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March 25, 2015**

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**MINUTES OF THE  
REGULAR MEETING OF THE  
GOVERNING BODY  
Santa Fe, New Mexico  
March 25, 2015**

**AFTERNOON SESSION**

1. **CALL TO ORDER AND ROLL CALL**

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor Pro-Tem Peter N. Ives, on Wednesday, March 25, 2015, 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**

Councilor Peter N. Ives, Mayor Pro-Tem  
Councilor Bill Dimas  
Councilor Signe I. Lindell  
Councilor Joseph M. Maestas  
Councilor Christopher M. Rivera  
Councilor Ronald S. Trujillo

**Members Excused**

Mayor Javier M. Gonzales  
Councilor Patti J. Bushee  
Councilor Carmichael A. Dominguez

**Others Attending**

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

Councilor Rivera extended his condolences to the Gonzales Family and Mayor Gonzales on the loss of their father who was a previous Mayor in the City and he will be missed by all.

**6. APPROVAL OF AGENDA**

Brian Snyder, City Manager, said he would like to postpone Item #11 on the Afternoon Agenda and Item G on the Evening Agenda, to the Council meeting of April 8, 2015.

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

**VOTE:** The motion was approved on a voice vote with Mayor Pro-Tem Ives, Councilor Dimas, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo voting in favor of the motion, and none voting against.

**7. APPROVAL OF CONSENT CALENDAR**

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

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

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

**Against:** None.

**10. CONSENT CALENDAR**

- a) **REQUEST FOR APPROVAL OF BID NO. 15/07/B – CITY-WIDE ON CALL, MISCELLANEOUS HVAC SERVICES AND CONSTRUCTION AGREEMENT BETWEEN OWNER AND CONTRACTOR. (LeANN VALDEZ)**
  - 1) **YEAROUT SERVICE, LLC**
  - 2) **WELCH'S BOILER SERVICES**
  - 3) **MECHANICAL CONTROL SOLUTIONS**
  
- b) **REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT – LFMC TO ACT AS PROJECT MANAGER FOR FUND 892 CAPITAL APPROPRIATION PROJECT; LA FAMILIA MEDICAL CENTER. (DAVID CHAPMAN)**
  
- c) **REQUEST FOR APPROVAL OF CHANGE ORDER NO. 6 – RUNWAY 2-20 MEDIUM INTENSITY RUNWAY LIGHTING (MIRL) SYSTEM REPLACEMENT AT SANTA FE MUNICIPAL AIRPORT; VIS-COM, INC. (JON BULTHUIS)**

- d) **REQUEST FOR APPROVAL OF SOLE SOURCE PROCUREMENT AND PROFESSIONAL SERVICES AGREEMENT – CONSTRUCTION MANAGEMENT SERVICES FOR RESERVOIR IMPROVEMENTS; WEAVER CONSTRUCTION MANAGEMENT, INC. (ROBERT JORGENSEN)**
- e) **REQUEST FOR APPROVAL OF APPLICATION – FY 2015 SECTION 5307 URBANIZED AREA APPORTIONMENT TO CITY OF SANTA FE; DEPARTMENT OF TRANSPORTATION FEDERAL TRANSIT ADMINISTRATION. (KEN SMITHSON).**
- f) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – CITY-WIDE DATA AND PHONE CABLING SERVICES FOR ITT DEPARTMENT; HEI, INC. (RENEE MARTINEZ)**
- g) **REQUEST FOR APPROVAL OF MEMORANDUM OF UNDERSTANDING – TERRAIN MAPPING AND ORTHOPHOTOGRAPHY FOR ITT DIVISION; SANTA FE COUNTY AND APPROVAL OF BUDGET INCREASE IN THE AMOUNT OF \$75,000 IN WATER FUND. (RENEE MARTINEZ)**
- h) **REQUEST FOR APPROVAL OF REVISED AND RESTATED JOINT POWERS AGREEMENT – SANTA FE METROPOLITAN PLANNING ORGANIZATION PLANNING IN COMPLIANCE WITH ALL FEDERAL, STATE AND LOCAL REGULATIONS AND NEW PROVISIONS OF MAP 21, THE CURRENT FEDERAL TRANSPORTATION FUNDING ACT; COUNTY OF SANTA FE, TESUQUE PUEBLO AND STATE OF NEW MEXICO, DEPARTMENT OF FINANCE AND ADMINISTRATION, AND APPROVAL OF BUDGET INCREASE IN THE AMOUNT OF \$501,814 IN METROPOLITAN PLANNING ORGANIZATION FUND. (MARK TIBBETTS)**
- i) **REQUEST FOR APPROVAL OF BUDGET TRANSFER IN THE AMOUNT OF \$108,040 FROM FIRE IMPACT FEES TO CAPITAL IMPROVEMENT PROGRAM FOR REMODEL AND EXPANSION OF THE FIRE DEPARTMENT’S TRAINING FACILITY. (JAN SNYDER)**
- j) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER COOPERATIVE PRICE AGREEMENT – STRUCTURAL FIREFIGHTING PERSONAL PROTECTIVE CLOTHING FOR FIRE DEPARTMENT; L.N. CURTIS AND SONS. (JAN SNYDER)**
- k) **REQUEST FOR APPROVAL OF \$100,000 GRANT AWARD AND BUDGET INCREASE FOR USE OF FUNDS TO PROCURE F550 FORD TRUCK AND FIRE PROTECTION SKID UNIT UNDER STATE PRICE AGREEMENT FOR FIRE DEPARTMENT; DON CHALMERS FORD. (JAN SNYDER)**

- I) **REQUEST TO PUBLISH NOTICE OF PUBLIC HEARING FOR APRIL 29, 2015:**
- 1) **BILL NO. 2015-11: AN ORDINANCE AMENDING SECTION 2-22 SFCC 1987, TO RENAME THE "INTERNAL AUDIT DEPARTMENT," THE "AUDIT, ACCOUNTABILITY AND PERFORMANCE MANAGEMENT DEPARTMENT;" ESTABLISH A POSITION OF A FRAUD AUDITOR TO INVESTIGATE FRAUD, WASTE AND ABUSE ALLOCATIONS; AND MAKE SUCH OTHER CHANGES AS ARE NECESSARY TO CLARIFY CERTAIN PROVISIONS OF THE ACCOUNTABILITY AND PERFORMANCE MANAGEMENT ORDINANCE (COUNCILOR MAESTAS AND COUNCILOR IVES). (LIZA KERR AND KELLEY BRENNAN)**
  - 2) **BILL NO. 2015-12: AN ORDINANCE RELATING TO THE SINGLE-USE CARRYOUT BAG ORDINANCE, SECTION 21-8 SFCC 1987; AMENDING SUBSECTION 21-8.1 TO MODIFY THE LEGISLATIVE FINDINGS RELATED TO PAPER GROCERY BAGS; AMENDING SUBSECTION 21-8.4 TO ESTABLISH THE REQUIREMENT THAT RETAIL ESTABLISHMENTS COLLECT A PAPER GROCERY BAG CHARGE FOR EACH PAPER GROCERY BAG PROVIDED TO CUSTOMERS; AMENDING SUBSECTION 21-8.6 TO ESTABLISH A 60-DAY IMPLEMENTATION PERIOD; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY TO CARRY OUT THE PURPOSE OF THIS ORDINANCE (COUNCILORS IVES, COUNCILOR LINDELL AND COUNCILOR RIVERA). (JOHN ALEJANDRO)**
  - 3) **A RESOLUTION DIRECTING STAFF TO PROPOSE AN OPERATIONAL PLAN AND PROGRAMMING OPTIONS FOR THE ESTABLISHMENT OF A TEEN CENTER THAT WOULD BENEFIT THE YOUTH OF SANTA FE (COUNCILOR DOMINGUEZ, COUNCILOR RIVERA, COUNCILOR DIMAS, COUNCILOR IVES AND COUNCILOR BUSHEE). (CHRIS SANCHEZ)**
- m) *[Removed for discussion by Councilor Maestas]*

**8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING - MARCH 11, 2015.**

**MOTION:** Councilor Trujillo moved, seconded by Councilor Rivera, to approve the minutes of the Regular City Council meeting of March 11, 2015, as presented.

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

## 9. PRESENTATIONS

### a) 12<sup>TH</sup> ANNUAL CHILDREN'S WATER CONSERVATION POSTER CONTEST WINNERS. (COUNCILOR IVES AND CARYN GROSSE)

Mayor Pro-Tem Ives said this year 421 students submitted entries in the poster contest. He said the judges had a very difficult task in narrowing the selection to 3 for each grade. He said the Water Conservation Office thanks all of the teachers, students, parents and the judges who participated in this process. He said the winning posters are on the wall in the corridor.

Mayor Pro-Tem Ives, assisted by Caryn Grosse, presented the 12<sup>th</sup> Annual Childrens Water Conservation poster awards, giving each child a plaque bearing their entry and a bag bearing the logo of the event. He said the grand prize poster will be featured on one of the City buses for the next year, and the other posters will be featured in the 2016 Water Conservation Calendar.

### b) MUCHAS GRACIAS – LAURIE TREVIZO. (COUNCILOR IVES)

Mayor Pro-Tem Ives presented a Muchas Gracias Certificate, to Laurie Trevizo who is leaving the City. He said Ms. Trevizo was the Water Conservation Division Director for many years. He said Ms. Trevizo and family are moving to Arkansas, and introduced Ms. Trevizo and her two beautiful daughters. He said she will be missed and thanked her for all her hard work on behalf of the City and all the great accomplishments she had at the Water Conservation Office. He said, "This will be a hard act to follow. So thank you."

Ms. Trevizo said water conservation is, was and has been her passion, and she is proud to have worked for the City, commenting she has worked with some of the best people who are extremely professional, dedicated and hard working. She said she made the decision to leave, saying, "I think my two beautiful girls are worth every moment of that." She encouraged everyone to continue to conserve water. She said, "I'm going to miss being here and I am going to miss everyone of you and all of your faces."

Councilor Maestas thanked Ms. Trevizo for everything she did for our community and said she will be missed.

Councilor Trujillo thanked Ms. Trevizo for all she did for Santa Fe. He said he enjoyed listening to her on Thursday mornings on the Water Show, and appreciated it very much when he could join her and talk about, among other things, the Fishing Derby. He wished Ms. Trevizo and family well in Arkansas.

Councilor Rivera said Ms. Trevizo will be missed. He said he has enjoyed working with her on some of her projects, and appreciates her efforts on behalf of the City. He congratulated her on the new addition to her family.

**c) MUCHAS GRACIAS – ST. MICHAEL’S HIGH SCHOOL SWAT TEAM. (COUNCILOR IVES)**

Doug Enlow thanked the Council for this honor. He said there are more than 100 students that participate in SWAT at St. Michael’s High School. He said SWAT stands for Student Wellness Action Team which is a service oriented group. He said they have done many projects throughout the school year – working for gun safety, coat and glove drives for the homeless, food drives for Adalente, as well as a pledge about no texting and driving. He said they went to the Legislature and wrote letters to the Legislators on gun access prevention by children. He said, “This is their group. They are the ones that decide the kinds of projects they want to work on, and are a very committed, dedicated great group of kids.”

Councilor Rivera told the students to keep up the good work, saying, “I’m sure future generations of Horsemen will follow your example and keep doing great things for our community, so thank you very much.”

Mayor Pro-Tem Ives and Councilor Rivera presented a Muchas Gracias Certificate to the St. Michael’s High School Swat Team. Councilor Rivera said he is very proud of this group, noting he is an alumnus of St. Michael’s High School.

A member of SWAT thanked Ms. Garcia and Mr. Enlow, saying they worked closely together on projects. She loves helping the community, and helping with anti-bullying. She said they do their best to help everyone, and thanked the City for this honor.

**d) PROCLAMATION – STAND UP FOR TRANSPORTATION DAY. (JON BULTHUIS)**

Jon Bulthuis, Director Transportation Department, introduced Garrett Robinson, the business representative on the Transit Advisory Board. He said Mr. Robinson has the perspective that investment in transportation is extremely for Santa Fe, its residents, the tourism community. He said this is a day of advocacy where we’re asking this community for partnerships between the State and federal governments, noting some of the support has diminished causing local communities to step up and fill the gap.

Garrett Robinson said partnerships have been a powerful assist in everything we’ve been doing lately, commenting it is amazing how the federal cutbacks have impacted the community. He said the partnerships help us keep moving forward. He said, “It is the intent of the Transit Advisory Board to make Santa Fe No. 1 in Transit. Under the watchful eye of Jon Bulthuis, and Colin Messer the Chairman, we were so proud of the City at the recent Southwest Transit Convention, because everywhere we went, everybody complimented us, not only the City, but our transit presentations, our buses. Everything about this is propelling forward and we’re so proud of it all. Jon thank you, and on behalf of the mighty Transit Board, thank you Mayor.”

Mayor Pro-Tem Ives read the proclamation into the record declaring Thursday, April 9 , 2015, as Stand Up for Transportation Day in Santa Fe and presented it to Garrett Robinson and Jon Bulthuis.

Councilor Maestas said we really need to focus on transportation, given the lack of a Federal Transportation bill, and the collapse of the Capital Outlay bills as well as a bill that called for a gasoline tax increase. He said, "It's time for use to stop relying on federal and State resources and start looking at ourselves to see how we can fund transportation at a much much higher level. Thank you for raising the awareness of the importance of transportation. It's time for us to get in the drivers seat and realize our own destiny. And thank you for your service to the City."

**e) PROCLAMATION – CESAR E. CHAVEZ DAY. (MAYOR GONZALES)**

Councilor Trujillo read a proclamation into the record declaring March 31, 2015, as Cesar E. Chavez Day in Santa Fe, and presented it to Jose Villegas.

Mr. Villegas said it is such an honor to receive this proclamation in the name of Cesar Estrada Chavez. He said, "My memory of this man was back in the day, 7 years old working in the onion fields when I met this man with the black black hair." He said he fought for equity for the poor and the disenfranchised. He said Cesar Chavez passed away in 1993. At that time he asked Congressman Richardson to establish a memorial day for Cesar Chavez. He followed through in 1998 with the New Mexico State Legislature to declare the first State holiday in honor of Cesar Chavez. He said it was passed, but Governor Johnson vetoed the bill. He said, "I am going to push once again for a State holiday in New Mexico in honor of Cesar Chavez on March 31<sup>st</sup>. I will be pushing for that in the Legislature in 2017."

Mr. Villegas invited everyone to La Cieneguilla, to the Capilla de San Antonio, on March 31, 2015, for a memorial service. Mr. Villegas prayed to Our Lady of Guadalupe for justice in honor of Cesar Chavez whose patron saint was Our Lady of Guadalupe.

**CONSENT CALENDAR DISCUSSION**

**10(m) CONSIDERATION OF RESOLUTION NO. 2015-28 (COUNCILOR IVES AND COUNCILOR BUSHEE). A RESOLUTION DIRECTING STAFF TO WORK WITH THE SANTA FE AREA HOME BUILDERS ASSOCIATION TO INCORPORATE THE WATER EFFICIENCY RATING SYSTEM ("WERS") INTO THE RESIDENTIAL GREEN BUILDING CODE AND RELATED ADMINISTRATIVE PROCEDURES. (GREGORY SMITH AND RICK CARPENTER).**

Councilor Maestas said he read the Resolution, but he didn't read the FIR. He said, "Lately we have become hypersensitive on budget, particularly any actions we take that have a budget impact. I see there's an estimate of \$334,000 to implement this. But I think the FIR recommends that we hire two FTEs,

one to implement this amendment to the Green Code and another to assist. Could you explain the FTE deficit and how its affecting Planning.”

Mr. Carpenter said this will be for Planning & Land Use and not the Water Division. His understanding is that they would need to add new positions in order to interface with the Homebuilders Association, the Green Builders and the development community in general, a fairly large effort.

Councilor Maestas asked if there is budget identified and Mr. Carpenter said no.

Councilor Maestas asked if this were to be incorporated into the Green Code, would it be one of many options someone can select if they're building a new home or remodel. He asked, “Would it be in the Green Code as an option with points allocated to it, or would this be a mandate across the board.”

Mr. Carpenter said, “My understanding is it would be a mandate across the board.”

Councilor Maestas said, “I think this effort is going to flush that out, because when you develop this, you will come back to us in the form of a proposed amendment to the Green Code. Right. So we still have another bite at the apple.”

Mr. Carpenter said that is correct, yes.

Councilor Maestas said we can speak on the merits when we get the results from the Resolution. He said, “I do support the Resolution, but I think it has to be on the proviso that we identify budget through the budget hearing process. By virtue of our approval.... I don't think we're really in a position to approve the budget action at this point. And I know we just had an issue I brought forward with fiscal impact, and one of the provisions for its passage was that it go through the budget hearing process.”

**MOTION:** Councilor Maestas moved, seconded by Councilor Lindell, to adopt Resolution No. 2015-28, with the condition that budget be identified through the budget hearing process.

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

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

**Against:** None.

**END OF CONSENT CALENDAR DISCUSSION**

**11. UPDATE ON COMMUNITY HOSPITAL AND HEALTH CARE STUDY GROUP – ESTABLISHED PURSUANT TO RESOLUTION NO. 2014-19. (KATE NOBLE)**

This item has been postponed to the Council meeting of April 8, 2015.

**12. MATTERS FROM THE CITY MANAGER**

There were no matters from the City Manager.

**13. MATTERS FROM THE CITY ATTORNEY**

Mr. Brennan said, "Mayor Pro-Tem, I just wanted to report that we have been asked to sign onto an *amicus* brief in the Immigration Case. It needs to be signed tomorrow. I just wanted to tell you that is a case related to the case that we have already agreed to sign onto. And we don't have time to take it to Executive Session, but it seems to me that you would approve that, and I just wanted to let you know that we will be going forward with that on the assumption that you would approve it."

Mayor Pro-Tem Ives said, "Then presumably, the submission would be subsumed from the prior action because of the relationship of the issues involved."

Ms. Brennan said, "That would be correct, Mayor Pro-Tem."

Councilor Maestas said we adopted legislation calling for an enforcement program for the living wage. He said we set a lot of timeframes for action, but we're coming up on the expiration of that deadline that was included on the Resolution. He asked Ms. Brennan to follow up and find out the status of bringing forth a minimum wage enforcement program.

**14. MATTERS FROM THE CITY CLERK**

There were no matters from the City Clerk.

**15. COMMUNICATIONS FROM THE GOVERNING BODY**

A copy of "Bills and Resolutions scheduled for introduction by members of the Governing Body," for the Council meeting of March 25, 2015, is incorporated herewith to these minutes as Exhibit "1."

### **Councilor Rivera**

Councilor Rivera wished his father an early happy birthday, noting his birthday is March 29, 2015.

### **Councilor Trujillo**

Councilor Trujillo introduced the following:

1. An Ordinance amending Section 12-6-1.3 of the City of Santa Fe Uniform Traffic Ordinance to authorize the Governing Body to make speed limit alterations in the City of Santa Fe through the adoption of a Resolution. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "2."
2. An Ordinance amending Subsection 23-6.2 SFCC 1987, to change the level of security required for professional baseball games at Fort Marcy Ball Park. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "3."

Councilor Trujillo said now that the Rail Runner Report has come out, he wants that to start moving forward, and through Committees if that is necessary.

Councilor Trujillo said at Zia Road and Yucca, a drunk driver went through a fence, noting he went to the site yesterday. He would like staff to get him some information dealing with crashes at that intersection, noting this has been going on for quite some time. He think it poses a public safety issue.

Councilor Trujillo said we are now on Daylight Savings Time, and practices have started at all the fields. He wants to insure the fields are unlocked and people are able to park. He got a call yesterday that one of the parks wasn't unlocked.

Councilor Trujillo said he will keep asking about the pocket gophers to be sure they are removed from the parks so we don't have any accidents with our kids.

### **Councilor Lindell**

Councilor Lindell had no communications.

### **Councilor Dimas**

Councilor Dimas wished Councilor Rivera's father a happy birthday, noting they graduated from high school together..

### **Councilor Maestas**

Councilor Maestas Introduced a Resolution directing staff to evaluate the dedication provision of the Municipal Gross Receipts Tax Ordinance, Subsection 18-10.4 SFCC 1987.

### **Mayor Pro-Tem Ives**

Mayor Pro-Tem Ives introduced a Resolution directing staff, in the interest of water conservation, to complete an inventory of all toilets/urinals at City facilities in an effort to determine the need and cost for low flow toilet;/urinal replacements.

Mayor Pro-Tem Ives introduced the following on behalf of Mayor Gonzales:

A Resolution authorizing the Parks and Recreation Department to establish a special rate schedule for Santa Fe's veterans for the use of the City's four recreation facilities. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "4."

Mayor Pro-Tem Ives introduced the following on behalf of Councilor Bushee:

A Resolution accepting the "Mayor's Challenge for safer people, safer streets," and directing staff to explore the resources and programs to promote safer streets for pedestrians and bicyclists.

### **Condolences to Mayor Gonzales and family**

Councilor Trujillo extended condolences to Mayor Gonzales and the Gonzales on the loss of George Gonzales, husband and father. He said he will be missed.

Councilor Maestas expressed his personal condolences to Mayor Gonzales on the loss of his father, George Gonzales, a former Mayor of Santa Fe. He said I have been told that "George could really belt out a song We will miss him and his voice. He was a great community servant and did such a great job as a businessman and in raising his children. It is a great loss for the community, and my heart goes out to the Gonzales family."

Mayor Pro-Tem Ives said he also would join in sending condolences to the Gonzales family. He said his in-laws who had many businesses in the valley were friends of George and advertised on the radio and have many good and happy memories of interactions with the family over the years. He said we all treasure our memories of our families and that acknowledges their presence on a daily basis.

Councilor Dimas said he sends condolences to the entire Gonzales family, commenting that George gave him his first job in radio as a full time radio news director radio in the 1960's and he pursued a career in radio and was in radio for 27 years, part time and full time, as the result of that opportunity. He

said he and George remained very close friends, and said he visited him at KSWV after George bought that station, noting he [Dimas] worked at KAFE which was later bought by KSWV. He knows the Gonzales family well, but he didn't know Javier because he wasn't that connected with the radio station. He said Anthony, the Mayor's brother, who passed tragically a few years ago, worked for him in radio as program director. He said, "So my condolences to the entire family. It was a great loss. And we will miss George greatly. We're going to miss that fabulous voice that he had. He did some records back then. He was a very talented and humble man and very down to earth. Never changed over the years. I guarantee he will be missed and Santa Fe will never quite be the same without George."

**END OF AFTERNOON SESSION AT APPROXIMATELY 6:00 PM.**

## **EVENING SESSION**

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

The Evening Session was called to order by Mayor Pro-Tem Ives, at approximately 7:00 p.m. Roll Call indicated the presence of a quorum as follows:

#### **Members Present**

Councilor Peter N. Ives, Mayor Pro-Tem  
Councilor Bill Dimas  
Councilor Signe I. Lindell  
Councilor Joseph M. Maestas  
Councilor Christopher M. Rivera  
Councilor Ronald S. Trujillo

#### **Members Excused**

Mayor Javier M. Gonzales  
Councilor Patti J. Bushee  
Councilor Carmichael A. Dominguez

#### **Others Attending**

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

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

**Bruce Weatherbee, Rosario Hill**, said, regarding the Hospital Study Committee, he has worked with the nurses, noting for the record, "I don't represent them as the spokesperson on these issues. I do a lot of work with them as I do with many people in the community, some doctors, lawyers, consumer individuals and two groups that are concerned about these issues.

Mr. Weatherbee continued, "It's been over a year as you all know. And a little over a year ago a commitment was made by people on both sides to try to put this committee together. It would be held until after the negotiations between the local union which represents the workers at St. Vincent's Hospital. At Holy Cross we have this study committee going. They agreed to hold it until negotiations were complete. As you know that went on much longer than everybody thought, but it's been 5 going on 6 months since those negotiations ceased. We submitted a whole bunch of names, not just people representing the union, but consumers, doctors and others. We're concerned that the hospital isn't living up to its word that they want to move this forward, and we're hoping that we can encourage them to do that because they made those commitments. And I do say that, as happened in Taos, there was a reluctance on the part of Holy

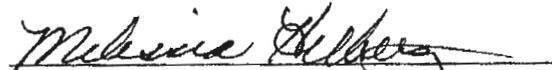
Cross Hospital to come forward and be involved. But once the governing bodies put in place this commission or group, the hospital began showing up at the meetings. I understand you're going to have some meetings next week. We would like for you to contact us as well so we can be involved in that discussion. If you don't want to talk to me that's all right, there are others you can talk to, but we do think it's time to move this forward. We appreciate the effort that went into this last year and that's basically what I have to say. Thank you."

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**VERBATIM TRANSCRIPT  
OF THE REQUESTED PORTION OF PETITIONS FROM THE FLOOR, ITEM #F  
CITY COUNCIL MEETING  
March 25, 2015**

STEPHANIE BENINATO: Good evening, [my name is] Stephanie Beninato. I just want to let you know that I have made some public records requests, and [inaudible] and have not received anything from the City. Clearly the new position this person holds, has qualifications, trainings, things that you would think would be readily accessible. So if I don't get those back, I'll be back again asking why not. I also would urge the City to do what our new State Auditor did and find many find hundreds of thousands in funds that haven't been audited and [inaudible] completely. And it seems like there are some funds where there are excess cash, or excess funds that get used for maybe purposes, so that could be looked at, especially when the City can come up with money to keep the Homeless Shelter open. And I'm not criticizing that decision. It is a lot of money, and yesterday there was an article about it in the paper, and everybody who was standing up for the shelter was interviewed, but they're from out of State. You may want to think twice about that. And then the other thing I have to say is I appreciate those of you who have questioned proposed placements on the Planning Commission, because it does seem like politics as usual, rather than [inaudible]. So I just think people should have some qualifications to be on the Planning Commission and I don't think being [inaudible] or being in somebody's campaign should be a qualification, especially when you have [inaudible] through people with that kind of tie. It seems more like the SCR packing the Supreme Court, excuse me for making that reference, but that's just what I wanted to share with you. Thank you very much."

*I certify that this is a true and accurate transcript of the requested portion of Petitions From The Floor, Item #F, City Council Meeting, March 25, 2015*

  
Melessia Helberg, Council Stenographer

**Tom Montoya** extended his heartfelt condolences to Mayor Gonzales and the entire Gonzales family. He said, "As we enter this Easter season, I feel a profound obligation to speak on a matter which strikes both at our conscience and at our soul. It is a matter that I believe must be addressed at every level, in places just like this and beyond. In this very chamber there has been passionate discussion on almost every conceivable issue, from growing our economy to the plight of our homeless, from supporting our veterans to fighting for a living wage, from tourism to the environment, from the arts to creating greater opportunity for our young people, all with the intention of making life better for us all. In spite of our determined efforts, how sincere our intentions, or how eloquent and powerful our words, we have failed to provide for the dignity of all life. And shouldn't that be our ultimate goal. We continue to be that shining example, that beacon of hope to a watching world on the cause of social justice as we continue down our present course. In essence, what would we have truly accomplished in our short moment of life, what contribution would we have truly made to humanity if we have failed to defend the most innocent and the most vulnerable of our society, the unborn. We hold this truth to be self evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. The last two matter not at all without life. What will future generations say of us, if our fear of losing an election kept us silent and indifferent in the face of the greatest atrocity of our times. Let us summon the courage, the moral leadership and above all, the love, and put an end to faceless abortions. In the words of Tennyson, 'Come my friends, 'tis not too late to seek a newer world.'"

**David McQuarie, 2997 Calle Cerrada**, said tonight he will talk about two subjects. First, he would like to send his condolences to the Gonzales family whom he has known for years. Tonight Mr. Rodriguez is speaking about budget. He said he hopes he doesn't forget that four years ago this Governing Body approved a transition for City buildings to be made accessible, and asked what happened to it. He said now they're saying it's because we don't have the money. He said Councilor Dimas *[inaudible]* to pay attention to the transition which includes this room which isn't readily accessible. The last thing, is according to Court Order, Kinney v. Jerusalem, in 1993, when the City overlays a road they will install curb ramps at all intersections in the overlay area. He said last year, in 2014, they did an overlay of Montezuma and Sandoval. According to a letter I got from last year's engineer, people that use mobility devices are not allowed to use the sidewalks which are inaccessible, to the Courthouse. Why. Why isn't that discrimination. Thank you."

## **G. APPOINTMENTS**

Mayor Pro-Tem Ives reiterated that the appointments are postponed to the next City Council meeting on April 8, 2015, and will not be heard tonight.

## H. PUBLIC HEARINGS

- 1) **CONSIDERATION OF BILL NO. 2015-6: ADOPTION OF ORDINANCE NO. 2015-7 (COUNCILOR LINDELL, MAYOR GONZALES, COUNCILOR MAESTAS, AND COUNCILOR BUSHEE AND COUNCILOR TRUJILLO). AN ORDINANCE AMENDING SUBSECTION 23-6.2 SFCC 1987, TO PERMIT THE SALE AND CONSUMPTION OF ALCOHOL AT THE RAILYARD PARK FOR THE BIKE AND BREW EVENT. (KATE NOBLE)**

Kate Noble said this bill would allow for [liquor] service in the Railyard Park only for the Bike & Brew event, and everything would have to comply with 23-6.2, except for allowing craft beer to exceed 5%, noting that the amendment is included in the bill.

### Public Hearing

*Mayor Pro-Tem Ives gave each person 2 minutes to speak to this issue.*

**Shelley Mann-Lev, Director, Santa Fe Underage Drinking Prevention Alliance**, said this matter has been addressed and discussed thoroughly at several Committees. She would bring to the Council's attention in making this exception to the City's practice in not allowing sales of alcohol on public property, it is importation that we built in an evaluation component. Last year there were several concerns, and they are trying to get information from SIC. It is important we have best practices, and she understands the intention of those in charge to follow best practices which is excellent. She said we need to be sure that there are no sales to minors or intoxicated persons, and there is no driving or riding bicycles while intoxicated which is dangerous for the person and the bikers. She said she doesn't know if there is a mechanism in the ordinance, but she wants to be sure that the City do an evaluation following this exemption that we learn from this experience.

**Sandra Brice, Director Events & Marketing, Santa Fe Railyard Corporation**, said when Chris Goblet came to her last year for the first Bike and Brew Event, noting that only a portion of it took place in the Railyard Park, they were very excited. It is something that is fresh, exciting and hit the bull's-eye for Santa Fe. A number of groups have been looking for something that would bring in young people, attract the outdoors industry, emphasize multiple modes of transportation. It seems it was perfect setting in the Railyard. She said last year's event was very successful. She said the organizers looked at this event and how to grow it even more successful in bringing even more people to Santa Fe, and chose the Railyard Park to be its home base. She said they understood this variance is essential for the event, and the Board reacted favorably, understanding how this could be such a positive successful event. The Board asked her to support the amendment, and that it be limited to this event only, and set in the model of the amendment made for Fuego games, and that we sign off on the logistics of the event. She said, "Thank you for looking at this, and we're going to make it safe, secure and very successful event."

**Christian Goblet, Event Organizer**, said he is here this evening to answer questions after public comment. He appreciates this opportunity, and he has been working with a variety of young people who are on the steering committee to put together an event he believes will meet the standards and expectations of the community, and which he hopes become one of the signature events of Santa Fe moving forward. He said, "We appreciate you taking the time to really understand all of the concerns of the community, the Prevention Alliance, as well as the brewers, in understanding how this festival can function in its highest format. We will be working ongoing over the next two months with all of the entities, the Fire Marshal, Police, people in Parks Department, Sandy Brice of Santa Fe Railyard as well as Yolanda for our alcohol permits and we hope to live up to your expectations that this event meets the quality and standards of those events you supported in the past. Thank you."

**Tim Fowler, Past President, and current Club Ambassador for the Santa Fe Fat Tire Society**, the local chapter of the International Mountain Bicycling Association. He said, "I wanted to say briefly that Chris Goblet and Bike and Brew had our full support last year and this year as well. And in exchange, we have received a lot of support and a lot of good exposure to the community and to the nation at large, raising the profile of mountain biking in Santa Fe as a fun way to experience the beauty we have all around us. I believe this is a great event, and I'm here on behalf of the Mountain Biking community to say that we are very much in favor of it."

**Paul Goblet** said he is here to support his son, Chris Goblet. He said he understands the importance of a number of issues to this City, economic development and all of the things that go to make the City a better place to be. He would encourage the Governing Body to support this. He said a big issue in Santa Fe is how to keep the young people – attract and keep the smartest and brightest in Santa Fe. He said takes creativity, vision, a lot of energy. He knows the energy his son has put into making this a long, successful, meaningful impact on the City and all the things important to the businesses in Santa Fe.

**David McQuarie** said he wants to speak on the request of Bike and Brew. He said, "It sounds like a real conflict of interest when we have an alcohol problem, we're not supposed to allow alcohol and driving."

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

**MOTION:** Councilor Lindell moved, seconded by Councilor Maestas, to adopt Ordinance No. 2015-7, as presented.

**DISCUSSION:** Councilor Lindell said, "I think that everyone that addressed this has a similar goal and that is to have a safe and fun event in the Railyard. I do believe it will become another signature event for Santa Fe. I also want to speak to all of the respect and cooperation shown by all the groups involved in

this. We had a pretty tight timeline to bring this together. And Ms. Noble, Mr. Goblet, Ms. Brice, everybody worked on this in such a cooperative manner. I would hope this kind of effort would be a living model in how we can move things forward. I think you guys did a terrific job on this in a very short amount of time, so thank you for working on it the way that you did.”

Councilor Maestas said he is a cyclist, and he used to go to Durango for the Iron Horse Race from Durango to Silverton. He said they had criteria, a mountain bike race course, and people doing mountain bike tricks. His hope is we have people stay here in Santa Fe as this event expands. He said hopefully we will have a shuttle service to begin to Hyde Park, where there is a large network of mountain bike trails. He said they are trying to work with Santa Fe County in marketing our outdoor amenities and events, and they see great potential in economic development and promoting Santa Fe. He said this could be the beginning of something great, but he wants to see it grow. He is excited about this event and hears nothing but good things about it.

Councilor Rivera said he is in favor of the event. He said he would hope that a week after the event that Ms. Noble can meet with Police and Fire and do an evaluation on calls and emergency incidents we had related to this event, and report that back to us at a convenient time for her.

Councilor Trujillo said he shares the hopes of Councilors Lindell and Maestas, and hopes this is a signature event. He said alcohol is a serious matter in Santa Fe, but he believes that alcohol can co-exist with these events, noting they have had no problems at Fuego games. He said we have to be sure people consume no more than three 12-ounce beers, and that nobody gets intoxicated. He said we want to them to have a good time and enjoy Santa Fe, commenting this will put Santa Fe on the “Biking Map,” and asked to be added as a sponsor.

Councilor Maestas noted the Department of Public Safety has a Special Investigations Group that does a covert type evaluation, and suggested that we call the DPS Special Investigations and ask them if they would like to observe, evaluate and report on this event.

**Disclosure:** Mayor Pro-Tem Ives said, “For the record, let me note, that the conveyance previously approved by the Governing Body of the conveyance of the Conservation Easement on the Railyard Park that had the Trust for Public Lands as grantee, has been successfully conveyed pursuant to the authority of the Council, to the Santa Fe Conservation Trust. And so my apparent conflict on that matter is, at this point in time, I believe resolved. And I’ve spoken with the City Attorney, so fortunately I believe I’m free, I believe at this point in time, to vote on these matters.”

**CLARIFICATION OF THE MOTION BY THE CITY CLERK PRIOR TO ROLL CALL VOTE:** Ms. Vigil asked Councilor Lindell if her motion Included the amendments. Councilor Lindell said yes.”

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

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

**Against:** None.

- 2) **CONSIDERATION OF BILL NO. 2015-7: ADOPTION OF ORDINANCE NO. 2015-8. CASE #2014-104. 2504 AND 2505 SIRINGO LANE REZONING. DANIEL SMITH AND LINDA DURAN FOR ROBERT H. & SARAH S. DURAN, REQUEST REZONING OF APPROXIMATELY 2.00 ± TWO 1-ACRE PARCELS FROM R-1 (RESIDENTIAL – 1 DWELLING UNIT PER ACRE) TO R-3 (RESIDENTIAL – 3 DWELLING UNITS PER ACRE). THE TWO PARCELS ARE CURRENTLY DEVELOPED WITH RESIDENTIAL USES AND ARE LOCATED AT 2504 AND 2505 SIRINGO LANE. (ZACH THOMAS)**

A Memorandum dated March 9, 2015, with attachments, prepared March 25, 2015, for the 2015 City Council meeting, to the City Council, from Zach Thomas, Senior Planner, Current Planning Division, regarding this case, is incorporated herewith to these minutes as Exhibit "5."

Zach Thomas, Senior Planner, presented information in this case. Please see Exhibit "5," for specifics of this presentation.

#### **Questions by the Governing Body prior to the Public Hearing**

- Councilor Maestas said he is concerned about the status of the street and how we can install City infrastructure in it for operations and maintenance, but the ownership is not determined. He understands we can't accept dedication because it doesn't meet the curb to curb standards, room for sidewalks and such. He doesn't understand why the ownership hasn't been determined and asked if the City can exercise its power of eminent domain to at least acquire the easement, maybe not own the street but gain easement to it. He realizes you can't get an easement from the owner if you can't identify the owner. He is concerned we've let this go so long without determining ownership, but we've invested in infrastructure and we maintain the street and the infrastructure in it. He asked if staff is prepared to formalize that aspect even though it doesn't meet our standards for dedication.

Mr. Thomas said a similar statement and request was made by Planning Commission Chair Harris. He said since that time, the City Attorney's Office, along with Ed Vigil, City Property Manager, have been looking into the further history and what we can do in establishing easements at this point. He said he has no answer, commenting it is a unique situation. It appears to have been created in the 1950's, but it was not created through standard means, i.e., a right of way or some kind of easement. He said as recently as today, there was discussion with Zach Shandler in the City

Attorney's Office regarding researching this. So we are looking into it.

- Councilor Maestas said he is uneasy with the City trespassing on somebody else's property, and we don't know who owns it. He thinks we need to resolve this, so the City's use of the property is legitimate, instead of, "Well nobody's come forward to take ownership, so we're going to continue managing infrastructure, the street." He asked Ms. Brennan to speak to this.

Kelley Brennan, City Attorney, said, "I believe I can add some additional information. I believe the improvements were made by the City using funds that were specially granted by the Legislature. So the funding was available, it was for a specific purpose and I assume the opportunity was taken to provide sewer and other services to the neighborhood without any interest in the street which is apparently a lot, an independent lot created by the subdivision. And the other factor is we do have easements for existing utilities in the ground as a matter of law, so there is no issue of trespass, and there's an implied easement and we have rights to access it. So I think we're comfortable with that. I don't think we would be comfortable taking it as a street, because it's not compliant, but I think this seems to meet the neighborhood needs and the realities of the street as it's been built."

- Councilor Maestas asked, if there is subsequent development of any of the lots, if the we could impose City requirements, because this is just a rezone, or would they be grandfathered in, even if there was additional development on that street..

Mr. Thomas said the rezone before you tonight is for two lots, two rezone from R-1 to R-3. That increased zoning would allow development on a one acre lot up to, in theory, 3 units per acre. Every other lot on the street is zoned R-1. It would continue to be 1 unit per acre at that zoning. The stated purpose for the rezone is, one, to bring one of the lots into compliance that already has 3 units on there since the 1970's, and two, ultimately a lot split to develop another house at 2505 Siringo Lane. He said in theory, if further rezones were to come forward, such as to increase the density, then yes, further requirements could be made to improve the street, have sidewalks. He said at this stage, he is unsure how to handle it because the ownership is still unclear. "But, that's the answer to your question, yes, it would be."

- Councilor Lindell said her concern is that there are 8 lots, and at the ENN other neighbors were supportive and said they might be interested in doing future lot splits, and asked if that is correct.

Mr. Thomas said, "Yes, that was mentioned. Correct."

- Councilor Lindell said with 8 lots, if future lot splits were approved and they ended up with a density of 3 units on each lot, perhaps 24 houses on this little lane, how can we go back at that time and request people to dedicate an easement and put in a sidewalk – if we approve this as it came to us from the Planning Commission which did not include the conditions recommended by staff.

Mr. Thomas said any future request for rezone would follow a similar process – to the Planning Commission and ultimately to the Council for consideration. At that point, a similar recommendation would be made by the Planning Commission with the initial conditions of approval, basically Code requirements. He reiterated, “The Commission found that the unique circumstances warranted the use of the innovative streets criteria.” He said the door would be open to any future requests and it could be considered and approved or not. He said it would depend on the desire at that time.

- Councilor Lindell said her question is, if there were more lot splits on the street and we approve this without the requirement of the easement and sidewalk, can we go back and ask for the easement and the sidewalks.

Mr. Thomas said no, not for these parcels. He said any future lot splits would require rezones, noting none of the other parcels are zone R-1, and couldn't be further subdivided today. He said in future rezones that may come at some point, or a subsequent lot split after that, you could request additional right of way and improvements along those properties, but not this property retroactively.

- Councilor Lindell said there are two lots, both of which are being split.

Mr. Thomas said only one is proposed to be split. He said the other parcel already contains 3 units and we're just bringing it into compliance.

- Councilor Lindell asked how many units will there be between these two lots.

Mr. Thomas said a single family residence on 2505 and currently 3 units on 2504, and assuming a future lot split and development it would be 5.

- Councilor Lindell said as configured, if others followed suit, there could be 20 residences on Siringo Lane.

Mr. Thomas said if there are 8 lots times 3, you could get to that, not looking at other development standards.

- Councilor Rivera said the City annexed Siringo Lane into the City, noting this is just a handwritten note, on June 9, 1965, and asked if we currently maintain that Road.

- Councilor Rivera said even though it was annexed in June 1965, it's a City road, but it belongs to somebody else or the property owners.

Mr. Thomas said it is not, in fact a City road, noting Ms. Brennan explained its history, that it was paved with State funds appropriated by the Legislature with the City acting as a construction manager, overseeing the private contractor that paved it, and distributed the money to them. He said that did not result in any kind of ownership by the City, because these were State funds funneled through the City to pave the road and construct the water main.

- Councilor Rivera said then you can annex a road without really owning it.

Ms. Brennan said, "Yes. There are annexation requirements now. I'm not sure what happened in 1965. Many private roads get annexed. If we're annexing, we're required to annex certain adjacent roads as you know, but this really is an unusual situation. And I think if it hadn't been for the intervention of the paving and installation of utilities with funds from the Legislature, it would be very clear that it was a private road. And I think, by virtue of not being a public road, it is a private one."

- Councilor Rivera asked if Fire Department weighed- in on this, and what were their recommendations..

Mr. Thomas said, "The Fire Department provides comments to comply with Fire Code, one of which is 20 feet access, which they wouldn't have, another being typically reviewed at the time of development or a house was proposed to be built, adequate distance between the fire hydrants and the house that exists. They had no concerns or problems with it, noting basically, it was a list of standard conditions that you would comply with and would be reviewed at the time of any future building permit."

- Councilor Rivera said typically the Fire Department would require a secondary ingress and egress, and asked how that would happen on a cul de sac, or if it even would be considered.

Mr. Thomas said in the event a second means of ingress and egress isn't available, there are alternatives the Fire Department will consider at the time of development, which could include sprinklering a building or another kind of enhanced building feature that would increase fire safety. So in lieu of providing things such as two points of access, they do review at the time and permit what they consider variances to the Fire Code at that time.

- Councilor Rivera said then that would come to the Council if they decided to build on these lots.

Mr. Thomas said, "The threshold for two points of access is actually 30 units. That's kind of a rule of thumb the Fire Department uses."

- Councilor Rivera said then it is 30 units and the length of the road, and he is unsure of the length of this road.

- Councilor Lindell asked if there is sufficient room to have on-street parking currently.

Mr. Thomas said there is no on-street parking on the private Lane.

- Councilor Lindell reiterated her concerns that there potentially could be 24 units on this street if owner owners were to follow suit, and without sidewalks and no room for on-street parking. She is concerned we could be creating a future mess.

- Councilor Maestas asked about the whole notion of public investment in infrastructure on a private street, noting the Anti-Donation Clause in the New Mexico State Constitution prohibits the use of public money for private interest. He asked if we are running afoul of that, in terms of anti-donation, by investing any public funds on that private street, for example if this is approved and they want a stub-out of the main line to a private street.

Ms. Brennan said, "Well, I would say we have not invested City funds. Certainly, they were appropriated by the Legislature. As I understand it, we were essentially in the position of a fiscal agent and I think maintaining our system benefits the City as well as its users. So, otherwise, it's speculative, in terms of what may happen in the future, and I think we'll have to cross that bridge when we come to it. There may be other methods by which things would be paid for, like Impact Fees and those kinds of things. I think it's hard to see how future development may affect this, because I think there probably are a number of limitations like that which would come up in the future that would limit development."

- Councilor Maestas said it sounds like we're not going to be done with this area in the future, so perhaps we should get to work and clarify those sideboards on making sure we're not in violation of anti-donation, that we do have the easement, clarifying the extent of it. "It would make me feel better going forward.

- Councilor Rivera said some of the other neighbors have said they would like to do the same thing on their lots. He asked, "If we approve these two lots, would that set precedence for what happens with the rest of the lots and would we clearly still have a good basis to potentially denying any others."

Ms. Brennan said, "I believe that each parcel or each application is considered on its own merits, but there is a cumulative effect of decision making, and some of the issues that you've expressed. There may not be a need for sidewalks and so forth now, or for everybody to take down their walls, for everybody to make that investment now. But as it develops, it may turn out that there is a need to have a sidewalk or a wider street or required curb and gutter, in which case an easement might be a good thing and would provide for that expansion, if necessary, if future areas develop."

- Councilor Rivera said that is Councilor Lindell's concern, as well as planning for future growth, with which he is concerned as well.

- Mayor Pro-Tem Ives said you mentioned one of the existing lots which is zoned R-1, but has 3 units on it, and asked if that is correct.

Mr. Thomas said that is correct, that would be the lot at 2504, Mr. Smith's property.

- Mayor Pro-Tem Ives asked when those units were built.

Mr. Thomas said according to information provided by Mr. Smith, he purchased the property in the 1970's and they existed at that time, so it predates his ownership, and that is the extent of the records we have. He said Mr. Smith is here and perhaps he can add more detail.

- Mayor Pro-Tem Ives asked if it was zoned R-1 before the homes were built, and if exceptions to zoning requirements were sought previously. Or are our records in such a state that we have no way of knowing.

Mr. Thomas said it is two-fold. The entire property originally was zoned R-1. In recent history, there have been a variety of rezonings, immediately north of the property to R-3 and R-5. He said the original plat from the 1950's shows a lot of one-acre lots, but today not so much. He said, "This one street is basically a remnant of what it looked like originally from the 1959 plat. The surrounding areas, since that time, have been further subdivided, rezoned as a result. I don't know exactly, unfortunately when it was initially zoned R-1, but that designation would have matched the original configuration from 1959.

- Mayor Pro-Tem Ives said clearly we have non-conforming uses which may or may not have been permitted, but we don't know. We don't have records that indicate that any rezoning occurred. He asked if permits were drawn for the construction of these residences.

Mr. Thomas said, "We don't have records that show that, but again Mr. Smith may. We don't have records that go back that far that would indicate a structure from the 1970's, but again, Mr. Smith may or may not have records on his own regarding that."

- Mayor Pro-Tem Ives said he finds this property and its history fascinating on any number of fronts, not only that particular one, but the fact that the Legislature apparently appropriated funds to pave it. And that paving was done without any dedication of a public street, or other things that would be fairly standard in the role of development with any other lot, at least with which he is familiar.

- Mayor Pro-Tem Ives said on packet page 7, paragraph 20, it states, "Siringo Lane is not a public street." So that's an affirmation that this is not a public road, nor owned by the City.

Ms. Brennan said, "That is correct, Mayor Pro-Tem. "

- Mayor Pro-Tem Ives said, and then it says, “Ownership of this 20 foot wide corridor is unknown.” He asked how accurate that is, commenting he would think everyone that lives on it thinks they have some kind of ownership, an easement or otherwise.

Ms. Brennan said, “I believe that the street is actually a lot that was created by the original subdivider, rather than created even as a private right-of-way. And the original subdivider has died, so it would belong to the heirs, and perhaps even their heirs. And so the unknown refers to that perhaps large unidentified body of people with an interest. I think it is clear that there are proscriptive or implied easements across that lot, but it is a mix of a number of different interests.”

- Mayor Pro-Tem Ives said he would agree. He asked, if a fire were to occur at the lot at 2404 or 2405, what exactly is the City’s right to use that road to drive a fire engine in to deal with a fire.

Ms. Brennan said, “I believe our firefighters go where they need to go, as they need to go.”

- Mayor Pro-Tem Ives said this appears to clarify potentially our rights to at least drive emergency vehicles on the property. He said he isn’t a fan of doing anything to this roadway given the ownership, or extending additional water lines, or anything until some of this is clarified. He doesn’t mean to hold these folks up, but, “to state from my perspective, a cautionary note that this is strange enough and unusual enough that I am very uncomfortable with our rights as a City, especially when I read that we’re doing street cleaning and other things, which I would hope is not the case, for the reasons Councilor Maestas has put forward. Because I share his concerns about anti-donation provisions in connection with this property.”

- Councilor Maestas said regarding fire access, in his past experience in dealing with similar circumstances where there was not adequate ingress and egress for fire protection, the properties had to have a sprinkler system. He asked if we have waived that. He said, “I’m thinking, in exchange for grandfathering these properties there really has to be some kind of limited liability by the City if the street doesn’t meet our Fire Code requirements for ingress and egress. So where are we in complying with the Fire Code, and relaxing some of the requirements in this situation, particularly for ingress and egress.”

Ms. Brennan said, “Our Fire Codes are not retroactive. They would be reviewed at the time of new construction and permit application. However, as Mr. Thomas noted, any additional houses would trigger their own requirements. So improvement is incremental. I think in Santa Fe, there are very tight, densely developed areas where access is limited and the buildings are old, and they are not sprinklered. But new construction is constructed according to Code, and sometimes that involves sprinklering the property.”

- Mayor Pro-Tem Ives noted on packet page 42, there is a statement, "However, in reality Siringo Lane is actually a 17 foot lane providing access to only 7 one acre lots." He asked Councilor Rivera how wide roads need to be for our engines to come in and whether they need turnaround points.
- Councilor Rivera said it's been too long since he was with the Fire Department for him to answer that.
- Mayor Pro-Tem Ives asked Land Use staff if they can answer that question.

Mr. Thomas said, "Early on in the entitlement application process, this was reviewed by Fire. Again, standard comments were received. What they really focus on in a project like this, is typically looking at it at the time of development. So when a future house comes in, how big that house is, where that is situated on a lot, how close it is to adjacent structures, to be honest with you, as Ms. Brennan explained, they deal with all kinds of widths and standards, especially in certain parts of the City. So not all of them are adequate per modern Code. Typically, they like to cite 20 feet as being a required minimum. However, in the event only 15 feet, for example, or something less than 20 feet is available, they may require additional conditions such as sprinklering a building, or providing additional turnaround on a piece of property, or something like that. That's typically reviewed at the time of actual development. What their preferred standard minimum.... I think it's fair to say it's 20 feet, that's generally what we hear. They do work with less on a case by case basis and provide additional requirements."

## **Public Hearing**

### **Speaking to the Request**

**Linda Duran, daughter of owners Robert H and Sarah S. Duran, was sworn.** Ms. Duran said, "My name is Linda Duran and I am representing my parents Robert and Sarah Duran. They are the landowners at 2505 Siringo Lane. We have spent numerous numerous hours going over the Code. The Planning Department has spent an enormous time going over this situation. And we've been doing it since August 2014. So, when we went to the Planning Commission, we were able to persuade them to see how unique this Siringo Lane is. Yes, it was paved with State funds in 1983. And we have all the utilities there. We have two fire hydrants, one smack in the middle of the lane and one at the top of the lane. So as far as fire, I think there have been fires there, and we've all lived successfully to this point."

Ms. Duran continued, "The whole intent of the rezone was so that I could build an affordable home in Santa Fe next to my parents who have resided for over 50 years at 2505 Siringo Lane. We're all getting up in our years, and the idea was, how wonderful it would be for us to be able to share this family lot and go forward with our lives. It's a little upsetting to see how very difficult it is to want to do something for your family with property that has been owned since my parents were young adults when they purchased it in the 1960s."

Ms. Duran continued, "So now my dad, he has a beautiful 106 foot adobe wall right at his property line, and in order for us to come in, oh, now they want us to dedicate easements and put in sidewalks that would mean he would have to knock down his beautiful wall. My family, we have all been in New Mexico, and our ancestors, and we've been able to date our ancestry back to the 1700s. And so, we are of Spanish and Native American ancestry."

Ms. Duran continued, "So there's a lot of requirements they asked us to put forth when we were going in for this rezoning and lot split process. One of the things it says in the Code is, is there affordable housing in Santa Fe. I work in a public school. I worked and became educated in New Mexico all my life, and work in public education as a Speech Language Pathologist in Pojoaque. I've been there for the last 15 years. And I also worked in the southern part of New Mexico in Sunland Park for a good deal of my career. I want to come home, build a house that's affordable in Santa Fe, right next to my parents. And boom, no. You've got to do this, you've got to do that. You've got to jump all of these hurdles."

Ms. Duran continued, "So I went to the Planning Commission. I said look, there's things in your Code that says, there's if and may statements in the Code that says things like, that in order to put in all of those improvements that you can also consider that it's not necessary to these improvements, and you also have to consider what the potential future impact may be. This is a potential future that we're talking about. And I'm saying this Lane in the past 50 years has only had 2 houses built on it, and they're all the same family. So if you look at the history, we have to stay good. This is a place that is not going to change very much, or until I die or my parents die. And then, maybe, then in the future, maybe something will happen. But typically all of these lots on this street are owned by families, and I call them forever landowners because they've been there forever."

Ms. Duran continued, "So, that's what we're asking you. And we were able to get the Planning Commission to see that there's a human element to this, and not just, oh, are we going to need parking. There's very little pedestrian, minimal, minimal on that street. There's minimal vehicle traffic on that street. We have two fire hydrants, one in the middle of the street and one at the top of the street. So all of your worries are for the future, and that future is pretty far off. I don't know about most of you, but when you have land ownership and your ancestors and heritage is of a place, you also need to consider the cultural impact that is going to be promoted here. I have 4 children. They've all gone away to college in New Mexico schools in Albuquerque at UNM, 3 of them have graduated. And now they're making their world here in New Mexico. That's our culture."

Ms. Duran continued, "And by you passing this and allowing me to make 1 residence, not 30, not 20, 1 residence on this beautiful Siringo Lane that basically has kept its rural history for all these years, chances are it's not going to change very quickly. And if some of the neighbors want to come in and rezone, it's more than likely so they can put their children next to them. So I would urge you to not put this off any further because we've been waiting since August for this, but to consider the human elements of it. And you are allowed to, because the Code says you are allowed to have an innovative street design. And on our street, we don't want sidewalks and we don't want to dedicate easements. We like our street the

way it is. So I would urge you to approve it as the Planning Commission approved it. Thank you very much.

**Dan Smith [previously sworn]** said, "When I learned that Linda wanted to put in a request for rezoning, I talked to her father about it. We've been neighbors for years. I'm the newcomer on the street. I bought the property in 1972. I had lived a block away in 1966, and the owner of the house that I bought in 1972 is a friend who retired to Arizona."

Mr. Smith continued, "Mr. Duran who lives across the street said the property they have there was built in the early to mid-60s, and I heard somewhere that this area was annexed in 1965, I didn't know that. When I bought the property it had a two bedroom house and 3 contiguous one-bedroom apartments on it. After I bought it, I converted one of the apartments into the master bedroom of the house, and there remains on the property a house. It's never had more than a couple in that house, and two one-bedroom apartments that had *[inaudible]* by a single person. So the property hasn't had a lot of use. It's got 4 people on it."

Mr. Smith continued, "On my lot there is a fire hydrant and rather than trying to be legal, non-conforming or illegal non-conforming, or whatever it might be for my property, what I wanted to do in joining this is to be zoned R-3, so I would be legal with what I have and what I have had for thirty some-odd years. It's been there for well over 50 years. The properties contiguous with mine are zoned R-3 and R-5. And it just seems appropriate for this zoning to be put in place to where I have no legal question about the units around my property that have been there for over 50 years. Thank you very much."

**Robert Duran, owner of property at 2505 [previously sworn]**. Mr. Duran said, My name is Robert Duran and I'm the owner of the property at 2505 Siringo Lane, along with my wife, Sarah. We put in an application to get the property rezoned from R-1 to R-3, so that my daughter Linda could build an affordable home there via a family transfer. After the application was put in, we found out later that there were some conditions needed to get the property rezoned. And those conditions were a 10 foot easement to build a sidewalk and a buffer zone. Of course we were very surprised about that. We hoped it would pretty much go through with any type of condition."

Mr. Duran continued, "So then of course we objected to those conditions, because of the fact that a 10 foot easement for a sidewalk on a private lane, or as the staff refers to it as a lot access driveway, and considering that the road is only 17-18 feet wide, it would impact the infrastructure that are already in place, like my adobe wall, all of my shrubbery on the other side of the wall, and to give an easement to build sidewalks at my own expense, and keep them up on a private street or lot driveway access. And the other residents have fences built to the property line. So we were totally against that."

Mr. Duran continued, "I guess I'm really here to request from the City Councilors that you approve the R-1, R-3 rezoning at this time, and without those conditions. It is just totally unaffordable. I can't afford to do that. As far as the water lines are concerned, they're already in place on the street. The sewer line is in place. Fire hydrants are on the streets, no problem if there's a fire there, and they can get access to those houses on that private street, it's no problem. They've already done that. There was a fire at Dan Smith's house, the Fire Department came in there and took care of it. No problem."

Mr. Duran continued, "Also, the City staff discussed this problem we're having right now, and they couldn't come up with any type of designation for Siringo Lane, so they decided it was not a public street, but it was a private lane or a lot access driveway. And according to the Code, for a private driveway or a lot access driveway, described in Table 14-9.2.1, which is the design criteria for street types that indicates for a lot access driveway or a private lane, that easements are not required. That's in the Planning Division's own standards. They're not required on a private lot access or private lane."

Mr. Duran continued, "And also, the average daily traffic is minimal. And it says the dwelling unit access to the lot, according to staff, those can be exceeded. We don't have to put in sidewalks or give easements. And that's in accordance with your own Code 14-9.2.1, and that pertains to a lot access driveway which defines a lot access driveway gives us access onto Siringo Lane to our lots. So, to me, I don't see why we have to have to meet those conditions, based on what I'm telling you, and your own design criteria for lot access driveways and private lanes. We don't need them."

Mr. Duran continued, "So, I guess what I'm saying is, I think that you should really approve this request based on this criteria that I'm giving you, and also the same criteria that is recommended to you by City Planning staff. And their recommendation is that you can approve it based on an innovative street design, which means it can be changed. It doesn't have to meet those conditions. So I would appreciate it, if you would approve the rezoning without the conditions of approval and as approved by the Planning Commission on January 8, 2015. So thank you for your consideration of this request."

**Mary Schruben, 2119 Rancho Siringo Road, and member of the Board of the Rancho Siringo Neighborhood Association [previously sworn]**, presented information via the overhead, using two aerial photographs that were not entered for the record.

Ms. Schruben said, "The Durans and the Smiths came to us with this problem after the ENN, when the City had mentioned nothing about sidewalks. I have with me two historic photographs, one is actually historic and one is contemporary that show the condition of the land in the late 1950s. You can clearly see that there's the Manhattan Project at one end of it, north of Siringo Road, there's one ranch on Siringo Road, there's one ranch on the Arroyo Chamiso and the Ragle Airport south of Arroyo Chamiso. A road was cut from Ragle Airport, which is now Yucca Street, to the Manhattan Project for purposes of off-roading materials from the Manhattan Project Airport to the Manhattan Project Depot which is now the University of Art and Design. Much of that land is City land, State land, schools and so on."

Ms. Schruben continued, "You can see from the land, first of all, that it's very desiccated because this is right after the 1950s drought. There are no large trees except where there are wells. We're going to take this in small chunks. 'Here' is the Manhattan Project. 'Here' is Siringo Road. 'This' is the oldest of the ranches and you see there are trees on it. 'This' is Los Pinos Court that was... at that time, we were able to ford it in a tractor or a wagon or whatever. 'This' is Rancho Siringo Road. 'This' is now Rancho Siringo Drive, it connects to Yucca Street. Yucca is the access to Ragle Airport 'here,' which was the Manhattan Project airport. 'This' is the other ranch. 'This' is Charley Siringo Ranch at the south end. 'This' is the Arroyo Chamiso through here. 'This' Siringo Lane, was the access to 'this' small ranch. That's the historic ranch that was on the property."

Ms. Schruben continued, "When this property was deeded from homestead property into the County and it was platted as one acre plots, back in, we think in the '50s sometime. 'This' is the Anderman Ranch over here, and they're the people who let all the property to the east that went for Santa Fe High School, and then Siringo Road is extended across there."

Ms. Schruben said, "You can see that this is very desiccated. There is a hill right 'here.' 'This' is the high point, the High School sits on it, Temple Baptist Church sits on it. There is no way this road could be extended through because there is a hill there and it can't go any further. It dead-ends right 'here' at the Gallegos property. It was the access, rutted muddy lane for this project. The Durans' property is right 'here,' just to the left or southwest. And the *[inaudible]* is right 'here.' 'This' was later purchased by the Fiorinas. 'This' ranch 'here,' you approved a subdivision for the two acres that are around it right now. 'This' line demarcates the Bellamah properties that were developed to the west. So that's what it looked like back then. Drainage basically is along 'this' line right 'here' for the high point to Los Pinos Arroyo to the north and to the Arroyo Chamiso to the south. And we have the old stormwater system in the neighborhood."

Ms. Schruben continued, "This is what it looks like in 1992 photography. This shows the acre size plots over much of this land. 'This' land right 'here' is the *[inaudible]* where I live. There's a little bit of it right 'there.' 'This' is an acre lot, 'that's' an acre lot, 'this' is a three-acre lot. All of these acre lots have maintained their ownership since the original purchases. All of 'these' have maintained their ownerships as well as 'these,' with this split right 'here,' and this is a split right 'here.' 'This' is Los Chamisos Condo Association, and 'here' is the arroyo. 'This' is the Condo Association right here, and 'here's' the arroyo going through. There's another Condo Association right along 'there.' 'This' is the historic Charley Siringo Ranch right through 'here.'"

Ms. Schruben continued, "So you see that this neighborhood retains its original ranch character with these acre lots. Most of these lots have a single home on them. Many of them are not able to be subdivided with lot splits because of the configuration in the placement of the original home. Our sense is from the neighbors we've talked with, and we've discussed this with many of them, is that they have no intention of splitting off their lots, they've no intention to develop anything else, and they very much and very emphatically want to retain the character of this neighborhood. When Cactus Lane was put in, when Ponderosa Lane was put in, when Rancho Siringo Drive was put in, no sidewalks were put on any of these

properties. The only sidewalks are in the PUD, which is a federal housing project and along Siringo Road. That's the only place we have sidewalks now."

Ms. Schruben continued, "So we would very much like your approval of this lot split and the rezoning that are before you tonight, because we definitely want to retain the character of this neighborhood as an open ranch area, and single family homes, detached homes. We do not plan to have any development, and we have fought-off all the developments that have been proposed for this area."

### **The Public Testimony Portion of the Public Hearing Was Closed**

Councilor Trujillo said that was a very interesting history of the area.

**MOTION:** Councilor Trujillo moved, seconded by Councilor Dimas and Councilor Rivera, to adopt Ordinance No. 2015-8 approving the 2504 and 2505 Siringo Land Rezoning as recommended by the Planning Commission, including the Planning Commission's Findings of Fact and Conclusions of Law.

**DISCUSSION:** Councilor Maestas said, "I want to express my agreement with Linda that, yes, this really was a human element case, and I think it was really a balanced decision. We typically deal with developers, and I'm not insinuating that developers aren't human, but they can be a lot more difficult to deal with and many times defy Planning and Zoning Commission directions, and they tend to appeal to the Council quite a bit. But I think this is a great story of families growing and being able to live here in Santa Fe. And the same cannot be said for many many families who have kids that grow up and they don't have land, and they can't afford to buy a home. So it kind of warmed my heart to see that your City and cooler heads can prevail and make things work for your family. So I definitely will support this."

Councilor Rivera said, "Thank you Mr. Duran for getting up and speaking. You so much reminded me of where I grew up and the residences that my parents and my sister still live in which were build by my grandfather. It also reminded me that my father-in-law used to go to the arroyos in Buckman every weekend and get river rock and he came back and built many of the walls around his house as well. There are special considerations we have to do, and obviously we need to ask the tough questions as well. So there may be some frustration on your side Ms. Duran, but again, it's just part of the job and having to ask those tough questions. So thank you for getting up and speaking tonight."

Mayor Pro-Tem Ives said, "And I would note that in this whole thing, I've been puzzled about the reason folks would want sidewalks there. I couldn't figure it out, which is why I was asking question about ownership of the Lane and why we would impose requirements for sidewalks when we don't own the lane in the first instance. So I have no problem supporting this. I will say though, that I think you will face challenges, potentially in the future, because there is no ownership by the City. I'm curious to see how it all plays out. And I think most of our discussion here is focusing on that future, not so much the matters in this particular item. I think for me, it's pretty straightforward, but I do worry about it, because we have Code requirements, etc., that may give you challenges in the future as you move to do with this property what you're speaking of."

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

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

**Against:** None.

- 3) **CONSIDERATION OF RESOLUTION NO. 2015-29. CASE #2014-109. HANDS OF AMERICA GENERAL PLAN AMENDMENT. MONICA MONTOYA, AGENT FOR LEONEL CAPPARELLI, REQUESTS APPROVAL OF A GENERAL PLAN FUTURE LAND USE MAP AMENDMENT TO CHANGE THE DESIGNATION OF 1.50 ± ACRES OF LAND FROM RURAL/MOUNTAIN/CORRIDOR (1 DWELLING UNIT PER ACRE) TO OFFICE. THE PROPERTY IS LOCATED AT 401 RODEO ROAD. (DONNA WYNANT)**

*Items H(3) and H(4) were combined for purposes of presentation, public hearing and discussion, but were voted upon separately.*

A Memorandum, with attachments, prepared March 13, 2015, for the March 25, 2015 Council meeting, to the City Council, from Donna Wynant, Senior Planner, Current Planning Division, regarding Case #2015-109 Hands of American General Plan Amendment and Case #2014-110 Hands of America Rezoning, is incorporated herewith to these minutes as Exhibit "6."

A letter dated March 25, 2015, to To Whom It May Concern, from Martha Cannon and Curtis Cannon, in support of this request, entered for the record by Monica Montoya, is incorporated herewith to these minutes as Exhibit "7."

A letter dated March 11, 2015, to To Whom It May Concern, from Scott Rosenberg, in support of this request, entered for the record by Monica Montoya, is incorporated herewith to these minutes as Exhibit "8."

A letter dated March 202015, to To Whom It May Concern, from Buck Rackley, in support of this request, entered for the record by Monica Montoya, is incorporated herewith to these minutes as Exhibit "9."

A letter dated March 25, 2015, to the Governing Body of the City of Santa Fe, from Gina M. Federici, in support of this request, entered for the record by Monica Montoya, is incorporated herewith to these minutes as Exhibit "10."

Three (3) pages of a petition headed, *We wish to express our support for the rezoning and development plan applications for Hands of America located at 401 E. Rodeo Road, we fully support C-1, Light Commercial Zoning in this area of East Rodeo Road*, entered for the record by Monica Montoya, are

incorporated herewith collectively to these minutes as Exhibit "11."

A copy of a letter dated February 16, 2015, with attachment, to Elena Benton, Helen Tomlin, Arroyo Chamiso, Sol y Lomas [ACSYL] Neighborhood Association, from Christopher L. Graeser, Esquire, regarding 401 E. Rodeo Road C-1 Zoning Application, setting out matters discussed at a meeting with Leonel Capparelli, Monica Montoya and himself, entered for the record by Monica Montoya, is incorporated herewith to these minutes as Exhibit "12."

A color photograph of the subject side as it exists today, entered for the record by Monica Montoya, is incorporated herewith to these minutes as Exhibit "13."

A color rendering of the subject site in what was originally permitted by the State, entered for the record by Monica Montoya, is incorporated herewith to these minutes as Exhibit "14."

Donna Wynant presented information in this case. Please see Exhibit "6," for specifics of this presentation

### **Public Hearing**

#### **Presentation by the Applicant**

**Monica Montoya, agent for the owner was sworn.** Ms. Montoya said, "I am here, along with Chris Graeser on behalf of Leonel and Elena Capparelli, to request your approval of the proposed General Plan Amendment and Rezoning Application. I first want to thank staff for their assistance and fairness throughout the entire application process. They truly are professional and in our opinion represent the City very well.

Ms. Montoya said, "The Capparellis have owned their property and operated a furniture restoration business and incidental sales at this location for almost 25 years. Hands Of America is a custom design and handcrafted, antique furniture making and restoration business, with an office and incidental on-site sales. The overall use is low impact and environmental friendly. All materials in the restoration and crafting process are reused or recycled from old Mexican and New Mexican antique furniture."

Ms. Montoya continued, "The annexation of their property by the City, coupled with the recession, put the Capparellis in a precarious situation which they now hope to resolve with this application. Generally, before their property was annexed into the City limits, while they were officially County residents, the Capparellis received appropriate permits from the State and County to construct a building to house an office and gallery on the south end of their property nearest to East Rodeo Road. All the while the furniture making process continued in the warehouse building on the north side of the property."

Ms. Montoya continued, "Because of the economic condition of the country at the time, the construction process of the new building on south end slowed down considerably. The entire 3 acre property was then annexed and given the residential zoning, which resulted in their long standing business of 25 years becoming a non-conforming use."

Ms. Montoya continued, "The non-conforming status of the property is problematic to the Capparellis and for this reason they ask you to grant the appropriate General Plan Amendment and the Zoning designation of C-1, Light Commercial, to allow the business to come into conformance with the Land Use laws. As staff mentioned, the General Plan and C-1 zoning classification will apply only to the south end of the property closest to Rodeo road. The furniture restoration will continue on the north building and retain a non-conforming status."

Ms. Montoya continued, "Mr. Capparelli has worked closely with staff to create this land use pattern which intends to satisfy the Code, create a buffer to the north residential properties, bring zoning conformance to the south tract and take into consideration the unfortunate situation brought on by events out of the Capparelli's control. This pattern was tailored specifically to allow compliance for the subject property as well as maintain harmony with the General Plan policies and zoning designations for the area."

Ms. Montoya continued, "We propose that the minimum criteria of the City Code supports the request, and that the proposed General Plan designation and C-1 zoning accurately represent the historic pattern and use of the property. No changes to the use of the property are proposed, other than to complete a partially constructed building on the south end of the site to house their office and gallery. As mentioned, the restoration process will continue in the shop on the north end of the property and retain non-conforming status."

Ms. Montoya, using the overhead, said, "If I could use the projector [overhead] I would like to show the Council.... the first photo I will show you [Exhibit "12"] is a rendering of the building and what was originally permitted by the State. You will see that it is architecturally pleasing and it's a beautiful representation of Historic Santa Fe architecture. And the second photograph I'll be showing you is the status of construction as it exists [Exhibit "13"]. This is how far the building has come. This is a photograph as of yesterday, and as you can see, Mr. Capparelli has come a long way and it is beautiful. I don't know if you had a chance to make it out there before the Council meeting, but it is coming along and it is a very beautiful building on East Rodeo Road at that location."

Ms. Montoya continued, "What Chris Graeser handed you before the presentation was a petition showing absolute support for the Capparellis. There are total of 19 signatures from area residents that show their support for Mr. Capparelli [Exhibit "13"]. You also have 4 letters of support from immediate neighbors in the area [Exhibits "7," "8," "9" and "10"].

Responding to Ms. Montoya, Chair Ives said it is not necessary for Ms. Montoya to summarize the letters with excerpts.

### Speaking to the Request

**Christopher Graeser, Attorney [not sworn because he is a member of the bar].** Mr. Graeser said, "I have known Leonel for years, and he called me last year and left a message. He said I've got this zoning thing going on with the City and maybe you can help me out. So I called him back the next morning and he said, 'Chris I can't talk to you right now, I'm standing in the smoldering ruins of what used to be my wood shop.' A couple days later he came in and explained the situation. And it's one of these classic law exam fact patterns when you're looking at it from a lawyer's perspective."

Mr. Graeser continued, "He got all his approvals from the County to build the showroom. He started building it, he ran out of money. He does a lot of work for hotels and stuff, and the economy slowed down and he ran out of money to keep building it. Then he got annexed. He had actually gone to an annexation meeting where the representation was made that this wasn't going to affect what he was doing there, and I think it was along the lines of this isn't going to change anything, I think was the representation. And he thought he was fine going ahead."

Mr. Graeser continued, "So then he gets annexed, and meanwhile he is keeping his building permit live, his business registration live. Then the shop burns down, so he goes into the City to figure out what to do and no one quite knew. And from my perspective, I think he has a right to continue doing what he is doing, exactly how that works, I don't know. So we sat with City staff and they were quite helpful and quite cooperative, Tamara and Donna, and said we'll figure out a way to do this that will work. So that involved splitting a lot. He actually could do 3 lots if he wanted, but chose not to because it didn't make sense, split the lot so the real lot remains residentially zoned backing up to the residential zoned lots behind it. The front lot gets zoned with the same zoning as all the lots in front of it so he can proceed with this project."

Mr. Graeser said, "And we just need support from all the neighbors. We represented to the Planning Commission that we would cooperate and work with the Arroyo Chamiso Sol y Lomas [ACSYL] Neighborhood Association. We met and there were some particular uses that are allowed in the office use list that they were concerned about the impact to the neighborhood. And we agreed to prohibit those uses. There were other uses that they were concerned that, depending on how those developed, might or might not be okay. And we agreed initially that we would call those special use permits and we would have to come in and have a public hearing process and stuff to get that approved. That was our agreement, and we subsequently learned that the City is not really interested in imposing prohibitions or special use permits where they don't exist in the Code."

Mr. Graeser said, "So what I want to say on the record, very clearly, is that we have made an agreement with the ACSYL Neighborhood Association. There's a copy of that agreement in front of you and now in the record, and we intend to stand by that. Certainly anything that we've agreed is a prohibited use such as mobile homes, kennels, national chain grocery stores, the Capparellis simply would never use the property."

Mr. Graeser continued, "And I want to be clear, they have no intention at this point to do anything other than what he's doing there and has been doing there for 25 years, but the zoning comes with the use list in looking forward to the future. So they would not engage in any of the prohibited uses."

Mr. Graeser continued, "I guess I'm not quite sure how the special use permit would shake out, but I think I would make the representation on the record that *[inaudible]* and me agreed would be a special use permit. The Capparellis would work with, cooperate, negotiate in good faith with the Neighborhood Association if they ever were looking at putting in something along that line, a monastery for instance."

Mr. Graeser continued, "So that said, we appreciate staff working with us, certainly the neighbors all supports this, the Planning Commission supports this and we would your support as well. If you have questions, I'm happy to answer them."

**Elena Benton, representing the ACSYL Association [previously sworn].** She said, "Just as Chris has stated, we've met and we had discussions over what the Neighborhood Association is concerned about in the uses, this being changed from Residential to Commercial. We have found Leonel to be a very good neighbor, and well respected by the people around him, and we believe Leonel has the best intentions for this property and also for the neighborhood. The concerns from various people in the neighborhood is the potential for commercial creep. And we discussed some of the things we would be concerned about in the usage. And the list as we go in here is fine, like Leonel's children say, if they wanted to open a neighborhood grocery store or something when his children become dentists, I think that's something that would benefit the neighborhood. And our concerns, I think, were met and that any commercial potential that could possibly be detrimental to the immediate neighbors and also the neighborhood will so address."

Ms. Benton continued, "And so the Neighborhood Association is backing Leonel. I do have a question and we had a discussion in the hallway, which is the special request as a far as restrictions on what can and can't be done, can that be entered into the Lot Split criteria or now."

Ms. Brennan said, "In answer to that question, I am willing to say that when you grant the zoning, I think we've said this a number of times, you're granting the zoning with all the uses that come with it. However, the Applicant and other parties can enter into agreements that can restrict the use of the land as between them, but the City can't impose that as a condition on the rezoning."

Ms. Benton said, "So I think that what you have before you shows the intent and what we want to restrict. Are there any questions for myself as representing the Neighborhood Association."

Mayor Pro-Tem Ives noted that at the bottom of the letter [Exhibit "12"] it says, "We propose an agreement memorializing these terms that endures for ten years." He said presumably that means after 10 years, none of these issues would any longer apply, it would have C-1 zoning and be subject to all permitted uses under C-1. He said, "And I'm just trying to be clear."

Ms. Benton said she would like for it to be longer, but she doesn't know if Leonel would agree to a longer period of time.

Mayor Pro-Tem Ives said he would say this is her one shot on behalf of ACSYL to impose restrictions unless there was beneficence in the future on the part of the landowner or whoever might own the land at the time to agree to some sort of modification. He said, "I'm not sure if Chris has contemplated doing some sort of deed restrictions as a mechanism that might be used to accomplish this which could certainly be more permanent in nature than a 10 year time frame."

**Disclosure:** Mayor Pro-Tem Ives said, "I am a member of the ACSYL Association. This has no impact on my property over on Zia Road."

Mayor Pro-Tem Ives said, "We just want folks to be clear what the Ps and Qs are of how you go about this. The City does not get involved in these issues. These are matters of private contractual relations. So it would be up to ACSYL and the landowner to put it in place to enforce it. All those sorts of things. We don't have really much to say that I'm aware of in conformity with what Ms. Benton has stated."

Ms. Brennan said, "That's correct. The parties can enter into a contractual agreement. You can't grant zoning and impose conditions that restrict the uses that are allowed. Obviously, there's something on the record tonight about an agreement, and it seems that they've reached agreement, so that supports their contractual undertaking, but is not an action of the Council."

Mayor Pro-Tem Ives said, "Folks you need to speak on the record or not. This is a public hearing here, and this really isn't the place for negotiation I would have to say. So this is, again, something you need to work out privately and again, we can't give you guidance in that regard and the City will not be there to enforce it, so you just have to make sure you reach an agreement that's acceptable to everybody. Our consideration tonight would be on the basis of, well this is a statement of intent, it's certainly not an agreement, so, from my perspective you're talking in good ways, but again, it's not something we would presumably be able to help you with."

**Leonel Capparelli, Applicant, was sworn.** Mr. Capparelli said, "I've been on the property for over 25 years that we've been talking about, and I've been doing the same thing. I've been preserving the history and culture of New Mexico. I have no intent to change that. That's the only thing I know how to do. I'm a second generation restorer. That's what I've done all my life. My daughters are learning how to do it. They're great at it, as I see it, but that's the way we are moving forward with my family. The question here is 10 years, 15 years, 30 years, I don't know. I don't think that nothing is going to change in 50 years from now. I hope it doesn't. Unfortunately, who knows what the arroyo is going to become 20 years from now and things may change. After 10 years we can sit down and talk again. I act in good faith. They asked for some restrictions, I complied with it. The City asked me with all kinds of things, I complied with

everything. I have a 3 acre lot, I divided it in half. I only want half commercial, I don't need everything. I'm not greedy. I like what I do, I want to keep doing it and I want to have a future for my daughters in this City, that's all. Thank you."

Ms. Benton said, "It's probably not very often that you get where they work together, huh."

Mayor Pro-Tem Ives said, "Not uncommon, and certainly much appreciated by the Council when it occurs. So did you have anything more to say here tonight."

Ms. Benton asked if there are questions for her, and there were none.

### **The Public Testimony Portion of the Public Hearing Was Closed**

**MOTION:** Councilor Rivera moved, seconded by Councilor Maestas, to adopt Resolution No. 2015-, approving Case #2014-109, Hands of America General Plan Amendment, as recommended by the Planning Commission with all conditions of approval as recommended by staff, and accepting the Planning Commission's Finding of Fact and Conclusions of law as our own.

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

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

**Against:** None.

- 3) **CONSIDERATION OF BILL NO. 2015-8: ADOPTION OF ORDINANCE NO. 2015-9. CASE #2014-110. HANDS OF AMERICA REZONING. MONICA MONTOYA, AGENT FOR LEONEL CAPPARELLI, REQUESTS REZONING APPROVAL OF 1.50 ± ACRES OF LAND FROM R-1 (RESIDENTIAL, 1 DWELLING UNIT PER ACRE) TO C-1 (OFFICE AND RELATED COMMERCIAL). THE PROPERTY IS LOCATED AT 401 RODEO ROAD. (DONNA WYNANT)**

**MOTION:** Councilor Rivera moved, seconded by Councilor Maestas, to adopt Ordinance No. 20915-9, approving Case #2014-110, Hands of America Rezoning, based on the recommendations of the Planning Commission with the conditions that have been set, and accepting the Planning Commission's Findings of Fact and Conclusions of Law as our own.

**DISCUSSION:** Councilor Maestas said, "To Mr. Capparelli. You've overcome annexation and the recession and a fire, so sir, you are determined to make that a successful business and a place for your family to prosper. So I'm very pleased to see your business developing, and by all indications, it's going to turn out great. I am very happy for you and your family."

Mayor Pro-Tem Ives said, "I would note that clearly you have the trust of your neighbors in terms of your intent in connection with your property. Of course property is perpetual and ownership changes, and certainly Mr. Graeser and I, as attorneys, have seen occasions where what was once a good agreement between neighbors dealing with each other, falls apart with new ownership and future intentions. I am intrigued by these cases, because we have put in our Charter references to neighborhood heritage and trying to preserve that."

Mayor Pro-Tem Ives continued, "I think, personally, there is a weakness in some of our Code reads when it does allow a multitude of uses, some of which would make sense within a neighborhood and some of which, quite frankly would not, but which are permitted by virtue of the general provisions of the Code. That's not something we're dealing with here tonight, although I think that maybe a discussion that we, as a Council and as a Governing Body, given the changes to the Charter, should have. And I think we'll have many opportunities in the not distant future as the various matters that are happening around the City come to us to tackle in a much more serious way. So I wish you the best in this, and you certainly have capable counsel and capable of drafting a good agreement on your behalf. I do hope you personally take account the sense of the neighborhood, because they're the ones in the future who either will support changes or not. So enough said. Thank you."

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

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

**Against:** None.

- 5) **CASE #2014-91 & CASE #2014-92 – CONSOLIDATED APPEALS. ALLEN JAHNER (APPLICANT APPELLANT) AND OLD SANTA FE ASSOCIATION (ORGANIZATION APPELLANT) BOTH APPEAL THE SEPTEMBER 9, 2014 DECISION OF THE HISTORIC DISTRICTS REVIEW BOARD (HDRB) IN CASE #H-11-105, APPROVING THE APPLICATION WITH CONDITIONS AT 237 & 239 EAST DE VARGAS STREET LOCATED IN THE DOWNTOWN AND EASTSIDE HISTORIC DISTRICT. (DAVID RASCH AND ZACHARY SHANDLER) (POSTPONED AT FEBRUARY 11, 2015 CITY COUNCIL MEETING) (POSTPONED TO APRIL 8, 2015 CITY COUNCIL MEETING).**

This case is postponed to the City Council meeting of April 8, 2015.

**I. FY 2015-16 BUDGET PREPARATION – SPENDING PRESSURES & BALANCING STRATEGY.  
(OSCAR RODRIGUEZ)**

Mr. Rodriguez said overall the total revenue that is coming in seems to be about what was budgeted, and expenditures about 5% below that, which might be there is \$6 million more than what we thought would be there if things stay as they are right now. This doesn't mean we're out of the woods and things are solved. There are still a lot of very big challenges ahead of us.

Mr. Rodriguez said at Finance last week, he presented the stack of accumulated deficits with which we have been working, and that are significant in the budgeted planning. Mr. Rodriguez said he updated that stack and reviewed *General Government Deficits and Accumulated Liabilities* which is in the Council packet. Please see this document for specifics of this presentation.

Mr. Rodriguez reviewed the *Vacant Positions Management Plan* which is in the Council packet. Please see this document for specifics of this presentation.

Mr. Rodriguez said, "What I would recommend to you at this point is, unless we are directed otherwise that we start with that proposal immediately starting on Monday."

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

- Councilor Maestas thanked Mr. Rodriguez for the presentation. He said tonight he introduced a Resolution asking staff to revisit a dedication of the 1/4% GRT. The GRT was intended to fund the bus system, but it gives the bus system and any costs associated with financing the operation. Any balances remaining, 2/3 would go for operation and 1/3 to Quality of Life programs. He has become familiar with the needs of the public transit system, and there are great capital needs, noting we spoke earlier about the disappearance of transportation funding, no federal bill, no State legislation. It is a reason for us to look at our own funding sources. He said there appears to be a pre-allocation of those funds, but there is no true and honest up front assessment prior to budget formulation by departments. He said we have fallen into this pre-set allocation of the GRT instead of giving our Transit system first priority. He wants to see how we've been implementing that and if it is consistent with the original dedication which was a referendum, the primary purpose of which was to establish and maintain a public transit system, noting currently they are getting \$1.25 million for General Fund operations from the GRT.
- Councilor Maestas wants to see if the split is meeting contemporary needs and if we need to give the Transit system more funding, noting Transit has first priority and any balance being split as indicated previously. He said an additional \$1.25 million could be added to the system which is going to fall because it is so heavy with accumulated debt. He said he isn't jumping to conclusions, but believes we need to look at that dedication to be sure we are meeting the spirit of GRT dedication for a public transit system.

- Mayor Pro-Tem Ives said Mr. Rodriguez is telling us this is the process he is going to use, but it does not invite us to consider it as a policy matter. He asked the further intent in that regard, but we need not answer that tonight. He said he will be frank to have detailed example of the provision of not less than a monthly update as we move forward so he can better understand the practicality of the application of these principles. He suggested adding a line that provides if the position hasn't been filled for two years that we eliminate it.

Mr. Rodriguez said that would send more savings into the pot. He would hesitate to say that is a great idea is because there are a lot of positions, for various reasons ns that you would agree to hold which haven't been filled. He said, for example, a department director position where one department is filling more than one director position, or an employee has accumulated so much leave they use that leave in conjunction with retirement which could run for months. He has a problem in a blanket application of that policy.

- Mayor Pro-Tem Ives said then we let employees accumulate years of leave, and Mr. Rodriguez said yes.
- Mayor Pro-Tem Ives asked if we don't try to pay them for the leave so we can get back to operating the City.

Ms. Snyder said for some classifications of employees there are limits based on years of service, but if you have 25 years of service, there are hundreds of thousands of hours on the books. There is no limit on accumulation of annual and sick leave for exempt employees.

- Mayor Pro-Tem Ives said one thing that will help him in these discussions is to understand what positions we have, the number of hours of accumulation, and the value of those hours. He said, "We may need to look at providing a limitation, because it hurts our capacity to conduct the City's business, in a nonsensical way quite frankly."

Mr. Rodriguez asked if he would like a count of employees with more than a year of accumulated leave.

- Mayor Pro-Tem Ives said he would like a list of those employees with a half year of accumulated leave, saying he doesn't understand this.

Mr. Rodriguez said employees organize their careers this way, many do, especially in a situation where they can accrue compensatory time and things like that.

- Mayor Pro-Tem Ives said he appreciates that and understands, and doesn't mean to suggest that he doesn't recognize the years of service. He said, however, that tends to create a huge unpaid liability, commenting he doesn't know where we carry that liability on our books, and would like to know. He said to promote the efficient operation of the City, you really need people "in chairs

doing work.” He asked what the City will do if we have 100 people with 2 years of leave who decide to take it all at once. He said this is a problem and he wants to better understand it.

Mr. Snyder said there are lots of dynamics. He said, “I’ll use myself as an example. I’ve been with the City for 11 years, I have close to 900 hours of annual leave. I am in my chair, I am working, but at the same time I’m not using my annual leave. 900 hours, do the simple math, that’s over half a year right there, just annual leave. We haven’t talk about payout of sick leave when and if I leave the City or I’m asked to leave the City, which has different rules in place. There are complexities to it. In the flush times years ago, we would buy out time so we didn’t have to have that person on the books for extended periods of time so we could maintain efficient government. But as Oscar said, the threshold of one year, unfortunately, looking at a year and above is a nice number. Looking at half a year and above, is a large number of employees throughout the City, and I agree it is a large liability. I wanted to be honest, and that’s why I used myself.”

- Mayor Pro-Tem Ives said he understands and appreciates the nature of the system, and from his perspective it’s not a system that serves the City well at some level. He wants to understand the issues more fully so we can talk about it, and any needed policy changes.

Mr. Rodriguez said it won’t take much to generate that report.

Mr. Rodriguez said, to get back to the question, “Shall we just *pro forma* say any position that has been vacant for two years. I would feel such a broad brush decision would put us in a situation of eliminating positions that we really don’t want to eliminate.”

- Mayor Pro-Tem Ives said he understands the accumulation in the case of department directors, although our inability to fill a department head position for two years almost causes him more angst than saying that eliminating it would be a problem. He said he looks forward to talking with Mr. Rodriguez you more about that.
- Mayor Pro-Tem Ives said, regarding Investments in technology and/or process reform can be traded for vacancies, he honestly has no clue what that means, and doesn’t know what process reform is a reference to.

Ms. Rodriguez said it is written in the language that there would be communication with department heads. He said that is part of the tradeoff to looking at reducing the number of people to fill vacancies or make an investment in technology which will allow them to do the job. He said it takes about 6 people to do payroll, not including all of the payroll monitors that come from throughout the City every pay period to collect checks and then they go out and distribute them throughout the organization. He said, “It’s a very disruptive for work flow effort. His preference is to make the technological improvements and the policy change improvements so we don’t have to fill those vacancies. That would be one way to handle vacancies.

Mr. Snyder said currently on the books we have 160-180 vacant positions, not all in the General Fund. On average, every 20 of those positions, salary and benefits, is \$1 million. So the thought in our conversations is, if we can reduce 20 positions through attrition, we can take that \$1 million in savings and reinvest it on a percentage basis – in technology, training, staffing – to grow our staff City-wide. He said that is their thought on working smart. Now, we need to reinvest in our technology and employees and in what makes City government move forward and this is one way to do that.

- Mayor Pro-Tem Ives said if there 160-180 vacant positions, that's \$8 to \$9 million in vacancy savings which are built into the budget.

Mr. Snyder said this is a snapshot in time, and people are constantly leaving and coming on board. He said those 180 positions haven't been realized over a full year.

- Mayor Pro-Tem Ives asked, during the last 12 month period, how many vacant positions were there on the last day of each month during that year, so he can understand how that changes through time.

Mr. Snyder said it sounds like it should be an easy task, but as everybody has heard here, we don't have a system that will do that, noting a lot of that will have to be done manually. He would like to discuss it with the IT and HR staff to see how easy it would be to generate that information, noting that number is constantly in flux.

- Mayor Pro-Tem Ives said he apologizes if he doesn't understand how complex this is. However, you have information and you say it varies over time.

Mr. Rodriguez said it is tying it to a date in the past which makes it difficult saying every 6 hours there would be changes. He said, for example lots of retirements happened at the end of December of last year in response to the changes in PERA. He said it will take some extra effort to tie down what was vacant on, for example, December 31<sup>st</sup>, January 31<sup>st</sup>, and so forth.

- Mayor Pro-Tem Ives asked if it can be done on a quarterly basis, to get a sense of the vacancies over a year.

Mr. Rodriguez said he'll take a stab at doing that.

- Mayor Pro-Tem Ives said he wants to see how that is put together on the right-size criteria. He said Mr. Rodriguez notes some sample cities and he doesn't know comparative sizes, but he would think Colorado Springs is much bigger.

Mr. Rodriguez said the population is 200,000, Tucson at 400,000, Amarillo 100,000, Lubbock 200,000, Rio Rancho 100,000, Las Cruces 100,000, Topeka 150,000, and Carson City, Boise and Lincoln at 80,000.

- Mayor Pro-Tem Ives said it is important to look at statistics in a way that allows us to make policy judgments on the basis of those, and he would like Mr. Rodriguez to bring that forward only if he has great confidence that the comparable numbers are solid.

Mr. Rodriguez agreed. He thinks it's healthy to introduce in the conversation how we stack up to the average. We're a special City, but we're not incomparable.

- Mayor Pro-Tem Ives thanked Mr. Rodriguez for the information. He said we need to get a handle on it to do more serious budgeting, and he appreciates the effort to take the City forward on this particular issue.
- Councilor Lindell said to follow up on Councilor Ives' question on two year vacancies, she asked if we have had 3 year vacancies.

Mr. Snyder said he knows of at least one – himself – the position he has a reversion clause to has been vacant for 7 years.

- Councilor Lindell said she thinks Councilor Ives' request to look at two years is reasonable. She understands there may be an occasional position we don't want to eliminate after two years. However, we should use the two year period to go through and look. She said for most of them, after two years, we should start the process of elimination. She said maybe we should use the two year period to look at vacancies, but after two years start the process of elimination of some of those positions.

Mr. Rodriguez said up to this year it was the practice to keep an inventory of the unfunded positions. He said this year we made a decision that that accounting stops. So if the Council didn't fund a position, this means it was cut. He said there are hundreds of positions that have been vacant for more than two years and these are those unfunded positions. So now we're narrowing it to a few positions for which money has been appropriated, but which haven't been funded year after year, so it's a much smaller number. This is how this practiced evolved.

- Councilor Lindell said we understand, but we would like to have that information.
- Councilor Rivera asked how long have we had vacancies in the Police Department.

Mr. Snyder said he doesn't know the number of years, but there are always vacancies in the Police Department. He said last budget cycle there was a request for 10 new officer positions for annexation, and 5 were granted. The thought was if we were fully staffed by mid-year, we would consider the additional 5 positions as part of the Annexation Plan. His point is that there always are 10-20 vacancies, and it is always a moving target. He said P.D. has been expanded by 15 positions for annexation and we hired 15 additional people. However, by the time they're trained there is a 6 months block of time and there are 6-10 more vacancies because of retirements and such. It's not consistent, but he would say it's a moving 10-20 vacancies.

Mr. Snyder said we're going to run reports by the number of positions, but there always will be a large number of vacancies in the P.D.

- Councilor Rivera said, "Based on what Councilor Ives asked, I would ask us to take some caution as a Council in how we proceed with the line of sick leave questioning. Clearly, people with large amounts of annual and sick leave, are people that traditionally come to work every single day for their whole career. And they've been putting in the time, they've been here and haven't been using their leave for anything that comes up. So any discussion about doing away with a benefit or looking at taking away a benefit I think would send the wrong message to the employees that really work hard every single day, and I don't think we want to do that. I don't think we want to scare people into thinking that might happen. Even though they are good questions, I think we need to proceed with caution on those and with caution on where we think we might go with those."
- Mayor Pro-Tem Ives said, "On that point, let me just say I'm interested in having the conversation and we need data to do that."

Mr. Snyder said he agrees, but often we can't pay what the market may dictate and what we should be paying, but we can build a package where it's the pay and the benefits that make the job desirable. He said there is a liability that is looming out there, but it is a touchy situation when we can't pay the market rate.

- Mayor Pro-Tem Ives said all we're doing is deferring that payment, and carrying enough of those into the future it may in time affect the City's ability to do business under it's budget.

Mr. Snyder agreed, saying we've never carried this in the budget. We could get a history of retirements in the different areas and predict the liability that is out there and how that liability is potentially covered in the different budget strategies.

Mr. Rodriguez said there are some cases where there are employment contracts with employees, such that if you tell the City when you're going to retire, then we can organize it in terms of planning. He said if you take that benefit away, then people say they will just show up sick one day and we'll have to deal with it that way. He can't imagine we're talking of hundreds of people doing this, but there are a lot that would do it for a few months.

- Councilor Maestas said, as a federal employee, the feds only allow accumulation of 230 hours per year and you lose it if you don't use it. He said you can carry it over under extenuating circumstances. He said there is no limitation on accumulating sick leave, and it is paid as a service credit. He said perhaps we can come up with some options to reward employees without incurring the financial liability, such as service credit. He realizes that under PERA it would take changes beyond the City.

Mr. Snyder said we had a similar discussion several years ago about the number of hours you could be paid, but the legal opinion at the time, was if we made a change, everybody in the system would carry the leave forward – would be grandfathered. He thinks it was an accumulation of 400 hours and above, and there was another calculation that wasn't as straightforward for paying for 50% of the accumulated sick leave. We have more than 1,500 employees locked into the system, but it doesn't mean it doesn't make sense for us to do it moving forward.

- Councilor Maestas said it seems inevitable that the County is increasing GRTs which will be imposed in the City, but we haven't come up with a position. The County will impose the tax by vote and not by referendum. He said our accumulated deficit will approach about \$15 million. He said the broader discussion on revenue enhancements should start now, and he urges his colleagues to consider whatever our consensus is on revenue enhancements, and think about putting these on the ballot whether GRTs or property tax. He thinks a G.O. bond is in order to cover some of these one-time capital costs for infrastructure associated with annexation. He would feel more comfortable asking the people if they want to pay a higher property tax or gross receipts tax to pay for some of these things. He is unsure we can continue kicking the can down the road."

Ms. Brennan said, "With respect to property tax and putting it on the ballot, there is case law indicating that is a delegation of legislative authority. So to the extent you have the authority to do it without putting it on the ballot you are required to do it and not put it on the ballot."

Mr. Snyder understands we have 3 mils. of property tax which would net about \$17 million if all 3 mils. were imposed at the Council's decision, but you can do it in various implements.

- Councilor Maestas doesn't want us to get into the budget discussion without the big picture, and thinks this is starting to give us the big picture. We need to have a dialogue with the entire Council. The County has had this dialogue and it will impact our citizens, and he thinks it will force our hand into having a serious dialogue about revenue enhancement.

- Councilor Rivera said, with regard to the leave issue, and being in a financial crunch and not knowing where that liability comes, discussions like this on the Governing Body scare people with hundreds of thousands of hours of leave into deciding to leave before these changes come. He reiterated we need to exercise caution, commenting we can't afford a mass exodus of people who have more than \$100,000 worth of leave. He said when he retired, many people left at the same time because the Council was having this very discussion and people were afraid their leave was going to be cut in half or taken away.
- Mayor Pro-Tem Ives said it sounds like we're being told that can't happen because of the existing contractual commitments, so it's on a going forward basis.

Ms. Brennan said, "I think that will be a major consideration. I think that discussion and the cost of living discussion at PERA did precipitate a noticeable number of retirements, and it was 20-25 year veterans leaving all at once. It was sort of an experience loss that was noticeable."

- Councilor Trujillo said there were a lot of people that left, especially because of the COLA. And now people like him have to wait 7 years, as we all do. He said the discussion still needs to take place. He said people like Brian have 900 hours and we're not going to take that away because he's earned that. He said PERA has bumped retirement to 30 years. New employees are coming in and there are new criteria for their retirement. This is a valid discussion we can have during the budget hearing. He can carry forward only 240 hours, but he can carry as much sick leave as he wants, and leave over 600 hours, he gets paid at ½.

Mr. Rodriguez said they will move forward and provide the reports and he looks forward to engaging with you in the future.

- Councilor Maestas said he had asked for an accumulation of the unfunded one-time costs, and he still would like to see that – annexation, IT and such.

Mr. Rodriguez said he will work on that list.

- Councilor Lindell asked Mr. Rodriguez if he is considering this discussion tonight as an approval to go forward with this position vacancy management plan.

Mr. Rodriguez said, "What we're telling you is this is how we intend to proceed. The way it works now is that all vacancies to be advertised to be filled have to be approved by the City Manager. At his discretion he can say fill it, or don't fill it. We're putting before you the methodology by which positions will not be filled, so we are transparent and you know how it's moving forward, that we're doing this and there's a logic behind it and it starts now."

- Councilor Lindell said then we are starting this policy now.

Mr. Rodriguez said, "Yes ma'am, unless you direct otherwise."

- Mayor Pro-Tem Ives said he would say we're starting the process now within the powers delegated to the City Manager, and if we want to change policy in this matter, that's up to us to do.
- Councilor Maestas said, regarding right-sizing, he wants to make sure we don't arbitrarily cut positions. He said we had a long conversation that the City has adapted to doing more with less. The people in the chairs have had their jobs change because we haven't curtailed services. He said let's do smart right-sizing, and look at the positions that are left and evaluate their job descriptions and modify them to reflect their expanded duties to be sure we truly are right sized and in the context of the entire division providing the service, and how it has adapted without those vacant positions.

Mr. Rodriguez said the positions that have adapted, staffing is going down and people are doing more, and those aren't at risk. It is those positions which, when they come up, are compared to the staffing levels in other places, and they can't justify the reason, those would be at risk. He said, "We understand the mandate. Don't cut services, don't raise taxes at this point."

- Mayor Pro-Tem Ives said he is unaware of us making any policy decisions that would be stated like that, as a Council.

Mr. Rodriguez said, "In our budget presentation, we put there how we are going to go forward, I thought there was a robust conversation, and there wasn't a formal vote, but one of the tenants that was in here was don't cut services. The general direction I got was that, at least, because I heard it."

- Mayor Pro-Tem Ives said it was a management proposal that was put forward, and there is consensus that the Councilors don't want to go down that path, but to describe it as a policy is just "in my mind going a little bit far."

Mr. Snyder said we haven't heard any services to be considered for evaluation to be cut. If we hear otherwise we'll gladly run the numbers and see what that challenge may be.

- Mayor Pro-Tem Ives said we have talked about right-sizing government, based on the experience in other cities. So if we have 10-25% more people in a particular department providing services to some degree, he presumes we will look at how we provide service.

Mr. Snyder said recently it was this Council, in order for us to fund something, we right-sized, for example, the buses. We no longer have big buses going to Museum Hill. We have a smaller van because it doesn't make sense for us to be driving all the way out there when the ridership is at the level it is. And it's a good conversation for us to look at the way we provide the services. At certain times of the day it doesn't make sense to have buses riding up and down Cerrillos Road.

At other times of the day, we probably need a bus and a half to ride up and down Cerrillos Road. So it is right sizing government. He said, in the past, he doesn't think we've gotten clear direction to look at scaling back services, and oftentimes you are the first ones to hear when we do start talking about scaling back services. He said several years ago we talked about scaling back library hours and looking at right sizing what we do, and very quickly the Friends of the Library came out and spoke against it. And there was a regression against scaling back the Library hours. We are here to try to try to right size government. We're here to look at all the options, but if we get clear direction from the Governing Body, we'll definitely look at what we believe is truly right sizing government.

Mr. Snyder said, "Until then, we're looking at opportunities within the framework where, as Oscar said at one of the last Council meetings, we haven't heard directly to look at scaling back services. So we're operating within the framework of keeping the same level services, and we're trying to be innovative in looking at right sizing the government through attrition and taking that savings and putting it in the right places. But we'll definitely stand for your direction."

- Mayor Pro-Tem Ives said, "Part of the issue here is that we, as Councilors, don't have the depth of experience of living this day by day, nor are we designed to by our system of governance quite frankly. So we rely upon staff to come forward with measures appropriate to the task at hand and in ways that allow us to make informed decisions on these matters. There isn't a desire to just cut services, I don't think there is on this Council. That said, if we're way over-staffed in areas against norms, it's telling us we have a problem in what we're doing, and if that means looking at adjusting staff and service therefore or requiring an uptick in services performed by fewer staff, that's some of what we're saying we want to look at."

Mr. Snyder said, "Understood."

- Mayor Pro-Tem Ives thanked staff for their hard work on this, because it isn't easy, especially when, as have in years past, continuing deficits. People have described it as "putting band-aids on it." He said, "I think you're hearing we don't want band-aids anymore, so we're willing to try and tackle those tough issues and make those tough decisions as a Governing Body."

Mayor Pro-Tem Ives thanked all the Councilors "for hanging in there for this discussion, which is an important one. He said, "And for those who did it twice because they were at Finance or Public Works, sorry about that."

## **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 10:20 p.m.

Approved by:

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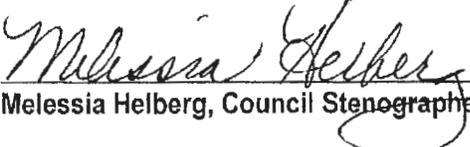
Mayor Javier M. Gonzales

ATTESTED TO:

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Yolanda Y. Vigil, City Clerk

Respectfully submitted:

  
Melessia Helberg, Council Stenographer