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Wednesday, July 29, 2015**

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Approved

42-48

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Approved

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Approved [amended]

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Approved [amended]

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Approved as amended

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Approved [amended]

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Approved

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Approved

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**MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
July 29, 2015**

AFTERNOON SESSION

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor Javier M. Gonzales, on Wednesday, July 29, 2015, at approximately 5:00 p.m., in the City Hall Council Chambers. Following the Pledge of Allegiance, Salute to the New Mexico flag, and the Invocation, roll call indicated the presence of a quorum, as follows:

Members Present

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

Others Attending

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

6. APPROVAL OF AGENDA

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

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

7. APPROVAL OF CONSENT CALENDAR

Mayor Gonzales said as noted by Ms. Byers, any items that are removed he would like to move to the end of the meeting unless we finish our afternoon session sooner so we can try to make it to 6:00 p.m., to go into executive session because there are several issues the Council needs to discuss in executive session. So if we finish the first part soon enough, then we can go to items that have been tabled, but if we don't, he would like to move items removed for discussion to the end of the evening session.

Councilor Dominguez asked if anyone is going to remove Item G for discussion, and there was no one. He said he won't remove it, but he would like to have a conversation with staff after the vote.

Councilor Rivera said he had asked at one of the Committee meetings to be a cosponsor on Item 10(k).

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

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

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

Against: None.

- a) **REQUEST FOR APPROVAL OF COOPERATIVE PROJECT AGREEMENT – ST. FRANCIS CROSSING FROM ACEQUIA TRAIL TO RAILYARD PROJECT – CONSTRUCTION OF MULTI-PATH GRADE CROSSING UNDERPASS (US 84/285); NEW MEXICO DEPARTMENT OF TRANSPORTATION. (MELISSA McDONALD)**
- b) **REQUEST FOR APPROVAL OF BUDGET ADJUSTMENT IN THE AMOUNT OF \$62,700 FROM FIRE PROJECT FUND TO PROJECT BUSINESS UNIT 32215 FOR FIRE STATION 1 PARKING LOT RESURFACING PROJECT; ON-CALL ROADWAYS & TRAIL CONSTRUCTION FUND FOR BID NO. 14/10/B). (JAN SNYDER)**
- c) **REQUEST FOR APPROVAL OF MEMORANDUM OF UNDERSTANDING – PARKING PERMITS FOR ON-STREET PARKING SPACES AND FOR USE OF CITY PARKING FACILITIES FOR COUNTY EMPLOYEES; SANTA FE COUNTY. (NOEL CORREIA)**
- d) **REQUEST FOR APPROVAL OF CHANGE ORDER NO. 8 – SANTA FE RESERVOIRS INFRASTRUCTURE IMPROVEMENTS PROJECT; RMCI, INC. (RICHARD JORGENSEN)**

- e) **REQUEST FOR APPROVAL OF WATER RIGHTS PURCHASE AGREEMENT – UP TO 18,417 ACRE FEET OF 1907 MIDDLE RIO GRANDE WATER RIGHTS; LUIS J. LUNA AND MARTHA LUNA. (ANDREW ERDMANN)**
- f) *[Removed for discussion by Councilor Maestas]*
- g) **REQUEST FOR APPROVAL OF BUDGET INCREASE IN THE AMOUNT OF \$45,808 IN ORDER TO FULFILL AN AGREEMENT OBLIGATION THE CITY OF SANTA FE HAS WITH SAM AND JOSIE MONTOYA. (KELLEY BRENNAN AND BRYAN ROMERO)**
- h) **REQUEST FOR APPROVAL OF GRANT AWARD AND AGREEMENT AND BUDGET INCREASE IN THE AMOUNT OF \$125,000 – EDUCATION AND TECHNICAL ASSISTANCE SERVICES FOR ENVIRONMENTAL SERVICES DIVISION; THE RECYCLING PARTNERSHIP, INC. (CINDY PADILLA AND LAWRENCE GARCIA)**
- i) **REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT – KSFR BROADCASTING SERVICES FOR CITY COUNCIL AND SPECIAL MEETINGS; NORTHERN NEW MEXICO RADIO FOUNDATION, INC. (JOE ABEYTA)**
- j) *[Removed for discussion by Councilor Ives]*
- k) *[Removed for discussion by Councilor Ives]*
- l) *[Removed for discussion by Councilor Ives]*
- m) *[Removed for discussion by Councilor Trujillo]*
- n) **CONSIDERATION OF RESOLUTION NO. 2015-63 (MAYOR GONZALES AND COUNCILOR IVES). A RESOLUTION DIRECTING THE CITY OF SANTA FE ARTS COMMISSION TO DEVELOP A LONG-TERM CULTURAL PLAN, THE PURPOSE OF WHICH IS TO INVENTORY CULTURAL ASSETS, ASSESS NEEDS, DRAFT SPECIFIC RECOMMENDATIONS TO SUPPORT THE CURRENT AND LONG-TERM HEALTH OF OUR CULTURAL COMMUNITY AND IDENTIFY WAYS THE CITY OF SANTA FE CAN SUPPORT AND DEVELOP ITS UNIQUE CULTURAL BRAND; DIRECTING THE ARTS COMMISSION TO WORK WITH OTHER APPROPRIATE GROUPS; AND DIRECTING THE ARTS COMMISSION TO PROVIDE A SIX (6) MONTH UPDATE, AND PRESENT A FINAL REPORT ONE YEAR FROM ADOPTION OF THIS RESOLUTION. (DEBRA GARCIA)**

- o) **CONSIDERATION OF RESOLUTION NO. 2015-64 (COUNCILOR TRUJILLO). A RESOLUTION REQUESTING THE GOVERNING BODY CONSIDER AND APPROVE A GRANT AGREEMENT FROM THE STATE TOURISM DEPARTMENT, LITTER CONTROL BEAUTIFICATION SECTION, FOR KEEP SANTA FE BEAUTIFUL. (GILDA MONTANO)**
- p) **UPDATE ON TOURNAMENT AND ADULT LEAGUE FEE CHANGES PER ORDINANCE 2014-18. (JENNIFER ROMERO) (INFORMATIONAL ONLY)**

8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – JULY 8, 2015

MOTION: Councilor Trujillo moved, seconded by Councilor Maestas, to approve the minutes of the Regular City Council meeting of July 8, 2015, as presented.

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

9. PRESENTATIONS

- a) **JULY EMPLOYEE OF THE MONTH – V. ESPERANZA TRUJILLO, UTILITY BILLING ADMINISTRATION – PUBLIC UTILITIES DEPARTMENT. (MAYOR GONZALES)**

Mayor Gonzales read the nomination into the record, and presented Ms. Trujillo with a plaque, and a check for \$100 from the Employee Benefits Committee, and thanked her for her outstanding service to the City.

Councilor Rivera said as Public Utilities Chair he sees Ms. Trujillo dealing with customers when he goes in the office, and she is always very delightful and a good presence when you first walk into the Water Company. He said she does a great job, and it concerns him that she is a temp employee. He said, "We have a shining star within our organization, and these are the type of people that I think we need to try to bring on, on a full time basis. And I know there are many throughout the City, but they're out there, and we hear about them, we see them and Esperanza is just a great example of that. Congratulations, you're doing a great job and I truly hope the City can find a way to bring you on full time."

Councilor Dimas congratulated Ms. Trujillo saying he has known her for many years.

Councilor Bushee said this is an exceptional family, and Ms. Trujillo has been doing an exceptional job, and looks forward to Ms. Trujillo having a long tenure here at the City.

Councilor Dominguez thanked Ms. Trujillo for her service and her family for their support for her.

Councilor Ives said this a well deserved award, and a delight to see her here, and hopes there will be many more such occasions.

Mayor Gonzales recognized Phil Trujillo a long time public servant of Santa Fe, saying we miss him and enjoy his music throughout the City.

MOTION: Councilor Bushee moved, seconded by Councilor Rivera, to reconsider the previous approval of the agenda, to consider Item 10(k) from the Consent Calendar next on the agenda, and to approve the agenda as amended.

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

CONSENT CALENDAR DISCUSSION

10(k) CONSIDERATION OF RESOLUTION NO. 2015-65 (COUNCILOR MAESTAS, COUNCILOR DOMINGUEZ, COUNCILOR BUSHEE, AND COUNCILOR TRUJILLO AND COUNCILOR DIMAS. A RESOLUTION DIRECTING STAFF TO SEEK SOLUTIONS TO SANTA FE’S HOUSING AFFORDABILITY CRISIS, SPECIFICALLY AS IT RELATES TO GENTRIFICATION, INEQUITY AND THE WIDENING GAP BETWEEN RICH AND POOR IN SANTA FE; PROVIDING A FRAMEWORK FOR HOUSING AND URBAN PLANNING POLICY. (ALEXANDRA LADD)

A copy of proposed amendments to the Substitute Resolution, submitted by Councilor Ives, is incorporated herewith to these minutes as Exhibit “1.”

An Action Sheet from the Public Works/CIP and Land Use Committee meeting of Monday, July 27, 2015, regarding this item, is incorporated herewith to these minutes as Exhibit “2.”

Councilor Ives said he expressed concerns when he first saw this measure last week at BQL, and he spoke with members of Chainbreakers about his intention to file amendments [Exhibit “1”]. He said the 5 pillars as described seem to be gaining traction nationally through www.righttothecity.org which is an amalgam of a number of organizations, primarily in large cities that deal with issues relating to homelessness, displacement of people due to gentrification and other issues. He has looked through various measures and reports referred to in the measure, and his amendments focus on what he thinks is the real issue which is affordability Santa Fe and the attributes of neighborhoods in Santa Fe, and eliminating references in the measure. He said while it is an issue, it isn’t an issue we as the Governing Body should be directing staff to try and answer for us. He thinks these are issues which the Governing Body has the capacity try and address. The amendments he has proposed are designed to look at some of the attributes of this measure that is being put forth nationally and make them, in his mind, more relevant to Santa Fe.

Councilor Ives continued, saying some of the pillars put forward include affordability which is a critical issue in Santa Fe, and one we do need to address. He said our prior efforts to define affordability have missed the mark in large part and many people are not able to find housing in Santa Fe, and that's resulted in people leaving the City. He thinks we need to reassess what we mean by affordable and affordability, and expand in intelligent ways our Land Use Code to make sure all of our neighborhoods have a presence of affordable housing. He thinks the stated goal of accessibility and non-segregation is exactly where we need to be headed. He said he proposes amending the measure to read that housing in Santa Fe should be affordable.

Councilor Bushee said there is no motion on the floor, and she would like to move for approval so we can have this discussion.

MOTION: Councilor Bushee moved, seconded by Councilor, Rivera to adopt Resolution No. 2015-65, as presented.

DISCUSSION: Councilor Ives said he proposes changing the predicates slightly to have it read, "Now, Therefore, Be It Resolved, that the Governing Body of the City of Santa Fe acknowledges the importance of the following 5 factors in evaluating all housing and transportation planning decisions and policies, affordability being one and having that state, *"Housing in Santa Fe should be affordable relative to household income and other reasonable expenses, with regard to quality, sustainability and health, housing in Santa Fe should contribute to individual family, community and planetary health, accessibility [inaudible] so affordable rental and home ownership opportunities in Santa Fe should be made accessible to historically marginalized populations throughout the City and be integrated both socially and geographically with regard to stability, permanence and protection from displacement,"* modifying that provision to read, *"The City should work to shield low income renters and homeowners from economic forces and changes in government policies that lead to displacement over the long term."* He proposes changing the 5th factor from community control to community participation, which seemed to be the focus of that, providing that, *"The City should work to ensure that it's housing and transportation policies are adopted through democratic structures and processes which include input from those who are homeless and live in poverty with particular emphasis and special protections allowed for areas composed of a majority of low income residents."*

Councilor Ives continued saying, further in the Resolution, he proposes to strike out as an item that Staff should be considering, and bringing the notion that, *"Santa Fe's widening gap between rich and poor, rather focusing on housing and transportation affordability, in terms of collaborating with community organizations,"* not having the language refer only to those *"that represent and serve workers, renters, low income homeowners,"* but say, *"To communicate with community organizations, including those that represent workers, renters, low income homeowners,"* etc. In Item #3, consider and include and highlight "the needs of all low income Santa Fe residents to allow the Governing Body in its deliberations to prioritize the needs of renters, providing housing services and programming particularly support services for those transitioning out of homelessness, rental assistance and subsidized rental units, including the upcoming 2016 update of the analysis and impediments to fair housing, examples of best practices, examples of best practices from other communities, including those which serve to identify and eliminate patterns of discrimination and cause a displacement, and then work with community organizations including those..."

Councilor Ives said he believes with these modifications improve the measure by not asking staff to take on items that I think are more appropriate for us, as policymakers, rather than staff to be considering. One of the issues he indicated to Chainbreaker Group at the BQL Committee was his concern that there had not been involvement of a broad spectrum of the Santa Fe Community. He said the National site for right to work which posts information regarding some of Chainbreaker's efforts does indicate that Chainbreaker provided information saying it had met with limited numbers of the Santa Fe community. He said if we're talking about significant changes, as he thinks, many of which he is glad to see come into the community, he thinks we need to reach out broadly across the community to other community organizations and not a very limited and restricted set.

Councilor Ives continued, saying he is in keeping and in alignment with many of the provisions that have been proposed, he would note there was, on the RightToTheCity website, talking about Chainbreakers a prior draft measure of this Resolution whose language was preferable to what we have tonight. He said it is available and makes many of the many same points he has been trying to make here tonight.

Councilor Ives continued, "I do hope to be able to approve this with amendments that I think are appropriate, and with that..."

Councilor Bushee said, "The amendments were just proposed and read to us, and I want to suggest to Councilor Ives, I'm glad he's done some work on this. However, this has been through several committees, in fact this is a substitute resolution, because the main sponsor, Councilor Maestas worked with staff to make sure they were comfortable with the Resolution that we have asked you to approve. The amendments, as have been read into the record are not friendly, and I would ask the Councilor to make his own motion in a moment. But what I will say, and remind the Councilor that this a Resolution. This is an intention, and the beginning of a dialogue. This is simply saying, go out and engage in a dialogue across all appropriate departments to explore potential policy *[inaudible]* and community partnership solutions. I don't see any limitation in here about which organization to work with or any issue to address. It is intentionally left to be broad because the discussion is just being kicked off."

Councilor Bushee continued, "I think what will come back from going out into the community and really having this dialogue will be more specifics. I had those concerns initially in terms of the specificity, but in dialogue with both members of Chainbreakers and our staff, I felt it was important to let this community dialogue begin. So I would hope that we would just move this along and see what comes out of it, and then we have the opportunity..... Some of the proposals, Councilor Ives, feel to me it would more appropriate in different documents in the City, including Master Plan, General Plan, affordable housing... what's that plan we have.... in any case, I really feel like this is a lot of changes at the last minute. This went through committees, I know you weren't there where we had these similar discussions. I just want to suggest that perhaps we let this begin and then we see what comes out of it. And I know Councilor Maestas wants to address some of these concerns."

Councilor Maestas said he won't repeat what Councilor Bushee said. He thinks the Resolution is an acknowledgment of efforts done in a grassroots manner that is rallying around the issue of affordable house. He think it's important to uphold the integrity of the works done by these groups. For example, not changing the 5 pillars, acknowledging the good work and considering the 5 pillars in reviewing our policies

and programs as they relate to affordable housing. The Resolution invokes the spirit of collaboration and partnership between these organizations and the City to look at our policies and any recommendations that come from this legislation will come to this body. There is no direct adoption of any pillars or any principles that have been done in the community. Our policies and procedures stand on their own, reiterating this is an acknowledgment of the good work done in the community and a willingness to commit staff to work with them in a partnership and identify ways we can improve our policies and programs to be more responsive to the principles of the 5 pillars. This is the reason he wants to keep the work unchanged in the legislation – to maintain the integrity.

Councilor Maestas continued saying the City has committed its resources in the past to try and effect change in the inventory of rental housing, so obviously this Governing Body and prior Governing Bodies have been very concerned about the inventory of rental housing. We have committed resources and tried to change a market. He thinks this isn't as substantial, and said, as Councilor Bushee, he sat with staff and they hashed it out, and they felt earlier versions were much too limiting on the City, and the Substitute Resolution before us really does meet the intent, acknowledges the effort. He said staff is okay with this legislation and he urges approval.

Councilor Dominguez said he reviewed the amendment sheet earlier and there are some things that are relevant, and relatively innocent as well as some things that are very substantial and significant. For example, there definitely a difference between economic inequity and poverty. He said we don't qualify some poverty grants in the poorest part of our community because we don't reach the threshold of poverty. This is a small example of how we need to be very careful about the language we use, and how this could be a whole different piece of legislation.

Councilor Dominguez continued, commenting we need to acknowledge the widening gap between rich and poor, and deleting that doesn't get to the heart of the challenges we have in this community which is the widening gap between rich and poor – however we want to address it or sugar coat it, the realities are there and they're true. He thinks that's the way some of the constituency in Santa Fe feels. He said, respectfully, by watering-down some of the language, in many ways it dismisses the realities we have in this community. He thinks this a valiant effort for a solution by the constituents who "live the language on a daily basis," to solve the problem. He thinks when staff starts its work, they will realize this language doesn't do the effort justice because of deep and widening issues we need to address. He said once this work begins it will be even more evident.

Councilor Ives was recognized by the Mayor to close debate, asking if he wants to propose amendments..

Councilor Ives said he proposed amendments on the amendment as a friendly amendment, but those were already rejected by the Maker, saying, "I'm not sure that that's anything but a moot point." Again, I don't want to mis-interpreted here, and I knew there would be some opportunity to think that somehow I was being insensitive, and that is not the case. I very much believe there is a proper function of government, especially at the City level, do deal significantly with housing needs, with transportation needs in our community in ways that allow all members of the City, all our citizens, to live and prosper here, and to have a good life. Again, just to dispel thoughts there. Because I don't want to be mischaracterized in any way."

Councilor Ives continued, "Councilor Bushee was suggesting that there's no attempt to limit the discussion and yet the language and the measure for instance, in the Be It Further Resolved section, #2, it says, 'Collaborate with community organizations that represent and/or serve workers, renters, low income homes or people experiencing homelessness and/or displacement.' My proposed change to that language was, 'collaborate with community organizations, including those so it's not exclusive. And again, my one criticism of the organization is that they have spoken with a very small group of people in the community about these issues, and we commend those efforts extensively. I think it's a great effort getting people who otherwise don't have a voice involved. That said, our community is much broader than that, and I don't want to see people excluded from those conversations. So I'm interested in being, actually, more inclusive than less inclusive. So I just want to be clear on that point."

Councilor Ives continued, "And with regards to the descriptions of this effort to begin the conversation, when he looks at the language that says, "The Governing Body of the City of Santa Fe acknowledges the importance of the 5 pillars as a much needed emphasis on the framework that informs, guides and directs all housing and urban planning decisions and policies, I do see that more as a prescriptive statement of intent rather than simply, 'Let's have the conversation.' I couldn't agree more that we need the conversation, that we need to find solutions to affordability. I look at Tierra Contenta and I've contemplated that construct in our City as I've been looking at this. And I think the one thing that we probably did wrong there was relying on that one geographic area as the locus for affordable housing significantly did that. I think we need to bring affordable housing to every portion of our City in ways that respects the City's esthetics. And I do believe passionately that we can do that. I just don't think that this measure gets exactly where we need to go for the reasons I've stated. So I'll leave it there."

Councilor Bushee said she would suspect that the Governing Body would be more receptive to some of these conversations that did take place last Monday at Public Works, and we haven't had the opportunity to really take a look. She wouldn't think anything in the current Resolution is limiting, and would suggest that these will all be public meetings open to anyone and this is just a framework that's been narrowed to focus on several broad topics – inequity, housing and growing gaps in our community. And it's simply that."

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

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

Against: None.

Explaining his vote: Councilor Dimas said, "Yes, and would you please add me as a cosponsor.

Explaining his vote: Councilor Ives said, "I'll say yes, and make a brief statement with my vote. Understanding the statements made by the Governing Body and by the sponsors of this measure with regards to how it is to be interpreted and how it is to be implemented by staff as non-limiting and as an effort to view these very important conversations which is a goal I support entirely, I will vote in favor of it, but I do have worries about how it could be interpreted. So I'll just say I will be curious to see how it plays out in all of our housing and urban planning policies in the future.

END OF CONSENT CALENDAR DISCUSSION

11. **CONSIDERATION OF RESOLUTION NO. 2015-66 (COUNCILOR RIVERA, ~~AND~~ COUNCILOR BUSHEE, COUNCILOR LINDELL, COUNCILOR DOMINGUEZ, COUNCILOR DIMAS AND COUNCILOR IVES). A RESOLUTION DIRECTING THE CITY OF SANTA FE FIRE DEPARTMENT TO WAIVE EMT STANDBY FEES FOR THE SANTA FE SUMMER SERIES EQUESTRIAN EVENT AT THE EQUICENTER DE SANTA FEP AND AUTHORIZING THE PAYMENT OF SAID FEES FROM A PORTION OF THE LODGERS TAX DEDICATED FOR PUBLIC SAFETY OVERTIME COSTS. (FIRE CHIEF LITZENBERG AND RANDY RANDALL)**

Randy Randall said this is a last minute request from an equestrian even actually in the second week, to have approximately \$13,534 worth of standby EMT fees waived for the 3 weeks of their events. They have 15 days of show they're open to the public, noting it is free to the public, and then there is a day of practice each week. He said this is a great way to use the Lodger's Tax – to support public safety. It is a great tourism event for Santa Fe. He said this is the only event made by this event. He said on the tourism side, they did flyers to promote it to the visitors, noting the event came together quickly and they could a little extra promotional help as well.

Councilor Lindell asked to be added as a cosponsor. She said she and her partner attended the event last weekend, as well as for a while this afternoon. She said it's a wonderful event which is fun, exciting and free to the public. She said it is amazing how the facility has been upgraded. She encouraged people to attend.

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

DISCUSSION: Councilor Bushee said she used to play in tournaments out there on the fields, they were polo grounds and then it went into foreclosure. She said this is a great revival and use of that facility, and looks forward to increased business coming out of this.

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

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

Against: None.

Explaining his vote: Councilor Dominguez said, "Add me as a sponsor, please. I vote yes."

Explaining his vote: Councilor Ives said, "I too would join as a sponsor and respond yes."

Explaining his vote: Councilor Dimas said, "Yes. And please add me as a cosponsor as well, even though it's Randy Randall, and I'm sure they will be bringing the bachelor in here next year."

Actually it starts next week, Randy, just to let you know. I'll be watching with bated breath."

12. PURSUANT TO RESOLUTION NO. 2015-40, PRESENTATION OF FINDINGS RELATED TO THE GRT DEDICATION PROVISION IN 18-10.4 SFCC 1987 – PUBLIC BUS SYSTEM, THE GENERAL FUND AND QUALITY OF LIFE PURPOSES. (OSCAR RODRIGUEZ)

Mayor Gonzales noted Mr. Rodriguez isn't present to make a presentation.

MOTION: Councilor Ives moved, seconded by Councilor Lindell, to reconsider the previous approval of the amended agenda, to move Item 12 to the end of the agenda, and to approve the amended agenda as amended.

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

13. CASE NO. 2015-76. REQUEST FOR APPROVAL OF THE RECOMMENDATION OF THE CITY ATTORNEY TO REMAND BACK TO THE HISTORIC DISTRICTS REVIEW BOARD, PURSUANT TO THE STIPULATION BETWEEN THE PARTIES, THE APPEAL OF THE FIRST NATIONAL BANK OF SANTA FE, N.A., AS TRUSTEE OF THE MARTHA FIELD TRUST FROM THE MAY 12, 2015 DECISION OF THE HISTORIC DISTRICTS REVIEW BOARD TO DENY APPLICANT'S REQUEST TO DEMOLISH A STRUCTURE AT 355 EAST PALACE AVENUE. (ZACHARY SHANDLER)

Zachary Shandler presented information regarding this Case, commenting that staff is looking for a motion to affirm the remand back to the Historic Board.

MOTION: Councilor Ives moved, seconded by Councilor Dominguez for purposes of discussion, to approve the recommendation of the City Attorney to remand Case #2015-76 back to the Historic Districts Review Board.

DISCUSSION: Councilor Dominguez said then the applicant has requested the remand and Mr. Shandler said yes.

Karl Sommer said, "This is a stipulation between the parties that Mr. Shandler and I have been discussing, that if this case is going to come to the Council, have all of the issues at one time, rather than up here piecemeal and then back. And the reason is that there is an issue related to the historic status of this property. The Historic Board did not make that determination, so it could come to the City Council and you could ask the question, well what's the historic status and Mr. Rasch would say, it wasn't determined by the Board. You might then just send it back and say well why don't give us the historic status before we deal with that. That's the purpose of it. Just want the record to be clear, that's what we're talking about, so

we don't have a blood bath up here, and then go back down and have another bloodbath, and then come back here and have another blood bath – do it all at once.

Councilor Dominguez said so it's not just the Applicant, it's something that's mutual between the parties.

Mr. Shandler said, "Correct. I'm just trying to be as quick as possible to stipulate."

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

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

Against: None.

14. **CASE NO. 2015-51. APPEAL OF THE MAY 7, 2015 DECISION OF THE PLANNING COMMISSION APPROVING THE REQUESTS OF THE BENEVOLENT AND PROTECTIVE ORDER OF THE ELKS LODGE NO. 460 TO DIVIDE ITS PROPERTY AT 1615 OLD PECOS TRAIL INTO TWO LOTS; AND OF MVG DEVELOPMENT/MORNINGSTAR SENIOR LIVING'S REQUESTS FOR A SPECIAL USE PERMIT TO OPERATE A CONTINUING CARE FACILITY ON ONE OF SAID LOTS AND FOR DEVELOPMENT PLAN APPROVAL FOR THE CONSTRUCTION OF AN APPROXIMATELY 73,550 SQUARE FOOT BUILDING ON SAID LOT TO HOUSE SAID FACILITY.**
- a) **MOTION TO RECONSIDER THE JULY 8, 2015 DECISION OF THE GOVERNING BODY DENYING THE APPEAL IN CASE NO. 2015-51 FOR THE PURPOSE OF REMANDING THE MATTER TO THE PLANNING COMMISSION FOR FURTHER CONSIDERATION AND RESPECT TO WHETHER MODIFICATIONS TO THE DESIGN OF THE PROPOSED CONTINUING CARE FACILITY MAY RENDER IT MORE COMPATIBLE WITH AND ADAPTABLE TO NEIGHBORING PROPERTIES, SPECIFICALLY WITH RESPECT TO ADJACENT RESIDENTIAL PROPERTIES, INCLUDING WITHOUT LIMITATION, MODIFICATIONS TO HEIGHT, MASSING, FLOOR STEPBACKS, COLOR AND FENESTRATION AND THE USE OF SCREENING TO PROVIDE VISUAL BUFFERING. (MAYOR GONZALES)**
- 1) **MOTION TO RECONSIDER.**

Yolanda Vigil said, "So your first action would be a Motion to Reconsider, and if that is approved, then you would go into a Motion to Remand."

Mayor Gonzales said, "Correct. And if the Motion to Reconsider is not approved, or there's not one in place, then we would move to the Findings of Fact, correct."

Ms. Vigil said, "Yes sir. 14(B)."

Mayor Gonzales said, "Before we do this, let me just.... because I'm the individual who asked to bring this forward, state a couple of things. One, I hope our Council never finds ourselves at midnight having to vote on such a certainly complicated, but divisive, case. And hopefully in the future I can do a better job of either tabling or figuring out how to move our decision into a point of the day that we can actually discuss it, debate it, and determine whether we want to approve whatever is before us or not. Having said all that, it was a struggle that evening; it's been a struggle since. Mostly because of the divisiveness in the community over this decision. So since that night, the Elks are an organization that is near and dear to so many of us that have been born and raised in this community, has continued over the course of time has been one of those institutions has been a place where people have either raised money or certainly been able to use the facility for various family events. And there is a recognition, I don't think that they have said, or hidden the fact that they have some challenging times financially, and one of their best assets has been property, and how they put that into beneficial use is something that clearly is something that needs to be considered."

Mayor Gonzales continued, "Also one of the ways is the location. They're in a very important corridor as was stated that night. There is a concern as to the visual aspect and the size of the development. And that being, I voted with the majority to deny the appeal by the neighborhood, because as I stated that night, it came down to the issue of supporting the Planning Commission and the City Attorney's Office as to whether the special use designation was met."

Mayor Gonzales continued, "Having said that, there has been time that I've spent over and over in our Code taking a look at what a special use permit is for a continuing care facility. And I understand that conflict that exists between the neighborhood and our own attorneys as to whether this meets the definition of the Code or not. I also understand that we have to find a way to take this very divisive issue and try and overcome some of the hurt that has occurred throughout our community. I think that when you reflect over the past couple of weeks, we've heard things like 'Rich East Siders,' just want to tell us where facilities should go. We've heard things like 'corrupt Hispanic cronies,' just going along with a decision to support their own. And those are hurtful feelings that divide a community, that don't belong in this forum, and we have to find a way to overcome that and call it out. If there's anything we've learned over the past several months is that whenever there are stereotypes in the community that hurt the community, or keep portions of a community down, or separate communities, we have to confront those and be as honest as we possibly can. And the truth is, there's still some stereotypes in the community, whether you've been here for a long time, or just moved here, you probably could pick those words that people use to create further division or hurt."

Mayor Gonzales continued, "And so I want to find a way that we can have that conversation. But minus it, I'm hoping to keep the Elks and the neighborhoods and MorningStar at the table. I do think that, and I want to disclose for the record, that I have had conversations with members of the Elks, and I have had conversations with the neighbors, and do believe that people want to find a common solution. There are those who do want to go to Court and just let the Court decide it, but that's the easy way, I think, to abdicate the responsibility we have. To one, not only get it right when we create that designation, but, two, to try and find a way that there can be a common ground that is achieved, to achieve both perspectives."

Mayor Gonzales continued, "And so what I'm asking the Council to do, is to reconsider this and send it back to the Planning Commission to be able to address the issue of the special use permit, and to address the size of the facility. That night, when we last took this vote, MorningStar showed a willingness to find some type of modification. We did not have enough time that night to try and fully explore it. Hopefully, if we remand it back to the Planning Commission for both the consideration of does it meet the Code in terms of special use permit the facility, and two, can it be modified in a way that's more reflective of the buildings in the corridor, then maybe we can find that win-win situation."

Mayor Gonzales continued, "I'm just asking the Governing Body to consider doing that tonight, rather than ending it on our stage and most certainly, turning it over to the District Courts to make the decision on whether facility should exist or not."

Councilor Bushee said, "Mayor, we need to ask the Parliamentarian a couple of questions. Because I'm a little concerned about the procedure. I understand what you've just spoken to, in terms of trying to address divisiveness. But I have a concern, because in the past when we've had.... and in fact, I've looked at some Robert's Rule of Order and how we operate, so I want clarification. It's my understanding that a motion to reconsider has to happen the evening of the vote, and that a Motion to Rescind would be more in order. And that a Motion to Rescind would take place at a later date, usually the next meeting, where we would have a decision on that reopening of the case, what we want to do, in terms of where we want to send it, what we might want to do. That's my experience from having served and having dealt with appeals in the past. So I'm going to ask the Parliamentarian to address the Robert's Rule of Order that we operate by in that case. And then I do want to just mention that we will not be making decisions if we approve the Resolution that I'm bringing forward. I already introduced it on Monday which essentially a follow-up to what I introduced in the past, which says we stop at Midnight. Now, we'll not longer, if we pass this, have the ability to suspend the rules, we'll go on to the next evening session at about 5:00 p.m."

Councilor Ives said, "I have not looked at Robert's Rules specifically on these issues, but I happen to have a handy reference. And I will also ask for guidance from the City Attorney."

Mayor Gonzales said, "Why don't we ask Kelley while you're looking at that, and then you can affirm whether Kelley's interpretation is correct."

Kelley Brennan, City Attorney, said, "It has been this party's practice several times in the past, on Motions to Reconsider, to take them at the following meeting as long as final action hasn't been taken. In this case, final action is the Findings of Fact and Conclusions of Law. And that is why it was placed on the agenda, prior to the adoption of the Findings of Fact and Conclusions of law. This body, the Planning Commission, and I believe the Historic Districts Review Board, has followed this rule."

Councilor Bushee said, " So that I can clarify with the Parliamentarian. Is it a motion to rescind or a motion to reconsider. And again, in the past, we've heard it at a different meeting because of notification requirements. And so I was surprised to read in a press release that we were going to the Planning Commission mostly to consider design elements. And I will address the City Attorney on *ex parte* communication which has been drilled into us. A lot of that has taken place, so I would like answers on

that. But I would like you to rule on what I presented to you and I would really like to make sure that we follow procedures. And it's my understanding again that the vote takes place, a rescission is more appropriate whether we call it reconsideration, but Robert's Rules says rescission of the vote. That will have to come from Mayor who was in the majority and that we would vote on what we do from there at another meeting. That's my understanding of how we really need to do it."

Councilor Ives said, "And on that point, in referring to the item that you have identified within Robert's Rules, I don't know if this is the 11th edition that we run under here at the City. It does talk about, '*A motion to reconsider must be made within a limited time after the action on the original motion.*' It does state here that that '*often and usually occurs at the same meeting, or if it's a multi-day proceeding within the context of that series of meetings over several days.*' This Council, and I cannot remember the exact date, adopted the determination actually that decisions were final when the Findings and Conclusions were accepted by the Governing Body. So in that sense, the vote taken will not be confirmed as official until a vote on the Findings and Conclusions in the packet, so I think we are acting within the spirit of the rules in terms of consideration being made within a limited time after the action on the original motion. So, from my perspective, and where I sit, a Motion to Rescind makes sense as we do have the Findings and Conclusions before us, and we could proceed on that basis, and again, would ask for guidance from the City Attorney on the point."

Ms. Brennan said, "There is a Motion to Rescind, and there is a Motion to Reconsider, both are possibilities, and either can be made. A rescission would rescind your vote and then you would start again. What you are doing is reconsidering for a given purpose. Either motion would be appropriate. They have slightly different rules that apply. A Motion to Reconsider has been noticed appropriately, a Motion to Rescind has not. So you can proceed. As I said, it has been practice, that a Motion to Reconsider is appropriate before final action is taken."

Councilor Maestas said, "I'm okay with either reconsideration or rescission. My question is, on the motion to remand, does it have to be conditional. Must we put parameters on the remand, for example, limited to design modifications to reduce the size. Or does just a general Motion to Remand to Planning and Zoning open the entire consideration for the development up."

Ms. Brennan said, "We can just make a motion to remand. I think that the bodies below and having staff of the land use committees for a number of years, do appreciate guidance from this body when matters are remanded to them, but you could just remand."

Councilor Trujillo said, "If we remand this back, you're saying this rule... it would go back to the Planning Commission and it's going before a whole brand new set of Planning Commissioners that were appointed by Mayor Gonzales. This isn't the Planning Commission that made the decision. So, if we send this back to them, or if we just remand, they'll hear the whole thing over again, and they can technically say that the past Planning Commission is wrong, and it's over. So, if we set parameters, we want you to look at esthetics, setbacks like that, they would have follow that if we mandate that. But if we just remand it, they can just say, you know what, we don't want it anymore, we vote no, and that's it."

Ms. Brennan said, "If you just remand it without guidance they would have more flexibility to act than if you remand with guidance."

Councilor Bushee said, "Just so I understand. If this goes back to the Planning Commission would that be a *de novo* kind of hearing. And how does... are we in the context of an appeal, and all of this *ex parte communication* that's taken place, I fear that the City is setting itself up for a lawsuit.

Mayor Gonzales said, "I want to make it clear, because my conversations have been with both neighbors and members of the Elks, not MorningStar and not SENA. And what I have clearly asked, has been that there be some consideration for finding common ground, being able to work together. So I want to be very clear in disclosing that the conversations were not with MorningStar or members of SENA. They were with individuals that certainly have vested interests, but the discussion was purely limited to, please stay at the table. Please stay talking as opposed to going to court."

Ms. Brennan said, "Certainly, you're required to disclose *ex parte* conversations and discussion. And if you believe on the matter before you, you can be an impartial and fair judge, essentially, you can proceed. Typically, we say those conversations should not relate to the merits or substance of an appeal, if you discuss procedure. A lot of time, I know constituents call you and say, what happens next, what should we do, how is this going to be addressed, you can say there's going to be a hearing next week, I encourage you to come and discuss it. So I think that you've made a disclosure. If you state for the record that you believe you can consider the Motion to Reconsider, and assuming you make a Motion to Remand, in a fair and impartial manner."

Councilor Dominguez said, "So a couple of questions. I just want to make clear, or ask for some clarity, Kelly. There are potentially 3 different options. One is a Motion to Reconsider, right. One is a Motion to Remand, and one is a Motion to Rescind. Are we looking and rescinding and... go ahead."

Ms. Brennan said, "I'm sorry, I didn't mean to interrupt you. First, you would do a Motion to Reconsider which has been properly noticed, a Motion to Rescind has not. So you would first do a Motion to Reconsider, which basically.... and you vote on it. And if the vote supports the Motion, then you would go on to reconsider. And the reconsideration would be to remand. Now if you, yourselves, wanted to hear the whole issue again, that would not have been noticed, and you would have to schedule it for deliberation at the next Council meeting, with or without a hearing, as you chose. But basically, first the Motion To Reconsider, and then the Motion to Remand."

Councilor Dominguez said, "So, to carry that discussion on a little bit further, and just to make it clear, this is not necessarily something that I support, and I'll get to that in a little bit, but I just want to make sure that I, at least, understand the policies and procedures. The opportunity to have the Planning Commission, which is a new Planning Commission by the way, to hear this case *de novo*, would have to be explicit by this Governing Body, or that's guidance enough, I should say."

Ms. Brennan said, "Yes, Councilor, I believe that if you return it with guidance, they will follow that guidance."

Councilor Dominguez said, "So, I'm going to ask you this Kelley, because I don't... I want to... I'll just ask you this Kelley. Has anything changed in the application."

Ms. Brennan said, "I'm not aware of any change. This is a Motion to Reconsider, and then again, you would go on to the next motion, which means what is being reconsidered is the decision you made. And you would be substituting, for the decision you made, a decision to remand back. In other words, you could have made a motion that night to remand it back to the Planning Commission for further consideration on Issues X, Y and Z."

Councilor Dominguez said, "So, if I hear you correctly, what you're saying is, as far as you know, nothing has changed."

Ms. Brennan said that is correct.

Councilor Dominguez said, "The application has not changed."

Ms. Brennan said that is correct.

Councilor Dominguez said, "And so, this is again, Mayor, I know that you've had your discussion and thank you for disclosing that, but that puts some of us at an unfair advantage, because we have not had that discussion. And so, if the application hasn't changed and we are not theoretically allowed to have those communications, those *ex parte* communications with one side or the other, that puts some of us in a tough spot. Because I have to, basically, hearing you say that the application hasn't changed, there is the potential that maybe it could change and maybe it couldn't change. Maybe there's going to be some more political pressure on a different body that may make it change. That, to me, just sets it up for even a bigger bowl of spaghetti."

Councilor Dominguez continued, "So having said that, the other comment that I wanted to make is that we're just really going down some really scary roads here with the quasi-judicial stuff and *ex parte* communications. And I've seen this before. I remember when the Cathedral came to us years ago. This was one of my first meetings. I'll never forget when one of the applicants told the Mayor at that time, I thought we had a deal. And it just blew up in everyone's face. So that's pretty scary."

Mayor Gonzales said, "Let me make clear that that conversation has not happened."

Councilor Dominguez said, "Well thank you for that, and again, I thank you for your disclosure, and I imagine you're relying on the City Attorney to make sure we do this the right way. But if nothing has changed, it's not... I think it's, at least as I understand it, nothing has changed. And from what I remember, it was all about the use and not necessarily the scale or the development plan. And that's one of the things that makes me concerned, is that if people are just opposed to the use, it doesn't matter what the scale may be, unless you're going to completely change the use, that it won't make that much of a

difference. And so, and unless someone can tell me that something's changed, I can't support either the motion to reconsider, or the motion to remand. But I do want to say I appreciate the efforts to really try to make things work so that we can all get along, so I appreciate that, and we'll just kind of see how things go. Thank you Mayor."

Councilor Bushee said, "A point of order, if I understand from *[inaudible]*. Who has to make the Motion to reconsider. Somebody in the majority and the second as well."

Ms. Brennan said, "The motion has to be made by someone who voted in the majority in the original action. The second can be made by any member."

Councilor Rivera, "I'm sorry, Kelly. Just one more time regarding the Commission's Finding of Facts and Conclusions of Law, just so I'm clear."

Ms. Brennan said she is unclear what the question is.

Councilor Rivera said, "You said that this really doesn't become an official ruling until we accept the Planning [Commission] Findings. Is that correct."

Ms. Brennan said, "That's correct. When you vote on the Findings of Fact and Conclusions of Law on your decision, the decision becomes final and triggers the period for appeal."

Councilor Rivera said, "So I'm looking at the minutes from July 8th, the motion, '*Councilor Dominguez moved, seconded by Councilor Trujillo, that the Planning Commission acted in accordance with law in reliance and substantial evidence and to dismiss the appeal in Case # 2015-51, and adopting the Planning Commission's Findings of Fact and Conclusions of Law as our own.*' So, did we not already adopt those."

Ms. Brennan said, "You adopted them generally. And there are two triggers for appeal. One is the adoption of the Findings as an order of this body, and one, if we fail to do that within 31 days of the vote, that becomes the moment the appeal period starts. So typically, in these cases, particularly on appeal, we do Findings for the Governing Body that set forth their authority and adopt specific Findings and Conclusions, and may alter them somewhat. For instance, in this case, the Findings that are attached in the packet change the effective date of the Special Use Permit, or when it terminates, because the decision point was a different date. So we do typically do your own Findings of Fact, but then attach those."

Councilor Rivera said, "The only time I have seen Findings of Fact and Conclusions of Law come back is when we forget to do so in the original motion. That did not happen in this case."

Ms. Brennan said, "We have done some Findings of Fact and Conclusions of Law where we are specifically incorporating certain things and others. Sometimes it is because a decision is somewhat different."

Councilor Rivera said, "I've heard from people from the Southeast Neighborhood Association that basically have said that they don't want compromise at all. They just don't want anything there. They want it to basically to revert back to the original zoning that was there for the property. I understand what you're trying to do Mayor, but I'm not sure that the Southeast Neighborhood Association is really willing to have anything more than just what the original zoning was. That's from some of the discussions that I've read in the paper, on-line regarding some of the comments. I think we all received an email today, also, it was sent out to all the Governing Body that the Southeast Neighborhood Association also is supporting remanding, but they also have some conditions they would like to see there as well. And again, I think we make decisions on this Governing Body every day that you're going to have 50% of the people happy and 50% of the people not. And if we're going to bring back every decision we make, we're going to have much longer meetings than midnight. Unless there are substantial changes that have been looked at, I'm not sure anything is going to change, and I really can't support it going back. Thank you Mayor."

Councilor Trujillo said, "You know Mayor, I recall that meeting, at the eleventh hour.... and you asked them, can there be a compromise. And I think they wanted to shave off 2,000 sq. ft., maybe. And I remember the attorney from them. There is no compromise. So that's what I'm trying to understand as it's stated. Nothing's changed. What compromise do you think is really going to happen. I've heard it from everybody, that evening too. We support MorningStar. We love MorningStar. It's good, but build it somewhere else. That was the whole tone of the entire meeting. Build it somewhere else. And I look right now, I see the Elk's Lodge, I see the church that's built there now. Right now, if those two buildings were to come before us to be built, do you think they would be built. I doubt it, I really doubt, because there's not a *[inaudible]* to that supposed historic corridor. I've been on the losing end on a lot of votes. I'll give you an example. The Bachelor, plastic bottles."

Councilor Trujillo continued, "I was on the Plaza this weekend. I had a discussion with some people there who said, you know since the Mayor wants to bring back this, there's a lot of issues I'd like to... this is coming from visitors. Why don't we do the minimum wage, it's killing me. That's my concern is are we going to open this up now to bring like every single thing. If I was on the losing end of something, I want to bring it back because I wasn't happy with that decision like my constituents. Like I said, I've been on the losing end of a lot of issues. I suck it up and I want to move on. I may not agree. Many time I've not agreed with the Planning Commission and with the Historic Review Board, but democracy in action. A vote was taken and we move on. That's all I have Mayor, thank you."

Councilor Maestas said, "I think ideally I would rather entertain a Motion to Rescind, instead of to reconsider, but since it's been noticed as such, I would support that, provided it was simply limited to our July 8, 2015, decision. Now, the Motion to Remand, that's the hard part, and there's just no way I could support a condition under a Motion To Remand that just affects the size or any design elements of it. It would have to reopen, I think, all 3 issues – the Lot Split, the Special Use Permit and the Development Plan itself. Those are the only conditions under which I would support a Motion to Remand. That's all I have."

MOTION TO CALL FOR THE QUESTION: Councilor Dimas moved to call for the question.

Mayor Gonzales said there is no motion and we will need a motion first.

Councilor Dominguez pointed out the motion has to come from someone who voted in the majority.

Mayor Gonzales asked for further questions, saying he will then make a motion because he wants to address some of the issues at Council.

Councilor Dominguez said, "It looks like we're going to call the question, so I want to make a comment real quick before we do that."

Mayor Gonzales said a motion is needed before there can be a call for the question.

Councilor Dominguez said, "Yes, after you make the motion. I want for everyone to understand, I think that we kind of understand where votes are going to come down I think. The one thing that the people who are going to be on the losing end tonight, for lack of a better way to put it, are not making a motion to approve the Findings of Fact and Conclusions of Law, so I think that says something about not pushing the issue to the edge, if you will. But, understanding just kind of where the votes are and understanding how it's going to play out. So I think it needs to be recognized that at least I'm not supporting a motion to approved the Findings of Fact and Conclusions of Law, but I do not support the motion that I think is going to be made. Thank you Mayor."

Mayor Gonzales said, "So let me just address a couple of points here tonight, and I'll go back to where we started. I think it's okay for Santa Fe to have leaders that can reflect on their decisions, and ponder whether their vote was right or wrong. I think it's important that we have that. But most certainly, where the patch we're going down now, is one where there's going to be lawsuits, and delays and I don't think it necessarily serves anyone's interests to have the Courts decide what should happen on this parcel. I also think that part of the natural process was going to require mediation at some point between the parties. So why can we not try to make that happen as best we can now. One of the areas that I continue to look at, because MorningStar did come in under the guise of a continuing care facility, is that our Code addresses those points."

Mayor Gonzales continued, "And so, if we got it right, the Planning Commission is going to get it right. If we didn't get it right, in terms of the interpretation, whether vetted or not, there might be, or if they come up with something different, then we have to assess did we get it right the first time or not, I think that's okay. I don't think we have to be a Governing Body that says just because a decision has been made, we can never look back, especially important ones that divide a community."

Mayor Gonzales continued, "Now, I have more faith in the parties. I do have faith in the Elks wanting to find compromise. I do have faith in the neighborhoods wanting compromise. What that looks like, I don't know, but by sending it back to the Planning Commission, hopefully it allows for more f a conversation. I will say this to all, that if this passes, it does not mean that I have stated there shouldn't be some type of facility on the site. It remains to be seen what comes back, or what kind of compromise would be in place. It just requires everyone to be at the table and not try to have winners and losers. We

just all have to be open and supportive of the conversation and the dialogue continuing to go on. So with that, as being a person who voted in the majority, I would make a motion."

MOTION: Mayor Gonzales, as a person who voted in the majority, moved, seconded by Councilor Maestas, to reconsider the July 8, 2015 decision of the Governing Body denying the appeal in Case #2015-51, for the purpose of remanding the matter to the Planning Commission for further consideration with respect to whether the proposed use is permitted under our Code, and whether the facility design is compatible and adaptable to the corridor and the neighboring properties.

POINT OF ORDER: Councilor Bushee said she believes these are two separate motions

Mayor Gonzales said there were two issues in his Motion to Reconsider.

Ms. Brennan said, "That's correct this the motion to reconsider for the purpose of. It's not making the actual motion to remand."

Councilor Maestas, "It's not tied to the remand Correct. Okay."

DISCUSSION: Councilor Bushee said, "I find myself scratching my head quite a bit over the fact that I think we're still discussing an appeal. Is that correct?"

Ms. Brennan said, "The decision was made on an appeal. That's correct."

Councilor Bushee said, "What I keep hearing is compromise, design. What I don't hear is, is this a continuing care facility. The legal parameters of the appeal. I don't hear, should this special use, is it appropriate. Is the facility appropriate in the location."

Mayor Gonzales said, "That was in the motion. I stated that they would further consider with respect to whether the proposed use is permitted under our Code, and the facility design is compatible with and adaptable to the corridor and the neighboring properties."

Councilor Bushee said, "Okay, so we're going to vote on the Motion to Reconsider, and then the Motion to Remand is going to be the same thing you just said."

Mayor Gonzales said, "Yes."

Ms. Brennan said, "I think the Motion to Remand will be a Motion to Remand on those points, to remand all 3 cases on those two points."

Councilor Ives said, "It has been, at some level, difficult to sit here as a member of the Governing Body on the two recent planned use cases. It has certainly made apparent to me that we need to find some type of modifications to our Land Use Code offering opportunity to anybody coming before and into the process an opportunity really to sit down and have discussions that are frank and forthright, and from where I sit, outside of this process which does end up pitting parties against each other. As a member of the Navajo

Nation Bar, Navajo peacemaking is a process that I deeply respect, based on my limited experience with it, because it is designed to bring parties together to restore a sense of balance in the community. And my hope is that we can find some means of accomplishing a similar purpose in our clearly conflicted land use decisions. Everybody here is aware of my statements during our last consideration of this issue. I will support this motion.

CALL FOR THE QUESTION: Councilor Dimas moved, seconded by Councilor Bushee, to call for the question.

VOTE ON THE CALL FOR THE QUESTION: The call for the question was approved on the following Roll Call vote:

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

Against: None. [Councilor Rivera and Councilor Trujillo had voted against, but on clarification that the vote being taken is for the Call for the Question, changed their votes to be in favor of the motion.

Explaining his vote: Councilor Rivera said, "I don't like the message this is sending to businesses that are thinking about moving to our City and really, if you're a community that can afford to hire a lawyer and threaten to sue, that you have more weight than other parts of the community, so I vote no."

Explaining his vote: Councilor Trujillo said, "This sends a message to the staff and the Planning Commission that you got it wrong, according to some people, and this is going to become the norm. I vote no."

Clarification prior to voting: Councilor Bushee clarified that this is a vote on the call for the question. Mayor Gonzales said we're voting on the Motion to Call the Question

VOTE: The Motion to Reconsider was approved on the following Roll Call vote:

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

Against: Councilor Rivera, Councilor Trujillo, Councilor Dimas and Councilor Dominguez.

Explaining his vote: Councilor Rivera said, "No for the reasons stated."

Explaining her vote: Councilor Bushee said, "Yes, but I have much more debate on the decision to remand.

Explaining his vote: Councilor Dimas said, "Very simply, no."

2) MOTION TO REMAND.

MOTION: Mayor Gonzales moved, seconded by Councilor Lindell, to remand to the Planning Commission the three (3) cases heard by the Governing Body on appeal on July 8, 2015, identified as Case #2015-51 for further consideration with respect to whether the proposed use is permitted under the Code and the facility design is compatible and adaptable to neighboring properties, including with respect to adjacent residential properties, including consideration and modifications of height, massing, floor setbacks, color and the use of screening to provide visual buffering.

DISCUSSION: Councilor Dominguez said, "I just want to reiterate, Kelley, that as far as you know nothing in the application has changed."

Ms. Brennan said, "That is correct Councilor."

Councilor Maestas said, "Kelley, can you clarify that the motion includes all 3 issues, all aspects of the Planning and Zoning [Planning Commission] approval, the Lot Split, the Special Use Permit and the Development Plan, or is this motion just limited to the design."

Ms. Brennan said, "It refers to the 3 cases, which are 3 that you named, and it gives guidance asking for consideration on the on use, the definition and on design."

Councilor Bushee said, "Again, I'm just going to ask, should we not be hearing this piece of it at the next meeting, or in a separate meeting. It feels like.... it's how we've been doing it in the past. I don't know whether you have to open hearings again. This is very highly unusual."

Councilor Dominguez said, "On that point, Councilor Bushee, that is a good question. Is the motion specific to a new public hearing at the Governing Body level, assuming that the Commission changes their position on the issue."

Ms. Brennan said, "Any decision of the Planning Commission can be appealed to the Governing Body. So, unless there is an effective agreement between the parties as to these matters, I would assume that it may come up to the Governing Body again on appeal."

Councilor Dominguez said, "No. No. My question is, does it become a public hearing at the Governing Body again. If we hear it *de novo* then, does it become... because essentially we're hearing it *de novo*, with the way the motion was made."

Ms. Brennan said yes.

Councilor Dominguez said, "So then, a new Planning Commission, new public hearing for the Governing Body."

Ms. Brennan said yes.

Councilor Bushee said, "And then I wanted to follow up Mayor."

Mayor Gonzales recognized Karl Sommer to ask a quick question.

Karl Sommer, Attorney for MorningStar, said, "It is directly to the point that you all are discussing. Mayor, thank you for the moment. The Motion to Remand is for the Planning Commission to do further study on the issues as the motion is outline. That doesn't tell us, from the Applicant standpoint what we have to do or what the Planning Commission does. Do they hold a public meeting and they have their debated based on the record, and the new Commissioners look at the record and that sort of thing, or do we go back and have another meeting at whatever center we're going to have it. And what are we going to present – the same thing. There's a little bit of confusion about what is expected of the parties, including the Planning Commission. So if there's some clarification on that, that would be most helpful."

Ms. Brennan said, "I would assume that you may want to add to your Motion to Remand that they hold a public hearing in considering these things. And I would note that the Code relating to special use permits sets out a list of the kinds of conditions that can be made, many relating to design, siting and those kinds of things, hours of operation. If you recall, the Planning Commission in the first decision, made, I think, 15 conditions or something like that. Some related to when the contractors could be on site, some are related to lighting and those kinds of things. There is a broad list of things, and I would assume they would have a public hearing, and in fact might establish slightly different conditions under those circumstances."

Mayor Gonzales said, "Let me just ask. My thought is that there's been an enormous amount of public testimony already on both sides. And the issue of remanding back, from my point of view, is to, one, be able to address the Special Use Permit in the Code. And, two, give the Applicant time to work through any type of, if there are any type of agreements with the neighborhoods on what could be accepted, or not. If there's not, then the Planning Commission can determine, one, obviously, if it meets the Special Use Code. Two, what conditions they would want to place on it again, in coming. Because I do think that there are a number of conditions that are available to both the Planning Commission and the Council that were not utilized that evening, regarding the application that could be further considered if that was the case."

Ms. Brennan said, "Mayor, I would recommend, in part because of the changed composition of the Planning Commission, that they hold a public hearing, and perhaps ask that people that have spoken that they review the record as well, and that comments be to any new circumstances or conditions."

Mayor Gonzales said, "If it's appealed to the Council, we would have the prerogative on whether there was a hearing or not."

Ms. Brennan said, "You would have to have a public hearing because it is an appeal and because there may be a new decision."

Mayor Gonzales recognized Karl Sommer.

Karl Sommer said, "If I may make one suggestion, and it comes really from your comments, Mayor, earlier. And you said something very unique in this process in the City and that was this. That you foresee, because of the divisiveness of the nature of this particular application and others, that there would be a mediation process. The Code doesn't require that. However, I think it is a unique suggestion. And let me put this out there, is, at this level, this board could say, we've reconsidered and we're going to send you all to a mediation. If you come up with something and you can report back to us, you could remand it back on that agreement for the Planning Commission to consider."

Mr. Sommer continued, "The mediation at this point, would allow parties who are really essentially going to have to put their heads together and come together, if they possibly can, and report back to the Council whether or not it was a fruitful mediation. And then you could remand in light of whatever the outcome of that was. That would be productive, it would save City resources, it would bring people to the table that need to be at the table. And I make that suggestions because I think that MorningStar would certainly participate in that, and it would not forestall anything you could do at a later date."

Mayor Gonzales said that's a great idea.

Councilor Bushee said, "Mayor, I hadn't finished my line of questioning. So here's my concern. And I guess part of the question is directed to you, Mayor. If you've had a change of heart, wouldn't it be more clean to just reconsider your vote here. Because we've had our City Attorney defend the last Planning Commission. We have virtually a new Planning Commission makeup. Then, we're going to have the legal record reflect how we voted previously here, and how we might have to vote on an appeal of the new Planning Commission's decision. I really, genuinely feel like the waters couldn't get any muddier, and the process couldn't less appeal-like."

Mayor Gonzales said, "If we're getting muddier is because we're adding to it. Now look, the issue of the question, is whether it meets Special Use Permit or not. I've gone back, I've looked at it. I understand the conflict that occurred. I don't think there's anything wrong with sending it back to the Planning Commission to ask the question again. This is not an issue of whether there's a sudden change of heart in trying to push it down to the Planning Commission, or not. I think there is a legitimate question that remains: Does the Special Use portion of the Code, or does this Applicant meet the Special use Portion of the Code. I would feel much better if, one, we give an opportunity for the neighbors and the Applicant to actually talk outside of an environment where there is a winner and loser. And two, yes, if there's a fresh set of eyes, they can look at it, they can examine it. I don't think there's anything inappropriate. If there's muddy waters it's because we keep throwing mud into it and we should just send it back and let people begin to talk."

Mayor Gonzales recognized Frank Herdman for remarks.

Frank Herdman, Attorney for Southeast Neighborhood Association (SENA), said, "Mr. Mayor, on behalf of the Appellants in the case that is before you, it would be our preference and recommendation that, if there is mediation, that it be conducted in conjunction with a remand to the Planning Commission."

That would be a better use of resources, because it would not burden your calendar which has a multiplicity of things. As opposed to the Planning Commission's calendar which is devoted to land use and planning only."

Councilor Dominguez said, "So, based on what I've just heard the attorneys state from both parties. We just had a case Kelley, where both parties basically said they wanted to take something back to the Historic Board. Right. Has anyone asked that of these applicants. It sounds like they're kind of going down that road. Right. They're talking about mediation and maybe the road is a little greener on this side."

Mr. Sommer said, "If I may Mayor, just briefly. As you said earlier, we see where the vote is going. If the votes are going some direction to a remand, whatever the process is laid out to be fruitful, if Mr. Herdman says that a remand that included a mandatory mediation of some kind, obviously mediation is not binding. People sit and talk, see if they work it out. If they can't, they report that they can't work it out. If they work something out, then they present that. That's not the end of it. It goes whoever has to decide it. Certainly going in front of the Planning Commission with a mediated resolution gives the chance of success at a decision, and no appeal, much better. But the mediation, and requiring that people sit at a table in a confidential mediation session so people can really consider it, we think that would be productive as part of your requirements."

Councilor Dominguez said, "If I can, Mayor, I'm hearing then that there is no formal stipulation between parties to necessarily go down this road."

Mr. Herdman said, "I can so state on behalf of the Appellants, we would not oppose mediation in conjunction with..."

Mr. Sommer asked, "Would you agree to do it if it was remanded, and that is the question – would you agree to do it."

Mr. Herdman said, "Obviously, if it is a condition of the remand, of course we will participate. There's no question about it."

Mayor Gonzales said, "I think to do it conjunctively is probably a good path to go."

Councilor Maestas said, "Just under discussion, point of order. Kelley, what happens if the Motion to Remand fails. Can we entertain a motion to approve the Appeal tonight."

Ms. Brennan said, "If the Motion to Remand fails, you will then move on to the Findings of Fact and Conclusions of Law which would be final action in the case. So effectively, that would be doing that. And the other thing is, before you discuss the motion, if you do want to ask the parties or require the parties to mediate before the matter is heard by the Planning Commission again, you can add that to the motion."

FRIENDLY AMENDMENT: Mayor Gonzales said, "So, I would like to add that to the existing motion." **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

CONTINUATION OF DISCUSSION ON THE MOTION, AS AMENDED: Councilor Bushee asked, "Follow up question, Kelley. We've had a motion to reconsider. If the remand motion dies, would it not also remain that the Motion To Reconsider would stand."

Ms. Brennan said, "You are correct Councilor. The Motion To Reconsider, if approved, would mean that you would want to reconsider. If you wanted to reconsider, I would say you should then schedule that deliberation for the next meeting and postpone the decision of the Findings of Fact and Conclusions of Law."

Councilor Bushee said, "And a Motion To Reconsider would have to be made here, tonight, after the remand vote, if it failed."

Ms. Brennan said, "A motion to deliberate at the next meeting. You mean the Motion to Reconsider."

[Several people speaking at the same time here]

Councilor Bushee said, "We've already had the Motion to Reconsider which was successful. So is there no way this evening to reconsider the decision, if the remand fails."

Ms. Brennan said, "If the remand fails, yes, although again, I would advise that that reconsideration take place at the next meeting of the Governing Body, and that the Findings be postponed."

Mayor Gonzales said, "I'm very much opposed to that. I don't know where we're going to go if the Council decides they want to bring it back directly to the Council without going to the Planning Commission. I don't think that gives enough time for the parties to sit and see if they can find a solution as well as have the Planning Commission consider. It shouldn't take long in this process, but it is going to give some good time and it keeps it, hopefully, out of Court, and keeps people at the table to find some conclusion."

Councilor Dominguez asked, "Does this have to have, and I'm not quite sure if I heard the answer clearly enough earlier.... Does this require a new ENN, because there is some level of, I don't want to say mediation, but some level of negotiation that happens at that point in time."

Ms. Brennan said, "The motion... no, it would not require an ENN, I believe, but I think the motion now includes the direction to the parties to mediate before the Planning Commission hears the matter."

Councilor Dominguez said, "So, if I can Mayor, just as a final comment. I certainly support the idea of going to mediation. I think that's really something that should have been done earlier. I'm surprised that we don't have that built into our Code on these sorts of cases. Maybe we ought to look at our Code again in a little bit more detail. But that speaks to how fluid this Code is, is that every time a case comes up, you're going to find one word that contradicts something and requires this big, huge debate. But I'm not going to support motion just in principle, because again, I think we do have a process that is in place. A process that many other applicants have had to comply with, and have done so, and have come out on one end or the other of the decision. So for that, I just wanted to make that statement for the record."

Mayor Gonzales asked to go to the roll call vote, saying we have got some more work to do tonight.

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

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

Against: Councilor Trujillo, Councilor Rivera, Councilor Dimas, Councilor Dominguez and Councilor Bushee.

Mayor Gonzales said, "I want to say, I'm not going to agree to have this come back to the Council. It has to start at the Planning Commission."

Councilor Bushee said, "I have a motion Mayor."

MOTION: Councilor Bushee moved, seconded by Councilor Trujillo, to have a reconsideration of this appeal at a future Council meeting, and in the interim, ask that the parties try and mediate this issue.

DISCUSSION: Mayor Gonzales said, "I'm opposed to that. I think that we went into this Motion to Reconsider, we stated that the motion was to send it back to the Planning Commission. I went along with that. This quick change to.... and all of you voted on it, at least in the affirmative. The change to move it to the Council now, just seems wrong. So I'm opposed to that motion, but Roll Call.

Councilor Bushee said, "My motion is for the next Council meeting, with mediation in the interim."

Councilor Rivera asked, "Kelley, what happens if this motion fails."

Ms. Brennan said, "You could conceivably reconsider your Motion to Reconsider, or you could come up with another plan."

Councilor Rivera said, "That's what I was afraid you were going to say."

Mayor Gonzales said, "There's nothing wrong with a Motion to Reconsider the Reconsider, because we've got a process that needs to be followed. We agreed on the Motion to Reconsider, at least 5 of us. For that to be changed now, and ask that it goes to the Council is the wrong way to do this and I'm not going to support it. Roll call."

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

For: Councilor Bushee, Councilor Maestas, Councilor Ives and Councilor Lindell.

Against: Mayor Gonzales, Councilor Trujillo, Councilor Dimas, Councilor Dominguez and Councilor Rivera.

Clarification of motion prior to casting his vote: Councilor Ives asked, "Could you please tell me what the motion was again, and there's a reason for this." Ms. Vigil said, "To reconsider at the next meeting and mediation would be held prior to that meeting." Councilor Ives said, "And I heard that amendment to the original motion by the maker, but no agreement by the second, which was Councilor Maestas. Councilor Maestas said, "Pardon me." Councilor Ives said, "I didn't hear your approval as the second for the modification to the motion to include mediation between and the next City Council. Council Maestas said, "I accepted that as friendly." Councilor Ives said, "I'm not sure if everybody is clear on that, I certainly wasn't."

Explaining his vote: Councilor Ives said, "I very much agree with the Mayor that remand makes sense in this context, and thank you for allowing me a moment when we're voting to state my piece. I honestly am not sure where we go if this measure fails, because we have outstanding then, a Motion for Reconsideration. And so it's a question by whom. I believe very strongly that the Planning Commission is the logical place for that to occur, and especially given the request for median as part and parcel of that. So, while I don't think this is the best path forward insofar as deviation is significantly and objective here, I'll vote yes, but my desire is for remand."

Mayor Gonzales said, "Okay, we can stay here all night. There is a pathway we can go to get this moving back to the neighborhood, back to the Elks. I'm hopeful that we can get to an agreement on how that can happen."

Councilor Dominguez said, "So Mayor, just a question, and not that I'm in support of kind of the direction that we're going, but to try to help the process out. Kelley, can we make a Motion to Reconsider with specific steps that need to be taken. In other words, A, goes back to the Planning Commission, B, it goes to... whatever steps there are that we can articulate, and then indicate in that motion that the final step, if this is what the Governing Body wants, is for the Governing Body to make that final decision because it is an Appeal. I'm just trying to get us to a place where we can make a motion that's clear enough to kind of get this off the table."

Ms. Brennan said, "Effectively, I think you are talking about a Motion to Remand with certain requirements, if the idea is to send it back to the Planning Commission with direction, and there would be... you have under Code... certainly any appeal of that decision would come to you. If there weren't an appeal, it would presumably mean that the parties had agreed with the decision. So, a Motion to Remand with those requirements, would accomplish what I think you're looking at."

Councilor Dominguez said, "To be a little bit more specific, date specific."

Mayor Gonzales said, "The dates. Would we specifically state the dates that they would have to hear it by?"

Councilor Dominguez said, "So the Planning Commission has to hear this in two months, or whatever."

Ms. Brennan said, "I think if it were two months that could probably... that's a reasonable timeframe, given the kinds of things that come before them."

Councilor Dominguez said, "And I'm just wondering if that kind of motion helps the process out a little bit. Thank you Mayor."

MOTION: Mayor Gonzales moved, seconded by Councilor Lindell, to remand to the Planning Commission the 3 cases heard by the Governing Body, on Appellants rights, and that they consider the Case 2015-51, with respect to whether the proposed use is permitted under the Code, and the facility design is compatible, with and adaptable to the neighboring properties, including with respect to adjacent resident properties, including consideration of modifications of height, massing, floor set-backs, color and the use of screening to provide visual buffering and in the Motion, ask between now and the next Planning Commission meeting that we can get a calendar on, that there be mandatory mediation, and if they can't schedule it before the Planning Commission can notice it, it will have to wait, but they do mandatory mediation and prior to making it to the Planning Commission."

DISCUSSION: Councilor Bushee asked, "Kelley, can you just keep making the same motion even if it has failed."

Mayor Gonzales said, "I changed it."

Councilor Bushee asked, "How."

Mayor Gonzales said, "We added the requirement of mediation."

Councilor Bushee said, "That was part of the first motion."

Mayor Gonzales said, "It was an amendment. So the timing would be that it would be heard at the next Planning Commission meeting that it could be noticed for and that there be mandatory mediation prior to that. If the parties can't get together before it's appropriately noticed, it will be delayed to the following Planning Commission."

Ms. Brennan said, "And Mayor, I believe that that Planning Commission meeting would be the September meeting."

Councilor Bushee said, "But, I asked the Attorney a point of order. Can a motion just keep being made. It's the same motion."

Ms. Brennan said, "Because he added something to it, meaning to hear it by a certain date."

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

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

Against: Councilor Dimas, Councilor Dominguez, Councilor Rivera, Councilor Trujillo and Councilor Bushee.

Councilor Maestas said, "I have a plan. You said that was an option."

MOTION: Councilor Maestas moved, seconded by Councilor Bushee, to approve the appeal of the May 7, 2015, Planning Commission.

DISCUSSION: Mayor Gonzales said, "It wasn't even noticed, how can we do that."

Councilor Bushee said, "We had a Motion to Reconsider that passed."

Ms. Brennan said, "You have a motion to reconsider, so you are now reconsidering the vote you made, but I believe that should be at the next meeting for notice purposes, just to be absolutely clear on that point."

REVISED MOTION: Councilor Maestas moved, seconded by Councilor Bushee, to revise the previous Motion that we take up at the next meeting, a Motion to approve the appeal of the May 7, 2015, decision regarding Case #2015-51.

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

For: Councilor Ives, Councilor Maestas and Councilor Bushee.

Against: Mayor Gonzales, Councilor Dimas, Councilor Dominguez, Councilor Lindell, Councilor Rivera and Councilor Trujillo

Explaining his vote: Councilor Dominguez said, "That contradicts the spirit of what the Mayor is trying to do, so I vote no, even though I don't agree with it."

Clarification of motion prior to casting his vote: Councilor Ives said, "Give me clarify of what we're voting on." Ms. Vigil, "You would take up at the next meeting to approve the appeal for reconsideration. Is that your motion." Councilor Maestas said, "Yes." Councilor Ives said, "And part of the reason I'm asking is, in the Findings of Fact and Conclusions of Law in the case, it indicates that the Appellants are the Southeast Neighborhood Association for its members, and Jim Dyke and Jerry D. Christopher, individually, so that was one party, if you will to the decision that was made. That's a place where all are on the same side of the decision. Ms. Brennan said, "Yes, Councilor. They were the Appellants."

Explaining his vote: Councilor Ives said, "Again for me, it's not the preferred course, but I will vote in favor."

Explaining her vote: Councilor Lindell said, "I'm going to vote no on this, because I don't think that it brings forward any opportunity for the two parties to show any spirit of cooperation on this, which was what the point of this was, so I'm going to vote no."

Explaining his vote: Councilor Trujillo said, "We need to put a tent around this circus, because this is what it's turning into. No."

Explaining her vote: Councilor Bushee said, "I want to clarify that, why the decision rests here, is that the Planning Commission makeup has changed completely. And we've made this record go all over the place. The decision lies with us. I feel Mayor, if you were going to reconsider your vote because you had concerns about the facility fitting in that space, the decision lies with us. And I do believe we should also have it here next meeting, have a hearing, and that we should mediation in the interim, so that will be the motion I'll make after this. So yes."

MOTION: Councilor Bushee moved, seconded by Councilor Maestas, that we move to reconsider and approve the Appeal at the next Council meeting, with mandated mediation of the two parties in the interim.

DISCUSSION: Mayor Gonzales said, "Right. So there's a motion to approve the appeal..."

Councilor Bushee said, "To reconsider the approval of.... yes, just like Councilor Maestas's motion, only with mediation in the interim. I didn't vote against that. That perhaps assuages Councilor Lindell's concerns."

Ms. Brennan said, "Councilor Bushee. A point of order. If mediation is mandated, it may be better to move it to a subsequent meeting, say the second meeting in August, just to give time for that process."

Councilor Bushee said, "I would like to keep it to the first [meeting], because I won't be here for the second [meeting]."

Mayor Gonzales said, "Councilor Bushee, you've missed my whole point as to why I wanted to reconsider this, unfortunately. While there may still be questions as to the issue of the Code, the reconsideration is about an opportunity to bring two very divided communities together to the table, on their own, without this political body trying to interject what should happen on that property. So I am imploring and asking this Council that we do stop this circus that's going on right now, and be able to remand this back to the Planning Commission. Because honestly, if we don't, then we're not going to get anywhere. It's not going to appease the Elks, it's not going to appease the neighbors, and it's just going to be an unfortunate evening for this City that we can't find a way to remand an important issue, that's been highly divisive and controversial, back to the Planning Commission, back to mediation, and allow for that conversation to happen. What is the sense of urgency to have to get this in front of us at the next election, we may not get it by the next election, at the next meeting. But we have to be able to give individuals an opportunity to talk and I hope that this Council will deny the Motion, let us get on with the evening's business, by remanding it back to the Planning Commission. Both parties have agreed to mandatory mediation. Both parties have agreed to sit down, because it's the only right way to go for our community."

Councilor Bushee said, "Mayor, can I respond. I don't understand why remanding to a new, entirely new Planning Commission is the only method. We're asking that they have time to mediate in the interim, and it comes back. I think the decision rests here."

Mayor Gonzales said, "I'm not going to debate that point, I've stated it, so Roll Call."

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

For: Councilor Lindell, Councilor Maestas and Councilor Bushee.

Against: Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo, Councilor Dimas and Mayor Gonzales.

Explaining his vote: Councilor Dominguez said, "I'll debate that point. We have a process in place Councilor Bushee that determines whether or not certain items come to this Governing Body or not. If we want to change that process, then so be it. It shouldn't be done tonight at this meeting on such a controversial issue. The second thing I want to say, is back to my old saying, you know the road to hell is paved with good intentions, Mayor. So I'm going to vote no."

Explaining his vote: Councilor Ives said, "You know, I'm curious to see how this will play out, so on this particular one, in part because I think remand is the logical choice and I certainly hope that the position that would provide the parties that opportunity to get together and come back to the Planning Commission makes the most sense. I'll vote no."

Clarification prior to casting her vote: Councilor Lindell said, "I have a question for Ms. Brennan. What happens if the mediation can't be accomplished prior to the next Council meeting." Ms. Brennan said, "I would imagine, Councilor, that there would be a request to postpone that, the deliberation of the proceeding to a date where the mediation process had been completed, either successfully, or not. But in a complex dispute like this, sometimes the mediation might take more than one session, and given that the parties, there are a number of people associated with the parties, getting them together and accomplishing a successful mediation might take a little more time. And I spent my day at a mediation that I thought would be wrapped up, and there's going to be other sessions. I think that's fairly common. Councilor Lindell said, "Okay, thank you."

Explaining her vote: Councilor Lindell said, "Because there is mediation in this motion, I will vote yes."

Explaining his vote: Councilor Dimas said, "Mayor, I can only say one thing. This has really turned into a dog and pony show. No."

Explaining his vote: Mayor Gonzales said, "Councilor Dimas, it's a damned shame that it has. I'm going to say no."

Mayor Gonzales said, "We're going to take a 10 minute break, and when we come back, we're going to have a motion that we're either going to reconsider the reconsideration and get this done tonight, or we're going to come back and we're going to figure out how to remand it back to the Planning Commission. It's the decision of this Council. We'll be back at 7:15 p.m.

There was a short break 7:05 to 7:20

Mayor Gonzales said we will try once more and then he will ask to postpone the decision and try and reflect on what is the best pathway.

Mayor said Mr. Herdman has asked to address the Council quickly because Mr. Sommer had an opportunity to state his preference.

Mr. Herdman said, "I just wanted to be clear that, on behalf of the Appellants, including the Southeast Neighborhood Association, our preferred alternative is to remand to the Planning Commission with mandatory mediation. We believe the Planning Commission will be able to manage the mediation, decide on the timing the mediation and able to oversee that process effectively. As again, they are Land Use and Planning Commission, an agency of the City, and we think that that is where this properly belongs. So I just wanted to make sure that the Appellants' position is crystal clear. Thank you Mayor."

Councilor Dominguez said, "A question for you Frank, since you're the.... is that consistent with your statement at the last meeting."

Mayor Gonzales said, "You don't have to answer that Frank."

Councilor Dominguez said, "Well, no, I just want to know, because part of the question that has been asked is if something has changed."

Mr. Herdman said, "Well, I think that what's changed is a groundswell of concern that has been expressed by this community."

Councilor Dominguez said, "I haven't asked you what's changed. I just asked you if it is consistent with your comments at the last meeting."

Mr. Herdman said, "It is not consistent with the request of whether there was remand to Planning Commission. However, the issue of mediation, to my recollection, did not come up. And since then, I think that...."

Councilor Dominguez said, "You've answered my question, thank you."

Councilor Bushee said, "Why the vehicle of the Planning Commission, because the body has changed. Why could you not mediate the parties before it came back here for reconsideration."

Mr. Herdman said, "There's a variety of concerns, one is timing. We think that it is going to take a while to identify a mediator..."

Councilor Bushee asked, "If we pick a different date for mediation, I mean for a hearing at the Council, give you two months."

Mr. Herdman said, "It's my belief, based on 20 years of experience doing land use law in the City of Santa Fe, that the Planning Commission is going to be a more effective forum, because it's dedicated to planning and land use related decisions. And so, just based on that, I think it would more efficient and I think it would be more effective."

Mayor Gonzales said, "I would like to ask for one more motion and if not, let's table this until the next Council meeting, because obviously cooler heads need to prevail and we've got work to do on the agenda."

MOTION: Councilor Bushee moved to postpone this to the next Council meeting.

Mayor Gonzales said he would like to ask for one more motion before you move to postpone. He said, "Councilor Bushee if you can just allow us to try and figure out a way forward before we put the pause in, I would appreciate it."

THE MOTION DIED FOR LACK OF A SECOND.

MOTION: Councilor Ives moved, seconded by Councilor Lindell, to remand all 3 cases to the Planning Commission for reconsideration of all issues, with direction that mediation be conducted between the parties, with all due speed in order that the matter could be considered timely, not delay ultimate consideration of this matter by the City Council, and allow parties the opportunity to fully determine whether or not there are... that they can see what final agreement, if any, that they could come to that could be brought to the Planning Commission as part of its deliberative process.

DISCUSSION: Councilor Bushee said, "Wait a minute, I have to ask, for clarification, how is that different than the previous two motions that have been denied?"

Ms. Brennan said, "The motions were remanding 3 cases on two points. The definitional point and the design point, and I understand Councilor Ives' motion to be on all 3 points – Lot Split, Special Use Permit and Development Plan."

Councilor Bushee asked, "But not on design."

Ms. Brennan said, "The design would be part of the Development Plan and Special Use Permit consideration. So, it's not only organized differently, it calls out a different process."

Councilor Bushee said, "I would ask you to limit the discussion the definition, and not, what is the second one."

Ms. Brennan said the second one was design issues, but that would be the same... by limiting it, it would be the same as the prior motion.

Councilor Bushee said, "I want to consider the Special Use Permit, and the definition of continuing care, and whether or not that was an appropriate facility for that space. I don't want to get into massing and design, I want to get into that decision, directly."

Ms. Brennan said, "Councilor Bushee, consideration of the Special Use Permit, would include all those design issues, because the Special Use Permit standard is the compatibility with an adaptability too, and that addresses those design issues, and also raises all the other conditions. So, by referring back to the Special Use Permit, you are including those issues. As I say, Councilor Ives' motion does differ from the prior ones because it includes consideration by the Planning Commission of all 3 applications for the Lot Split, the Special Use Permit and the Development Plan, if I'm correct."

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

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

Against: Councilor Rivera, Councilor Trujillo, Councilor Bushee, Councilor Dimas and Councilor Dominguez.

MOTION: Councilor Bushee moved, seconded by Councilor Maestas, to postpone this item to the next meeting of the City Council.

DISCUSSION: Mayor Gonzales said, "All right, there is a motion to postpone this item. I apologize to all parties who waited tonight. Hopefully, we will be able to get our act together so that you actually can be able to begin the process of discussing how to be able to go forward as a community."

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

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

Against: Councilor Rivera, Councilor Trujillo, Councilor Dimas and Councilor Dominguez.

Explaining his vote: Councilor Ives said, "I will vote yes, but express my disappointment in our incapacity to have not reached a reasonable decision that would have accommodated the position of both the parties before the Council."

Councilor Dominguez said, "I want to make a comment on that Mayor, just real quickly. Again, one of the motions that wasn't considered, was a motion to accept the Findings of Fact and Conclusions of law. I think that needs to be recognized. Thank you Mayor."

Mayor Gonzales said, "Real quick. So the Motion to Reconsider to send back to the Planning Commission, I'm assuming that's non-existent then. All right. Zach, so this motion to reconsider, it was approved to go back to the Planning Commission, but there's no agreement, so I'm assuming that that doesn't count.... does it count, does it not count."

Mr. Shandler said, "Mr. Mayor, the Motion to Reconsider took it off the table. You guys had a healthy discussion this evening, and have now made a decision to postpone any further healthy discussions to the next meeting."

Mayor Gonzales said, "Unless we, at the next meeting can come to an agreement that supports this reconsideration, then I'm assuming it doesn't exist, and we move on to whether the Findings of Fact are going to be accepted or not."

Mr. Shandler said, "I think that's correct, Mayor. The next item, we're going to withdraw the Findings of Fact at this time, and the lawyers will be *[inaudible]* tomorrow morning. Thank you."

Mayor Gonzales said, "I just want to make clear that if we cannot remand this whole process back to the Planning Commission, then we have to reconsider the motion that was going to direct it back to the Planning Commissions, so we can move on with this case, because I think both parties need to determine whether there is going to be a course of action that goes through the Courts, or if there is a course of action that can go through the regular land use process. So, hopefully, at the next scheduled meeting, if we can't find that process, then we will move on the Findings of Fact and we will have the parties to do what they need to do."

b) REQUEST FOR APPROVAL OF FINDINGS OF FACT AND CONCLUSIONS OF LAW IN CASE NO. 2015-51. (ZACHARY SHANDLER)

1) MOTION TO APPROVE

No action was taken on this item.

END OF AFTERNOON SESSION AT APPROXIMATELY 7:30 P.M.

EVENING SESSION

A. CALL TO ORDER AND ROLL CALL

The Evening Session was called to order by Mayor Javier M. Gonzales, at approximately 7:30 p.m. There was the presence of a quorum as follows:

Members Present

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

Others Attending

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

F. PETITIONS FROM THE FLOOR

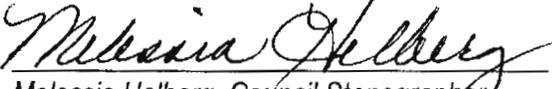
Mayor Pro-Tem Ives gave each person two minutes to petition the Governing Body.

David McQuarie, 2997 Calle Cerrada, said he is here to ask you to please direct staff to follow Resolution No. 2009-51, Section 3, where all Public Works Projects shall be reviewed by the Mayor's Committee on Disability. He said in 2004, Federal Highway advised the City to adopt a policy on key intersections, and currently they do not have standard treatment of key intersections. According to them it's okay for a person to go up to 50 feet out of their way past 2 of 3 of the intersection. It's okay to go 1 ½ miles to cross the street. Another incident says you go to the County Courthouse if you use a mobility device, you can't use the sidewalks. State law requires you to be able to use sidewalks by §77-6-399A. What are we supposed to do. Give us some help. Let me ask you to direct staff to develop a policy on key intersection *[inaudible]*.

**VERBATIM TRANSCRIPT
OF THE REQUESTED PORTION OF PETITIONS FROM THE FLOOR, ITEM #F
FROM THE EVENING SESSION
CITY COUNCIL MEETING
July 29, 2015**

STEFANIE BENINATO: I am Stefanie Beninato, P.O. Box [inaudible], Santa Fe, New Mexico. I am speaking to the Council, that I noticed that last week I saw some surveyors near my property and I asked them what they were surveying. And they said they were surveying for 600 Galisteo Street. And the surveys are only good for about 90 days, so I began to wonder why someone would have a survey done before you had the approval on the General Plan change and the Rezoning change. And it's not something I am going to making part of my formal statements on the record about this application. But I did just bring it up, because it's just kind of odd that you were doing something that cost money like that before you had approval. Thank you."

I certify that this is a true and accurate transcript of the requested portion of Petitions from the Floor, Item #F, from the Evening Session, City Council Meeting, July 29, 2015.


Melessia Helberg, Council Stenographer

Mayor Gonzales said there is a sign-in sheet and if you want to sign in, feel free to do so. That way you don't have to stay standing for any kind of testimony that you would like to give to the Council on any type of Ordinance.

Mayor Gonzales said Councilor Maestas, as is tradition, pulls an item from the Consent Calendar so he can make a quick disclosure for the record, and asked the Council if we can go ahead and allow him to do that, because there is an individual here from the DOT. He said Councilor Trujillo has a quick disclosure as well.

MOTION: Councilor Trujillo moved, seconded by Councilor Dimas, to reconsider the previous approval of the agenda as amended, to consider Items 10(f) and 10(m) from the Consent Calendar from the Afternoon Session, and to approve the amended agenda, as further amended.

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

CONSENT CALENDAR DISCUSSION

- 10(f) REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT AND APPROVAL OF BUDGET INCREASE IN THE AMOUNT OF \$250,500 – ENGINEERING SERVICES FOR FEASIBILITY STUDY TO OPTIMIZE THE USE OF REGIONAL RECLAIMED WASTEWATER FOR WATER DIVISION (RFP #15/34/P); CAROLLO ENGINEERS, INC. (BILL SCHNEIDER)**

Disclosure. Councilor Maestas said, "As I've stated throughout the policy process, this particular action involve funding from the Bureau of Reclamation. I have disclosed that I do work for the Bureau of Reclamation. I do not directly manage the funding program under which these funds are made available for this project, so therefore I will be recusing my vote."

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

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

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

Against: None.

Recused: Councilor Maestas.

- 10(m) CONSIDERATION OF RESOLUTION NO. 2015-67 (COUNCILOR TRUJILLO). A RESOLUTION IN SUPPORT OF DEFOURI AND GUADALUPE STREET BRIDGE IMPROVEMENTS FUNDED THROUGH A MUNICIPAL ARTERIAL PROGRAM COOPERATIVE AGREEMENT WITH THE NEW MEXICO DEPARTMENT OF TRANSPORTATION. (DESIREE LUJAN)**
- 1) REQUEST FOR APPROVAL OF MUNICIPAL ARTERIAL PROGRAM COOPERATIVE AGREEMENT WITH THE NEW MEXICO DEPARTMENT OF TRANSPORTATION FOR BRIDGE IMPROVEMENTS TO THE DEFOURI AND GUADALUPE STREET BRIDGES.**
 - 2) REQUEST FOR APPROVAL OF BUDGET ADJUST REQUEST IN THE AMOUNT OF \$80,000.**

Disclosure: Councilor Trujillo said, "Thank you Mayor. As always, I do work for the New Mexico Department of Transportation. I used to oversee the Municipal Arterial Programs back in the days, I no longer do that. There is no conflict of interest, I will move for approval."

MOTION: Councilor Trujillo moved, seconded by Councilor Lindell, to approve Item 10(m) Resolution No. 2015-68, and Items 10(m)(1) and 10(m)(2) as presented.

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

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

Against: None.

The Council then returned to the Evening Agenda

G. APPOINTMENTS

A copy of the resume of Patricia Boies, J.D., an appointee to the Community Health Care and Hospital Study Group, is incorporated herewith to these minutes as Exhibit "3."

COMMUNITY HEALTH CARE AND HOSPITAL STUDY GROUP.

Mayor Gonzales made the following appointment to the Community Health Care and Hospital Study Group:

Kathy Armijo Etre, PhD, Christus St. Vincent, Vice President of Community Health;
Diane Spencer, District 1199 NM Hospital Workers Union Representative;
Judith K. Williams, Ph.D., Santa Fe County Commission Representative;
Carolyn Roberts, MSN, RN, Santa Fe County Commission Representation; and
Patricia A. Boies, Santa Fe County, Director of Community Services Representative.

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

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

VETERANS ADVISORY BOARD

Mayor Gonzales made the following appointment to the Veterans Advisory Board:

Sigrid Hannah Mabel (Veteran) – term ending 05/2017.

MOTION: Councilor Dimas moved, seconded by Councilor Trujillo, to approve this appointment.

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

BOARD OF ADJUSTMENT

Mayor Gonzales made the following appointment to the Board of Adjustment:

Patricia M. Hawkins, Reappointment – term ending 09/2017.

MOTION: Councilor Bushee moved, seconded by Councilor Lindell, to approve this appointment.

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

H. PUBLIC HEARINGS

- 1) **CONSIDERATION OF RESOLUTION NO. 2015-68; CASE NO. 2015-30 TUNE UP CAFÉ GENERAL PLAN AMENDMENT. LIAISON PLANNING SERVICES, INC., AGENT FOR JC RIVERA, LLC, REQUESTS APPROVAL OF A GENERAL PLAN FUTURE LAND USE MAP AMENDMENT TO CHANGE THE DESIGNATION OF 0.13± ACRE OF LAND FROM LOW DENSITY RESIDENTIAL (3-7 DWELLING UNITS PER ACRE) TO COMMUNITY COMMERCIAL. THE PROPERTY IS LOCATED AT 536 CORTEZ ST. (DONNA WYNANT)**

Items #H(1) and H(2) were combined for purposes of presentation, discussion and public hearing, but were voted upon separately.

A Memorandum dated July 16, 2015 for the July 29, 2015 Meeting of the Governing Body, with attachments, to Members of the Governing Body, from Donna Wynant, Senior Planner, Current Planning Division, in this case, is incorporated herewith to these minutes as Exhibit "4."

A letter in support of the Tune Up Café General Plan Amendment and Rezoning, to the City Council, from dr. Matthew J. Kelly, is incorporated herewith to these minutes as Exhibit "5."

A copy of a statement for the record in opposition to rezoning one lot, submitted for the record by Stefanie Beninato, is incorporated herewith to these minutes as Exhibit "6."

The staff report was presented by Greg Smith, Director, Current Planning Division. Please see Exhibit "4," for specifics of this presentation.

Public Hearing

Presentation by the Applicant

Mayor Gonzales asked if the Applicant had a presentation and the Applicant said no.

Speaking to the Request

Mayor Gonzales gave each person 2 minutes to speak to the Request.

All those speaking were sworn en masse

Joseph Romero, 612 Cortez [previously sworn] , said he is not sure if they're going to change the parking. He said right now the parking is really bad, noting there is a lot of traffic going through Cortez and Hickox. He said he thinks they said they were going to buy another piece of property to add to the parking, but he's not positive about that. He also said he also unsure if he is rezoning everything to make it more than one-story, and if they're going to go 2 or 3 stories.

Carmella Romero, 612 Cortez [previously sworn], said the bad thing about Cortez is when she gets out of her property these big trucks are coming in from Sierra Vista, and believes they are coming from Cerrillos Road to Baca Street and to Cortez, and coming fast and she knows it's for the restaurant. She thinks we need to put in some speed humps on the road, because the parking is really bad on Cortez where she lives and there's going to be an accident when they drive really fast. She asked if the restaurant going to be changed or is this just for the parking.

Jazz Reisz, 1528 La Cienegita [previously sworn], said she owns property at 530 Cortez Street, 3-4 houses down from the Tune-Up. She said, "As I testified at the Planning Commission, I'm totally in favor of this zoning change, whatever the *[inaudible]* are. I think it's great for the neighborhood. They need more parking. So I'm in favor of it. Thank you."

Vicki Romero, 528 Cortez [previously sworn], said walking on Cortez to go south to Hickox a person must get off the sidewalk and walk on the street. She said the restaurant traffic parks on the side of the restaurant, not only on the sidewalk, but also on the street between Hickox and Cortez. She said sidewalks are only for pedestrian traffic. She said this problem was discussed at the meeting where City employee representative said he would discuss this with the restaurant owners, have it corrected, and have someone to monitor and enforce the situation. The next meeting, the City representatives said the City is thinking about the sidewalk, and to date nothing has been done and they are still walking on the street. On Hickox people park on both sides and you can't see oncoming traffic and traffic seems to come a little fast, noting you have to get halfway onto Hickox before you can see any oncoming traffic. We were told at the last meeting that they were allowed to park there, but must have a special permit, and deliveries

must be made early in the morning. She said this isn't being adhered to. She said Cisco and Shamrock are parking there at all hours of the day to unload. She said the receiving is done on Cortez Street, t-boning the restaurant to they can't pass. She said they shouldn't be parked on Cortez Street because it is a residential area. She said big trucks travel Cortez to make deliveries. She said we need signage saying this is not a truck traffic street. She said Cortez and Hickox Streets is a carnival. She hates it and she lives there.

Stefanie Beninato, P.O. 160 [previously sworn], said she doesn't live near there, but she is bringing up the issue of spot zoning. She said this is a request for a change to the General Plan for 0.3 acres, and there are questions she thinks need to be address if you are going to expand to change this very small piece of land for this purpose. She said she said she hears that the owner wants this change to bring things into compliance, as they have promised before, but it never happened. She thinks the parking is just one dramatic issue. She said she would send them to the record, *[inaudible] v. City Council of Las Cruces*, 1999. NM Ct. Of Appeals case, and they talk about the spot zoning in *Watson v. [inaudible]* and that is a Court of Appeals 1999 case. And they basically say that spot zoning is determined on an *ad hoc* basis, that refers to the leasing of a small parcel of land to permit use that fails to comply with the comprehensive zoning. So the fact that we have to change the comprehensive plan to be able to allow this ability in the factor that says it's spot zoning, that fails to comply with the comprehensive plan or is inconsistent with the surrounding area *[inaudible]* and harms neighboring properties. And we are talking about benefit to the community, which is another way to look at it. The change to the General Plan is too adverse, so you have a much smaller than is required under case law.

Bettina Rafael, 611 Cortez Street [previously sworn], said she lives about ½ block from the Tune-Up Café. She agrees with previous speakers on the difficulty of traffic and parking in the neighborhood that have resulted from the success of the Tune Up. She would hope that this proposal will help resolve some of those concerns by providing more safe parking and some of the overcrowding that has resulted in the past. She said, "I will also speak in favor of this, because I value the Tune Up as a member of my local community, and I really appreciate the mixed use that this represents in Santa Fe, where residential communities can have a local café, a local meeting place, some place that I feel personally very identified with and that others are drawn to. I am very much in keeping the Tune Up thriving and hopefully it can be done in a way that doesn't complicate future zoning issues.

Julia Chavez, 2664 Calle Ensenada [previously sworn], asked, "I wanted to know if the taxes going to go up on this."

Mayor Gonzales said we will ask the staff to answer those questions, and we don't answer questions back and forth, we just want to hear your input.

Ms. Chavez said she isn't familiar with this, her husband just passed away and he was paying the taxes on the house.

Mayor Gonzales said, "We'll make sure that Greg Smith can direct to you to somebody that might be able to answer questions regarding what the implications to your taxes might be."

The Public Hearing was closed

Councilor Ives asked the current use at 536 Cortez.

Mr. Smith said currently the property is occupied by a mobile home.

Councilor Ives asked if the mobile home has been removed.

Mr. Smith said no.

Councilor Ives asked to what use is the mobile home made.

Mr. Smith said it is a dwelling unit.

Councilor Ives said to be clear, we are eliminating a dwelling unit here in favor of the parking lot. He asked if there were tenants in trailer.

Mr. Smith said he doesn't know, but he is sure the Applicant's representatives can address that issue.

Mayor Gonzales asked Councilor Ives if he has questions for the Applicant's representatives, and Councilor Ives said yes.

Dolores Vigil, P.O. Box 1835, Santa Fe 87504, representing the Applicant, asked Councilor Ives what is his question.

Councilor Ives said as he understands it, the prior use of 536 Cortez has been as a residence for some number of people. He asked by approving this, and converting the property to parking, he wants to understand how many people will be moved out of that facility and required to find housing elsewhere in the City.

Ms. Vigil said there are 4 people living there right now, noting it a rental and they have a new place to move into down the street. She said Applicant bought a home recently and plans to move in there.

Councilor Lindell said, "The applicant, I know, has heard a lot of complaints from people in the neighborhood, and I've spoken with people in the neighborhood, but I really appreciate the lengths that they've gone to, to address the neighbor's parking issues, in terms of purchasing a property and even purchasing another property and making a home for the people that live in the manufactured housing that is on the subject site. I know we need two motions for this.

MOTION: Councilor Lindell moved, seconded by Councilor Bushee, to adopt Resolution No. 2015-68, approving Case #2015-30, Tune-Up Café General Plan Amendment.

DISCUSSION: Councilor Bushee understands they want to make this a parking lot, and asked if there are other plans for an additional building or other uses, and asked if there can be restrictions if it goes beyond that.

Ms. Vigil said the applicant has a good plan to do an addition to the kitchen only. No additional seating is proposed. She said currently the kitchen is extremely tight. She said that is part of the reason for the lot consolidation so it would be one lot, so it would be easier to comply with the requirements.

Councilor Bushee asked, because we are changing the zoning to commercial she is concerned about future uses of the Café.

Mr. Smith said that conditions of approval can be imposed.

Councilor Bushee said she understands there is a right turn only onto Cortez.

Mr. Smith said the Council is not voting on a specific site plan, and the Applicant has indicate it intends to pursue administrative approval for right turn only, and Mr. Romero is here to answer any technical questions on annexation.

Councilor said she will get to that, after she gets the answer to this question. She understands the concerns of Ms. Romero and others on Cortez. She hopes this makes the situation better.

Christopher Graeser, Attorney for Applicant, said, "To address the concern on use. We talked about that a lot at Planning Commission, and certain any number of uses in C2 would actually have less impact on a neighborhood, and some that would have more, but would be clearly inappropriate. As I said during the Planning Committee, we would be happy to negotiate with any neighbors to impose covenants to limit those. At the time, and pretty much so far, no neighbors have approached us expressing concerns about any envisioned use if Tune Up ever cease to be there. We're happy to have that discussion. And I think the Application addresses all the concerns we heard expressed. It's not going to be 2 or 3 stories or anything like that. And yes, the point of this is to add parking, because parking is the number one concern expressed by the neighborhood."

Councilor said she wants to make sure that Zach can tell us what can come in, noting it's a small lot and can't accommodate a whole lot of anything in uses.

Mr. Shandler said, "As in the *Hands of America* case on Rodeo Road that you heard several months ago, you cannot put conditions on zoning."

Councilor Maestas noted there are staff conditions but he doesn't see them in the Findings of Fact and Conclusions of Law, and asked if we need to amend the motion to include the conditions of approval.

Mr. Graeser said the DRT conditions were in an attached table and they agree with all of them.

Ms. Brennan said, "If the Planning Commission didn't, you certainly should approve with the conditions of staff."

FRIENDLY AMENDMENT: Councilor Maestas said he would like to add approval with all conditions of approval recommended by staff. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

Ms. Vigil noted the conditions are attached as Exhibit B to the Bill, so they are incorporated as a part of the bill.

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

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

Against: None.

Absent for the vote: Mayor Gonzales.

Explaining his vote: Councilor Ives said, "Yes, and I'll make a brief statement after the vote."

Councilor Ives said, "My comment would be, in this action just now, which I fully support because it makes sense in the context of the community and the uses and expanding parking which resolves a number of issues within that neighborhood. Nonetheless, eliminated one more potential low income housing unit, if there are 4 people living in a trailer, I don't know what the rents were, but I can't imagine they were excessively high. And of course, earlier this evening we were moving to try and address some of those issues. So I just see some inconsistencies in some of our actions tonight, but again, I fully support what we've done here. Thank you."

- 2) **CONSIDERATION OF BILL NO. 2015-29, ADOPTION OF ORDINANCE NO. 2015-20; CASE NO. 2015-30. TUNE UP CAFÉ REZONING. LIAISON PLANNING SERVICES, INC., AGENT FOR JC RIVERA, LLC, REQUESTS REZONING APPROVAL OF 0.13± ACRE OF LAND FROM R-5 (RESIDENTIAL, 5 DWELLING UNITS PER ACRE) TO C-2 (GENERAL COMMERCIAL). THE PROPERTY IS LOCATED AT 536 CORTEZ ST. (DONNA WYNANT)**

MOTION: Councilor Maestas moved, seconded by Councilor Lindell, to adopt Ordinance No. 2015-20, approving Case No. 2015-30, Tune Up Café Rezoning as presented.

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

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

Against: None.

Absent for the vote: Mayor Gonzales.

- 3) **CONSIDERATION OF RESOLUTION NO. 2015-70; CASE NO. 2015-20. 600 GALISTEO STREET GENERAL PLAN AMENDMENT. EVA PARKER, TRUSTEE FOR THE LUCY C. ORTIZ ESTATE, REQUESTS APPROVAL OF A GENERAL PLAN FUTURE LAND USE DESIGNATION FOR A 5,581 SQUARE FOOT LOT FROM MODERATE DENSITY RESIDENTIAL TO COMMUNITY COMMERCIAL. THE PROPERTY IS LOCATED AT 600 GALISTEO STREET. (ZACHARY THOMAS)**

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

A Memorandum dated July 8, 2015 for the July 29, 2015 Meeting of the Governing Body, with attachments, to Members of the Governing Body, from Zach Thomas, Senior Planner, Current Planning Division, in this case, is incorporated herewith to these minutes as Exhibit "7."

A letter in support of the rezoning of 600 Galisteo Street, from Peter B. Komis, President, Don Gaspar Neighborhood Association, submitted for the record by Karen Heldmeyer, Vice-President, is incorporated herewith to these minutes as Exhibit "8."

The staff report was presented by Zachary Thomas. Please see Exhibit "7" for specifics of this presentation.

Public Hearing

All those speaking were sworn en masse

Presentation by Applicant

Eva Ortiz Parker, P.O. Box 212, Tesuque, 87574, Applicant [previously sworn]. Ms. Parker read a statement into the record as follows: "First of all I would like to thank the most Honorable Javier Gonzales and esteemed Council members here tonight for hearing our petition. As a 9th generation Santa Fean, I am humbly asking for your approval for the property located at 600 Galisteo to be rezoned as a commercial property. The building located at 600 Galisteo has been a business for over 80 years. It was originally built and established as a grocery store, comparable to Kaune's. The store was named Ortiz Food Store and later became known as Frank's, after my father the late Frank S. Ortiz. Dad was elected

and served two terms as Mayor of Santa Fe between 1948 and 1952. Previous to that, my father was elected and served 8 years on the City Council. At that times the jobs were unsalaried. Can you imagine putting up with what you have to put up with tonight and not get paid. Dad was also appointed Postmaster of Santa Fe. Finally, the Frank S. Ortiz Dog Park is named after my father as a remembrance of his public service and dedication to his beloved Santa Fe.”

Ms. Parker continued, “ The building at 600 Galisteo has always been a business. It was used as a full service grocery store from the late thirties to the late sixties, including a meat market with a butcher and a large liquor department. After my father they rented it to a photo studio. I joined the Madelyn’s Photography Studio in 1981 and ran the business until I retired in 1992, to take care of my mom, the late Lucy C. Ortiz, a former first lady of Santa Fe. After that, we rented the building to a frame shop. Around the turn of the century, we began to have problems and couldn’t rent it, because one particular neighbor kept saying it wasn’t zoned for commercial, and then the recession hit. To make a long story short, I would really humbly ask you to please grant our petition so we can restore my dad’s former business to sell it. I am in charge of my mom’s estate and I want to pay everybody off. Thank you very much.”

Speaking to the Request

Karen Heldmeyer, speaking on behalf of Peter B. Komis, as President of the Don Gaspar Neighborhood Association [previously sworn] who couldn’t be here tonight, because there was a family medical Association. Former Councilor Heldmeyer read the statement into the record in support of the rezoning of 6009 Galisteo to C-1. Please see Exhibit “8,” for the text of Mr. Komis’s statement.

Chuck Parker, spouse of Eva Ortiz Parker [previously sworn] said staff, most notably Zach Thomas, has been very helpful. He is here mostly to answer questions. He sees this as a correction from the original zoning. He said someone drew a line down Paseo de Peralta and didn’t look what was on either side. The Ortiz family on one side is BCD, and their business on the other side is a residence. So somehow they got switched, and it should have been designated as a commercial property long ago. He said C-1 is completely acceptable for the family, but they couldn’t request it and the reason they had to ask for BCD.

Angela Ortiz Lopez, [previously sworn] said her sister Eva said pretty much what she had in mind to say, and she will back up her husband remarks, noting he is going to talk for her.

Alonzo Lopez, 702 Los Lovatos Road, Santa Fe [previously sworn], husband of Angela Ortiz Lopez. Mr. Lopez said he is a native Santa Fean and former educator in the Santa Fe Public Schools. He said she is the daughter of Frank Ortiz, who served as Mayor 1948-1952. He said he remembers Frank Ortiz as working hard and serving his community and didn’t mind working for free, because at that time City elected officers didn’t get paid. They said the vacant property at 600 Galisteo does foster crime. It is a perfect spot for drug trafficking. It can also be a pit stop for trafficker since there is an empty parking behind the building. He said the six families of Frank and Lucy Ortiz would appreciate you approving the

zoning that has been approved by the Planning Committee, and he thanks the Governing Body on behalf of the Ortiz family.

Hubert Van Hecke, 871 don Cubero [previously sworn], said he is the Acting President of the Don Diego Neighborhood Association, but he is speaking for himself tonight. He said the Don Diego neighborhood is mostly residential surrounded by commercial on most sides, and they are sensitive about encroachment of commercial rezoning into the residential area. They are aware of the history of the property and that is almost impossible to sell the property as a residential property. He said at the ENN meeting about a year ago there was general agreement between most parties that C-1 zoning allowing low intensity commercial development, like a small office or a frame shop is the most appropriate use for the land. He said he requests that the rezoning be to C-1 and not to BCD.

Georgette Romero, 1000 Paseo de Peralta [previously sworn], said she is a broker for Santa Fe Properties, and will be representing the Ortiz family on the sale of the property once the zoning is determined. She is the third or fourth realtor for several years who have not been able to sell the property. She said when they asked her to sell it, she was able to put two offers together for light commercial businesses, a storage space for a gallery on Canyon Road, and an antique dealer who would have scheduled appointments. Both offers failed because the people could no longer wait for the zoning to be determined. She said during the listing of the property there have been no offers for residential and they can no longer rent it for commercial for what is going on and it's not suitable for residential rental. She said the family no longer has the funds available to continue to carry the property. She feels it's a potential fire hazard because it's sitting empty. She asked them to consider a change, whether to BCD or C1.

Stefanie Beninato, [previously sworn], asked for additional time for her presentation because she is speaking on behalf of the new owners of 604 Galisteo.

Mayor Gonzales said she would have the same amount of time as everyone else, and she could submit the complete statement for the record.

Ms. Beninato read a statement into the record in opposition to the rezoning, stating the reasons for her opposition. Please see Exhibit "6," for specifics of this presentation.

The Public Hearing was closed

MOTION: Councilor Bushee moved, seconded by Councilor Lindell, to adopt Resolution No. 2015-70, approving Case #2015-20, 600 Galisteo Street General Plan Amendment, with all conditions of approval as recommended by staff.

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

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

Against: None.

Councilor Ives said he would like to include a finding including SFCC 14-4.3(A), as an applicable General Plan policy to support the use of C-1 Zoning District as a buffer between more intense commercial use districts and residential districts, and that this property meets those requirements.

Mr. Smith said, in terms of C-1 zoning, the corresponding General Plan designation would be office rather than community commercial, and apologized that he didn't make that correction. He said the Planning Commission recommended community commercial on the General Plan in the BCD. If the Council's intent is to end up with C-1 zoning, the General Plan Amendment should specify office.

MOTION: Councilor Ives moved, seconded by Councilor Bushee, to reconsider the previous decision in Item #H(3) Case #2-15-20, 600 Galisteo General Plan Amendment.

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

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

Against: None.

Councilor Ives asked for clarity on the action needed to ultimately allow C-1 zoning.

Mr. Smith said you need to amend the General Plan Future Land Use Map to the Office designation for this parcel.

MOTION: Councilor Ives moved, seconded by Councilor Bushee, with respect to Item H(3) Case #2015-20, 600 Galisteo Street General Plan Amendment, to amend the General Plan Future Land Use Map to the Office designation for this parcel.

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

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

Against: None.

- 4) **CONSIDERATION OF BILL NO. 2015-30; ADOPTION OF ORDINANCE NO. 2015-21; CASE NO. 2015-11. 600 GALISTEO STREET REZONE. EVA PARKER, TRUSTEE FOR THE LUCY C. ORTIZ ESTATE, REQUESTS REZONING OF A 5,581 SQUARE FOOT LOT (RESIDENTIAL, 21 DWELLING UNITS PER ACRE) TO BCD (BUSINESS-CAPITOL DISTRICT). THE PROPERTY IS LOCATED AT 600 GALISTEO STREET. (ZACHARY THOMAS)**

MOTION: Councilor Ives moved, seconded by Councilor Lindell, to approve the rezoning of the property located at 600 Galisteo Street to C-1.

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

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

Against: None.

- 5) **CONSIDERATION OF BILL NO. 2015-26. ADOPTION OF ORDINANCE NO. 2015-23 (COUNCILOR IVES). AN ORDINANCE AMENDING THE CAMPAIGN CODE, SECTION 9.2 SFCC 1987, TO MODIFY THE DEFINITIONS OF "CONTRIBUTION" AND "EXPENDITURE" AND CREATE A DEFINITION FOR "COORDINATED EXPENDITURE;" TO MODIFY PROVISIONS RELATED TO INDEPENDENTLY SPONSORED CAMPAIGN COMMUNICATIONS AND REPORTING; TO MODIFY PROVISIONS RELATED TO THE CONTENTS OF CAMPAIGN FINANCE STATEMENTS; AND TO MAKE SUCH OTHER CHANGES AS ARE NECESSARY TO CLARIFY THE PROVISIONS OF THE CAMPAIGN CODE. (ZACHARY SHANDLER)**

Items H(5) and H(6) were combined for purposes of presentation, public hearing and discussion but were voted upon separately

A copy of the relevant portion of the Finance Committee minutes of July 13, 2015, regarding Items H(5) and H(6), is incorporated herewith to these minutes as Exhibit "9"

A copy of the relevant portion of the Finance Committee minutes of July 29, 2015, regarding Items H(5) and H(6), is incorporated herewith to these minutes as Exhibit "10."

A copy of a proposed Amendment sheet to Item H(6), is incorporated herewith to these minutes as Exhibit "11."

A copy of an article from the Opinion Pages of *The New York Times*, by Lawrence Lessig, dated July 21, 2015, titled, *The Only Realistic Way to Fix Campaign Finance*, entered for the record by Ruth Kovnat, is incorporated herewith to these minutes as Exhibit "12."

The staff report was presented by Zachary Shandler, Assistant City Attorney. Mr. Shandler reviewed the proposed changes to Items H(5) and H(6).

Mr. Shandler said, "We will be discussing two Ordinance changes by Councilor Ives tonight. We'll be discussing Chapter 9-2 of the Campaign Code and Chapter 9-3, the Public Finance Code. There are 4 major change proposed. I will spend 3 minutes on the first 3, and 3 minutes on the 4th."

Mr. Shandler continued, "Let me start with the bottom line. First, there is no better group equipped to debate these two Ordinance changes. You've run campaigns, you've recruited treasurers, you've signed campaign reports and you've sat here as Councils and made tough decisions over the power of the purse strings. Those two experiences may intersect tonight."

Mr. Shandler continued, "Second, during the 2014 Mayoral election there were some citizens that alleged local unions acted in coordination with other candidates, giving the candidates an unfair advantage. These citizens asked what does coordination really mean. During the 2014 Mayoral election there were also some citizens that alleged Washington, D.C. unions expended money into the Mayor's race to give one candidate an unfair advantage, and the publicly funded candidates did not have enough money to respond. Based on these allegations, those of the last election, the City Ethics and Campaign Review Board had meetings and came up with a four-part Resolution."

Mr. Shandler continued, "Part one. The citizens are confused what coordination means, let's give them a better definition and give them fact pattern examples. These changes appear in Chapter 9.2 and Chapter 9.3. Part two. The U.S. Supreme Court has said cities cannot limit Washington, D.C. unions from expending money, but let's try to monitor them better, require expanded disclosure of who they are, require them to follow ports of their contributors. That way, the court can make it's own judgments. So let's have an expanded revelation of these third party groups. This appears in Chapter 9.3. Part three. The advocacy group Common Cause said, we think the way for Councilor Bushee and Councilor Dimas to have a chance to fight back against the Washington, D.C. union money is to give them a chance to raise private money. Let's use a hybrid model. They can be publicly funded candidates and get money from the Campaign Finance funds, but they can also raise an unlimited amount of private money throughout the entire election cycle, at no more than \$100 per person. Common Cause wants these candidates to have two different bank accounts, one for the *[inaudible]* money and tracking how it's used, and another for the private money and how it's raised and used. These proposed changes will appear in Chapter 9.3."

Mr. Shandler continued, "In part four, one could now argue now that these public funded candidates will be spending all of their time raising money in this hybrid system. Is there a way to get a bigger bang for the bucks. How about a match. The courts have said a match cannot be triggered on what your opponents do. What about an earned match. A match based on your own behavior. How about if you raise \$1 in private funds, you get \$4 from the government fund. That's the four-times match. But then you probably ask, do I get a match for all the private money I raised under this hybrid system. No. In this proposal, you can raise an unlimited amount of private funds, but you can only request a government match up to 200% of the initial grant. So, if I get \$60,000 in my initial grant, the most I can get in the match is \$120,000, that's 200% of the initial grant."

Mr. Shandler continued, "Let's try this out with say, I'm running for Mayor because I'm particularly motivated tonight. I get from the 600 contributions from Santa Fe electors, I get qualified and I get my initial \$60,000 in government funds. Then, as part of the election, I raise \$30,000 in private funds. I then go to the City Clerk and \$30,000 times four, I get another check from the fund of \$120,000. I can continue to raise money, but that's what I get from the fund."

Mr. Shandler continued, "So how does your campaign experience intersect with your experience as Councilors as the holder of purse strings. If you go to page 89 of the packet, I've prepared a checkbook balance sheet. It's on page 89. It starts with the current balance of the fund. Currently, under the City Code, even if you don't do anything tonight, there are 2 requirements. You always have to put \$150,000 from the General Fund into the Campaign Fund each fiscal year. And you always have to have \$300,000 in the fund for Council judges and \$600,000 in the fund for Mayor Council years. You can never have a zero balance. If so, the City has to reduce by proportionate amount the amount paid out to the publicly funded candidates. And as you will see in the chart on page 89, if you take an average of 7 Council candidates and 3 Mayor candidates that are publicly funded like last time, and if every one of the qualifies to get the initial grant, and everyone does private funding and does the four-to-one match, you will see the fund balance quickly changes."

Mr. Shandler continued, "On page 91 there are a series of amendments. Councilor Ives' amendment number one, if you like parts 1 and 2 of the bill, you should approve Councilor Ives' amendment number 1, because there were typos that needed to be carried forward. Ives' amendment number 2, if you like part 3, those are also corrections that need to be made. Lindell number 1, if you don't like part 3 and 4 at this time, then you may want to consider Lindell amendment number 1. Lindell amendment number 2 has nothing to do with this package. It just will require receipts for the publicly funded candidates, it's kind of a stand alone. In Maestas number 1, if you like parts 3 and 4, but you want some modifications you should consider that."

Mr. Shandler continued, "So I expect you will have questions based on your experience, but I request that you defer staff questions at this time because of the late hour, and especially until you hear from the City's Ethics and Campaign Review Board [ECRB] members, and I see we have several here tonight, because as part of their presentation they may answer some of your questions."

Mayor Gonzales asked if we can ask the Board to address the Council before we ask questions.

Mr. Shandler said he would like for them to have a chance to speak to you.

Councilor Maestas said he sponsored another amendment not mentioned by Mr. Shandler, which was in the packet of materials. It basically limits the Public Fund balance for a Council election, Council/Judge, and the Mayoral election.

Mr. Shandler said we'll call that Maestas number 2 if it was on a separate sheet.

Mayor Gonzales invited the members of the ECRB to come forward. He thanked them, on behalf of the entire City Council, for taking on this role, commenting it was time consuming and had a lot of research by the ECRB to find a solution to help us enhance the public finance system in Santa Fe.

Justin Miller, Chair, ECRB, thanked him for the appreciation commenting, "We are happy to do it." He introduced Ruth Kovnat and Paul Biderman. He said one of the duties of the ECRB is to evaluate, and review and provide recommendations on ideas to improve Campaign Finance laws in the City to the Governing Body. He said what is before you in the form of Councilor Ives' bills is the work of the Board in which they have been engaged over the past 7-8 months, since December 2014. He said the Board met a number of times and benefitted from the thoughts and ideas of a whole range of people, including national experts in the field from the Brennan Center for Justice, the Campaign Law Center, from local organizations including Common Cause, League of Women Voters, the Thornburg Foundation, the Neighborhood Law Center and others. They heard from a number of dedicate and thoughtful citizens who attended every one of the meetings and providing their thoughts and ideas on everything along the way. They also benefitted from hearing from a number of candidates in the last election, which was the first municipal involving public financing for the Mayor and Council race. We were happy to hear the thoughts of the candidates and their first hand experiences in public financing which was very important to their considerations.

Mr. Miller continued, saying the bills before the Council this evening do several things as mentioned by Mr. Shandler. Predominantly, the bills address concerns that the public and others had regarding transparency issues and coordination between candidates and outside groups, and a way for the public to have a better sense of what kind of money is coming into campaigns, and to improve public confidence in elections. And the other very significant thing the bills do is change the process by which candidates qualify for public financing, and the matching funds.

Mr. Miller thanked the Governing Body for its consideration of the bills, and said Mr. Biderman and Ms. Kovnat were the driving force on the working group that did much of the drafting along with Mr. Shandler and other staff. He said all three are available to answer questions.

Public Hearing

Mayor Gonzales gave everyone 2 minutes to speak to the issue

Brian Sweeney, 1209 Lujan Street, said in a representative republic there is going to be government by the people. He said the increasing cost of political campaign are a barrier to political engagement, equivalent in some ways to a poll tax on the candidates. He said when only the wealthy can afford to fund a fledgling campaign, our political system skews the affluent and older. He said the only barrier to elected public service in Santa Fe should be a person's competence. He said public funding campaigns allow those elected to govern with the interest of all constituents and not just high dollar donors. Additionally, elected officials can concentrate on governing instead of fundraising. He said modest investment in public campaign financing improve governance, the integrity of the office, increase access and political engagement at a time when the country needs leadership on these issues and each category needs improvement nationwide. He urged approval so Santa Fe can continue to lead the nation in creating an election system that can reflect the voices of everyone.

Vicki Harrison, 844 Pecos Loop in Rio Ranch, Executive Director, Common Cause New Mexico. She said they support these proposals. She disagreed with Mr. Shandler, saying they don't want public financing candidates to be fundraising. She said this is a volunteer program along with the matching funds. She said it is designed if you find yourself against a private candidate or PAC that is spending a lot more money than you. It is not designed for candidates to start raising money immediately they need it or not. However, they can do it, but it won't play out in the media. She said publicly financed candidates in Santa Fe are different. She said they wanted this proposal several years ago, and were told Santa Fe is different and matching funds aren't needed, because everyone would take public financing, there would be no PACS, which they found to be untrue. She said Common Cause would like it if PACs couldn't spend money when there is a public financed race. However, the Supreme Court said we can't do, but we can require disclosure from PACs and groups that aren't PACs and spend money on elections whatever those might do. She said Common Cause urges you to pass the bills as drafted by the ECRB, but they are fine with tweaks – knock down the match if you are concerned about financing.

Jazz Reisz, 1528 La Cienegitas, said she hopes you will approve this bill, commenting she loves local politics, and this will be a model for other municipalities.

Mary Wilczynski, 602 Sunset Street, said the 2010 elections that followed the United decision were the most expensive in our nation's history totaling \$306 billion, and it is expected to continue to rise directly. There is an increased concern that heightened campaign spending can purchase favorable policy outcomes. She said the public funding is the best tool to combat the corrupting influences of outside campaign spending. She said publicly funded elections promote numerous benefits in addition to fighting corruption, and reduce the opportunity for corruption and strengthen our perception of government, as well as promoting contested and competitive elections, fostering diversity in the electoral process and encourage voter centered campaigns. She is a small business owner that cares deeply about the City and urges the Governing Body to support these bills and enhance the legitimacy of government by engaging in the democratic process.

Former Councilor Karen Heldmeyer said she is speaking for herself only. She said these bills were written by attorneys and sound like they are written by attorneys. She said you need to look at the people who have been, and will be in the future, candidates, which is a different perspective. She said on the ECRB the person who ran campaigns, often had a different perspective than the attorneys. She said this will do nothing to stop PACs. As pointed out in several meetings, they can't because of the Supreme Court, but it's the best they can do, but it isn't going to stop PACs. The public needs to be aware of that, or they're going to be very upset by some of the outcomes of this. There is a broader definition of coordination which is okay. It's basically going to be unenforceable unless you have a mole, a disgruntled employee or somebody presses the wrong send button on their email. However, at least it's a definition.

Former Councilor Heldmeyer continued, saying the issue of more money is interesting, especially in view of the financial problems the City is having now. She suggested thinking about the cap. How much can the City afford to do, as well as for the candidates. She said there is a provision in the law that says if

you start collecting money and there isn't enough to do matching, they will get a prorated grant from the fund. She said nobody can run a campaign knowing 3-5 months down the line, you won't know how much money you are going to get. This has to be dealt with. She said there is a lot of talk that this is to counter last minute attacks, but it doesn't because of the timing. She said two weeks before is not the last minute. The Saturday before is last minute.

Reverend Holly Beaumont, 27 Old Galisteo Way, Organizing Director, Interfaith Worker Justice New Mexico, said she has lived for here about 30 years and has testified on many issues over the years. She can speak from experience of the bolder decisions made by this Council during those 30 years. She said this is a step in the right direction, having worked on many campaigns on the local level. She said you also will be providing leadership statewide and nationally. She said they believe it's their calling to sound the alarm on significant systemic threats to the foundations of our society. The unchecked power of special interest dominating our politics right here in our City and state, threatens the common good and the very foundation of our democracy. She said the lack of appropriate limits on money in politics is hurting our democracy and undermining our citizens' faith in the democratic process. It is important that we have a system that allows working families to fully participate in the democratic process and for shared public policy that benefits them and their families.

Meredith Machan, 613 Webber Street, League of Women Voters, said she is speaking as State President of the League of Women Voters of New Mexico. She said they strongly support election policies that ensure election integrity. She they strongly support publicly financed elections. She said they appreciate all of the hard work by the ECRB and the individuals and groups to clarify the definitions, and to define what is coordination. She encouraged the Governing Body to make the requirements for disclosure as strong as you, and said they want to see some sanctions for violations. She encouraged the City to continue to work on the Ordinance. She hopes the City will approve as much as you can to bring back the integrity of elections. She said, "Finally, you are a role model for the State and for many communities."

Mark Hoyt, 912 Baca Street, said he is on the Chamber of Commerce Board. He said he wants to highlight the issue of money, because he is sure everyone is concerned about how to finance this. He said if you look at what's happening nationally, there is a matter of urgency to find the money to publicly finance our campaigns and to insulate our community in the greatest possible way against people coming from outside and actually subverting our community and our democracy locally. He can't do much nationally, but we can do what we can to protect what we have here. It seems to him that finding the money to finance this program would be of the utmost importance because not to do so basically undermines the community. He has lived in Santa Fe for 30 years, and urged the Governing Body to find the money to do this right. He said it isn't a perfect solution, but it's a step in the right direction and supports the greater good of the community in Santa Fe, and urged the Governing Body to support Common Cause and adopt this legislation.

Stefanie Beninato, concerned citizen, said she was only able to attend 2 meetings of the ECRB concerning these changes and she appreciates the time and dedication in making these proposals. She

thinks having examples of illegal activities is a good idea, and it is of utmost importance to have as much disclosure as possible. She likes the idea of sanctions, but doesn't know how that would work. She is concerned about the amount of money for matching. She understands people need public support and that we voted for that. With regard to matching funds, she asked where the money will come from. She is concerned about the number, and at some point it is obscene and not appropriate for an election in the City of our size. She asked how we can get back to ideas, rather than the citizens funding these campaigns, and how do we get back to qualifications, not where you are born. How do we get back to the issues that really should be of concern to everybody in the City. The again thanked the ECRB for its work.

Simon Brackley, President, Santa Fe Chamber of Commerce, 1644 St. Michaels Drive, said he hopes they had the opportunity to read his expanded comments in a opinion piece in last Sunday's *Santa Fe New Mexican*. He expressed the gratitude of the Chamber for the volunteer members of the ECRB who have given months of their time to take on these extremely difficult issues which are difficult at the local and national level. He said the recognize there are no easy solutions. He said the Chamber supports their recommendations, and primarily "we support steps forward in terms of efficiency and transparency. We believe those issues are of most concern to business people and citizens of Santa Fe, and urge you to support their recommendations.'

Ruth Kovnat, 407 Camino del Monte Sol, a member of the ECRB. She said she emailed an Op-Ed from *The New York Times* to the Governing Body, and wanted to enter it for the record [Exhibit "12"]. Ms. Kovnat read short excerpts from the article. Please see Exhibit "12," for the complete news article

Warren Martinez, 3083 Monte Sereno, said, "I am here to remind you of what you do and thank you for your dedication. I want remind you of what each one of you come to our Santa Fe Hispanic Chamber with, and that's dedication with the word accountability. So as you consider what is being discussed today, and there's been some real experts there, think about what you started out, and that's accountability. The PACs, the disclosures, that will make a difference, and people can vote knowing where the money is coming home. That makes a huge difference with our voters. Thank you all, I appreciate your time."

The Public Hearing was closed

Mayor Gonzales said, "I understand there are individuals who want to propose amendments, can we, for the betterment of time, make sure that when you propose your amendments that you are able to offer your comments, propose your amendments and then allow for other Councilors to make amendments, so we don't have so much back and forth going on.

Councilor Bushee said she had the opportunity for a dialogue with Ruth Kovnat and Vickie Harrison on this issue with the League of Women Voters. She said one of the problems that we saw and don't know how to address is the fact that often PACs or independents will have contributions from PACs where they do not have to list the contributors to the PACs. She asked if the City has a mechanism by

which we can insist if someone is going accept money from a third party or a PAC, and it is.... she doesn't know what name to use. She asked, "If there is a PAC and it's just listed PAC for Progress Santa Fe, for example, and won't list its contributors, is there some way we can demand that we get the contributors to be listed."

Paul Biderman said, "We looked at that and suddenly realized that we would like to require disclosure as the Supreme Court invites in the Citizens United States. It says we can go ahead and do this because you can require disclosure. As Common Cause referred to it, it's called a Russian doll [inaudible]. You can fit one inside another, inside another, inside another, and you never reach the end. I like to liken it to two facing lawyers, and somebody could always go one step beyond, and not be disclosed unless you keep going all that way and that would be an impossible technical burden. So we inserted some language which says simply, if any donations, as you say, on behalf of an independent group are not require to be disclosed to the City Clerk, that has to be disclosed on the campaign material."

Councilor Bushee said she would like to tackle this issue and she doesn't know how.

Ms. Kovnat said you have before the proposal to expand the disclosure requirement to any entity or person that spends as much as \$250 in a whole variety of campaign political activities. So there is disclosure at the first level. As you point out, the question is what is disclosed is that the contribution is made by some nicely named entity, can we get the names of the contributors to that nicely named entity. We discussed this at great length in the ECRB, and we concluded that with the limited staff at the City that we could not come up with a way of really tracking that all the way back. At the meeting, there was a suggestion for an electronic way of doing it, and she asked her to write it up so the ECRB could consider it. However, they couldn't "get there" this go-around, so they simply adopted the very good suggestion of Paul Biderman that at least, if there were no way of disclosing the ultimate contributors, that the campaign materials and the campaign activities of those independent spenders would have to have a disclosure that there is no disclosure of the actual contributors.

Councilor Bushee asked Mr. Shandler to comment.

Mr. Shandler said, "So let's say I'm running for Council and I'm a publicly funded candidate and a group called Happy Americans spends more than \$250 with a mailer saying that I'm a great guy. So if they spend more than \$250, they do have to report to the City Clerk their expenditures and who their contributors are, so the *New Mexican* can figure out who is behind these happy people. And let's say the happy get money from me, super super happy people. So what the point was, we don't require the super happy happy people to also list their contributors. What we've done is created a kind of disincentive device that the happy people, if they get money from the super happy people, the happy people mailer has to put a disclaimer on their mailer saying this money came from a party that does not have to disclose their contributions to the City Clerk. So maybe that's a disincentive for the happy people to getting money from the super happy people."

Councilor Bushee said, "It just makes me sad sad."

Councilor Maestas said his amendments are the product of many many conversations with a lot of the advocates here today and with involved staff. He briefly reviewed his proposed amendments which are in the Council packet beginning on packet page 16. Please see the amendments for specifics of this presents. Councilor Maestas noted he has no amendments to Bill No. 2015-26, and supports it as it is presented.

Councilor Maestas continued, thanking the ECRB for putting this bill forward, but as written, he feels the pendulum is swinging in the opposite direction, and we're almost privatizing public financing by making matching funds so wide open. He said he can obtain contributions anywhere in the City outside his District and get matching funds. He said that would discourage a candidate from engaging with their constituents in the campaign, and focuses on him being a good public finance candidate and encourages him to do grass roots campaigning instead of fundraising. He said the two opportunities for match turns it into a campaign long effort of raising funds which gets away from the spirit of public financing.

Councilor Lindell thanked the ECRB for its work, noting she was able to meet with Ms. Kovnat on a Saturday morning which she appreciates. She said she too is completely happy with Bill No. 2015-26. However, she thinks Bill No. 2015-27, does need more time. She doesn't think they are in real agreement about that. She also agrees with what Councilor Heldmeyer said. She said it is unfortunate that none of this keeps dark money or PAC money out of our elections. She thinks it is important for everyone to be aware of that. And we can spend from the City's monies and we can't stop that from happening.

Councilor Lindell continuing saying some people say it doesn't add money to how much elections would cost, which doesn't make sense to her. In the last election if we would have used the numbers proposed, the number she comes up is \$990,000, and that's an awful lot of money for the City to spend on an election when we face the deficits we face currently. We have to make hard decisions on how to spend our precious resources.

[STENOGRAPHER'S NOTE: At this point, Councilor Lindell moved to approve Item # 6, Bill 2015-27. Following the approval, the Mayor returned to Item H(6), Bill #2015-26]

MOTION: Councilor Lindell moved, seconded by Councilor Ives, to adopt Ordinance No. 2015-23 (Bill 2015-26).

DISCUSSION: Councilor Ives asked if this includes the amendments he proposed.

CLARIFICATION BY COUNCILOR BUSHEE: Councilor Bushee said to be clear on the last vote, we did not accept his second amendment.

Ms. Vigil said this is correct, and Councilor Ives agreed.

Mr. Shandler said, "I think Councilor Ives amendments were approved by the Council on No. 27. The only thing I would add to Councilor Lindell's motion the friendly amendment for Councilor Bushee to have the have the *[inaudible]* party exception language."

Mayor Gonzales asked Councilor Ives if he has an amendment. He said, "As Zach said we got it all done on 27. Do you have one for 26."

Councilor Ives said he thought he did, but they could be on 27, and Ms. Vigil said all of the amendments are on 27.

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

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

Against: None.

Explaining her vote: Councilor Bushee said, "Yes, and I would be happy to serve on any working group to offer my experience."

Explaining his vote: Councilor Ives said, "Yes, and I'll have a brief statement after the vote."

Councilor Ives said, "It's interesting, because one of the delights of his first campaign which was publicly finance, was being able to have coffees in peoples' houses and that fell under that \$200 exclusion and promoted an opportunity to get out into District 2 to meet with neighbors in an informal setting, respond to questions. I'm sad to see that deleted here tonight."

- 6) **CONSIDERATION OF BILL NO. 2015-27; ADOPTION OF 2015-22 (COUNCILOR IVES). AN ORDINANCE AMENDING THE CAMPAIGN FINANCE CODE, SECTION 9-3 SFCC 1987, TO MODIFY THE DEFINITIONS OF "CONTRIBUTION" AND "EXPENDITURE;" DELETE THE DEFINITION OF "QUALIFYING CONTRIBUTION" AND CREATE A DEFINITION FOR "COORDINATED EXPENDITURE" AND QUALIFIED SMALL CONTRIBUTION;" TO MODIFY THE REQUIREMENTS TO QUALIFY AS A PARTICIPATING CANDIDATE; TO DELETE PROVISIONS RELATED TO "SEED MONEY CONTRIBUTIONS," AND "QUALIFYING CONTRIBUTIONS;" TO ESTABLISH PROVISIONS FOR QUALIFIED SMALL CONTRIBUTIONS; TO MODIFY PROVISIONS RELATED TO "REPORTS OF EXPENDITURE" TO EXPAND REPORTING REQUIREMENTS; TO ADD PROVISIONS FOR ADDITIONAL REPORTING OF QUALIFIED SMALL CONTRIBUTIONS AND ADDITIONAL MATCHING PAYMENTS FROM FUND;" AND TO MAKE SUCH OTHER CHANGES AS ARE NECESSARY TO CLARIFY THE PROVISIONS OF THE PUBLIC CAMPAIGN FINANCE CODE. (ZACHARY SHANDLER)**

MOTION: Councilor Lindell moved, seconded by Councilor Rivera, to approve Ordinance No. 2015-22, Bill No. 2015-27, with the two amendments she has proposed, in addition to Councilor Ives Amendments No. 1 and No. 2, and in Councilor Maestas's proposed amendments to include Item No. 1 and Item No. 3.

DISCUSSION: Mayor Gonzales said then the motion is for Bill No. 2015-27, Item H(6), and includes Councilor Ives amendments.

Councilor Lindell said this is correct.

Mayor Gonzales said the motion also includes Councilor Lindell's amendments and asked which amendment from Councilor Maestas are included.

Councilor Lindell said it includes from Councilor Maestas' amendment, Item #1 and Item #3.

Councilor Dimas said he spoke with Councilor Lindell about where he is coming from on this, as well as to Common Cause and several other people as well. He said, "I want to make a brief statement this evening. In the last Mayoral election in 2014, all 3 candidates in an effort to level the playing field, used public campaign financing. But when top union officials, their attorneys and top political party officials formed PAC to support one candidate, that's when the concept of a level playing field went to hell. Even with fixes, unscrupulous people will still form PACs and circumvent the rules to get their candidate elected by raising large amounts of money to buy the election. Public campaign financing will be nothing more than supplementing money the PACs and a waste of hard-earned taxpayer money. I'm not sure this is what the voters wanted. I'm not naive enough to believe that these fixes will help much. I know Public Campaign Financing reform in some form will probably pass the Council tonight, because it's the politically correct thing to do. However, I don't always do what's politically correct."

Councilor Maestas said he can't support this, and thinks the amendment put forth by Councilor Lindell "pretty much "guts" all the changes, it's a wholesale removal of some of the amendments that were recommending. He is doing his best to salvage a lot of those principles which he finds worthy. He thinks we should try this match, and likes the concept of an earned match.

MOTION TO AMEND: Councilor Maestas moved, seconded by Councilor Ives, to amend the motion to "add all of my Amendment No. 1, and Amendment No. 2.

FRIENDLY AMENDMENT: Councilor Ives would like his amendments in the amendment sheets that are attached.

DISCUSSION ON THE FRIENDLY AMENDMENT: Mayor Gonzales said he thought Councilor Lindell included Councilor Ives' items in her motion.

Councilor Ives said he understood this to be a separate motion.

Mayor Gonzales said Councilor Lindell included Councilor Ives' amendments in the original motion.

Councilor Ives said understood Councilor Maestas to be making a brand new motion that included his amendments and would look to the City Attorney to provide clarity here if she can.

Mayor Gonzales asked Councilor Maestas to provide clarity, because “what I understood is that you wanted to add to the original motion for consideration all of your amendments. They wouldn’t address Councilor Ives amendments, because they’re already in the original motion.”

Councilor Maestas said Councilor Ives amendments are already in the original motion.

Councilor Bushee asked who seconded the Motion and the Mayor said it was seconded by Councilor Ives.

Councilor Ives said, “A point of order just to get clarity on Councilor Maestas’s action, Councilor Lindell’s motion was to adopt her amendment which removes 20-15-27 from page 6, line 22 through page 19 line 19, and I understood Councilor Maestas to say he didn’t agree with that, because that functionally gutted that particular provision. So I had understood him to be making a new motion, as opposed to an amendment to the motion that Councilor Lindell is making.”

Ms. Brennan said, “Councilor Lindell’s Motion was on the floor, and if it was a friendly amendment, I think it is not in order.... well her motion is on the floor. You’re the Parliamentarian.”

Councilor Ives said he knows, but there is not a clear understanding of what each of the motions contains, and he would look to Councilor Maestas to clarify.

Councilor Maestas said, “I think my motion indirectly preserves all the basic concepts in the 2015-27 Ordinance, the match, it modifies the match, clarifies how a candidate would be eligible for matching funds, specifies the process. So it basically upholds the match provision in the legislation as it was proposed, but it is contrary to Councilor Lindell’s motion.”

Councilor Ives said that was his understanding, so he just wanted to clarify that there was an inconsistency here.

Councilor Lindell said, “I just wanted to clarify with Councilor Maestas. I thought that your amendment said not a four-time match, but a two time match.”

Mayor Gonzales said and your motion would have gone back to the four-time match.

Councilor Lindell said, “No no no. There would have been no match at all and it would have kept it the way things are right now.”

Councilor Maestas said, “Number 7 on mine, changes from four times to two times the matching funds. The percentage is the same. The cap of the 200% is still intact.”

Councilor Lindell said, “But you had just said that the legislation remains as presented, and it doesn’t, it goes to a two-time instead of four-time.”

Mayor Gonzales said I think we ought to go to Councilor Lindell’s motion so we can see if there is support on that, and if not, then we can go to you.

FRIENDLY AMENDMENT: Councilor Bushee said on page 4 of the Ordinance, Section 2, Item A, line 21, she would like to remove *the cost of an event held in honor of or on behalf of a candidate when the total cost of the event amounts to no more than \$200*. She said that was completely confusing, now that we're opening all of the collection of funds, I think that's still confusing. **THE AMENDMENT WAS FRIENDLY TO THE MAKER, BUT THERE WAS NO RESPONSE FROM THE SECOND.**

Mr. Shandler said that language is in both 9.2 and in 9.3.

Councilor Bushee said, "Okay we'll get there."

Councilor Rivera said a the second to the main motion, he wants to make clear. It says, *The term contribution does not include those contributions that are less than \$200*, and Councilor Bushee wants to include that.

Mayor Gonzales said, "So the issue of being able to create matching funds in an effort to accelerate or develop more of a level playing field, is something you would remove from this bill. Is that correct."

Councilor Lindell said, "At this point in time, it needs more work... I think that we need more time to work on this."

Mayor Gonzales said, "If this was a bill that we were moving into the 2016 City Council elections, what would be the standard course."

Councilor Lindell said, "The same it has been in the last elections, aside from the new definitions."

Mayor Gonzales said, "PAC money or other money that comes in on behalf of a candidate, other candidates won't be allowed to accelerate their public participation to try and find that level playing field. Is that correct."

Councilor Lindell said, "For this next go around, it would be as it is now."

Councilor Rivera said, "I am supporting the motion because we are in a position now where we're coming up to the 2016 election, and Yolanda needs some definitive answers before we can move on. So, to me, this is last minute. I appreciate and I like all the changes. I think what the Committee did is really good, but there's some fine tuning that needs to go on. And that fine tuning should come from all of you, the professionals that do it. It shouldn't be fine tuning from us up here. Us making legislation on the fly is not a good idea. So, I'm okay with it being left alone for a little bit and then really taking really good strong hold once you get up to the next Mayoral election. I don't want to put all these proposals, all these ideas that come on the fly from each one of us out, and have something really go awry in this next election. And again, I'm planning on running again, and these changes would definitely benefit me, but I think there's more important things than something really being beneficial to myself, so that why I am supporting Councilor Lindell's motion and really hope we can fine tune it and not leave it to us to redo it, and leave it to you the professionals. So thank you."

Councilor Maestas said, "This motion before us just returns everything back to the status quo. And I kind of disagree. I think the ideal time to assess lessons learned is when it's fresh in your memory and you have a vivid recollection of the issues. You have the focus of the Ethics Board and they devoted a lot of time to this, it was very well thought out. And so we're not talking about a lot of changes. The legislation, as introduced, incorporates all their changes they are recommending. We're not talking about a lot of last minute changes. We have the final legislation here. I'm proposing amendments to what was introduced, and so, it's just unfortunate. But I think the time to really assess this... this is highly evolutionary and best time to revisit it is when it's fresh in your mind. I think you strike when the iron's hot with this issue. And I'm sorry to see these very progressive concepts done away with. Consolidating the seed money with a qualifying contribution, and calling them small contributions. Introducing the concept of an earned match are very innovative and progress – it's what Santa Fe is." He said he can't support the motion.

Councilor Ives said, "Just so everybody is clear, in part because Councilor Lindell's amendment is very broad. Could you state simply, and I think Councilor Maestas has made good progress on what the effect of Councilor Lindell's amendment is on bill 2015-27, understanding that 2015-27 was the recommendation after 7 months of hard work by the Committee in trying to address problems identified in the last election cycle.

Mr. Shandler said, "Talking about Bill 27, there's 3 main parts to that. A definitional change and that definitional change is identical to the one in Bill 26. So if you like the one in 26, you might like it in 27. It does two other things. It allows private fundraising and the matching funds. Lindell Amendment #1 says delete the last two parts and just keep the definitional change, everything after a certain page is deleted and kept status quo. Lindell Amendment #2 adds a separate stand along provision requiring receipts. Ives Amendment #1 corrects some of the definitional typos in part 1, so Ives #1, Lindell #1, Lindell #2 are all consistent, and all that's doing is making the definitional change in 27."

Mr. Shandler continued, "Ives #2, part of Councilor Lindell's motion, and I'm going to try to persuade her to correct that. Ives #2 goes to the hybrid system, so it contradicts Lindell #1, so I think Ives #2 may not be part of your intent of your motion."

Councilor Lindell said, " Thank you."

Mr. Shandler said, "And then you added parts of Maestas #1, which includes you don't have to give back clipboards, you have to give back computers instead. That is the sum of the motion."

Mr. Shandler continued, "Now, I'm going to walk very gingerly so we don't go back to where were 3 hours ago. But the ECRB is willing to accept the remand. They're willing to set up a working group to focus on the concerns of part 3 and part 4. Whether that needs to be formally part of your motion Councilor Lindell or Councilor Ives, I don't know, but they're willing to do some more work on that, in effect it's their representation on your position."

Mayor Gonzales recognized Mr. Biderman for very brief remarks.

Mr. Biderman said, "We understand your concerns, we hear you. And would very much want to see 2015-26 pass tonight. We think it's ready to go, we think you're behind it. If you want to make a few tweaks that basically we need. One point I haven't heard raised on 27 is that if we don't adopt that in time for the next election cycle, we will lose the opportunity for Councilors to take advantage of the financing system. What we heard at the committees was, we don't care that much about that because this is mainly a mayor's issue. If that if the consensus of the Councilors, we are willing to back to the drawing board with you. We would like to have open meetings with the ECRB and members of this Council as a working group to try to figure out just how we can work these out without trying to do it on the fly, as you've correctly pointed out. So we would want Councilor Lindell's motion adopted to keep the definition changes so those are consistent. And otherwise, we'll go back to the drawing board for the rest of it. And please give us only a few months to do this, because I don't want to spend a whole year on it."

Ms. Kovnat said one way of doing this would be to adopt the definitions for coordinated expenditures and the disclosure provisions and postpone the consideration of the rest of it to a time certain. She is concerned that the ECRB needs to have a deadline, and is afraid members of Council might also need a deadline. They would like to work with you on this, so procedurally this is what she suggests.

Councilor Dominguez said what he heard when he met with various folks, there was this willingness to go back to the drawing board. He agrees with Councilor Maestas this is a very progressive way of doing business. However, that doesn't mean that it's the best and he believes there could be unintended consequences. He said that's what we experienced during the last election cycle. He said we need to focus on moving forward and becoming more progressive. He thinks there is too much to lose if we don't get it right. He would agree that this something more akin to a mayoral election which tend to be a little more sophisticated, complicated, more creative. He said if there were shenanigans happening at a City Council level with regard to public financing, it would way more obvious. He said, "I will say, finally, yes it is fresh in people's minds, but many times it's more of an emotional reaction which he doesn't want. He wants a real reaction with a lot of thought and substance to it. He thanked the ECRB for the work done, but he thinks there needs to be a little bit more work.

Councilor Bushee said she has run twice in publicly financed campaigns for Council. It capped the funds at \$15,000, it was a grassroots effort, and they educated the voters on what it was about and there no outside funds. What sees now in looking at the example in the packet on page 90, the 2014 Mayor's race ran under the proposed new code section of the 4-1 match, the cash on hand at the end she would have had would be \$210,000. This brought the election back to walking and knocking on doors rather than lots of glossy handouts. She said understand the concern arose because of the PAC situation. She knows we can put your minds together again and come up with a few more things. She said asked for some way to take a hard look at who is contributing even from the PACs. She thinks we'll get there, but we may not get there in time for the upcoming election.

FRIENDLY AMENDMENT: Councilor Bushee would like to amend the motion to remand this back to the ECRB with a date certain, or postpone this section. **THE AMENDMENT WAS FRIENDLY TO THE MAKER BUT THERE WAS NO RESPONSE FROM THE SECOND.**

Councilor Ives said what launched review of these matters were the multitude of complaints relating to the presence in PAC money in our most recent mayoral election. He said we are proposing to deal with the more minor issues by changing definitions, taking up reporting which is laudable and needs to be done and is good, and hopes there are no issues when we consider 2015-26. He said, "Functionally, what the Council is doing is rejecting the thinking of some highly qualified people who have had input from nationally respected sources on this PAC money issue, and I suppose I find it puzzling to some degree that that issue which began this discussion now seems to want to yet go by the wayside. I think we had an opportunity to look at this measure and I think there are some amendments which tighten up some of the language in constructive ways, but again, this matter comes forward from the ECRB and we do have the opportunity tonight to act affirmatively and very positively to try and address the complaints that were raised with regards to the presence of PAC related funding in our election campaign. So I guess I would urge folks to reconsider their thoughts in this regard, take positive action.":

Councilor Ives continued, "With regard to remand, I think the Committee is free to take up these issues under its charge under its organic statute at any point in time, regardless of whether we remand or take any other action on these matters. That really is what you're charged with doing. And it's more a question of your tolerance for it I think than anything else. So again, I would urge the reconsideration of the rejection of the amendments in 2015-27, because it is in large part, the heart and soul of trying to address the issues that were raised in the last election."

Mayor Gonzales said, "I agree with Councilor Ives on this issue, for a couple of reasons. One, having participated in the last Mayor election and being the individual who, where other outside entities were formed to support. I understand the importance, and what this full set would have provided for the other individuals in that election. Certainly from the capacity to provide more funds, whether it's to respond to issues or to advocate, this would have helped. And I think that the work that the ECRB has done on this issue to date positions us well to send a very strong message to future candidates, that if outside money plays, because it's allowed to legally plan, there are mechanisms within the Campaign Code to assure, to the degree possible, and I know we can cap the funds, that more money can be made available for candidates to get their message out."

Mayor Gonzales continued, "If we don't support what they presented to us now, in delaying that for another discussion to hopefully see how there can be even more light that's been shed, more transparency or ways to remove the veils of some of the *[inaudible]* that might be created. I think they would have presented it to us tonight. I think we would have seen every bit of language. And I think they presented it, that would provide some transparency. The fact that they want to work with us to try and find an answer out there that might be acceptable to the entire Governing Body shows they're willing to sit at the table with us, which is great. But honestly, I don't know there's much more you guys can do in terms of legal research that will provide us a legitimate campaign ordinance that can do, as best it can, to create a level playing field when outside groups play."

Mayor Gonzales continued, "My preference is to adopt the recommendations tonight the ECRB has presented, send the message out that the City is going to take seriously being able to provide as much of a level playing field as possible, and go forward. If we're worried about what it's going to cost the City in terms of dollars, we can cap what currently has been made available. And make sure if campaigns submit

the ability to get more funds within a time period and all those monies are gone, well that's something that we can address at the time. I really really hope that all of you reconsider, if you're considering not supporting the ECRB's recommendations tonight. I'll tell you, being a participant in that election and the individual where people were casting lots of stones, I think it would have been good for that campaign if there were other funds that were available to be used. So I hope you guys reconsider this on that."

Councilor Dimas thanked the ECRB and Common Cause, noting he appeared before the ECRB and brought his issues with the last campaign. He thanked them for listening and taking the things that both he and Councilor Bushee had to say. He appreciated the hard work, commenting it's tough to be a volunteer and not be paid anything. He said he had a nice meeting with Common Cause, and they tried to get him to go in a different direction, but "I'm pretty stubborn when it comes to that type of thing, and I have my beliefs and that's how I believe, and everything ended well." He thanked them for listening to his concerns at the time.

CALL FOR THE QUESTION: Councilor Dimas called for the question. **THE CALL FOR THE QUESTION FAILED FOR LACK OF A SECOND.**

Councilor Maestas said it's time to start summarizing. He said democracy is an experiment, and the ECRB did present some very new principles – the match, and to streamline the existing process. He thinks we should have preserved all the aspects and elements they brought forth through their long deliberations and many hours spent developing proposing legislation. He said his amendments recommending scaling it back, and converting the new proposals into a pilot. We could have and should have adopted some form of their proposed legislation that would be in effect prior to the next election. He said if we delay this further it can't be implemented for the next election, so he can't support the motion.

Councilor Dominguez said this is no way meant to disregard the work done by the ECRB and staff and others. He said, "But I don't think this is so time sensitive we have to do it today, and that we have to do it for this next election. I think we can learn from the previous election, the previous Mayoral election, to make sure we can do whatever we can do to get it right for the next Mayoral election. These sorts of things are those that will continue to evolve, because there is always going to be someone who is creative who does whatever they do. So this isn't going to be the last time we ever see amendments to the concept of public financed campaigns. We're going to have to continue to work at it and make sure we get it right this time so we can learn from whatever happens this time, and make changes for the next time.

FRIENDLY AMENDMENT: Councilor Dominguez would like this to come back to the Governing Body in January to see what other work has been done and to potentially make other amendments to the bill at the time, so that is his friendly. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

Councilor Bushee said everybody missed the discussions at the Committee levels and the ECRB heard it loud and clear. She said if it were to apply to the upcoming election it would be serving incumbents and nobody has been clear about which matching system would work. And when they "came at it," everybody admitted their hands were tied in dealing with the dark money situation we faced in the last mayoral election. And really, all these changes in the matching system is dealing with the situation where we have

a highly privately funded candidate which we haven't had in Council elections since we've had public campaign finance reform. That's what she tried to say at the beginning, is when she ran as a Council candidate it worked perfectly, but not with the independents and the PACs. She thinks we're on the right track, and we can tweak it and get a little better. She asked Mr. Shandler for a number for the campaign, noting it doubles or triples what we normally would experience in a Council race.

Councilor Bushee continued, saying the original intent of campaign finance reform and public funding of campaigns was to get big money out. Now if we could find a way to get dark money out, we all would be very happy.

Ms. Vigil said she would recommend what Mr. Shandler said, which is to take out Councilor Ives' Amendment 2 because that will restore the qualifying period. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

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

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

Against: Mayor Gonzales, Councilor Maestas and Councilor Ives.

Explaining his vote: Mayor Gonzales said, "No. And I believe we're missing a great opportunity to take an early step forward. Hopefully, we can come back in January and get this resolved."

- 7) **CONSIDERATION OF BILL NO. 2015-19: ADOPTION OF ORDINANCE NO. 2015-24 (FINANCE COMMITTEE). AN ORDINANCE AMENDING SUBSECTION 11-9.1 SFCC 2987 AND SECTION 18-9 SFCC 1987, TO REQUIRE THAT PRIOR TO AUTHORIZING A REALLOCATION OF PROCEEDS FROM A VOTER-APPROVED GENERAL OBLIGATION BOND OR TAX THAT DEVIATES MATERIALLY FROM THE INFORMATION PROVIDED TO THE ELECTORATE THAT THE GOVERNING BODY AUTHORIZE SUCH REALLOCATION THROUGH THE ADOPTION OF AN ORDINANCE. (OSCAR RODRIGUEZ) (Postponed at July 8, 2015 City Council Meeting)**

Public Hearing

Former Councilor Karen Heldmeyer said she knows sometimes emergencies exist where you have to move money. However, she has had tell her today that they thought this was just a license to steal, and the City was planning on moving money all over the place for all kinds of things, and this was the means by which that going happen. She said she thinks a lot more people will show up for this kind of Ordinance, because they haven't been very happy with the moving around of money that has occurred in the last tow months. She said, "Think very carefully, you might want to put in some caveats, some stop loss things, but this is... how the public is viewing this is not particularly flattering to the Governing Body."

The Public Hearing was closed

Councilor Dominguez said the reason we decided to propose this is because of what happened with, for the example, the Parks Bond. He said it's a little bit clearer on how reallocations get made. He said it got lost in Committee at one time, noting this was proposed a number of months ago.

Mr. Rodriguez said it was before the REDW audit had come out. He said there seems to be a lot more doubts raised by the Finance Committee during the debate.

Councilor Dominguez said he has gone back and forth on this.

MOTION: Councilor Dominguez moved, seconded by Councilor Trujillo, to adopt Ordinance No. 2015-24, as presented.

DISCUSSION: Councilor Dominguez said the intent is to make sure that any time there is a G.O. Bond that there would be a public process or public hearing to reallocate the funds.

Mr. Rodriguez said there is already a requirement for a public hearing, and this goes beyond this to require that the Ordinance be amended which adds another 30 days. These are the kinds of doubts that were being raised at the Finance Committee.

Ms. Brennan said, "It would be an Ordinance that.... the allocation would be by Ordinance. So it would be somewhat like the rezoning ordinances which just go into a separate file. There already is a required hearing, and this would add cost and time. When we had the discussion, I had not been there at the earlier meetings, but in the minutes, someone asked how many might come before it and it was 50-60. So we would have to go through the request to advertise, and that cost may be \$350, and it's usually 30 days before you can hear it. And then it's heard, but we still have a public hearing. So the point at the time was to have a public hearing as I understood it, which the Ordinance was previously amended to provide for. And I think it's on page 4, you'll see how this changes. Yes, I think Councilor Ives had... on page 4, line 5, you can see the language that is being removed, *shall be voted upon by the Governing Body after a public hearing*, and the words 'after a public hearing,' are coming out, and this would add 'through the adoption of an ordinance.' There would be an ordinance reallocating funds, but currently there is a public hearing requirement in the Ordinance."

Councilor Maestas said this is a good interim step. He said you can't put an entire plan for bicycles and trails on the ballot, you have to put a general statement on the ballot. He said the next best thing to hang your hat on is what you promoted in the form of policy. So there is always going to be this difference and there are going to be changes, and they will be inevitable. He thinks this is a good first step to deal with the changes. He said Former Councilor Heldmeyer's suggestion is to look deeper and be more definitive in terms of what we do. He will work on using the official CIP for priority projects unfunded. This is a good way to respect and fund existing capital priorities without dedicated funding. We have more work on this, and if it passes, to post it along with all the bond information, perhaps at the website.

Councilor Ives said he brought the measure to include a public hearing because it was the evident thing to do after the Park Bond issue had arisen. He believe holding a public hearing, as opposed to going through the adoption of an Ordinance a much more extended and expensive project, doesn't necessarily allow for the circumstances Council Heldmeyer was addressing. He said he isn't in favor of this.

Mayor Gonzales said we have a long way to go to regain the public trust, and doesn't think this bill helps toward that effort. If we are going to have bond elections or any voter approved allocation of funds, we have to stay true to that if we're going to hold the trust of the public. He said we have done corrections to get us through this year. However, going forward, the public needs to have the confidence that we will spend the money on what they vote on, and not through an Ordinance, a public hearing and through a City process be able to reallocate and redirect those funds. He will oppose this request.

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

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

Against: Councilor Ives, Councilor Lindell, Councilor Bushee and Mayor Gonzales.

8) CONSIDERATION OF BILL NO. 2015-20: ADOPTION OF ORDINANCE NO. 2015-25 (COUNCILOR BUSHEE). AN ORDINANCE AMENDING SECTION 14-2.3(D) SFCC 1987; ESTABLISHING MEMBERSHIP REQUIREMENTS FOR THE PLANNING COMMISSION. (LISA MARTINEZ) (Postponed at July 8, 2015 City Council Meeting)

The staff report was presented by Lisa Martinez from the materials in the Council packet, noting the requirements were amended by the Public Works Committee.

Public Hearing

Vince Kadlubek, 614 Solana Drive, said he is here to speak as a Planning Commission, and as an individual. He hopes everyone had the opportunity to read the minutes from the Planning Commission meeting, especially regarding the thoughts of the long time Commissioners like Ortiz, Harris, Villarreal and of the new Commissioners. He said the minutes are quite telling in terms of what this Ordinance expressed to the current and old Commission. He said there were questions as to which communities to include and which ones do you not include, commenting we see architecture and landscape, and wonders where the art community is, the business community. He thinks these are big questions. He said they talked about non-profits and which to include and not include.

Mr. Kadlubek said from a personal standpoint, it transitions to his personal experience. When he was nominated for the Planning Commission he talked to a lot of Councilors and got some very good advice. The number one advice he got was to be neutral, to come to the Planning Commission meetings as a neutral, objective mind and voice. He said if they are trying to create neutrality by putting 8 people

from various communities to try to balance the commission, he thinks this is the wrong direction to go. he thinks a lot slanted views would come from that. He said we need to ask for a general neutrality and objectivity from anybody who the Mayor wants to appoint and approved by the Governing Body. He said he was nominated and approved by the Council, and the first thing he saw at his first meeting was an Ordinance which to him and the other new Commissioners said to them that they weren't worthy to be there. He said he is starting a business here, committing his life to Santa Fe, and stayed here, and employ people here. He is active in the community, has worked for non-profits, and sat on task forces. He said he is 33 years old and has been an active member of the community. He asked the Governing Body to consider the comments and the recommendation of the Planning Commission.

Marilyn Bane, Past President of the Neighborhood Network, currently the Vice-President.

Ms. Bane thanked the Public Works Committee for recommending the Neighborhood Network to be a part of this. She said this important, and you've shown a great deal of inclusiveness, and that you want diversity and expertise. She said she likes the structure for representatives from each of the Districts. She said there are better ways for us to understand one another, and believes we are looking for that. She said if there is confusion about what they do, or any questions, she would like to answer them. She thinks this is a great thing, and believes whomever you select will do a great job on the Commission.

The Public Hearing was closed

Councilor Bushee said this went through Public Works. She said she had no ownership, she just knew there was no geographic diversity. She said she is sorry if the members of the Planning Commission took this bill to mean they were not qualified. She said people want a neutral way to appoint members to the Planning Commission and this is what they came up with.

Councilor Dominguez said he likes the idea of having one representative from each district, as well as having 4 at large, although he would like two from each District. He asked who the Old Santa Fe Association representatives and Councilor Bushee said they were dropped from the list.

Councilor Bushee said we're looking at the Amendment from Public Works.

Councilor Dominguez said the fastest growing part of the community is on the south side. He said there are very few Neighborhood Associations in that part of the community. He doesn't like to tie it down this specifically poses some problems. He asked if the nominee of the Neighborhood Network will be a member of the Neighborhood Network or someone at large nominated by the Network. He would rather not have that language in the bill, commenting there isn't an equitable distribution of neighborhood associations throughout the City.

Councilor Dominguez said it provides one member shall be an Affordable Housing Planner and Advocate. He said he would rather have a member that is an affordable housing tenant, someone who really lives the life that Planning Commissioners make decisions on. Councilor Dominguez said, regarding a Professional Planner, he likes professionalism, but this is too vague and there needs to be more specificity there. He said he likes the idea that we have a landscape planner to give that perspective. He isn't ready to propose solutions and wants to hear from the sponsors of the bill.

Councilor Ives said he also likes the idea of one from each district. Most other examples from other cities did not prescribe specific professional requirements, aside from having relevant experience. He thinks the Planning Commission is one that should be available to everybody with that modicum of relevant experience that qualifies them. He said we have celebrated artists on the Planning Commission and others who under this might have no opportunity or place on the Planning Commission.

MOTION: Councilor Ives moved, seconded by Councilor Dominguez, to adopt No. 2015-25, with an amendment to provide that each District within the City shall have at least one representative on the Commission, and that there be 5 at-large members, and all members of the Planning Commission will be required to have relevant experience.

DISCUSSION: Councilor Trujillo said there will be 5 at-large and asked who will say from what district they will be – the Mayor or the Council.

Councilor Ives said we all approve members of the Planning Commission.

Councilor Trujillo said his concern is that the at-large members will come from the same district.

Councilor Ives said he doesn't think it would happen, because people on the Council are reasonable in terms of who gets appointed. He is comfortable with having it being an at-large selection to make sure that the broadest spectrum of people from across Santa Fe have the opportunity to serve on the Commission.

Mayor Gonzales said currently there is only 1 member from District 3 and 1 member from District 2, so he anticipates that any recommendations that would come forward, depending on how tonight goes, that there would be representatives from each District. He said any Mayor needs to be given some latitude and discretion with guidance from the Council that they need more representatives from their Districts. He also like the idea, potentially of going to 2 individuals per district, and making sure the interests are met. It ensure the entire City has participation on the Commission and that it is a true citizen's committee.

Councilor Trujillo said his preference would be 2 per District.

Mayor Gonzales said he would be supportive of that and thinks it would assure there is proper balance throughout the City.

Councilor Bushee said it's all friendly, commenting it was about taking note that we haven't had geographic representation and equity.

Councilor Dominguez agrees with Councilor Trujillo. However, the unintended consequence of being so rigid is that we had a member from the unincorporated area from the presumptive City limits which was good. We needed that perspective from people that really weren't in any District at that time. He thinks we shouldn't be too rigid and we need some flexibility, especially in view of the fact that we will be redistricting again at some point in the future.

Councilor Bushee said she would prefer two from each District. She is willing to amend the bill however the Council would like.

Councilor Ives said in the existing ordinance there is a statement under composition that, *members who are qualified by training, experience and ability to exercise sound and practical judgment on civic, social, economic and governmental affairs* is hunkey-dorey.

Councilor Maestas said he doesn't believe we need any professional, prescriptive requirements, but he does think it should be two per District, because he wants to ensure representation from the high growth areas. He said our Districts are equal in population, so you ensure you have adequate representation. He agrees with Council Ives and thinks we need layperson to serve. He thinks we could be injecting bias if we have all these professional requirements.

Councilor Dominguez said he is in favor of two per District. He said however, "The Governing Body needs to recognize this fact. District 4 which is the second lowest voting District in the City has twice as many registered voters as District 3, with 12,000 voters in District 4. Think about it. We have equity in population, but we don't have equity in registered voters, and that's not the charge of the Redistricting Commission and we don't have any control over that. But if you look at District 3 more closely, and he supports the idea of 2 per district, you have a huge discrepancy between the people in Tierra Contenta versus the north side of Airport Road where there is a more transient community. A lot of apartments, mobile homes. My fear is, and not even a relative fear, but I just want to make the point that you potentially could have 2 representatives living in Tierra Contenta representing all of District 3, when their realities are not the same as many realities on the north side of District 3 which is where the majority of the unincorporated area was. It's less like than if we had somebody from District 1 or 2, but I just want to make that point and make sure the Governing Body is aware that even though we have some sense of equity, and in one district where there are fewer registered voters, we still have an inequity in incomes and such just within that corridor itself. Let's do two."

FRIENDLY AMENDMENT: Councilor Dominguez proposed to do two representatives from each District. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

Councilor Bushee said, "To be clear, we're getting rid of the professional stuff and we're sticking with 2 per District and one at large."

Mayor Gonzales said that is correct, as well as eliminating who shall have the nominees to the Commission, moving to 2 per District with 1 at large.

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

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

Against: None.

Explaining her vote: Councilor Bushee said, "The irony is that was my original bill, I shopped it around and I came up with this other bill because everybody liked that, and then here we are. Yes."

9) CONSIDERATION OF BILL NO. 2015-24: ADOPTION OF ORDINANCE NO. 2015-26 (COUNCILOR BUSHEE). AN ORDINANCE AMENDING SUBSECTION 12-6-6.1 OF THE CITY OF SANTA FE UNIFORM TRAFFIC ORDINANCE TO PROHIBIT THE PARKING OF A MOTOR VEHICLE IN A MARKED BICYCLE LANE; MAKING MINOR GRAMMATICAL CHANGES. (KEITH WILSON)

Keith Wilson presented information regarding this item from the materials in the Council packet.

Public Hearing

There was no one speaking to this request.

The Public Hearing was closed

MOTION: Councilor Bushee moved, seconded by Councilor Ives, to adopt No. 2015-26, as presented.

DISCUSSION: Councilor Bushee said there were people here from the bicycle community, but they had to leave because it got dark and late.

Councilor Dimas said this came to the Public Safety Committee and left without a recommendation to the Council because there were questions. He said he supports the bill, but he has one problem, and that is in residential areas you've got bicycle lanes. He said for example, Camino Carlos Rey one of the main thoroughfares, but people also park personal vehicles on the street because they have no place else to park. He said people are going to be just a little ticked off if they have to move their vehicles off street, because it is a public thoroughfare with public parking. He is curious as to how to handle that, noting he has no problem with it on the main thoroughfares and other areas, but when it gets to residential areas, he believes there will be problems enforcing it. He said you're going to have a lot of feedback from a lot of people that do park in front of their houses, and he is unsure if you have a solution or recommendation.

Mr. Wilson said they did discuss that, and the key word is "marked bicycle lane," and the sections of Camino Carlos Rey you are referencing aren't marked. There's a bike lane, and a stripe that creates a shoulder, but there no signage or pavement marking. He said portions from Siringo to Cerrillos have a marked bike lane, but from Siringo to almost Zia there are no marked bicycle lanes at this time. He spoke with the City's Traffic Engineer after the Public Safety meeting and discussed that issue. He told Mr. Wilson that when the were implementing marked bicycle lanes, if there currently on-street parking, they will do a public process before implementing marked bicycle lanes in those location. In the Bicycle Master Plan, we identified some key corridors and prioritized those through the implementation plan for placement

of marked bicycle lanes. The majority were not residential streets, and were the main corridors that currently don't have parking on them. There may be some instances where there will have to be a process before the bicycle lanes are marked, and believes Camino Carlos Rey would be one of those locations.

Councilor Dimas said they are marked now as bicycle lanes on Camino Carlos Rey.

Mr. Wilson said what constitutes a marked bicycle lane is not just a shoulder stripe, it has to have either a pavement symbol which a bicycle with an arrow and/or a sign designating it as a bicycle lane. Currently, the section pretty much from Siringo to Zia all it has is a shoulder stripe which technically couldn't be enforced as a marked bicycle land.

Councilor Dimas said then the Parking Division will be cognizant of that when they go out and start citing people.

Mr. Wilson said he doesn't think the Parking Division has authority in that area.

Councilor Dimas said it is the Police Department and that may come up anyway with the new Parking Ordinance that he is going to be doing, commenting he needed clarification as to where we're going with that.

Responding to Councilor Trujillo, Mr. Wilson reiterated that the bicycle lanes will be at the Siringo Intersection and then heading toward Cerrillos Road, and then approaching the Zia intersection there is a short section of bike lane at that location. There are other locations on Richards and Don Gaspar.

Councilor Trujillo said he applauds Councilor Bushee as the champion of bicyclists. He said, "However, it still bugs me that everywhere I go in this community, I see bicyclists with their hats, and they're so safety conscious, but the minute there is a red light or a stop sign, zoom. They could care less about that. It has always been one of my pet peeves. If you're riding a bicycle, stop at the Stop sign, stop at the stoplight, follow the same rules as vehicles. You know what, they're going to shoot through there and get killed. I see it all the time. Here, we do all of these things for these things for bicyclists, make trails them and all these safety issues for them and they don't give a damn, so that's all I have to say. I support this.

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

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

Against: None.

Absent for the vote: Councilor Dominguez

Explaining his vote: Councilor Dimas said, "Yes, and would you keep me updated on what's going on in those particular areas that we were speaking about. Yes."

- 10) **CONSIDERATION OF BILL NO. 2015-25: ADOPTION OF ORDINANCE NO. 2015-27 (MAYOR GONZALES). AN ORDINANCE AUTHORIZING THE SALE OF 2,263 SQUARE FEET OF REAL PROPERTY LOCATED ADJACENT TO 830 EL CAMINITO STREET AND DESCRIBED AS "AREA OF GAIN" AS SHOWN AND DELINEATED ON A PLAT OF SURVEY ENTITLED, "LOT LINE ADJUSTMENT WORKMAP OF PROPERTY LOCATED AT 830 EL CAMINITO" PREPARED BY PAUL A. ARMIJO, N.M.P.S. NO. 13604, DATED OCTOBER 2, 2014, LYING AND BEING SITUATE WITHIN THE SANTA FE GRANT, PROJECTED SECTION 30, T17N, 49E, N.M.P.M., IN THE CITY AND COUNTY OF SANTA FE, NEW MEXICO. (MATTHEW O'REILLY).**

The staff report was presented by Matthew O'Reilly. Please see the Council packet for specifics of this presentation.

Public Hearing

There was no one speaking to this request.

The Public Hearing was closed

MOTION: Councilor Bushee moved, seconded by Councilor Trujillo, to adopt No. 2015-27, as presented.

DISCUSSION: Councilor Ives said this was City property, and asked why it was walled off, and for what period of time, and who paid for the use of that property.

Mr. O'Reilly said the area was walled off without the City's knowledge or permission. He said prior to the agreement with the new owner to purchase this property, the City was able to collect back rent for the lease of this property an amount of \$24,000 for eight years of unauthorized use of the property from the previous property owner.

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

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

Against: None.

Absent for the Vote: Councilor Rivera.

The Governing Body Then Returned to the Balance of the Afternoon Agenda

CONSENT CALENDAR DISCUSSION

10 (j) CONSIDERATION OF RESOLUTION NO. 2015-70 (FINANCE COMMITTEE). A RESOLUTION RELATING TO A REQUEST FOR APPROVAL OF THIRD AND FOURTH QUARTER (YEAR-END) BUDGET ADJUSTMENTS FOR FISCAL YEAR 2014/2015. (CAL PROBASCO)

Councilor Ives said we get these Budget Adjustment Requests long afterwards, and he always had a bit of a disjointed moment reviewing the matters and trying to relate it back to what action was taken when, during our Council proceeds where it was approved. He is unsure whether the need for a change to the BAR or a BAR is reflected on the FIR that comes forward with any of these measures when we're adopting them. He said his objective here will be to get a much better handle on all of our budgetary changes after we put a budget in place, because he wants to understand what we're doing when because it has real consequences. He asked, "If you can tell me, what in our FIR indicates whether we will be subsequently receiving a BAR request, and if the answer is nothing, I would like to see us implement something on our FIR that actually accomplishes that. The other think I think would be very helpful is on the listing of the BAR is to have a reference to the item number in the meeting where the measure was actually approved. So it would be an additional column indicating when the action was taken by Council approving the change that is then reflected on the BAR."

Mr. Rodriguez will be happy to make that change. He said not all of the items that come to you in the form of Resolution, etc., actually require the BAR. He said the BARs you get come with contracts.

Councilor Ives asked when those measures come before us, realizing there obviously is a great number that the City Manager under his authority handles. But for those that come to staff, he would love to see somewhere indicated in the memos, prominently displayed, highlighted, bolded that this will involve a subsequent Budget Adjustment Request.

MOTION: Councilor Trujillo moved, seconded by Councilor Rivera, to adopt Resolution No. 2015-70.

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

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

Against: None.

10(I) CONSIDERATION OF RESOLUTION NO. 2015-71 (COUNCILOR MAESTAS). A RESOLUTION RECOMMENDING THE GOVERNING BODY OPPOSE ANY LEGISLATION THAT WOULD ALTER THE METHOD BY WHICH MUNICIPAL GROSS RECEIPTS TAXES ARE DISTRIBUTED TO MUNICIPALITIES. (OSCAR RODRIGUEZ)

Mr. Rodriguez said this is through the Municipal League, noting Taxation & Revenue is considering altering the way it distributes state-shared GRTs, noting TRD would like to go to a per capita basis. We have a more robust economy and this would drastically, drastically impact our distribution.

MOTION: Councilor Maestas moved, seconded by Councilor Bushee, to adopt Resolution No. 2015-71

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

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

Against: None.

15. MATTERS FROM THE CITY MANAGER

There were no matters from the City Manager.

12. PURSUANT TO RESOLUTION NO. 2015-40, PRESENTATION OF FINDINGS RELATED TO THE GRT DEDICATION PROVISION IN 18-10.4 SFCC 1987 – PUBLIC BUS SYSTEM, THE GENERAL FUND AND QUALITY OF LIFE PURPOSES. (OSCAR RODRIGUEZ)

A Memorandum dated July 14, 2015, with attachment, to the Mayor and Members of the City Council, from Oscar S. Rodriguez, Finance Director, regarding this matter, is incorporated herewith to these minutes as Exhibit "13.

Oscar Rodriguez presented information from his Memorandum of July 14, 2015 regarding this matter. Please see Exhibit "13," for specifics of this presentation.

Councilor Maestas said he brought this forward to look at the process in allocation of these funds which gives Transportation first priority. He said when we purchase buses using and NMFA loan for a term that would exceed the useful life of the buses, we made Transit pay for the debt service out of its operating budget. That tells him we are not truly meeting the capital needs of our Transportation system. He said federal capital grants are drying up, and we need to rethink the way we allocate this. He will be bringing forward legislation to that effect.

16. MATTERS FROM THE CITY ATTORNEY – EXECUTIVE SESSION

IN ACCORDANCE WITH THE NEW MEXICO OPEN MEETINGS ACT §§10-15-1(H)(2) AND (8) NMSA 1978, DISCUSSION REGARDING LIMITED PERSONNEL MATTERS, INCLUDING, WITHOUT LIMITATION, THE ORGANIZATION OF CITY GOVERNMENT; AND DISCUSSION OF THE PURCHASE, ACQUISITION OR DISPOSAL OF REAL PROPERTY OR WATER RIGHTS BY THE CITY OF SANTA FE, INCLUDING, WITHOUT LIMITATION, THE DISPOSITION FOR ECONOMIC DEVELOPMENT PURPOSES OF 5± ACRES OF LAND ON SILER ROAD; THE DISPOSITION BY LEASE OF 4,200± SF OF BUILDING SPACE; AND THE SHORT-TERM LEASE OF 4,000± SF OF BUILDING SPACE. (KELLEY BRENNAN).

MOTION: Councilor Bushee moved, seconded by Councilor Trujillo, that the Council go into Executive Session, in accordance with the Open Meetings Act §10-15-1(H)(2) and (8) NMSA 1978, as recommended by the City Attorney for:

1. Discussion regarding limited personnel matters, including, without limitation, the organization of city government; and
2. Discussion of the purchase, acquisition or disposal of real property or water rights by the City of Santa Fe, including, without limitation, the disposition for economic development purposes of 5± acres of land on Siler Road; the disposition by lease of 4,200± SF of building space; and the short term lease of 4,000± SF of building space.

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

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

Against: None.

The Council went into Executive Session at 11:05 p.m.

MOTION TO COME OUT OF EXECUTIVE SESSION

MOTION: At 11:50 p.m., Councilor Rivera moved, seconded by Councilor Dimas, that the City Council come out of Executive Session and stated that the only items which were discussed in executive session were those items which were on the agenda, and no action was taken.

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

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

Against: None.

Absent for the vote: Councilor Bushee.

17. ACTION REGARDING THE DISPOSITION FOR ECONOMIC DEVELOPMENT PURPOSES OF 5± ACRES OF LAND ON SILER ROAD. (KELLEY BRENNAN)

MOTION: Councilor Rivera moved, seconded by Councilor Trujillo, to direct the City Attorney to take action consistent with the discussion held during the Executive Session.

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

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

Against: None.

Absent for the vote: Councilor Bushee

18. ACTION REGARDING THE DISPOSITION by lease of 4,200± SF OF BUILDING SPACE. (KELLEY BRENNAN)

No action was taken on this item.

19. ACTION REGARDING THE SHORT-TERM LEASE OF 4,000 5± SF OF BUILDING SPACE. (KELLEY BRENNAN)

MOTION: Councilor Rivera moved, seconded by Councilor Dominguez, to direct the City Attorney to take action consistent with the discussion held during Executive Session.

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

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

Against: None.

20. MATTERS FROM THE CITY CLERK

There were no matters from the City Clerk.

21. COMMUNICATIONS FROM THE GOVERNING BODY

A copy of "Bills and Resolutions scheduled for introduction by members of the Governing Body," for the Council meeting of July 29, 2015, is incorporated herewith to these minutes as Exhibit "14."

Councilor Dimas

Councilor Dimas said since we are looking for a new Police Chief, he would recommend using some of the members of the Public Safety Committee on the interview committee. He said he doesn't want to be on that committee, but they do have expertise on the Committee he thinks could be useful.

Councilor Maestas

Councilor Maestas introduced a Resolution authorizing the placement of a question on the ballot of a special election, to be held in conjunction with the regular election on March 1, 2016, to ask the voters of the City of Santa Fe whether or not the *Santa Fe Municipal Charter* should be amended to include a provision to establish a Santa Fe Public Utility Board. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "15."

Councilor Bushee

Councilor Bushee introduced Resolutions amending the *Governing Body Rules* to remove the provision allowing the Governing Body to suspend the Rules and continue a regular or special Council meeting beyond 12:00 a.m. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "16."

Councilor Ives

Councilor Ives introduced an Ordinance amending Subsection 23-6.2 SFCC 1987, to permit the sale and consumption of alcohol in an area of the Plaza along the north curb line of Palace Avenue, running in front of the Palace of the Governors, between Washington Street and Lincoln Avenue for the Christus St. Vincent 150th Anniversary Gala on September 19, 2015.

Councilor Dominguez

Councilor Dominguez introduced a Resolution directing staff to implement a more open public budgeting process that implements public hearings in all four Districts, prioritizes fund needs and results in a final budget that is fully transparent.

Councilor Lindell

Councilor Lindell introduced a Resolution requesting that staff prepare an updated Santa Fe General Plan that streamlines and summarizes the existing Santa Fe General Plan. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "17."

Councilor Trujillo

Councilor Trujillo said his son turned 17 years old last Wednesday and wished him Happy Birthday.

Councilor Trujillo said there will be a Fuego game tomorrow at 1:00 p.m., and again at 6:00 p.m.

Councilor Rivera

Councilor Rivera introduced the following:

1. A Resolution declaring the City of Santa Fe, New Mexico a hybrid entity for purposes of HIPAA and Hitech Compliance. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "18"
2. A Resolution to support Meow Wolf's project and efforts to diversify the economy, revitalize an economically distressed neighborhood and provide a unique family entertainment option for Santa Fe. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "19."

I. ADJOURN

There was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 11:58 p.m.

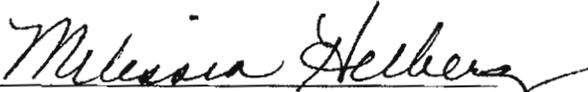
Approved by:

Mayor Javier M. Gonzales

ATTESTED TO:

Yolanda Y. Vigil, City Clerk

Respectfully submitted:



Melessia Helberg, Council Stenographer

CITY COUNCIL MEETING
EXECUTIVE SESSION
July 29, 2015

The Governing Body of the City of Santa Fe met in an executive session duly called on July 29, 2015 beginning at 11:04 p.m.

The following was discussed:

- 1) In Accordance with the New Mexico Open Meetings Act §10-15-1(H) (8) NMSA 1978, Discussion Regarding Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights by the City of Santa Fe, Including, Without Limitation, the Disposition for Economic Development Purposes of 5± Acres of Land on Siler Road; the Disposition by Lease of 4,200± SF of Building Space; and the Short-Term Lease of 4,000± SF of Building Space.

PRESENT

Mayor Gonzales
Councilor Bushee
Councilor Dimas
Councilor Dominguez
Councilor Ives
Councilor Lindell
Councilor Maestas
Councilor Rivera
Councilor Trujillo

STAFF PRESENT

Brian K. Snyder, City Manager
Kelley A. Brennan, City Attorney
Yolanda Y. Vigil, City Clerk
Oscar Rodriguez, Finance Department Director
Matthew O'Reilly, Asset Development Director
Alexandra Ladd, Special Housing Planner (Left at 11:37 p.m.)

There being no further business to discuss, the executive session adjourned at 11:52 p.m.


Yolanda Y. Vigil, City Clerk