complexities of implementing that aspect. And how do we coordinate the care of the outpatient, the independent physicians, independent imaging centers across bounds of other hospitals all through Northern New Mexico and actually outside the state line. How do we coordinate that care as we move forward with hopefully more covered lives."

Mr. Tessin continued, "Pablo and I were at the Sole Community Provider Hearing yesterday for 8 hours, and we're not there yet. And I look at everybody in the room, and say please get out and support this. We have 5-6 hospitals that will close in our state if we don't get the 1/8. So I leave it there, but we need the support. 552 of our employees signed a petition to go to the House and Senate to show support for getting that resolved. It is extremely important. When we look at that navigation, it really will take a community to sit at the table and figure out how we implement this, ensure there are no loopholes in access, noting we started that a year ago." He said you heard Dr. Melisi say, the inpatient will always be important. The patients will be sicker, there will be fewer in house, because more preventive care will be provided, so we need to make sure we have the expertise on the outpatients assigned in that realm."

Mr. Tessin continued, "The other piece that I would say is, if I may suggest, we do have some holes in representation. We talked about physicians. Who better than the Chief of the Staff of the hospital who is elected by the physicians, Dr. Scott Herbert. He represents the physicians. When we talk about representation of physicians, there are 7 committees at the Hospital made up of all physicians." He said there is full coverage of governance of medical staff in relation to operations and physician practices within the hospital, so that is covered. He has heard nothing about nursing home care. He said many people don't want to leave the hospital, because their only choice is to go to one of our local nursing homes. The nursing homes need to be on this Committee, because your loved ones who ultimately need that care are scared to go there. Please look at this because they are part of the continuum of the care."

Mr. Tessin said, "Patient safety is what we all should care about in this community, whether out-patient or in-patient. Our Board said we need more representation of nurses and doctors on our quality committee of the board, so 2 nurses have been added and 2 physicians. They are ramping up the representation of those individuals in higher levels of authority within the overall governance of the organization. Ultimately there needs to be more input to have more buy-in to move the organization in these difficult changes as we move forward."

Mr. Tessin continued, "When you look at what goes on in our hospital day in and day out, there are miracles every day by their hands, by physicians hands, in this room and outside this room. The leadership team tries to get to know the staff, the community, and the stories we heard from our physicians and our staff are tremendous. Those are the stories we want to get out, because we have 148 years of negative experience we have to get out of this community. It's about what the health care is today, not what happened 7 years ago, and that's what we've got to work as a team in this Resolution. This group coming together can help with this as we move forward."

Mr. Tessin continued, "The final thing I'd say, just like Dr. Melisi, I've had 3 episodes with my family that have happened during the 6 years I've been here. 3 hospitalizations – 1 surgery 2 hospitalizations. My wife and my daughter. We didn't go out of town. This is your community hospital, it is our community hospital. We need to stand up and be proud of what we've done, what we can do. And we are going to be the leader in New Mexico for both ambulatory and in-patient care across this State. We have a plan to do it and we are willing to share it with anybody. Thank you."

**Veronica O'Halloran** said she has been a nurse at Christus St. Vincent for 21 years. She isn't from Santa Fe, but she has stayed is because of a sense of community and cultural sensitivity. This is her other home, and we treat one another with respect. She said, in Chris's defense, great accountability is happening. But it's great when everybody gets together and wants to talk – that's the beginning of a solution and it must be collaborative. All health care in the future will be collaborative on every level, and especially your nurses. You need input from nurses, you can't do it without us. And I'm glad so many of us are going to be on the committee. She said, "We're the first line. I work in OB, where, man, we get it. This is where health care starts. Women come into the hospital, have their babies, and say this is pretty cool, this is great, I'll bring my dad back next week, but we need to have a sense that we're part of all of the decision making." She said we need shared governance. She said her son is a Santa Fe Police Officer and this her community. She wants to keep the nurses here. There is a short-term solution to keep nurses here – treat them with respect, shared governance. It's never been just about money. Keep it collaborative.

**Earl Potter, member of the Christus St. Vincent Board**, said his son Cody was born 42 years ago in the Old St. Vincent Hospital. He didn't have much to do with the hospital during the 35 year period after that, until Will Zeckendorf, who passed away this morning, who was a Hospital board member at the time asked him if he would be interested in coming on board. He said he told Mr. Zeckendorf he had just

retired from being a lawyer. He thought about it, and realized he lives about ½ mile away and he and Deborah didn't intend to move and for the rest of his life he was going to be using this health care facility, so he joined the Board 3 years ago. He said he has become quite passionate about the Regional Medical Center and about health care, and the opportunity that we have in this community to have a great institution. He is happy to hear the comments this evening that medical care has improved significantly since the Christus SVH support merger."

Mr. Potter continued, "In the community, I think you have a hard time getting that perception to 50%. It is great to hear it tonight. A great start has been made. Why. Look at Jim Melisi, look at Scott Herbert who are here tonight, who is one of the best cancer doctors in the country. Look at Jim Melisi who has 5 star rating from health grades for his practice, again in the top 10% in the country. We have outstanding talents in many of our physicians and our nurses. What we need to do, is to take the institution to the next level. Now, I'm really, really glad to see this Resolution come forward tonight, because my pet peeve on the Board is that nobody knows about this. Nobody knows what's going on in the community and people are just not aware of what is happening and what the opportunities are. And we're not going to be able to take advantage of these opportunities unless we all work together. This is a chance to start to have good dialogue about all the good, the bad, but mainly the opportunities. I read that the Mayor met recently with our exciting School Superintendent, and they talked about the idea of World Class Schools for a World Class City. We can have World Class Health care for a World Class City, if we all work together. Thank you."

#### **The Public Testimony Portion of the Public Hearing was closed**

Councilor Dominguez asked what is on the table, and if we are looking at both resolutions separately, or are we considering only the substitute.

Mayor said, "Actually all 3 are on the table right now. The Council could vote on either Resolution. My preference would be that we vote on the merged Resolution, but I've heard enough in the hearing, that I still think there might be more work needing to be done on the merged Resolution."

Councilor Dominguez asked "in terms of notification, are we okay with the substitute, Kelly."

Ms. Brennan said, "Yes, you are."

Councilor Dominguez said he has lots of question on both resolutions and the substitute, but he will reserve those questions until we have a discussion about what we're going to do.

Councilor Rivera thanked everyone for being here this evening, and for engaging us in discussion about the Hospital we all care about. He said whether you like it or not, if something happens this is the hospital you're going to. He said he has heard from management and labor we need to try to make it a better place. We all have the same goal in mind. He said, "With that, I think we are very close on a merger document, but I think there are several things that need to happen. It needs to include more areas, and

probably there has to be a little more discussion on another representative from the doctors. Maybe it is the Chief of Staff, maybe it's somebody else."

**MOTION:** Councilor Rivera moved, seconded by Councilor Dimas, to postpone consideration of the Substitute Resolution for two weeks, to the next meeting of the Governing Body on February 26, 2014, and that we continue during the two weeks to work on Item H(2), which is the merger document of the two Resolutions; discussion will continue in the meantime to possibly include more members on the study group, and hopefully to have something in two weeks that everyone can come here in support of; and that the public hearing is closed.

**DISCUSSION:** Councilor Bushee said, "When I first brought up the issue, the intention wasn't just to... and I'm grateful for the expansion of the entire discussion for health care in this community. What I want to say though, I had gone to a presentation with the new CEO and Dave and others, and was really glad to see the needs assessment had been completed, and the outreach that had taken place. However, when I came back two weeks later, I read of 58 positions being eliminated in the newspaper. And I had been watching very closely what was going on Taos in Holy Cross Hospital. They had lost 30-36 positions. And I thought not only of the economic impact because St. Vincents, well Christus, I always call it St. Vincents, is one of the largest employers, or maybe the largest employer in the City. And so it wasn't just from the side of provision of health care and patient care that I was coming from."

Councilor Bushee continued, "So let me back up and say, over the years here on the Council, most of the discussion around health policy usually got centered around the County. And so when the Hospital has come to us in the past, it has always been about the approval of a land use case. For instance, we had that private physician's hospital at one point, and the former CEO came and made a very convincing argument to me that, somewhat like our public schools, if we diluted the power of the delivery of health care by having a boutique hospital that would serve only sort of the elite few, that we were really impacting and harming the Hospital's ability to deliver care to the community. So I sided with St. Vincents, it was called St. Vincents at the time. Since then, St. Vincents bought up the boutique hospital, and it was closed and some of those physicians have been let go."

Councilor Bushee continued, "And so the concern for me, it started with the economics, but it also came around to the fact that forever people have used the reference of 'St. Victim's' which we certainly want to remove from the discussion. Also more and more people that move here.... the baby boomers have discovered Santa Fe and they are settling here because it is an amazing community. But there also is a great number of folks, and I hear from them on a regular basis, choose not to use our community hospital. They go to Albuquerque. And there are other folks out there saying, well we really need some competition, I would like Presbyterian to develop a hospital here."

Councilor Bushee continued, "I just want to assure everybody where I've been coming from the entire time. It has been, from my perspective, that we have one acute care community hospital, and I want to see it stay that way. I want to see it to be the best hospital it can be, the best patient care delivery we can have in this community. I don't want people choosing to go elsewhere because they have the means or the

opportunity. I want them choosing our one hospital. And we are here to make sure that it is as strong as can be. I also have had a former CEO come here and tell me because of the Sole Care Provider changes, they were really going to change how they could deliver health care."

Councilor Bushee continued, "So the discussion from my perspective was to be as broad as possible, with as many people at the table as possible, to provide input, including the consumer. I feel like the consumer was really left out of the discussion here tonight, and I really would like to be the emphasis of this effort, this community dialogue. The fact that... how do we turn this around, how do we turn this into world class health care health delivery in a world class city. How do we do that. I was grateful to see a number of... including the new CEO, Mr. Tessin, really embrace this need for this dialogue. From my perspective, I don't want to leave anybody out of the discussion. In fact, it dawned on me early on, that we should have dental care. We have one member so far on Behavioral Health or Mental Health Care. I really believe that is a significant concern in this community, given what's been going on at the State level."

Councilor Bushee continued, "So I am look forward to two weeks to sit down again. We spent some time, the Mayor and I.... and by the way the food is pretty darned good at the cafeteria at the Hospital. That's where we had lunch yesterday. I even took some soup home for dinner, it was pretty great. I will be happy to continue to dialogue with anybody. And I will say it was a little bit of a red flag later in the discussions with the Mayor that the concern..... so I had wanted to ask some questions of some folks. I hope everybody will be available in the next two weeks to have this discussion. I heard Bruce say that you have a quality committee and it has two nurses and two physicians, and maybe I can ask that question of you this evening, Mayor can I just take one minute."

Mayor Coss said, "Yes. I promised that at the beginning."

Councilor Bushee said, "If I could ask Mr. Tessin maybe real quick, and again maybe we can get past the.... come down and I can get your answer. Are those nurses and those physicians.... what was the concern. We agreed on having the Medical Director of the Emergency Room as a participant, and then the other doctor, it seemed from the hospital's perspective, that you wanted only someone from management as the other physician. Would any one of these other two physicians that you have on your quality committee, would they be someone that would... are they necessarily a part of your management team. Are they.... they were elected by your physicians. I don't know the hierarchy that well, so maybe you can inform me."

Mr. Tessin said, "Actually there are 3 physicians, so Dr. Herbert that you met tonight, the Chief of Staff, is also on the quality committee of the Board. Dr. Malesi and Dr. Tarek Dammad, who is another medical director and so forth that is on that group that reports directly to the Board."

Councilor Bushee said, "So I understood the concern to be that you didn't want employees of your Hospital, necessarily as appointees, because it seemed somewhat of a conflict. Are there contract physicians or out-patient physicians that we could agree upon. I definitely feel like there needs to be that perspective on this Board and not in just a limited way."

Mr. Tessin said, "I definitely agree. I think if we could all sit down and just have dialogue and look at, not just the acute, but the out-patient and say what are some other physicians that could represent, and we could agree to that. I think there hasn't been direct dialogue, so we should do that. I will caution, I don't necessarily agree with 'the more the merrier,' because you get a room of 60 people, we will never get anything accomplished. So we need to be very strategic about the individuals in the room that can embrace what's going on and understanding. Everybody knows Brent Earnest with HSD. To be quite honest, Brent Earnest should be somebody who visits this group, because he has so much knowledge about what's been going – sole community program, the medicaid program and so forth. We need to be open, even if it's not a dedicated member of the group, maybe a smaller dedicated group, 25-27, whatever that number, but then also have a group of experts that come in and help. Our State has a lot of experts on health care that we should pull that knowledge from them, instead of re-creating the wheel. If we get too many... we've got a great number, about 100 people in here. It is very orderly, but if you sit around a round table and have 100 people, you're not going to get what you need to accomplish."

Councilor Bushee said, "I don't think anyone wants 100 people. We're trying to model this a little bit on a recently formed task force, the Law Enforcement Assisted Diversion [LEAD], which had 20 something people initially. And it wheels down until you get a core group of people that actually attend these meetings. But what I will say is you did offer several new people that we should put on in the discussion. You wanted to see nursing home care and other experts."

Councilor Bushee said there will be subcommittees. She said, "This will be a very public process, so you will take a lot of community input. I think it really has to come down, from my perspective, to delivery of patient care, and I want to see the consumers really weigh in on this as well. I hope we have begun the dialogue. I look forward to seeing this come to place that we can all agree on. And I look forward to that really. I just wanted to get past that one place we seem to be stuck on earlier on how we get physicians who deliver this patient care at the table as well. If you think it should be one instead of two in some of these instances, maybe we get to include newer perspectives and keep the numbers down."

Mr. Tessin said he agrees, and looks forward to the future and getting this nailed down.

Councilor Bushee said she wants to make sure there is a large venue. She said many of our 1,600 employees rely on the emergency room for their primary care physicians, which we are trying to turn around with our wellness care programs. She is glad to see the numbers out this evening and looks forward to continuing the dialogue, and that we hear from consumers good and bad.

Mr. Tessin agrees, noting 75% of the population uses the Hospital and he wants it to be 100%, so we're all on the same page.

Councilor Trujillo said he is glad Councilor Rivera moved to postpone this to the next meeting. He said he agrees we need a research person and nursing home care. He asked if we will have to bring in the State to help with facility and licensing. He said, "One thing that always has bothered me and anybody that has lived in this community as long as he has, and all of us here have, is when St. Vincents is referred to as

'St. Victim's.' That is something that needs to stop in the community. That mentality/thinking needs to stop. I think this working group is going to be good, and the wheel has started. It's something that has been lacking and should have happened a long ago. Kudos to Councilor Bushee and Councilor Ives for starting this. Now let the dialogue start."

Councilor Ives thanked everyone for being here tonight. He said, "It's the opportunities that we at Council have when matters come before us that do engage the community that ultimately lead to the most valuable results. And there's often struggle and question and a good deal of negotiation back and forth, all those things that go on as we as a community try to find solutions that make sense for use. I do think this is an incredibly valuable thing to be doing. I think it does need to be broad based. And I would note, regardless of how many people who are actually on the committee, the opportunity to hear from all segments of the health care community exists, and indeed is going to be a prime purpose and a prime motivation from my perspective for this group moving forward. It does need to hear from all different segments of the community, from the provider side, customer side, patient side. And I think, the reading I have done in the health care area leads me to believe we are moving, in terms of health care in this country, to delivery of value at the patient level, and that will be a new paradigm in all our institutions. And probably connotes some significant changes as to how we deliver care."

Councilor Ives continued, "I really look forward to having the discussion, and the ideas that come forward, because I think as a community, and realize it's not just the nurses, or St. Vincents, and honestly they're both obviously very important participants in this process, but La Familia, Southwest Care, all the other institutions. If you look at the funding the County has delivered for indigent care which has been based in the past on a 1/8% GRT, which brought in approximately \$4 million a year, about \$1.5 million off that annually, of late would go to St. Vincent, which then could be leveraged against federal funding for indigent care across the community. The other point that the County raised was significantly going to cover a host of providers across the community which were involved in indigent care."

Councilor Ives continued, "And one of my significant worries, and one of the reasons I came forward with my measure, is specifically to focus on that question of indigent care and how we are going to be delivering those services, making sure those who are least capable and have the least available opportunity to obtain care, still are having appropriate care and that nobody is forgotten."

Councilor Ives continue, "I will say I believe, even before introducing my Resolution, I had sent it to the County seeking input. I know we're all busy and I'm glad the County is engaging, and I know the County is interested, because they've obviously been participating at the Legislature in the various measures that have come forward on indigent care, because the State is looking at redrafting how that is done, and they are interested in seeing how that plays out. Fortunately we'll know actually by the time of the next meeting, so we will have some insight into that, and an opportunity perhaps..... when these were introduced, the Legislature hadn't started, so more information is coming in every day. That's an important part of that discussion, and I hope everybody stays engaged and involved in this, and encourages entire community as a whole to participate. I certainly do agree that looking at these issues across our community, and looking at health care delivery not only along the St. Michael's corridor where a great deal of it is focused,

but also to the growing southwest sector. And I know St. Vincents is intending a new facility out there. So there's a lot of change. This is an opportunity for us to come together and try and plan that change as a community in ways that we think will be most beneficial and helpful to all our citizens. Thank you for being here tonight."

Councilor Dominguez thanked the audience for coming out and speaking and listening. He said there has been a lot of good dialogue, and he is excited about the potential for this, and he absolutely supports dialogue or a study group, or whatever it is called. He said health care is important and complicated, and it's changing, sometimes every day, but we have to be cautious and careful because it's so complicated and has a direct impact on our day to day lives.

Councilor Dominguez said, "I just want to ask a few questions for the record, so involved parties can get back to me or perhaps staff can get them cleared up. But there is some fiscal impact. There is the \$10,000 that has been identified in the FIR for the facilitator. But are we going to need recording services as well. Or is it expected that the facilitator is going to be the recorder. So that's something that I think needs to be cleared up."

Councilor Dominguez continued, "The other thing the substitute Resolution asks for is involvement from Santa Fe County Commissioners. And so it sounds like the County Commission is interested in the indigent portion of this and/or health care in their activities at the Legislature. Has there been any dialogue about whether or not they are willing to come to the table, and so, I would like to see that."

Councilor Dominguez continued, "The other is asking the Director of Community Services, I think from the County to participate in this. That's an impact on County staff, so are they willing to allow County staff to participate in this. It says Santa Fe County Director of Community Services. So basically, we're obligating County staff to participate, and we need to make sure that's cleared up."

Councilor Dominguez continued, "There is question about the makeup of the group. We want to have it broad, but do we want to have it too broad. I think that's a valid question. And I'm interested in the idea that we have this period where we actually plan that, that one of the gentlemen spoke about earlier. If we're not careful about the makeup of it, it could be very simply said later on, a certain group wasn't at the table, and so it's not necessarily legitimate, and I think that needs to be taken care of."

Councilor Dominguez continued, "And the other thing is timing, because we need to make sure that we do this the right way. We don't want to rush it. We don't want to have it, get the work done and then forget about it. It's something that needs to be sustained."

Councilor Dominguez continued, "A minor question is how to you define 'knowledgeable consumer.' Is that someone who has had a good experience, a bad experience or both. How do you determine who a 'knowledgeable consumer is.' I'll leave that to other folks to decide, but that's one of the questions I had."

Councilor Dominguez continued, "And finally Mayor, Taos was talked about a lot tonight and I'm not quite sure what has happened in Taos. I've spoken with one elected official over there, and I keep getting conflicting information about what's happened in Taos. I would like to ask City Manager to have your staff, or someone, provide us with a summary of what that was all about, what the conclusion was, and maybe you can pull whatever legislation they have for us so we can examine that is well. We certainly don't want to reinvent the wheel, but we also want to learn from some of the mistakes that happened in similar efforts. With that Mayor, I look forward to what comes out of this. Health care is something I've been concerned about and involved in, at least out in the Southwest sector for quite a few years now. And I think it is worthy of a community-wide discussion."

Councilor Wurzbarger thanked everyone for being here tonight, and apologized that she isn't quite her usual self because she has now been up for 26 hours. She said, "What I want to add to the conversation is that I really appreciate the fact that we are postponing this just for two weeks. And I agree that a central question is to rethink and expand on who is at the table. What I want to add which is one of my favorite quotes, which is, 'Seek not to find the answer, but to understand the question.' And my concern about this group is that we don't rehash what has already happened at the County, we don't rehash what has happened with the quality control groups. I think this is an unique opportunity to look at the kind of phrase that Mr. Potter said, and I won't get it exactly correct, but the idea of looking at what's working and what's not working, but how do we move forward. Otherwise, I can envision 4 meetings of people coming and saying what has not worked, and what they're concerned about. That's not to minimize input, but to focus on what really need to happen, we can agree on, which can move our community forward with respect to having better health. That would be my contribution tonight, and with that, I'm really going to depart."

Mayor Coss said, "First I want to thank everybody for coming out tonight. You've clearly demonstrated the importance to the community. I'm glad the Council has move this, and hasn't just said we don't want to get into something this complicated, that they want to pass the merged Resolution I've been working on all week. As I said at the beginning, we're not there yet."

Mayor Coss continued, "Some of the things I would like to point out is, this is a complicated subject matter to get into. And if we're going to do it right, well maybe Kate's FIR to \$10,000 or \$15,000, we should look at that, because the City is going to cover that bill, whatever that comes out to be. I would also say it is good for the City to convene a community dialogue, to look at some kind of here's where we are, here's recommendations for where we need to be. I think it's important. I think it is also important to point out that on implementing those regulations, the City has zero authority. We don't fund health care, we don't regulate hospitals or health care providers, we're providing a great forum under the authority of the City of Santa Fe, but when it comes to recommendations it will be about zero what the City could implement. There will some the Hospital can implement, Southwest Care, the County, the State, the federal government."

Mayor Coss continued, "I want to ask the City Manager to share the letter he got from the County today, because we've heard testimony tonight that St. Vincents provides health care to 300,000 people. This Governing Body, on a good day, represents about 65,000 of those people, and the City is wont to do this."

But we're going in to say we're having a community forum when we represent 65,000 people and the other 200,000 plus are not at the table, and that's Taos County, San Miguel County, Santa Fe County, the rural population that we don't represent. But we're wading into this now. I don't know how we resolve that, but I know we got a letter from the County today saying, one, we don't think you should do this. If you do it, don't start until July. And three if you want us to do it, you should talk to us. I don't think that's quite fair, because Councilor Ives did talk to them, and Councilor Bushee and a lot of us have. Did I miss anything in the letter, Brian."

Brian Snyder said, "Mayor you summarized it pretty well."

Mayor Coss said, "I just want to put that on the table that the City of Santa Fe, our elected body that represents 65,000 to 75,000 people is now going to move forward and conduct a community dialogue with report and recommendations that affect 300,000 people, or more."

Mayor Coss continued, "I heard the talk about expanded membership – Mental health, dental and nursing homes. I think that's great and I think we should look for a way to do that. And one area of agreement that I saw emerge tonight, at least with Christus administration and union members is that there are going to have to be subcommittees looking at some of that, but it's going to be more expense for the City to fund that work."

Mayor Coss continued, "And the final thing is where we started. I hope we can respect the collective bargaining process. And when I heard testimony saying we want to address nurse turnover and we want to address staffing levels. Those are collective bargaining issues in the end, and I don't think the City of Santa Fe, we can recommend all we want, but we can't effect that. I think it is going to be important to keep in mind that they are collective bargaining issue. As this process goes on, the union and the Hospital are going to be at the table, and how do we as a community respect that process. Those are my comments. I'm glad this is continuing to move forward. I'm glad this is going to be a community discussion. I think we have to figure out how to do it right and include as many voices as we can."

**CLARIFICATION OF THE MOTION BY THE MAKER:** Councilor Rivera moved, seconded by Councilor Dimas, to postpone consideration of the Substitute Resolution for two weeks, to the next meeting of the Governing Body on February 26, 2014; that we continue during the two weeks to work on Items H(2)(a) and H(2)(b), which is the merger document of the two Resolutions; discussion will continue in the meantime to possibly include more members on the study group, and hopefully to have something in two weeks that everyone can come here in support of; and that the public hearing is closed.

The motion was approved on the following roll call vote:

**VOTE: For:** Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzbarger.

**Against:** None.

Melissa Byers, Legislative Liaison said, "Mayor, I just want to clarify that the only Resolution that will be on the next agenda is the merger Substitute Resolution."

Mayor Coss said it is the merger one.

Ms. Byers said, "Only the merger, so the other two are withdrawn."

Mayor Coss said, "Right. There will be plenty of amendments, yes."

*Councilor Wurzbarger departed the meeting*

*Break 9:10 p.m. to 9:30 p.m.*

- 4) **CONSIDERATION OF BILL NO. 2014-2: ADOPTION OF ORDINANCE NO. 2014-5 (COUNCILOR TRUJILLO AND COUNCILOR BUSHEE). AN ORDINANCE RELATING TO THE PROHIBITION OF THE PROCUREMENT OF TOBACCO BY MINORS; AMENDING SUBSECTION 16-15.4 SFCC 1987, TO AMEND THE DEFINITION OF "TOBACCO PRODUCT" AND CREATE A NEW DEFINITION FOR "ELECTRONIC SMOKING DEVICE." (ALFRED WALKER) (Postponed at January 29, 2014 City Council Meeting)**

*Items No. H(4) and H(5) were combined for purposes of presentation, public hearing and discussion, but were voted upon separately.*

The staff report was presented by Alfred Walker, Assistant City Attorney. Mr. Walker said the first Ordinance amends the current Ordinance prohibiting sale of tobacco to minors and includes eCigarettes, defines electronic smoking devices and tobacco products. The second Ordinance is an amendment of our Indoor Clean Air Ordinance, making similar changes to definitions as well as additions to definitions as well as adding findings regarding electronic cigarettes.

### **Public Hearing**

**Steve Patemia** said he has a daughter who lives in Portland and is CEO of a small startup business that manufactures and distributes internationally, not eCigarettes, but liquids that can be used in a high end kind of vaporizer that is antithetical to eCigarettes as well as the whole idea of giving anybody something that is addictive, which is what the real concept of an eCigarette is all about. The tobacco companies seized on the technology to change the nicotine delivery mechanism from something that burns to something that vaporizers. He said, "It turns out that because of my association with her and her business, I'm not a paid lobbyist for them, but I've become familiar with this, and this issue and these

Ordinances came to my attention, because I happen to be politically active, and I get emails from people who are pushing causes, and this particular one came from the cancer people, the representative from whom I don't think is here at the moment."

Mr. Paternia continued, "In any event, I want to make a couple of points very quickly that I think the Council should consider before they pass this Ordinance. Number one, in terms of the ambition to either inhibit or retard or even eliminate, if you could, the distribution of anything that delivers nicotine to younger people to preclude their becoming addicted to it, I'm all for it. My daughter's company is all for it. We think this is a wonderful idea. I'm inspired by what happened in New York City under Mayor Bloomberg before his departure. And I would like to recommend to the Council in that regard, particularly that raising the age for which you can be a recipient of it, at least within the limits of your rulemaking power to 21 is a good idea. Because people at 18 really don't have the wisdom. They have wisdom about a lot of things, but their judgment isn't very good historically, and it is corrupted by a tremendous amount of propaganda and advertising. So raising it to age 21 is fine with me, for what it's worth.

Mr. Paternia continued, "The other goal seems to be to protect the concept of clean air in public places. All for it, no problem. I think this is a great idea. I've tried the vaping devices with the liquid which I will describe to you. I don't have a problem doing that home, but I wouldn't want to pull it out in the middle of a restaurant and do it in front of other people. I think it's impolite. I think it creates anxiety among the people there. I think it's a bad idea. In fact, I knew that any of those devices I would be livid. I know there's a lot of controversy over that. That's my position. I think it's the position of anybody who cares about the public and I think the public was wise to consider that."

Mr. Paternia continued, "Having said both these things, let me quickly clue you into why I think there's still an issue here. If you walk into Whole Foods Market and you go into the whole body section and you go to look at the supplements that include two products I can name, but there's no point in giving them publicity, but there are two. One is a product that has dissolved into it, essences of flowers basically and alcohol. And the other are similar kinds of essences dissolved in water. One of them could actually be used a vaporizer, and in fact one the store had a room vaporizer which would be use, for example, aroma therapy.

Mayor Coss asked Mr. Paternia to please wrap up, he's giving each person 3 minutes to speak to this issue.

Mr. Paternia said, "My point is, the personal vaporizer, which you know something about, which has a use as an eCigarette in some forms, and used for the delivery of things that are completely benign, aromatherapy is one example. Pulmonary therapy is another example. It's on the agenda to be a medical device, and your definition is so broad, it sucks these things in, without focusing on the nicotine element which is crucial. It gets all involved in the devices. The devices really aren't the issue. They complicate the issue for sure. I would like this Council to consider the fact that there are many other things that can go on, and if your ordinance passes, I think there would be an issue, taking for example the products my daughter's company has and put it in a Whole Foods store, just so people could buy it and use it in their

own personal vaporizers at home. It can be used in a vaporizer so it gets sucked into your definition of an eCigarette, and it's certainly not. In fact there is an enmity between the people that smoke, and the people who vape for completely different purposes, and really that's my point.

**Lee Paddock** said for 25 years he smoked two packs a day. He tried everything, the patch the gum, but nothing worked except for his vaporizer. He said, "But this meeting isn't really about the efficacy of these devices, it's about a discussion on whether to ban them to the underage, which I do agree with. But to lump them under the same topics, under the same laws as cigarettes, I think is premature. Those of us who do it on a daily basis and who follow this, even on a professional level, do not have all the information. We do not have enough information to group these as cigarettes. We even draw the difference between beer, wine and hard liquor. We regulate these things differently, but to put them all under one umbrella is premature, and sends a message from government to the people that these are the same as cigarettes, and they are greatly different. I would like the Council to consider that before passing any judgments on whether to ban them in public spaces or put them under the umbrella of cigarettes. Thank you."

**Daniel Montano** said he smoked for 20 years, noting his grandfather introduced it to him at age 10 by accident when he took one of his cigarettes. He put a cigarette in my mouth from his pack and he said you're going to smoke that. He didn't realize that would start me on the road to a 20-year addiction. By the time he was 16, he was stealing from his family to get a nicotine buzz. At age 30 years he found eCigarettes and it worked immediately. He went from 2-3 packs a day to nothing over a span of about a week. This really worked for him. He never planned to quit cigarettes, even though his grandfather died of emphysema and he knew he would as well, but that didn't stop him. eCigarettes stopped him. He agrees that minors don't need to have these. We don't want to start anyone on the road to a habit. He wholeheartedly agrees we need to keep them out of the hands of minors. He said, with regard to banning them in public places, we do know what is in these – propylene glycol, vegetable glycerine, nicotine. He said most scientific research will tell you nicotine is a very benign drug. It has almost no health effects. You can find studies also that prove that being in a room with someone that's vaping, that there is very little to no nicotine in the air after a short amount of time, and this is an enclosed space. We need to make these decisions with more information before you would push for these uninformed decisions. There's a lot of information out there. A lot of people say we don't know enough. A lot of research has gone into this already. You just need to look for it, find it and make an educated decision. When you say an electronic smoking device. This is not an electronic device. Smoking involves the burning of something. There is no fire in this. There is nothing being burned which produces carcinogens which produces carbon. There is no fire in these. I guess that's my case."

**Lacy Daniel, American Cancer Society, Cancer Action Network**, said, "To prevent cancer, we need to do what we know works, and that is to keep kids from getting hooked on nicotine. eCigarettes simulate smoking, they undermine smoke-free laws and are increasingly popular with young people.

Without any federal regulation, the public has no guarantees on how they're made, what toxins they may contain or how many toxins they emit. This is a terrifying combination. For years, we have had the right to breathe clean air in our public spaces and work places. Vapors pollute the air around them. Far from just exhaling harmless water vapor as many eCigarettes may claim. Vapors pollute the air with nicotine, ultra-fine particles, volatile organic compounds and metals. That's why more than 100 cities, including New York City and 3 states, now sensibly include eCigarettes in their clean indoor air laws. Santa Fe should be the next leader by including eCigarettes in the clean indoor aid law. Thank you and please vote yes on both ordinances."

**Ed Conwell, member, Tobacco Disparities Committee, a subcommittee of the Santa Fe Tobacco Free Coalition.** He said their work over time has been with LGBT community because we are one of the groups that has been targeted by big tobacco over the years, and this is another case in point. We have made a lot of strides in the LGBT community, but we have been highly impacted by this targeting. He said tobacco and nicotine related illnesses are higher nation wide than in the heterosexual community. So we want to keep going forward and we are asking for your help on behalf of the LGBT community to help us keep doing that by approving this Ordinance.

**Stephanie Beninato** said she supports both Ordinances, and is happy Councilor Trujillo brought them forward.. She said she doesn't think eCigarettes should be available to people under 18. It simulates smoking and makes cigarettes attractive. She said, "We don't know what is in these cigarettes and what they do and there are varying compounds or elements within each of these types of delivery systems. Some contain nicotine, supposedly some don't. Nicotine is an addictive substance and it is coming out in the form of vapor. We don't have enough long term studies to say it's okay." She said her position is that we know the smoke from tobacco, from cigarettes, is highly carcinogenic. We don't have a long term study to say what nicotine in a vapor form will do to your lungs. If you allow it in a public place there will be people with their eCigarettes putting out certain vapors and exposing people. It is better to assume having nicotine or any other type of chemical coming out that there would be damage to other peoples and your lungs. Play it safe and treat eCigarettes just like we do cigarettes, until we have a long term study that says there is no harm in inhaling nicotine vapor. She is very allergic to nicotine – smoke or tobacco makes her act in an allergic way, including chewing. She has been in the room with people have used eCigarettes and she has a physical reaction and her pancreas starts hurting. She said is the canary in the mine.

**Kyle Shepherd, Pharmacist,** said he has been a pharmacist in Santa Fe for 6 ½ years, and is the facilitator and director of the Tobacco Cessation Clinic at the hospital where he works. He has had patients "light up" their eCigarettes, knowing full well it has nicotine in it and will cause the blood pressure to go up. It is disturbing in that there are studies from the FDA., CDC, American Pharmacist Association which say they have tested the different eCigarettes and found varying levels of nicotine. If they say it has no nicotine, but there is, so you can't rely on the packaging. It's very disturbing to pharmacists who rely on

the regulation by the FDA and they're not regulated which bothers him. He said a man lights up an eCigarette in the middle of a family sporting event. He said we can't ask them to leave, and it is a bad example to his kids. He has no answers, but to say it has nicotine in it, it is very addictive and the person has a strong addiction to nicotine. They need something to back them up to get the practice stopped. The CDC Director said that the decline in tobacco use has stalled nationwide over the past 5 years. He said, "I'm terrified of the introduction of eCigarettes wide spread will lead to an increase in use, as our children start to get this gateway drug, thinking this is cool and fun. We're looking at nicotine addition for years to come.

**Memo Luna, American Cancer Society** said he is here to say he is in full support of both Ordinances. There is no regulation and you don't know what your are getting. He said need to have regulation and labeling. He wants clean air.

**Lee Van Titis**, said he is the owner of Vapor Works in Santa Fe. He had asthma as a kid due to second hand smoke from his father. He said cigarettes are stinky, smelly, and what caused him to have asthma. Vapor cigarettes don't do that to people because it dissipates quickly. He said one of the goals at Vapor Works is to get people off cigarettes, to help as a cessation device, to move away from cigarettes to get a healthier community. He said there eCigarettes have zero nicotine, and it's the same as chewing a pack of gum, which has no chemicals other than PG or VG, it's two food grade sweeteners. Even juices with nicotine it's PG or VG nicotine and food flavoring. We know what's in these, even though people say we don't. There have been studies that nothing other than nicotine causes bad side effects. By placing the same regulations as cigarettes on these eCigarettes, you are lumping them with cigarettes. It is gross over-regulation without any thought to actual studies and what's in the devices. They are not the same thing. There's no tobacco, and it's helping a lot of people to maintain a cleaner lifestyle. We are for not selling them to minors. We understand they have nicotine and we don't want our youth to be addicted to nicotine, and we are coming from the standpoint of trying to help people who are addicted to cigarettes and living a lifestyle of being a slave to tobacco. Over-regulation at this point would kill the movement for a lot of people. They're just going to say, "Okay if I can't smoke my eCigarette I'm just going back to cigarettes," and then we'll have more people smoking cigarettes on the streets again. He said kids aren't getting the eCigarettes from their stores. He said the parents need to find out where they are getting the eCigarettes – on line. They are readily available on-line.

**Ben Shepard, son of the pharmacist**, said he believes the nicotine levels in eCigarettes are unpredictable and it is a gamble, you don't understand what you're doing. A lot of kids at his school use electronic cigarettes, which isn't good.

**Alicia Wolfe**, said she works for the Santa Fe Public Schools and she is a parent. She worked at DeVargas Middle School doing substance abuse prevention and early intervention. She said her 5-year

old son and herself frequently visit the skate park on Camino Carlos Rey, and we frequently encounter some of her previous students smoking eCigarettes. Her son is very confused about this and they have talked about cigarettes being unhealthy. She talks to the students at the park and asks them what they are doing, and they tell her they're not bad for you and we just go to the store and get them. It's no big deal. This is of concern to her as an educator and parent. eCigarettes currently are not regulated which concerns her and that students have the perception that there is no harm. She said it would be better to prevent eCigarettes from becoming a problem. There is a mixed message, and her son is confused as to why she doesn't want him using eCigarettes. She wants to see both Ordinances passed.

**Debra Bryant, Drug Prevention Specialist, Santa Fe Public Schools**, said they came with a group of youth this evening who wanted to talk to the Council, but they had to leave at 8:30 p.m. She would like to share the heartfelt concerns they shared with her before the hearing. They talked about their concerns that students are smoking eCigarettes in class and they're watching their friends getting addicted to nicotine in class. Because of the lack of regulation, the message to them is there is no harm to these. She said there are studies that show there are carcinogens and toxic chemicals in the vapor and the water. On a personal note, as someone who is in remission from cancer and who works really hard to stay healthy, like those she saw at her Oncologist's office yesterday who were very fragile, she said, "I truly believe that we have a right to go to public places where we aren't in fear that our health will be compromised by someone's smoking of an eCigarette. So I really ask that you consider that they are dealt with in the same way that cigarettes are by the Clean Indoor Act. Thank you."

**Shelley Mann-Lev, Santa Fe Tobacco Free Coalition, and is the Prevention Coordinator of the Santa Fe Public Schools**. She said this year, we have seen an explosion in use of eCigarettes by our students. We have the opportunity as the City to address this issue. Almost half of the substance use policy violations in the schools are eCigarette violations. The social norm message has not been gotten out that eCigarettes are addictive, contain nicotine in most cases and they are a significant concern for the health and future of our children and their brains. She thinks of all the places she's seen people use the vapor. She is sensitive personally. She doesn't know what is in the vapor and doesn't want to be exposed to something that is going to harm my health and the health of all our children. She said, "Thank you for your consideration."

**George Gabel** said public health, anti-smoking actions of the last 50 years have resulted in substantial health improvements for the entire population. eCigarettes are being marketed as a safe alternative to tobacco. They may be safer than tobacco. Tobacco has hundreds of toxic chemicals. eCigarettes only have a few, but we're unsure how toxic they are. We have no long term studies. In the meantime, as a precautionary measure it is essential that we recognize that nicotine is an addictive and toxic product and we should not allow it to pollute our air. With regard to the argument regarding tobacco cessation, if it works for people that's wonderful. The packaging on eCigarettes indicate they are not a tobacco cessation product. If people use them that way, that's fine. But, with these Ordinances, we're

doing nothing but saying take it outside. We aren't stopping people from using them. And everyone agrees we aren't promoting the sales of these products to kids.

**Marilyn Bane** said nobody wants children to smoke or have nicotine. She would like for you to give thought to something. There are very few successful ways to stop smoking. There are support groups, Nicorette, the nicotine patch and has tried them all. She has smoked for more than 50 years and had no success in stopping. When she stopped "cold turkey" she ended up in the cardiac care unit because of an anxiety attack. There are a lot of people out here who are trying very hard to stop smoking. She saw someone doing this, and she tried it. She said all the things you've heard are true – they don't have the research, there is contradictory research "up the kazoo." Some say there is very little coming out of the vapors within 12-24 inches. She has read everything. She said, "I think though, you really need to think about something. 18-20% of the population of Santa Fe smokes, and they are the first to try eCigarettes. The oncologist said to me, 'Marilyn, as far as I'm concerned, you are not a smoker now. You have managed to stop.' I started with the 24 mg., the strongest, cut it to 18 mg., then 12 mg and I am now on 8 mg. It's really an important thing, and I think it needs to be available for people. You're talking about not smoking it inside. One of the large benefits of eCigarettes, until this evening, has been to be able to smoke in a restaurant, to be able to go into a public place to smoke, not to have to go outside.. Everything you do to discourage the use of eCigarettes is going to discourage a number of people who are trying to stop smoking. I just think that's perspective you ought to think about, but I don't expect it to change your minds particularly. But I think you want to think about, because it's a very serious problem for people who smoke. Thank you."

**Antoinette Schmidt** said she smoked for 15 years. She is one year smoke-free tomorrow, and she has lost 100 pounds in this time because she can breathe and is able to work out. Her friends and family have noticed the difference in her which is because of the eCigarettes. She said it is not smoke, it is vapor. It does dissipate in the air almost immediately. She doesn't believe there is any harmful effects to anyone in the room at the time that I am vaping. She said children see things and the age of 18 is a good age to start selling these. Children see people, family members, parents drinking and driving, and abusing their family members as well. She agrees with the sale only to people who are 18 years and older.

**Unidentified** said everyone has talked about the vapor and smoke. We have not had any significant research done on any of this. There is the nicotine side and the non-user side, but in all facts of the matter there has been no real research done to prove that eCigarettes are harmful and that the vapor will harm anyone. His grandfather is on oxygen 24/7, and when they go fishing, he uses the electronic cigarette when he's in the truck with him. He's asked him numerous times if this affect him or bother him. He tells him it is okay, that he can't even smell it. He said if you stand behind a vehicle that is running in a parking garage and you're talking a lot of carcinogens coming from the vehicle exhaust. He asked if we

continue to let vehicles run in the City parking lots while they warm up – what do we do with that. He said he is saying let's get some better studies done to verify if the vapor from eCigarettes is harmful before making rash decisions.

**Gabriel Gentelli** he agrees that nobody is going to condone the sale of nicotine to anyone under 18 years old. He asked, who you trust to provide you with the information that you are all receiving. Is it your constituents, or do you look to the FDA for the facts on eCigarettes. He said 25 years ago big tobacco was telling governing bodies that light cigarettes and slim cigarettes were better for your health than smoking Marlboro Red. We came to find out in the 1990's that was a farce. He really believes there needs to be empirical evidence before we are as a community going to "jump across the lake into gross over-regulation." He said, "I have to ask you, to the best of your knowledge, is the vapor from a cup of coffee and tea any different that the vapor that comes out of my eCigarette in here. Can you honestly answer that question, and can you show me a definitive study where you can prove to me that the vapor coming out of my cigarette is more harmful to me than the vapor coming out of my vehicle or a cup of coffee or a cup of tea. Ladies and gentlemen have a wonderful evening. Thank you for hearing me. Goodbye."

**Ellen Whitman** said she used to teach smoking cessation in California and teaches it to her patients in Santa Fe. She said aggressive smoking cessation is really effective. She said she got an email from one of her students in the smoking cessation class. She was so excited, you could hear leaping pride and thrilling testimonial for a person who had stopped smoking 8 years ago. She had been smoking for 35 years, she was a school teacher, educated and new to the situation with smoking. It is a clear addiction. The one thing about cigarettes is that the tobacco industry concealed from the public for 50 years, the dangers that nicotine have. She said, "I believe there is plenty of data that we have access to. I'll bet you anything there is just as many testimonials on the dangers of eCigarettes as there is to actual nicotine. One more point to make is that nicotine is the one product that is guaranteed to kill you. It is a legal product that you can put into a cigarette and you add nicotine. That's why it's harder to stop smoking than it is to stop heroin or crack cocaine. Because you don't add heroin to heroin, you can't add alcohol to alcohol, but you do add nicotine to tobacco which is what gets you addicted and keeps you addicted. And from the testimony I've heard about eCigarettes, I understand people not wanting to hear that it's bad for you. People that smoke cigarettes don't want to hear it's bad for you, and I understand that, but it is possible to have another alternative. And I'm urging you to vote for these amendments."

**Beth Baxter** said she works at Vapor Works. She said most of their customers are people who work in the medical field, and a lot of them are nurses and police officers who tell me how much better they feel, that they can breathe again. It's changed so many people. So many cancer patients come into their shop and tell them how much better they feel and how much this has changed their lives. And we do not sell to 18 and under. We never have. She said she cards people that come in and they are very adamant about that. She said people should be able to go into restaurants and smoke these and in public places.

My fear is that people will just start just smoking cigarettes again and give up on this. It's an amazing thing to see how this changes people lives. She said people cry and thank them for what we've done for them. It's an amazing thing.

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

Councilor Trujillo thanked people for coming out, commenting this isn't as controversial as other things we've had. He said, "Where this Ordinance came from was actually listening to my children. When I'm finding out that 5<sup>th</sup> and 6<sup>th</sup> graders are using these eCigarettes in school, and my child is witnessing this, I'm going, how is this happening. How are children getting hold of these eCigarettes. And one thing I can say to a lot of the vape shops here in Santa Fe is thank you. I applaud you for not selling to children. I've been to the one at Santa Fe Place and the one at DeVargas and there is a sign which says no one under 18 allowed to buy. This past weekend I was at the movies at the Regal 14, and there's a vape shop right there. And I saw children in there gawking at these eCigarettes. Back in the days when I was growing up, the things I would gawk at would be what is the latest Mizuno shoes, what are the latest Nokona gloves. These were my passions, because I play baseball. Now I see these kids here that, what's the newest eCigarette that's coming out. I'm not saying your doing anything bad, and we're not trying to ban these. I want to be clear we're not banning them. One man spoke about someone vaping at a basketball game, and it does concern people around them."

Councilor Trujillo continued, "People say the mist dissipates. I was at Applebee's enjoying my hamburger and I smell cotton candy. Why am I smelling cotton candy in Applebee's. Well, directly behind me, somebody is vaping. That smell comes to me. I don't know what chemicals are in there and if those chemicals are landing on my hamburger and my food. I don't want to take the chance of these things affecting my health or that of my children. The first thing is banning sales to children. I think that's a slam dunk. Everybody that spoke here agrees with that. Keep the eCigarettes and cigarettes out of the hands of children. I appreciate everybody that spoke on that."

Councilor Trujillo continued, "The second part of this. When we passed the smoking ban a few years back, I had to think about it a lot, and I was one of the last ones to get on board on this. I don't smoke, I never have, but I had a lot of friends that did. And they would be at the bar, and that's where they used to go and recreate and blow off steam, and they would smoke their cigarettes in the bar. I would be with them having a drink and did I really think back then how much smoke I had been inhaling all these years. I think smoking is just bad. My father smoked for a long time, died at 48, had stomach cancer. Prior to his death he quit smoking 3 years before that. It was stomach cancer, I can't say he died of lung cancer. Do I believe that smoking had something to do with it, I do. In my heart I do believe that had he not smoked, I would still have him."

Councilor Trujillo continued, "I'm just looking out for the kids here in Santa Fe. And Marilyn, I don't deny maybe these eCigarettes are healthy, because I've heard testimony that they're helping people cut down on nicotine and that's great. If you're 18 years and older, you're an adult. Do what you want. I don't have a problem with that. But, in our public places I do have that problem because I have children there

and I do not want to expose them to any kind of chemicals. We still don't know what chemicals are in those eCigarette and the reason I brought this forward. It took a little while for people to get used to have to smoke 25 feet away from the building, but guess what, they've been doing. It's not a big deal for my friends, they go to the bar, go outside smoke a cigarette and come back it. We're not banning them, we're just designating where you'll be able to smoke these cigarettes. That's all I'm going to say about this. Again, I want to thank everyone for coming and speaking to this issue. It is an issue in this community. And being a father of 2 your children, I'm going to do everything in the world to protect my children from anything. If it means banning these from being sold to people under 18, I'm going to do it. And if means having people smoke elsewhere away from the public, I'm going to do that as well."

**MOTION:** Councilor Trujillo moved, seconded by Councilor Bushee, to adopt Ordinance No. 2014-05, with the amendments in the packet.

**DISCUSSION:** Councilor Bushee said times change. "In 1998 I had to have Julia remind me, the first actual smoking ban was put into effect. We were just about called Un-American for doing that. And in 2006, when I brought it forward to expand it into restaurants and bars, mostly for the health of the workers, particularly because they had no choice to being subjected to cigarette smoke. And I have to say I have great empathy for my great friend Marilyn Bane, and I have been so relieved not to see her smoking the amount of cigarettes that she was up to smoking a year ago. We've had conversations around that."

Councilor Bushee continued, "A question I have for Alfred is, one of the things we had to compromise on, and I swear it was for Former Governor Richardson and his desire to smoke cigars at the Rio Chama. We allowed cigar bars in places. Were there any efforts made for folks that want to have vaping clubs or something like that."

Mr. Walker said, "The amendments do not specifically address anything like that. I've not looked at the entire Ordinance, so I'm not sure how it would affect it. I would imagine you could go to a cigar bar and use your electronic cigarette."

Councilor Bushee said, "We don't want them hanging out around cigar smoke. I grew up with a father whose idea of a Sunday drive was to stuff the 4 kids in the back of the car and smoke a cigar while we drove around. I swear to this day that's what made me such a strong non-smoker. It was a compromise at the time, and I was unsure it was a good idea, but we did allow for cigar bars and essentially they engaged in the business of selling cigars. It was specific that 10% of the annual gross revenue was from the sale of cigars. I'm going to support both Ordinances."

**FRIENDLY AMENDMENT:** Councilor Bushee would like to add something permitting vaping bars where they are solely selling these products. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

Councilor Bushee asked how the kids were getting the eCigarettes.

Councilor Trujillo said their parents were buying them for them.

*[Somebody spoke from the audience, but it was inaudible, said something about kids buying them in the drugstore or on line.]*

Councilor Bushee said even the sweeteners added to the eCigarettes affect her and her lungs. She has become a winter asthmatic from working in a building with serious mold in it, so there are a lot of things that can affect your respiratory system other than smoke, fumes from cars and such. She said she will be consistent on how she has been addressing the idea of second hand smoke and/or vapor.

Councilor Trujillo said there are vaping places in the DeVargas and Villa Linda Malls. He said it has to be contained within that space and they can't come outside to smoke it. He will include that in the definition of a vaping bar – must be within the confines of the building or the rented space.

Councilor Bushee said, "Just to be clear, this does preclude vaping on patios and the rest of the smoking ordinance.

Mr. Walker said, "Right, this would include any areas covered by our Clean Indoor Air Act.

**CLARIFICATION BY THE CITY CLERK:** Yolanda Vigil, City Clerk, asked if the motion includes the Public Safety amendments, and Councilor Trujillo said, "Yes, it does."

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

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

**Against:** None.

**Absent for the vote:** Councilor Wurzburger

**Explaining her vote:** Councilor Bushee said, "Yes. My dad lived a long life, even though he smoked cigars, he never inhaled them, but he did subject us to his second hand smoke for years. I vote for both ordinances. I know we're going them separately.

- 5) **CONSIDERATION OF BILL NO. 2014-3: ADOPTION OF ORDINANCE NO. 2014-6 (COUNCILOR TRUJILLO). AN ORDINANCE SMOKE-FREE ORDINANCE, SECTION 10-6 SFCC 1987; AMENDING SUBSECTION 10-6.2 TO INCLUDE FINDINGS RELATING TO ELECTRONIC SMOKING DEVICES AND AMENDING SUBSECTION 10-6.3 TO INCLUDE DEFINITIONS FOR "ELECTRONIC SMOKING DEVICE" AND "TOBACCO PRODUCT." (ALFRED WALKER) (Postponed at January 29, 2014 City Council Meeting)**

**MOTION:** Councilor Trujillo moved, seconded by Councilor Bushee, to adopt Ordinance No. 2014-06, with the amendments in the packet.

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

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

**Against:** None.

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

- 3) **CONSIDERATION OF BILL NO. 2014-1: ADOPTION OF ORDINANCE NO. 2014-07 (COUNCILOR BUSHEE). AN ORDINANCE AMENDING VARIOUS PROVISIONS OF THE CITY OF SANTA FE ANIMAL SERVICES ORDINANCE, CHAPTER 5 SFCC 1987. (JOHNNY MARTINEZ). (Postponed at January 29, 2014 City Council Meeting)**

The staff report was presented by Johnny Martinez. Mr. Martinez said there haven't been any changes since the last two times he's been here.

**Public Hearing**

There was no one speaking for or against this request.

**The Public Hearing was closed**

**MOTION:** Councilor Bushee moved, seconded by Councilor Dimas, to adopt Ordinance No. 2014-07, with the amendments in the packet.

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

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

**Against:** None.

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

- 6) **CONSIDERATION OF BILL NO. 2013-42: ADOPTION OF ORDINANCE NO. 2014-\_\_\_\_ (MAYOR COSS). AN ORDINANCE RELATING TO THE CITY OF SANTA FE ECONOMIC DEVELOPMENT PLAN ORDINANCE, ARTICLE 11-11 SFCC 1987; AMENDING ORDINANCE NO. 2013-2 FOR THE PURPOSE OF APPROVING AND ADOPTING A SECOND AMENDED LOCAL ECONOMIC DEVELOPMENT PROJECT PARTICIPATION AGREEMENT BETWEEN THE CITY OF SANTA FE AND RODEO PROPERTY, INC., FOR AN INDOOR MULTIPURPOSE FACILITY, A LOCAL ECONOMIC DEVELOPMENT PROJECT. (FABIAN TRUJILLO) (Postponed at January 8, 2014 City Council Meeting). (Postponed to April 9, 2014 City Council Meeting)**
- a) **REQUEST FOR APPROVAL OF ECONOMIC DEVELOPMENT SECOND AMENDED PROJECT PARTICIPATION AGREEMENT BETWEEN THE CITY OF SANTA FE AND RODEO PROPERTY, INC. (Postponed to April 9, 2014 City Council Meeting)**
- b) **REQUEST FOR APPROVAL OF MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF SANTA FE AND SANTA FE COUNTY. (Postponed to April 9, 2014 City Council Meeting)**

**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 10:30 p.m.

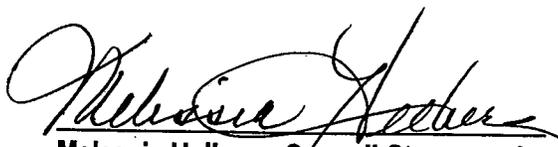
**Approved by:**

\_\_\_\_\_  
**Mayor David Coss**

**ATTESTED TO:**

\_\_\_\_\_  
**Yolanda Y. Vigil, City Clerk**

**Respectfully submitted:**

  
\_\_\_\_\_  
**Melessia Helberg, Council Stenographer**

CITY COUNCIL MEETING  
EXECUTIVE SESSION  
February 12, 2014

The governing body of the City of Santa Fe met in an executive session duly called on February 12, 2014 beginning at 6:25 p.m.

**The following was discussed:**

- 1) In Accordance with the New Mexico Open Meetings Act §10-15-1(H)(7) NMSA 1978, Discussion Regarding Pending or Threatened Litigation in Which the City of Santa Fe Is or May Become a Participant, Cameron-Swinerton, LLC, Gross Receipts Tax Refund Dispute, Project CIP #684.

PRESENT

Councilor Bushee (left at 6:27)  
Councilor Calvert  
Councilor Dimas  
Councilor Dominguez  
Councilor Rivera  
Councilor Trujillo  
Mayor Pro-Tem Wurzbarger

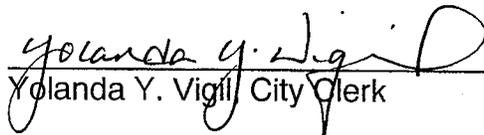
ABSENT

Mayor Coss  
Councilor Ives

STAFF PRESENT

Brian K. Snyder, City Manager  
Kelley Brennan, Interim City Attorney  
Yolanda Y. Vigil, City Clerk  
Judith Amer, Assistant City Attorney

There being no further business to discuss, the executive session adjourned at 6:31 p.m.

  
Yolanda Y. Vigil, City Clerk