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April 8, 2015

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**MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
April 8, 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 Javier M. Gonzales, on Wednesday, April 8, 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

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

Others Attending

Brian K. Snyder, City Manager
Marcos Martinez, Assistant City Attorney
Yolanda Y. Vigil, City Clerk
Melessia Helberg, Council Stenographer

6. APPROVAL OF AGENDA

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

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

7. APPROVAL OF CONSENT CALENDAR

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

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

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

Against: None.

10. CONSENT CALENDAR

A copy of an Action Sheet from the Public Works/CIP and Land Use Committee meeting of Monday, April 6, 2015, regarding Item 10(i)(2), is incorporated herewith to these minutes as Exhibit "1."

- a) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT AND PROFESSIONAL SERVICES AGREEMENT – FIRE ALARM SYSTEM DESIGN AND CONSTRUCTION AT GENOVEVA CHAVEZ COMMUNITY CENTER AND SALVADOR PEREZ POOL; ATI SECURITY, INC. (RYAN MORTILLARO)**
- b) **REQUEST FOR APPROVAL GRANT AWARD – STATE GRANTS-IN-AID FOR PUBLIC LIBRARIES; NEW MEXICO STATE LIBRARY AND APPROVAL OF BUDGET INCREASE IN THE AMOUNT OF \$7,780 IN LIBRARY FUND. (PATRICIA HODAPP)**
- c) *[Removed for discussion by Councilor Lindell]*
- d) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – COMMUNITY STEWARDSHIP SERVICES AT THE SANTA FE RAILYARD; THE SANTA FE RAILYARD PARK STEWARDS. (ROBERT SIQUEIROS)**
- e) *[Removed for discussion by Councilor Bushee]*
- f) *[Removed for discussion by Councilor Dominguez]*

- g) **CONSIDERATION OF RESOLUTION NO. 2015-30 (MAYOR GONZALES AND COUNCILOR IVES). A RESOLUTION ESTABLISHING A GREEN COMMUNITY PROGRAM FOR THE BENEFIT OF THE RESIDENTS OF SANTA FE; DIRECTING THE CITY RENEWABLE ENERGY PLANNER TO DEVELOP AND DRAFT A COMPREHENSIVE 25-YEAR SUSTAINABILITY PLAN TO ANNUALLY REDUCE SANTA FE'S CARBON EMISSIONS AND ENERGY CONSUMPTION, AND ACHIEVE THE CITY'S GOAL OF BECOMING CARBON NEUTRAL BY 2040. (JOHN ALEJANDRO)**

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

- i) **REQUEST FOR TO PUBLISH NOTICE OF PUBLIC HEARING FOR MAY 13, 2015:**
 - 1) **AFFORDABLE HOUSING DRAFT 2015/2016 ANNUAL ACTION PLAN. (MARGARET AMBROSINO)**
 - a) **PROFESSIONAL SERVICES AGREEMENTS – FY 2015/16 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ALLOCATION IN THE AMOUNT OF \$430,042.**
 - b) **PROFESSIONAL SERVICES AGREEMENTS FY 2015/16 AFFORDABLE HOUSING TRUST (AHTF) ALLOCATION IN THE AMOUNT OF \$412,000.**

 - 2) **BILL NO. 2015-13: AN ORDINANCE RELATING TO THE ESTABLISHMENT OF A VEHICLE VENDOR ORDINANCE; AMENDING SUBSECTION 18-1.2 TO AMEND THE DEFINITIONS OF "ITINERANT FOOD VENDOR" AND "ITINERANT VENDOR;" AMENDING THE TITLE OF SECTION 18-8; REPEALING SUBSECTION 18-8.9 "STREET VENDORS; PERMIT REQUIREMENTS' AND CREATING A NEW SUBSECTION 18-8.9 ENTITLED "VEHICLE VENDORS;" AMENDING SUBSECTION 18-8.10 TO ESTABLISH SPECIAL EVENT VENDOR FEES AND VEHICLE VENDOR FEES; AMENDING SUBSECTION 23-5.2 RELATED TO SPECIAL EVENT SPONSOR LICENSES; AND MAKING SUCH OTHER CHANGES THAT ARE NECESSARY TO CARRY OUT THE PURPOSE OF THIS ORDINANCE (COUNCILOR LINDELL, MAYOR GONZALES, COUNCILORS IVES, DOMINGUEZ AND RIVERA). (MATTHEW O'REILLY)**
 - a) **REQUEST FOR APPROVAL OF A RESOLUTION AUTHORIZING MOBILE VEHICLE VENDORS WITHIN THE PLAZA PERIPHERY AREA AT SPECIFIC LOCATIONS AND AT LIMITED TIMES, PURSUANT TO THE VEHICLE VENDOR ORDINANCE , 18-8.9 SFCC 1987. (COUNCILOR LINDELL, MAYOR GONZALES, COUNCILORS IVES, DOMINGUEZ AND RIVERA). (MATTHEW O'REILLY)**

- 3) **BILL NO. 2015-14: 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 (COUNCILOR TRUJILLO). (ROBERTA BRITO)**

8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING - MARCH 25, 2015.

MOTION: Councilor Lindell moved, seconded by Councilor Rivera, to approve the minutes of the Regular City Council meeting of March 25, 2015, as presented.

VOTE: The motion was approved on a voice vote with Councilors Bushee, Dimas, Dominguez, Ives, Lindell, Maestas, Rivera and Trujillo voting in favor of the motion, no one voting against, and Mayor Gonzales abstaining.

9. PRESENTATIONS

- a) **PROCLAMATION – SEBASTIAN MONTANO DAY, APRIL 8, 2015; 2015 NEW MEXICO STATE “YOUTH OF THE YEAR.” (MAYOR GONZALES)**

Roman Abeyta, Director, Boys & Girls Club, introduced Sebastian Montano, who is a member of the Boys & Girls Clubs of Santa Fe. He recently was chosen as the Youth of the Year, in competition with 40 clubs in New Mexico, and he will represent New Mexico at the Regional competition in May in Dallas. He said for winning, Sebastian received a \$6,000 college scholarship from Disney, \$1,000 from the Boys & Girls Clubs of Santa Fe, and another \$1,000 from the New Mexico Alliance of Boys & Girls Club. He said if Sebastian wins Regional, he will receive a \$10,000 college scholarship and a chance to compete at Nationals. He said the National winner will win \$50,000 which will be presented by President Obama. He said we are very proud of Sebastian who reflects everything for which the Boys & Girls stand. He said it also shows the State that we're doing things right in Santa Fe, and we're doing it with the City's help. He said, "As the Director of the Boys & Girls Club, I am very grateful for the support that we get from the City. We couldn't do it without you, your staff, in particular, Ike Pino, Director of Community Services, Terrie Rodriguez, Victor Vigil, Michelle Gurule, Chris Sanchez, Edith Martinez and Richard DeMella. So really tonight is not just a celebration for Sebastian, but for all of us as a community. Thank you very much."

Mayor Gonzales read a Proclamation into the record declaring April 8, 2015, as Sebastian Montano Day in Santa Fe, and presented the Proclamation to Sebastian.

Sebastian Montano thanked everyone for supporting the Boys & Girls Club. He said this is a big honor and he will cherish it. He said, "Most importantly, I want to make sure that I am still giving back to my community, so I want to help the next Youth of the Year win State Championship, go on to Regionals and keep going. What is most important are the kids at the Boys & Girls Club, and with your help and support, anything is possible."

Mayor Gonzales said, "It is incredible and inspiring to see people who have overcome obstacles and challenges in their lives. You are an example to much of youth that today feel they are disconnected from our City, don't have a chance to make their way through some of their big challenges. You are a living example that if you dedicate your time and commit yourself, you can make that happen. I want to say thank you on behalf of all of us."

Councilor Trujillo congratulated Sebastian for this honor, and said it is an honor for us because one of our kids have done well, "So best of luck at Nationals, and hope you bring home that National title."

Councilor Dominguez thanked Sebastian for his service of the City of Santa Fe to the Boys & Girls Club. He thanked the Boys & Girls Club for shaping the future of our community, and wished him good luck at the Nationals. He said he was pleased to hear Sebastian say he wants to pass the torch on, because that is how we create leaders in this community – one at a time.

Councilor Ives congratulated Sebastian, saying it's very exciting, anytime we have young adults coming forward who are exemplifying the leadership qualities that you do. He said Sebastian is very well spoken, which is an important skill in life. He said, "You give us hope for the future, and for the future of Santa Fe, and as a role model for your peers, and the younger kids at the Boys & Girls Club, it's just a fabulous thing to be able to give them as well a sense of possibilities the future holds. Congratulations, and here's hoping you 'bring home the bacon' from D.C. That would be fabulous."

Councilor Bushee said, "Sebastian, when we see you after you make your fame and fortune, and come back here to serve the community, we will remember that you had a day named after you at a very young age. Congratulations."

Councilor Dimas congratulated Sebastian, saying we're all very proud of you. I was honored twice to be a judge for that competition in Pojoaque, and he knows how tough that competition is. There are a lot of facets to it, and you have to have a lot of knowledge, and you have to make presentations to the Judge. He said, "I appreciate the effort that you have made in this, and congratulations, the City of Santa Fe is very proud of you. And I know you're going to go on to Washington, D.C., and make this City even more proud. Congratulations. Good luck to you."

Mayor Gonzales said, "Sebastian, you know you're going to D.C. to compete, and you should already know that to the community, you're a national champ, man. So you do the best that you can, knowing that already believe in our hearts that Game Over, you deserve it, and we're looking forward to your continued leadership."

b) MUCHAS GRACIAS – KIDDOS GUIDE TO THE FIRE DEPARTMENT. (CHIEF LITZENBERG)

A copy of *Kiddo Guide to the Santa Fe Fire Department*, entered for the record by Chief Litzenberg, is incorporated herewith to these minutes as Exhibit "2."

Chief Litzenberg said the Kyle Harwood family over the past 5 years have been frequent visitors to the Fire Station. He said they realized this is a good educational and entertainment experience for kids that isn't shared with enough people in the community. He said the Harwood family gave him the idea of doing a kids guide on visiting one of our Fire Stations. He said the Harwoods came up with this idea which has now become the Kiddo Guide to the Santa Fe Fire Department. He said this is the result of 5 years of brain energy and a few months of sweat equity, and presented Mayor with the very first copy of the Kiddos Guide to the Santa Fe Fire Department. Chief Litzenberg then presented the members of the Governing Body with the first copy of *Kiddos Guide to the Santa Fe Fire Department*.

Mayor Gonzales presented each member of the Harwood family with Muchas Gracias certificates for their efforts in developing the Guide, and thanked them.

Chief Litzenberg thanked everyone who helped to make this Guide possible.

c) PROCLAMATION – FAIR HOUSING MONTH. (ALEXANDRA LADD)

Alexandra Ladd said April is National Fair Housing Month, noting this is the 47th anniversary of the passage of the Fair Housing Act portion of the Civil Rights Acts, which protects the rights of people in seeking housing and housing related transactions. It protects people on the basis of their race, color, national origin, religion, sex, disability or family status. The Act protects people regardless of their legal status. She said Santa Fe, as an Entitlement City must celebrate Fair Housing Month, and this is the way of doing it this year.

Mayor Gonzales thanked Ms. Ladd for her work at the City, someone we know is constantly looking and seeking ways to leverage and create dollars for affordable housing, working on policy and such. He said it is the highest priority of this City to make sure our citizens have access to housing at all income levels so we can assure people have a strong quality of life. He thanked her for the work she does.

Mayor Gonzales read a Proclamation into the record declaring April as Fair Housing Month in Santa Fe, and presented it to Ms. Ladd.

d) UPCOMING KEEP SANTA FE BEAUTIFUL EVENTS. (GILDA MONTANO)

Gilda Montano provided information on upcoming Keep Santa Fe Beautiful Events during April for Keep America Beautiful Month, as follows:

- Beginning this weekend, April 11, 2015, they will have the First Annual Graffiti Wipe-Out Day event in the various parks, and they are looking for volunteers to help them remove graffiti along the River under the bridges and on the wells. She said with sufficient volunteers they will be picking up litter around the Park.

- April 18, 2015, the Earth Day in conjunction with Genoveva Chavez Community Center, 9:30 a.m. to 4:30 p.m. They will have recycling information, giving away two saplings and wildflower seeds. They have sponsors to give starter pots for kids to start their own vegetables and flowers. It will be a full day of activities.
- Great American Clean-Up on April 26, 2015, which is their biggest cleanup of the year, noting there are two a year. Registration 7:00 a.m. to 9:00 a.m. at their office at 1142 Siler Road, with cleanup until noon. She invited all City and County residents to come out and help.
- The BuRRT Station is hosting Amnesty Day on Saturday and Sunday for all trash items, 8:00 a.m. to 4:30 p.m.

Ms. Montano noted there are flyers n the events in the bags and you can call her for additional information.

Mayor Pro-Tem Ives thanked her for her work on behalf of the City, and for the nice lineup of events in April as we get the City ready for Spring and Summer.

e) "MEETING OF THE THREE TRAILS" COMMEMORATIVE POSTER – SALIDA DEL SOL CHAPTER, OLD SPANISH TRAIL ASSOCIATION. (PAT KULHOFF)

Pat Kulhoff, member of the Steering Committee that is organizing the conference, introduced Pam Najowski, and Karen. She said Karen is passing out packets with an invitation to the Conference, the conference agenda, as well as postcards listing the website. She said this is the first time El Camino Real, the Santa Fe Trail and the Old Spanish Trail organizations are meeting at the same time, the same weekend, at the place where all these trails come together in Santa Fe. They are proud to be doing the Conference and to tell you about it.

Ms. Kulhoff said they hired Ron Kill, a local artist who has illustrated a lot of Mark Simmons books and he created a painting which they turned into their art poster. She presented a poster to the City of Santa Fe.

Ms. Kulhoff said during the week, riders from the Backcountry Horsemens Association that started a ride on the Old Spanish Trail, 2,700 miles of trail originally from Santa Fe to Los Angeles, which was a pack mule trail carrying woolen goods and bringing back horses and mules to New Mexico. They started a re-enactment last year, riding from Los Angeles to Parowan in Southern Utah. She said next summer they will start from Parowan, and will be in Santa Fe on Wednesday, September 16, 2016 and they are working on a welcoming event. They would like the Mayor and Council to participate. She said they would like the City to help them find a place to do that because the Plaza is unavailable, and to help to mitigate some of the cost by waiving the permit fees for the event.

Mayor Pro-Tem Ives said last year he did a simulcast with the leaders of Independence, Missouri, Placerville, California, and Santa Fe celebrating a number of the historic trails that touched on Santa Fe. He said the location of the National Park Service Building which is the house in the United States for these historic trail efforts. He said this is a fabulous effort, noting these trails lead to our cultural roots here in Santa Fe. He said a local woman is a member of the National Preservation Advisory Council, who is interested in looking at events that would tie into, especially Hispanic culture, and historic preservation. He thinks the Old Spanish Trail and the Old Santa Fe Trail are prime examples of that. He looks forward to speaking with her more later in this regard. He thanked her for attending and identifying this opportunity for the City.

Ms. Kulhoff said her card is on the front of the packet, and asked the Governing Body members to please call if you can help them, they would love to work with you, and it would be a privilege.

f) LEAGUE OF AMERICAN BICYCLISTS. (ROBERT SIQUEIROS AND STEVE CLARK)

Robert Sisneros said the League of American Bicyclists has designated Santa Fe as a bicycle-friendly community, and currently is Silver, receiving that designation since 2013. He introduced Steve Clark, a Bicycle Friendly specialist, noting we had a one day event and Mr. Clark would like to present his findings.

Steve Clark thanked the Governing Body for time to speak. He said he travels around the country helping cities to become more bicycle friendly, noting this is visit number 107. He said Santa Fe has the quickest rise from honorable mention to Silver, commenting not many cities are able to do that. He met the City's hardworking, dedicated staff today, and saw a strong Bicycle Master Plan which he hopes the City will continue to implement, and saw the beginning of a very robust bikeway network, with good potential to complete the gaps. He said there are difficulties in crossing some major intersections, and other difficulties that exist in the City.

Mr. Clark said their goal, as well as that of the City staff is to help Santa Fe to become the first Gold Community in New Mexico, and you could aspire to be the first Diamond Community, noting no city is at that that level. He said there are 4 platinum communities in New Mexico. He said the concept of being a bicycle friendly community is being embraced far and wide. They get hundreds of applications every year.

Mr. Clark said they are a national organization of bicyclists, and tens of thousands of people are clicking on their website to find out the bicycle friendly municipalities. He said employers are looking for places to locate to expand businesses, tourists looking for place to vacation and people are looking for the best place in the country to live.

Mr. Clark urged the City to accept the Mayor's Challenge issued by the U.S., Department of Transportation, Secretary Anthony Foxx, and believes you will see a Resolution at some point. He said the goals of the Secretary are Safer Streets, Safer People, totally corresponds for the Bicycle Friendly Community Initiative and our complete emphasis.

Mr. Clark said, "In closing, I just want to say that this isn't about accommodating a growing number of bicyclists out there and people who want to have more transportation choices, although that is part of it. But really what this is about is increasing the quality of everybody who wants to live here, visit here and who is working and playing in Santa Fe. It is about cleaner air, better public health, reduction of energy usage, and greater economic vitality. In those cities that have embraced the Bicycle Friendly Community efforts have seen their economies and air quality improve. People are doing this. This is what they want. You've got so much potential here, I really do think you could become in short time, a Gold Level Community and beyond. Thank you. You have great staff, and from what I hear, there is strong support on the Council and we like to see that. It is an honor to be in this City."

Councilor Bushee introduced herself as the Chair of BTAC, and asked Mr. Clark for his input on small things we can begin to focus on to get to Gold. She noted Santa Fe has achieved Silver Status from the International Mountain Biking Association for our La Tierra Trails and other networks. She asked who has achieved platinum status. She introduced BTAC members in attendance Frank Herdman and Paul Cooley.

Mr. Clark said they took a bicycle tour of the City, led by Tim Rodgers who was instrumental in putting together a very Bicycle Plan along with MPO and others. He said there was good attendance by the Bicycle and Trails Advisory Committee and good City and MPO staff participation. He said for silver and gold communities and beyond, there is a growing movement to truly make the space for bicycles as comfortable as possible, designate the space using color. He said green bike lanes are happening everywhere. He said the bicycle lanes should be as wide as possible, noting Sharrows are good for people are experienced.

Mr. Clark continued saying in Minneapolis they have removed the double yellow center strip, and put in dashed bicycled lanes 6 feet wide and crashes went from 10 per year to zero, noting there has been no crashes since they did the treatment. He said you need more robust comfortable bicycles facilities. He said the City has great bicycle trails, but needs to do more work on the on-street elements. He said the streets are narrow, but there are places where you can do lane narrowing. He said a lot of cities are going to 10 foot lanes, which they are finding out are safer than the wider lanes. He said, "Give the bicyclists as much room as you can possibly give them, because that makes it safer and more comfortable.

Mr. Clark said secondly, there are lots of things you can do with wayfinding, noting he rode the Rail Runner and didn't know how to get to the Plaza and such. He said it would be nice to have bikeways and signs, and from on-street to off-street it isn't intuitive for people how to get the great trails. He suggested making it as simple as possible, commenting wayfinding is cheap, it's just signs.

Mr. Clark said thirdly, the cities that are doing great work in bicycling have full time, dedicated staff working on this. He was Boulder's first bicycle program coordinator in the early 1980's, with a staff of 5 people, some of whom were interns. In Boulder, 12% are biking to work, and in Santa Fe it is 1.8%. He said you have a ways to go to catch up with cities like Boulder. He said when you have truly deliberate efforts to increase bicycling, people will start doing it. He said people want this as a choice, but don't feel they have that choice. He said a full time bicycling coordinator will pay for their salary in one year in the funds they bring in terms of safety improvements. He said a study showed that a dozen Complete Streets projects saved \$18.6 million in reduced injuries.

Councilor Bushee invited Mr. Clark to come next year for Bike to Work Week and the Bike & Brew. She thanked him for his time here. She said she would like to bring forward the Mayor's Resolution which is ready, and she is waiting for him to look at it.

Councilor Trujillo thanked Mr. Clark for his visit. However, we need more educating of the bikers of this community. He said for the first time, today, he saw sw a bicyclist wait at intersection until the light turned greened and then proceed. He said our problem is that many of the bikers could care less about stop signs, or traffic signals and zoom right past. He is concerned that one of the bicyclist is going to be killed, and he said perhaps Mr. Clark would talk to our staff about what other cities are doing. He is always worried about bicycling children at intersections, especially.

Mr. Clark said it requires a comprehensive approach and better education for everybody.

CONSENT CALENDAR DISCUSSION

10(c) REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – LOW VOLTAGE WIRING PRODUCTS AND SERVICES AT DWI IMPOUND LOT AT CAMINO ENTRADA; ATI SECURITY, INC. (LeANN VALDEZ)

Councilor Lindell said this is the fourth time she has addressed this and it will be the last. She said we've heard numerous times about putting up a fence around the impound lot with cameras and lighting. She said in the most recent Finance Committee packet it also had utilities being run and a cement pad being built for a mobile home for a Policeman to live there. She said we're looking at about \$100,000 for this project and it's a lot of money, because we were told previously that the lot hasn't been problematic. She understands the cars being stored there are not highly valuable. The last time we discussed this we were looking for \$9,000 to \$10,000 for the Interfaith Shelter to stay open a few more hours a day. She said it isn't possible for her to support a \$100,000 fence on a lot when we have some other needs that we could meet.

Councilor Dominguez said at Finance Committee we asked for a memo to explain the process of why we're hearing this as many times as we have, including a summary of what happened with the last pass at this and the reason we have to do it again. He said he guesses the contractor State Pricing agreement ran out. He doesn't see the Memo in the packet. He said, "Brian, I don't need an explanation, I

just want to let you know I don't see it in the packet and I think it was clearly asked for at the Finance Committee meeting."

Mayor Gonzales asked the timing on getting this approved, and if they need it approved tonight.

Ms. Valdez said that Memo is part of the pack, and it is located to the back, it's a Memo to Finance from January.

Mayor Gonzales asked what was the date that direction was given to staff.

Councilor Dominguez said it was at Finance on March 30th.

Mayor Gonzales said then direction was given in early March to provide a summary memo, and asked if it is in the packet.

Ms. Valdez said it is part of the packet. She said, "We were just asked to show that we were able to use the price agreement."

Councilor Dominguez said he sees a Memorandum dated March 17, 2015.

Ms. Valdez said no it was dated January 28, 2014.

Mr. Snyder said the Memo she's referring to is page 61 of the packet.

Mayor Gonzales said the Councilor is referring to direction that was given in February or early March 2015 at a Finance Committee meeting to provide a memo for the Council packet, and again asked if there is a Memo in the packet that has been constructed for the Council since that date. Or did you feel that the January 28, 2014 Memo addressed the direction that was being given by the Finance Committee.

Mr. Pfeifer said, "There is no Memo for what Councilor Dominguez requested from the Finance Committee. I don't recall that conversation, but if it needs to be done, we can take care of it."

Mayor Gonzales asked Councilor Dominguez if he would like to table this item to deal with it, because the direction that was given was clear and he doesn't think we should be acting on it if that direction hasn't been followed.

Councilor Dominguez said direction was given on March 30, 2015. The reason we gave direction was because, in procurement, the question came up about why we weren't told the first time around that the contractor state pricing agreement was going to expire. So part of the reason for that was why it was coming back to the Governing Body. He said, "In light of some of the things that we've seen last week with our Parks Bond Audit, I think it behooves the Governing Body to bring up some of these questions

because we want to make sure that all the procedures are followed. I know there were some issues that came out of the Parks Bond Audit that referred to procurement. And I think we just need to get that explanation as clearly as we can during the process. Given that it has been brought before us 4 times, I think it just behooves us to be a little bit more careful.”

MOTION: Councilor Dominguez moved, seconded by Councilor Lindell, to postpone this item to the next meeting of the City Council on April 29, 2015.

DISCUSSION: Councilor Bushee said this program was created to be self-sustaining, not to generate funds from peoples tragedies. She said, “What I would like to know the next time it comes to us, and maybe it’s in this big packet and I’m missing it, is the entire budget that you have for this forfeiture program.

Mayor Gonzales said, “I don’t want a dialogue, because this is a motion to postpone.”

Councilor Bushee said I just want that information in the future so I understand.

Councilor Maestas said he thought part of the sense of urgency was some of the work has already started, that you’re requesting authorization for. Can somebody clarify that.

Ms. Valdez said, “The project has started but ATI has not.”

Councilor Maestas said, “So there’s absolutely no work that you’re requesting authorization for, none of that has begun.”

Ms. Valdez nodded no.

Councilor Dimas asked, “Did I not hear that you needed approval on this tonight in order for this to go forward. I thought I heard that somewhere.”

Ms. Valdez said, “The Police Department would like for it to be done as soon as possible.”

Councilor Dominguez asked Councilor Dimas to repeat his question and Councilor Dimas asked his question again, and Councilor Dominguez asked what was the response.

Ms. Valdez said, “We do need the approval, but the Police Department wants it done as soon as possible.”

Councilor Dominguez said then it’s not time-sensitive. He said, “We all want things to be done as soon as possible, but sometimes in government bureaucracy, especially when information isn’t provided. Mayor, if I can, it’s not a comment, it’s a request when this does come back, that we explain the timing of the concrete pad that is being proposed, because I don’t see it in any of the memos we have, at least I didn’t see it in the first one, the one dated March 17th.”

Mayor Gonzales said, "There is a motion to postpone, and we need to move on, or reopen it for discussion. The Finance Committee has provided direction, they asked for a Memo, there was some clarity that should be in the minutes. Please go back to that if you have a question regarding what is needed. I know Councilor Dominguez will make himself available to bring clarity. Don't wait until the next Council meeting before you ask him what is it exactly that the Finance Committee sent direction on. And bring it back to City Council. Don't worry about going through Finance, he doesn't need to see it again, he said, and we'll consider it at the next meeting. So if there are any question regarding what Council asked or what Finance Committee asked, please make sure you reach out to the Chair, and we can actually consider this and get it done in rapid time."

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

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

Against: Councilor Dimas and Councilor Trujillo.

Explaining his vote: Councilor Dimas said, "I didn't have a problem with this. Of course, I don't sit on Finance Committee, but my vote is no.

Mayor Gonzales said, "We should get this done fairly quickly in the next go-round."

10(e) REQUEST FOR APPROVAL OF EMERGENCY PROCUREMENT AND PROFESSIONAL SERVICES AGREEMENT – TESTING OF CRITICAL INTERFACES FOR NEW UTILITY BILLING SYSTEM IMPLEMENTATION; MOUNTAIN RIVER CONSULTING. (CARYN FIORINA)

Councilor Bushee said she has an issue with this being an emergency procurement. She said her memory is to do something on an emergency basis we have to declare an emergency first. She asked the reason for this, noting some of it is for work that already has been done.

Caryn Fiorina's said, "The reason it was an emergency was due to the termination of the employee and we need to have resources available. Once we were notified of the termination, we had the vendor that is implementing the utility billing system to schedule to do the testing the following week. She said we need to have resources available to do the testing if we are to continue on with this project for the remainder of the fiscal year."

Councilor Bushee asked when Mr. Atencio was terminated, and Ms. Fiorina said on February 13, 2015.

Councilor Bushee asked if there were funds in the budget to bring the contractor on site on February 16, 2015, and Ms. Fiorina said, "Yes, there is budget for this."

Councilor Bushee asked Mr. Schiavo to comment on the nature of the emergency portion of this request.

Nick Schiavo said, "The employee was helping us do two things. One, he was helping us with monthly billings, and then also with the interface for the new utility billing software. I need to send out bills, I need that help.

Councilor Bushee said then you didn't have the money in the budget.

Mr. Schiavo said, "We didn't budget for this, but we do have money.... we'll have money through salary savings, because we were paying that employee's salary."

Councilor Bushee said, so somebody guided you into emergency services procurement.

Mr. Schiavo said, "Absolutely. IT didn't have the staff and recommended that we pick up this company so we can do the billing and get the interfaces done.

Councilor Bushee asked if Legal has looked at this, and Ms. Fiorina said, "It has gone through legal."

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

DISCUSSION: Councilor Maestas said, "I just want to make one comment about succession planning. Terminating one employee should not bring our utility billing system to a screeching halt, so let's kind of go back and reassess our technical competency framework and ensure we have some redundancy in these critical positions, because I'm a little embarrassed."

Ms. Fiorina said, "We'll have some additional positions in IT and they'll help to alleviate when we have these kinds of terminations in the future."

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

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

Against: None.

- 10(f) RESPONSE TO RESOLUTION 2014-94 TO ANALYZE THE OVERALL OPERATION OF THE ONE-STOP FOR HOMELESS SERVICES AND WINTER SHELTER LOCATED AT 2801 CERRILLOS ROAD. (TERRIE RODRIGUEZ)**
- 1) REQUEST FOR APPROVAL OF MEMORANDUM OF AGREEMENT – PROVIDING IMMEDIATE RELIEF TO NEIGHBORHOOD AND BUSINESSES AND SERVICES TO SHELTER; INTERFAITH COMMUNITY SHELTER.**
 - 2) REQUEST FOR APPROVAL OF EMERGENCY FUNDING SOURCES FOR HOMELESS COMMUNITY IN THE AMOUNT OF \$12,990.**

A copy of an Action Sheet from the Public Works/CIP and Land Use Committee meeting of Monday, April 6, 2015, regarding Item 10(i)(2), is incorporated herewith to these minutes as Exhibit "3."

A copy of a revised Memorandum Of Agreement between the Interfaith Community Shelter and the City of Santa Fe, entered for the record by Terrie Rodriguez, is incorporated herewith to these minutes as Exhibit "4."

Ms. Rodriguez said the MOA was reviewed by the Interfaith Community Shelter and they asked for definitions and clarification of what was being requested of them. The changes were run through legal who made some minor changes as well.

Ms. Rodriguez reviewed the proposed changes in the MOA. Please see Exhibit "4" for specifics of this presentation.

Mayor Gonzales asked if the change in language in Item 2(A)(2), the change in language from direct to engage, was directed by the City Attorney, or if that was proposed by the Shelter.

Ms. Rodriguez said it was proposed by the legal staff for the Interfaith Shelter.

Mayor Gonzales said then the proposal by the Interfaith legal staff was to change it because of a person's constitutional ability to be wherever they wanted to be, and Ms. Rodriguez said yes.

Mayor Gonzales asked her if she consulted with the City Attorney's Office to see if that change needed to be made.

Ms. Rodriguez said the document was given to the City Legal staff, and they were shown the change which had been made, although she didn't tell them exactly why, but Legal did review the MOA and saw the change requested.

Mayor Gonzales said he is assuming they saw it without questioning the reason to say "engage" as opposed to "direct." He assumes they were approving it to form as opposed to should it say "engage," versus "direct." He said it sounds legitimate, and asked Marcos Martinez to comment.

Marcos Martinez, Assistant City Attorney, said, "Thank you. I did not know that was the reason for the change. I saw the redline version that previously had "direct," and then "encourage," so I assumed that was something our staff and the Interfaith Shelter wanted, and I didn't see a problem obviously with encouraging people. I would have to evaluate it, if in fact we wanted to "direct" guests, independently and give my own opinion and consult with the City Attorney on that opinion."

Mayor Gonzales said he doesn't think it is enough to hold up this request tonight, but he assumes our Legal Department drafted the MOA, or who drafted it, and Ms. Rodriguez said, "I drafted it Mayor."

MOTION: Councilor Dominguez moved, seconded by Councilor Trujillo, to approve Item 10(f)(1), as amended.

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

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

Against: None.

MOTION: Councilor Dominguez moved, seconded by Councilor Bushee, to approve Item 10(F) (2), as presented.

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

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

Against: None.

Explaining his vote: Councilor Dominguez said, "Thanks to staff, the homeless shelter, Councilor Rivera and everyone for all the work that you've done on this, so thank you. Yes."

10(h) CONSIDERATION OF RESOLUTION NO. 2015-31 (MAYOR GONZALES AND COUNCILOR IVES AND COUNCILOR BUSHEE). A RESOLUTION AUTHORIZING THE TRANSIT DIVISION TO ESTABLISH A NO-COST TRANSIT PROGRAM THAT WOULD SERVE THE TRANSPORTATION NEEDS OF SANTA FE'S VETERANS. (JON BULTHUIS)

Bushee Bushee said she is a cosponsor of this and wants to make sure she is listed. She asked what the "no cost" piece means, and asked if another route is shifting, or if these are small vans added to the existing program.

Ken said, "It's simply a way of accounting for fare revenue, so we would have a program where veterans could come to our office, establish their veteran status, and we would issue them an annual pass to ride the bus.

MOTION: Councilor Bushee moved, seconded by Councilor Trujillo, to adopt Resolution No. 2015-31 as presented.

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

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

Against: None.

END OF CONSENT CALENDAR DISCUSSION

11. LEGISLATIVE UPDATE. (MARK DURAN)

Mayor Gonzales said he really appreciates the work Mr. Duran did in a tough 60-day session that didn't yield much, which wasn't Mr. Duran's fault. He said Mr. Duran was always available to any of us, and he kept in good contact with him and the City Manager, and Councilor Maestas and others who reached out and engaged you on issues. He said, "What I would like to do in the interest of time tonight, is for you to do a quick summary of where we are, and discuss the Special Session coming up, and then leave it to the Council to be able to ask you any questions they might have on what might have happened."

Mark Duran said, "I will be very brief to summarize what your lobbying team did. It is important to note that the lobbying team is not only my lobbying team, but includes you all who were very interactive in the session and with me, which I appreciate – the Mayor and the City Manager who interfaces with all of the Department directors, Celeste Valentine – all of the City which make this a team effort. Jointly, we tracked over 250 pieces of legislation, targeted and work on over 3 dozen pieces of legislation and actually directly lobbied and influenced over a dozen pieces of legislation along the way."

Mr. Duran continued, "Of note on the statutory front, no hold harmless legislation was passed that improved the cities' situation, on the other hand, no hold harmless legislation passed that made the cities' situation any worse either. We worked very hard on general funding and capital outlay funding. Unfortunately, Senate Bill 159, the Capital Outlay did not pass the Legislature. That negated about \$1.6 million, it hurts to say, in money and projects that we had direct lobbying influence on. There is discussion among Legislative leaders of a Special Session to see if they could get that \$240 million in the Capital Outlay bill into the economy. On a positive note, HB 578 did pass, which puts into play 3 City of Santa Fe water projects, that the Water Trust Board, through its process would begin to evaluation, so that is a positive."

Mr. Duran continued, "I hope our emails, communications and our daily updates on legislation were helpful. And I'll just close and then stand for questions, by making sure to thank our entire Santa Fe Legislative Delegation who is really committed to the City, really helpful, really helped us get that \$1.6 million, and of course that includes Representatives Varela, Egolf, Carl Trujillo, Jim Trujillo, Stephanie Garcia-Richards, Senator Wirth and Senator Nancy Rodriguez."

Mayor Gonzales asked who is the new representative from Eldorado, and Councilor Bushee said it is McQueen.

Councilor Maestas thanked Mr. Duran for his great work, and for the briefing. He said, "Maybe next year when we meet with our local delegation, maybe we can get a commitment on sponsorship at that time when we meet with them at the outset of the session, because I don't think there was any non-capital outlay legislation that was sponsored by a local delegation. And we had a lot of policy issues and resolutions we passed that were germane to the session. We should have a more targeted conversation with our local delegation to get the honest impressions of some of our policy actions and our request to create our Legislative agenda the next time around. But anyway, great job."

Councilor Bushee asked the likelihood of a special session and passage of capital outlay legislation.

Mr. Duran said, "When the Legislature adjourned, I would have said no. I think more and more pressure is building, given the state of the economy, and I do think there is talk of even some timeframe for legislative leadership to get together. And some of the pressures of when that would have to be done in order to meet some bond counsel deadlines for the letting of those bonds which usually occur in June, the window for getting something done would be late May. I'm hearing some of those discussions which makes me a little more hopeful that it might take place. The positive thing is if it did take place the controversy over the bill was over the Statewide priorities. Some of the dollars we had in Statewide priorities were some of the Senior Centers. But the distribution of local money by local Legislators was not in contest, and that means the \$880,000 that we received from our number one priority really is not part of the debate, but it wouldn't be the major debate as to what the issues were that caused the bill to fail in the first place."

Councilor Trujillo thanked Mr. Duran, commenting it was rough year. He appreciates everything he did and all of the emails.

**12. PURSUANT TO RESOLUTION NO. 2015-1, 60-DAY REPORT ON THE FINDINGS AND RECOMMENDATIONS, INCLUDING THE FISCAL IMPACT FOR ESTABLISHING AND MAINTAINING COMMUNITY PROTECTION INITIATIVE PROGRAM. (ANDRES MERCADO)
(Postponed to April 29, 2015.)**

This item is postponed to the City Council meeting of April 29, 2015.

**13. PRESENTATION AND REQUEST FOR APPROVAL OF HEALTH PLAN SAVINGS OPTIONS.
(SANDRA PEREZ)**

A copy of *Top 10 Providers*, incurred 7/1/2012 to 6/30/2013, prepared by Aon and submitted for the record by Sandra Perez, is incorporated herewith to these minutes as Exhibit "5."

A copy of *City of Santa Fe Health Insurance Fund – Five Year Projection Option 2 – \$860,000 Benefit Changes, maintains \$5,000,000 Health Fund Balance*, prepared by Aon and submitted for the record by Sandra Perez, is incorporated herewith to these minutes as Exhibit "6."

A copy of *City of Santa Fe Healthcare Reform Excise Tax Summary [for illustrative purposes only]*, prepared by Aon and submitted for the record by Sandra Perez, is incorporated herewith to these minutes as Exhibit "7."

A copy of *Summary of Collective Bargaining Agreements Regarding Insurance Benefits*, prepared by Aon and submitted for the record by Sandra Perez, is incorporated herewith to these minutes as Exhibit "8."

Ms. Perez introduced the new Human Resources Department Director, Lynette Trujillo, and Vicki Gage representing the Benefits Committee and the Benefits Administration group out of the Human Resource Department. She said several members of the Group Insurance Advisory Committee, (hereinafter "GIAC") are in attendance and available for comment and questions at the pleasure of the Mayor and Governing Body. Ms. Perez gave a brief overview and history of this issue.

Ms. Perez said, "Over the past year, the Finance Committee has been discussing the sustainability of the health plan, and as you are aware, the City's Health Plan is self-funded and financially support by the City and participating employees. The plan design has not changed much over the years. Most recently the co-pay for an emergency room visit increased from \$25 to \$125 in July 2013. Aon our broker has been discussing the need for plan design changes with the GIAC for years, and has had provided projections as to what those changes could be. Each of the suggestions were rejected by the Committee over the years, with the exception of increasing the ER copay. Todd Burley is with us tonight and he is the author of the 5-year projection sheet that goes with Option 2A that we'll get to that's in your packet here in just a minute."

Ms. Perez continued, "That history leads us to the most recent exercises the GIAC has done at the direction of the City Manager and the Finance Committee. In November 2014, the Finance Committee discussed at length with Aon, the various suggestions that had been made to the GIAC and the subsequent effect on the Health Plan and the Health Plan Fund. We also included in those discussions, planned comparisons of the City's current plan to other plans in our area, other surrounding cities, the State of New Mexico as well as the Platinum Plan on the health exchange which is the richest plan available to anybody buying insurance through the federal market place."

Ms. Perez continued, "We also had a discussion of the premium splits. Currently the City pays 76.25% and the employees pay the other roughly 24%. Aon pointed out that split isn't unusual for plans of our size given the richness of the City's plan, and add on that split and it puts us at an even higher valued rate than even the richest plan on the federal exchange. The Finance Committee after all those discussions, challenged the GIAC to go back through the various suggestions that Aon had been making over several years and to seriously consider them. Basically, the marching orders were to go back to the GIAC and asked them to tell us what your real opinions are and what your real comments are, or instead we could give you our Committee."

Ms. Perez continued, "After the initial discussion and exercise with the GIAC having failed, the City Manager then instructed myself to help lead the Group Insurance Advisory Committee in a different approach for the task. The instructions were to approach it from an angle with start with the end result and see what comes out in options. So we were tasked to come up with a variety of options that would save \$500,000, \$1 million or \$2 million out of the benefits plan. We reconvened the GIAC in December for a 2½ day working session. With Aon's help, we came up with a menu of savings options, an a la carte style of options and it was spread all around the room on all kinds of white pages, and then from those menu choices, we carved two options to save roughly \$500,000, one option savings \$145,000, an option for \$1 million and one option for \$2 million. The safety net for the group was to say we are going to lay out the options and we're not holding anybody to the task or reflection that there was any kind of agreement by them as a Committee member on behalf of the particular group they happen to represent as a change to the plan. It was simply to provide back to the Finance Committee and the City Manager that there were ways to save money out of the benefits plan by making certain changes."

Ms. Perez continued, "We presented those options to the Finance Committee in February, along with overall sustainability projections from Aon. After narrowing the information, the Finance Committee further directed Aon, staff and the GIAC to continue its work giving very specific direction on outcomes to be brought back to them in 3-4 different options for choice on March 30, 2015 of this year. We presented the options at the March 30, 2015, Finance Committee meeting. The Committee discussed those and subsequently adopted one of the options after much discussion and we'll get to that in a moment."

Ms. Perez continued, "Additionally, the packet contains my verbal presentation to the Finance Committee on March 30, 2015, which was basically a report of the GIAC's opinions and discussions related to the options that were then provided. So if you will turn to page 7 of the packet. Option 2 begin on Page 7. Page 8 was a scenario leaving premiums flat, having no change to premium cost for the City or the employee. That option was rejected. Page 9 outlines Option 2A which accepts the \$860,000 in reduced benefits in the Health Plan as a savings and then it laid out a premium trend premium increase over the 5 years. With that in mind, the motion for adoption that night was to approve Option 2A, noting the \$860,000 savings to the benefit changes, but instead of following the premium's increase trend on industry standard, that the premiums would be set to a fixed fund balance of \$5 million calculated every year through a 5-year period, ending in FY 19/20. And that projection sheet is what has been handed out to you this evening [Exhibit "6"]. Aon has reworked Option 2A into that new projection sheet and is here to answer any questions and address details with that."

Councilor Dominguez said, "So I'm clear, this piece you provided us is really 2A with all of that direction rolled into it."

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

Ms. Perez continued, "In addition to that, after we met with the Finance Committee, there was great discussion about continuing discussion with the GIAC, and particularly the interest groups those people represent on the Committee. We send an email to the Committee on March 31, 2015, identifying the action the Finance Committee took, identifying the Option the Finance Committee adopted and would bringing to the Governing Body for final approval. We also informed them that the \$860,000 option as adopted, which was laid-out in the Finance Committee packet was the one that was approved. We also sent out the worksheets, the a la carte menus for savings options, and invited them if they weren't happy with the way the Option carved out, to possibly come up with alternatives to save the \$860,000. We gave them the opportunity to start again with a blank sheet."

Ms. Perez continued, "We convened the Committee on Monday for a noon meeting. The results were that nobody came to the meeting with a new option. We did discuss some of the areas that maybe could be replaced, there really are only 4 or 5 areas they really could tinker with. The bigger discussion was around whether the GIAC could come to a consensus to bring back to you all, not only the groups and the individuals, but also in representation of the groups they're there representing, the 3 different unions, the non-union employees as well as the Finance Department which would be the finances for the City, and then the Human Resources Benefit Administration group which is also representative of management and non-union employees."

Ms. Perez continued, "We noted during those discussions and it is important to call this out, that going with the \$5 million balance was a really good landmark that was put into the motion, because that then allows that the balance would include any run-out claims, or IMBR charges we might have like we have to keep in reserves of \$2 to \$2.5 million. So we doubled that to ensure those are covered, and also that we have a healthy fund balance."

Ms. Perez continued, "As we went around the table and went through the discussion, we had an hour for the meeting. Basically what we heard from the majority of the Committee members is that they, individually, pretty much support what the \$860,000 in option and savings really carved out to be. It was some reasonable increases to co-pay, not a lot of difference. The Fire representative, Mr. Hutton, was very clear that as a Committee member he respected the work we had all done in December, it was good hard work, we had taken it seriously, and while that was his personal opinion, he couldn't say or speak on behalf of the entire union. That all he could do is to take that information back to his union membership. He did share that what has been presented in the past as changes to the copays in their union's mind are deal breaker. Anything different than a \$10 copay would be a deal breaker."

Ms. Perez continued, "The Police representative that day was Eric Sanchez and he said, for himself, he understood the option, he had not been a part of the Committee work before in how we derived that option, so he had no opinion in support or not because he hadn't been involved in it. He also relayed

that they had not had much opportunity to talk with the members. He felt fairly confident that they may be able to convince their members to move to \$15 copay, but he would have to take that back, and that discussion had not been had.”

Ms. Perez continued, “Patrick Romero from the AFSCME union indicated that in their union agreement they are not tied to copay language. Both the Police and Fire unions are and we’ve handed out that language to you so you can see it. But Mr. Romero said he really respected the work the group had done that far, he recognized his contract was only about premiums and we weren’t talking about any change to the premium splits. He said as head of the AFSCME leadership and representation of that group, that they need to make sure what was being done was good for the whole piece – it was good for the plan, good for the City and good for the employees. He said the Committee has to dedicate itself to help educating the employees about what has gone on with the plan, why we’re in the situation we’re in, things employees could be doing to help the plan as well as educating them on other benefits the plan may have and how to do that.”

Ms. Perez continued, “Nick Schiavo that represents the non-union employees said he still agreed with Option 2A, he found it fair and reasonable in its approach.”

Ms. Perez continued, “Teresita Garcia, as the Finance Department representative, made a very bold statement and told the Committee that it is always going to be difficult to get consensus, because by the time you’re getting consensus, it becomes personal, because there isn’t anybody sitting around the table that doesn’t have the health insurance. So it’s hard not to make that personal. She reminded everybody about the hard work that had been done in December and we did that in a very non-personal manner, and it would be ill advised of the Committee not to use that information to move forward, and employees are expecting this from that Committee. And the Committee was formed for a reasons and the numbers we brought forward in December and in March were backed up by research and data that Aon has validated.”

Ms. Perez continued, “Vickie Gage, Human Resources Representative and Benefits Representatives still confirmed that Option 2A was acceptable and reasonable and not a painful change to employees and reasonable in protecting the asset of our plan with low costs to employees and the City. I checked with Legal if there are changes to the copays that would put us in a position where we would be renegotiating with both the Fire and Police Unions, given the language their contract has.”

Ms. Perez continued, “We have also looked again the Resolution that makes up the GIAC, and we believe that the makeup of the Committee is the correct makeup. It has everybody represented. It stretches the City from left to right, top to bottom. We believe the intent behind the legislation in the Resolution does give that Committee the authority and actually an obligation to make recommendations to this body about the health plan. That’s the group that’s charged with research and data collections, and to run up different options, discuss it with the Finance Committee and to bring to this body what they believe is a sound approach to going forward. However, the GIAC hasn’t necessarily been functioning that way.

So we think it's time to revisit the Resolution or to revisit the Committee and reinforce what we believe the intent was originally set. That it is an active, empowered group who should be synergized in its approach to bringing forward viable options to the Committee.

Ms. Perez continued, "One other thing I would be remiss in if I did not remind this group as well as the members on the Finance Committee as we continue to go forward and move into budget discussions is the excise tax that will be coming our way, sooner than later, if we don't make any changes. We've given you a handout [Exhibit "7"], that we've had before from Aon, and that's as we exist today. So if we don't make any changes at all, we will be looking at more than a \$5 million excise tax over the next 10 years, so that's another factor we have to keep in mind. If we go with this, we're still at risk with the excise tax, but our risk is smaller. So while it doesn't resolve the problem, it may very well get us started to resolution of the problem. With that Mayor, I would turn it over for questions, and also Aon is here to address and explain anything that you might have on this spreadsheet."

The Governing Body commented and asked questions as follows:

- Councilor Dominguez thanked staff and the employees for all the work they've done to date. He said, "In the past, we've kicked the can down the road on this issue, and I think staff and the Committee have rolled up their sleeves and not kicked the can as far down the road as we used to."
- Councilor Dominguez said one of the things he likes about this, is that it makes us whole to FY 19/20, and gives more of a cushion. He agrees with Ms. Perez that it doesn't address all the problems, it just doesn't kick the can down the road a little bit farther, but it's a very good attempt to get us to a better place. He said it certainly is one of the outstanding issues we have with regard to our entire budget, commenting that the staff and employees have done a great job.
- Councilor Dominguez said, regarding union contracts, he wants to make sure we get that statement on the record so the Governing Body understands what we can and can't do. He said, "I don't know if legal wants to do that or if you're okay with doing it."
- Ms. Perez said, "I'm okay with doing it. In the Fire and Police Union contracts, it speaks to the premiums and then it says that the copays will remain or go lower, unless recommended by the Group Insurance Advisory Committee and agreed to by both parties. So even if the GIAC came together and had one consensus recommendation to this body, whatever it was that was finally adopted had to be agreed to by both parties, and that would be at the negotiating table. The fact that the GIAC didn't necessarily come forward with the recommendation, I would say there's a recommendation in front of you. We've been clear about where the members stood and their stance about the recommendation, so there it is a recommendation in front of you, it just didn't have consensus. So Legal, what they said, this is like another piece that requires an appropriation. If you end up not appropriating enough money for a certain clause in the contract, it forces it into renegotiation anyway. It could open up other economic areas, but it definitely reopens this area."

- Councilor Dominguez said so, two things. It's contingent on appropriation and management feels we are not in violation of any of the collective bargaining contracts, and Ms. Perez said, "It would be renegotiated."

Brian Snyder, City Manager, said, "Sandy is correct. It would need to be renegotiated with Fire and Police."

- Councilor Dominguez said the list in our packet that is Option 2, has all the recommended copays, on page 7.

Ms. Perez said, "Yes. Those are the recommendations of increases and the far right hand column is what we're estimating or projecting the savings to the plan to be."

Councilor Dominguez said those copays are still part of this Plan 2 that you've given us tonight.

Ms. Perez said, "That's correct. That's what the \$860,000 would look like. That's how you get to the \$860,000. And I would add that this is the most conservative of the increases that could be considered."

- Councilor Dominguez said during Finance Committee there was discussion about giving employees the option to look at the copays and come up with a different solution or different options. He asked, "Did I hear you, in your presentation, say that there was a discussion about that, and a worksheet was handed out and that option was provided."

Ms. Perez said, "Yes. I think you're remembering two different pieces. One was after the Finance Committee took action, there was discussion about this was the page that was adopted. However, it was recognized in the spreadsheet provided by Aon, they had the round number of \$860,000 in savings. In my meeting with the Finance Committee, the Committee instructed me to go back and meet with the GIAC again, which she did. In preparation for that meeting she send out work pages that said it's \$860,000. If you have a different way to get that and you would like us to consider that to see if we can get consensus around it, I'm happy to take that back to the Governing Body if the number is still \$860,000. So there was that exercise."

- Councilor Dominguez believes the \$860,000 is a good target, and said Councilor Maestas needs to be recognized for the work he's done on this, in setting some of the boundaries we've been able to work with. He said he is in support of this, and there may be other solutions from others, but he hasn't see or heard them, he wants to recognize the work that staff, the Committee and everyone has done to get us to a better place than we have been in the past..
- Councilor Rivera thanked Ms. Perez and the GIAC for their work. He said, regarding the copays on page 7 of the packet, almost all the savings that are being suggested involve copays. And if two of the Union contracts have language specific to copays, how is that savings going to be achieved.

Ms. Perez said, "We would go back to the negotiating table and walk through the same exercise and make sure the same education piece was done with those negotiating teams that we did with the Committee as a whole. We would inform them of the status of the current state of affairs with the health plan and the fund balance as it stands today, which if we don't start to do some changes, we run out of money in two years. We would talk through how we came to these minor changes and we would show the other array of options we got to, and we would also show the data and the research. So with that, we feel fairly confident that people are invested in continuing to be self-insured, because they've been investing themselves in this health plan in the employees portion for quite some time. And I believe everybody agrees they would like it to continue. So we're confident we could negotiate and get concurrence. If not, and the copays for those two particular groups for some reason had to stay the same, we would have to recalculate what that membership looks like and see what reduction in savings we end up with, versus the total savings."

- Councilor Rivera asked the state of our fund balance – what do we anticipate having in cash balance at the end of this fiscal year.
- Todd Burley, Aon, said, "On the page handed out today [Exhibit "6"], if you look at row 20 Ending Fund Balance in Column A 2014/15, that's projected to be a little less than \$5.6 million."
- Councilor Rivera said then for future years, we're anticipating a \$5 million fund balance.
- Mr. Burley said, "That's correct. This option was built on the directive given by Councilor Maestas to keep that fund balance at \$5 million going forward."
- Councilor Rivera said in relation to what we hope to accomplish in future years, we're actually ahead of ourselves in terms of fund balance.

Mr. Burley said, "That's correct at this time, and with the increased contributions from the City and employees in Rows 22 and 23, that would keep that fund balance at \$5 million."

- Councilor Rivera asked how we would show we are in a hardship with the Health Insurance Plan with an ending fund balance that's better than what we're projecting in the future.
- Mr. Burley said, "In past years, the fund balance has well exceeded the current \$5.6 million. The City has been eating into that fund balance over the past few years."
- Councilor Rivera said, "What I'm trying to get at, with a fund balance that is better than what we are anticipating to have in the next 5 years, would you not say we still have time to maybe negotiate, not even negotiate, but to have the Committee come back and have additional discussions about how the employees, who ultimately are the ones affected by this plan, really shape and outline the future of their plan."

- Ms. Perez said, "Based on that number, I guess we still could keep kicking that can down the road and continue to try to have the discussions. From my experience in the last 1½ years, in trying to work back with the GIAC committee that represents that group, we don't move anywhere. Aon has been coming to this committee for 7 years plus. Before that the group in place of Aon was Willis, and we have documentation that they came forward with similar suggestions that really didn't go anywhere. With that trend and looking ahead to the viability to would there really be changes, it didn't appear to us to be so."
- Councilor Rivera said he recalls at the Finance Committee, the unions spoke to changes that they were willing to consider with regard to acupuncture, chiropractic, Naprapathy and medical massage, and the changes may be significant enough that they may be able to save a lot of money, but I'm not sure that discussion took place at the last meeting.
- Ms. Perez said, "I would have hoped that those were the options that came forward on Monday, but they didn't."
- Councilor Rivera said previously, Mr. Burley provided a separate handout listing the top 10 beneficiaries of the health plan, and two of the top ten providers in the amount of \$500,000 were alternative medicine doctors. He asked, "If we could realize significant savings from those, isn't that worth further discussion with our employee representatives to try to get that done, instead of forcing something on our employees."

Ms. Perez said she would defer to this group for that direction, and "certainly there is always room for continued discussion and outlaying of information and data and providing additional dollars that could be saved. I'll do this from memory. I think if we increased the copays to the neighborhood of an additional \$160,000 savings above where we were, so that coupled with medical necessity related to the massages, that brings that savings of \$400,000 down some. But there is always room for continued discussion. What the ends up in savings, we'd just have to just run the numbers and see what it is, but I would defer to the instruction of this body."

- Councilor Rivera said, "In the document given to us, two of the alternative medicine providers to the tune of almost \$600,000, I would hope we could get together and try to discuss changes to that part of the plan, instead of something to forced with the employees, and have to force open union contracts when that might not be necessary to do."
- Councilor Rivera continued, "The last comment I want to make is that for the past two years we've been giving out small raises and increasing premiums at times or doing other things to make the funds solvent. But again, there is a group of employees out there, and I've brought this up all along, that are classified non-union employees that have gotten no raises at all, but continue to see increases in insurance premiums or whatever other changes happen. So again, they continue to take the brunt of what's going on. And it's amazing to me, and I hope to bring legislation forward at the next Finance Committee, but it's ironic that most of those employees, at the mid-management level that are classified non-union, are women. And there's a Resolution tonight that

talks about non-discrimination, and it's coming forward while we, in our own house, fail to take care some of our best employees at that middle management level. That's all I have Mr. Mayor.”.

- Councilor Maestas said Ms. Perez did a good job of summarizing where we started and how far we've come. He would like to make a few points about the recommendation which he believes is a balanced recommendation and a great compromise. He said when we compared the City's plan against other plans with other local governments and the State, ours was by far the most generous. He thinks making minor increases to each of the copays to get to the \$860,000 savings still allows this to remain the best plan in the State, certainly among local governments. He said the copay increase is a recognition of our financial capacity as a City, and we know how slow the recovery has been and the impact to our GRTs. He thinks it represents fiscal prudence on our part by increasing those copays.
- Councilor Maestas continued, saying prior to this recommendation there really was no mechanism to keep pace with the escalating cost of health care. He said, “If we do nothing on this, we're going to be experiencing insolvency every 2-3 years, forcing us to come back and make major structural changes to the plan and the employees don't deserve that. They deserve a sustainable, stable health plan. We recognize we can't keep premiums the same in the face of increasing health care costs. This action puts the plan on a path of sustainability and stability. On row 22 you will see how much of the revenues from premiums are required to keep the fund balance at \$5 million. It gives an idea of the escalating health care costs.”

MOTION: Councilor Maestas moved, seconded by Councilor Dominguez, to “approve Option #2 regarding the copay changes on packet page 7, in addition to the proposed premium changes in the handout that we have that are set to maintain a \$5 million fund balance.”

DISCUSSION: Councilor Trujillo said then a survey was never sent to all the employees. He said he was hoping the survey would give the employees at least a say. He said as a State employee, he never had that option. It was shoved down his throat. This is it. They never had the option, and what he was trying to do was to provide an additional tool to you in making those decisions. He said, “I guess there was reason it wasn't put out. I heard something about undue chaos. I don't think it would create chaos. I was just trying to help you guys out by giving you an extra tool – giving that opportunity to every employee in the City to say what they think – the majority and that's what I was hoping you guys would do with this. I do think you for all of the hard work. I know you've been working hard with this, and I just wanted to give you an extra tool, and I thought you guys could use. That's all I have Mayor.”

Councilor Ives said in the handout [Exhibit “6”] on Option 2, line 8A is identified as Benefit Changes. He asked how those numbers relate to Lines 22 and 23 City Actual Contribution Increase and the Employee Actual Contribution Increase. He said they don't seem to line up at all, and he wants to understand the proposal.

Mr. Burley said, "There's a footnote at the very bottom that the 'Contribution increases in lines 22 and 23 are in lines 2-4.' So really the way the spreadsheet works is the medical claims in line 8 are reduced by the value of the benefit changes on line 8A, so the resulting expected claims cost, say for FY 2015/16 would be the \$16.2 million less the \$8.6 million."

Councilor Ives said packet page 7 talks about current and proposed premium plan in network under the Option 2 scenario, with a projected \$2 million fund balance in 17/18, so significant differences are there. He asked what would page 7 look like projected out over time in terms of potential premium changes, or is there any constancy in the premium changes that carried through has this effect.

Mr. Burley said, "The increase to both the City's share and the employee's share is shown in line 24. So, for example that's 2.7% in 2015/16, and then 6.8% give or take a few tenths from there on out. So there would be increases to both the City's share and the employees' share going forward. So, I misunderstood your question."

Responding to Councilor Ives, Mr. Burley said it maintains both the \$5 million fund balance and in Rows 6 and 7, the 76.50 and 23.50 percent split between the City and the employees.

Councilor Ives asked how the excise tax works [Exhibit "7"].

Mr. Burley said, "If you look at the table at the top, there's a year crossing threshold column, 2/3 of the way across. The single premium would cross the threshold in 2018, the threshold for single premiums is \$10,200 annually. The family premium which, in the City's case, is a combination of those 3 non-single tiers, the employee/spouse, employee/children and family tiers. Once that exceeds \$27,500 annually, then the City would be subject to excise tax. The excise tax is 40% of the amount above those thresholds. The thresholds are adjusted at CPI. I think as all of us are aware, medical costs are increasing at a rate significantly higher than the CPI."

Councilor Ives asked if the excise tax is imposed on the City or the employees, or is it shared.

Mr. Burley said, "I don't think that's been determined. It would be assessed to the City and I'm not sure if the legislation excludes employees responsibility for any of it."

Councilor Ives said the aggregate plan costs with the excise tax is shown at the bottom of the chart, in red. He asked if that is figured into line 22 on the sheet we were just talking about in terms of the City's actual increase, or is that considered on the sheet [Exhibit "7"].

Mr. Burley said, "It is not included on the other sheet, so that would be in addition to any amounts on the other sheet."

Councilor Ives said it is fairly small until 2020, which seems to suggest that by virtue of the quality of the health plan, the costs will increase at a greater rate for the City than employees over time, and Mr. Burley said that is correct.

Councilor Ives asked the additional cost to the City beginning in 2018 or at 2022.

Mr. Burley said, "For 2018 you can see estimated excise tax in 2018 is \$141,000. That would increase for the next 3 years only for single coverage, and then once the excise kicks in for family coverage, it would increase at a much faster rate."

Councilor Ives asked if it is an aggregate number for the 10 years, and how would that break down per year, and Mr. Burley said, "That is an aggregate number for the 10 years, so it starts at \$141,000 and grows throughout that 10-year period."

Councilor Ives asked Mr. Burley, in his experience, what is the reaction by municipalities to the increased excise tax payments, and what measures are the municipalities adopting to address that increasing requirement in the funding for health and benefit plans.

Mr. Burley said, "Because the excise tax is based on the total cost of coverage, the only way to avoid the excise tax is to reduce the overall cost of the coverage. And our clients have not taken action yet, but their course of action would be to reduce benefits to get below the excise tax level."

Councilor Ives asked what would be the effect on maintaining the \$5 million reserve fund.

Mr. Burley said, "I don't have that calculation and that would depend on how the City funded the excise tax."

Councilor Ives said if we include it in the fund, we're saying we would be increasing the City's actual contribution to a percentage that was different from that stated in the other chart.

Mr. Burley said, "What that would do is in Column E, Rows 22 and 23, it would increase by \$141,000 for 2018 and increase by an amount greater than that in following years."

Councilor Ives said it would be interesting to see what changes there would be to premiums to maintain the 23.75% - 76.25% split, once the imposition of the excise tax starts to kick in, just to understand the issue of potential fairness, from that perspective, which doesn't seem to be one we've accounted for. Or, if there is, it's too complex for him to work out in what he's looking at. He would love that information. He asked, if the premiums are increasing to both parties if the excise tax picture going to change, or not.

Mr. Burley said, "It would not. It is based on the total premium regardless of the contribution split between the employer and the employee."

Mayor Gonzales said, "Because we're in the evening session, I just want to make sure if there are questions that we think might go for a period of time, one of the considerations is to put this on time out to the end. Or if you feel the questions you are going to have and the statements are going to move along rapidly, I would prefer to get this thing finished."

Councilor Maestas said when we started this a year ago, the first thing we looked at was the premium *pro rata* share of the split, and we decided not to touch that, because that also makes this plan the best in the State. He said out of regard for employees and maintaining the City's commitment, we didn't touch the *pro rata* premium share.

Councilor Rivera asked if there is anything in the City Rules or the City Charter that says that the ending fund balance for FY 14/15 of \$5.5 million will stay in the health fund.

Ms. Perez said it's not that specific.

FRIENDLY AMENDMENT: Councilor Rivera would like to amend the motion to look at making sure that the monies in the fund balance stay in the program and that these funds aren't used to balance the budget in other areas. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

CONTINUATION OF DISCUSSION ON MOTION, AS AMENDED: Councilor Dominguez this actually is a good step in fulfilling the promises the Governing Body has given to the employees in the past, and definitely agrees with it.

Councilor Ives said, in response to Councilor Maestas, the imposition of the excise tax, depending on how you characterize it, really does start to change the aggregate balance between the employee and the City over time, as evidenced by the bottom graph. So that's an issue we will have to deal with even if we move forward this Option here tonight.

Councilor Bushee asked if the Emergency Room copay has worked as designed.

Ms. Perez said, "We have seen a decline in claims in the E.R. and we're still dissecting that data. We also know during the same time, there were more urgent care facilities that opened and some extended their hours. We know that some people were going to the Emergency Room because there wasn't availability of urgent care. So we're trying to continue to analyze that data to be sure we're giving the increase in copy the right weight."

Councilor Bushee said it's a pretty steep copay, although she understands why we did it. It is a steep copay for those have to go to the emergency room, and asked if the Committee had looked at this.

Ms. Perez said, "We did. And we also looked at, of those who went to the E.R., if they end up being admitted then that fee is waived. And we've tracked the number of in-patient admissions as well."

Councilor Bushee thanked the staff for their work on this. She hopes this continues to be a good program for the City employees.

Councilor Dominguez asked Ms. Perez to explain the reason she didn't follow up on Councilor Trujillo's request for a survey, which he did bring up during discussion at the meeting prior to the last one.

Ms. Perez said, "At the time we were approaching the Finance Committee, we had the variety of the 4 options, and I had committed to do the employee survey prior to coming to the Finance Committee. When we looked at the 4 options, and without the benefit of the Finance Committee having seen any of the 4 options. The chaos I'm talking about in my verbal statement was, if we had sent all 4 options out to the 1,240 participating employees, we believed it was going to create undue chaos and concern, because didn't know what the discussion was going to be and where would end up. At the end of the discussion at the Finance Committee and we were talking about the GIAC and the makeup of that group and the groups they were there to represent with voices. We also knew between the timing of that, and to get a survey out plus reconvene that group and have further discussions in case they were coming up with additional options for the Governing Body to consider, we didn't send one out. I made the choice that it was going to be more concerning and problematic than it was and we really wanted to reemphasize that the Committee's makeup was for real reasons and they had groups they really represented. It's the choice I made."

Councilor Dominguez said, "That's fair enough. I just wanted to give you an opportunity to sponsor that because I think staff has worked very hard to accomplish all the things the employees, the Committee and the Governing Body wanted. Finally, I just want to thank everyone for the work they have done. This may not be the most popular option, but it is the most responsible we've had in a number of years. And the issue of copays isn't new, and not something that just came up at this meeting or the last Finance meeting, or the last year of Finance meetings. It's an issue that has come up year after year after year. So if anybody thought that at some point the Governing Body was not going to have to take this seriously and so something about it, I think they were mistaken. I think quite frankly, everyone has been well forewarned for many years, so that's all I have Mayor. Thank you."

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

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

Against: Councilor Rivera, Councilor Trujillo and Councilor Dimas.

Explaining his vote: Councilor Rivera said, "I'm going to vote no. Again, I appreciate the acceptance of the amendment, but I'm not sure that fear of our employees is a reason to ignore getting input. I feel like our unions should have a fair say in their plan."

Explaining her vote: Councilor Bushee said, "I'm mixed, only in that we didn't have the buy-in. But I have to say we've been kicking this one around for a lot of time, so I think I'm going to vote yes."

Break – 7:15 to 7:35

Mayor Gonzales said at this time we will be moving into the Evening Session, and go through the Evening Agenda, complete it, and then go back and resume the Afternoon Agenda once we're done with all of the Public Hearings, asked for a motion to this effect..

MOTION: Councilor Trujillo moved, seconded by Councilor Ives, to reconsider the previous approval of the agenda to move Items #14 through #21 from the Afternoon Agenda to the End of the Evening Agenda, to go directly to Petitions from the Floor and to hear the Evening Agenda, and then return to Items #14 through #21 from the Afternoon Agenda.

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

END OF AFTERNOON SESSION AT APPROXIMATELY 7:35 P.M.

EVENING SESSION

A. CALL TO ORDER AND ROLL CALL

The Evening Session was called to order by Mayor Javier M. Gonzales, at approximately 7:35p.m.. There was the presence of a quorum as follows:

Members Present

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

Others Attending

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

F. PETITIONS FROM THE FLOOR

Mayor Gonzales gave each person 2 minutes to petition the Governing Body

David McQuarie, 2997 Calle Cerrada, said there was an article on our report turned in that questioned the 2008 Bond Issue for Parks and Trails, \$30.3 million, and some of that apparently was used for employees' salaries which supposedly is not allowed. He said part of the money was to be used for Parks and Trails. There was a letter to the Finance Committee about curb cuts not done. He said the letter gave an example of ingenuity realigning two of the trails at a cost of \$500,000. He asked why the curb cuts weren't made as well when the system crosses Governor Miles Road, plus the trails. He said the City "is in liability because if anything happens, they've bought it." It was brought up at the Mayor's Committee, "Why does the City disallow or disregard our disability requests."

Zane Fischer, 3094 Agua Fria, said he operates a business and own a building at 916. He said, "I hope it's not out of order during Petitions from the Floor to express my distinct support for each of the individual proposed appointees to the Planning Commission tonight and my faith in their capability and judiciousness."

Megan Burns, 227 Closson Street, said she wants to express her full support for Mayor Gonzales' appointment of Vince Kadlubek for the Planning Commission.

Maggie Thornton, 1160 Camino de Cruz Blanca, said she is a voter in District 2, and she wholeheartedly approves of Mayor Gonzales appointments to the Planning Commission.

Kim Shanahan, 1409 Luisa Street, Executive Officer, Santa Fe Areas Homebuilders Association and former Planning Commission 2003-2006, said, "This is the right of the Mayor, and I stand in support of the Mayor for the nominations that he's made this evening. I didn't know any of the individuals. I'm a Face Book friend of Vince. I just shook his hand for the first time. I believe the Planning Commission should be made up of citizens. Citizens should be reviewing these things. It's a *quasi judicial* activity. We don't expect them to be that informed on the individual details on these projects that come before them. We don't want them to be. I think your nominations, Mayor, are appropriate and I hope this Council will support you."

Caley Dorrell, 327 Staab Street, Voter in District, said he would like to express his support of Mayor Gonzales' appointments to the Planning Commission tonight.

Brandy Olson, 326 Staab Street, District 1, said she would urge the Council to approve Mayor Gonzales' appointment of Vince Kadlubek to the Planning Commission.

Frank Rose, 5 Cerrado Drive, said he wanted to express support for the Mayor's appointments to the Planning Commission.

Sean Di Ianni, 614 Giron Street, Voter in District 1, said he is here to express his support for Mayor Gonzales' nomination of Vince Kadlubek to the Planning Commission.

Alysha Colangeli, 740 W. Manhattan, voter in District 1, said she is here to express support for Mayor Gonzales' appointment of Vince Kadlubek to the Planning Commission.

Christopher J. Johnson, 739 Dunlap Street, District 1, said he wants to support the Mayor's decision for seats for the Planning Commission.

Lauren Oliver, 1917 Conejo Drive, said she supports the Mayor's decision on these fine outstanding people he has nominated for the Planning Commission.

Suhair Escobeda, Vereda de Encanto, District 4, said he expresses his wholehearted support in Mayor Gonzales' decision for the members of the Planning Commission.

Margaux Hale, 548 Kathryn Avenue, District 1, said she is in support of the Mayor's decision to appoint Vince Kadlubek.

Tristan Lose, District 1, said he offers his strong support for Mayor Gonzales' appointments to the Planning Commission. He said, "This is a tremendous opportunity to have a fresh breath of air in City government, and I hope you are able to recognize that opportunity. Thank you."

Kim Schiffbauer, 519 [inaudible], District 2, said Tristan is her older son's exact age, and she raised both her boys in Santa Fe, now ages 28 and 23, and sadly neither of them lives here because of no opportunity. One is a banker in London, the other a mechanic in Albuquerque. She said, "So I strongly strongly urge you..... and it's so refreshing to see so many young people here tonight. I strongly urge you to support Mayor Gonzales' recommendation of Vince Kadlubek for the Planning Commission. We need young people to support the vision of our City. Thank you."

**VERBATIM TRANSCRIPT
OF THE REQUESTED PORTION OF AGENDA ITEM #G ON THE EVENING AGENDA
REGULAR MEETING OF THE GOVERNING BODY ON APRIL 8, 2015**

STEFANIE BENINATO: Mayor and Council, Stefanie Beninato. I'm here to talk about a few different things, and one is public safety and the lack of infrastructure repair. On Saturday night, around 8:15 p.m., I left West [inaudible] Street across from Evaneglo's and a 24 foot high electric pole just fell over, just fell over. And fortunately, nobody was on that side of the sidewalk. I saw the owner of the shop coming out, I don't know that he actually touched the pole. But the whole thing just went from the base right over. So again, nobody out, damaged part of one car, not severe, but it missed the second car. I was pulling us back with the people that I was with that we didn't get hit by the shattering glass. [inaudible] needed infrastructure repair particularly downtown, and that would [inaudible]. And so I bring that to you. It was just fortunate it was the Saturday before Easter Sunday and it was extremely quiet downtown. The other thing that I'm going to bring to you is I'm not getting public records requests. I asked for some public records a month ago. Again, I've read the law to you, it was not the City's business why I'm asking for the public records. You are supposed to produce the public records. And there is nothing that can prevent me, or should prevent me from getting those public records, including how much has the City put out in legal contracts in 2014. I'm just curious, because it seems like we have a lot of contracts. Contracts for engineers, contracts for different parks and installation of parks, [inaudible] services, and I particularly care how much the City has paid for that. I think it is also appropriate to want to know what the qualifications are for certain posts and what kinds of training people have taken to fulfill

those posts. These are my public records requests. I've also found out, through making public records requests, that there is a data base the City answers complaints in, and that is not available to have print-outs and given as public records. And that is a concern for me, because of the building inspectors, etc., and learning about all the various complaints in curbing, streets and drains that citizens have no way of tracking. So I bring that to your attention so that can also can get fixed. So I will renew my public records request and hope this time there will be a prompt response. Thank you."

I certify that this is a true and accurate transcript of Agenda Item G on the Evening Agenda for the Regular Meeting of the Governing Body, on April 8, 2015.


Melessia Helberg, Council Stenographer

James Campbell, 2064 Calle Sombra, said he has two businesses downtown. He said he is here in support of the Mayor's appointment of Vince Kadlubek to the Planning Commission, and "I think he has always been a really positive contributor to the community. Thank you."

Miguel Vialpando, 829 Dunlap, Unit A, General Manager of La Boca a restaurant downtown, said he wants to support and thank the Mayor for acknowledging and helping the downtown businesses.

Catherine Morgan, 1203 Agua Fria, said she is in support of the Mayor's appointments.

Matt King, 1435 Agua Fria, said he is a voter in District 1, and he is here to support the Mayor's decision to appoint Vince Kadlubek to the Planning Commission, saying, "I wholeheartedly believe in him."

Caity Kennedy, 1435 Agua Fria, District 1, and said she wanted to express her support for the Mayor's appointments.

Nani Rivera, Executive Director, Santa Fe Film Festival, 60 E. San Francisco, , said she is here to show support for the Mayor's nominations, saying, "I think it's great that we are looking for fresh, young energy for our City. Thank you."

Jon Hendry, President, New Mexico Federation of Labor, and Business Agent for AFSCME Local Film Technicians, said, "I am glad to see all these young people here for any reason. It's a great thing for the City. I fully support the Mayor's nominees, but more importantly, it is important to bring people in who are going to be here through the planning process and its fruition, and see a vision for the City. And

I would ask the people who are here to support the appointments, some who have never heard of the Planning Commission, to continue to show up and to be involved and to be involved in what the future of this City is going to be. Vince is our future, and his loud voice on the Planning Commission means a lot to it. The Unions here in Santa Fe stand in strong support. Thank you."

Peter Chapman, 2674 Villa Caballero del Norte, District 4, said here is to voice his support for the Mayor's appointment of Vince Kadlubek to the Planning Commission, saying "he's a tremendous asset to the community."

R.J. Ward, 1190 Harrison, which is just up the road from Silva Lanes, the amazing new project of Meow Wolf, spearheaded by Vince Kadlubek and his team. He said he is here to give his support to the Mayor's candidates. He said, "I think this project, Meow Wolf, is amazing and is an is a tremendous opportunity for the City, for the future, for young people in the City, and I couldn't be more enthusiastic about these nominations. Thank you."

Nancy Fay, 728 Mesilla Road, read a statement into the record, noting she has previously testified before the Planning Commission about possible developments under consideration. She said she takes her civic responsibilities seriously, voting, jury duty and participating in defining values that shape our civic future, particularly here in Santa Fe with our proud history of 3 cultures, constant threat of drought, limited water and need for skilled resource management to face our future.

Ms. Fay continued, "We must not be misled by sleight of hand maneuvers. These new nominees have been offered under the flag of diverse input, as if to distract from whose agenda will be advanced. But this is an old fashioned Trojan horse, or to put it another way, placing a side of Kale on a big plate of veal does not make it a vegetarian dish. The problem we must address with due diligence is not merely who is nominated and mere personalities, as if they were some kind of congeniality contestants, but a process we must question that does not ask who is motivated and truly qualified to serve the needs of all the people. To examine the detailed planning regulations, to listen to all parties testifying and to rule on cases, knowledgeably and impartially."

Ms. Fay continued, "I am deeply concerned to see this attempt to hollow out regulatory bodies and to treat serious appointments that have such lasting effects on our City as popularity contest. I respectfully ask the Council to reject these nominations and to persevere in finding truly qualified public servants for these crucial and long lasting positions. Thank you."

John Lucero, 2600 West Zia Road, said he here to support the Mayor's appointment of Vince Kadlubek to the Planning Commission. He said, "Thank you."

Jeff Green, 1027[inaudible] Road, said, "I would like to invite the Governing Body, the public, especially the young people here today, to attend a special event on Saturday, April 18, 2015, at the Genoveva Chavez Community Center, it's a Green our Schools Sustainability Education Summit. We'll be having a conference and want to get speakers about sustainability in the schools, climate action and school gardens, and lots of good stuff. It's taking place from 2:00 to 4:30 p.m. I'm also in support of these nominations for Planning Commission. Thank you."

G. APPOINTMENTS

Mayor's Committee on Disability

Mayor Gonzales made the following appointments to the Mayor's Committee on Disability:

Elisa Meriam Jawhar – Reappointment – term ending 01/2019;
Nancy S. Pieters – Reappointment – term ending 01/2019;
Mary McGinnis – Reappointment – term ending 01/2019; and
Dave McQuarie – Reappointment – term ending 01/2019.

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

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

Transit Advisory Board

Mayor Gonzales made the following appointments to the Transit Advisory Board:

Rebecca Estrada-Anderson (Education Representative) – term ending 03/2017;
Bridget Wolf (At-Large Representative) – to fill unexpired term ending -03/2016; and
Stan Cooper (Change classification to Senior Representative) – term ending 03/2016.

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

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

Planning Commission

Mayor Gonzales made the following appointment to the Planning Commission:

Vince Kadlubek – to fill unexpired term ending 06/2016;
Piper Kapin – to fill unexpired term ending 06/2016; and
Katharine Anne Chavez – to fill unexpired term ending 06/2016.

MOTION: Councilor Ives moved, seconded by Councilor Lindell, to approve these appointments.

DISCUSSION: Councilor Dimas said, "I have a statement to read, if I might, a very short one. Because of personal issues I have with Mr. Kadlubek and his unwarranted attacks on me through the social media for the world to see in his latest Face Book posting a couple of weeks ago falsely accusing me of contacting all the City Councilors to rally them to vote against them which is a totally untrue accusation. Because of this I will not vote either for or against Mr. Kadlubek's appointment, and I will abstain from voting."

Councilor Bushee said, "I have spoken with the Mayor. I introduced this evening an Ordinance change to look at the membership and procedures for the Planning Commission, and my big concern really starts with the fact that I want geographic equity and representation on the Planning Commission. I note tonight we have two more folks that are going to be appointed from District 1, if the addresses are correct on the resumes and one from District 4, I believe. It won't affect my vote this evening. I do believe it is the Mayor's prerogative to appoint the Planning Commission, but he and I have had a discussion. So my new Ordinance will require at least one representative on the Commission from each Council District, five that will be at large, and I recommend they be nominated by organizations such as the Old Santa Fe Association, the Neighborhood Network, Affordable Housing Roundtable, maybe the Homebuilders, and some kind of landscape background, so we have some balance."

Councilor Bushee continued, "So what I want to say in voting for this tonight, I would ask the nominees to take this job very seriously. The City's future will be in your hands. We prefer not to see the appeals up here, so we're really asking you to do your job, and be thorough and be helpful. Thank you."

Councilor Maestas said, "If you look at the requirements for Planning & Zoning, there is no mandatory representation from each Council District, but it would be nice if there was at least one Commissioner from each District. None of the current members reside in District 2, and none of the members proposed tonight reside in District 2. And I would ask for the next vacancies that you consider a District 2 candidate. I realize we have a lot of activity coming up around the Hospital area. I think it would be nice to pick that portion, maybe not specifically in close proximity to the Hospital, but I think that area that would be impacted by it, and obviously, I think 2 Planning Commissioners from District 2 would be ideal, but I would like to see at last one."

Councilor Maestas continued, "And the last thing I'll say is there really are no qualifications, if you look at

the desired makeup of the Commission, it's qualified by training, experience and an ability to exercise sound and practical judgment on civic, social, economic and governmental affairs. I appreciate your intent to bring youth on the Commission, certainly we need a fresh perspective, there's no arguing that. But we need to make sure we balance youth with experience, especially for this body, the Planning Commission. As you know it's the most important commission that we have in the City. And if there are young people who want to serve, but maybe don't have that much experience that meets the general intent of those qualifications, that maybe consider them for other Commissions where they can get their feet wet and work their way up to Planning Commission."

Councilor Maestas continued, "I think we all know there are a lot of major developments coming up very soon. And I realize it is your prerogative Mr. Mayor, and I think we all learn on the job when we start on the job, no matter what our prior qualifications and experience. But let's put these folks in a position to really succeed and almost hit the ground running. I know that cliché is used so much. I think the standards for Planning and Zoning Commission are the highest for all the commissions. I think if we have young people, let's get them going, let's develop them in other commissions and let them work their way up to Planning and Zoning. I will support your candidates. I think this process is a lot more orderly now, and I appreciate the press release asking for applicants and letters of interest. Maybe it would have been ideal to do this at the end of the deadline, but I think your intent is to fill the current vacancies, not the upcoming vacancy. Like I said, it's your prerogative. I was a Mayor once, and so I respect that."

Councilor Rivera said, "Let me just first say that I'm a little offended by some of the comments about all the young people being here, because I still consider myself young. This is the first time I can remember that appointments to a committee have generate this much discussion. And I'll just be perfectly honest. I probably had some strong reservations about Mr. Kadlubek, but I met with him last night and had some frank discussions and asked him some difficult questions. And in just expressing my support for him tonight, I truly did see a different person than had been mentioned by some people who don't want him on this committee. I believe he can be fair and impartial, and I think he will do that. I think he'll take this job very seriously, and I know being part of Meow Wolf he's going to have to recuse himself from some of the votes and he's aware of that. Again, in just a frank conversation with him, I have the confidence that he can do it and be very successful with it. So thank you."

Councilor Trujillo said, "Kelley, I was going to ask you, last year the City gave Mr. Kadlubek funds, for the nightlife here, was it. I guess I want to know has any other Commission or any appointed committee member ever received funds like this. And if they did, would that be considered in some way as a conflict of interest."

Mr. Martinez said, "I am not aware of any other appointees that have received funds in this way. Whether it would be a conflict of interest, that any appointee or any public official has to answer under both the City's Ethical Rules and under the New Mexico Governmental Conduct Act. To the extent that there is any kind of conflict of interest, any public official is charged with knowledge of that Code of Ethics and following any conflicts procedures that would apply."

Councilor Trujillo said, "Okay. You've answered my questions. I feel like Councilor Rivera. I've never seen this much controversy on people that want to be on this committee. One thing I can tell you is when I ran for Council, people told me, you know Ron, you first need to be on a committee, because you shouldn't be on the Council first. You need to learn things. I thought in order to get things done, I'd better be on Council. It's not about having all of this experience, it's about caring about your community and caring about the issues and taking it seriously. We rely a lot on the Planning Commission when we make our decisions. So Vince, and to all the candidates, I know you will take it seriously. And all this other stuff Vince, that's happened in the past, we all make mistakes. But the thing I've talked to you many times about already, is the social media and how that can come back and bite you. I've always told you to be aware of that, be smart."

Councilor Trujillo continued, "I do believe we need young people on the committees. What I'm hoping for in Commissioners are people who have an outlook on other things, not this is the way it is. I'm sorry, that's what I see too much. People are afraid of change in this community, and I want people to have an open mind when it comes to any project in this community, infill and such. Have an open mind, not this is the way it is, and that's the way it's going to be. I've seen that too much. But I do like Councilor Bushee's idea about having one person from each District, because that shows balance. That shows that each District here in Santa Fe is represented and you have a representative there, so, I am going to support this. To the candidates, take it seriously. We rely on you for a lot of input for us to make those decisions as well. That's all I have Mayor."

Councilor Lindell said, "I had the pleasure of serving on the Planning Commission for about 8 years. And I will tell you that I was a better Planning Commissioner when I left, than when I first started. With that said, I would like to take the opportunity to thank the two Planning Commissioners that are leaving, Lisa Bemis and Dan Pava. I had the pleasure of serving with both of them. They were wonderful Commissioners, and in the 8 years that I served on the Planning Commission, I never served on the Commission that I didn't think we had an excellent Commission."

Councilor Lindell continued, "I don't disagree with Councilor Bushee and Councilor Maestas that dividing the Districts is no doubt a good idea. But the Commissions that I served with weren't necessarily divided by District. You weren't a good Commissioner based on your zip code, the year you were born or any of those characteristics. You were a good Commissioner because you came to the Commission meetings prepared, and you had a deep understand of Chapter 14, the Land Use Code. And Chapter 14 is about 600 pages long, so you guys have some homework to do. You don't need to memorize it, but there will be a quiz every other Thursday for you, and that quiz is called Planning Commission meetings. So I wish you the very best with it. The eyes of Santa Fe are on you with it. And it's also incumbent on the City to offer training to people who are Commissioners and people that are on every Board. We need to put that in place immediately, so that people coming on, whether they're mentored by someone, whether they're taken through by legal and Land Use, they have the opportunity to start with a base of knowledge and an understanding of what some of the basics of the Land Use Code are. Thank you Mayor."

Councilor Dominguez said, "Just a few things, I'm going to go down the list. Just for the record Councilor Dimas, you did not contact me in opposition of anyone. I just want to make that very clear, so thank you for that. I respect what you said and I appreciate that."

Councilor Dominguez continued, "As the member of the Governing Body.... It was back in 1998, that I got appointed to the Planning Commission, so I was a young person on the committee back then. The Planning Commission has had young people on it before. Roman Abeyta was on it with me way back then. But I will say it is a very very important Commission and I thank those people who have applied to be on it, because the work they do shapes the future of our City in many ways. I am thankful that they applied for it. I beg of them to please take it very seriously, and be prepared. That preparation taught me to be prepared as a City Councilor. Chapter 14 isn't the easiest thing to read and decipher, and not the most fun thing to contemplate, but it certainly does prepare you for some of the discussions we have up here as City Councilors. I really respect them for applying and I would implore them to please be prepared."

Councilor Dominguez continued, "As a former Planning Commission member, I want to thank those Planning Commissioners that are leaving this round and in the future, because again, it's a very important job. Councilor Bushee I'm interested in what you have to propose. I think the most important thing is a love for your community before any geographic location, but I'm interested in what you have to say. For years, the Planning Commission was loaded with District 2 people, so you see some of the shift, but nevertheless, I'm interested in that."

Councilor Dominguez said, "I guess just as a final word of wisdom, maybe, sometimes we learn the hard way. Thank you Mayor."

Councilor Ives said, "As part of this, I reviewed the required attributes within our Code for people to serve on the Planning Commission, and I'm satisfied. And that was the language Councilor Maestas read that the 3 people being put forward to serve on the Planning Commission, meet those requirements. I do also tend to agree with those that say that these appointments, as long as the candidates meet those requirements, there is some latitude and discretion in the Mayor's selection, pursuant to the authority granted under the Code to meet qualifications, as long as meet requirements, latitude and discretion in the Mayor's selection to bring forth nominations, to have their proposed appointments approved, unless there is some significant objection to them."

Councilor Ives continued, "In my mind, the hallmark of every committee, of every commission of this Council, in terms of the work we do, is the capacity to make informed decisions. And that, I suspect is in part why we run late into the night is because there is so much business, and we have questions. And you are seeing all of the Councilors feel free to ask questions on any matter that becomes before us."

Councilor Ives continued, "I would urge those people who are being appointed to one of our commissions to use that as a rule of thumb. In other words, your decision should be an informed one. So much of your obligation involves reading through the packet material that you are given, and of course we do staff through the City the Planning Commission, both in terms of legal and staff assistance to help anybody

...serving in those capacities to understand the intricacies of the 600 pages of material that Councilor Lindell has reference. It is incumbent on everybody taking on those roles to be informed and understanding the City's Ordinances and Rules."

Councilor Ives continued, "I would also point out that there are, as the result of the last elective cycle, additional factors that come into play in terms of decisions of the various Land Use bodies within the City, including, by Charter, the people of Santa Fe approved an amendment that talked about neighborhood heritage, and that's something we haven't had many opportunities to try and explain and define yet, within the actual decisional context of any of the planning commissions or governing bodies. That's an item I think will be a fascinating one coming up, and I am looking forward to engaging in discussions on that. I am in favor of these appointments for all these reasons. I think these capacities will serve those people nominated tonight for the Planning Commission well in that job."

Councilor Ives continued, "I can certainly tell you that I have seen many of these same debates in terms of the selection of judges within our District Courts, given my background as an attorney, is that different groups within the Bar claim that somebody is too much of a plaintiff's attorney or too much of a defense attorney. The good judges are those that recognize that regardless of what they did before, they now have a new duty to undertake as a person who is called upon to adjudicate fairly and in an informed fashion and in accord with the law and sound judgment, the decision in any case. And time and time again I have seen members appointed from the Bar to the bench who have taken on that mantle successfully. And I have no doubt at this point in time that these individuals who are being appointed have that same capacity. And I only hope to see it exercised in their decisions as they move forward on the Planning Commission. Thank you, Mr. Mayor."

Mayor Gonzales said, "Just to close, before we call for the vote. I want to thank the Council for their input through this process. I do agree with Councilor Bushee and we'll be working alongside her and other Councilors to make sure that as we go into the future Planning Commission appoints that there is a feeling across the City that not only is there a diverse representation, there is geographic representation which is very critical to the decision-making process and I think that's critically important."

Mayor Gonzales continued, "I do want to acknowledge just how good this Planning Commission has been over the last several years. The level of work and consideration and how they deliberated on very tough issues has set a standard for future Planning Commissions. And I think they all need to be acknowledged for the work that they've done. I do want to thank Lisa Bemis and Dan Pava who have been very kind. Their terms ran out over a year ago and have continue to serve until I was able to get to a point to make some recommendations."

Mayor Gonzales continued, "I do believe, going into the future, in the short term, because a number are coming up, that it is important to keep some stability on the Planning Commission. What I want to say to the Council is there's not going to be a wholesale change of Planning Commissioners. I think we have to have members who have served and want to continue to serve, that we look and find individuals who can continue to serve for another term, so we have the right blend of experience with new individuals coming

onto the Planning Commission. It's a very difficult job to do. I've interviewed the individuals that I recommended. I believe they are committed."

Mayor Gonzales continued, "I do also want to send a very loud and clear message that any appointee, especially Planning Commissioners, there is a different standard of how you act or how you conduct business. When you are appointed to a citizen committee on behalf of this Council, it does mean that you have to elevate yourself to a standard that normal people don't necessarily have to. And I think these individuals are ready to do that, and they are prepared to do that. And I don't think any member of the Governing Body, if you choose to support these individuals, will be disappointed in their performance. Or if you choose not to support them, we'll see that they have the ability to be preparing for decisions and making them."

Mayor Gonzales continued, "My hope is ultimately, and we've all talked about this, we don't want a planning environment where there is polarization between neighborhood and developers. We have to find a solution that allows for balance and collaboration, recognizing that our neighborhoods are very important to all of us. And we have to protect the quality of life in our neighborhoods throughout the City. But we also have to recognize that sometimes we move into an uncomfortable area when something are proposing to do something on private property that's undeveloped that they can proceed forward with.

Mayor Gonzales continued, "What I expect from the Planning Commission is to have that type of presence in being able to find that collaborative governance so things can be resolved, and so we don't see developments that you have a winner and you have a loser. But you have a development that's going forward that's positive, not only for the neighborhoods, but also for the entirety of the City. I believe these Planning Commissioners can do it, I believe the existing ones have done it. And I pledge to the Council that we will continue to bring forward recommendations that will meet the spirit of that intent, so thank you for the input."

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

H. PUBLIC HEARINGS

- 1) **REQUEST FROM LOVEFEST PRODUCTIONS FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/ CONSUMPTION OF ALCOHOLIC BEVERAGES AT EL MUSEO CULTURAL DE SANTA FE, 555 CAMINO DE LA FAMILIA, WHICH IS WITHIN 300 FEET OF TIERRA ENCANTADA CHARTER SCHOOL @ ALVORD, 551 ALARID STREET. THE REQUEST IS FOR A CELEBRATION OF LIFE OF KENNY "CANUTO" DELGADO TO BE HELD ON SATURDAY, APRIL 18, 2015, FROM 4:00 P.M. TO 10:00 P.M. (YOLANDA Y. VIGIL)**

The staff report was presented by Yolanda Vigil, City Clerk, from her Memorandum of April 2, 2015, with attachments, to Mayor Gonzales and City Councilors, which is in the Council packet. Ms. Vigil said there is a letter in the packet of no opposition from Daniel P. Benavidez, Director, Tierra Encantada Charter School @ Alvord, and a letter from Carl Gruenier, Santa Fe Public Schools, stating they will refrain from issuing a decision regarding opposition or non-opposition to this request.

Public Hearing

There was no one speaking to this request.

The Public Hearing was closed

MOTION: Councilor Bushee moved, seconded by Councilor Trujillo, to approve the request from Lovefest Productions for a waiver of the 300 foot location restriction and approval to allow the dispensing/ consumption of alcoholic beverages at the Celebration of Life of Kenny "Canuto" Delgado on April 18, 2015, from 4:00 p.m. to 10:00 p.m., at El Museo Cultural de Santa Fe, 555 Camino de la Familia, with all conditions of approval as recommended by staff.

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

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

Against: None.

- 2) **CONSIDERATION OF BILL NO. 2015-10: ADOPTION OF ORDINANCE NO. 2015-10 (COUNCILOR LINDELL). AN ORDINANCE AUTHORIZING THE SALE OF 2,352 SQUARE FEET OF REAL PROPERTY LOCATED ADJACENT TO 213 WEST ALAMEDA STREET AND DESCRIBED AS PARCEL 'A' AS SHOWN AND DELINEATED ON A PLAT OF SURVEY ENTITLED: "BOUNDARY SURVEY PLAT, PARCEL 'A' FOR GALISTEO STREET, INC., LYING AND BEING SITUATE WITHIN PROJECTED SECTION 24, T17N, R9N, WITHIN THE SANTA FE GRANT, NMPM, WEST ALAMEDA, CITY AND COUNTY OF SANTA FE, NEW MEXICO," DATED DECEMBER 12, 2014. (MATTHEW O'REILLY)**

Public Hearing

Speaking to the Request

There was no one speaking to the request.

The Public Testimony Portion of the Public Hearing Was Closed

MOTION: Councilor Lindell moved, seconded by Councilor Dimas, to adopt Ordinance No. 2015-10, as presented.

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

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

Against: None.

- 3) **CONSIDERATION OF BILL NO. 2015-9: ADOPTION OF ORDINANCE NO. 2015-11 (COUNCILOR LINDELL, COUNCILOR DIMAS, COUNCILOR DOMINGUEZ, COUNCILOR IVES AND COUNCILOR BUSHEE). AN ORDINANCE CREATING A NEW SECTION 10-11 SFCC 1987 TO PROHIBIT THE SALE OF SINGLE SERVING CONTAINERS OF ALCOHOLIC BEVERAGES, IN SIZES OF EIGHT OUNCES OR LESS, WITHIN THE MUNICIPAL BOUNDARIES OF THE CITY OF SANTA FE. (ALFRED WALKER)**

A copy of *A Proposal for the Santa Fe City Council to Improve the Intent of City of Santa Fe Bill No. 2015-9 Without Creating Negative Collateral Financial Impact on the City's Economy while enlisting the support of the City of Santa Fe's Liquor Retailers & Wholesalers*, entered for the record by Al Lucero, Public Relations Specialist, Southern Wine & Spirits of New Mexico, is incorporated herewith to these minutes as Exhibit "9."

Exhibits A-F in Opposition to proposed Bill No. 2015-9, entered for the record by Mark Basham, is incorporated herewith collectively to these minutes as Exhibit "10."

A copy of a statement for the record of Liz Tafoya, entered for the record by Liz Tafoya, is incorporated herewith to these minutes as Exhibit "11."

A copy of Testimony by Ramona Flores-Lopez dated April 8, 2015, was submitted for the record, with an attached gallon zip lock bag containing empty miniature liquor bottles. The written testimony is incorporated herewith to these minutes as Exhibit "12," and the Ziplock bag is in the Office of the City Clerk for inspection by the public during regular business hours.

STATEMENT FOR THE RECORD: *Councilor Maestas said, "I would like to read a statement into the record. I have disclosed that I have an interest in a family business that owns an inter-local dispenser liquor license in Espanola that is current for sale, and I've recused myself from voting on any inter-local license transfer request and recused myself from any discussion relating to inter-local transfer licenses in*

general. At the March 2, 2015, I participated in the Committee's consideration of the bill that is the subject of Item H-3 on tonight's agenda. I did so in the belief that there was no conflict, in part because the City Attorney had not advised me that there was a conflict. Nevertheless, I did disclose the interest to assure transparency. A motion on the item failed, so my participation did not influence the outcome. Subsequently, I spoke with the City Attorney who advised me that she believes there is a conflict requiring my recusal. As a result I recuse myself from participation in the matter at the March 4, 2015 Public Utilities Committee meeting and I will not vote on Item H-3 tonight." [Stenographer's note: Councilor Maestas then left the Council Chambers.]

Mark Basham, attorney, said, "Mayor."

Mayor Gonzales said, "Hold on Mark, not yet."

Mr. Basham said, "Mayor, I really need to object at this point in time."

Mayor Gonzales said, "Not yet Mark, hold on a second. And I'm not sure of the point of order on this, so hold on a second. Marcos can you advise us on a point of Order and whether a member of the public can object at this point."

Mr. Martinez said, "Mayor, I would advise that the members of the public speak at the appropriate time. There will be a time when persons from the public can address this Ordinance."

Mayor Gonzales asked, "Is there nothing in Robert's Rules or anything we've adopted that would allow for this break?"

Mr. Martinez said, "The Robert's Rule of Order do normally call for persons from the public to speak at the time that is determined by the Council."

Mayor Gonzales said, "I'll let you enter that after we get the presentation from staff."

Mark Basham said, "Your honor, Mayor..."

Mayor Gonzales said, "Mark that's.."

Mark Basham said, "No, I'm sorry. Case law requires in New Mexico that when you have an objection you have to raise it in front of an administrative tribunal at the time so they can correct themselves, otherwise you waive it. So I'm making my objection at this point in time."

Mayor Gonzales, "I'm willing to do that after staff makes its presentation."

Councilor Dominguez said, "We don't have a decision yet for anything to be objected to."

Mr. Basham said, "Just let the record reflect that I objected."

Mayor Gonzales said, "So noted." He asked Mr. Walker to do his presentation.

Alfred Walker, Assistant City Attorney, said, "This is an Ordinance to ban the sale of alcoholic beverage containers in sizes of 8 oz. or less, unless contained in packages of 4 or more as delivered by the distributor, which are sold for off-site consumption. This is very similar to a provision the City adopted two years ago in the Airport Road Overlay District. The purpose of this Ordinance is to reduce the litter on the streets of Santa Fe, and I'll answer any questions."

Mayor Gonzales asked if there are questions for Mr. Walker at this time, and there were none.

Public Hearing

Mayor Gonzales said, "Okay we're moving to the public hearing. Mark you go ahead and take the point and raise your objection."

Mark Basham said, "I renew my objection Mayor. Again, contrary to the Acting [Assistant] City's Attorney's position, case law in New Mexico requires that when you want to object to something, you have to do it timely and you have to do it in front of the administrative body. And if you don't, it's forever waived, and the policy behind that is so that the body can consider it and correct themselves in the event there is an error."

Mayor Gonzales said, "Go ahead and present your objection."

Mr. Basham said, "That's the first part of my objection. Second, this is legislation folks. This is not a *quasi judicial* hearing. That Councilor Maestas has some remote interest in a liquor license in another town, what does it have to do with this legislation right here. There is no direct monetary involvement. This is legislation. You can have *ex parte* contacts, you have lobbyists that do it [*inaudible*]. So for the City Attorney to recommend that Councilor Maestas recuse himself, is completely wrong. Now attorneys always agree to disagree and that happens quite a bit, but here it is clearly wrong. To the extent that anyone ever had a remote interest in a liquor license, I would say that Mayor, Councilor Lindell has had a liquor license. Why isn't she being asked to recuse herself."

Mr. Basham continued, "So again, this does not make any sense. I object. I would prefer that someone go get Councilor Maestas and bring him back to hear this matter as there is no conflict of interest. Finally, Mayor, if we accept Councilor Maestas's position that Councilor Maestas should recuse himself because he has an interest in a liquor license in another town, doesn't it confirm what my client's position is all along. This is not a litter ordinance, this is a liquor ordinance. If it wasn't a liquor ordinance, then why would he have to recuse himself. So keep that in mind as we make our presentation later on today."

Speaking to the Request

Mayor Gonzales gave each person 2 minutes to speak to this request, and asked individuals to please be as concise with the content as possible, because two minutes moves very very quickly.

Al Lucero, 510 N. Guadalupe, Public Relations Specialist, Southern Wine & Spirits in New Mexico, offices located at 510 N. Guadalupe Street. Mr. Lucero said, "We have 20 full time Santa Fe employees. We sell miniatures. If you would indulge me beyond my allotted time, I have a written presentation [Exhibit "9"]. It's only 4 minutes. I've given you copies of it so you can follow along with it, you won't lose your place. We'll get through it probably in less that 4 minutes."

Mayor Gonzales gave him 3 minutes to make his presentation.

Mr. Lucero said, "Each of you have a copy, so please follow along. First, I want to commend the Governing Body for keeping Santa Fe beautiful. Southern Wine & Spirits is a major sponsor of a wine event fundraiser for Keep Santa Fe Beautiful. We want to be a part of keeping Santa Fe beautiful, so I have a proposal for you. Bill No. 2015-9 proposes the ban of the sale of alcoholic beverages of 8 oz., or less, and this I'm quoting from the bill, 'The Governing Body finds that small plastic and glass alcohol bottles are rapidly accumulating along the roadways, trails and public parks.' I submit to you that, with all due respect, the Governing Body has presented no hard evidence to back up this claim. When we hear him say that small alcohol bottles are rapidly accumulating, there is no factual data. Has there been other research done at all. Keep New Mexico Beautiful says there is no available data on makeup of the roadside litter. Keep Santa Fe Beautiful says the same thing. One State that I could find, our neighbor to the west [east?] has done a very comprehensive study of the makeup of the litter and the following report is there for you to see. I'll condense it by saying that beer cans were number one, soft drink cans were number two, plastic bottles number three. The combination of all those containers, other than wine or liquor, accounted for 11.1% of all the debris that was picked up along the Texas road. Scientifically analyzed. Plastic wine and liquor bottles, including the miniatures, only made 0.3%, that's three-tenths of one percent of all the littler."

Mr. Lucero continued, "Now most importantly, I contend that Bill No. 2015-9, if passed will impact the City's economy in the following manner. Southern Wine & Spirits will lose wholesale sales of those sizes, in the amount of \$656,797, gross profits \$159,000 will go away. Total revenue loss before retail, \$816,000 plus, 30% larger for retailers. These are the people that sell them and make their money, \$291,000. The most important thing is lost gross receipts taxes for the City of Santa Fe, \$76,814, now, that's from Southern Wine & Spirits. If our major distributor in Santa Fe, National does as much as we do, and they have a tendency to do more because they have more popular brands in the small bottles, like Cuervo and Smirnoff, The City would lose over \$150,000 a year in gross receipts revenue. Can you afford to do that, just because we have this penchant to ban the little guy. Collateral damage , \$281,000, most important lost GRTs \$76,814 loss. That's just from us, if our other competitors, City would lose \$150,000 in GRTs, in the penchant to ban the little guy. Collateral damage, lost commission for Southwest, Southern

Wine Spirits, Santa Fe sales person, \$26,000. Lost gross profit gross dollars, two Santa Fe employees would be paid with that. Prohibiting sales of small size containers will only result in an inconvenience to the buyer. They will go to the County stores, stores in Albuquerque, stores on the Pueblo, stores like Total Wine & Spirits in Albuquerque, and buy miniatures, bring them back here and toss the empties as usual back home in Santa Fe. The only thing you lose is the gross receipts taxes. They're going to keep drinking them, they're going to keep buying them. We can't make ourselves a little island here. Instead of banning the sale of miniatures, I implore you to create stronger litter laws for the City of Santa Fe. Encourage the proper disposal of all beverage containers, mandate signage in all retail outlets. And I prepared one for you. Did you all get that in the package of stuff."

Mayor Gonzales said yes.

Mr. Lucero continued, "Mandate this be shown in all retail outlets so people can see it."

Mayor Gonzales said, "That was 4 minutes Mr. Lucero, so can you summarize real quick."

Mr. Lucero said, "I'm summarizing right now. In summary, we request that you table it. I would like to request that you table Santa Fe Bill No. 2015-9, and change it to mandated signage and make it a litter law. Don't ban miniatures, or don't ban anything. Come on. Next thing we'll be burning books. Santa Fe doesn't want to be known for that. Please do this. I appreciate it, and I appreciate your consideration. Please table the law until you can do more research. Thank you."

Mark Basham, Attorney, said, "Again, Mark Basham. I'm an attorney here in Santa Fe and I represent some local retailers here in town."

Mayor Gonzales said, "All you need is 2 minutes on this."

Mr. Basham said, "No, I have a presentation that exceeds 4 minutes, and I was wondering how the Mayor wants, and when he wants me to make that presentation."

Mayor Gonzales said, "We want the public to go ahead and speak, and I think it's going to come under the Matters from the Public. So, for two minutes. You can do it. All right. Just keep it moving."

Tom Gorman, Vice Chair, Northern Group of the Sierra Club, the Rio Grande Chapter of Sierra Club, said, "We are very much in favor of this Ordinance and support it for the following reasons. The sale of single serve containers of alcohol, known as minis, contribute to two important aspects of community problems. One is the litter issue which has already been addressed a little bit, and alcohol abuse. I think you're going to see here tonight a demonstration of the litter issue and how many of these minis have been collected by Santa Fe high school students in a very short stretch of road in Santa Fe. We all know that DWI is a major issue in New Mexico, and sales of minis provide drivers with an easy

access to alcohol while driving. Santa Fe is often seen as a leader in quality of life decisions that positively impact our community. And so the Sierra Club applauds you for bringing this Ordinance forward. Therefore we strongly support your leadership in this particular effort to both reduce violent behavior associated with drinking and driving, and also reduce the hazardous issue of litter along the highways. Thank you very much for your support."

Jessie Emerson, Co-Coordinator of the Zero Base Team, Sierra Club, said, "I am wearing a mini, and I don't think my gold chain makes it any prettier. There are environmental concerns. The toxins in plastics leak into the liquids and into the ground when it rains. Those plastics are endocrine disruptives. That means [*inaudible*], insulin and the hormones that make us who we are. Plastic does not degrade. It never goes away. Using our current technology of burying things into our mother earth, it will last 1,000 years, and pretty soon in those thousand years it will be normal to see people wearing protective masks that filter out the micro-bits of plastic. If our plastic is shipped to China, or a company in the U.S. that incinerates their waste, and plastic and organic materials combine, sparks fly, and we have the birth of dioxin or Agent Orange. Dioxin is one of the most deadly chemicals on the planet today. I personally would like to ban all single-use plastic products, but I will settle for banning the minis. The Sierra Club supports this ban. Thank you."

Mayor Gonzales said, "I want to state for the record that I wished the Clerk to convey to Mr. Basham that if there were individuals that would yield their time to him, I would, as we've done in the past, grant additional time. Okay. I want to just make sure that is stated for the record."

Jonathan Turner, 600 First Street NW, Suite 211, Albuquerque, NM 87102, said he is a land use and zoning consultant and works in different areas of the State. He said, "The reason I'm here is to offer my first hand knowledge of a very similar ordinance that was passed in Albuquerque, in approximately 2007 and was enforced City-wide. That Ordinance banned the sale of mini containers of alcoholic beverages. At the time, I was a Zoning Supervisor for the City of Albuquerque, but I was also a homeowner at a house ½ block from Central Avenue, West Route 66 and ½ block from UNM. I had an alley behind my house and always had vagrants and traffic behind my house, drinking and coming from the local Walgreens, and they would bring their beverages and drink in the alley behind my house. So I spent a great deal of time chasing them off, but I also spent a great deal of time cleaning the alley. And I would weekly go out with a 5 gallon bucket and fill it up, mostly with minis, a lot of beer cans."

Mr. Turner continued, "And I was very curious, because I knew when City zoning was going to enforce that Ordinance to all the grocery stores, to all the liquor stores, to all the Walgreens and I wanted to see what happened, and I was hoping that my alley would get cleaned or get cleaner. And I think there was a very unintended consequence of that Ordinance, because not only did I have the same amount of trash, I had large bottles of liquor instead of the minis because they weren't available to the public, and again, mostly homeless and vagrants that were coming in the alley and drinking. I had high hopes for that

Ordinance to have an impact on my property and keep me from cleaning up so much trash, but there was no change.”

Mr. Turner continued, “I don’t believe that was the intent of the Ordinance, I think that was an unintended consequence that the City Council in the City of Albuquerque did not realize what happened. Later on, the City became enjoined by the District Court from enforcing that Ordinance. So now minis are back on the shelves pretty much City-wide. I don’t think there was a big change in the little problem in the City. I don’t think it’s a miniature bottle problem, I think it’s a social problem. And I’d be happy to answer any questions.”

Tom Stark, 2 Laurel Circle, said he supports this Ordinance, noting he is the Chair of the County’s DWI planning Council, but this not a DWI issue, it is a litter issue, and he is here supporting it as a litter issue. He said, “Miniatures and small alcohol containers are a special form of litter. A lot of them are drunk in cars. If you have this container open in your car, if you are stopped by the police, you would be arrested for having an open container. Our laws encourage people to throw these out the window of their cars so they don’t get arrested. Miniatures are a special kind of litter. They end up all over our streets, that’s the first point.”

Mr. Stark continued, “The second point is this is brand advertising. This is a trademark container and it represents the brand this shows. One of the places these get thrown out of vehicles are onto our school playgrounds, school grounds and City playgrounds where they are seen by children. And children become acclimated to seeing these. We would not allow these companies to put advertising posters on the fences of our schoolyards advertising alcohol. Because we know alcohol, the earlier you start drinking, the more likely an individual is to develop serious alcohol problems later in life. But we let the miniatures be thrown out on the grounds where a child, during their development years, may see thousands of them the way they’re spread around the community. The third point I would make about miniatures is they are thrown in areas where we have a large frequency of tourists. There are a large number of people who visit our City for it’s beauty, but they also consider their safety when they come, and there are some tourists who would look at alcohol containers littering our streets and become concerned for their safety, because it implies there are people drinking alcohol and pitching the containers. Thank you. I support this bill.”

Ramona Flores-Lopez, a resident of the Nava Adé, and Chair of the Santa Fe Prevention Alliance, read a statement into the record in support of the Ordinance. Ms. Flores-Lopez said she and her son did an environmental scan of her neighborhood from Walking Sky to Cerrillos Road, noting the gallon plastic bag of empty miniatures she had collected in on a ½ mile stretch of Governor Miles. In closing, Ms. Flores-Lopez said, “I urge your support of this Ordinance addressing litter linked to miniature bottles being discarded along our roadways, parks and open spaces. I urge the passage of the Ordinance and thank you for bringing it forth.” Please see Exhibit “12,” for the text of Ms. Flores-Lopez’s testimony.

Jane Larson, a resident of the County, said she has a business in the City at 522 South St. Francis Drive, and she is here to support the Ordinance. She said, "Miniature bottles have been a blight on my property. We are adjacent to a liquor store, and we have had bottles continuously discarded into our yard, into our parking area and we have had a continuous stream of inebriated people on our property, and we have had damage to our property by those inebriated people. We have seen that the liquor store next to our property sells these bottles for \$1 each, so they 're very accessible to people who are begging for money in the parking lots. Sometimes we see that patrons who are shaken-down in the parking lot, will go and buy a bottle for someone who isn't able to buy it himself. It's just a continuous problem. It is a blight on our property and on our City."

Ms. Larson continued, "And even more sinister than the trash issue, which I know is the primary issue why we're here tonight, is what I feel is the exploitation of the most vulnerable members of our society. I see this with repeated with people hanging out at the liquor store, walking on our property, throwing bottles, and I also see really hard luck cases. And I think to myself what are we doing here. We have St. Elizabeth's Shelter within a mile, we have the Salvation Army, we're trying to help these people get back on their feet and yet during the day they can come and anybody can get a dollar to buy these bottles. I think it's shameful. We don't want to be an island, as this other guy suggested, but we would like to be a shining example. We're better than this and we are a tourist destination. It's shameful and we need to just pass this and move on. I thank those who did work on this, and I support the bill as is."

Andy Otto, Executive Director, Santa Fe Watershed Association, said, "And as you may know, we have our Adopt a River program, where we pick up litter throughout the river bed. We urge your support of this bill strictly on the lines of reducing litter. It's very simple that the River bed deserves more than to be littered."

Paul Holton, 1237 ½ Cerro Gordo Road, which goes through one of Santa Fe's oldest neighborhoods, and it is the access to Dale Ball. He said, "I regularly walk up and down Cerro Gordo with my dog. I regularly pick up plastic half pints and plastic miniatures. As you know, Cerro Gordo can be a narrow and winding road. There are many people who run up Cerro Gordo and up to the Dale Ball Trails. There are many people who bike along that road. I'm sure they're very disturbed and concerned about their safety as they ride along and see the discarded mini bottles along the road. And I strongly urge adoption of this Ordinance. Thank you."

Mary Claire Vorhees, 2730 Calle Anna Jeanne, Communications Director for the Santa Fe Prevention Alliance, as well as a Ph.D. candidate for Prescott College, said her area of study is sustainability education with a focus on sustainable community development. She said, "The elimination of single serve alcohol bottles is very important to our community. The source of trash has been an issue in our neighborhoods for quite some time. These bottles land up in our neighborhoods, arroyos and outside our schools and in our parks and other public areas. With the current plan to divert the recycling materials

out of Santa Fe, this Ordinance could save the City a considerable amount of money and staff resources. We live in a beautiful community that attracts visitors from all over the world. This particular Ordinance would eliminate a source of trash that has long been a blight on our City, and it will contribute to the health, safety and vibrancy of our neighborhood. Thank you.”

Lupe Sanchez, DWI Coordinator, Santa Fe County, said he is here as a concerned citizen. He said, “I realize this isn’t a DWI issue, it is litter issue as Don Stark said. The concern is that people will get in their vehicles, drink one and throw it out, because they can’t get caught with an open container. I’m here because I have two kids and this worries me. When we take walks, ride our bicycles throughout the City, this is what we see. We see a lot of it. *[Stenographer’s note: At this time, Mr. Sanchez sat a trashbag on the floor to demonstrate what he sees on walks with his son.]* What really brought my attention, is my son asked me what is 99 Bananas, and I had no idea what it was. He had picked up a miniature and showed it to me. How could I explain that. I said it’s alcohol, son. It’s something you don’t want to deal with when you get older, you don’t want to mess with. So I’m here as a parent. I’m tired of seeing this all around and I urge you to support this. I would leave these here, but I think you’re going to have much more. Thank you.”

Mayor Gonzales said, “We will recycle it.”

Ashley Jaramillo, 2304 Avenida de las Campanas, said she supports the ban of 8 ounce miniature liquors. She said, “I am a SWAT Student Wellness Action Team member at Santa Fe High School. We walked along Yucca, starting at Santa Fe High School, on March 17, 2015, for 1½ miles. Within 1½ hours, we collected 12- 2½ gallon bags of miniature liquor bottles off the sidewalks in ditches, as part of an environmental scan. Along with the possibility of drunk drivers, we also have domestic and wild animals and young children. The chemicals and toxins in the bottles are very toxic for everyone, especially to the animals and to the water. For this problem to be so close to 4 major schools, DeVargas Middle School, Santa Fe High School, Kearney Elementary and Nava Elementary, along with 3 parks, General Franklin E. Miles, Herb Martinez and Monica Lucero Parks, it’s very worrisome. It is a little of altogether dangerous, and is very bad for the environment and everyone in the community. Thank you for your time, and I hope we can change this enormous issue together.”

Molly Manilla, 7320 Villa del Sol, said she supports the ban on 8 ounce miniature. She said, “I am also a member of the Student Wellness Action Team at Santa Fe High School where I attend as a Freshman. I also participated in the environmental scan that our SWAT did on March 17, 2015. We walked about 1½ miles along Siringo Road near four major schools, Nava, Kearney, DeVargas and Santa Fe High School. As we walked, we collected an unbelievable number of 8 ounces or less bottles of liquor. We found enough miniatures to fill 12-2½ gallons bags. The fact that there is such an abundance of bottles of liquor lining the streets near schools is pretty worrisome to me. Children have seen this very consistently and easily get the impression that is okay behavior and they could do this themselves. Along

with that, these bottles littering the streets near schools show there are people who drink them near the schools and throw them, so they were drinking and driving. This shouldn't be happening at all and near school zones. This is *[inaudible]*. And as someone who attends Santa Fe High School, I don't think it's okay that students don't have the slightest fear that they might be injured by a drunk driver or by the stuff in all of this litter, especially when they are near a school. That's supposed to be a safe place. So thank you Mayor and Councilors for your time and I hope you take my thoughts into consideration."

Mayor Gonzales said, "When people are speaking, I don't want anyone from the audience coming down here and putting any stuff down here. Just wait until they finish and you can proceed. If you have trash up there, hold off until an individual is done. Let's respect people's ability to offer views to the Council, and we'll make sure you get the chance to show what's in your bag."

Daniel Romero, Senior at Santa Fe High School, and part of the Santa Fe SWAT, and intern with the Santa Fe Prevention Alliance. He said he also participated in the environmental scan. He said, "I want to share with you the risk of miniature sales and living. The littering of empty miniature streets are a prime example of a DWI accident as well as using public resources. I say that that the miniatures on the sidewalk didn't get there magically. The company didn't put there. We put them there, someone driving and throwing them out, that's also related to DWI, and I know we have one of the biggest DWI rates in the country. I have been working with SWAT for 4 years to try to bring it down. Which leads me to my next point of public resources. I'm a cross country runner. I was in cross country, my Freshman year and I do track. When I'm running my shoes aren't bent. When I'm running if I step on a bottle it could hurt me. That's why I support this ban, because I want to live in a safe community. And I have experienced working with the State Police in Taos and they actually busted two stores for selling to me. So if I look like a 21 year old and can go into a liquor store and get a miniature for \$1.19, I think that's unbelievable. I know a lot of seniors that look like they're 21, and I would just like to thank you for having us, and please, I encourage you, just keep your minds open. Thank you."

Jose Martinez, 2442 Sicomoro Loop, also a Hip-Hop Artist, said, "I am here to represent our youth allies and my SWAT team, and *[inaudible]*. The littering issue has already been addressed, and I also want to say, and I'm very Biblical, and in the Bible it says that money is the root of evil. And because we do a lot of things that, even if we damage each other, we damage our community. To bring money to our business, because we're earning money, we do very bad things. So what I want to say is that there are other ways we can bring revenue. And I want to put myself in the shoes of the people who own alcohol companies or alcohol outlets that sell these miniatures, and I completely understand that 20% is a lot, and if we were to ban miniatures it's a lot. But there also creative ways we can bring revenue and keep our communities healthy and our environment as well. And so my friend has a good speech. I want to express my support of this Ordinance."

Liz Tafoya, Senior, Academy for Technology and the Classics, and a member of SWAT, said, "There are two issues that I have with miniature bottles. Number one litter. It isn't been an issue in our building, but these miniature bottles contribute to the litter problem in large amounts. *[inaudible]*. If there's anybody out there that disagreed with me, then they haven't paid enough attention. In the last several *[inaudible]* these miniatures were compared to dogs and dog poop. That's because dogs poop in streets, and in the long run, dogs are better. While that's an extremist point, dogs do not promote *[inaudible]*. And anyway, a dog is considered a man's best friend. And dog poop is natural, it's biodegradable, it decomposes. These miniature bottles are not a natural source. They are man-made. Are they man's best friend. I don't think so. The bottles are not biodegradable and don't decompose, they do promote positivity in any way. It's alcohol and litter. There's absolutely nothing positive about them.

Miss Tafoya continued, "Number two, these miniature bottles impose a danger on people, from the very young to the very old. These miniature liquor bottles are an easy access, easy to steal and easy to hide, for the young people to have access to them. Adults also purchase these bottles and use them irresponsibly. They are purchased by people who are driving and usually toss them out the window. At the moment, they are littering and exposing people on the road to danger, because they are drinking and driving, leading to a possible accident and possibly killing someone. Businesses earn a lot of revenue from these miniature bottles, but what about the other 80-85% of revenue. Is that not enough. Do these people actually depend on the sale of these miniatures. There are numerous ways of earning revenue for businesses, but not just this one. People who are against this ban, are they really concerned with losing such a smaller amount, or is their materialistic side that is against this proposal. Surely they are not thinking about the environment of the public."

Mayor Gonzales asked Miss. Tafoya to wind down so she can finish her statement.

Miss Tafoya said, "They are simply being selfish and only thinking about themselves and their business and their income. And just to summarize, I would like to thank you guys for hearing us and our members, and I really hope you guys take into consideration our comments and also the other peoples. Thank you very much."

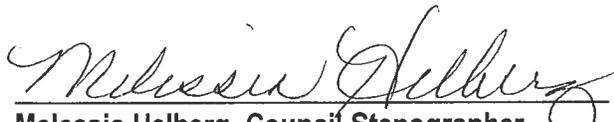
Mayor Gonzales said Miss Tafoya is welcome to enter her statement in the record if she would like. If there are comments you didn't finish you can give it to Yolanda and we'll have it entered into the record.

Ms. Tafoya entered her statement for the record. [Exhibit "11."

**VERBATIM TRANSCRIPT
OF THE REQUESTED PORTION OF AGENDA ITEM #H(3) ON THE EVENING AGENDA
REGULAR MEETING OF THE GOVERNING BODY ON APRIL 8, 2015**

STEFANIE BENINATO: I'm Stefanie Beninato, I live at 604 ½ Galisteo Street, and I'm here as a concerned citizen. May of you have heard me numerous times asking you to do a ban on single serve alcohol bottles because of what was done on the south side. More I think it has been a safety issue, that is being they were being sold near schools, and because of the high number of alcohol distributors. However, I'm really happy to see this happen, whether it is based on protecting people from DWI, or whether it is from litter. I know of a woman who had a store downtown for 3 years. She recently closed the store because of the litter. She was so disgusted by the litter on the downtown streets, and that included miniatures, it included human feces, it included syringes, and of course the ubiquitous dog poop which may be biodegradable, but it also very germ filled *[inaudible]*. So I have heard that many people have thought I support them. And I would like to point out, in terms of economics, that when drive-throughs were banned in the City, alcohol store owners came in and said it was going to hurt their business. They seemed to have survived quite well. We've heard from Mr. Lucero that it is about \$150,000 in gross receipts tax to the City. But I would ask the City how much it costs to clean up all the litter that comes in under the Ordinance you are considering tonight. And I would imagine it's a whole lot more than \$150,000. So I do agree with many of the speakers who said there's probably other ways to recoup that money, that 15-20% that might be lost. Certainly for the City it would be a win in that it would be much more attractive environment downtown. It would promote health and safety of the environment for the people, and it would also be economically effective in terms of spending less to clean up this kind of trash. Thank you."

I certify that this is a true and accurate transcript of Agenda Item H(3) on the Evening Agenda for the Regular Meeting of the Governing Body, on April 8, 2015.


Melessia Helberg, Council Stenographer

Mark Basham said, "Mayor at this point, if you would ask if anybody is willing to yield their time to me. I probably need 8 minutes, so with my 2 minutes, I need 3 people to give me 2 minutes."

Mayor Gonzales said, "Individuals who are giving their time, if you could just step up and state your name for the record, in yielding time, so we have it."

Greg Anaya, Liquid Company; Judy Portillo; Ralph Ortiz; [inaudible] Valetta and Dave Cardenas, said they yield their time to Mark Basham..

Mayor Gonzales said, "Mark Basham you said 8 minutes."

Mr. Basham said, "Yes sir, and I'll try not to repeat anything. But again, my name is Mark Basham, and I am an attorney, and I do represent a handful of local, liquor store retailers here in Santa Fe. Now, let's be honest, this is not about litter. The City already has an anti-litter Ordinance. This proposal is about the regulation of the sale of liquor under 8 ounces. And it's the sale. Admit it. You've been presented with 12 bags, under 8 ounce bottles, that was allegedly picked up along Siringo Road. But we know for a fact, it did not all come from Siringo Road. And how do we know that. Because we observed them picking it up. And we saw them go up Camino Carlos Rey. We also saw them in the arroyos, and we also saw them in the field across from Santa Fe High School."

Mr. Basham continued, "Now, have I seen bottles, 8 ounce or less, on the side of the road. Absolutely. But what else have I seen. Everything else. I've seen Coke cans, I see water bottles, I see Starbuck cups, I see trash and rubbish from fast food stores. I mean this is just a part of it."

Mr. Basham continued, "Now the fact of the matter is, again this is about liquor, it's not about litter, and any District Court Judge is going to see that. Again when you have your City Attorney recommending someone recuse themselves because they have an interest in a liquor license in another town, that tells you it's all about liquor. It's not about litter, okay. So a District Court Judge is going to see through that."

Mr. Basham continued, "Now, let's go back to the 12 sacks of debris that was collected by the teens from the Santa Fe Alliance. Now the Alliance's primary goal is to prevent underage drinking. And if you look at Exhibit A in the packet I gave to you [Exhibit "10"], on page 2, you will see what their vision is. It's to prevent underage drinking."

Mr. Basham continued, "You all understand that your landfill charges fees by weight. Now these 12 sacks here of minis that were picked up, they probably weigh a combined 10-15 pounds at best. And I did something that I was very embarrassed to ask my clients to do. I said, okay, so you saw these folks out there. We went to the web site. This is the route they allegedly took. And I said go up and pick up the trash they didn't pick up. Okay. And after doing about 1/3 of the trek, already we had 4 bags weighing probably 30 pounds apiece. That's much more trash, and we didn't pick up the mattress. Okay. So the fact of the matter is, take it for what it is, this is just a minor portion of the trash problem out there."

Mr. Basham continued, "After having only followed like 1/3 of the route the teens allegedly did, we picked up probably 4 times as much trash. So where's the logic behind this alleged Litter Ordinance. Again, the City already has a Litter Ordinance. This proposal is simply about liquor and regulating the sale of it, which is not permitted by State law."

Mr. Basham continued, "The City of Albuquerque tried to ban the sales of small bottles of alcohol back in the mid-2000's. You heard that from the Zoning Administrator from the City of Albuquerque, and you hear how it backfired. Now there was a ruling on that. It was challenged, and that's Exhibit B to your packet [Exhibit "10"]. And if you take a look at that, basically the law was not enforced for several years. Finally the condition to transfer the liquor license to comply with that Ordinance, and the City got sued, and the Judge hammered them. She said you are preempted, I don't care if you are a Home Rule Municipality, you are preempted by State from regulating the sale of liquor. It's that simple."

Mr. Basham continued, "So I provided that Memorandum Opinion Order to the City Attorney's Office, and I saw that Alfred Walker was the Assistant City Attorney handling it. And so I called up Alfred and I said, well Alfred what do you think. And it was a very pleasant conversation. He said well, if you look at the underlying regulations in the City of Albuquerque, they dealt directly with the sale of liquor. So I said, I need to go look at that, so I did. And yes, they did deal directly with the sale of liquor, but this one does the same thing. So it is a distinction without a difference. You guys are regulating the sale of liquor, and that's the key phrase. You cannot do that. You are preempted from doing that. And Alfred explained to me, he said, if a City can't regulate the litter on its streets, then what can it do. And my response was, you have an anti-litter Ordinance, why do you need this. Again, you have a litter Ordinance. This is regulating liquor, so it's a distinction without a difference."

Mr. Basham continued, "And so thought that was just his honest opinion. But later I learned that Mr. Walker is actually the Chairman of the Policy Board for the Alliance. And we have minutes, and that's in the packet I gave you, where he, in his private capacity, is directing these kids to go collect nothing but the minis, none of the other trash, just the minis and directing how to present testimony to you guys here today. This is his private capacity. That would be on C of the packet."

Mayor Gonzales said, "Okay Mark, let's try and focus on winding down to make sure you can get your full 8 minutes."

Mr. Basham said, "Okay. So anyway, if you go back to the decision, the Memorandum Opinion Order, by Geraldine Rivera, it doesn't have precedential value, it's just a State District Court Judge decision. It's 10 pages, it's well reasoned. Again, it's not a Court of Appeals decision, it's not a Supreme Court decision, but if I'm sitting as a District Court Judge and I presented that on an appeal, or during the lawsuit, I'm going to say, this is well done, I'm not going to waste my time and I'm going to adopt the reasons."

Mr. Basham continued, "So anyway, I guess the bottom line is, I'm concerned that the opinion, again attorneys can always agree to disagree. But I'm concerned that the opinion coming from the City

Attorneys Office to you, that this is a valid Ordinance that can withstand legal scrutiny, is flawed. And unfortunately my client, it's not 15% of their business, the sale of 8 ounces or less, it's not 20%, it's not 25%, it's 30% of their business. Now what happens if you lose 30% of your business. If I lost 30% of my business, I would be scrambling. Okay, what would I have to do. I would have to either reduce peoples hours and the amount of money they earn, or I'm going to have to lay people off. And if you look at the Affidavits I provided you from the local wholesalers, they each said they are going to have to lay off people. So there's not like there is no economic impact in this situation. And again, the gross receipts isn't \$150,000. If you combine the wholesalers with National and Southern, I think it is, if you combine the two, it's up over \$200,000. Now the City doesn't get all of that, but that's a lot of money. And you're laying off people and putting them out of work if you adopt this Ordinance, so there is a fiscal impact."

Mr. Basham continued, "You know, when I was a City Attorney many many many years ago, I handled two liquor cases and I was beaten twice, okay."

Mr. Basham's time expired, and an individual offered to give him his time.

Mayor Gonzales said for the person yielding the time, to wait until the end and then give his name for the record.

Mr. Basham continued, "I got beaten two times by Linda Akin who specializes liquor law, an attorney and I brought her on my team. And she'll summarize and bring up the end where I missed anything. But the one thing I learned about liquor law during those two cases, and I followed another case of the City's recently, is that once the City decides to allow liquor in it's boundaries, it loses pretty much all control. The state retains control."

Mr. Basham continued, "So my clients, presented with losing 30% of their businesses, the wholesalers presented with losing 30% of the business, we will bring a lawsuit. And now, big deal. I've been on your side, stand in line, wait your turn. Everyone threatens the City daily. But here, we have a preemption argument, we have a great equal protection argument. This notion of exempting hotels and , allowing them to sell, but not local retailers is absurd. But we'll bring a lawsuit. And I'll tell you, the big boys, Allsup's, Giant's, Walgreen's, Brewer, we've been in contact with them. They haven't joined the game yet, they're watching, but when we do file that suit, I'm imagine we'll get a call from a lot of corporate attorneys. And since I'm bringing a civil rights lawsuit as well, and I'm looking at my clients, and this is not to the City, but the City will be responsible for my attorneys' fees and those corporate attorneys fees. And again, it's not a threat, it's a fact. Imagine you losing 30% of your business on something that is thinly guised as a litter ordinance. It's all about liquor, and you're not allowed to regulate it. I stand for any questions."

Raymond Ortiz yielded his two minutes to Mark Basham.

Jo-Almeida Young said she helped pick up a lot of trash and thinks this is a trash problem. She said you have to prevent the litter problem. If you have a litter problem, you have to focus on the litter.

She said people grab the trash can and take it to the place to get it to the place to get the money. Create a job, make it a return for deposit thing. She said, "Focus on litter, not on the items."

Kathleen Ortiz, co-owner of Rodeo Plaza liquors, along with her husband Greg Ortiz. She said, "We are native Santa Feans. We have been in operation of this local, small business for approximately 30 years. And I don't know if any of you have looked around lately, but the small business is a dying breed, it is. On Tuesday, March 17, 2015, we observed several teens picking up minis and other alcohol containers and putting them in clear Ziplock bags. We pulled over to the side of the road, as 3 female teens came out of an arroyo, near the vacant lot at Yucca Road and Siringo. We asked one of the teens what they were doing. She said they were collecting mini bottles because the City was trying to ban them and there would be a meeting on April 8, 2015. We asked where they had collected the bottles and she said it was all up Siringo Road and also near Camino Carlos Rey. I thought it seemed weird that because the proposed ordinance was about litter accumulating along side roadways and parks and trails, that they, first of all were coming out of an arroyo. But there more disturbing thing to me that there was no, like real trash or litter in their collection bags. It was only minis and empty alcohol bottles."

Ms. Ortiz continued, "I decided to go along the route and see what litter was left behind. So I did. I got my gloves and my black plastic bags and I went. I was only able to cover about 1/3 of the route. That's all I went. I measured it, it was 1/3 of the 1.5 miles that say they covered, and that's what I collected. It was only a third of the route. They walked past the litter that was there. They ignored it, they just walked right on past it and only picked up the minis and the liquor bottles. I was really shocked actually when I started picking up the litter. I was like wow, how could they not see this, it's huge. Anyway, the Ordinance is about liquor. I believe it is, and the control of it. This will really hurt several small reputable businesses in Santa Fe. We are the owners of these businesses, and are hard working people. Our workers are hard working people. They may have to be laid off or cut their hours. They don't have many hours as it is. We have families, we belong to civic organizations, we have been coaches, we have been foster parents. We sponsor teams for our youth. We participate in our churches and care about our City. It's our City, yes. I sincerely hope you will rethink this Ordinance and truly reconsider tabling it, it's over-reaching and unnecessary, and get down to working on things that really make a difference in Santa Fe. Thank you for your time."

Unidentified said, "You're in the wrong pew on this."

Richard Anaya, 122 W. San Mateo, said he is the owner of The Liquid Company in Santa Fe. He said, "Most of the things that I was going to say have already been said. My theme is don't punish the village, punish the offenders. That's the way it should be. Us 7, there are only 7 members here that Mark is representing, we're caught in the web of this notion you are preparing to throw us. We hired Mr. Basham to lobby for us, and I think he's done an excellent job. I would just like to express my concerns here. I think this is arbitrary and capricious, there's no doubt. You see it right here, this shows it right here. You have demonized the miniature, and isolated that, and highlighted it in the news media and otherwise

and everything like that and saying that is the sole contributor to litter. That's not true. That's selective. That's selective prosecution, very much so, and you know it."

Mr. Anaya continued, "There was a reference here made as to advertising, the little miniature being advertising. For heavens sake, all you have to do is walk through the aisles at the big grocery stores, and it's advertised right there for sale. Buy 6 bottles, 20% off. Who's contributing more alcohol to the community, a miniature or 6 half gallons at discount price, where you don't get gross receipts tax out of it. Open your eyes. I asked, at one of the committees, I said put this to study. When I was on the Commission, we studied everything. Mountain ordinance, we spent time in corners over there, saying..... everybody contributed, architects, engineers and everything like that just to develop an Ordinance. It was big. It wasn't railroaded through. That's not the way to do it. Drive up windows, my god, you hit something sensitive. Please ignore that commissioner, grant me a courtesy."

Mayor Gonzales said, "Yes sir."

Mr. Anaya continued, "Thank you. Drive up windows. My god, you know we lost.... it put me 30 years into debt again just through that. Running down history, you were there with me Mayor Gonzales when I appointed the little lady from the Lamplighter, the little lady from the Club Alegria which no longer exists. Somebody made reference that the drive-up windows, they existed. There's nobody left. There's 7 of us left. The Korean people that come in, the Korean families, small businesses have come in here to attain the American dream. Our friends, the Singhs, Cliff's Liquor, from India came here to attain the American dream. The Ortiz's and myself, my son Greg has served on your staff here, to maintain the American dream that I started. And here, you are regulating us out of existence. Everything is a regulation. Yes, it's regulated out of existence, that's what it is. This is a regulatory taking, because you're taking away the right from the 1,400 people that signed our petition, and we only had two weeks to put it together and we got that many. I wonder how well we could do if we went further, than what we submitted. They don't want you to tell them what size to buy, there other things that they said they found, not really the right idea. But that's what you're doing, you're regulating their right to purchase what size they want. You're regulating us on what we can sell. That's the only way we can exist. Picture this, 30%. They say okay Mr. Anaya you can operate your business, go ahead and run your business, but for 2 ½ months you cannot get one penny of gross receipts. Nothing. No zero dollars coming in for 2 ½ months."

Mayor Gonzales said, "Could you wind down real quick, because I want to be fair to everybody who we limited to two minutes."

Mr. Anaya said, "Being fair. Thank you for the courtesy. I think, like I said, when I was there I allowed all the time there was. But that's what you're doing. And I also take issue to..... one more concern is I see the attorneys representing two factions here, two hats, that to me kind of shows an appearance of impropriety. And I just want to make a note of that among other things. Take it to study."

Miguel Vialpando, 829 Dunlap, Unit A, said, "I was up here before. And it is really impressive to see the youth show what they're doing, what they're showing. Definitely it's a big thing for other peoples livelihood, which is great. I'm sure the decision will be made today, but something to think about, to the youth and the businesses, have you ever worked together to create a program to pick up the litter. Have you created programs to help schools with extra-curricular activities where bringing your plastic bottles, the minis, bring in... I work in the restaurant business and I do deal with liquor companies."

Mayor Gonzales, "I would ask you address the Council."

Mr. Vialpando said, "I was just talking [*inaudible*]. So, really, what I would really like, as the decision is made today, I just really would like to see more synergy between two opposing.... this is my first City Council meeting, so I apologize and I appreciate your patience for tonight. I know it's running a little late, I'm supposed to be at work. But it's really cool to see this, and in the future I would like to see two groups working together for... I mean there's a litter issue and there is also the livelihood issue which I totally understand. I see both sides, and I totally.... it is a symptom. Alcoholism sucks, littering sucks. You know the Ordinance is for 8 ounces or less, correct. What if they create a 9 ounce bottle. Are we going to be back here again talking about the same issue. My thing is let's work together. Let's create something where everybody wins and people get help at the same time. That's all I have to say. Thanks you time and I think this is a really cool thing you're doing here, and I plan to be here a lot more. So thanks everybody, thanks to all of you that came up, and thanks to you and again for your time and patience. Thank you."

Linda Akin, attorney, said, "I'm a lawyer who specializes in liquor licensing, and I represent this group along with Mark Basham. I'm not representing anybody else at this time."

Mayor Gonzales said, "Linda I want to make sure, because we've allotted the time, you just keep it to 2 minutes. I wanted to be respectful to Commissioner Anaya."

Ms. Akin said, "Mine will be very short. I am the shorted person of all. There's only 3 things I want to say, one of the people who testified pointed to the trash bags in front of you to say, 'I collected these.' For the record, I don't think these will be on appeal, that they'll be taking the trash bags. Those are like 20 pound trash bags that you use in the yard. They're trash bags from outside, compared to the 2½ gallon ones, and she pointed at 4 of them that she collected in that small of a time, just for the record. Number two, the people who signed the petition are customers of these people who don't want to continue to be able to buy the miniatures."

Ms. Akin continued, "I thought this was strange the first time a client of mine told me this, but some people like to buy a small one on the way home, because they won't want to drink any more. They are controlling their portions. I thought that was strange when I first heard it. Why can't you just drink less of the bottle, until I thought about what I do, and I don't think about it that much, but I don't buy a whole box of cookies, because I take it home and eat it all in 2-3 days. I want a small container. And those people have

a right to be able to buy that small container and control their portion size. And they may drink even more as the result of this Ordinance, rather than less.”

Ms. Akin continued, “And the third one is the equal protection. I just want to describe, that’s a legal term really, but I think the problem is you’re treating sellers of one type of product that creates *[inaudible]* differently than people who sell other products that do exactly the same thing. Hotels, people who sell water bottles, people who sell soda cans, they’re not being addressed by this, and that’s the equal protection problem and why it becomes a civil rights case. That’s my comments.”

The Public Testimony Portion of the Public Hearing Was Closed

Mayor Gonzales said, “10-11.3, Marcos, can you explain what that specifically does, as it relates to the testimony that was given tonight which focused on the banning of miniatures and what this language states, because I want to make sure I understand it.”

Marcos Martinez, Assistant City Attorney said, “I may ask Alfred Walker to come up her and assist me, and fill any gaps I may omit as I explain it to you. But basically, this Ordinance falls under the City’s Litter and Nuisance Ordinance powers. So the purpose of the Ordinance is to address a nuisance that the City Council has identified. Under State law, cities and municipalities are allowed to identify, and to find a nuisance. They are able to abate and impose that nuisance, and provide for penalties of that nuisance. And so I would say that the position of this Ordinance within Chapter 10 generally falls under those powers that are outlined under State law. And I would let Alfred supplement anything I’ve said.”

Mayor Gonzales said, “Here’s the question real quick. As it relates to the nuisance does this provision state..... this is what it reads, just for the record, ‘In addition to the provision of Chapter 4 SFCC 1987, alcoholic beverages, unless contained in packages of 4 or more as delivered by the distributor, single serving containers of alcohol beverages in the sizes of 8 ounces or less shall not be sold or offered for sale within the municipal boundaries of the City of Santa Fe.’ So that, unless contained in packages of 4 or more, does that mean that a package could have 4 minis, as has been talked about tonight when people have said, or the small businesses or others who have been opposed to this, have said this is a ban on minis.”

Alfred Walker, Assistant City Attorney, said, “Yes. The theory behind the packages of 4 or more is that someone who buys a package of alcohol in 4 or more, likely is not going to walk outside the Allsup’s store, drink them down and throw them on the ground. It’s possible they will, but it’s more likely people are buying them in those quantities and taking them home where they will be disposed of at home.”

Mayor Gonzales said, “Just so I understand, and again...”

Mr. Walker said, “And that was in the original Ordinance that we had in the....”

Mayor Gonzales said, "What I heard tonight from people opposing this Ordinance, overwhelmingly, is that they view this as a ban on minis. But this section says there is a ban on the sale of a single mini."

Mr. Walker said that's correct.

Mayor Gonzales said, "And what needs to happen in these liquor outlets that the individual minis need to be packaged in quantities of 4 and sold to the public."

Mr. Walker said, "That's correct. If they're packaged from the distributor in packages of 4 or more."

Mayor Gonzales asked the price of a mini, saying he heard \$1.19. He asked, "Are we talking if the price would go the price of \$1.19 to maybe \$5 to buy the package."

Mr. Walker said, "I would think so. I understand they're often sold for 99 cents as I understand, and sometimes they're on sale for 79 cents."

Mr. Basham tried to speak.

Mayor Gonzales said, "No. We closed down the public hearing, Mark."

Councilor Trujillo said, "Here we have another thing that divides this community. It's unfortunate, for this many years, I've sat through too many of these. And I prepared a statement, because there's too many issues dealing with and I want to make sure I hit every point, so if you will indulge me." Councilor Trujillo read a statement into the record as follows:

We talk about being business friendly here in Santa Fe, but in my opinion if we pass this Ordinance, we are not doing this. As you might or might not know, the City already has a ban on miniatures in the Airport Road Overlay District. When this came before the Council, I had reservations about it, as I looked at who this ban would effect. When looking at this part of the City, the ban affected businesses like Allsups, Giant and Walgreen's. I saw businesses who don't sell alcohol, they sell things such as [inaudible] groceries and medications, etc., so the impact to their business would be minimal.

Now, it is proposed as a ban on miniatures and half pints of alcohol City-wide. Thus, the liquor stores, some who are owned by life long Santa Feans are going to lose a substantial portion of their sales, as they only sell alcohol and no other items. Is this being business friendly. Let me give you an example of being business friendly. The City is trying to kick start a certain business, the food trucks here in Santa Fe. There is even a Resolution right now making its way through committees that would ease restrictions and open the market for more food and mobile vendors. It bewilders me that we are trying to help one type of business in Santa Fe by removing restrictions, to entice more vendors, but imposing restrictions on other types of business that, in my opinion, will hurt that business. Santa Fe wants to be business friendly, but only if that business falls under

certain criteria. This is not the way to do it.

This proposal is being put forward as a litter problem. I totally agree that there is a litter problem here in Santa Fe. And please let me know which city anywhere doesn't have a litter problem. If we as a City are truly concerned with litter, then we as a City need to be more pro-active on similar trash and recycle cans along streets and in the neighborhoods that are seeing this type of trash problem. I have said I can walk down the street here in Santa Fe and find dog poop, and this in my opinion is a form of litter. Which one of my colleagues is going to introduce an ordinance banning dogs. I can walk down most streets here in Santa Fe and find gum wrappers and chewed gum stuck to the streets and sidewalks. Which one of my colleagues is going to introduce an ordinance banning gum. I can walk down most streets here in Santa Fe and find cigarette butts. Which one of my colleagues is going to introduce an ordinance banning cigarettes. I can walk down most streets here in Santa Fe and find plastic water bottles. Which one of my colleagues is going to introduce an ordinance banning plastic water bottles. I could go on and on with other items of litter.

The problem is that we, as Councilors pick and choose what we consider to be a litter problem. If we were going to ban miniatures at half price, then why not ban all small plastic bottles such as the energy drink bottles as well. Are we going now to create a bigger problem is because now people who purchased these smaller portions of alcohol, will be able to purchase the bigger pints, fifths, quarts and half gallons of alcohol. As I mentioned, are we creating a bigger problem.

There is also an amendment attached to this Ordinance that would exempt hotels that have mini-bars in their rooms. Why is it that a tourist, who comes to Santa Fe at the most for a week, would be able to purchase one miniature from a wet bar. But a person who lives here and pays taxes in Santa Fe 24/7 is not allowed to do the same or purchase it from a liquor store. Isn't a type of discrimination. What is being perceived is that the guest will more than likely purchase the miniature and drink it in the room. This is what is perceived, but who's to say the guest that the guest doesn't purchase the miniature, put it in their pocket, tour the downtown area, buy a soda at one of our downtown stores, and drop the contents of the miniature into the soda and enjoy their drink while in plain sight.

Another thing I see as it pertains to mini-bars, is that most hotels who have mini-bars are usually, in my opinion, upscale hotels. I don't think you're going to find a mini-bar at any motel 6. So, in essence, what is being proposed is that the higher end hotels, which cater to a higher-end clientele are able to sell their one miniature to the guest. As I see it, if you can afford to stay in a higher end hotel here in Santa Fe that offers a wet bar in your room, then this law doesn't pertain to you.

If this Ordinance were brought forward as a way to stop drinking, then it might have some merit, but it's not, it's being brought as a litter problem. This isn't Prohibition. There are already State and National laws in place that regulate alcohol and its sale.

The last issue with this proposed Ordinance, should it pass, is that a lawsuit is likely to be brought against the City. I've already heard that from you Mark. Is the City ready to spend taxpayer money and staff time to fight this in court. As we have seen with other licensing of alcohol where the City was involved, the courts have usually ruled against the City.

To conclude, ladies and gentlemen, I hear from a lot of constituents, that we, as a Council, are losing our focus and wasting too much time, in their opinion, on irrelevant issues and not tackling the big issues facing the City such as street repairs and infrastructure repairs of many of our City building, crime and transportation issues. One issue facing the City is the homeless shelter on Cerrillos Road that nobody wants to even talk about or have in their neighborhood, that is greatly needed in the City. This, in my opinion, is a right of an issue that needs to be talked about and finding some final solutions to ensure that the neighbors and the City come to a decision as to what the future of the shelter will be. We, as a Council, need to set priorities and tackle the big issues facing the City. I'm not saying all issues are relevant, but this is how I feel in siding with my constituents.

Councilor Trujillo concluded, "And I commend you for going and cleaning the trash. There is trash, and you know the sad part about it, you're counting it in my District, District 4, so I'm seeing that. But I really believe if we are considering this as a litter issue, that we as a City start putting more receptacle cans, more recycling cans throughout this entire City. Yes, it's going to cost us a little bit more, but if the true intent of this Ordinance is to tackle litter, then that is what we need to be pro-active on, City-wide. So if that's what we want to do, then I think the next budget cycle that we budget for 1,000 more trash cans throughout the City of Santa Fe, because it is billed as a litter issue, not an alcohol issue, a litter issue. And that's all I have, Mayor. Thank you."

Councilor Dominguez said he will ask questions and then he may give a speech.

Councilor Dominguez said, "Alfred I want to you to tell me why a District Judge will side with the City of Santa Fe, and not, as Mr. Basham has said, against the City of Santa Fe."

Mr. Walker said, "As Mr. Basham has said more than once, lawyers often disagree. But this is a very different Ordinance than the Ordinance passed in Albuquerque. As Mr. Basham pointed out, the lawsuit in Albuquerque was triggered when the City conditioned the transfer of a liquor license on compliance with its ordinance. This Ordinance does not affect liquor licenses at all. It doesn't address liquor licenses, it only addresses the litter issue. The transfer of the liquor license, that is an issue that is regulated by the State very clearly. And I think that's why the District Court Judge in Albuquerque took a look and said, you know what Albuquerque's trying to do.... and there was a lot more to their ordinances, and there were several ordinances that looked more like what the State does in regulation, than a city's regulation of litter."

Mr. Walker continued, "When the City Council banned plastic grocery bags, I don't think there was any argument that the City Council was trying to ban groceries. It's the container that is the issue. There

is no issue affecting licenses, no other issues affecting the sale of alcohol. And when it comes to an equal protection argument, I have to confess that I don't understand the equal protection argument. A Legislature can make distinctions between people or groups or companies or whatever, as long as it has a rational basis to do it. And as long as that distinction is not based on a protected class, such as race, religion, national origin, that type of thing. So an argument that we're treating hotels differently than liquor stores, yes, but if the Council has a rational basis for that, the rational basis is that people walk out of the Allsup's, drink the mini and throw it on the ground. And people in hotel rooms who pay \$5 instead of 99 cents for the mini are normally going to, I assume, toss it in the trash can."

Councilor Dominguez said, "So in your opinion, that's the big difference."

Mr. Walker said, "In my opinion it's a big difference, it's how the Court addresses the legislation. Do they look at it under a rational basis test, which is the way litter and regulations are looked at."

Councilor Dominguez said, "So, in your legal opinion it has nothing to with whether or not it's an upscale hotel, or the fact it is a hotel. It has to do with the sale place."

Mr. Walker said, "Right, and we didn't say hotels, we said for off site consumption, because hotels are selling them for on-site consumption."

Councilor Dominguez said, "I'm glad you clarified that, because I was actually getting ready to propose a friendly amendment to eliminate that language from hotels, but I think your rationale makes sense. So, two other questions if I can Mayor."

Councilor Dominguez said, "So two other questions if I can Mayor. The other question is for you Alfred. We've heard testimony tonight under perjury, I think. I don't know. Is that true Mark."

[Mr. Walker's response here is inaudible because he was away from the microphone]

Councilor Dominguez said, "Whatever, I'm not an attorney you can tell. Did you give direction to youth to go pick up miniature bottles along Siringo Road, or whatever road."

Mr. Walker said, "No. No."

Councilor Dominguez said, "Thank you. I'm offended that someone would suggest that, because the testimony I heard was that, although it's not a secret that you are associated with the organization, the idea that you directed young people to do this...."

Mr. Walker said if you will indulge me.

Mayor Gonzales said, "He's got another question. You answered the question right."

Mr. Walker said, "I won't.... I'll leave it at that."

Councilor Dominguez said, "I have another question, and this is going to be a little bit of an experiment, so I need you to open that black plastic bag across from you Brian, or someone, because I can see what's in 'that,' but I can't see what's in 'that.' No, I would rather the public not do it."

Mayor Gonzales said, "I'll go do it."

Councilor Dominguez said, "There's a reason why I'm asking."

Mayor Gonzales said, "It's trash."

Councilor Dominguez said, "I would recommend or ask that.... we do have a Litter Ordinance in place. I would ask you get your staff to look through that trash, as we have in other cases, and find out who threw that trash and apply the appropriate ordinance to that, if that's there's an opportunity to do that with the evidence that's provided there."

Councilor Dominguez continued, "The second question that has to do with the plastic bags, and I'm going to try to be equal. So we've got clear plastic bags, which I can pretty much see what's in them. That's provided by who. SWAT. The Alliance. Okay is there someone who is going to speak for SWAT. The question I have is, is there a particular reason why you chose to pick up trash on Siringo Road as opposed to Airport road."

Shelley Mann-Lev said, "I can answer that two ways. We have SWAT teams at Santa Fe High and at Capital High, as well as a number of other schools, and the Capital High group was not as motivated because this Ordinance already applies to their area as part of the Land Use Regulations. And the Santa Fe High group was very interested. In fact, their choice of location was based on the fact that there was no transportation available, so they just walked out of their school as an activity. And they actually were quite surprised at the amount..."

Mayor Gonzales said, "I want to make sure to limit what is coming from the public. So she answered the question. Good, thank you. Any others."

Councilor Dominguez said, "So it is safe to say then that the reason you picked up the trash along Siringo Road is because there was going to be little trash along Airport Road because of the ban."

Ms. Mann-Lev said, "I cannot speak for that directly. I think that's something we would need to take a look at. What I do know is, again, the Santa Fe High group took this on as an activity, led by Phil Lucero their coordinator as a student group activity. And they have a much broader mission, a very different mission than the Santa Fe Prevention Alliance. They're looking at improving their school and community."

Councilor Dominguez said, "So those were the primary questions I had as it pertains to the litter, and there is some substance to it. I'm going to give a little bit of a speech now that is not so much the substance, it's not my primary reason for supporting this. This is a secondary reason for supporting this, and it's pretty much not influencing my decision tonight, but I'm going to state it anyway. We talked about liquor being sold in the County, and there was a lot of discussion about what legislation exists that the State can do or that the City can or can't do. But the real thing is, that because the State does not allow more local control, that is why we have to become creative in some of the legislation that we put forward. And I think that's a shame. That's unfortunate. I'm not sure how many people who are here, opponents of this that have gone to the State Legislature to lobby to allow the municipality to have more local control, but I don't think it's very many."

Councilor Dominguez continued, "We talked about profits and I'm going to say that I want to put people over profits, because if our local economy is dependent on the sale of miniature drinks, then we have bigger problems than banning miniature drinks. I think I just want to state that out very clearly."

Councilor Dominguez continued, "Councilor Trujillo talked about change in the previous item. Well, let me tell you about the things I want to change, and they're big issue items, right. Number one, Santa Fe, your community, the community that we live in, Santa Fe kids drink younger than anywhere else in the country. That's a sobering statement right there. When we talk about changing social norms, that's how we do. You have to be bold enough, and you have to live up to the challenges that even someone like Mr. Basham brings up, and the industry brings up, to change those social norms so that we can be on the better side of the bad things. In other words, we want to be the best community that we can be. Having Santa Fe kids drinking younger than anyone else in the country is not good. This is going to hopefully help change that."

Councilor Dominguez continued, "Number two. On a State level, that was the local level, on the State level, New Mexico is the number one state in the last 3 years for alcohol related deaths. And number three, let's talk about the taxes that you young people are going to have to pay. The burden is going to be on you as taxpayers when you talk about the cost of alcohol abuse. Mark Basham isn't going to pay, because I'm not sure he's going to be around, but you young people are going to be stuck with that tax to pay for the cost of alcohol related diseases. And so those are the secondary reasons, those aren't the primary reasons I'm supporting this. The primary reason is the litter we've talked about, but I just want to make sure that our job as a Governing Body is to make local changes and do what we can to improve the quality of life of local folks. So there's my speech and I'll yield the floor."

Councilor Lindell said, "I'd like to thank everybody that came out tonight and spoke on this. I think stressing the point that it is a ban on sale of single servings. It's not a ban on a sale of miniatures in totality. Some of the numbers that were batted around tonight... I was a little surprised when we were talking about \$200,000 in gross receipts tax, that means over 2 million of these are sold a year in this Town. That's an astounding number to me. 2 million. So, this is brought forward about litter and about a nuisance. Seldom can we identify a problem so clearly and bring forth a remedy to it, and that's what we're proposing here."

MOTION: Councilor Lindell moved, seconded by Councilor Dominguez, to adopt Ordinance No. 2015-11, with the amendments.

DISCUSSION: Councilor Dimas said, "Initially, I signed onto this bill because I believed in a lot of what it had to do. It's gotten very confusing and it's gotten convoluted in a lot of different directions. And one of those directions is that it appears that its only concerning litter at this point. And having been in the position that I was in for a number of years on the bench and dealing with DWI issues constantly.... you know, I probably handled more than 5,000 DWI cases over the time that I was on the bench. And I can tell you that it's a sobering issue here in Santa Fe. And we do have a lot of alcohol related deaths."

Councilor Dimas continued, "For me, I'm not so interested in the litter aspect of this as I am in getting drunk drivers off the roads. And as much as I love Richard Anaya and the Ortizes and all the small business people here, in my own heart, after listening to all of this, I'm going to continue supporting this, only because if this Legislation will take just one alcohol impaired driver off the road, just one, and if we can save an innocent life as the result of that, and I honestly believe that we can with this Ordinance. To me, that's enough justification to support this legislation wholeheartedly."

Councilor Dimas continued, "We're going to continue having litter no matter what. I don't care if it's miniature or whatever might happen to be beer cans or whatever. But I can tell you that too many times I've witnessed persons who have bought these miniatures, going into Allsup's, going into a lot of these stores and buying a Big Gulp Coke, and putting the miniature in it, and maybe they don't litter with it. What they do is they go out and they take it, because they know if they're caught with an open container, they're not going to get arrested because it's not an arrestable offense by the way. It's just a fine. \$50 plus court cost for an open container, but if they're going to get in their car and they're going to drink this, they're not going to get caught with an open container, but they are drinking and driving. And too often I've seen this and that's the reason that I'm supporting this. Any way we can get a drunk driver off the road, I will support."

Councilor Bushee said, "I will say, I am empathetic to small business owners, sympathetic to small business, I'm a small business owner myself. And I would imagine that there will be the next product that people will turn to and my hope is that you will not suffer a decline in your business. But what I will say to you that it really is a concern of my constituents. I have, within a small circumference, 3-4 liquor establishments from Walgreens to Owl Liquors to the one with the couch out front, House of Booze, and I have, all over that neighborhood, from Hickox to the Railyard, heard constant concern dealing with the minis. They don't like the hypodermic needles. They call me and talk about the broken window syndrome and about how they can reclaim their neighborhoods. They've tried to keep up. We've gone out collectively, and it truly is an issue. I'm not someone who likes to over *[inaudible]* it. But when I find that there is a root cause and effect and we have the opportunity to do something about it, I'm in favor of this. We could go on for days about alcohol, alcoholism, this truly is a litter concern I hear about on a regular basis from my constituents. So I have to abide by what their wishes are. Thanks to everyone for their time and efforts. I know it's a passionate concern for many, but these bags right out here, that's why I have to vote for this."

Councilor Ives said, "For me this is a litter issue me as well, and I would echo many of the statements of Councilor Bushee, in terms of hearing from constituents that the problem exists in our neighborhoods, certainly about the visual impact that these things have within the City of Santa Fe. I look at the proposed Ordinance, and I think it is a reasonable means to try and regulate this litter problem. I believe the single serving size bottles, such as displayed here on the floor at City Hall, are the most significant contributors to this type of litter across the City of Santa Fe, and as such, are an appropriate item for regulation by this Governing Body. I know we've had some discussion tonight about statements from our SWAT team with regards to where they were collecting and challenges as to where they collected it, and the fact that there was other trash out there. But, even as Mr. Basham said, miniatures are part of the trash problem, they're not the full extent of it, but they exist. They're here on our floor and the very people who opposed the Ordinance are the ones that saw these kids out there collecting them along our roadways in our arroyos. And for me, we're not just talking about the roadways, we're talking about the arroyos and everywhere that you find these. So, for it me, affirms the fact that these bottles are a problem in our community, and raises the question of what we can reasonably do to try and regulate them. I would certainly love to hear more in the future about impact on the businesses."

Councilor Ives continued, "Again, this isn't an outright ban on the sale of miniatures based on containers, so there is an important qualification there that folks have spent little time on. But I suspect that single use is really the issue we're trying to get to and I think this measure gets to that. And again, certainly hope to hear more in the future about the impact on the businesses. I know everybody's here making as strong a case as they possibly can for the terrible effects that it will have, but I can't accept those arguments at this point in time, given the way the Ordinance is phrased, so I am in support of this as a means of controlling a considerable source of litter within the community as evidenced by the efforts of the students at collecting them and the testimony of others in the community who find this to be a tremendously unsightly source of litter. I think it is very reasonable that this Governing Body seek to try and regulate the litter in an intelligent way that eliminates the problems, and in my mind, appropriately balances the interests to continue to carry on the conduct of their business. Thank you Mr. Mayor."

Councilor Rivera said, "I think I've tried to keep an open mind about this since it first came up through the Committee process, and I wanted to hear what the public had to say tonight. And there were some very compelling arguments made from our youth who brought several and probably worked pretty hard to collect those. And there's the other side of it with the business owners and really affecting them and their bottom line and their employees, and not wanting to see employees let go because of this Ordinance."

Councilor Rivera continued, "With that being said, I bring it back to something a little more personal, and that's the church I attend which is a place that has many homeless around it. And there is a serious litter problem with miniatures there. There's panhandling at the store where they get the miniatures. They buy a couple and they're found frequently in the parking lot. I'm not sure I'm willing to trade 3 miniatures for a half pint or a pint. Although we may be taking care of the litter problem, are we really helping individuals by forcing them to buy a 4-pack of miniatures, or even a larger container of alcohol."

Councilor River continued, "I've gone either way on this and I probably won't decide until right before I'm about to vote. Some very good arguments were made tonight, and thank you all for being here and helping us think about this, and thanks to Councilor Lindell for bringing it up. It takes a lot of courage to do something like this. I'll just leave it at that, Mr. Mayor, thank you."

Mayor Gonzales said, "Just two quick questions. I'm going to ask Alfred one and then Mark, I'm going to ask you to stay limited on what I ask you the question on. Do you feel, Alfred, that the Liquor Act as developed by the State, allows for this type of Ordinance as a Nuisance Ordinance or for litter to come into play. It seems like the clear statement of the regulatory act prevents local governments from preempting State statutes when it comes to the regulation of liquor. Has there been some review, or case study or research to feel comfortable, I know you stated this is different from Albuquerque, but to feel comfortable that this is not doing anything to violate any portion of the Liquor Act that governs the sale and distribution of alcohol."

Mr. Walker said, "In my view, this Ordinance addresses litter, not liquor, and therefore the Liquor Control Act wouldn't apply. The Liquor Control Act is primarily concerned with the licensing of liquor establishments with certain issues as to the sales of alcohol, hours, that type of thing. This Ordinance, I believe, falls within the traditional police power of a municipality to control trash. Now, I would have to agree with Mr. Basham that lawyers can disagree on something like this, and if Mr. Basham follows through with his lawsuit, which I fully expect him to do, then a District Court Judge will make that final determination."

Mayor Gonzales said, "Mark just a quick question, because when I was bringing up the issue about this not being a ban and understanding that it is not a ban on the sale of minis, because what it's regulating is basically the sale of individual.... much of your testimony was about this being a ban on the sale of minis, but this is not a ban on the sale of minis."

Mr. Basham said, "It's a ban on the sale of minis, it's a ban on the sale of quarters and it's a ban on the sale of half pints."

Mayor Gonzales said, "I just wanted to make sure, because I read here that it is not a ban on the sale of minis and that it is an issue of needing to package them in 4 to actually release the minis outside the door."

Mr. Basham said, "This Ordinance does not only address minis."

CLARIFICATION OF THE MOTION BY THE CITY CLERK PRIOR TO VOTE: The City Clerk asked the maker of the motion, Councilor Lindell, if her motion includes the amendment that is the packet. Councilor Lindell said yes.

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

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

Against: Councilor Rivera and Councilor Trujillo.

Explaining his vote: Councilor Dominguez said, "Cheap alcohol is not good for anyone. Yes."

Explaining his vote: Mayor Gonzales said, "I'm going to say yes, in belief of the fact that this is not a ban on minis, this is an attempt to regular litter that is disbursed throughout the community, and on the testimony of Mr. Walker that said the City has the ability to develop this type of Ordinance and it not being in conflict with the Liquor Control act."

- 4) **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 29, 2015 CITY COUNCIL MEETING.**

This item is postponed to the City Council meeting of April 29, 2015.

The Governing Body then resumed consideration of afternoon Agenda Items 14 through 21

14. **UPDATE ON COMMUNITY HOSPITAL AND HEALTH CARE STUDY GROUP – ESTABLISHED PURSUANT TO RESOLUTION NO. 2014-19. (KATE NOBLE). (Postponed at March 25, 2015 City Council Meeting)**

Ms. Noble presented information from her Memorandum of April 8, 2015, to the City Council. Please see this Memorandum for specifics of this presentation.

Mayor Gonzales said we are asking for direction from the Council on how to proceed with this study group. He said he has requested, at the direction of members of the Council, appointment by the groups outlined in the previous Resolution. He asked Ms. Noble to advise what we have received since that time from those groups.

Mr. Noble noted no communications have been received from certain key organizations, including Presbyterian Medical Services, SVH support and Santa Fe County.

Mayor Gonzales asked Councilors Ives and Bushee their thoughts in terms of direction since they are sponsors of the bill.

Councilor Bushee said she's unsure where the holdup is, perhaps on the hospital side. She said we navigated this in the past, we compromised quite a bit and we wanted equal representation and she is unsure. She said she has received many resumes and calls from people that want to serve on this important issue. She is starting to have a great number of concerns on a number of issues. She feels time is ticking, noting there was a promise to have them appointed by January. She said this is getting into a long period of time. The idea was we would sit together and talk with one another, and stop the discussion in the media, and have a full-blown community discussion. She still feels the same as she did when she brought this forth initially, and reiterated she wants to see the appointments being made.

Councilor Ives said he continues to believe firmly that the delivery of health care in Santa Fe is of vital concern to the community, and the assurance of providing relevant, timely and cost-effective health care services across the community is a significant issue. He is happy the Hospital and the Nurses Union resolved and are on a contract and have put it in place. He supports continuing in this endeavor, noting there are potentially new players that would be interested in being involved in this process at the State level, and believes the State Department of Health might be interested in participating in the study, as well as the State Insurance Division.

Councilor Ives said he is interested in populating the study group, but he would like to bring amendments to the original Resolution to adjust some of the participants to try and include other members that potentially have a significant contribution to make to the discussion. His preference would be to have some time to make the proposed amendments, reach out to some of the other players he believes exists and there is no reason not to start populating the study group. He wants to get the relevant voices involved and engaged so it really can be as productive an endeavor as possible.

Mayor Gonzales said he can bring forth the recommendations of Councilor Lindell and Bushee, and begin to populate as indicated and make it an opportunity for the Council to consider amendments to the Resolution, but not put a hold on people that are waiting in the wings for the appointments.

Councilor Maestas said the genesis of the study group was during the run up to negotiations for the Union contract for the nurses, and maybe since they've come to an agreement, maybe the sense or urgency isn't quite there, but jr believes there still is a need to have such a group talk about health care in our community. He said he would suggest bringing all the stakeholders together that we wish to be members of this and have a facilitated discuss to talk about how do you see this group today. He said maybe the stakeholders need to meet in a more formal fashion to talk about this group, look at the Resolution and then offer amendments. And then we go forward with some feedback from bringing them together.

Councilor Maestas said we can still declare our intent to have this group, but suggests bringing them together in advance of formally appointing this group, because it's large – 35 members is quite large. He asked if it has to be that big, commenting perhaps some stakeholders may no longer want to be on the committee since we have come to an agreement with the union contracts. He said a backup plan would be to bring in the stakeholders in a large meeting, talk this out, and let them help to come up with some amendments to this Resolution. Let them come up with some buy-in, in terms of how they want this group constitute, and they can declare to what extent if any they want their organizations to be involved. So, just a suggestion to maybe have a little summit meeting as the central focus.

Mayor Gonzales said this is a good suggestion, noting in conversations with the hospital and some of the other groups, they felt like there is a different environment today. The focus that was suggested is the County Health Policy Health Plan into the future. He said it can be left on a shelf, or a group will be put together that can begin to implement what is laid out by the Plan. He said there are multiple interests in advancing health care in our community, such as integrated health by combining alternative medicine with traditional medicine. He hopes, through this Resolution, this committee, somehow we're figuring on focusing on how to develop a roadmap for Santa Fe over the next 15-20 years becoming a high quality health care community. He said somehow that has to be a conversation. He said the Health Policy Planning Council is meant to do that in the Plan and he doesn't want to discount the work that was done there either.

Councilor Bushee said it is a living document in a way, it's a Resolution. We have to get the ball rolling somewhere. She said her concerns are around medical professionals, noting the anaesthetists' group was just broken up. She said there are repeated concerns about the quality of care to be offered to this community, which has become somewhat of an aged and retirement focus. We need to be doing the same focus on quality care with our hospital. It is a community hospital and she doesn't want to lose sight of that. She doesn't want to hear that people are going elsewhere for their care.

Mayor Gonzales said, "I will bring the names forward to the Council for consideration of appointment, and Councilor Ives can decide if he wants to bring forward amendments to the Resolution.

15. CONSIDERATION OF RESOLUTION NO. 2015-32 (MAYOR GONZALES AND COUNCILORS BUSHEE, DIMAS, DOMINGUEZ, IVES, LINDELL, MAESTAS, TRUJILLO AND RIVERA). A RESOLUTION AFFIRMING THE CITY OF SANTA FE'S POLICY OF NON-DISCRIMINATION AND JOINING OTHER ELECTED OFFICIALS THROUGHOUT THE COUNTRY WHO HAVE IMPLEMENTED POLICIES OF NON-DISCRIMINATION WITHIN THEIR COMMUNITIES. (KELLEY BRENNAN AND MARCOS MARTINEZ)

Mayor Gonzales said much of this is driven by a series of legislative efforts across countries to specifically use the Religious Freedom Act to discriminate against LGBTQ individuals. The idea is to make sure we don't support travel into these areas or support these economies that have discrimination legislation. He is asking the Governing Body to join a series of Mayors from across the country that have passed similar resolutions and opposing that type of legislation.

Councilors Bushee and Ives said they are cosponsors, and need to be added. Councilors Dimas, Dominguez, Lindell, Maestas and Trujillo asked to be added as cosponsors as well.

MOTION: Councilor Maestas moved, seconded by Councilor Ives, to adopt Resolution No. 2015-32.

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

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

Against: None.

16 MATTERS FROM THE CITY MANAGER

None.

20. MATTERS FROM THE CITY CLERK

None.

21. 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 April 8, 2015, is incorporated herewith to these minutes as Exhibit "13."

Councilor Dimas

Councilor Dimas wished his mother a Happy Birthday on Sunday, April 12, 2015, when she will be 90 years young.

Councilor Maestas

Councilor Maestas commended staff for their oversight and planning on the widening of Old Santa Fe Trail, noting shoulders were added the section of Old Santa Fe Trail between Zia and Museum Hill. He sees a lot of his constituents walking along the roadway and it is dicey when there are no shoulders. He said now pedestrians and bicyclists can enjoy the new shoulders on Old Santa Fe Trail.

Councilor Maestas introduced a Resolution relating to the municipal capital outlay gross receipts tax ordinance, Section 18-18 SFCC 1987, and management of the City's Water Utility's finances; directing staff to evaluate the allocation and expenditure of the Municipal Capital Outlay Gross Receipts Tax dedicated to water systems and facilities so that the Governing Body may develop a plan to make the Water Utility Enterprise financially self-sustaining and determine whether to eventually amend the dedication provision of Section 18-18 SFCC 1987.

Councilor Bushee

Councilor Bushee introduced the following:

1. An Ordinance amending Section 14-2.3(D) SFCC 1987, to establish membership requirements for the Planning Commission. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "14."
2. A Resolution directing staff to develop and implement a single stream automated recycling collection program aimed at making the recycling system user friendly, increasing the type of materials accepted; increasing participation and increasing the overall rate of diversion. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "15."

Councilor Bushee said, for the City Attorney and the City Manager, and perhaps the Police Chief, she read in paper and she is uncertain why we are unable to pursue decriminalization of marijuana cases here in the City at the Municipal Court. She requested that someone of authority provide her a written memorandum on that, saying she would really appreciate it.

Councilor Ives asked how Councilor Bushee's Resolution differs from the one that they cosponsored earlier on single stream.

Councilor Bushee said she had a resolution directing staff to go for long hanging fruit and pursue the option of single stream. This Resolution says go forth and come back with proposals for single stream recycling and how to approach it.

Councilor Ives said he likely will join as a cosponsor, but he wants to do the comparison on his side.

Councilor Ives

Councilor Ives introduced a Resolution directing the Public Utilities staff to create a "Carbon Neutral Impact Report," (CNIR) form that helps to identify and quantify carbon emissions stemming from proposed City resolutions and ordinances, in order to better ascertain the positive or negative effects the proposed legislation has on the environment; requiring City staff to use and complete the CNIR when assessing proposed Resolutions and Ordinances.

Mayor Gonzales

Mayor Gonzales introduced the following:

1. A Resolution relating to Santa Fe's historical heritage; historian services that would provide opportunities for local residents, including youth, to be educated about Santa Fe's rich historic heritage. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "16."
2. A Resolution repealing Resolution No. 2007-22 regarding the Parks and Open Space Advisory Commission; repealing Resolution No. 1998-28 regarding the GCCC Advisory Commission; repealing Resolution No 1999-88 regarding the Marty Sanchez Golf Course Advisory Committee; repealing Resolution No. 2009-130 regarding the Municipal Tree Board and establishing a new Parks and Recreation Advisory Commission. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "17."
3. A Resolution requesting the U.S. Department of Agriculture and the U.S. Department of Health and Human Services adopt in full the Scientific Report of the 2015 Dietary Guidelines Advisory Committee.
4. A Resolution relating to child hunger; proclaiming support for community efforts to ensure that all children ages 0-18 are able to access at least one healthy meal per day. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "18."

Mayor Gonzales said on a personal note, he would like to thank each of the Councilors for their heartfelt well wishes and prayers to him and his family during the recent passing of his father. He said, "I appreciate the personal phone calls, the sharing of how you were able to overcome some of the losses you've had in your own family and that certainly helped a bunch. I want to say thanks to this Council on behalf of la Familia Gonzales for really moving around our family during that tough time and being with us. It means a lot to all of us. Thank you."

Councilor Dominguez

Councilor Dominguez introduced a Resolution directing City staff to work with a qualified consultant in a transparent, participatory process to develop a Parks and Recreation Ten-Year Master Plan. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "19."

Councilor Dominguez reminded the Council that we have our budget hearings on the 28th and 30th of April. He said he will ensure the entire Governing Body is invited to the Finance Committee Budget hearing meetings. Everyone is welcome to come, and he asked people to come with solutions, noting we

made a significant move forward today with our vote on the health care, which he thinks will help sometime.

Councilor Dominguez said on May 1 & 2, 2015, at the Sheraton Albuquerque Uptown Hotel, the National Association of Latino Elected Officials will holding a New Mexico Statewide Policy Institute on Education, noting this is a collaboration between School Boards, State Officials, local City Officials and U.S. Congressmen will be part of the discussion. He will get the invitation to Mr. Snyder so he can send it to the rest of the Governing Body.

Councilor Lindell

Councilor Lindell introduced an Ordinance relating to the Land Development Code, Chapter 14 SFCC 1987; amending Subsection 14-6.1(C), Table 14-6.1-1, Table of Allowed Uses to correct typographic errors in the designations of Districts within which sheltered care facilities are permitted, and making such other stylistic or grammatical changes that are necessary. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "20."

Councilor Trujillo

Councilor Trujillo Introduced a Resolution recognizing the Second Annual Santa Fe Adult Softball League *Zozobra Burn-Out Tournament*, and authorizing that the tournament be held this year and every year thereafter in coordination with the Kiwanis Club; and directing staff to assist in facilitating the event. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "21."

Councilor Rivera

Councilor Rivera introduced an Ordinance amending the City of Santa Fe Alarm System Ordinance, Section 20-5 SFCC 19887 to clarify certain provisions; amend the fines for false alarms; and amend late reporting fees that are assessed against alar installation companies and alarm monitoring companies. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "22."

Councilor Rivera wished his wife a Happy Birthday on April 3, 2015. He said he sister had a birthday on April 5th. He wished Sadie Ochoa, his Uncle Robert's Mother, a Happy Birthday who turned 102 on April 2nd. He wished his second oldest daughter a Happy Birth on April 20th.

17. MATTERS FROM THE CITY ATTORNEY

EXECUTIVE SESSION

IN ACCORDANCE WITH THE NEW MEXICO OPEN MEETINGS ACT §§10-15-1(H)(7) AND (8) NMSA 1978, DISCUSSION REGARDING THREATENED OR PENDING LITIGATION IN WHICH THE CITY OF SANTA FE IS A PARTICIPANT, INCLUDING, WITHOUT LIMITATION, QWEST CORPORATION V. CITY OF SANTA FE, CASE NO. 14-2008 IN THE U.S. COURT OF APPEALS AND THE TENTH DISTRICT; AND DISCUSSION OF THE PURCHASE, ACQUISITION OR DISPOSAL OF REAL PROPERTY BY THE CITY OF SANTA FE.

MOTION: Councilor Dominguez moved, seconded by Councilor Trujillo, that the Council go into Executive Session for discussion regarding threatened or pending litigation in which the City of Santa Fe is a participant, including, without limitation, *Qwest Corporation v. City of Santa Fe*, Case No. 14-2008 in the U.S. Court of Appeals for the Tenth District, and discussion of the purchase, acquisition or disposal of real property by the City of Santa Fe, in accordance with §§10-15-1(H)(7) and (8) NMSA 1978.

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

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

Against: None.

Abstain: Councilor Ives said, "Due to the subject matter to be discussed I will abstain from the vote."

The Council went into Executive Session at 10:45 p.m.

MOTION TO COME OUT OF EXECUTIVE SESSION

MOTION: At 11:45 p.m. Councilor Rivera moved, seconded by Councilor Dimas, that the City Council come out of Executive Session and stated that the only items which were discussed in executive session were those items which were on the agenda, and no action was taken.

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

18. ACTION REGARDING QWEST CORPORATION V. CITY OF SANTA FE, CASE NO. 14-2008 IN THE U.S. COURT OF APPEALS FOR THE TENTH DISTRICT. (KELLEY BRENNAN)

MOTION: Councilor Dominguez moved, seconded by Councilor Maestas, to instruct the City Attorney to take final action consistent with the discussion held during the Executive Session, as it pertains to Qwest

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

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

Against: None.

Absent for the vote: Mayor Gonzales.

Abstain: Mayor Pro-Tem Ives.

MOTION: Councilor Dominguez moved, seconded by Councilor Maestas, to instruct the City Attorney to take action consistent with the discussion held during the Executive Session as it pertains joining the City of Las Vegas in its suit against San Miguel County.

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

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

Against: None.

Absent for the vote: Mayor Gonzales.

19. ACTION REGARDING THE PURCHASE, ACQUISITION OR DISPOSAL OF REAL PROPERTY BY THE CITY OF SANTA FE. (KELLEY BRENNAN)

MOTION: Councilor Dominguez moved, seconded by Councilor Bushee, to approve the lease between the City of Santa Fe and the Santa Fe Boys & Girls for the acres of land the City owned improvements located in Tierra Contenta upon the terms and conditions discussed during the Executive Session.

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

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

Against: None.

Absent for the vote: Mayor Gonzales.

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 11:45 p.m.

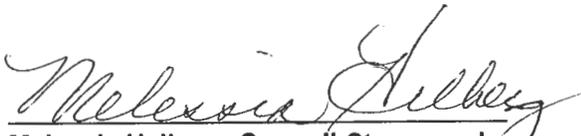
Approved by:

Mayor Javier M. Gonzales

ATTESTED TO:

Yolanda Y. Vigil, City Clerk

Respectfully submitted:


Melessia Helberg, Council Stenographer

CITY COUNCIL MEETING
EXECUTIVE SESSION
April 8, 2015

The Governing Body of the City of Santa Fe met in an executive session duly called on April 8, 2015 beginning at 10:50 p.m.

The following was discussed:

- 1) In Accordance with the New Mexico Open Meetings Act §10-15-1(H)(8) NMSA 1978, Discussion of the Purchase, Acquisition or Disposal of Real Property by the City of Santa Fe.

PRESENT

Councilor Bushee
Councilor Dimas
Councilor Dominguez
Mayor Pro Tem Ives
Councilor Lindell
Councilor Maestas
Councilor Rivera
Councilor Trujillo

ABSENT

Mayor Gonzales

STAFF PRESENT

Brian K. Snyder, City Manager
Yolanda Y. Vigil, City Clerk
Marcos Martinez, Assistant City Attorney
Terrie Rodriguez, Youth and Family Services Division Director
Matthew O'Reilly, Asset Development Director

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

PRESENT

Councilor Bushee
Councilor Dimas
Councilor Dominguez
Mayor Pro Tem Ives
Councilor Lindell
Councilor Maestas
Councilor Rivera
Councilor Trujillo

ABSENT

Mayor Gonzales

STAFF PRESENT

Brian K. Snyder, City Manager
Yolanda Y. Vigil, City Clerk
Marcos Martinez, Assistant City Attorney
Matthew O'Reilly, Asset Development Director

- 3) In Accordance with the New Mexico Open Meetings Act §10-15-1(H)(8) NMSA 1978, Discussion Regarding Pending Litigation in Which the City of Santa Fe is a Participant, Qwest Corporation v. City of Santa Fe, Case No. 14-2008 in the U.S. Court of Appeals for the Tenth District.

PRESENT

Councilor Bushee
Councilor Dimas
Councilor Dominguez
Councilor Lindell
Councilor Maestas
Councilor Rivera
Councilor Trujillo

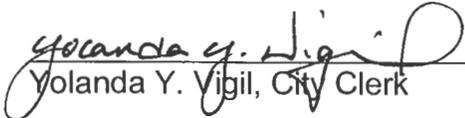
ABSENT

Mayor Gonzales
Councilor Ives (Recused)

STAFF PRESENT

Brian K. Snyder, City Manager
Yolanda Y. Vigil, City Clerk
Marcos Martinez, Assistant City Attorney
Matthew O'Reilly, Asset Development Director

There being no further business to discuss, the executive session adjourned at 11:42 p.m.


Yolanda Y. Vigil, City Clerk