

**SUMMARY INDEX
SANTA FE CITY COUNCIL MEETING
February 26, 2014**

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
<u>AFTERNOON SESSION</u>		
CALL TO ORDER AND ROLL CALL	Quorum	1
APPROVAL OF AGENDA	Approved [amended]	1
APPROVAL OF CONSENT CALENDAR	Approved [amended]	2
CONSENT CALENDAR LISTING		2-5
APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – FEBRUARY 12, 2014	Approved	5
<u>PRESENTATIONS</u>		
PROCLAMATION – SANTA FE CULINARY TREASURES DAY – FEBRUARY 26, 2014		5-6
MUCHAS GRACIAS – LISTENING HORSE THERAPEUTIC LISTENING PROGRAM		6
MUCHAS GRACIAS – RICK CARVER, USS SANTA FE		6
MUCHAS GRACIAS – CLAUDIA BORCHERT		6
PROCLAMATION – ANDREA BACIGALUPA DAY – FEBRUARY 26, 2014		6-7
<u>CONSENT CALENDAR DISCUSSION</u>		
REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – WATER AND WASTEWATER SERVICE LINE PROTECTION PROGRAM (RFP #14/12/P); SERVICE LINE WARRANTIES OF AMERICA, INC. (SLWA)	Approved	7

ITEM

ACTION

PAGE #

CONSIDERATION OF RESOLUTION NO. 2014-16. A RESOLUTION SUPPORTING EFFORTS TO RETAIN YOUNGER TALENT AND INVIGORATE SANTA FE'S NIGHTTIME ECONOMY AND CREATING A TASK FORCE TO MAKE ACTION RECOMMENDATIONS TO THE GOVERNING BODY

Approved w/amendments

8-9

CONSIDERATION OF RESOLUTION NO. 2014- _____. A REQUEST FOR APPROVAL OF A RESOLUTION RELATING TO THE REPLACEMENT POWER/ENERGY PLAN PROPOSED TO REPLACE 836 MEGAWATTS AT THE SAN JUAN GENERATION STATION; URGING THE NEW MEXICO PUBLIC REGULATION COMMISSION TO REJECT PNM'S REPLACEMENT PLAN AND CLAIM FOR COST RECOVERY OF STRANDED ASSETS AND SUPPORT AN ALTERNATIVE RENEWABLE ENERGY BASED REPLACEMENT PLAN

Postponed to 03/26/14

9-17

CONSIDERATION OF RESOLUTION NO. 2014-17. A RESOLUTION REPEALING RESOLUTION NO. 2013-80 THAT CALLED FOR A THIRD PARTY INDEPENDENT AUDIT OF THE 2008 PARKS, TRAILS AND OPEN SPACE BOND; AND AUTHORIZING A SPECIAL EXTERNAL AUDIT OF THE ENTIRE EXPENDITURE OF 2008 PARKS, TRAILS AND OPEN SPACE BONE ("2008 BOND")

Approved

17-19

END OF CONSENT CALENDAR DISCUSSION

CONSIDERATION OF RESOLUTION NO. 2014-18. A RESOLUTION AUTHORIZING THE CITY OF SANTA FE TRANSIT DIVISION TO PROVIDE FREE RIDES ON ALL BUS ROUTES AND SANTA FE RIDE VEHICLES ON ELECTION DAY, FOR THE 2014 MUNICIPAL ELECTION, MARCH 4, 2014

Approved

20

REQUEST FOR APPROVAL OF COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF SANTA FE AND THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME)

Approved

20-23

ITEM

ACTION

PAGE #

REQUEST FOR APPROVAL OF COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF SANTA FE AND THE SANTA FE FIREFIGHTERS ASSOCIATION

Approved

23-26

CONSIDERATION OF RESOLUTION NO. 2014-19. A RESOLUTION AUTHORIZING THE ESTABLISHMENT OF A COMMUNITY HOSPITAL AND HEALTH CARE STUDY GROUP TO EXAMINE THE EFFECTS OF THE AFFORDABLE CARE ACT AND OTHER CHANGING CONDITIONS ON THE EFFECTIVE AND EFFICIENT DELIVERY OF HEALTH CARE SERVICES TO THE SANTA FE COMMUNITY AND DELIVERY OF HEALTH CARE SERVICES TO THE INDIGENT; AND CALLING ON SANTA FE COUNTY AND OTHER HEALTH PROVIDERS IN THE NORTHERN NEW MEXICO REGION TO JOIN THE CITY OF SANTA FE IN SUCH EFFORTS

Approved [amended]

26-33

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
<u>EVENING SESSION</u>		
CALL TO ORDER AND ROLL CALL	Quorum	34
PETITIONS FROM THE FLOOR		34-36
APPOINTMENTS	None	36
<u>PUBLIC HEARINGS</u>		
REQUEST FROM DRURY HOTELS COMPANY, LLC, FOR THE FOLLOWING:		
PURSUANT TO §60-6B-10 1978, A REQUEST FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES AT DRURY PLAZA HOTEL SANTA FE, 228 E. PALACE AVENUE, WHICH IS WITHIN 300 FEET OF THE CATHEDRAL BASILICA OF SAINT FRANCIS OF ASSISI, 131 CATHEDRAL PLACE, THE EPISCOPAL CHURCH OF THE HOLY FAITH, 311 E. PALACE AVENUE, AND THE NEW MEXICO SCHOOL FOR THE ARTS, 275 E. ALAMEDA STREET		
	Approved	36-39
IF THE WAIVER OF THE 300 FOOT RESTRICTION IS GRANTED, A REQUEST FROM DRURY HOTELS COMPANY, LLC, FOR A TRANSFER OF OWNERSHIP AND LOCATION OF INTER-LOCAL DISPENSER LICENSE #2507, WITH ON PREMISE CONSUMPTION ONLY, FROM AmREST, LLC, D/B/A APPLEBEE'S NEIGHBORHOOD BAR & GRILL, 830 PASEO DEL PUEBLOS, TAOS, TO DRURY HOTELS COMPANY, LLC, D/B/A DRURY PLAZA HOTEL SANTA FE, 228 E. PALACE AVENUE		
	Approved	36-39

ITEM

ACTION

PAGE #

REQUEST FROM MANITOU GALLERIES FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION TO ALLOW THE DISPENSING/ CONSUMPTION OF BEER AND WINE AT MANITOU GALLERIES 225 CANYON ROAD. THIS LOCATION IS WITHIN 300 FEET OF THE CATHEDRAL BASILICA OF ST. FRANCIS OF ASSISI, 131 CATHEDRAL PLACE AND THE NEW MEXICO SCHOOL FOR THE ARTS, 275 EAST ALAMEDA. THIS REQUEST IS ART SHOW OPENINGS TO BE HELD FROM 5:00 P.M. TO 7:30 P.M., ON THE FOLLOWING DATES: MARCH 13, APRIL 25, MAY 24, JUNE 27, JULY 25, AUGUST 21 AND SEPTEMBER 26, 2014

Approved

39

CONSIDERATION OF BILL NO. 2013-44: ADOPTION OF ORDINANCE NO. 2014-8. AN ORDINANCE RELATING TO IMPACT FEES, SECTION 14-8.14 SFCC 1987; AMENDING SECTION 14-8.14(E) TO MODIFY THE AMOUNT OF IMPACT FEES ASSESSED FOR RESIDENTIAL DEVELOPMENTS; AND MAKING SUCH OTHER STYLISTIC OR GRAMMATICAL CHANGES THAT ARE NECESSARY

Approved

40-42

CONSIDERATION OF BILL NO. 2014-4: ADOPTION OF ORDINANCE NO. 2014-9. AN ORDINANCE RELATING TO THE CITY OF SANTA FE HOUSING CODE, CHAPTER 26, SFCC 1987; AMENDING SUBSECTION 26-1.21 TO INCLUDE VETERANS IN THE LIST OF PROFESSIONS TO QUALIFY FOR EXPANDED ELIGIBILITY STANDARDS FOR SANTA FE HOMES PROGRAM (SFHP) HOMES

Approved

42-43

ITEM

ACTION

PAGE #

**CONSIDERATION OF BILL NO. 2014-5:
ADOPTION OF ORDINANCE NO. 2014-10. AN
ORDINANCE RELATING TO THE SANTA FE
HOMES PROGRAM ("SFHP"); AMENDING
SECTION 14-8.11 SFCC 1987 TO MAKE
PERMANENT THE CURRENT PERCENTAGE
REQUIREMENTS OF THE SFHP; AMENDING
SECTION 26-1 SFCC 1987 TO UPDATE THE
LEGISLATIVE FINDINGS, TO ESTABLISH
THE SCHEDULE FOR PAYMENTS IN LIEU
OF CONSTRUCTING UNITS FOR SFHP
DEVELOPMENTS WITH TWO THROUGH TEN
TOTAL UNITS, TO MAKE PERMANENT THE
CURRENT PERCENTAGE REQUIREMENTS
OF THE SFHP AND TO MAKE VARIOUS
OTHER CHANGES TO THE SFHP ORDINANCE**

Approved [amended]

44-48

**CONSIDERATION OF RESOLUTION NO.
2014-20. A RESOLUTION AMENDING
THE ADMINISTRATIVE PROCEDURES
FOR THE SANTA FE HOMES PROGRAM
TO REFLECT THE AMENDMENTS TO THE
SFHP ORDINANCE APPROVED BY
ORDINANCE 2014-10**

Approved [amended]

44-48

**CONSIDERATION OF BILL NO. 2014-6: ADOPTION
OF ORDINANCE NO. 2014-11. AN ORDINANCE
RELATING TO THE RESIDENTIAL GREEN BUILDING
CODE; CREATING A NEW SUBSECTION 7-4.3 SFCC
1987, TO ESTABLISH A RESIDENTIAL ADDITION
AND REMODEL GREEN BUILDING CODE FOR
SINGLE FAMILY ATTACHED AND DETACHED;
AMENDING EXHIBIT "A" TO CHAPTER VII TO
CREATE A NEW CHAPTER 2 TO ESTABLISH
DEFINITIONS, TO CREATE A NEW ITEM 802.6
REGARDING ROUGH PLUMBING FOR FUTURE
USE OF GRAY WATER, TO CREATE NEW
CHAPTERS 11 AND 12 TO ESTABLISH CHECKLISTS
FOR REMODELING AND REMODELING OF
FUNCTIONAL AREAS AND SMALL ADDITIONS
AND TO CREATE A NEW APPENDIX B TO
ESTABLISH WHOLE BUILDING VENTILATION
SYSTEM SPECIFICATIONS**

Approved

49-57

ITEM

ACTION

PAGE #

CONSIDERATION OF RESOLUTION NO. 2014-21. A RESOLUTION AMENDING THE ADMINISTRATIVE PROCEDURES FOR THE SANTA FE RESIDENTIAL GREEN BUILDING CODE ("RGBC") TO GRANT THE LAND USE DIRECTOR THE AUTHORITY TO MAKE ADMINISTRATIVE CHANGES TO THE RGBC USER'S GUIDE AND TO ADD ITEM 802.6 TO THE USER'S GUIDE; ADOPTING ADMINISTRATIVE PROCEDURES FOR THE CITY OF SANTA FE RESIDENTIAL ADDITION AND REMODEL GREEN BUILDING CODE ("RARGBC"); AND DIRECTING STAFF TO CREATE A USER'S GUIDE FOR THE RARGBC

Approved

49-57

CONSIDERATION OF BILL NO. 2014-7 : ADOPTION OF ORDINANCE NO. 2014-12 . AN ORDINANCE RELATING TO CAMPAIGN CONTRIBUTIONS FROM CITY CONTRACTORS; AMENDING THE CODE OF ETHICS, SECTION 1-7 SFCC 1987 AND THE CAMPAIGN CODE, SECTION 9-2 SFCC 1987 TO REGULATE CONFLICTS OF INTEREST ARISING FROM CAMPAIGN CONTRIBUTIONS FROM CITY CONTRACTORS AND FOR RELATED PURPOSES

Approved

57-62

CONSIDERATION OF BILL NO. 2014-08: ADOPTION OF ORDINANCE NO. 2014-13. AN ORDINANCE RELATING TO THE SINGLE-USE BAG ORDINANCE, SECTION 21-8 SFCC 1987; AMENDING SUBSECTION 21-8.1 TO MODIFY THE LEGISLATIVE FINDINGS RELATED TO PAPER GROCERY BAGS; AMENDING SUBSECTION 21-8.4 TO ELIMINATE THE REQUIREMENT THAT RETAIL ESTABLISHMENTS COLLECT A PAPER GROCERY BAG CHARGE OF NOT LESS THAN TEN CENTS FOR EACH PAPER GROCERY BAG PROVIDED TO CUSTOMERS; AMENDING SUBSECTION 21-8.6 TO ESTABLISH A 30-DAY IMPLEMENTATION PERIOD; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY

Approved

63-66

ITEM

ACTION

PAGE #

CASE #2014-08. APPEAL THE CITY OF SANTA FE PUBLIC WORKS DEPARTMENT (APPELLANT), APPEALS THE DECEMBER 10, 2013 DECISION OF THE HISTORIC DISTRICTS REVIEW BOARD (HDRB) IN CASE #H-13-076A DESIGNATING THE DEFOURI STREET BRIDGE (BRIDGE) AS CONTRIBUTING AND THE JANUARY 14, 2014 DECISION OF THE HDRB IN CASE #H-13-076 APPROVING THE DEMOLITION OF THE BRIDGE WITH CONDITIONS LIMITING THE WIDTH OF THE REPLACEMENT STRUCTURE BY ELIMINATING ONE OF TWO SIDEWALKS AND REQUIRING SIDE MOUNTED BRIDGE RAILINGS. THE BRIDGE CROSSES THE SANTA FE RIVER AT THE NORTH END OF DEFOURI STREET AND IS LOCATED IN THE WESTSIDE-GUADALUPE HISTORIC DISTRICT

Postponed to 03/12/13

66

MATTERS FROM THE CITY MANAGER

None

67

MATTERS FROM THE CITY ATTORNEY

None

67

MATTERS FROM THE CITY CLERK

Information

67

COMMUNICATIONS FROM THE GOVERNING BODY

Information/discussion

67-70

ADJOURN

70

**MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
February 26, 2014**

AFTERNOON SESSION

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor David Coss, on Wednesday, February 26, 2014, at approximately 5:00 p.m., in the City Hall Council Chambers. Following the Pledge of Allegiance, Salute to the New Mexico flag, and the Invocation, roll call indicated the presence of a quorum, as follows:

Members Present

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

Others Attending

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

6. APPROVAL OF AGENDA

Mr. Snyder would like to postpone item 10(u) on the afternoon agenda to the next meeting of the City Council on March 26, 2013, and Item 10(p) until the ENN which is scheduled for this project.

MOTION: Councilor Calvert moved, seconded by Councilor Dimas, to approve the agenda, as amended.

VOTE: The motion, as amended, was approved on a voice vote with Councilors Bushee, Calvert, Dimas, Dominguez, Ives, Rivera, Trujillo and Wurzburger voting for the motion and none against.

7. APPROVAL OF CONSENT CALENDAR

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

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

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

Against: None.

10. CONSENT CALENDAR

A copy of an Action Sheet from the Public Works/CIP and Land Use Committee meeting of Monday, February 24, 2014, regarding Item 10(g) is incorporated herewith to these minutes as Exhibit "1."

A copy of an Action Sheet from the Public Works/CIP and Land Use Committee meeting of Monday, February 24, 2014, regarding Item 10(k)(3) is incorporated herewith to these minutes as Exhibit "2."

A Memo dated February 26, 2014, with attachments, to the Governing Body from Sandra Perez, Interim Human Resource Director, regarding Item 10(k)(3), is incorporated herewith to these minutes as Exhibit "3."

A copy of a proposed amendment to the Resolution regarding Apprenticeship Development, submitted by Councilor Calvert, regarding Item 10(r) is incorporated herewith to these minutes as Exhibit "4."

A copy of an Action Sheet from the Public Works/CIP and Land Use Committee meeting of Monday, February 24, 2014, regarding Item 10(u) is incorporated herewith to these minutes as Exhibit "5."

- a) **REQUEST FOR APPROVAL OF MEMORANDUM OF UNDERSTANDING – 2014 DAY REPORTING PROGRAM FOR JUVENILES; COUNTY OF SANTA FE. (RICHARD DeMELLA)**
- b) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – INSTALLATION OF AUTOMATED OVERHEAD TRACK GATE AT BUS YARD FOR TRANSIT DIVISION; GATE-IT ACCESS SYSTEM. (KEN SMITHSON)**
 - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND.**

- c) **REQUEST FOR APPROVAL OF CHANGE ORDER NO. 2 TO CONSTRUCTION CONTRACT – SANTA FE RESERVOIRS INFRASTRUCTURE IMPROVEMENTS PROJECT UNDER ALTERNATE A-OWNERS CONTINGENCY; RMCI, INC. (ROBERT JORGENSEN)**
- d) **REQUEST FOR APPROVAL OF ALAMEDA RAIN GARDENS PROGRAM – CONSTRUCTION OF STORM WATER IMPROVEMENTS ALONG EAST AND WEST ALAMEDA STREET; SANTA FE RIVER VOLUNTARY RIVER CONSERVATION FUND. (BRIAN DRYPOLCHER)**
- e) *[Removed for consent by Councilor Bushee]*
- f) **CIP HIGH SPEED INTERNET PROJECT. (SEAN MOODY)**
 - 1) **REQUEST FOR APPROVAL OF TELECOMMUNICATIONS SERVICES AGREEMENT; CYBER MESA COMPUTER SYSTEM, INC.**
 - 2) **REQUEST FOR APPROVAL OF MEMORANDUM OF UNDERSTANDING; STATE OF NEW MEXICO DEPARTMENT OF INFORMATION TECHNOLOGY.**
- g) **REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO DIRECT PURCHASE OF SERVICES VENDOR AGREEMENT FOR SENIOR SERVICES DIVISION; NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT NON-METRO AREA AGENCY ON AGING. (RON VIALPANDO)**
 - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND.**
- h) **CONSIDERATION OF RESOLUTION NO. 2014-10. A RESOLUTION RELATING TO A REQUEST FOR APPROVAL OF SECOND QUARTER (MIDYEAR) BUDGET ADJUSTMENTS FOR FISCAL YEAR 2013/2014. (CAL PROBASCO)**
- i) **REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO CAPITAL IMPROVEMENT PROGRAM AGREEMENT – FY 2013/2014 WASTEWATER DIVISION PUBLICLY OWNED TREATMENT WORKS REPAIR, REPLACEMENT AND EXTENSION, CONTRACT CIP #947; TLC COMPANY, INC. D/B/A TLC PLUMBING AND UTILITY. (STAN HOLLAND)**
- j) **CONSIDERATION OF RESOLUTION NO. 2014-11 (COUNCILOR CALVERT AND COUNCILOR BUSHEE). A RESOLUTION AUTHORIZING AND APPROVING SUBMISSION OF A COMPLETED APPLICATION FOR FINANCIAL ASSISTANCE AND PROJECT APPROVAL TO THE NEW MEXICO FINANCE AUTHORITY FOR THE PROCUREMENT OF SEVEN HEAVY DUTY TRANSIT BUSES. (JON BULTHUIS)**
 - 1) **REQUEST FOR APPROVAL OF PUBLIC PROJECT REVOLVING FUND EQUIPMENT APPLICATION – REPAYMENT PLAN FOR PROCUREMENT OF SEVEN (7) REPLACEMENT TRANSIT BUSES; NEW MEXICO FINANCE AUTHORITY. (JON BULTHUIS)**

- k) **REQUEST TO PUBLISH NOTICE OF PUBLIC HEARING ON MARCH 26, 2014:**
- 1) **BILL NO. 2014-9: AN ORDINANCE AMENDING SUBSECTION 6-4.2 SFCC 1987 REGARDING MEMBERSHIP REQUIREMENTS FOR THE CITY COMMUNITY DEVELOPMENT COMMISSION. (COUNCILOR WURZBURGER) (ALEXANDRA LADD)**
 - 2) **BILL NO. 2014-10AN ORDINANCE RELATING TO STREET PERFORMERS ON PUBLIC PROPERTY; AMENDING SECTION 23-8 SFCC 1987 (COUNCILOR CALVERT). (ZACHARY SHANDLER)**
 - 3) **BILL NO. 2014-11: AN ORDINANCE RELATING TO THE CODE OF ETHICS, SECTION 1-7 SFCC 1987; AMENDING THE CODE OF ETHICS TO ESTABLISH THAT WORKPLACE BULLYING BY GOVERNING BODY MEMBERS WOULD BE A PROHIBITED ACT AND SUBJECT TO A VIOLATION OF THE CODE OF ETHICS (COUNCILOR WURZBURGER AND COUNCILOR DOMINGUEZ). (SANDRA PEREZ)**
- l) **CONSIDERATION OF RESOLUTION NO. 2014-12 (COUNCILOR WURZBURGER, COUNCILOR IVES AND COUNCILOR BUSHEE). A RESOLUTION SUPPORTING THE CONTINUATION OF THE COMMUNITY DEVELOPMENT PROCESS TO REVITALIZE CENTRAL SANTA FE AND OUTLINING THE NEXT STEPS OF THE REMIKE PROJECT.**
- m) *[Removed for discussion by Councilor Bushee]*
- n) **ARTS + CREATIVITY CENTER. (KATE NOBLE)**
 - 1) **CONSIDERATION OF RESOLUTION NO. 2014-13 (COUNCILOR WURZBURGER, COUNCILOR RIVERA, COUNCILOR IVES, MAYOR COSS, COUNCILOR CALVERT AND COUNCILOR BUSHEE). A RESOLUTION DIRECTING STAFF TO WORK TO SUPPORT DEVELOPMENT OF THE SANTA FE + CREATIVITY CENTER AS AN ECONOMIC DEVELOPMENT PROJECT TO PROVIDE AFFORDABLE LIVE, WORK, CREATION, PERFORMANCE, SALES SPACE FOR ARTISTS AND CREATIVE BUSINESSES IN SANTA FE AND TO STRENGTHEN SANTA FE'S ECONOMY.**
- o) *[Removed for discussion by Councilor Dominguez]*
- p) **CONSIDERATION OF RESOLUTION NO. 2014-14 (COUNCILOR DIMAS). A RESOLUTION DIRECTING THE TRAFFIC ENGINEERING DIVISION TO RECONSTRUCT THE MEDIAN AT ZIA ROAD AND GALISTEO ROAD SO AS TO RESTRICT LEFT TURN MOVEMENTS TO AND FROM GALISTEO ROAD AND TO INCREASE THE LENGTH OF ZIA'S EASTBOUND DUAL LEFT TURN LANE AT THE ST. FRANCIS DRIVE SIGNALIZED INTERSECTION. (JOHN ROMERO)**

- q) **REQUEST FOR APPROVAL OF THE CITY OF SANTA FE COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR FISCAL YEAR ENDING JUNE 30, 2013. (MARCOS TAPIA)**
- r) **CONSIDERATION OF RESOLUTION NO. 2014-15 (COUNCILOR WURZBURGER, COUNCILOR BUSHEE, COUNCILOR DOMINGUEZ, COUNCILOR IVES, COUNCILOR DIMAS AND COUNCILOR RIVERA). A RESOLUTION RELATING TO CONSTRUCTION APPRENTICESHIP PROGRAMS; ESTABLISHING AN APPRENTICESHIP DEVELOPMENT TASK FORCE TO CREATE AN APPRENTICESHIP DEVELOPMENT PLAN FOR THE CITY OF SANTA FE THAT WILL BENEFIT SANTA FE COUNTY RESIDENTS AND THE SANTA FE CONSTRUCTION INDUSTRY. (KATE NOBLE)**
- s) **CONSIDERATION OF RESOLUTION NO. 2014-16 (COUNCILOR WURZBURGER, COUNCILOR BUSHEE, COUNCILOR DOMINGUEZ, COUNCILOR DIMAS AND COUNCILOR IVES). A RESOLUTION DIRECTING STAFF TO CREATE AND ESTABLISH AN ANNUAL AWARD TO RECOGNIZE AND HONOR THE ACCOMPLISHMENTS AND CONTRIBUTIONS OF AN OUTSTANDING WOMAN-OWNED BUSINESS LOCATED IN SANTA FE. (KATE NOBLE)**
- t) ***[Removed for discussion by Councilor Dominguez]***
- u) **CONSIDERATION OF RESOLUTION NO. 2014-____ (COUNCILOR BUSHEE). A RESOLUTION AUTHORIZING A DISCOUNT BUS PASS SALE PROGRAM FOR NON-PROFIT SOCIAL SERVICE ORGANIZATIONS WHO PURCHASE BUS PASSES IN VOLUME FOR DISTRIBUTION TO INDIGENT CLIENTS WHO UTILIZE THE CITY OF SANTA FE'S PUBLIC TRANSPORTATION SYSTEM; SANTA FE TRAILS. (JON BULTHUIS) Postponed to the Council meeting of March 26, 2014.**

8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – FEBRUARY 12, 2014.

MOTION: Councilor Wurzburger moved, seconded by Councilor Bushee, to approve the minutes of the Regular City Council meeting of February 12, 2014, as presented.

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

9. PRESENTATIONS

- a) **PROCLAMATION – SANTA FE CULINARY TREASURES DAY – FEBRUARY 26, 2014.**

Mayor Coss read the proclamation into the record declaring February 26, 2014, as Santa Fe Culinary Treasures Day. He introduced Secretary Monique Jacobson, New Mexico Secretary of Tourism, gave a copy of the proclamation to each entity, and thanked them for all they do for Santa Fe.

Secretary Jacobsen thanked the City for its participation, with a thanks to the local Santa Fe Culinary Treasure, which truly are treasures for New Mexico and in bringing people to Santa Fe.

b) MUCHAS GRACIAS – LISTENING HORSE THERAPEUTIC LISTENING PROGRAM.

Mayor Coss presented a Muchas Gracias certificate to Listening Horse Therapeutic Listening Program, and it's founders, 3 military veterans Gus Jolley, David Mead and David Belaire.

Mr. Mead and Mr. Belaire thanked the City for this honor.

c) MUCHAS GRACIAS – RICK CARVER, USS SANTA FE

Mayor Coss said 19 people traveled to Hawaii to welcome the U.S.S. Santa Fe back after 6 months at sea. He expressed appreciation for this opportunity, and read the Muchas Gracias certificate into the record.

Mr. Carpenter thanked Mayor Coss for recognizing the Committee, and said he accepts the Muchas Gracias on behalf of the members of the Committee. He read an email from the crew of the USS Santa Fe, Commander Timothy Poe, thanking Santa Fe for its..

Mr. Carver presented Mayor with a photo commemorating the visit.

d) MUCHAS GRACIAS – CLAUDIA BORCHERT (Postponed at February 12, 2014 City Council Meeting)

Mayor Coss presented Muchas Gracias to Claudia Borchert and thanked her for her work on behalf of the City.

Ms. Borchert said it was an honor to work with City.

e) PROCLAMATION – ANDREA BACIGALUPA DAY – FEBRUARY 26, 2014.

Mayor Coss read the Proclamation into the record declaring February 26, 2014 as Andrea Bacigalupa Day. He thanked the Sister Cities Committee for its work on behalf of the City.

Carol Robertson Lopez introduced the members of the Committee and thanked them for their work..

Mr. Bacigalupa said he really needs to share this honor with the founders of the Sister Cities relationship with Sorento, noting he is in Sorento this evening. He said there have been a lot of exchanges in years past, and hopefully there will be more. He said he first saw Santa Fe in 1942, and he and his wife moved here in 1954.

Dr. Delgado, the former Sister Cities Chair said the people of Sorento love Mr. Bachigalupa very much, and presented Mr. Bachigalupa with a portrait commemorating the visit.

Councilor Bushee thanked him for everything he has done for the City.

CONSENT CALENDAR DISCUSSION

10 (e) REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – WATER AND WASTEWATER SERVICE LINE PROTECTION PROGRAM (RFP #14/12/P); SERVICE LINE WARRANTIES OF AMERICA, INC. (SLWA). (NICK SCHIAVO)

Councilor Bushee noted the last time the City's letterhead went out announcing this program, and asked if we are going to do it differently this time so it doesn't seem in some way, the City is selling something.

Ms. Schiavo said the last time they use a facsimile or a photocopy, and this time we will be providing them with a JPEG, so it will look more professional. He said City Legal and the Public Utilities Department will have control over when the logo will be used, noting it is to be used only a few times a year for promotion, and cannot be used on any invoices, and it just to promote their program.

Councilor Bushee asked if it will be made very clear that this is optional.

Mr. Schiavo reiterated that Legal and Public Utilities will review the letter before it goes out.

Councilor Bushee reiterated she wants to make it clear that this is an optional program.

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

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

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

Against: None.

10 (m) CONSIDERATION OF RESOLUTION NO. 2014-16 (COUNCILOR WURZBURGER, COUNCILOR IVES AND COUNCILOR BUSHEE). A RESOLUTION SUPPORTING EFFORTS TO RETAIN YOUNGER TALENT AND INVIGORATE SANTA FE'S NIGHTTIME ECONOMY AND CREATING A TASK FORCE TO MAKE ACTION RECOMMENDATIONS TO THE GOVERNING BODY. (KATE NOBLE)

Councilor Bushee said she appreciates the intent of the ordinance and the task force, but would like to form the task force and let it come up with the proposal. She said for her, "The only stopper is on page 2, line 14, where we will send out small scholarships not to exceed \$5,000 in total." She said total fiscal impact is \$7,700, and said \$5,000 may or may not help, and would be more comfortable if the Task Force would generate the options.

Councilor Wurzbarger said the concept is to build our approach of the past few years in using small amount of incentive funds which goes forward to another step, with the idea of doing more, smaller things than one, big untested thing. She said the Velocity Program reinforces that this is a model than can work.

Responding to Councilor Bushee, Ms. Noble said these funds are from Economic Development funds, \$5,000 of the \$7,700 is for the stipends, and the rest is for the stenographers for the public noticed and recorded meetings..

Responding to Councilor Bushee, Ms. Noble said she would like 5 at \$1,000 or 10 at \$500. She has heard this thing might make a difference in getting people "off the bench to try something." She said the idea is to inject a little momentum in it with these funds.

Councilor Bushee said \$1,000 isn't much for jump starting anything, and "wonders if one lump sum to one particular group idea" would be better. She asked how much we contributed to the AHA Festival .

Ms. Noble said the City didn't contribute anything to the AHA Festival, but we may have contributed through the use of City resources rather than cash.

Councilor Bushee asked if \$1,000 would be sufficient for a "pop-up" event.

Ms. Noble said it helps a lot and it could be the difference in getting something done. She said the intent was to leave the numbers open to see what kinds of proposals we get and then let the EDRC decide those on merit.

Councilor Bushee asked the balance of the fund.

Ms. Noble said it is a part of this fiscal year budget for Economic Development, noting they will run out of money in the Economic Development Fund in about four years.

MOTION: Councilor Wurzbarger moved, seconded by Councilor Dimas, to adopt Resolution No. 2014-16, with the amendments in the packet.

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

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

Against: None.

10 (o) CONSIDERATION OF RESOLUTION NO. 2014- ____ (COUNCILOR RIVERA, COUNCILOR DIMAS, COUNCILOR CALVERT, COUNCILOR DOMINGUEZ, COUNCILOR TRUJILLO, COUNCILOR BUSHEE AND COUNCILOR IVES). A REQUEST FOR APPROVAL OF A RESOLUTION RELATING TO THE REPLACEMENT POWER/ENERGY PLAN PROPOSED TO REPLACE 836 MEGAWATTS AT THE SAN JUAN GENERATION STATION; URGING THE NEW MEXICO PUBLIC REGULATION COMMISSION TO REJECT PNM'S REPLACEMENT PLAN AND CLAIM FOR COST RECOVERY OF STRANDED ASSETS AND SUPPORT AN ALTERNATIVE RENEWABLE ENERGY BASED REPLACEMENT PLAN. (NICK SCHIAVO)

Councilor Dominguez said he pulled this item to say he supports the intent and the fact that we need to look at alternative and renewable energies, and believes that is the position that most, if not all, of us have taken with regard to the various environmental advocacy legislation which has come before us. He said he received an email, which "alluded to us," from Jody Porter about the validity of the facts in the Resolution, so he decided to look at it more closely, and he has a number of questions.

Councilor Dominguez said the caption asks us to support rejecting PNM's replacement plan, which he hasn't seen, and asked if staff has that available for the Governing Body.

Mr. Schiavo said it is a large document which has been filed with the Public Regulation Commission, and the major points are outlined in the first whereas.

Councilor Dominguez asked if this is a summary of those points, 1 through 7, or is it taken verbatim from the plan.

Mr. Schiavo said these are a summary of those major points.

Councilor Dominguez asked Mr. Schiavo if he summarized them, or if someone else summarized them.

Mr. Schiavo said Councilor Rivera sponsored this and put this work together.

Councilor Dominguez asked again who summarized the points.

Councilor Rivera said they were summarized by several people, including Melissa Byers.

Councilor Dominguez asked Mr. Schiavo if he signed off on the summaries.

Mr. Schiavo said he reviewed the summaries, but he doesn't necessarily sign off.

Councilor Dominguez said, "Then as far as you're concerned, the summary is correct, based on the plan that we haven't seen that has been filed by PNM with the PRC."

Mr. Schiavo said, "Absolutely. This is an accurate summary."

Councilor Dominguez said, on page 3 of the Resolution, lines 8 through 11, there is a reference to Dr. George Thurston, and he isn't questioning his credentials, but how does he know that the analysis and the way it is articulated here is factual.

Mr. Schiavo said he is the City's Energy Specialist, Public Utilities Director, but he isn't a physician and can't question Dr. Thurston's word.

Councilor Dominguez said we should attach the analysis to the Resolution, and asked if we have a copy.

Mr. Schiavo said he doesn't have a copy, but he can get it, and thinks it would be a good idea to attach it.

Councilor Dominguez asked if the replacement power plan, modeled on the New Energy Economy, now exists, which is referenced on 5, line 25 of the Resolution and on page 6, lines 1-2.

Mr. Schiavo said he understands it exists, and heard a piece of it presented at the PUC meeting attended by Councilor Dominguez.

Councilor Dominguez asked if he has a copy of the plan, and Mr. Schiavo said no.

Councilor Dominguez asked if that plan should be attached to this Resolution as well.

Mr. Schiavo said it is up to Councilor Dominguez and the Governing Body.

Councilor Dominguez said, "I would request that that happen, if this is approved, along with the analysis by Dr. Thurston."

Councilor Dominguez said he has concerns. He said we are being asked to make this an official public testimony on behalf of the City, and there are questions and concerns which have been expressed by City staff, which gives him pause. He asked if there has been a public hearing on the New Energy Plan.

Mr. Schiavo reiterated that the only thing he ever heard was the presentation before the PUC at the beginning of this month.

Councilor Dominguez said then this will be City testimony, but the public hasn't been privy to the New Energy Economy plan that exists – there have been no public hearings on that plan.

Mr. Schiavo reiterated that “we have heard a presentation from New Energy Economy on their plan. I don't have anything other than that.”

Councilor Dominguez asked if there was a public hearing on that plan, and Mr. Schiavo said no.

Councilor Calvert asked if there has been a public hearing on PNM's plan, and Mr. Schiavo said no.

Councilor Dominguez said so there are a lot of plans out there which haven't had public hearings, including PNM's.

Councilor Dominguez said he wants to understand the process, asking if PNM has to produce a plan.

Mr. Schiavo said yes. PNM has submitted to the PRC “this entire first paragraph. That's their plan to shutter so much coal and bring so much natural gas on line, the first seven bullets...”

Councilor Dominguez said then that is at the PRC and Mr. Schiavo said it is.

Councilor Dominguez asked if the PNM has a public hearing process to look over those points, the plan.

Mr. Schiavo said, “Definitely. Yes. The PRC is going to go through that and anyone who has intervened will have the opportunity to comment.”

Councilor Dominguez asked if that has been scheduled.

Mr. Schiavo said the last day to file to intervene is the second week of April, so he would imagine they haven't started any hearings on it.

Councilor Dominguez said, “Then we probably need to do whatever we're going to do here done before it gets to the PRC, but it needs to be correct and factual.”

Councilor Ives said, at the appropriate time in our proceedings tonight, he will be sponsoring a Resolution to intervene in that case, so the City becomes a party in that case. He said PNM already has filed with the PRC, so there is an ongoing case. A procedural order has been issued in that case, and he

will be introducing a Resolution for the City to intervene in that case, so we'll become a party and we'll receive all pleadings that are filed, and we can participate as a party in interest. He noted the hearings are scheduled approximately mid-August 2014.

Councilor Dominguez asked if this is intended to be the testimony that will be provided to them for that proceeding.

Councilor Ives said currently the paragraph is phrased, "a copy of the Resolution is directed as official public testimony on behalf of the City of Santa Fe." He said, in its current form, it is intended to be official public testimony, but it isn't necessarily the end of the possible participation of the City in the proceedings and doesn't constitute all of the testimony that the City might choose to file."

Councilor Dominguez said, "It really should say something like, 'official City Council testimony,' because there have been no public hearings on this. He said although we represent the public, but in the spirit of transparency and proper community participation, it seems some of that language might change."

Councilor Trujillo asked how this will work in conjunction with the Resolution which Councilor Ives will introduce. He asked which public hearing will trump, and Councilor Ives and Mayor Coss said that would be the PRC.

Councilor Trujillo said we haven't had due process of public hearings from PNM or anyone else, and we then become a party – how does this affect us now. He said, "You guys are lawyers. Advise me. How does this affect us now, when Councilor Ives introduces this Resolution tonight."

Marcos Martinez, Assistant City Attorney, said, "Once the City intervenes in this matter, then the City can participate before the PRC in hearings, and the PRC is the body that will be making the determination on PNM's application. The City really has no jurisdiction to make any determination on PNM's application on its own. What the City can do, is conduct its own public hearings and determine what is the will of the Governing Body going forward, and what is the recommendation to make in that intervention, in the event that the City choose to intervene in this proceeding. So really, we can only make decisions concerning what is the will of the Governing Body and what is going to be the kind of testimony and position that the City is going to take ultimately in that proceeding, in the event that we intervene."

Councilor Trujillo said, "Okay, so I'm asking you, being that we have not had public hearings, should we have those public hearings, speaking from you as a lawyer. That's all."

Mr. Martinez said, "I think it's up to the Governing Body to determine if public hearings would be helpful."

Councilor Trujillo said he believes all public hearings are helpful, he wants to be sure we are giving the public the transparency to talk about it.

Mr. Martinez said, "In that regard, the public hearing can be helpful in soliciting what is the input from the community, what is the direction the community wants to take in bringing that input to the Governing Body, and then the Governing Body can make recommendations in the intervention."

Councilor Trujillo said then it would go back to the PRC.

Councilor Dominguez said we are going to have a new Governing Body, and we essentially are tying the hands of that new Governing Body with this legislation, and they will have to represent the City collectively via this public testimony, which concerns him. He said he can't explain some of the WHEREAS in the Resolution, although Mr. Schiavo and some members of the public can understand and explain it. He said as the representative of all of the people, he thinks we should take more time in vetting the Resolution.

Councilor Wurzbarger apologized for not taking as much time to study this issue as she normally does, and then agreeing to cosponsor this last week from the perspective that we need to reprioritize the different energy sources. She said, "We particularly need to take a hard stance on coal, and to quote one of the Councilors, 'The devil is in the details'." She will be abstaining because it is so technical, there are two plans, and we haven't received all the information we need. She said she wants the Councilors "to tell me whether or not you understand the rationale of why the claim for undepreciated stranded assets should be denied or reduced.

Councilor Wurzbarger continued, "I don't understand that term, I don't mind admitting it and I apologize. And I would feel that I would need to better understand the difference of the plans and the BE IT FURTHER RESOLVED on almost all the things we're saying in terms of closing Unit 4 SJGS. What does that really mean, I don't know. So I apologize to you as a leader, and I will abstain on this, or I would first make a motion to postpone it. I think it's great we can go forward and give an opinion. I think that's an appropriate path and that would give us the opportunity, including a public hearing, to clarify what it is we're really voting on."

Councilor Bushee said she didn't realize we were considering intervening in this case, and she is interested if those drafting the Resolution for Councilor Ives, has consulted with other potential interveners. She asked if there are other communities or entities interested in intervening. She said whatever we are setting now that we are going to intervene sets a legal record, "and I want to make sure it's solid and broad."

Councilor Ives said he hasn't approached others, but typically in these kinds of proceedings, as significant as the proposal to shut down two of the coal fired units at San Juan, that there will be many interveners. He noted that PNM's power is distributed over large portions of New Mexico, and it is likely that other municipalities, other significant power consumers, various groups involved in the power industry, pro and con, are likely to intervene, as they are standard participants in all these types of measures before the PRC. He doesn't know whether Mr. Schiavo has spoken with others, noting the procedural order came out only about 10 days ago, and people are looking at intervention.

Mr. Schiavo said he would be surprised if the City of Albuquerque, City of Rio Rancho, the Albuquerque/Bernalillo Water Authority didn't intervene, along with the usual players.

Councilor Bushee said she supports the concept, but this concept is based on one model. She wants to know if there are things with which we want to amplify this, or other angles not incorporated. She asked Councilor Ives if he is about to introduce the possibility of intervention tonight.

Councilor Ives said yes.

Councilor Bushee wants this to move forward, but in the right way.

MOTION: Councilor Bushee moved, seconded by Councilor Wurzbarger, to postpone this item for one month, to the Council meeting of March 26, 2014, "with one or two public hearings during that time, and solicit input from other energy experts in the field."

DISCUSSION: Councilor Ives said he has read PNM's initial filing in this case, and thinks it's reasonably captured in terms of our predicate Whereas's as to what that filing contains. He noted the proposed amendments are based on sitting with PNM and hearing their concerns in connection with this particular measure. He said on packet page 8, lines 12-14, a concern was expressed that the health impacts in our community were meant to be tied directly to the San Juan Generating Plant. And the answer, with regards to lines 12-14, is that "No, that is simply a recitation of the incidents covered in the Santa Fe County and Christus St. Vincent Regional Medical Center, Community Health Profile Study of the incidents of high school students diagnosed with asthma. So just noting that for the record, so it's clear there."

Councilor Ives continued saying, "On packet page 11, a concern is expressed with regard to the statement that the Governing Body opposes PNM's replacement power plan on the basis that it: (1) Will not help the City government meet its CO2 reduction goals, and it certainly goes in some measure toward that end, so it is a matter of degree, so I would certainly suggest an amendment for any consideration of this tonight, so it read, 'Will not help the City government to the degree desired to meet its CO2 reduction goals.' Similarly in paragraph number 2, line 14, where it states, Will not help the City meet its energy efficiency goals, and again, presumably because it will have some beneficial effect in terms of the shutdown of the two coal units, propose to amend that similarly to read, 'Will not help the City meet, to the degree desired, its energy efficiency goals.'"

Councilor Ives continued, "Subparagraph 5, where it says 'It does not provide the best employment opportunities should be modified to state, 'For Santa Fe,' which is certainly the case because the natural gas production plant that PNM is proposing to build in Farmington. Of course, the City of Farmington is not served by PNM, so presumably that might be a more strategically...."

Councilor Calvert said it might be good to add not only Santa Fe, but the State of New Mexico, because the nuclear power they're proposing to fill in also is not going to help the State and the ratepayers who have to pay for this. He asked if he would consider that as a friendly addition, and Councilor Ives said yes.

Mayor Coss said, "I just want to point out that there is a Motion to Postpone. If it was a Motion to Table, it would be non-debatable, so it is just to postpone. So I think you're suggesting amendments that might get in there if it doesn't get postponed."

Councilor Ives said, "Exactly." He said packet page 12, lines 16-18, reads, "BE IT FURTHER RESOLVED that the City Clerk is directed to forward a copy of this Resolution to the Public Regulation Commissioners and General Council, which should be Counsel, public testimony on behalf of the City of Santa Fe in the case before the Public Regulation Commission. Perhaps we should look at modifying that to change it to read, '...the City Clerk is directed to forward a copy of this Resolution Commission and General Counsel.' So we aren't making this official public testimony at this point in time. Clearly if we intervene in that case, there would be long consideration of the position of PNM, as well as other interveners, including the City, in terms of what we feel an appropriate plan really is for the San Juan Generating Unit."

Councilor Bushee said, "I'm keeping my motion to postpone and just giving a month in hopes that we find other interveners and that we can have a cohesive approach to this. I see the amendments and I certainly hope that other Councilors, and even Councilors that are leaving would consider other amendments. I would like to see entities and other communities join in this, and vet this to the best we can."

Councilor Rivera said he introduced the Resolution in an attempt to represent the people of Santa Fe. He would imagine that not many of constituents have looked at the PNM plan. He asked Mr. Schiavo the number of pages.

Mr. Schiavo said, "I don't know. I would assume if it is a typical plan, we're talking multiple binders."

Councilor Rivera said, "Thousands of pages, correct."

Mr. Schiavo said yes.

Councilor Rivera said he is doubtful the constituents will read that lengthy plan, so it is up to us to represent them in a way that will benefit them, and the Resolution does outline PNM's plan, which has been submitted to the PRC. He said, "We met with PNM yesterday, and they had opportunity to look at the Resolution and some of the recommendations have been put forth by Councilor Ives. There weren't very many you see. However, today, they redlined, basically, the entire document in an attempt to stall it just like tonight. To delay this even more, will require additional training for new Governing Body members to be brought up to speed. He said we are the first step in the intervention and once we take that first step, other municipalities and agencies will come on board and agree with what we're asking to put forth today."

Councilor Rivera said Councilor Wurzbarger sponsored a Resolution against bullying. He feels PNM is bullying the City in a way about making threats about what it would do if this Resolution passes. He has never known this Governing Body to back away from anything. This is a good Resolution and the first step in intervening and thinks it should move forward.

Councilor Dominguez said, "I have the utmost respect for my colleague and fellow District #3 Councilor. In previous legislation and tonight, we have articulated that we support the spirit and that we need to protect our environment and do everything possible to make sure we move in that direction. In terms of whether or not the public will read the information, maybe they will, maybe not, but the public needs to be given the opportunity to hear about it. This is a little different than our contracts with our collective bargaining units we're going to be discussing later. This is complicated and sure to be litigated."

Councilor Dominguez said this is "complicated and sure to get litigated." He said we need to make sure it is a strong case in a strong document the Governing Body is providing to the staff, the public and the PRC. He said the spirit of this Resolution is "right on," but we have to make sure that it is factual and it is as solid as it can be.

Councilor Ives said there seems to be concern that the Council is fully informed and discussion of holding a public hearing.

Councilor Bushee said her emphasis is finding other interveners and if it is going to be in concert with what you announced tonight, and Councilor Ives doesn't feel there will be difficulty in finding other interveners. Councilor Ives would like to do the public hearing at the next meeting as opposed to a month from now.

Councilor Bushee asked if it is to be a public hearing at the Council level, or the Committee level.

Councilor Ives said presumably it would be the next meeting of the Council, with consideration at the March 26, 2014 Council meeting.

Councilor Bushee said, "We will have a transition by then, so the same Council won't be voting, so I guess I just gave it two more weeks to get everything together, so I was sticking with a month." She doesn't understand moving it up to two weeks.

Councilor Ives said that is so we can hear it then, as opposed to hearing it immediately before considering it.

Councilor Bushee said, "I want to delay the vote until we are very clear on who is intervening and what else we want to add to this Resolution, so I was giving a month for the action. And we could have that be a public hearing."

Mayor Coss said, "So the action would be in a month, but there would be a hearing at the first and second meetings [in March]."

Councilor Bushee said, "Yes. And we could even make the final Resolution passage be... and we would consider yours as well, those could both be public hearings. Both at the Council level if you want. This is a big issue. This is an important issue. I relate completely to the health effects. This season has been crazy, the allergies, the asthma, and mine included, are just off the chart. But I do want to make this the

most solid case and the most vetted legislation we can and the best it can be. So are you good with that. A hearing in two weeks and then a hearing following the two weeks after that, so we could actually consider both your legislation and this one."

Councilor Ives said, "Perfectly fine, although I would simply note there is no reason not to intervene, but dictate the extent of our participation, but gets us informed, getting copies of pleadings so we can be informed. Just a slightly different focus."

Councilor Bushee said, "I don't need to attach my motion to yours if you don't want it. I saw the two going together somehow."

Councilor Ives said, "By all means, I don't mind public hearings on it. I think it makes sense."

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

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

Against: Councilor Rivera and Councilor Calvert.

- (t) **CONSIDERATION OF RESOLUTION NO. 2014-17 (COUNCILOR WURZBURGER AND COUNCILOR BUSHEE). A RESOLUTION REPEALING RESOLUTION NO. 2013-80 THAT CALLED FOR A THIRD PARTY INDEPENDENT AUDIT OF THE 2008 PARKS, TRAILS AND OPEN SPACE BOND; AND AUTHORIZING A SPECIAL EXTERNAL AUDIT OF THE ENTIRE EXPENDITURE OF 2008 PARKS, TRAILS AND OPEN SPACE BONE ("2008 BOND"). (ISAAC PINO AND MARCOS TAPIA)**

A copy of a proposed amendment to this Resolution, submitted by Councilor Bushee and Councilor Wurzburger is incorporated herewith to these minutes as Exhibit "6."

Councilor Dominguez asked Councilor Wurzburger if she is comfortable with the timing identified by staff on this.

Councilor Wurzburger said, "I am comfortable with what I think it states, as I recall, because I did talk to Isaac about this earlier, and idea was that the audit could occur as soon as all of the projects are completed, except the one which is for the St. Francis Underpass/Overpass, because that will be years from now."

Councilor Dominguez asked when the last project will be done.

Councilor Bushee said she was told not later than June 30, 2014, and asked Mr. Pino to repeat what he told her earlier.

Isaac Pino, Public Works Director, said, "The last remaining project is a trail project. It's the underpass at St. Francis Drive, the Acequia Trail. And I'm not quite sure when that one is going to be finished, but everything else is pretty well done."

Councilor Dominguez said, "Every park project that was identified in the bond has been done."

Mr. Pino said yes.

Mayor Coss said we are talking about the 2008 bond, because the underpass was in the 2012 bond.

Councilor Calvert said that was a different underpass, the one at Alameda/St. Francis.

Councilor Dominguez said it says, "The Governing Body hereby authorizes, upon completion of all projects, or June 30th, whichever occurs first." He said, "So having heard that all parks projects are done, we would actually start that immediately. Is that correct?"

Councilor Wurzbarger said in terms of work being finished, that's correct and deferred to the Finance Director to say how soon we could start that process.

Marcos Tapia, Finance Director, said once this is approved, we have to get the task force together to determine what is going to be audited, and the range or depth of that audit. He said, "And your question earlier than you had Councilor, is it going to be six months. Well that is what we're asking the auditors to do. And say, within a month the task force comes together, they come up with a plan, I've got to go out for RFP. Once that happens.... I can see them getting started, maybe as soon as May, but definitely by July 1st."

Councilor Dominguez would like to strike the language on like 8 as follows: "... June 30, 2014, whichever occurs first." He said this is saying whenever the process gets started.

Councilor Wurzbarger said that is okay as long as there is clarity that the process won't take 6 months to a year to set a committee. She said it is important the process will begin, upon our approval of this. She said it doesn't have to be completed by June 30th, but that the process will begin and a timely report will be given back to the Council in terms of the key decision points that have to be made with respect to the RFP and then on the RFP. She said, "I would think that it wouldn't take more than 2-3 months to have that out, in my own opinion. In concept, do you have a problem with that."

Mr. Tapia said, "I agree with that. It is the task force itself will determine what the criteria is that we will go out for RFP, and I don't see that taking, from this time now, another two months, and I do think that we can begin this audit starting in May."

MOTION: Councilor Dominguez moved, seconded by Councilor Wurzbarger, to adopt Resolution No. 2014- 17, with the amendment on the desk [Exhibit "6"], with an amendment to strike the language on page 2, line 8, as follows: "... ~~or June 30, 2014, whichever occurs first...~~"

QUESTION BY SPONSOR AFTER THE ROLL CALL VOTE HAD STARTED: Councilor Wurzburger said, "Yes, and I'm sorry, I have a question folks. With that deletion, does that take off the first part that says, "projects being complete." I don't want to get stuck by the one project that hasn't started yet, so by removing that expression did we leave in 'completion of all projects.' And there's one project that's not yet completed, so I don't want that to be a way not to move forward. I apologize, would we not need to strike that whole thing."

Councilor Dominguez said, "I was under the impression that all the Parks projects had been completed, but not the trails."

Councilor Wurzburger said, "Well that's true, you did say that earlier, so then we may be okay."

Councilor Calvert said, "If you want to be specific, then you could say, 'Upon completion of all projects, except the one'."

Councilor Wurzburger said she would like this.

Councilor Dominguez said, "So, can we go ahead and restate the motion, Mayor, how do we do this, procedurally, if we've already started voting. Do we have to vote it down and then go again."

Mayor Coss said, "Let's just start again, Yolanda."

Councilor Dominguez said, "Why don't you go ahead and make the motion Councilor Wurzburger."

RESTATED MOTION: Councilor Wurzburger moved, seconded by Councilor Dominguez, to adopt Resolution No. 2014-17, with the amendment on the desk [Exhibit "6"], with an amendment to delete the reference to "all projects being completed, as well as the June 30th date, and substitute, "Upon completion of all projects except the one trail project as stated by Isaac Pino, which is the St. Francis and Cerrillos underpass, and to strike the language on page 2, line 8, as follows: "... or June 30, 2014, whichever occurs first..."

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

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

Against: None.

Explaining her vote: Councilor Bushee said, "Yes. And please make sure my name is on as a sponsor."

END OF CONSENT CALENDAR DISCUSSION

11. CONSIDERATION OF RESOLUTION NO. 2014-18 (COUNCILOR WURZBURGER). A RESOLUTION AUTHORIZING THE CITY OF SANTA FE TRANSIT DIVISION TO PROVIDE FREE RIDES ON ALL BUS ROUTES AND SANTA FE RIDE VEHICLES ON ELECTION DAY, FOR THE 2014 MUNICIPAL ELECTION, MARCH 4, 2014. (JON BULTHUIS)

MOTION: Councilor Wurzburger moved, seconded by Councilor Dimas, to adopt Resolution No. 2014-18.

DISCUSSION: Councilor Wurzburger asked if there were suggestions from the Business and Quality of Life Committee, noting there was quite a discussion, but there is nothing in the packet.

Mr. Bulthuis said he received nothing from that Committee.

Councilor Wurzburger said she wanted to make sure there was no amendment that might be on the desk.

FRIENDLY AMENDMENT: Councilor Bushee asked if the Resolution can be amended to say that we will provide free bus rides on election day every year. **THE AMENDMENT WAS FRIENDLY TO THE SECOND AND THERE WERE NO OBJECTIONS BY THE OTHER COUNCILORS.**

DISCUSSION: Councilor Calvert asked Legal if it is okay with how it was noticed and what we are changing it to say. He supports the Resolution, but will defer to Legal.

Marcos Martinez said, "I believe you're right. Unfortunately, while that sounds like a good idea, the way this is captioned and noticed to the public, suggests it was only going to be a resolution for this particular election. However, nothing prevents a future Council from adopting a Resolution in general in the future that would be appropriately noted.

RESTATEMENT OF THE MOTION: Councilor Wurzburger moved, seconded by Councilor Calvert, to adopt Resolution No. 2014-18, as presented.

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

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

Against: None.

12. REQUEST FOR APPROVAL OF COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF SANTA FE AND THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME). (ISAAC PINO)

Isaac Pino said the City of Santa Fe management team has completed negotiations with AFSCME with a contract that would begin July 1, 2014, and run through June 30, 2017. He said the agreement was ratified by AFSCME members on February 14, 2014. He said the people at the table for AFSCME were

Nick Lovato, President, Mary Ann Seiderer, Vice-President, Jose Garcia, Chief Negotiator, Yodel Catanach from IT and Joe Villarreal. The management team was represented by Vicki Gage, Jon Bulthuis, Matthew O'Reilly and Isaac Pino.

Mr. Pino said, "The agreement includes, the biggest part of the agreement includes a 50¢ per hour raise for AFSCME members that would begin the first full pay period of July 1, 2014. There was a trigger that was inserted in that 50¢ per hour raise, and that trigger was that the gross receipts collections after the second quarter of the current fiscal year had to be \$2 million higher than last year. It's been reported that the actual GRT collection is \$3.06 million higher than last year, so that trigger has been met. The trigger was set so that we could load the raises into the process and into the system so they would become effective on July 1st. In years past, they generally don't happen until the end of the first quarter of the fiscal year, but we were reasonably sure the collection of the GRT would stay above \$2 million and it has proven to be that."

Mr. Pino continued, "Part of the pay increase, includes a grand total of \$925,200 for the AFSCME members which includes a \$712,858 base, plus a \$212,342 benefit package, which goes with it. Other financial changes in the contract include a shift differential increase from 75¢ to \$1 per swing shift differential and \$1.50 to \$1.75 for graveyard shift differential. The projected cost is \$42,000. One personal holiday for a projected cost of \$114,000, bilingual incentive pay at \$80,000, and longevity leave at \$134,000. So the total projected cost for this contract is \$1,295,200."

Mr. Pino continued, "The agreement between the City of Santa Fe has been included in the packet. This is the agreement that was ratified by the Union. Mayor and Council, we recommend adoption of this contract by the City Council."

Nick Lovato, President, AFSCME, thanked the negotiating team for doing a good job. He said they have been working together to get this done. He said members lost a lot of benefits in the past which was due to some of the members in office at the time. He said we now need your support on this contract.

Councilor Calvert thanked participants, the union and management team, for getting this done prior to the budget process, noting it makes for a more informed budget process. He applauded everybody on the progressive nature of the raise given, noting it will be a bigger percentage for those who make the least amount of money.

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

DISCUSSION: Councilor Bushee said she understood there was a request to add something back in, and asked if that was considered.

Nick Lovato, President, AFSCME, said that was for bereavement leave.

Councilor Bushee asked the reason it wasn't added.

Mr. Lovato said they felt a number of days were already approved for annual and sick, but it would be nice to get a couple of days back. He said it was on the table.

Councilor Ives said the Memo indicates the 50¢ per hour raise and indicates the negotiated agreement includes an increase based on a trigger. He asked if the new agreement contains similar triggers into the future, or are we back to parity.

Mr. Lovato said, "Yes it does. It has a trigger in every negotiations for the next two years after this one, but we can do adjustments on that portion when we go through negotiations. That will be language that we can change.

Councilor Ives asked what are the triggers.

Mr. Lovato said, "This year the trigger was if we hit the \$2 million mark which we did, but then it went down a little bit, \$125,000. We still met the trigger because they went up to \$3 million."

Mr. Pino said, "The way we left this particular contract was that it could be reopened for financial articles next year and the following year. So this increase is for the coming fiscal year only."

Councilor Ives asked if we have any built-in triggers for succeeding fiscal years beyond the next one.

Mr. Lovato said those would be negotiated next year and the year after.

Mayor Coss said, "I think all they have is a reopener for wages again next year."

Councilor Dominguez said then we can open for finances next year and the year after, and that's how everyone understands it.

Mr. Pino said, "Right. So we open up this year for next year."

Councilor Dominguez asked if it is just for finances.

Mr. Pino said it is just for finances and what was put in the contract for the next two years after this one.

Councilor Bushee asked if the discussion involved rising health care costs and offsets.

Mr. Pino said no, and we'll just have to wait for the budget for an idea of those costs.

Mayor Coss thanked everybody for reaching the agreement, saying, "It is good to have this in my last City Council meeting." He said the City employees stayed with us through an awful recession, and it is great to see raises and benefits coming back, and to get the relationship on an even keel again. He said, "I really appreciate the work."

Councilor Wurzbarger thanked the negotiating teams who pulled this together and continued to do their work at the same time.

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

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

Against: None.

13. REQUEST FOR APPROVAL OF COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF SANTA FE AND THE SANTA FE FIREFIGHTERS ASSOCIATION. (ERIK LITZENBERG)

Paul Babcock, Assistant Fire Chief, said the City of Santa Fe Fire Department management team has completed contract negotiations with the Santa Fe Firefighters Association, Local 2059 for the fiscal year 2014/2015. He said, "Both management and the union had a productive negotiation with both sides coming to agreement for better working condition and a contract to allow us to provide a better service to the Community." He said 18 articles were opened, with 3 which have a financial impact. He said instead of a 50¢ per hour raise, they did a 3% per hour for the Santa Fe Firefighters Association members. He said the average AFSCME used was 2.97% for the average salary. He said the Firefighters requested a 3% which came on agreement. He said that also comes under the \$2 million GRT or greater for FY 13/14, ending December 31st as does AFSCME's contingency.

Assistant Fire Chief Babcock said the second financial impact would increase our minimum manning from 32 to 34, with a financial impact of \$166,000 which is worst case scenario. He said each shift is staffed with 42 members, so there would have to be 5 individuals off on either annual or personal leave, and 3 individuals calling in sick. So it would take 8 individuals before we would have to provide overtime for the coverage of minimum manning.

Assistant Fire Chief Babcock said the third financial impact is a wellness personal holiday. Worst case scenario is \$81,924. He said each member would have to do an annual physical, a firefighter combat challenge exercise, VO2 max as well as a red card pack test. All 4 criteria would have to be met for an individual to be eligible for a second personal holiday. The total impact is \$647,266.

Carl Schmitt, President, Santa Fe Firefighters Association, said it was a hard effort, but they worked together to build a contract for the members that will serve the members very well as well as the department needs. He said the base rate increase is increase, noting they used to have the personal holiday and are bringing it back. He said they included a few other things needed to get that. He said it is a good contract, which passed with a 94% approval of the members, so there were really no issues.

Councilor Rivera noted Chief Babcock said at the end of his presentation that the potential financial impact would be \$647,000, but the packet says \$447,000.

Chief Babcock said the difference is just the base pay package of the 3%, which would be \$198,616, which doesn't include the additional benefit package of \$200,000.

Councilor Rivera said then the correct number is \$647,000.

Chief Babcock said yes, reiterating this is the worst case scenario, noting all 140 members of the union would have to meet all of the criteria to get an additional holiday, so it depends on how many meet the criteria for the personal holiday and how many times they would have to hire overtime for the 34.

Councilor Trujillo thanked the Firefighters Association for working to get this done. He asked the status of the Police Officers Association negotiations.

Brian Snyder said they are at impasse.

Unidentified said, "We have been at impasse since November."

MOTION: Councilor Calvert moved, seconded by Councilor Wurzbarger and Councilor Bushee, to approve the proposed Santa Fe Firefighters Association contract for the fiscal year 2014-2015.

DISCUSSION: Responding to Councilor Dominguez's questions about the status of the POA negotiations, Mr. Snyder said, "As I understand it there was a mediation session earlier this week. I have no further details."

Responding to Councilor Dominguez, Mr. Snyder said he can request any details in the current status.

Councilor Rivera said it seems early to go to impasse in November, noting we are barely seeing contracts now. He asked, "Were you legitimately at that point able to..."

Mayor Coss said he would like to take this up after we approve the Firefighters contract.

Mayor Coss thanked everyone for their great work, saying he appreciates the good relationship.

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

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

Against: None.

Explaining her vote: Councilor Bushee said, "Yes. And thank you once again... this is always the easiest negotiation, the Firefighters. I appreciate the work."

Explaining his vote: Councilor Rivera said, "Yes, and congratulations."

Councilor Rivera reiterated that November seemed too soon to go into impasse, and asked if there was no legitimate moving since November.

Unidentified said, "It went to impasse in November. We were told specifically there was a flat budget in November, and there was no movement as far as that went. All we were proposing, as a membership, was to go back to four 10's, because our officers are tired and we want to be with our families, and the extension of the take home policy, so we can start bringing in some better qualified laterals. All in total, the total given to us by the City was \$80,000. That it. And that's all we wanted. We weren't asking for raises because we knew we were in a recession, a financial crunch, and acting on good faith, we went forward with that. And there has to be some sort of reciprocity. And we've come to the conclusion that we've met that requirement. And asking for an extra day off so we can be with our families isn't asking for much, it's really not."

Councilor Rivera asked if the previous two unions have different language in their contract specifying that if GRTs are at a certain level, certain things would take place. He is unsure how two unions were informed of one thing and another was informed something completely different.

Mr. Snyder said, "I don't feel comfortable in talking about on-going negotiations and the mediation process of what was discussed in the union negotiation process in a public process."

Unidentified said, "We are at impasse, so it should be available, and it should be public knowledge – since we're at impasse."

Councilor Rivera asked if the contract states that once you go to impasse ...

Unidentified said it can be spoken about publicly, and they haven't forgotten about the community, obviously, but it seems the City has forgotten about its police officers. He said, "We're tired."

Councilor Rivera said he will set up a meeting with Mr. Snyder later.

Mr. Snyder said he will be happy to meet with any one of the Councilors off line.

Councilor Dimas understands mediation is set up.

Unidentified said a mediation day was set up. He said, "We had been at impasse since November, and conveniently the meeting was set up the day before the last Council meeting. So when everybody was met with, as far as their negotiation talks, it was done before ours, which was conveniently set up yesterday, but the mediator forgot about the meeting and didn't show up. But it's all funny to our membership and myself how everybody can go through negotiations, but the Police Department's meeting is set up the day before the last full Council meeting, before the elections."

Councilor Dimas asked if it is set up now, commenting he hopes mediation gets done quickly.

Mr. Snyder said the mediation didn't happen. He didn't realize the jointly agreed mediator did not attend, and he is certain it should be set here very soon.

Unidentified said that is his understanding as well.

Councilor Dimas requested that be done very quickly.

14. **CONSIDERATION OF RESOLUTION NO. 2014-19 (COUNCILOR IVES). A RESOLUTION AUTHORIZING THE ESTABLISHMENT OF A COMMUNITY HOSPITAL AND HEALTH CARE STUDY GROUP TO EXAMINE THE EFFECTS OF THE AFFORDABLE CARE ACT AND OTHER CHANGING CONDITIONS ON THE EFFECTIVE AND EFFICIENT DELIVERY OF HEALTH CARE SERVICES TO THE SANTA FE COMMUNITY AND DELIVERY OF HEALTH CARE SERVICES TO THE INDIGENT; AND CALLING ON SANTA FE COUNTY AND OTHER HEALTH PROVIDERS IN THE NORTHERN NEW MEXICO REGION TO JOIN THE CITY OF SANTA FE IN SUCH EFFORTS. (KATE NOBLE) (Postponed at February 12, 2014 City Council Meeting – Public Hearing Closed)**

A letter dated February 26, 2014, in this matter, to the Members of the Governing Body of the City of Santa Fe, signed by Bruce Weatherbee, Tracy Neal, Dianne Harris, Fonda Osborn, Diane Spencer and Steven Farber, submitted for the record by Bruce Weatherbee, is incorporated herewith to these minutes as Exhibit "7."

A letter dated February 26, 2014, to Mayor David Coss and Members of the City Council, from Elicia Montoya, Esq., in this matter, submitted for the record by Elicia Montoya, is incorporated herewith to these minutes as Exhibit "8."

An amendment sheet for this item, submitted by Councilor Bushee, is incorporated herewith to these minutes as Exhibit "9."

An amendment sheet for this item, submitted by Councilor Ives, is incorporated herewith to these minutes as Exhibit "10."

Mayor Coss said there is a letter on the desk suggesting that someone has a conflict of interest, and should identify themselves. He is concerned about this letter, and wanted to bring this to the Governing Body's attention. He would like Mr. Martinez to weigh in, because the letter says, "... a member of your body who via current or previous personal relationship, a professional relationship or through a political contribution, have a relationship with organizations and/or individuals professional associated with organizations which are referred to in the Resolution Authorizing...."

Mayor Coss said he would disclose that he has friends on both sides, whom he has known for 20-30 years. He has been on picket lines with them, and in meetings in the hospital. He said, "If having a friend on one side or the other is going to have me charged with an ethics violation tomorrow, I'll recuse myself now, but I don't understand the ethics ordinance that way. I just think the members ought to take a

look at this, it's signed by 6 people. It says, "We respectfully request that all members of the governing body disclose any such.... relationships with such organizations..." He asked Marcos Martinez if he has a copy of the letter.

Mr. Martinez said, "Yes. I would agree with you that I don't read the Ethics Code quite as broadly as this letter suggests. The purpose of this section of the Code is to prevent representations of private interest, especially in the context of the possibility of receiving some kind of compensation. But, another purpose of the Ethics Code is to use disclosure, as the Mayor has done, to cure any suggestions of undue influence. If you have any other questions, I'd be happy to try to address them. I'm going to be reviewing this letter."

Councilor Ives said, "While I don't believe it to be a conflict under our Code as I read it, my sister-in-law does serve on the Hospital's board. And I certainly do not derive any benefit from that relationship. I will note that a former President of the Nurse's Union, Dolly Lujan, who was in my race for Council when we ran, apparently is related to my wife's family as well. My father-in-law and her husband describe that relationship as somewhere between first and second cousins. I will also say that previously I have had surgery at St. Vincent Hospital, and after my appendix was out, I entered 3 days later with a significant fever, and spent 3 weeks in the Hospital, several CAT scans, exploratory surgery, I have a wicked scar. All my kids have been born there. It is an important hospital within our community. I don't believe, again, any of these are conflicts. But my sister-in-law is sitting right here, Sharon Hickey, and Sharon has served on any number of boards throughout the course of time in public service to the people of Santa Fe. So, I respect her participation there, but it has no influence on what I do on Council in regard to this matter."

Councilor Rivera said the first sentence of the Resolution includes Santa Fe County in the discussion process and asked if it has agreed to participate.

Ms. Noble said no, not at this time.

Councilor Rivera asked if there has been any discussion with them as to whether they would be willing to participate.

Ms. Noble said she has had staff level discussions with the Health and Human Services person at Santa Fe County, and she will take direction from the County Manager. She said, "There, I believe, was a letter circulated to you at the last meeting. The County doesn't seem particularly happy about participating in the process at this point."

Councilor Rivera said then nothing has changed from their initial stance on this and Ms. Noble said no.

Councilor Rivera asked if it is fair to continue to name them in the Resolution.

Mayor Coss said it is a judgment call. He said this is a Resolution and anybody we name can decline to participate, but it doesn't mean we shouldn't proceed.

Councilor Bushee said she would keep them in.

Councilor Dominguez said at the last meeting he asked how we define an "eligible consumer representative," and asked if this is included.

Ms. Noble said they have not arrived at a definitive definition of an "eligible consumer representative."

Councilor Ives said regarding the letter from County, the County indicated that they were still deeply involved at the Legislature on the potential changes to the indigent funding used for that purpose. He said a bill has been reported out, but he hasn't had a chance to look at it. He said he believes the County indicated in conversations, that they were interested in the effect of that as a precursor in participating in any process involving delivery of health care services in the County, and proposed that the City undertake this process to allow that to happen, and asked if that is correct.

Mr. Snyder said he spoke with the County Manager, and that is correct. They are trying to get their finances in order, and are concerned about loss of funds around this discussion, and are interested in finding out what money they lost and their status, and the reason they requested to wait until July 1st.

Councilor Ives said he agrees. He said we have a process that is voluntary and we can ask anybody we would like to participate, but we can't compel anybody except our staff to participate. He said when he considers what we're trying to accomplish, which is a dialogue about health care, including indigent services in Santa Fe, our significant partner has indicated, not that they won't participate, but that they wait until things settle out, speaks a great deal of trying to engage in a process where they're not at the table. He thinks the County is a critical participant in these discussions.

Councilor Ives continued, "The County has been functionally charged in the past with the Indigent Tax and care, and have coordinated with the Hospital and other care providers in the community in this regard. And, not having them here makes it difficult to move forward at all, notwithstanding the fact that the two other parties, for purposes of our discussion so far, the Hospital and the Nurses union still have differing opinions as to how this group should be constituted. His fear is, without any type of agreement by all the significant parties, somebody isn't going to show up and participate because they don't have to. It isn't an indication they don't believe the process is valuable, noting we heard everybody say they thought it was valuable. However, until we get agreement on what we're doing here, if we pass anything, we're chasing somebody off, and we know we've, to some degree, angered the County by proposing this without fully engaging them to this point. This should be an important part of our consideration tonight."

Councilor Bushee said she is encouraged by the thought that we need this dialogue and the premise that the County could join at any time. She said she joined as a cosponsor and she is surprised to hear Councilor Ives' discouraging tone with regard to having this at all. She feels we are very close. She said she hoped to better understand this evening why there is still a concern that any of the hospitalists or doctors contracted with St. Vincent are not wanted at the table. She said the continued communication to her from the constituents is the significant demographic that should be at the table. She asked if someone from the Administration can tell her the distinction. She said she received a disturbing letter from Elicia

Montoya which suggested that Christus St. Vincent requires the physicians to sign an employment contract, which essentially is a gag order that they couldn't disclose any details about their work and working conditions. She said this is just putting places at the table for participation. She is willing to give on who chairs the group and how they are chosen. The concerns expressed to her by constituents is perhaps the doctors are over burdened and the staffing levels need to be examined as part of this discussion. She wants to know "what's what, and why we can't have a couple, or one, if we could, and if it is true that there is a gag order.

Mayor Coss said he doesn't want us to get into Christus St. Vincent personnel management with its doctors and their contracts, commenting he is unsure that is appropriate. He said the good news in all this is that City and our community can learn a lot from this process. He said Christus has offered a doctor to serve who was here and testified at the last meeting, which was rejected by some of the citizens speaking for the union. He said the issue for him is very technical and philosophical. He doesn't want to presume who the 1199 members will appoint, and doesn't want Christus to presume as well. He said Christus has offered a doctor, and still would, but he doesn't want the City Council to impose on Christus St. Vincent and name the employees for them who should be sent to the task force. He said it remains a rub. He said, "I would just say let's proceed and see what happens."

Mayor Coss said, regarding the County, when we catch up and know as much about health care and this hospital as the County does, maybe the County will join. The County has been on this for decades, while this is our first foray into it. He would agree to all of Councilor Bushee's amendments, except for the two hospitalists.

Councilor Bushee said the Mayor keeps referring to the Nurses' union as if they were ones dictating this Resolution. She said her original resolution was in concert with consumers, which she feels we have yet to hear from. She hears from them regularly, and based on those, she wanted to see all kinds of staff represented. She wants to see something happen, and it feels she is giving up on the constituents if she isn't requesting at least one doctor who serves that population, and not necessarily from Christus management side. She still doesn't understand what would be the problem. She asked to hear from Christus management.

Mayor Coss asked Mr. Delgado to speak to this issue.

David Delgado, Board Chair, said this isn't a "we/them" discussion. It was clear two weeks ago that this was about community health care, including all stakeholders. This is now becoming a hospital and union discussion, and said Mayor Coss articulated the correct discussion. This isn't about union negotiations. He said our nurses involved in this discussion are very important. He said they have offered the Chief Medical Staff individual, who is not a management individual, and is elected by all the physicians in the Hospital. They can't think of a better person to put on the study group for a broad discussion of health care.

Mr. Delgado continued saying, to the extent we talk about hospitalists, they will bring the necessary individuals for that particular forum once the agenda is determine. He agrees with the Mayor that at this point, putting hospitalists on it "still does not make sense to us." He said having the Chief

Medical Staff physician makes a lot of sense and is in good faith with what we're trying to accomplish here.

Responding to Councilor Bushee, Councilor Ives said on packet page 5, the listing of participants identifies the Chief Medical Officer or Chief of Staff for Christus St. Vincent as available. The other addition was "two Santa Fe Medical Doctors not considered employees of Christus St. Vincent, to which he would make an amendment, with or without privileges at St. Vincent."

Councilor Bushee said she thinks "we are in agreement."

Councilor Dominguez said, "For the record and I'm not sure, and maybe you can answer this Kate, or you probably can answer this, what is the difference between an M.D. and a Hospitalists."

Mayor Coss said, "Medical Doctors that work at the Hospital are called Hospitalists. I see a lot of nodding of heads."

Councilor Dominguez said he asks so he is clear in the language which is being provided.

Mr. Delgado said there are many different types of doctors that work in and outside the Hospital. Doctors who work within the Hospital are credentialed and privileged in the Hospital. A portion of those doctors are called Hospitalists, which are doctors who are specifically trained to take care of in-patient populations. He said we do agree that they are a part of this discussion, but it should be in line with when we explain to the community the question of Hospitalists and how they are utilized by the Hospital.

Councilor Bushee said many employees use the emergency room as if it were a primary care facility in some way, and are trying to discourage that with health and wellness programs. Her original pitch was to have someone from the Emergency Room. She asked if the Chief Medical Officer would have some affiliation with the Emergency Room operations.

Mr. Delgado said the Emergency Room operation is an integral part of the entire hospital. He said the Chief Medical staff would have an understanding of the challenges and success in the Emergency Room. He said we want a more specific discussion about the use of the Emergency Room which is important. He agrees with Councilor Bushee that the Emergency Room is used as a primary care center. He said to assign individuals to the entire group is very costly for them. He said they will bring the appropriate resources according to the discussion that is going to take place.

Councilor Calvert said, with regard to the County, he shares Councilor Ives' position in that regard. He believes we can build a time frame that would accommodate that participation after July 1st. He said what will precede any meetings is the planning phase, and to be sure we take the appropriate time to plan this before "jumping" into it. He said we could push the date somewhat would allow the final report from the Health Policy Commission coming in April-May which would be beneficial for participants moving forward. He suggested on Resolution, page 6, line 20, Item D where we talk about time frames, we do planning and wait the report and don't set any meetings before July 1st, so we give the County the opportunity to investigate. It is no guarantee the County will participate, but it would help to get their confidence – win them over to participate.

Mayor Coss said that is a good suggestion, and thinks that's how the County will proceed.

Councilor Rivera asked for information how the Community Sole Provider funding works.

Mr. Delgado noted Bruce Tassin the administrator had an engagement he couldn't change, and apologized he wouldn't be here.

Mr. Delgado said, with regard to Sole Community Provider funding. He said, "At the close of the Legislature, the Sole Community Provider bill went through the House and Senate and approved a 1/12, which was right in between the 1/8 that we would have preferred and the 1/16. So, as it relates to that funding, we lost the trebling relating to the federal funding of that portion between 1/12 and 1/8. So that sets the pool. What happens next, is the Hospital Association will be meeting as early as next week, to develop the process of how to divide that pool. So, Councilor Rivera, that is where we are as far as the amount, so as of tonight, we don't know exactly what that will mean to Christus St. Vincent."

Mr. Delgado continued, "The positive side for us, quite frankly, and to the credit of the County is that there is funding. We were looking at a situation as we headed into this calendar year of potentially, zero funding. It is important to consider the County's involvement. As we mentioned before, there was a tremendous effort in the Community Health Assessment, and one of the first times of a City, County, Hospital and other health care providers to develop the road map into what the community needs from our health care service providers. So if we stay at the bigger level of having this discussion, that is a necessary piece of it. If it is simply about our nursing relationship, that's a smaller piece of it."

Councilor Rivera asked the amount the County gave Christus in Sole Community Provider funding last year.

Mr. Rivera said they received \$4 million in Sole Community Provider funding, which is what the County contributed and then got federal funding on top of that.

Councilor Rivera said then Christus gets a federal match.

Mr. Delgado said it is a 3 to 1 match. He said the concept of sole community provider is going away. He said there is still beneficial federal funding of 3 to 1 which comes from counties to the State and then it is federally funded. He said the Hospital used to get more than \$30 million, so over the past 3 years for the community, we have lost upward of \$75 million in funding. He said that pays wages and stays in Santa Fe, so it is a major economic driver.

Councilor Rivera said this goes back to the importance of the County's participation from the ground level.

MOTION: Councilor Ives moved, seconded by Councilor Bushee, to adopt the substitute Resolution No. 2014-19, which is in the Council packet, with direction to staff that we engage in a planning phase to populate this group, and hold the first meetings after the County is involved, which will be on or about July 1, 2014.

DISCUSSION: Councilor Ives said this would be a pathway forward and hopefully would get participation by the County, reiterating it is significant. He said the effect of the Indigent legislation has yet to be understood.

Responding to a question, Councilor Ives said, "I think we're okay with the Substitute Resolution as it is in the packet."

Councilor Bushee said she is comfortable with the acknowledgment of Dave Delgado that at the appropriate different forums, the appropriate staff would be made available to flesh-in the discussions. She understands the issues with the County, noting a lot of the people here this evening, were at the Legislature to back-up and support this Hospital. She said nothing either she or Councilor Ives brought forward was ever intended as a "us/versus" them dialogue or setup, nor to have a conflicting relationship. She said there is so much happening in health care. Noting there is always talk about people leaving Santa Fe to go elsewhere for their healthcare. She wants to make our one community hospital the strongest and best it can be in providing health care to the community. She said this has been her tone the entire way. She thinks the City should be in this dialogue, and the reason for what she brought forward.

FRIENDLY AMENDMENT: Mayor Coss asked Councilor Bushee if she would like her 10th amendment, on page 7, line 3, which states, "..., but in no ways shall this prohibit the Study Group from addressing issues perceived to be in the publics' interest and the care of patients." Councilor Bushee said yes. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

Councilor Ives said nothing in the Resolution keeps people from coming to the hearings/forums and expressing their opinion.

Councilor Dimas said since the County is so essential in the whole thing, what if the County doesn't come to the table and don't participate – is there something built into the Resolution to take care of that, because he hasn't heard that.

Councilor Ives said participation is totally voluntarily, reiterating that we can't compel anybody else, except for staff, to participate in the process. He said we will reach into the community so we hear all the voices. He said, "Can we force them. No. Have they indicate a desire to participate at the right time. Yes."

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

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

Against: None.

Mayor Coss moved Items 15 through 18 to the end of the Evening Session

END OF AFTERNOON SESSION AT APPROXIMATELY 7:45 P.M.

EVENING SESSION

A. CALL TO ORDER AND ROLL CALL

The Evening Session was called to order by Mayor David Coss, at approximately 8:00 p.m. Following the Pledge of Allegiance, salute to the New Mexico Flag, and Invocation, Roll Call indicated the presence of a quorum as follows:

Members Present

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

Members Excused

Others Attending

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

F. PETITIONS FROM THE FLOOR

A copy of the words to "Forever Young," a song by Bob Dylan, entered for the record by Donato Coviello, is incorporated herewith to these minutes as Exhibit "11."

A packet of comments and photographs, entered for the record by Lee Murphy, is incorporated herewith to these minutes as Exhibit "12."

Donato Coviello said you are heroes for doing what you do. He said he doesn't like to trash people, "but somebody has to do that job." He said in response to that, he has brought an apology in the form of a blessing written by Bob Dylan. He read the song as a poem. Please see Exhibit "11" for the words to the song.

Lee Murphy, 4607 Solelito Loop, entered a packet of pictures and remarks for the record. She read a portion of her handout into the record with regard to issues created by the Buskers on the Plaza.

She said, "I think the police's hands are tied. Freedom without boundaries is anarchy and these are some of the contradictions and examples that she is bringing to your attention. Please see Exhibit "12," for specifics of Ms. Murphy's remarks.

Stephanie Beninato said she was here two weeks ago and most of you were in Hawaii, and four of the Councilors denied her appeal. She said this is the third time she's tried to appeal to the City Council and her appeal has been summarily denied. She feels she is being discriminated against as a person of color, and she isn't a tall, leggy blonde and "I don't seem to be able to get an appeal because I don't meet some kind of stereotype." She is an outspoken, articulate person and is deeply concerned about the lack of due process that occurs at the Historic Board, which is the reason she has come to the Council. She said the City's Ordinance which believes is unconstitutional on its face, allows the City Attorney, not Interim City Attorney to make a recommendation to deny somebody an appeal. She said there is supposed to be a discussion of that, but it was put on the consent calendar and there was no discussion. She said she wasn't notified of the action, and happened to hear about it, because she attended to hear about the impact fees. However, the owner's agent was notified, and he told her today he was here and knew about it. She said, "I've asked that look into that because the Appeals Ordinance says that she, as an applicant is entitled to a meaningful hearing for her appeal. She said she isn't getting that when it is on the consent calendar, no discussion, no notice, and no ability to be heard when you do it at the 5:00 meeting.

Ms. Beninato continued, "You are engaging in quasi judicial actions, and you need to observe minimal due process rights, which means I get a hearing. So I'm asking you again to rescind the vote, and I believe you can do that. I know that the City Attorney who is sitting here tonight has told one Councilor that is not possible, because the permit was already issued. I believe the City has improperly issued that permit, because I have until Friday to go to Court if the City Council will not rescind that vote and give me an appeal. If the City doesn't want to give me an appeal, then I want my \$100 back because you haven't given me an appeal and I'm not paying for nothing. So again, I'm asking that you rescind. And again, when someone gets a permit when the appeal process is on, they are going forward at their own risk. It doesn't mean that the City Council can't reverse their vote, or that I can't go to Court. And at this point, I really do believe if you won't take that action, give me an actual appeal, that you are definitely violating my Civil Rights. So it's not just going to be about due process and please Court, give me some relief, meaning give me back my fees, I'm going to ask for serious consequences because of that. And because I believe that ordinance, and I don't know if that part of the Ordinance, you know about having a discussion, was one of those last minute amendments that got dumped in when Chapter 14 came in, or whether it was actually there. But it's a very serious problem in terms of due process, and I really think that you all need to look at it and revise it, and you need to give me an opportunity to be heard in a meaningful way as the Ordinance requires."

G. APPOINTMENTS

There were no appointments.

H. PUBLIC HEARINGS

1) REQUEST FROM DRURY HOTELS COMPANY, LLC, FOR THE FOLLOWING:

- a) PURSUANT TO §60-6B-10 1978, A REQUEST FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES AT DRURY PLAZA HOTEL SANTA FE, 228 E. PALACE AVENUE, WHICH IS WITHIN 300 FEET OF THE CATHEDRAL BASILICA OF SAINT FRANCIS OF ASSISI, 131 CATHEDRAL PLACE, THE EPISCOPAL CHURCH OF THE HOLY FAITH, 311 E. PALACE AVENUE, AND THE NEW MEXICO SCHOOL FOR THE ARTS, 275 E. ALAMEDA STREET.**

- b) IF THE WAIVER OF THE 300 FOOT RESTRICTION IS GRANTED, A REQUEST FROM DRURY HOTELS COMPANY, LLC, FOR A TRANSFER OF OWNERSHIP AND LOCATION OF INTER-LOCAL DISPENSER LICENSE #2507, WITH ON PREMISE CONSUMPTION ONLY, FROM AmREST, LLC, D/B/A APPLEBEE'S NEIGHBORHOOD BAR & GRILL, 830 PASEO DEL PUEBLOS, TAOS, TO DRURY HOTELS COMPANY, LLC, D/B/A DRURY PLAZA HOTEL SANTA FE, 228 E. PALACE AVENUE.**

(Yolanda Y. Vigil)

The staff report was presented by Yolanda Y. Vigil, City Clerk, from her Memorandum of February 21, 2014, with attachments, which is in the Council packet. She said there is a letter in the packet from Attorney Linda Aiken explaining that there will be two (2) liquor license requests for the Drury Plaza Hotel-Santa Fe ("DHC"). The liquor license currently being considered is to provide three (3) complimentary alcoholic beverages between the hours of 5:30 p.m. and 7:00 p.m. to hotel guests. This service will be controlled by Drury Hotels Company, LLC, and will occur in the hotel lobby area, which will be the license premises for DHC. The second liquor license request, which has not been received by the City of Santa Fe, will be leased to a company that will operate a hotel restaurant, lounge and provide room service.

Ms. Vigil said there are letters of no objection in the packet from Reverend Adam Lee Ortega y Ortiz, the Cathedral Basilica of St. Francis of Assisi and Kenneth Semon, President of the Episcopal Church of the Holy Faith. She said there are staff reports in the packet regarding litter, noise and traffic, and staff does not anticipate a substantial change in litter and noise or any unacceptable traffic impacts due to the approval of this request. Staff is recommending that this business be required to comply with all of the City's ordinances as a condition of doing business in the City.

Public Hearing

Stephanie Beninato was sworn. Ms. Beninato said her remarks go for all 3 items on the agenda this evening, having to do with liquor licenses, waivers of licenses or restrictions. She said the City could save a lot of time if you would get the Legislature to change liquor restrictions concerning churches, because you always give waivers for that, and the churches don't seem to care any more. This would save the Council an enormous amount of time. She said she believes the New Mexico School for the Arts is going to move, but it is within 300 feet of the school, and yet you have taken Giant to Court because it is too close to a school on the south side of town and you think that's a bad influence. She said this is a bar operating by the school and there is no difference, "and if we care about kids on the south side, we should care about kids in every part of town." She has noticed a large increase in the liquor miniatures downtown frequently. She said during the ARTFEAST last week, people were walking around with glasses of wine – out of one gallery and into another. She said she was helping in the gallery and advised that we have an open container law and they could harm the fundraising event by walking around with the wine. She said it is inconsistent to be taking Giant to Court because it's too close to a school, and then giving waivers to Drury Hotel.

The Public Hearing was closed

MOTION: Councilor Calvert moved, seconded by Councilor Dimas, to grant the waiver of the 300 foot location and allow the sale of alcoholic beverages at Drury Plaza Hotel-Santa Fe, 228 E. Palace.

DISCUSSION: Councilor Dominguez asked if this is a license that is coming in from Taos, and Ms. Vigil said this is correct.

Councilor Dominguez asked, "Again, this is something I've brought up before, Marcos, this is a question for you, if you can answer it, or maybe Yolanda, what is our number of licences that we are allowed, and how many do we have."

Ms. Vigil said she doesn't know that number. She understood Assistant City Attorney Alfred Walker was to send him an email or memo, and is unsure if that happened.

Councilor Dominguez said it did, but there was nothing about the quota.

Councilor Dominguez asked the Applicant's representative, "So essentially, as I understand this, because it is next to a church, even though the church has no issues with this, we can still offer a denial, and then obviously you guys will do whatever you are going to do. But the question that I have is.... it is interesting to me that this application is coming before us after project has already been started. And so I'm wondering if this was this part of the business plan that Drury had when they decided to bring their project to the City of Santa Fe."

Linda [last name unknown], Applicant's Representative, said, "There is no one present for my client, but just as a general matter I would observe that in liquor license matters, it's not uncommon to get one until it's close to when you are going to start to build."

Brian Denninger, 18626 Castellani, San Antonio, Texas 78258, was sworn. Mr. Denninger said, "We have been working on this project, as everyone probably here knows, since about 2008, and it is quite a process to develop a process to develop a process like this in a historic downtown district, and we're tried to do all these thing. Just to support what Linda has said, is this true. Liquor licenses are very expensive in New Mexico, and so we wait until we're close to opening, just because of the expense of the license."

Councilor Dominguez reiterated his question which is whether the liquor license was part of the business plan when you decided to come to Santa Fe.

Mr. Denninger said, "That is correct. This is a full service hotel, four-star in nature which would have all the amenities of a typical hotel, including a restaurant, which that is the second license to come. The first part is the Manager's Reception, 5:30 to 7:00 p.m., after the school is closed, in a very short time, for the hotel guests only. It is on a second floor area, not immediately accessible from the first floor lobby, so I just clarify that. And it is part of the Drury Inn & Suites, and also our Drury Plaza brand program."

Councilor Dominguez asked, "If we deny this license, and the State upholds the denial, does that mean that Drury is out of business."

Mr. Denninger said they have a significant investment in the site and can't walk away from the property.

Councilor Dominguez said policy needs to be established by the Governing Body to deal with some of these situations where we are "getting the license after the fact, whether it's part of the business plan or not, it's almost like holding the Governing Body hostage, maybe not in this case, but in other cases where we've invested all of this time and money in a project, and if you don't give us our liquor license, then the project may not be valid. I just bring that up, because this is the point of discussion, but I'll be supportive of the motion."

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

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

MOTION: Councilor Calvert moved, seconded by Councilor Dimas, to grant the request from Drury Hotels Company, LLC, for a transfer of ownership and location of Inter-Local Dispenser License #2507, with on premise consumption only, from AmRest, LLC, d/b/a Applebee's Neighborhood Bar & Grill, 830 Paseo de Pueblo, Taos, to Drury Hotels Company LLC, d/b/a Drury Plaza Hotel Santa Fe, 228 E. Palace Avenue.

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

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

- 2) **REQUEST FROM MANITOU GALLERIES FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION TO ALLOW THE DISPENSING/CONSUMPTION OF BEER AND WINE AT MANITOU GALLERIES 225 CANYON ROAD. THIS LOCATION IS WITHIN 300 FEET OF THE CATHEDRAL BASILICA OF ST. FRANCIS OF ASSISI, 131 CATHEDRAL PLACE AND THE NEW MEXICO SCHOOL FOR THE ARTS, 275 EAST ALAMEDA. THIS REQUEST IS ART SHOW OPENINGS TO BE HELD FROM 5:00 P.M. TO 7:30 P.M., ON THE FOLLOWING DATES: MARCH 13, APRIL 25, MAY 24, JUNE 27, JULY 25, AUGUST 21 AND SEPTEMBER 26, 2014. (YOLANDA Y. VIGIL)**

The staff report was presented by Yolanda Y. Vigil, City Clerk, from her Memorandum of February 21, 2014, with attachments, which is in the Council packet. She noted there is are letters of support in the packet from Very Rev. Adam Lee Ortega y Ortiz, Rector, The Cathedral Basilica of St. Francis of Assisi, and Cindy Montoya, Principal, New Mexico School for the Arts.

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

MOTION: Councilor Wurzbarger moved, seconded by Councilor Dimas, to grant the waiver of the 300 foot location and approve/allow the dispensing/consumption of beer and wine at Manitou Galleries, 225 Canyon Road, for Art Show Openings, 5:00 \p.m. to 7:30 p.m., on March 13, April 25, May 24, June 27, July 25, August 21 and September 26, 2014.

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

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

Against: None.

Absent for the vote: Councilor Calvert.

- 3) **CONSIDERATION OF BILL NO. 2013-44: ADOPTION OF ORDINANCE NO. 2014-8 (COUNCILOR WURZBURGER). AN ORDINANCE RELATING TO IMPACT FEES, SECTION 14-8.14 SFCC 1987; AMENDING SECTION 14-8.14(E) TO MODIFY THE AMOUNT OF IMPACT FEES ASSESSED FOR RESIDENTIAL DEVELOPMENTS; AND MAKING SUCH OTHER STYLISTIC OR GRAMMATICAL CHANGES THAT ARE NECESSARY. (MATTHEW O'REILLY) (Postponed at January 29, 2014 City Council Meeting)**

A copy of Fiscal Impact Report [FIR] No. 2488, City of Santa Fe, is incorporated herewith to these minutes as Exhibit 13.

The staff report on the Substitute bill was presented by Matthew O'Reilly, Director, Land Use Department, from materials in the Packet. He noted there is a corrected FIR on the Governing Body's desks [Exhibit "13"].

Public Hearing

Kim Shanahan, Executive Officer, Santa Fe Area Homebuilders Association, expressed gratitude to Mayor Coss, Councilor Wurzbarger and Councilor Calvert, for their 8 years of devoted public service, noting they came in at the peak of 2006, withstood the depression of their industry and are now seeing it come out of that depression. He said the Association stands in support of the proposal. He said Santa Fe is still a long way from recovery, noting there are a number of subdivision which are poised to begin doing work in Santa Fe, most in the realm of affordable housing, and stand in firm support of the proposal. He thanked Councilor Wurzbarger for bringing this forward.

Colleen Dearing, President, Santa Fe Association of Realtors, said the Association is in support of the Ordinance. She agrees with Mr. Shanahan, that, "It's not over yet. We are struggling and this Ordinance would continue the growth of the business."

Stephanie Beninato said she is in opposition to waiving impact fees, noting in the minutes two years ago, Mr. O'Reilly said it would be a \$700,000 hit, but a news article indicates the City lost \$1.5 million. She said some Councilors have been lamenting insufficient funding for parks, and asked them think what this money could do. She said 2 years, it was completely anecdotal as to how this could stimulate the housing industry. There is no hard data that this would stimulate the building industry at all. She said you need hard data, and none has been presented. She said it is about a "feel good emotional" approach. She said affordable housing doesn't pay impact fees, and according to Mr. O'Reilly in the minutes two years ago, that the City can't waive impact fees. She said the City was supposed to supply

that \$1.5 million. She said she and others in the community not in construction, also are having lots of problems and challenges in the economic climate and, "I don't see the City Council helping just the normal, regular citizen in any way. How about waiving half of our utility fees, or something like that, so you can help everyone in the City, instead of just one industry."

The Public Hearing was closed

MOTION: Councilor Wurzbarger moved, seconded by Councilor Dimas, to adopt Ordinance No. 2014-8, with the amendments.

FRIENDLY AMENDMENT: Councilor Bushee proposed an amendment to waive the fees only for one more year, a total of two years. **THE AMENDMENT WAS NOT FRIENDLY TO THE MAKER.**

Councilor Bushee said when this was first presented, it was to get rid of the backlog of projects, and asked if we have completed that backlog of projects.

Mr. O'Reilly said he doesn't know that was the sole purpose. It also was to make projects less expensive to construct, hopefully to stimulate the industry, jobs and GRTs for the City. He doesn't know the projects they had in mind when this was adopted, or if these are off the shelf and being built. He said he does have hard facts that since this Ordinance was in place, new residential increased 35%. He said he can say we are now issuing all permits at about 84% of our maximum year ever in 2005-2006. He said the valuation of those permits are much lower than in 2005-2006. These are the facts we've tracked since the Ordinance was Adopted. He suggested asking Mr. Shanahan where we are with planned projects.

Councilor Bushee said it seems as if we are rushing this before the new Council comes in, and said she was looking for a compromise, and she can't support the two full years and can't support this bill this evening and would like to take this one year at a time and is not interested in a two-year approach.

Councilor Dominguez referred to Exhibit "13," page 5, which says, "Net new gross receipts tax revenue that accrues to the City through the direct and secondary economic effects of residential construction has been shown to exceed the amount of uncollected impact fees." He asked if this is the same as what we have in the packet.

Mr. O'Reilly said, "Yes, on packet page 26, that sentence refers to an analysis we did just to try and estimate how some of the benefits might or may not have been to the City, by having the Ordinance in place." He said we have calculated the GRT received from that construction, which was in excess of what it was 24 months before that, and added the associated building permit fees which go directly to the City's General Fund, as well as the secondary impacts that construction brings. He said, "When you add those things in, the amount of the City's share of the GRTs, exceeds the amount we would have collected, had

we been collecting the impact fees. That is not a judgment statement at all, I'm simply reporting the analysis we did to you."

Councilor Dominguez asked if we have a mechanism in place to measure this more thoroughly in the next two years, "not that you haven't done a thorough job now, but if there is anything that you wanted to see, or maybe we should have started earlier."

Mr. O'Reilly said as soon as the Ordinance became effective, we created a new Permit Code type, to track only those programs whose impact fees were reduced to zero under the Ordinance. This is the way we were able to distinguish those permits from those which came before and now coming after. He said they weren't able to, and are unsure how to go about, tracking the reason someone submitted a permit application during that time and whether they made their decision to apply for a permit at that time based on this ordinance. He has only anecdotal information about this. He has heard anecdotally from builders over the past two years that they chose to do this at this time because the impact fees were a factor. He also think people chose who didn't know about this legislation.

Responding to Councilor Dominguez, Mr. O'Reilly said, "Again, anecdotally, I think there were people that made a decision to go forward while the Ordinance was in place, but I can't say how many of them did that, or whether the Ordinance was their only reason for doing so."

Councilor Bushee asked if a one-year review is built in, and Councilor Wurzburger said yes.

Councilor Bushee said not long ago, Mr. Snyder said we may not be able to bond, and take a look at the categories, "Roads, parks, fire police," noting we have a great need for these things. She wants to be clear that two years is a long time to extend this policy, reiterating she wants to remind everyone of all the needs we do have in this community."

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

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

Against: Councilor Bushee.

- 4) **CONSIDERATION OF BILL NO. 2014-4: ADOPTION OF ORDINANCE NO. 2014-9 (COUNCILOR CALVERT, COUNCILOR BUSHEE, COUNCILOR IVES, COUNCILOR DIMAS, COUNCILOR RIVERA, COUNCILOR WURZBURGER, COUNCILOR TRUJILLO AND COUNCILOR DOMINGUEZ). AN ORDINANCE RELATING TO THE CITY OF SANTA FE HOUSING CODE, CHAPTER 26, SFCC 1987; AMENDING SUBSECTION 26-1.21 TO INCLUDE VETERANS IN THE LIST OF PROFESSIONS TO QUALIFY FOR EXPANDED ELIGIBILITY STANDARDS FOR SANTA FE HOMES PROGRAM (SFHP) HOMES. (ALEXANDRA LADD)**

The staff report was presented by Alexandra Ladd from the materials in the packet. Please see these documents for specifics of this presentation.

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

MOTION: Councilor Calvert moved, seconded by Councilor Bushee, to adopt Ordinance No. 2014-09.

DISCUSSION: Councilor Dimas asked if the benefits would extend to any beneficiaries of a veteran, "to be able to use the affordable housing portion of that."

Ms. Ladd said, "No, not for the home purchase. The pre-qualifications part of the process once the home is owned by a qualified homebuyer, and this applies to everybody going through the program. They can leave it to their beneficiaries, who can then be income qualified to assume the lien and continue the ownership of the property."

Councilor Dimas said he thought this was the case.

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

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

Against: None.

Explaining his vote: Councilor Trujillo said, "Yes, and add me as sponsor."

Explaining her vote: Councilor Wurzburger said, "Yes. Add me as well, please."

Councilor Rivera asked to be added as a sponsor as well.

- 5) **CONSIDERATION OF BILL NO. 2014-5: ADOPTION OF ORDINANCE NO. 2014-10 (COUNCILOR WURZBURGER). AN ORDINANCE RELATING TO THE SANTA FE HOMES PROGRAM ("SFHP"); AMENDING SECTION 14-8.11 SFCC 1987 TO MAKE PERMANENT THE CURRENT PERCENTAGE REQUIREMENTS OF THE SFHP; AMENDING SECTION 26-1 SFCC 1987 TO UPDATE THE LEGISLATIVE FINDINGS, TO ESTABLISH THE SCHEDULE FOR PAYMENTS IN LIEU OF CONSTRUCTING UNITS FOR SFHP DEVELOPMENTS WITH TWO THROUGH TEN TOTAL UNITS, TO MAKE PERMANENT THE CURRENT PERCENTAGE REQUIREMENTS OF THE SFHP AND TO MAKE VARIOUS OTHER CHANGES TO THE SFHP ORDINANCE. (ALEXANDRA LADD)**
- a) **CONSIDERATION OF RESOLUTION NO. 2014-20 (COUNCILOR WURZBURGER). A RESOLUTION AMENDING THE ADMINISTRATIVE PROCEDURES FOR THE SANTA FE HOMES PROGRAM TO REFLECT THE AMENDMENTS TO THE SFHP ORDINANCE APPROVED BY ORDINANCE 2014-10. (ALEXANDRA LADD)**

A proposed amendment to the ordinance, submitted by Councilor Calvert, is incorporated herewith to these minutes as Exhibit "14."

A second proposed amendment to the ordinance, submitted by Councilor Calvert, is incorporated herewith to these minutes as Exhibit "15."

A third proposed amendment to the ordinance, submitted by Councilor Calvert, is incorporated herewith to these minutes as Exhibit "16."

A copy of Public comments from the development community, regarding the elimination/retention of the sunset date for the SFHP, submitted for the record by Alexandra Ladd, is incorporated herewith to these minutes as Exhibit "17."

The staff report was presented by Alexandra Ladd, noting that Councilor Calvert had requested public comment from the development community with regard to the issue of the sunset date, which have been collected [Exhibit "17"], and were distributed to the Governing Body.

Councilor Bushee asked, "How far off are the City and County these days on our ordinances, some of the percentages at a minimum."

Ms. Ladd deferred to Steve Burger, County Housing, to answer the question.

Steve Burger said we are at 15%, so spread across 4 income ranges, the first tier is up to 65% AMI, the second up to 80% of AMI and the third up to 100% of AMI, and the fourth one, which you don't really deal with, is the 100 to 120% AMI.

Councilor Wurzburger expressed thanks to Ms. Ladd for her efforts, noting this has taken months and months, and we had a lot of input on how this could go forward.

Public Hearing

Daniel Werwath said he has worked in affordable housing for the past 10 years and he is very happy with the ordinance, which strikes a smart balance between the two main needs – to serve the needs of lower income folks in the community, but not to take so much from the development community that they can't build houses, which is a hard balance to create, especially in the market over the past 8 years. This bill returns the relationship with private developers and is more about partnership. The Ordinance creates a partnership with private developers who have produced hundreds of units of affordable housing in the community. He said, "Specifically, creating a long term, sustainable ordinance, which developers can plan on going forward is critical." He said if there isn't a 3-4 year window in housing development, you can't plan, borrow money, invest in pre-development stuff. Some of the other changes are really smart in terms of the overall design of the Ordinance. This is the largest asset these people will ever own, their nest egg and it's an important thing. He is in support for these revisions, and thanked the Governing Body for its hard work on this, particularly Councilor Wurzburger. And congratulations to the members of the Governing Body members who are moving on tonight and for all of their hard work and public service they've given to us over the years, and wished them the best of luck.

Colleen Dearing, President, Santa Fe Association of Realtors, thanked the Governing Body for making development projects in the pipeline more viable, and encouraged the City to consider reestablishing the original Affordable Housing Program, where, at a minimum, 11% of the development would be required, and 16% for the higher priced units would be required to be affordable. She thanked Councilor Wurzburger for her work on this.

Wayne Nichols said he is a developer, and "it's rough out there," noting one of his subdivisions was covered by the early HOP program which requires only 11%, and it is doable. He said 30% is an impossible hill to climb, and at 20% its rough to make the numbers work, unless you are a large company, especially with the income requirements which are set out. He said, "Ideally, back to the old 11%." He said the proposed ordinance is a step in the right direction and he supports it.

Kim Shanahan, Executive Officer, Santa Fe Area Homebuilders Association said this has been a long time coming, noting he and Councilor Wurzburger served on the first Affordable Housing Roundtable in the mid-nineties after Tierra Contenta was underway. He said the City has done amazing things with affordable housing, with a full commitment to it for more than 20 years, and he has been part of this process. He said he has always been a strong supporter of affordable housing, although a lot of people think the homebuilding industry finds it to be onerous. He has always been a strong supporter of affordable housing. He said then Councilor Coss came to the Planning Commission as an advocate for

the 30%, and he spoke in favor of it and helped convince his fellow Planning Commission members that 30% probably was a good number. However, looking back it was wrong, it was not. He said Ms. Ladd has shown us that only 27 homes have been built through the Santa Fe Homes Program. He said we've been working this for 20 years. He said this is the result of 20 years of solid analysis of what can work and/or a process gone too far. He said the Association stands in strong support of the Resolution.

Kurt Sommer, Attorney, said he is here in support of this Ordinance. He thanked Councilor Wurzbarger for her time, energy and effort in proposing this. He said it is important to create certainty for the development community. He is particularly in favor of the provisions relating to small developments, 10 or fewer units, and makes sense to create certainty for that development community, particularly in this environment. He said, "It is important to allow for the payment in lieu clarification that you put in the Ordinance. Thank you, I urge you all to support it."

Mike Loftin, Homewise, said Kim Shanahan made some really good decisions while he was serving on the Planning Commission. He said Homewise is in support of these changes. He wants to be sure the affordable housing lien stays in place and that we have that affordable housing resource to benefit future generations and the next people that need to buy a home. "We need to be thinking long haul, and to be sure the City has resources to help working people to buy a home." He said, with regard to "that only big builders can do this," and we're fine with this direction, but I think it's just a specious argument. Reducing the amount of affordable housing that Cen-Tex has to provide, doesn't help the small builder." [inaudible]. He said we want the big builders to contribute, so we need to be careful with this. He said we are in a volatile time and the economy is still problematic. "We get that, we all acknowledge that. What we don't want to do though is.... working people are suffering from the economy too. The City should feel very proud that last night, the County adopted a Living Wage Ordinance, much like the City's. I think the City has led, not only New Mexico, but the whole country on the living wage, and also has been a leader on affordable housing. I think we need to make changes, adapt to the economy, on the kinds of things we are doing. We need to be vigilant in the years to come to make sure we are also providing access to affordable housing for those people who aren't making the big wages."

Stephanie Beninato said she supports the Ordinance, and thinks the reduction to 20% probably is realistic. She is concerned about the fee-in-lieu, and understands it's only for small developments. She said what has made Santa Fe unique historically, is the mix of socio-economic classes we have had throughout the City, and this is something that can't be legislated. She is afraid that the fee-in-lieu for small developments will mean more high end housing done in small units so they can pay the fee, rather than having someone in a different socio-economic class living in the development. She finds this unfortunate, because the City has made a great effort to keep vacant land for affordable housing City-wide, so there is no ghettoization of affordable housing. She thinks the fee-in-lieu will promote that kind of ghettoization."

The Public Hearing was closed

MOTION: Councilor Wurzburger moved, seconded by Councilor Bushee, to adopt Ordinance No. 2014-10, with the amendments presented.

DISCUSSION: Councilor Wurzburger asked that Mike Shanahan speak to why some small contractors have been squeezed out of the market. She said sometimes it is good to speak to existing legislation, not just the annual review, but taking a critical look at what has been working and what has not, and then change the legislation.

Councilor Bushee would like to hear from the industry experts the reasons some of the small contractors have been squeezed out of the market.

Mike Shanahan said when the financial community says, point blank, we won't fund anything at 30%, it leaves it to those who don't need banks to fund its projects. The local banks don't lend us money for infrastructure, model homes and spec homes. The banks hold the purse strings for the small builders, and if they think the 30% could come back, they're saying, 'We're not in'."

Wayne Nichols said he knows several people who had small subdivisions in planning, and they just threw in the towel. What Kim said is true – it is virtually impossible in this town, at this time, to get a commercial loan from any of community banks. He said more affordable housing with unintended consequences is to completely undermine the process of affordable housing. He said, "Anything we can do to make it better is good, anything we can do reduce impact fees. There aren't that many who have recourse to the equity markets, so they have the ability to go ahead, while the small guy is burdened by every aspect of the construction, financing and permitting process."

Unidentified said we are coming out of the worst recession in the housing industry. He said you have to have a viable project, period. It could be 100% affordable if it is viable.. He said people enjoy his projects more because they know there's a market for it. The hardest part in the housing market was completely over-supplied. He said we're still absorbing that built up of housing stock, and until it is absorbed we'll have a hard time rebounding. Anything below 10 units has been pretty much exempt from this Ordinance. He said we saw incredible deflation in the last recession, which, combined with the financing requirements by the financing industry really hurt. There was a double whammy going on for a small developer who couldn't sustain the deflation of the market in their inventory, while simultaneously increasing capital. He said, "Giving more certainty to this process, and allowing the in-lieu provisions for the small developer is really helpful, and again I urge you to support this process."

Daniel Werwath said there are 8 different answers to this question, all of which are a little bit true. He said developing small projects is hard because you don't have economies of scale, noting small "builders don't have the cash on hand or the big money to do big projects." He said we have strong neighborhood protections here, but sometimes those work. He spoke about his own experience, noting going through an ENN process where you don't get to realize your full entitlements and full zone, which are combined with the other factors.

Responding to Councilor Bushee, Mr. Werwath said the non-profits are good at using the funds. He said, "When you're losing lots because a couple of people think you shouldn't have traffic on the road outside their house, that is the soft thing." He said he fully supports the Green Building Code, but it raises the cost, and on a small project, it makes things that much more challenged. He noted the local builders were the ones who paid the price in the last recession. Things like Tierra Contenta were designed to build local capacity and it was sad to see that get lost, but we can build it again, and hopefully we will, with more balanced approaches like this.

CLARIFICATION OF MOTION: Councilor Calvert asked if the motion includes the amendments introduced this evening as well as those in the packet, and Councilor Wurzbarger said yes.

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

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

Against: None.

MOTION: Councilor Wurzbarger moved, seconded by, Councilor Bushee, to adopt Resolution 2014-20, with the amendments.

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

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

Against: None.

- 6) **CONSIDERATION OF BILL NO. 2014-6: ADOPTION OF ORDINANCE NO. 2014-11 (COUNCILOR CALVERT, COUNCILOR IVES AND COUNCILOR BUSHEE) . AN ORDINANCE RELATING TO THE RESIDENTIAL GREEN BUILDING CODE; CREATING A NEW SUBSECTION 7-4.3 SFCC 1987, TO ESTABLISH A RESIDENTIAL ADDITION AND REMODEL GREEN BUILDING CODE FOR SINGLE FAMILY ATTACHED AND DETACHED; AMENDING EXHIBIT "A" TO CHAPTER VII TO CREATE A NEW CHAPTER 2 TO ESTABLISH DEFINITIONS, TO CREATE A NEW ITEM 802.6 REGARDING ROUGH PLUMBING FOR FUTURE USE OF GRAY WATER, TO CREATE NEW CHAPTERS 11 AND 12 TO ESTABLISH CHECKLISTS FOR REMODELING AND REMODELING OF FUNCTIONAL AREAS AND SMALL ADDITIONS AND TO CREATE A NEW APPENDIX B TO ESTABLISH WHOLE BUILDING VENTILATION SYSTEM SPECIFICATIONS (COUNCILOR CALVERT, COUNCILOR IVES AND COUNCILOR BUSHEE). (KATHERINE MORTIMER)**
- a) **CONSIDERATION OF RESOLUTION NO. 2014-21 (COUNCILOR CALVERT, COUNCILOR IVES AND COUNCILOR BUSHEE). A RESOLUTION AMENDING THE *ADMINISTRATIVE PROCEDURES FOR THE SANTA FE RESIDENTIAL GREEN BUILDING CODE* ("RGBC") TO GRANT THE LAND USE DIRECTOR THE AUTHORITY TO MAKE ADMINISTRATIVE CHANGES TO THE RGBC USER'S GUIDE AND TO ADD ITEM 802.6 TO THE USER'S GUIDE; ADOPTING ADMINISTRATIVE PROCEDURES FOR THE CITY OF SANTA FE RESIDENTIAL ADDITION AND REMODEL GREEN BUILDING CODE ("RARGBC"); AND DIRECTING STAFF TO CREATE A USER'S GUIDE FOR THE RARGBC. (KATHERINE MORTIMER)**

A copy of proposed amendments to this bill, submitted by staff, is incorporated herewith to these minutes as Exhibit "18."

A copy of *Social Benefits of Homeownership and Stable Housing*, National Association of Realtors, Research Division, August 2010, submitted for the record by Colleen Dearing, is incorporated herewith to these minutes as Exhibit "19."

The staff report was presented by Katherine Mortimer from her Memorandum of January 7, 2014, with attachments, which is in the Council packet. Please see this document for specifics of this presentation.

Ms. Mortimer said an amendment was proposed at the Finance Committee to apply points if someone piped more than once, and that additional language is in the packet Exhibit "19."

Councilor Calvert said the overriding principle of the Green Building Code has always been to reduce greenhouse gas emissions, and to build in a responsible and sustainable way, especially in view of the situations we face with regard to water and climate change. He said this entails new resources. He

said they modified the existing Green Building Code based on our experience of applying that, as will be the case with any Code, and they are always amenable to changes that fit with the situations we face. He said, with the Remodeling Code, we realized that existing homes are by far the majority of the housing stock. He said we wanted a way to address the existing stock. He said they didn't want it to be onerous. He said this is much less comprehensive because it deals with remodeling, and they went after low-hanging fruit, things which are best practices and have little or no additional cost to achieve a better result. He said these are best practices which are "low hanging fruit" and will benefit the homeowner and the community as well.

Councilor Trujillo asked how much more costly is the graywater pipe.

Ms. Mortimer said the graywater pipe is in the new homes, and there is no requirement for graywater for remodeling.

Public Hearing

Colleen Dearing, President, Santa Fe Association of Realtors. She said the Association respects all of the work that went into this legislation. She said the original Green Code for new construction was a lot of work and the homebuilders and stakeholders put a lot of work into that and they want to respect that work. She said, "But we do respectfully request that this be postponed for action tonight. Of main concern to us is Chapter 12 which regards the small remodeling jobs that affect kitchens, bathrooms and basements. The mandates included in the Ordinance for a small remodel job, are building a thermal envelope, air, ceiling and insulation, recessed lighting, high efficiency lighting, boiler supply piping, appliances, gas fired equipment, solid fuel burning appliances HVAC system protection, duct insulation, recycling, universal design shower heads, faucets, water closets, radon control, flashing, ice barrier and architectural features. That's a lot on a small remodeling job. To our knowledge, there has been no cost analysis to determine to what extent additions or remodels, both large and small will be impacted by these new mandates."

Ms. Dearing continued, "Additionally, there's no enabling language to provide a process for home remodelers to be exempted from any of these mandates. There is a concern that increased cost may drive remodelers underground, which may impact the quality and safety of remodeling projects. We do that home ownership continues to be a sound investment over the long term, providing shelter and a larger quality of life. We believe the economy is still recovering, and these new mandates will add financial burdens to homeowners already struggling to make ends meet. We are concerned that homeowners have not had the appropriate opportunity to weigh in on the new mandates. We encourage the Council to slow the adoption of the Green Remodeling Code to ensure that homeowners are aware of these new mandates, the associated additional costs and benefits and are strongly encouraged to share their direct input regarding its adoption."

Ms. Dearing provided a copy of the National Association of Realtor's report on the social benefits of owning your own home to the Governing Body [Exhibit "19"].

Kim Shanahan, Executive Officer, Santa Fe Homebuilders, said he appreciates the Council batching these 3 topics together. He said Colleen Dearing has been advocate of green building in all of her work with the Santa Fe area builders, but everything that she read could have come verbatim from the National Association of Homebuilders, who are the safeguards of making sure we don't spend any more on homes than we should, and don't add to costs. He said the template used to develop the Green Remodeling Code was produced by the National Association of Homebuilders, noting Chapters 11 and 12 are virtually verbatim from what was produced by the National Association and approved by the International Code Council. He said these are Codes which generally imply mandates.

Mr. Shanahan continued, "In terms of the timing, Councilor Calvert made the point and it is very clear that when we passed our Residential Green Building Codes in 2008-2009, we knew then, and we asked in the minutes, if you go back to the minutes, you will see that we had said, make sure your bring us remodeling codes too. And we've put it off for a couple of years because of the economy. We then waited for the 2012 version of the National Green Building Standard to be developed by NAHB, because we knew it would have an impact on the work that had been underway in 2010 and 20011. When that came out they reconvened, along with Katherine, to look at the new Code, and make sure it wouldn't be too onerous, and that it wouldn't drive home building and remodeling underground. The Association is aware of that and fears that even more than the Realtors. We are proud of the work we've been able to do with City staff in promoting these things."

Mr. Shanahan continued, saying later this year, Ms. Mortimer will bring forward a new commercial and commercial remodeling green building codes. These have been on the shelf for two years. They also are ready to bring forward to the New Home Residential Green Building Code, noting they fully anticipated to ratchet-down the requirements and "we are due for those due." He said the Homebuilders Association will be "front center," in all of those efforts and will support all of them.

Wayne Nichols said he has been a Santa Fe builder for 42 years, and a Realtor for 32. He pioneered and built the first solar subdivision in the country in Santa Fe, so he certainly is a supporter of sustainable green building. He is a strong supporter of the existing Code for clean building and new construction. He has a concern about the Remodel Code and strongly recommends the Council delay approving this tonight, until the City has done the outreach and education to the community as a whole with regard to the implications of the mandates in this Ordinance. He urged Councilors to look closely at what the mandates may mean in terms of cost, professional outside consultation. He said everything Mr. Shanahan is saying is important, but we have not reached out to the community to help them to understand the complexity. He said there is no public awareness of how this will impact the small contractors and the homeowners. He supports the bill, but only after we have increased the public outreach, the public understanding of just what this bill means. He said his concern is that the homeowner will go ahead and do improvements without a permit, which are the unintended consequences we don't want.

Stephen Bradley said he is in support of this legislation, and urges the Council to proceed as quickly as possible. He said he is a HUD 203K consultant, a HUD Inspector. He has seen a lot of existing houses in Santa Fe. He said HUD's approach is to improve houses for safety, soundness. He said the green building amendment is an extension of HUD's ideas to the local community in trying to improve health, soundness and safety. He said the sooner we move forward on this, the sooner we will start to improve our housing stock. He said it will be rough initially to get these permits and to get people to understand the complexity of what we're asking them to do. He said "starting is the only way we can move forward."

Curt Hill, 610 Paseo Corto, said he is a Real Estate Broker and manager of commercial properties, homeowners and condo associations, and he is a big fan of green building. He deals with a lot of small contractors, and they haven't heard about this. He said he just added 1,000 sq. ft. to his house, and went through a lot of this by choice, and "it's good stuff, but it was difficult." He had to hire an architect, an engineer and do a lot of homework to get it done right. He suggested that this be postponed, and said he echoes Wayne Nichols comments completely. He said this just needs to be brought to the public and bring the small contractors up to speed on this, and let the public know what this truly will cost, because it won't be cheap. He said, "I urge you to postpone and bring it to the attention of the true small contractors in this town."

Amanda Hathalee, Director, Green Building and Energy Efficiency Programs, Santa Fe Community College. Ms. Hathalee said she is one of the team who worked for almost 2 years on this Code, noting the committee included Realtors, remodelers, house professionals and other green building professionals. She said they scrutinized and compared Codes adopted by other communities. They spent a lot of time considering what best practices would be in the interest of homeowners. They included only items which would reduce greenhouse gases, water consumption or increase indoor quality. She said, as a member of the Sustainable Santa Fe Commission, she believes the City needs to move forward in our commitment to the Sustainable Santa Fe Plan, and to where other communities already are. She said buildings are responsible for 40% of greenhouse gas emissions, and residential buildings are half of that, and buildings use 70% of the electricity. She said in the intervening years since the City has adopted the Green Building Code, the builders have adopted the new practices and incorporated new ways which are to the benefit of homeowners and the City's commitments. She said she chaired the Historic Green Code Remodel Committee which looked at the Code and mapped it out with historic needs, noting they wrote a white paper on this. She said she has no concerns that this Code will impact the historic neighborhoods.

Stephanie Beninato said no one has mentioned owner/builders, and she doesn't believe they are aware of this Code. They will have to hire an architect, an engineer for a very small remodel of 400 sq. ft. She said she had difficulty of how it will be divided out, because there is a square footage and above that there are more requirements. She said it will be really onerous on owner/builders. She said it is inconsistent that you just waived the impact fees benefitting large builders in particular, but then imposed

all these restrictions and costs on owner/builders who will have a hard time understanding what is being asked and knowing what they have to do. She urged the Governing Body to delay action, while you educate the public and get input from people who want to remodel on their own.

The Public Hearing was closed

Councilor Calvert noted the blank on page 4 of the Ordinance. He said he is proposing an effective date of August 1, 2014, which would allow time for public education and outreach. It would allow things close to getting in the pipeline to be completed without having to meet the new requirements and upsetting existing plans. It would address the concerns expressed tonight – staff training, education and outreach and allow existing projects to be completed and not be impacted.

MOTION: Councilor Calvert moved, seconded by Councilor Wurzbarger, to adopt Ordinance No. 2014-11, with the amendment.

DISCUSSION: Councilor Trujillo said he has concerns about this. He said a job of \$125,000 could balloon to \$175,000. He said Ms. Hathalee said there were green building professions on the committee, and asked how many small contractors from Santa Fe were invited to provide input.

Ms. Mortimer said most of the people on the committee were small remodeling contractors in Santa Fe.

Councilor Trujillo asked who they were.

Ms. Mortimer said Phil Duchelle, Ray G, Douglass Moss.

Councilor Trujillo asked if they are “mom and pops.”

Ms. Mortimer said they do one house at a time, and they do remodels primarily.

Councilor Trujillo asked if the committee members were hand-picked, or did you solicit participation from the contractors.

Ms. Mortimer said emails went out to all members of the Santa Fe Area Homebuilders Association, asking them to attend and participation, and let other people know who might not be members. She said they all were public meetings, posted on the calendar of the Association and advertised as an open meeting.

Councilor Trujillo said he doesn't represent the historic side, and represents the South side where the working class lives. He is concerned about the additional cost to a small remodel of a kitchen at \$3,000 to \$4,000, and asked if this will now balloon to \$10,000 to \$15,000. These are his concerns.

Ms. Mortimer said, “There is a very good chance that it would be no or very *de minimus*, is the feedback we've gotten from the builders. The intention was to require good building practices, so when you open a

wall, if it's not insulated, you put insulation in it before you put it back. When you open up a wall and it's not sealed and there's gaps to the outside, you seal it with caulk before you put it back.”.

Councilor Trujillo said he understands. He said he is concerned that when people come to City Hall, do the paperwork and see what it will cost, that they will go underground and do it themselves. He said this isn't good practice, because our inspectors aren't going out to see this and we could have faulty workmanship.

Councilor Bushee asked if the City is prepared to administer this.

Ms. Mortimer said yes, and asked Mr. O'Reilly if he would like to speak to this.

Councilor Bushee would like to get this on the record.

Matthew O'Reilly said, “We currently are staffing the existing Green Building Code. And when the original bill was put forth, there was an FIR included that talked about the potential need to hire some other FTEs to keep up with this, mostly because there were some FTE's that were scheduled for the original Code that we never hired. Since that time, we have been able to make some personnel changes, and we've been to hire the City's first multi-certified plans examiner who also happens to be a licensed architect. That person has been hired and they have already started. We're very lucky to have her. We're going to hire another person like her, if we can find such a person. With those hires, we will not need the FTE's that were in the original FIR for this Ordinance and we will, given enough time to August 1st, be prepared to administer this Code.”.

Councilor Bushee asked if staff is prepared to walk people through the point system, so they understand how to use it, and the effective date suggested by Councilor Calvert.

Mr. O'Reilly said, “Our staff currently spends a lot of time walking people through the requirements. I think it's been stated earlier that the original Green Building Code went to effect in 2009, that was an adjustment for people to get used to that. We've since made some changes to that Code to make things easier. People really get it now. There still are, from time to time, people who come in that didn't fully understand what it was all about. Our staff spends a lot of time helping them understand that. The way that the Remodel and Addition Code is written, as Katherine has explained it, it's going to be even easier for us to do that in working with those people, and we try to do that every single day. Sometimes we're busy, we couldn't do it that day, but we'll set up a meeting for them to come in and help them through it. There will also be the contractors and the architects out there who figure it out very quickly on their own and don't need our help.”

Councilor Bushee asked if there is any one particular aspect that would be more onerous on the smaller remodel. She doesn't see this as huge expenditures, but perhaps more time. In the case where Councilor Trujillo is concerned, they've got it designed, already gone through their architect and won't have an architect on site to oversee. She wants to make sure that we're not creating the need for someone to have

to hire someone, if they can handle it themselves. She asked if he can potentially point out something, commenting graywater doesn't have to happen with a remodel.

Ms. Mortimer said, "The things that are in here are all kinds of best practices for building, so it's hard to say what the additional cost would be. The builders we had at the table said these are things they do already, so in that case, these would not be additional costs. To them, these were things that just made sense." She said she google searched and went to Lowe's and Home Depot to see the difference between a sealed or not internally sealed recessed lighting, and couldn't determine a difference in price, both were around \$20. She has tried to figure out what, if any, additional costs there would be for construction. There might be for someone who doesn't, as a matter of practice, fill up the insulation or seal gaps they see, but that doesn't do the homeowner a benefit and later on they will be paying for that in their heating bill forever.

Councilor Bushee said in the end, this saves the homeowner and the next homeowner that buys that home, and it also creates jobs to some extent. She said it seems daunting when you look at all the charts and possibilities and such. She thinks, if staff is prepared and the effective date is delayed a few months, this seems very doable. She said when we look at the green building code for commercial, we may need to look at some incentives in terms of big cost items, and we can do that with UBC charges and in other ways. She said this just seems common sense.

Councilor Calver said this is the reason for the delayed effective date. He said staff and the committee went to great length to get contractors on the Committee that do this to reassure the rest of them that they aren't going to put themselves out of business. They're not to put requirements to make it so the homeowner won't do it because of the extra cost.

Councilor Trujillo said, "So somebody applies for a permit, they get it prior to the date this goes into effect. Are they grandfathered so none of these things have to take place. Meaning, when an inspector goes over there and sees it and says, wait a minute, according to our new Code, this should have been done. But the person can say, wait a minute my permit was pulled prior to this going into effect, so I'm technically grandfathered-in, right."

Mr. O'Reilly said it would be based on the date you submitted for the permit.

Councilor Dominguez said he has been part of the building industry for many many years, noting his whole family is a part of it. He said some of the concerns expressed by Councilor Trujillo, are concerns brought up in the very beginning when we were going through a Green Code because it's a whole new concept. He said it sounds as if Ms. Mortimer got the whole industry involved for this particular piece that's on the table now. He said there were discussions about remodels when you were contemplating bringing the Green Code to the table.

Ms. Mortimer said staff was directed to develop codes for other building types. She said, "In fact, it stated in the Resolutions that were adopted at the time, that that was to be the first of a family Codes to address all building types eventually."

Councilor Dominguez asked if this went to the Planning Commission.

Ms. Mortimer said it did not, noting it went to Public Works and Finance, and it is not required to go to the Planning Commission because this is Chapter 7.

Councilor Dominguez said he they did have some of this discussion in the beginning when the Code was being brought up, and did outreach to the industry during this iteration of the Code.

Ms. Mortimer said, "Yes. And not just builders, but designers or Realtors, energy raters, green building people who can certify a green building under one of the programs that makes them eligible for tax credit. All of these people were invited, many of them came. The first few meetings were very packed, and is often the case, once you roll up your sleeves and get into the nitty-gritty of Code, you lose people fast. But you get down to a group of dedicated people to whom it is very important, to themselves. They don't want to see regulation come in that puts them out of business, and those were the people that really stuck through it to the end."

Councilor Dominguez said he was concerned about this when the Code first came out. He thinks that staff and the community have demonstrated their ability to wrap their arms around it then, and now.

Councilor Ives said he is a sponsor and intends on voting for the bill. However, a question has been raised with regard to the cost of the new provisions in connection with small remodels such as a kitchen, so many of the conditions that otherwise wouldn't apply would apply for that type of remodel. He said contractors could be asked anonymously to look at the actual remodel cost and what they think the cost would have been, if they had complied with the new requirement, between what it was and what we're asking it to become. He thinks this information can be generated easily between now and the implementation date. He feels that might give folks here the comfort they're seeking on the actual cost impact. He said we have heard that this was designed to ensure there was no significant additional cost, and yet we've had people speak to the fact that this might increase costs significantly. He would like a sampling of 10 contractors and ask them what the difference would have been, so we would have data to give us comfort that we're not asking an excessive amount on contractors and others who aren't sophisticated in doing this as a matter of course.

RESTATED MOTION: Councilor Calvert moved, seconded by Councilor Wurzbarger, to adopt Ordinance No. 2014-11, with the amendments, and the insertion of the collection of data suggested by Councilor Ives.

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

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

Against: None.

Explaining his vote: Councilor Trujillo said, "I do want to thank all of you for all the work you did on this. I do have my concerns on it. I know we have good staff, and I know staff is going to work hard to ensure that if there is trouble, people understand that they are going to be able to fix this. I do have concerns with the cost, and I hope, what Councilor Ives said, we can get that information from a contractor who has already done a remodel, give that that to the people, so they can [inaudible] the costs. So I will support this, and I hope this works out really bad."

Councilor Calvert thanked everyone who has participated in the process – the contractors, Ms. Mortimer and Mr. O'Reilly, the Council, leadership and everyone who attended this evening. He said, "I think everybody has a stake in this and we want to make it work for everybody, so we want to hear everybody and respond to their concerns. And so, I just wanted to make that statement. It was a good effort by the people involved on the committee. I really appreciate their hard work, and I think the community will appreciate their work in the future."

MOTION: Councilor Calvert moved, seconded by Councilor Wurzburger, to adopt Resolution No. 2014-21, with the amendments.

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

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

Against: None

- 7) **CONSIDERATION OF BILL NO. 2014-7: ADOPTION OF ORDINANCE NO. 2014-12 COUNCILOR CALVERT). AN ORDINANCE RELATING TO CAMPAIGN CONTRIBUTIONS FROM CITY CONTRACTORS; AMENDING THE CODE OF ETHICS, SECTION 1-7 SFCC 1987 AND THE CAMPAIGN CODE, SECTION 9-2 SFCC 1987 TO REGULATE CONFLICTS OF INTEREST ARISING FROM CAMPAIGN CONTRIBUTIONS FROM CITY CONTRACTORS AND FOR RELATED PURPOSES. (ZACHARY SHANDLER)**

Assistant City Attorney Zachary Shandler reviewed the Legislative Summary which is in the Council packet. Please see this document for specifics of this presentation.

Councilor Bushee asked if the definition of "individual contributor," needs to be expanded beyond labor organization, unincorporated association, to include any of the other definitions of "501-whatevers" independent expenditures; and do you see any conflict with what is happening at the national level under Citizens United, and any legal issues to be concerned about.

Mr. Shandler said in Albuquerque, Black Rock was prohibited from making contributions, and that was struck down in Albuquerque. He said, "So this attempt is to look at it a little bit differently, that Black Rock can still make contributions. It just put the burden on the Councilors. And we think it has a better chance of surviving legal challenge under that model there."

Councilor Bushee asked, "Do you have case law to support that?"

Mr. Shandler said, "We don't have case law, but we feel that's a better approach from legal, and it has less legal jeopardy to be challenged and overturned, because it is a different approach than the Albuquerque model."

Councilor Calvert said this Ordinance is in response to a Charter recommendation. He said they decided on this approach instead of limiting contributions, to make it the responsibility of the candidate as opposed to the contractor.

Councilor Bushee said she wants it to be broad enough to deal with independent expenditure groups.

Mr. Shandler said, "I think the independent expenditure groups would argue they are not making a contribution to Councilor Calvert. And that might be a point of great further debate, and perhaps the title of this bill might not be the appropriate time to include independent expenditure groups within that definition. But it might be something for the ECRB to give serious thought going forward."

Councilor Bushee said Councilor Ives is bringing something that deals with independent expenditures in relation to public campaign finance. She said, "I just want to make sure here, do you have to include the term non-profit, instead of business and individual. I'm just trying to make sure it is capturing someone who ends up being contracted with the City. So if you've got any other ideas, throw them out there."

Mr. Shandler said, "When we were trying to draft this bill, we tried to include as many of these possible groups that we thought were permissible in J(2). And I don't have further suggestions at this time."

Councilor Bushee said, "So you don't worry about non-profit or anything like that, because we contract with quire a new non-profits."

Mr. Shandler said, "I wouldn't say I don't worry, I would just say that at this time I wouldn't advise adding additional items."

Councilor Bushee asked the reason.

Mr. Shandler said, "I think, because the way the title has been advertised, I guess I would be reluctant to add additional types of organizations or associations not already captured in the proposal."

Councilor Bushee said, "It says City contractors. It doesn't define contractor until you're in the Ordinance, so I'm asking if there is a need. We contract with lots of folks. We've covered the bases for individuals, organized labor, added business or organizational contributor. I'm just trying to amplify it to capture as many entities that we actually contract with. The first one that comes to mind is non-profits. There may be others, but I don't see that as being defined. That's just a definition within the Code, so I would just suggest that as a friendly amendment."

Councilor Calvert suggested that she "hold that thought, hold the public hearing and get back to that."

Councilor Bushee said, "Then I did just want to make sure you told me you feel confident that this could withstand a legal challenge."

Mr. Shandler said, "Yes. I believe it's legally sufficient, could withstand legal challenge."

Councilor Wurzbarger said, "Back to the association. Does this mean, for example the Realtors have money they give to candidates, as does Homebuilders. So, if the Homebuilder Association gives money to a candidate and if the Homebuilder group gives money, and then a contractor, who is a member, then does some work for the City, whether a Park or whatever. Does that mean you don't get to vote on that person's contract. Or what is a distinction between the membership and the Association, or is there any."

Mr. Shandler said, "That question was brought up in front of the ECRB in the context of a union. What if a union made a contribution, but I'm a member of the union. As you can see from the minutes, they found that an interesting puzzle to try to sort through, and I don't think they came up with a definite answer about whether, if you were a member of the union and the union gave a contribution; how to resolve that. I don't know if Councilor Calvert wanted to say anything."

Councilor Calvert said, "I think one thing you might want to talk about is the, I don't want to call it necessarily the 'escape pod,' but by virtue of this, you disqualify everybody on the Council because they got a contribution, there is a provision in here about being able to work around that. That's not exactly on her point, but I think it needs to be said in here as well."

Councilor Wurzbarger said, "I would have a similar question if we pursue the discussion of not-for-profits. It seems to me, at some point, there is a line at which you start disenfranchising individuals who want to support candidates, with or without public financing. And if we go as far as non-profit, we have 750, and we have so many coming in for money through CDBG or whatever. And I'm just confused again about the difference between the larger organization and the individuals, but we'll wait and see."

Mr. Shandler said, "I'll defer to the public hearing and see if that can resolve it, and if not, we'll tackle it once the public hearing is over."

Public Hearing

Jim Harrington thanked Mayor Coss, Councilor Wurzbarger and Councilor Calvert for all the help they've given us in our work over the years. He said, "At any rate, we support this bill, but these questions that Councilor Bushee and Councilor Wurzbarger were raising, were discussed. There was an earlier draft of the bill that would have covered labor organizations and non-profits. It entailed a lot of amending of definitions in the Ethics Code. And so, we sort of gravitated toward the "keep it simple stupid" principle, and ended up with a bill simple. As it is now, the third amendment that Zach described is just kind of a cleanup of a definition of the term contributor, and it's not really related to the rest of the bill. By including non-profits and labor organizations in the term contributor, that doesn't affect the scope of this bill that creates the conflict of interest. That only applies to profit making businesses as it is now. And the ECRB discussed this same question of labor organizations and non-profits and sort of did a 'no recommendation' on the thing and passed it along to the Council. But at any rate, it's in its simplest form now. There are more complicated versions that were considered. If you wanted to do that right to expand it that way, it would be a complicated process with probably lots of amendments. But at any rate, we support the bill in its present form and hope you'll give it favorable consideration. And thank you to you three for all these years. Thank you."

Stephanie Beninato said she is unclear as to whether or not unions are included in this bill, and Unidentified said no.

Ms. Beninato said, as an analyst she saw a bill like this last year that went through the State Legislature and said, "I believe that it is legally defensible, and it does put the burden on the Councilors and not on the businesses. And I do think it is important that Councilors acknowledge who they're getting money from. Perhaps this will be less of a problem if more people take public financing. I suppose there is seed money you can get from individuals, and that would be where this ethics conflict might come up. No. You're saying no."

Councilor Calvert said, "No, because of the limit on the amount of seed money you can get."

Ms. Beninato said, "Oh, it's under \$250. Oh. Okay. So it wouldn't apply. And you can be slightly influenced by \$100. But you know, again, if you really would sell out for \$100, I don't know what that says about your character. So I think it actually is a start in the right direction. I think associations. You might be able to include non-profits in an association. And I think the big thing is, is the association telling its members to give contributions to the elected official or not. And if a member wants to give a contribution, but it's not directed by the association, then you are not interfering with an individual's right to make a contribution. The idea is to avoid concerted effort, or duplicitous giving by having the owner of a business tell the employees to give, rather than themselves, to avoid having the Councilor have to disqualify themselves from the vote. I think in this form, it's acceptable. I think it would be legally defensible, and again, I am all for trying to get our ethics in a better. I'm just sorry that we can't actually keep PACs out of City elections."

The Public Hearing was closed

Jim Harrington was recognized by the Mayor at the request of Councilor Calvert after the public hearing was closed.

Jim Harrington said, "I should have added that there is a simpler form of amendment that would cover labor unions, but non profits, that we talked about right at the end. If you wanted to try to cover every kind of entity it would be quite complicated."

Councilor Rivera asked Mr. Shandler, if a union was paying its membership an hourly salary to campaign on behalf of somebody, would that be a violation.

Mr. Shandler said, "Obviously that's a point of great debate right now. And I think that it would depend on the fact patterns. But the way I understand your hypothetical and Geno always told me not to answer hypotheticals, but I think he left the room. If it is an independent organization and they're paying their people and they are doing independent member-to-member type of campaigning, or eliciting, that may not be considered a contribution as the Code is written right now. And perhaps that's something the ECRB under their.... one of their requirement is, after the Election, they need to look at the Code, and I've kept a list of up to 16 different things they want to look at, so that might be something they look at as well. But I think currently, right now, under that hypothetical, that would not be considered a contribution to candidate X."

Councilor Rivera said, "If you can add that as number 17, I would appreciate that."

Councilor Bushee said we're almost done with an election cycle, and there are a lot of hypotheticals and unanswered questions. She said Councilor Calvert is leaving us, and asked, "If there a rush to doing this, because we do this better than perhaps we've done some of our past Code revisions, more thoroughly and thoughtfully."

Mr. Shandler said, "I think as Mr. Harrington said, the first two parts, the ECRB gave a positive recommendation. It's that third part they gave a no recommendation. So I would defer to Councilor Calvert if it is a 3-legged stool, or whether it's just the first two parts you want to go forward with, and the third part may need to be studied some more. I'll defer to the policymakers on that."

Councilor Calvert said if you go forward with the whole thing, what he's proposing is an improvement over the existing Code, noting any Code we do can be made better, and we will need a lot more thought and it'll take more time, and so this can be effective immediately. He said it is up to the Council to decide how to approach it. He is suggesting we can move forward with what we have here now, it becomes effective, reiterating that any Code can be improved in the future, but that will take detailed thinking about how to work it.

Councilor Bushee said she agrees something is better than nothing. However, from first hand experience right now, unintended consequences, loopholes are always... she doesn't want to see this move forward and stop there until the next election cycle when there is the ability to test it out. She thinks this could use more work and thought.

Councilor Calvert reiterated it is workable, noting the ECRB will be doing its review after the election and

Councilor Bushee asked if he found other models.

Councilor Calvert talked about the issues and what wouldn't/couldn't hold up in court, said it is unique and there aren't many examples like these.

Councilor Bushee said she is more deliberative when we are making law.

MOTION: Councilor Calvert moved, seconded by Councilor Wurzburger, to adopt Ordinance No. 2014-12.

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

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

Against: None.

Explaining her vote: Councilor Bushee said, "Yes, but I do hope it stays on their radar screen at the ECRB and continue to flesh it in."

- 8) **CONSIDERATION OF BILL NO. 2014-08: ADOPTION OF ORDINANCE NO. 2014-13 COUNCILOR WURZBURGER, COUNCILOR IVES AND COUNCILOR BUSHEE). AN ORDINANCE RELATING TO THE SINGLE-USE BAG ORDINANCE, SECTION 21-8 SFCC 1987; AMENDING SUBSECTION 21-8.1 TO MODIFY THE LEGISLATIVE FINDINGS RELATED TO PAPER GROCERY BAGS; AMENDING SUBSECTION 21-8.4 TO ELIMINATE THE REQUIREMENT THAT RETAIL ESTABLISHMENTS COLLECT A PAPER GROCERY BAG CHARGE OF NOT LESS THAN TEN CENTS FOR EACH PAPER GROCERY BAG PROVIDED TO CUSTOMERS; AMENDING SUBSECTION 21-8.6 TO ESTABLISH A 30-DAY IMPLEMENTATION PERIOD; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY. (LAWRENCE GARCIA AND ZACHARY SHANDLER)**

The staff report was presented by Zachary Shandler from the Legislative Summary, which is in the Council packet, noting plastic bags are still banned.

Councilor Trujillo said, "I hate to say it, but I told you so." I want to clarify that we are not mandating that businesses have to charge 10¢ each for the paper bags."

Mr. Shandler said, "If this passes, yes."

Councilor Trujillo said, "I brought this question up during the time we were considering it. I talked to Kelley and I always asked how we can do this. I'm glad we caught it now, because somewhere down the line this could end up costing the City a lot of money in lawsuits. And I'm glad you're changing it, I don't want to see the City get into any trouble. I think we missed the boat. Plastic is plastic, and for some reason we don't see it that way, I'm going to still vote no, just to be consistent with my vote on this, but I'm glad that it was caught Councilor Wurzburger, I really am."

Councilor Calvert said he understands we will be reviewing this in a year, but hopes the City Attorney's Office and staff looking at other models might come up with an appropriate disincentive prior to the one year mark. He things they already are doing that, and he wouldn't wait for a year to review the Ordinance to come up with the disincentive which will work and make this a better law and will fit within the laws of the State of New Mexico.

Councilor Bushee said she was approached about adding "not-for-profit" thrift stores, such as the Salvation Army, because they hand out their food in single use bags, but she doesn't see where to do that. She said it isn't clearly defined. She asked legally if we can make that amendment, but we need the original definition of the exempted entities.

Mayor Pro-Tem would like to go forward with the public hearing and then come back for clarification of this question.

Public Hearing

Miguel Gallegos, Salvation Army, said on page 3, line 9 of the ordinance, they do fall under food banks, but right after that they would like to add "non-profit thrift stores," because they recycle all bags that they get donations through from their donation clients. They also hand out is a voucher form for the homeless when they give them clothing through the thrift store. When they leave, whatever bags we may have, we give that homeless person that bag, whatever we recycle. He didn't see that in the ordinance, and he was hoping to add language on page 3, line 9, after food banks and/or non-profit thrift stores. He said when they hand out underwear and socks, it is an issue when they leave the building, if it is raining, because they could get wet.

Councilor Wurzbarger said she would have no problem in adding that language to the Ordinance.

Joseph Eigner, 6 Marana Drive, Eldorado, thanked Mayor Coss and the Council for their years of work for the environment. He is a member of Eldorado [inaudible] Recycles. He said although their members live in the County, they do almost all of their shopping in the , so they will be impacted by the bag ban. He said his group strongly supported the ordinance adopted 6 months ago. He said it makes us all rethink our wasteful use of resources from single use, throw-away items, which we use in vast amounts. He said removing the paper bag fee significantly undercuts the Ordinance in their view. They understand Legal found a defect in relation to the fee, but if he is smart enough to discover the defect, we think he'll be smart enough to reinstate the fee in a legal way. Mr. Eigner read an excerpt from an article in *The New York Times* about the bag ban in California, and the acceptance of the ban by the public. He hopes the fee or something similar can be reinstated, and thanked the Governing Body for passing the Ordinance.

Bo [inaudible] representing Albertson's. He said he is here to talk about removing the fee. His fear is that they will be people from plastic to paper. He said we will have discussions during the one year period, and they would like to come to the Council to discuss it earlier than one year, noting they do have a lot of cost issues involved with this. He said, "Anything we can do to get together, we would prefer it be done in a lot faster time frame, hopefully within the next two months would be very helpful. And we appreciate you listening to us."

Joseph Salak thanked the Council for the Ordinance. He is concerned about the environment, and believes there should be disincentives with regard to the single use grocery bags. He said to ban plastic bags is great, progressive, is important, but to not have a fee involved in the use of paper bags won't help the consumers to bring their own shopping bags which he thinks is important. He supports the Council in its efforts to come up with a way to have disincentives in regard to single bag use.

Stephanie Beninato said she is glad we're doing away with plastic bags. She said Albertson's puts one item in a bag and people leave with 10 bags with 10 items. She said paper bags are expensive, and she is concerned about trees. She is very opposed to the 10¢ fees. She recycles and has to pay to recycle newspapers which have to be put in a brown bag. She said at Whole Foods, if you bring in a recyclable bag, you get 10¢ back, or you can donate it to a non-profit. She thinks that's the way to go rather than disincentives which are a burden to people who are on the edge, but not on welfare. She thinks the way to go is to use recyclable bags.

The Public Hearing was closed

Councilor Calvert thinks putting newspapers in a paper bags is a suggestion and not a requirement, and as this moves forward, the Environmental Division may want to change its instructions.

Lawrence Garcia, Environmental Services Division, said Councilor Calvert is correct. They do accept loose papers in the bin. If they will be outside the bin, they asked that they are tied with string or taped. If they are going to put them in a bag, we ask that they put them in a paper bag because it can go into recycling.

Councilor Calvert said it should be on the bottom with heavier items on top to be sure it doesn't get blown around.

MOTION: Councilor Wurzburger moved, seconded by Councilor River, to adopt Ordinance No. 2014-13.

DISCUSSION: Councilor Bushee said she would challenge the man from Albertsons because he said he was concerned that people would go back to using paper bags. However, he could voluntarily, 10¢ per bag if you wish, or promote or give away reusable bags. She has come full circle and doesn't want to delay the implementation, but she would like a longer term solution so people will use reusable bags. She hopes we review it sooner than one year from now, so she will support the motion for now.

Councilor Ives said he has looked at the cases with regard to the tax vs. fee issue in the Los Angeles case that was filed and the recent decision. He said it isn't totally clear that we would have had a problem in proceeding with 10¢ as long as it wasn't collected by the City which seemed to be the holding of the court in that case. He asked if we might impose in fairly quick order, a 5¢ charge which is 2¢ less than the testimony that suggested paper bags cost about 7¢ to produce. So we may have an option soon to resolve the issue of litigation. If the City Attorney's office would consider that, he would sponsor a Resolution if it would pass muster. He agrees with those who desire to move it forward much more quickly as possible.

Mr. Shandler said, "As said in the public hearing, the requirement on the Ordinance is not later than 12 months, and it could be done earlier. Also, the gentleman from the Salvation Army, we pointed out there was an expressed exemption. And finally, in response to your question. In the City Business & Quality of Life Committee, there was a discussion about maybe there's not a monolithic approach to the disincentive.

And there was discussion about the City of Austin and the counties in Hawaii that tried different approaches. So it may turn out that it doesn't have to be the tax versus fee dispute as the policymakers continue to review the issue."

Marcos Martinez said he has one amendment which is the citation of the Ordinance that was passed, and beginning on page 1, line 21, the citation should be 2013-29, and throughout the Ordinance.

Councilor Wurzburger said her motion includes the language we discussed earlier with regard to non-profits.

Mr. Shandler said, "Our advice is you don't need to make that, it's already in there. He was just looking in the wrong place."

Councilor Wurzburger thanked everyone in Legal for staying with this.

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

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

Against: Councilor Trujillo.

Explaining his vote: Councilor Trujillo said, "I give kudos to those kids as well for what they want, and I'll say it again. You missed the mark. It's what I never understood. It's a plastic bag ban, but not all plastic bags fall under this. High end store are allowed to give their Gucci bags to the tourists and such. In my opinion you're not treating everyone in the City fairly. And that's something I've always tried to be fair. And just to be consistent with my vote, I am going to vote no, but I'm glad we came to a consensus. This could have cost the City a lot of money in lawsuits. I'm glad somebody was thinking right."

- 9) **CASE #2014-08. APPEAL THE CITY OF SANTA FE PUBLIC WORKS DEPARTMENT (APPELLANT), APPEALS THE DECEMBER 10, 2013 DECISION OF THE HISTORIC DISTRICTS REVIEW BOARD (HDRB) IN CASE #H-13-076A DESIGNATING THE DEFOURI STREET BRIDGE (BRIDGE) AS CONTRIBUTING AND THE JANUARY 14, 2014 DECISION OF THE HDRB IN CASE #H-13-076 APPROVING THE DEMOLITION OF THE BRIDGE WITH CONDITIONS LIMITING THE WIDTH OF THE REPLACEMENT STRUCTURE BY ELIMINATING ONE OF TWO SIDEWALKS AND REQUIRING SIDE MOUNTED BRIDGE RAILINGS. THE BRIDGE CROSSES THE SANTA FE RIVER AT THE NORTH END OF DEFOURI STREET AND IS LOCATED IN THE WESTSIDE-GUADALUPE HISTORIC DISTRICT. (DAVID RASCH AND ZACHARY SHANDLER)**

This item is postponed to the Council meeting of March 12, 2014.

15. MATTERS FROM THE CITY MANAGER

There were no matters from the City Manager.

16. MATTERS FROM THE CITY ATTORNEY

There were no matters from the City Attorney.

17. MATTERS FROM THE CITY CLERK

Ms. Vigil reminded everyone that Early Voting will end on Friday, February 28, 2014. The City Election is Tuesday, March 4, 2014, and polls will be open 7:00 a.m. to 7:00 p.m. She asked everyone to check the City's website as well as newspapers to verify your polling place, noting we use different polling places than the County. The Inauguration will be on Monday, March 10, 2014, at Greer Garson Theater.

Mayor Coss said Ms. Vigil and staff are working very hard and he is very encouraged with the Early Voting turnout.

18. COMMUNICATIONS FROM THE GOVERNING BODY

A copy of "Bills and Resolutions scheduled for introduction by members of the Governing Body," for the Council meeting of February 26, 2014, is incorporated herewith to these minutes as Exhibit "20."

Councilor Dimas

Councilor Dimas had no communications.

Councilor Calvert

Councilor Calvert asked the indulgence of the Council in doing something symbolic and introduced the following:

1. An Ordinance relating to a Commercial Green Building Code; adopting, by reference, the International Green Building Code related to commercial construction and adopting amendments to such Code; and making such other changes as are necessary.

2. A Resolution adopting administrative procedures for the Santa Fe Commercial Green Building Code ("CGBC")

Councilor Calvert said he has two cosponsors because he can't carry these forward, noting the tentative schedule is listed in Exhibit "20," which could change because it is a few months away.

Councilor Calvert wished his wife a Happy 19th Anniversary, saying she has made a lot of sacrifices and has done a lot to support him.

Councilor Calvert said he hopes we will have the opportunity to make parting comments on March 10, 2014.

Councilor Rivera

Councilor Rivera asked, regarding Ms. Beninato's Appeal, and asked Marcos Martinez his legal opinion as to whether that can happen.

Mr. Martinez said, "I don't believe the Council can move to rescind the action it had taken with the denial of that appeal. The property has received a building permit and acted on that building permit, therefore the action has been carried out in such a way that a rescission is not an option for the County any more."

Councilor Ives

Councilor Ives introduced the following:

1. A Resolution directing staff to intervene in Case #13-00390-UT that is currently before the New Mexico Public Regulation Commission – in the matter of the Application of the Public Service Company of New Mexico for approval to abandon San Juan Generating Station Units 2 and 3, issuance of Certificates of Public Convenience and Necessity for replacement power resources, issuances and accounting orders and determination of related rate making principles and treatment. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "21."
2. An Ordinance related to the Public Campaign Finance Code, Section 9-3 SFCC 1987; amending Subsection 9-3.4 to establish requirements for candidates to reimburse the Public Campaign Finance Fund when a political committee or independent expenditure group has endorsed and made expenditures supporting the election or defeat of an identifiable candidate.

Councilor Ives said he will be speaking with people in the community involved in these issues including the Neighborhood Law Center, Common Cause, League of Women Voters and others, as the means to try and reinforce the City's participation in public campaign financing.

Councilor Ives said he will save his remarks for the departing members until next week.

Councilor Bushee

Councilor Bushee had no communications.

Councilor Trujillo

Councilor Ron Trujillo introduced a Resolution directing staff to collaborate with local youth service agencies and emergency shelters to explore the options for establishing a "safe place" program that would benefit young people who are in crisis in the Santa Fe Community. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "22."

Councilor Trujillo extended condolences to the family of Father Rivera who passed away this week.

Councilor Trujillo said it has been an honor to serve on the Governing Body with Mayor Coss, Councilor Wurzbarger and Councilor Calvert, for the past 8 years. He said we have done some good work, and may not always have agreed, but he considers them his friends and wants to carry that friendship into the future. He wished them good luck.

Councilor Dominguez

Councilor Dominguez sends congratulations to his nephew, Jose Tapia, who won the State Championship Wrestling at 113 pounds as a Freshman, as a returning State Champion.

Councilor Dominguez extended condolences to the Flores family who lost a loved one this weekend.

Councilor Wurzbarger

Councilor Wurzbarger congratulated her daughter who has returned from Australia engage, with her fiancé who has just been admitted to PT School at UNM. She said her daughter has returned for her third year in Medical Year, and she comes back with a Masters Degree in Public Health.

Councilor Wurzbarger reminded the public that Tuesday is election day. This Council approved the 9 proposed Charter Amendments which will be on the ballot, which the Charter Commission worked so very hard. She asked the people to very seriously consider their recommendation.

Mayor Coss

Mayor Coss said this is his last meeting after 12 years. He expressed gratitude to the City of Santa Fe, and thanked Carol for always being with him through this time. He will do his thank-yous on March 4, 2014, and hopes the new Governing Body members don't object to that.

Mayor Coss said, "I did want to take time to thank each one of you. I think you've demonstrated again tonight that you are really hard workers, and I appreciate that. And I appreciate all these City workers. And I've come to the conclusion that Melissa and the City workers can do anything, and it's been remarkable to watch. This community does so much, and have always been very very kind to me. And a lot of people say, oh how can you take it. And when you're talking to Santa Feans on the street, 99.99% of them are very kind, and I want to thank them for that."

Mayor Coss said, "And so I can't say thank you enough, but this is my last meeting, and thank you everyone."

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 11:15 p.m.

Approved by:

Mayor David Coss

ATTESTED TO:

Yolanda Y. Vigil, City Clerk

Respectfully submitted:



Melessia Helberg, Council Stenographer