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 Wednesday, October 28, 2015

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**MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
October 28, 20125**

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, October 30, 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. Councilor 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

Bryan Snyder, City Manager, said he would like to postpone Item 10(I) on the Consent Calendar to the Council Meeting of November 10, 2015, noting it was sent back to Public Works Committee earlier this week. He said he would like postpone Item H(3) on the evening agenda, commenting the parties are trying to negotiate a settlement, and if they can, they will do so, if not, he wants postpone it to November 10, 2015.

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

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

7. APPROVAL OF CONSENT CALENDAR

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

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

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

Against: None.

Absent for the vote: Councilor Lindell and Councilor Bushee.

10. CONSENT CALENDAR

- a) REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT – DEVELOPMENT OF A PROJECT PLAN FOR RECRUITING MEMBERS TO PARTICIPATE IN A MAKERSPACE TO BE OPENED 2016; MAKE SANTA FE, LLC. (KATE NOBLE)
- b) *[Removed for discussion by Councilor Trujillo]*
- c) REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT AND AMENDED GRANT AGREEMENT – FOURTEEN (14) PROGRAM VEHICLES FOR SENIOR SERVICES DIVISION; DON CHALMERS FORD, CREATIVE BUS SALES, CED/DON CHALMERS AND STATE OF NEW MEXICO AGING AND LONG TERM SERVICES DEPARTMENT. (RON VIALPANDO)
- d) REQUEST FOR APPROVAL OF ON-CALL MISCELLANEOUS HVAC SERVICES FOR WASTEWATER TREATMENT PLANT UNDER THE EXISTING CITY OF SANTA FE CIP AGREEMENT (BID NO. 15/07/B); YEAROUT SERVICES, LLC. (KATHLEEN GARCIA)
 - 1) REQUEST FOR APPROVAL OF BUDGET INCREASE IN THE AMOUNT OF \$150,537.

- e) REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT AND EXEMPT PROCUREMENT – CITY-WIDE COPIER EQUIPMENT, MAINTENANCE AND SERVICE AGREEMENTS FOR ITT COMMUNICATIONS DEPARTMENT; ROCKY MOUNTAIN BUSINESS SYSTEMS. (PAUL CAMPOS)
- f) REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – PROMOTE SANTA FE TO SURROUNDING REGION BY DISTRIBUTING THE SANTA FE TRAVEL PLANNERS TO FILL BROCHURE RACKS LOCATED IN AND AROUND TARGETED CITIES; CERTIFIED FOLDER DISPLAY SERVICE, INC. (RANDY RANDALL)
- g) CONSIDERATION OF RESOLUTION NO. 2015-96. A RESOLUTION RELATING TO A REQUEST FOR APPROVAL OF FIRST QUARTER BUDGET ADJUSTMENTS FOR FISCAL YEAR 2015/2016 ENDING SEPTEMBER 30, 2015. (CAL PROBASCO AND ANDY HOPKINS)
- h) CONSIDERATION OF RESOLUTION NO. 2015-97 (COUNCILOR IVES AND COUNCILOR BUSHEE). A RESOLUTION DIRECTING STAFF TO RESEARCH AND REPORT ON DEVELOPMENT OF A RAINWATER HARVESTING AND WATER CATCHMENT PROGRAM ASSOCIATED WITH RESIDENTIAL, COMMERCIAL AND CITY-OWNED BUILDINGS AND PROPERTY. (CARYN GROSSE)
- i) CONSIDERATION OF RESOLUTION NO. 2015-____ (MAYOR GONZALES, COUNCILOR IVES AND COUNCILOR BUSHEE). A RESOLUTION UPDATING THE CITY OF SANTA FE COMMUNITY GARDENS POLICIES AND PROCEDURES. (ROBERT CARTER) This item is postponed to the Council meeting of November 10, 2015.
- j) *[Removed for discussion by Councilor Ives]*
- k) *[Removed for discussion by Councilor Lindell]*
- l) CONSIDERATION OF RESOLUTION NO. 2015-98 (COUNCILOR MAESTAS). A RESOLUTION ACKNOWLEDGING THE CITY OF SANTA FE'S OPERATING BUDGET DEFICIT AND ITS OUTLOOK; AND COMMITTING TO ADOPT POLICIES CONSISTENT WITH BEST PRACTICES TO ADDRESS THIS DEFICIT AND ITS OUTLOOK. (OSCAR RODRIGUEZ)
- m) REQUEST FOR APPROVAL OF FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR CASE #2015-80, APPEAL OF THE JULY 28, 2015 DECISION OF THE HISTORIC DISTRICTS REVIEW BOARD, IN CASE #h-15-172 PARTIALLY APPROVING AND PARTIALLY DENYING, WITH CONDITIONS, AN APPLICATION FOR MODIFICATIONS TO PROPERTY LOCATED AT 535 EAST ALAMEDA STREET IN THE DOWNTOWN AND EASTSIDE HISTORIC DISTRICT. (KELLEY BRENNAN)

8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – OCTOBER 14, 2015

MOTION: Councilor Rivera moved, seconded by Councilor Trujillo, to approve the minutes of the Regular City Council meeting of October 14, 2015, as presented.

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

9. PRESENTATIONS

There were no presentations.

CONSENT CALENDAR DISCUSSION

10(b) REQUEST FOR APPROVAL OF FEDERAL HIGHWAY ADMINISTRATION SECTION 112 TRANSPORTATION PLANNING FUNDS FOR THE SANTA FE METROPOLITAN PLANNING ORGANIZATION; NEW MEXICO DEPARTMENT OF TRANSPORTATION. (MARK TIBBETTS)

1) REQUEST FOR APPROVAL OF BUDGET INCREASE IN THE AMOUNT OF \$35,568.

Disclosure: Councilor Trujillo said, "As always, Mayor, for anything doing with the New Mexico Department of Transportation, I do work for the New Mexico Department of Transportation. I do not work with this office, so there is no conflict of interest."

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

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

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

Against: None.

Absent for the vote: Councilor Bushee and Councilor Lindell.

10 (j) CONSIDERATION OF RESOLUTION NO. 2015-99 (MAYOR GONZALES, COUNCILOR IVES AND COUNCILOR BUSHEE). A RESOLUTION AMENDING RESOLUTION 2015-31 TO INCLUDE ALL NEW MEXICO VETERANS IN THE NO-COST TRANSIT PROGRAM DEVELOPED BY THE TRANSIT DEPARTMENT. (JON BULTHUIS)

Councilor Ives said he removed this because it had been taken up by the Technical Committee for the Transportation Advisory Board, and they have an item they wish to have Council consider in connection with this matter.

Jon Bulthuis, Director, Department of Transportation, said the last Transit Advisory Board meeting, the Board unanimously recommended for the Governing Body to amend the Resolution to extend the no-fare benefit to extended to all U.S. veterans and not just to New Mexico veterans.

Councilor Ives said we are being asked to consider an amendment to extend the reach of the program to any veteran riding our transportation system. He said, "There is, to some degree an elegance in that, because it makes determining whether one is a veteran or not, as opposed to whether one is a veteran and where one councilor Ives, a much easier project. It seems a reasonable accommodation for men and women who have served.

MOTION: Councilor Ives moved, seconded by Councilor Maestas, to adopt Resolution No. 2015-99, with the amendment that this be extended to all veterans.

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.

10(k) CONSIDERATION OF RESOLUTION NO. 2015-___ (COUNCILOR MAESTAS). 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 AN INDEPENDENT OFFICE OF INSPECTOR GENERAL FOR THE CITY OF SANTA FE. (KELLEY BRENNAN)

Councilor Lindell said she would like to talk about this, commenting she has a lot of concern about the amount of money that this is going to cost, in reading the minutes from some of the other meetings. She asked Ms. Brennan, "Were you able to come up with any other municipalities of our size that do fund an Inspector General."

Ms. Brennan said, "Legislative Liaison staff researched that and they were not able to find cities of the size and scale of Santa Fe."

Councilor Lindell asked, budget-wise, how would this affect the existing Audit Committee.

Ms. Brennan said, "When you say how would it affect the Audit Committee, are you asking whether it would impact their role or what the projected budget might be for an Inspector General."

Councilor Lindell asked if it would impact the existing budget for our existing Internal Auditor.

Mr. Brennan said, "I don't see that as a necessary corollary of an office of Inspector General. I think the Audit Committee expressed some concern about that. We did discuss, at that meeting, amending their Ordinance at the same time. An OIG Ordinance was drafted to assure there was complementarity of rolls, but we didn't feel that it would erode their role. It might simply take the Fraud, Waste & Abuse matters from Audit to the OIG."

Councilor Lindell said, "I see the Financial Impact Report we have, but it doesn't speak to any financial impact of having that position."

Ms. Brennan said, "Councilor Lindell, I included in the packet for this matter, a job description. Albuquerque right now is soliciting for an AG, and they posted the salary range from \$86,000 to \$95,000, and that number, with benefits, would be about \$120,000 to \$133,000, for an Inspector General. There might be support staff needed, and in addition, most Inspector Generals have some expense money for investigations, if necessary. So I think that probably would take about what Councilor Rivera estimated, which is approximately \$200,000 at a minimum."

Councilor Lindell said, "I would like to see this happen at a time when we aren't facing such hard times budgetary wise."

MOTION: Councilor Lindell moved, seconded by Councilor Dominguez, to deny this request.

DISCUSSION: Councilor Dominguez asked Mr. Snyder, "Just speaking of the budget as we have been engaged in our very preliminary budget discussions, there have been different messages out there about us having to reduce the size of government, us becoming more efficient. And I certainly appreciate what Councilor Maestas has articulated in the past, about this eventually pays for itself, and I believe it probably does. And I think for me, the question is by when, how much is it going to cost us on the front end versus how much it will save us on the back end, \$200,000-\$250,000, who really knows what the costs are going to be."

Councilor Dominguez continued, "My question to you Brian is, I'm not quite sure whether that is going to be tonight, but if this is approved, we would have to budget essentially that department, or division, or whatever you call it, from the very beginning. So our gap is going to grow and we will have to figure out how to fund that department or person before the election even occurs. Is that what you would anticipate doing?"

Mr. Snyder said, "Yes. I don't have a funding source at this time, but if it were to get approved tonight, between now and the election we would have to come up with a funding source and include it in the budget discussions."

Councilor Dominguez said, "I guess what that really means is that before we even have a discussion about making government more efficient and providing that accountability, we're already increasing that budget and I think it's a little difficult for employees who are out there, worried about layoffs and the potential to have whatever cuts the Governing Body may propose, and at the same time fattening government. And again, I appreciate the fact that these may potentially pay for themselves, but at this time, when things are at what some believe is a crisis situation, we're making things a little bit worse. This is my concern. I just wanted to find out what your process would be Brian. If this were to get approved, obviously you would start budgeting for it right away."

Mr. Brian said, "I would work with the Finance Director, and we would identifying funding that we recommend to the Governing. I'm not sure where it would come from at this point, but we would discuss it in the budget hearings."

Councilor Maestas said, "I guess I'm profoundly disappointed that there would be a motion to deny. I think an initiative like this to let the people speak, in terms of whether they want a government that is efficient and accountable. It's disconcerting that we would deny them that opportunity. I realize this is a significant action, requesting that this be put on the ballot. But I think most people know the history of, at least this issue from my perspective. As you all know, I sponsored a Resolution doing the practical thing. It was a Resolution directing staff to identify the benefits, feasibility, needs and options of creating an independent Office of Inspector General. And just in summary, staff did the research, and they said that these positions pay for themselves. But it's just not about being budget-neutral, it's about establishing an element of government that sends a strong message to the people that we're serious about accountability, we're serious about efficiency, and we want to make sure if there is any potential conflicts in any kind of investigation, that we have independence and impartiality. And that's what this position would bring about."

Councilor Bushee arrived at the meeting

Councilor Maestas continued, "And keep in mind tonight, we're not voting to create the position. We're voting to put this on the ballot and let the people speak. So I'm profoundly disappointed and I realize that culture is difficult to change. I think if you all remember when I introduced a Resolution asking for an audit of the 2008 Bond projects, that was not very popular. There were cost issues, and people felt like it wasn't required. But look where we are today. We have the State Auditor intervening to conduct an audit. We're hired an auditor to audit 2008 Bond projects. So, sometimes the entrenched culture has to be changed. And to me, this initiative, I think, would do that, would really send that message to the public that we're serious. That we want this final component in our government, and it would help us establish a good government."

Councilor Maestas continued, "And also, I've mentioned before that our current Code of Ethics calls for the option for the Governing Body to create an office of Inspector General to help enforce the Ethics Code."

So, this position is already in our Code, in our Ethics Code. And so it's not anything new. It's worked in other cities. And just on the cost issue, I'm not going to go on very long, but if we want to talk cost issues, I think most people remember when we approved the current budget, we had an eleventh hour proposal to implement a salary increase, and I think that was about \$181,000."

Councilor Maestas continued, "We have our Convention and Visitor Bureau. We've realized a huge increase in Lodgers' Tax, but we really don't have a history that we're going to sustain that increase, but yet, our Convention and Visitors Bureau has expanded. So, I don't think this is about finances. I think this is about maybe a fear of having an independent watchdog to make sure we don't have any financial related scandals, or questions or doubts about conflicts of interest in the City when it comes to investigating fraud, waste and abuse. So I'm disappointed and I'm going to vote against this. I think we're sending the wrong message. Thank you Mayor."

Councilor Trujillo said he supports Councilor Maestas in sending this to the voters. He said, "Too many times I hear from constituents telling me that too many times we, the Council, make all the decisions, and we never give them this opportunity. Here, we're giving them the opportunity to vote. I don't know if it will or won't pass. I do believe it's an initiative to get it onto the ballot."

Councilor Trujillo continued, "And Brian, in prior years when.... if there a line item in our budget for that, because that's what I'm hearing. Would we have to budget right away for this position if it just passes. And we should have had those ranked choice ballots."

Yolanda Vigil, City Clerk, said, "I have been placing in my budget, and every year have been requesting it. However, the ranked choice voting software is not available."

Councilor Trujillo said, but it is part of your budget though, you've done that.

Ms. Vigil said yes, she has requested \$350,000 for it.

Councilor Trujillo asked if she has expended any of those funds and she said no.

Councilor Trujillo said, "I feel the same way about this. If it does pass, we'll decide then how we will fund this. So I do stand in support with you, Councilor, to send this to the voters."

Councilor Rivera said, "So I agree with Councilor Lindell and Councilor Dominguez, that this seems like a good idea, but I don't think it's quite the right time for this. It's not a fear... I'm not afraid that the Internal Auditor is going to go out and find things. What I worry about is whether those people that would have to be laid off to fund this position.... we're talking about layoffs, we're talking about.... I spent Sunday pulling weeds with my neighbors and Councilor Dominguez and City Parks crews that I know probably don't make all that much money. And in order to fund the Office of Inspector General, you would look at probably getting rid of 3 positions just to fund one person. And I understand it would probably pay for itself over some time, but I'm not sure what that time is. And then not knowing exactly how much staff an Office of Inspector General might take, what kind of equipment, are they are going to need a vehicle. There's still a lot of questions unanswered for me, so I am standing in support of the motion tonight."

Councilor Ives said, "When we had the discussion on this initially, which I believe was approximately one year ago, I had indicated that, rather than going down the pathway of potentially creating an entirely new department within the City, and I will say that concerns have only been exacerbated by our budget circumstance. I had believed, as I still believe currently, that adding to our internal audit department, as an initial and certainly less expensive step in this process made sense. I personally still would like to see a new Audit position. Somebody who could come in and handle, especially, programmatic audits. At that time, too, I asked for some detailed information on the nature and extent of complaints. And there were a few generalized statements about there were a number of complaints, and our current Audit staff which basically consists of one person, had problems taking on that additional work, given what was currently on her plate."

Councilor Ives continued, "Again, that seemed an appropriate and good step forward in terms of trying to ensure that we have the capacity to look into matters brought before us, but without going to the extent of creating a new branch of government within the City. So my position hasn't changed on that. I still would encourage us, as part of our budget discussion, to look at adding another staff member to the Audit Department, and pursuing that course. And if that proved totally incapable of addressing these issues, then I'm really ready to look at the Inspector General's Office."

Councilor Ives continued, "I do note too that in the draft Job Description which is included in our packet, the greatest amount of background and experience that is identified in the job description is 8 years of audit/investigation experience. So again, that audit function seems to be critical in this discussion. So again, my position is I would like to see us tackle it through our Audit Department which we have been through two years of making into a much more independent body that has the capacity to do investigation."

Councilor Bushee said she is sure most sentiments have been expressed perhaps when she couldn't be here. She said, "I would just suggest Councilor Maestas, the same comments I made to you when you were first talking about introducing this is that I've been someone who's been very interested in having independent eyes reviewing our finances. And I did support and bring forward an independent audit committee and made sure it was independent by having appointees made by our Municipal Judge, rather than anybody sitting up here."

Councilor Bushee continued, "And I pursued at one point, I know it's been called different things, solicitor general, inspector general... they had this office in Albuquerque. And I had submitted legislation a few years back and worked a little bit with the League of Women Voters trying to understand what went on. And in Albuquerque they had such a position, and it really got to the point where they just let it go. It did not serve the community there. There was a sort of rogue individual that got in there, and they were independent, but they were doing things with which people weren't happy."

Councilor Bushee continued, "So I would suggest, given the budget times, that you keep the idea in mind, and as we go through the budget, really pursue this, because I think it would be very hard to say to the electorate that we would plan on funding this when we are so uncertain as to how we are going to fund so many primary functions for the City. I would suggest it is an idea whose, either time has passed already because it hasn't worked in other places, or may be worked on a little bit and have some future hope. I won't be voting for this bill this evening."

Mayor Gonzales asked, "Kelley, when you did a review of inspector general offices, what was the typical size of the government where they existed."

Ms. Brennan said, "Large cities, large counties like Miami/Dade, most states, the federal government, many agencies in the federal government. Fairly large, complex systems, were the ones that the research turned up. There may be smaller ones out there, but they're not visible."

Mayor Gonzales said, "Then the research did not turn up any comparable cities the size of Santa Fe that had inspector general offices."

Ms. Brennan said, "No, and I asked that... I had done it a year ago, and I asked the Legislative Assistant to research the matter and she couldn't find any in the last couple of weeks."

Mayor Gonzales said, "So my next question is to Oscar. I'm not sure if you can make your way down, just to be able to quantify right now what the taxpayers currently are paying to be able to independently check or make sure the accounting principles are being followed, or there are no practices of fraud that might be in place. Can you tell me the current cost for the Internal Auditor's Office, all the costs that currently exist."

Mr. Gonzales said it is \$106,000.

Mayor Gonzales said, "That's just salary. The Auditor's Office."

Mr. Rodriguez said the cost is \$161,000 currently.

Mayor Gonzales asked the cost for the annual audit of the City's books.

Mr. Rodriguez said it is \$106,000.

Mayor Gonzales said we just approved the Parks Bond Audit and asked the cost.

Mr. Rodriguez said about \$160,000, including the GRT Bond.

Mayor Gonzales said then this year there will be about \$425,000 of independent review of City expenditures which testing procedures are set up to detect if there is malfeasance or fraud.

Mr. Rodriguez said yes.

Mayor Gonzales asked if the City currently has a Fraud Line.

Mr. Rodriguez said yes, for 3-4 months.

Mayor Gonzales asked, "During the time the Fraud Line has been in place, have there been any reports of fraud or mismanagement."

Mr. Rodriguez said there have been reports, but he would have to defer to Ms. Kerr for the exact details, noting she reported on this to the Finance Committee 2 meetings ago.

Mayor Gonzales said, "Generally what I'm trying to understand, without going into the detail of the report, is whether there is a mechanism in place that is funded by the City that currently can pursue allegations or detections of fraud."

Mr. Rodriguez said yes, there are a number of mechanisms in place.

Mayor Gonzales said, "I think all of us want to make sure we meet our fiduciary responsibilities. I don't think we can abdicate our responsibility to an Inspector General to assure efficiency and accountability. I think that's our responsibility as elected officials. This year we will put \$425,000 into making sure, through an independent, Internal Auditor, through an independent audit and through a special audit, that the public's resources are being spent in trying to determine and assure that we are properly and appropriately spending money, in addition to the work we have to do to assure that succeeds. So I feel the resources are going into the right place. If we want to increase autonomy of the Internal Auditor, I think we can modify the Ordinance that removes the hiring and firing from the City Manager and puts it on the Audit Committee that is independently appointed."

Mayor Gonzales continued, "I think if we want to expand their powers to include subpoena power, where needed, I'm assuming we can check that and assure that is in place. So I think there are pathways for us to get where you want to be when it comes to assuring there is true independence that is checking on the City's finances to see if there is fraud. But when it comes to the issue of resources, the City already commits through various areas, independent checks on how we're spending money. So I won't be able to support this tonight because I think we have the systems in place to be able to properly account. So to Councilor Maestas, since it's your bill, to close."

Councilor Maestas said, "One final.... you know, I've already said I'm profoundly disappointed. But I do want to state, for the record and all of you are aware of this, I did attempt to pursue legislation after we did the feasibility, and I thought the results were a thumbs-up that this could be potentially cost-saving and really help advance our government and make it a truly good government. So when I pursued legislation, it got so watered down, the legislation called basically for augmenting the Internal Auditor to create a fraud investigator. And you all universally said that's not independent enough. And so that's why I went to this measure and said, maybe the people of Santa Fe can save us from ourselves and vote to approve the creation of an Inspector General."

Councilor Maestas continued, "So I want to just make it clear that I just didn't just jump to this. This is very serious. I think you have made that point Councilor Dominguez. Amending our Charter in this fashion is very unusual, but it is legal and it is allowed, and I really felt like, given the times we're in and the times we may face in the future, that this would be a great addition to our government. And it certainly would be the opposite of fattening our government."

Councilor Maestas continued, "So I'm disappointed. I really am. I thought that this Governing Body wanted true independence, and I thought well, let's just let the people speak and they can tell us what they

want and we can always, subsequent to the election, which ever way it goes, we can decide how it fits Santa Fe and how it fits our existing processes, our Fraud, Waste and Abuse Hotline, our Audit Committee our Internal Committee.”

Councilor Maestas continued, “The Audit Committee already is in our Charter. I’m certainly not going to submit an amendment to change the charter and strip off the Audit Committee because we hire an IG. I’m not going to do that. I want to make sure it complements everything we’re doing. But, having an independent watchdog I think is vital. We’re not going to create a some 20 staff department. This is probably 1, maybe 2 people at the most, but we can have that debate. Let’s just let the people speak and decide how they want their government to look. That’s all I’m asking tonight. Thank you.”

Councilor Dominguez said, “A couple of things. Councilor Trujillo talked about the budget, and we would actually have to budget this before it got to the ballot. We would have to be making sure that in our preliminary budget hearings as staff is establishing and building their internal budgets, that we do that before the election happens.”

Mr. Snyder said, “That’s correct, for the 16/17 fiscal year we would be budgeting for this.”

Councilor Dominguez said, “So essentially when we have our discussion Monday at Finance, that’s going to be part of it. That’s going to contribute to the challenges that we have.”

Councilor Dominguez continued, “I have a profound amount of respect for you Councilor Maestas. I think that you certainly are passionate and articulate and adamant about what you think is right and what you believe in, and I respect that, and I understand that. Some of my concern is that, before we over-promise the public, we need to make sure we have those internal mechanisms in place to make sure we give the public what they are promised. When I read the minutes from the Audit Committee meeting, it seemed, even there, that what they were looking for was some independence themselves and to be able to provide that independence for the Auditor. And to not necessarily go that far and make that stretch.”

Councilor Dominguez continued, “And so it concerns me that even the Audit Committee isn’t quite sure what the job will be or how that fits into their role and how they can work together to create that independence. So that’s something that kind of concerns me. I think as Councilor Ives said, that if we get to a point where, through the Fraud, Waste and Abuse Hotline, and the independent Internal Auditor, that we’re dealing with hundreds of thousands of dollars of potential fraud and waste and everything else, then I think that we need to take the next step.”

Councilor Dominguez continued, “The only other thing that I wanted to mention was that, part of the Code of Ethics says that the Governing Body may, by separate Ordinance establish an office of Inspector General, and I think that motion failed, it didn’t go. I think the Governing Body said no at that time. I admire the democracy in sending it to the voters. But again, before we put the voters in a position of voting for something, we need to make sure we’re not going to over-promise what it is we can deliver. I think, as Councilor Bushee said, at some point we need these discussions. And if we can’t provide that

independence, then again, we need to start making some of those next steps. And so I just wanted to make that comment again. I respect your position and the work that you have done. So thank you Mayor."

Mayor Gonzales recognized Councilor Ives to close debate.

Councilor Ives said, "I want to correct one statement made to the effect that no one here believed that our auditors could be independent to the extent necessary, therefore requiring us to look at the creation of an Inspector General's Office. I believe the steps we have taken in the past two years to give real independence to that office actually have been very strong, very good. I am satisfied that office has significant independence and I've certainly not seen anything that suggests anything otherwise to me. And I'm looking at our Auditor and we'll affirm to her, that her independence is something that I think that everybody up here on the Governing Body very much respects and we would not ask you to do anything other than your job to the best of your ability. And we had lengthy discussions about the requirements for auditors according to national standards. I have no reason to think you are not exercising that independence. I do have a suspicion, given the size and complexity of the City, that an additional auditor in your office is highly appropriate, so I will continue to advocate for that. I just don't think we need an inspector general right now."

Councilor Bushee said she has been out of town, her mother has been unwell. She said, "We have begun discussions, and I know there are many other ways we can make and fortify the existing Committee in terms of their independence. And so I will work with you Councilor Maestas and our Auditor to make sure....perhaps they don't want to report to the City Manager. Perhaps they want to be completely.... in essence they would be what you're trying to achieve with a little bit more independence, and I think we can get there quickly.

CLARIFICATION OF THE VOTE: Mayor Gonzales said this is a vote to support the motion to deny the 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, and Councilor Rivera.

Against: Councilor Maestas and Councilor Trujillo

Explaining his vote: Councilor Dimas said, "As much as I would like to support this, with my background in law enforcement and the judiciary, I just don't think this is the right time, so I will support the motion. Yes."

END OF CONSENT CALENDAR DISCUSSION

11. APPROVAL OF THE AGREEMENT BETWEEN THE CITY OF SANTA FE AND THE SANTA FE FIREFIGHTERS ASSOCIATION. (ASSISTANT CHIEF BABCOCK)

Chief Babcock said, "I would like to request approval of the Collective Bargaining Agreement between the City of Santa Fe and the Santa Fe Firefighters Association. The changes as the result of negotiations that concluded in September, the members of the International Association of Firefighters, Local 2059, have recently approved ratification to a voting process. The resulting Collective Bargaining agreement does not require any additional funding or appropriation. Below is a brief summary of the changes. Myself, and Union President of Local 2059, Gerard Sena, stand for questions."

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

DISCUSSION: Councilor Maestas said he didn't know we had a buy-back program, and asked how that works.

Deputy Chief Babcock said members of the union accrue, according to time of service, 1-5 years of a certain amount of annual and sick leave. And throughout the 20 year process, if they don't abuse their leave, it carries over to a maximum per years of service.

Councilor Maestas asked if there is a cap on carry-over.

Deputy Chief Babcock said yes, and as you increase service, the cap increases. He said under the current accrual, a 20-25 year employee could cash out 1,000 hours of sick leave at 1 for 1, and 2 for 1 for any hours over that. The annual leave accrual is totally different, with a cap and it is 100% of the cap as a buy-back at retirement.

Councilor Maestas asked the cap on annual and asked if it is the same as sick leave.

Deputy Chief Babcock reiterated that whatever the accrual is, it is 2½ times the maximum allowed.

Councilor Maestas said he saw the buy-back in the contract, and asked if that is only as the City has funds to buy-back leave. He assumes the City would want to purchase the leave at a lesser value.

Deputy Chief Babcock said, "That is not possible. At the time of retirement at 20-25 years, as you progress in your career, your hourly rate increases. So to buy it back at the lower time frame, they're no longer at that rate at the time of retirement. So during the budget, they look at people eligible for retirement, and budget that to be sure they have the funding to buy-out the time in the contract."

Councilor Maestas said the buy-back is at the discretion of the City, and there are no parameters around it here in the contract.

Deputy Chief Babcock said, "It's not at the discretion of the City. As the contract reads, all annual leave they have accrued at the time of retirement will be paid out one for one, and sick leave, up to 1,000 hours at one for one, and over 1,000 hours it is two for one, and that's in the contract."

Councilor Maestas said the accrual policy was not amended in any way, but he did focus on that, reiterating his concern.... he said it's not really against you guys. I think you negotiated a good contract, but it wasn't very extensive in terms of the amendments. He said, "My concern is the financial liability the City continues to carry with all the accrued leave. I asked for a preliminary analysis and it's hypothetical, but if all these employees leave today, the City would have to pay \$10.2 million in accrued sick leave and \$6.3 million in annual, for a total of \$16.5 million. Why do I bring it up. I bring it up because it's in your contract number one. Number two, it's a financial concern of mine and we've had an extensive discussion by a lot of budget-minded Councilors. I think in the future, for the purposes of your contract, I think this is going to have to be on the table in budget discussions, and I don't know what changes, if any will happen, or none. I'm concerned about this liability." He spoke about how it is done with the Federal government. He said he hopes they will be open to helping the City help to bridge the budget gap, because this makes the City extremely vulnerable. He said although it's good for your members, it's not necessarily good for the City in the long term, given our financial situation.

Councilor Ives said he also is concerned, and said we need to be addressing this more vigorously in our budget discussions. He asked staff to check the pagination in the index, before multiple copies are made.

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.

Mayor Gonzales said, "Before we move to Item 12, I want to extend an opportunity after Item 12, when we get to the MorningStar case for 5 minutes for the related parties to be able to address the Council because it's been a while since we've had an opportunity to hear directly from the parties, so if the parties from MorningStar, the Elks, and the Neighborhood Association can just be on deck. There will be 3 speakers and 5 minutes is what we're going to allow each one, and not that I want to make it to watch the Republican Presidential Debate, but we do have to make sure we limit time so we can move through our Agenda.

12. APPROVAL OF THE AGREEMENT BETWEEN THE CITY OF SANTA FE AND THE SANTA FE POLICE OFFICERS ASSOCIATION. (INTERIM CHIEF GALLAGHER)

Patrick Gallagher, Interim Police Chief said, "We are here tonight to request approval of the recently ratified contract between the City of Santa Fe and the Santa Fe Police Officers Union. The contract was ratified overwhelmingly on September 1, 2015, by a 92% margin of the members who voted on it. The Contract amendments are minor and are in the Council packet, and contain mostly housecleaning items with regard to some language in line with what is in the contract in terms of existing policies and procedures. For example, the term of probation was clarified that it is 6 months for non-union

personnel and one year for uniform personnel – that had to be consistent in the contract. The other matter had to do with some disciplinary paperwork procedures that had to be in line with the various policies we already have in place. So it was just bringing the contract in line with existing policies and procedures.”

Chief Gallagher continued, “As the contract negotiations occurred, primarily prior to my tenure as Chief I will defer any questions to Captain Padilla who is on the Negotiation Committee, and/or Sgt. Matthew Martinez, President, Santa Fe Police Officers Association.”

Captain Padilla said they stand for any questions.

Councilor Rivera thanked both unions for seeing the City's budget constraints and coming to negotiations without asking for a whole lot of money, “so really great job to the management team as well as to the unions.”

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

DISCUSSION: Councilor Dominguez said he is in support of the request, and thinks it's important for us to respect the process and the right to organize. He asked, “When is the next opener, because I want to make sure we are caught up if you want to call it that. I know in the past we have not been caught up, and I just want to find out where we are at this time.”

Captain Padilla said, “At this time, we are caught up and we intend to begin January 2016, and at that point, the entire contract will be open for negotiations.”

Councilor Dominguez said then everything is open in January 2016, and Captain Padilla said that is correct.

Mr. Snyder said, “That is correct. The contracts are valid through June 30, 2016, so the contract negotiations that are being discussed now that will start January 1, 2016, will be for the following fiscal year. So we're caught up in all 3 bargaining units.”

Councilor Dominguez said, “I should have asked for the Fire Department as well, but I'll ask you off line on that. I'm not sure if it's everything that's open or if there are only certain openers that we have for the Fire Department.”

Mr. Snyder said he isn't certain on that either, they are on a different cycle, but we are caught up with them as well.

Councilor Dominguez is glad to know the whole contract is open in the fiscal year after this one, because it will fit into the fiscal challenges that we have and he will want to have a discussion with them so we honor the right to organize as well as being fiscally responsible, and take our fiduciary duties seriously.

Mayor Gonzales echoed the gratitude to both unions for continuously choosing to work here at the City and protect our community. He said over the past few years, it has been difficult, as with all employees, to provide pay raises to keep up with cost of living adjustments which can be a hardship. He asked Sg. Martinez and Chief Babcock to convey our gratitude to the rank and file police and fire officers who choose to protect our City. It is an honor to know those who put on that badge care so much about providing safety for our community, and "hopefully, we can turn the corner at some point in the future to build a budget that allows our gratitude to be done in the form of some kind of pay and compensation. But until that time, thanks for what you do."

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

13. **CASE NO. 2015-51. APPEAL OF THE MAY 7, 2015 DECISIONS OF THE PLANNING COMMISSION (COMMISSION), APPROVING THE REQUEST OF THE BENEVOLENT AND PROTECTIVE ORDER OF THE ELKS LODGE NO. 460 BPOE) TO DIVIDE ITS PROPERTY AT 1615 OLD PECOS TRAIL INTO TWO LOTS; AND OF MVG DEVELOPMENT/MORNINGSTAR SENIOR LIVING'S REQUEST 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 SAND LOT TO HOUSE SAID FACILITY. (Postponed at October 14, 2015 City Council Meeting)**
- a) **MOTION TO CONSIDER SEPARATELY THE APPEAL BY THE SOUTHEAST NEIGHBORHOOD ASSOCIATION (SENA) FROM THE MAY 7, 2015 DECISION OF THE COMMISSION APPROVING THE APPLICATION OF THE BPOE TO DIVIDE ITS PROPERTY AT 1615 OLD PECOS TRAIL INTO TWO LOTS IN ACCORDANCE WITH THE AUGUST 11, 2015 WRITTEN REQUEST OF THE BPOE AND TO TAKE A SEPARATE VOTE ON THE MATTER. (Postponed at October 14, 2015 City Council Meeting)**
 - b) **CONSIDERATION OF THE APPEAL BY SENA FROM THE MAY 7, 2015 DECISION OF THE COMMISSION IN COMMISSION CASE NO. 2015-14 APPROVING THE APPLICATION OF THE BPOE TO DIVIDE ITS PROPERTY AT 1615 OLD PECOS TRAIL INTO TWO LOTS. (Postponed at October 14, 2015 City Council Meeting)**

Items 13(a), 13(b) and 13(c) were combined for purposes of presentation and discussion, but were voted upon separately.

A letter dated October 26, 2015, to Mayor Javier Gonzales and City Councilors, from Karl H. Sommer, attorney for MorningStar, regarding the MorningStar Application, entered for the record by Karl H. Sommer, is incorporated herewith to these minutes as Exhibit "1."

Mayor Gonzales asked Mr. Shandler to provide a brief update of what's happened to date, and then the options the City Attorney has laid out for addressing Case #2015-51, the Appeal of the Decision of the Planning Commission for the MorningStar development.

Presentation by Staff

The staff report was presented by **Zachary Shandler, Assistant City Attorney**. Mr. Shandler said, "The Planning Commission approved this proposal and it was appealed by the Neighborhood Association to this Governing Body. The Governing Body denied the appeal back in July. Subsequently, this body moved to reconsider its decision which means its decision is back on the table and there have been a variety of postponements. And that's where we are today."

Mr. Shandler continued, "on your agenda are several different options. One would be if you want to sever the vote regarding just specifically the lot split, that's an option. Or, if you want to have your votes on all 3 items, the development plan, the special use permit and the lot split you would do that as well. So that's why the agenda is oriented in that way. We prepared a variety of different motions, pro, con, however you want to. I believe that's on your desk. And with that, I will let the other parties make their presentations."

Karl Sommer said, "Matt Turner from MorningStar is going to address the Council directly."

Mayor Gonzales said then we will hear from Frank Herdman, Attorney for Appellant SENA, and then we will ask the Elks to close.

Mayor Gonzales asked if speakers need to be sworn, and Ms. Vigil said no.

Mayor Gonzales asked speakers to give their name and address for the record.

Presentation by Attorney for MorningStar

Karl Sommer, P.O. Box 2476, Santa Fe, NM 87504. Mr. Sommer said, "Mr. Mayor, and members of the Council, just briefly. I think it's important that since the last time we were in front of you, that there has been a lot of press, there have been a lot of editorials, there's been a lot of talk, there's been postponements and there's also been discussions. And there was a letter presented to you by the opponents of this project. And I would like to, one, just correct the record with respect to that so you all know what had happened and what has happened. And the Mayor asked that we give you just a quick summary here."

Mr. Sommer continued, "The parties did meet. It is clear to us that no project of any size is acceptable to SENA because of the use. That was made clear to us over and over. And by that, I mean this particular facility with this special exception, it is their position, steadfastly that it's not allowed under the Code. Obviously, we disagree. Staff disagrees. The Planning Commission disagrees. To the degree it was represented to you that there was no compromise on the part of MorningStar, what they were able to do, that's just simply not accurate. There is no way to reduce this by significant number. There are many changes that can be done and are available that would impact the site in a favorable way with setbacks and a reconfiguration of the building. But the discussions didn't get that far, just because of the reason that we talked about."

Mr. Sommer continued, "We handed out a letter to you all, and do you have it in front of you, I don't know [Exhibit "1"]."

Mayor Gonzales asked if that was the letter presented by MorningStar.

Ms. Brennan said Mr. Shandler has a copy, asking, "This is the letter you just brought yesterday."

Mr. Sommer said yes.

Mr. Sommer said, "I'll just summarize. The potential adjustments that there are for this Council to think about, and they affect how this corridor would be affected, and that would be modifying the setback from the Old Pecos Trail. It wouldn't be a significant reduction in the number of units, but modifying the setback and the configuration of this building on site and reducing its profile would be significant in terms of the impact of this building. Overall scale is probably close to the same, maybe a little bit smaller. But those are discussions that never really got that far along because of the reasons that I've stated. I just don't want there to be any mis-impression among Councilors or the Mayor about what was attempted. I'm not casting aspersions on anybody's good faith. I think everybody has operated in good faith. We've appreciated the opportunity you've given us."

Mr. Sommer said, "Just in closing, I would like to say that we started this in front of the Council many months ago, and I stood up in front of you and I said, this is a good project, a great project for Santa Fe, anyplace that it is allowed legally and it is by people who have a track record of success, a track record of quality. It is what our town needs. And we submit to you that under the law, and under the facts in front of you, this project is approvable, and compliant with your requirements. Thank you."

[Mr. Herdman spoke from the audience and his remarks were completely inaudible]

Presentation by the Southeastern Neighborhood Association (SENA)

James Dyke, 2005 Calle de Sebastian, President of the Southeastern Neighborhood Association [SENA]. Mr. Dyke said, "I did attend the meeting in September. We want to thank the Mayor for encouraging us, both sides, to sit down and have an open discussion where we could look for some middle ground, look to see if there were places where we could up with a mutual agreement."

Mr. Dyke continued, "The attorneys, both Mr. Sommer and Mr. Herdman, were not present at that meeting. The SENA representatives that were there came to the meeting with an open mind, based on a telephone conversation we had with MorningStar prior to the meeting. We understood there would be discussions of what MorningStar could do with regard to the size and scale of the facility. We understood that to reach a middle ground, everything had to be on the table. There were no lines in the sand drawn; there were no hard positions. I think both sides had an opportunity to present their issues, their concerns, their constraints. And there was a lot of discussion that was held."

Mr. Dyke continued, "Again, we want to hear about what MorningStar could do as far as possible, in the reduction of the size. We noted that MorningStar runs facilities that are smaller. In particular, their facility in Jackson, Wyoming is half the size of the facility they are proposing for Santa Fe. So we raised the question – why can't we look at something much smaller in scale, something much more in fitting with where it's going to be located."

Mr. Dyke continued, "We understood that MorningStar's explanation was that the 84 units was the minimum they were going to go to. They cited the cost of doing business in Santa Fe, the cost of building here, the cost of the living wage laws that are in place, that they simply could not go below 84 units. With that, the size of the building is still approximately 73,000 sq. ft. – that's the size of the Convention Center. It's an enormous building. So even if you reposition it a little bit, you would move some of it from here over to here, it's still a 73,000 sq. ft. box located on a ridge along the Old Pecos Trail."

Mr. Dyke continued, "So again, we thank the Mayor for encouraging us to have the discussion, but at the end of the discussion, without a significant change in the size of the facility, there was no middle ground to proceed with any sort of mediation. The public hearing process on this has been closed. You've had hours of testimony from the citizens of Santa Fe on this subject. We would encourage the Council to move forward and cast its vote. We continue to oppose the project for all of the reasons that we previously stated, and we request that the Council deny the MorningStar proposal. Thank you."

Presentation by the Elks Lodge

David Fitzgerald, President, Elk Lodge, said, "I would like to start this evening by simply telling you thank you. I know we've tried many avenues in searching for a resolution to this matter, but quite frankly, as far as the Elks Lodge is concerned, this has been quite frustrating and it's been humiliating. Two years ago, we decided at a group meeting, that we needed to do something to enhance the long-term financial stability of the Elks Lodge, being that we've been members of the Santa Fe community for 116 years.. And we're one of the original neighbors on Old Pecos Trail."

Mr. Fitzgerald continued, "We decided to sell a piece of our real estate. Unfortunately, we had an offer of interest, apparently unfortunately, because this matter has gone on for the last 18 months, in which the entire focus on principle has been totally lost. We never dreamed that this issue would be so divisive in the City. To watch the prejudice, the bias, the racism that has evolved from this has been humiliating."

Chair Gonzales asked the members of the audience to please respect the speakers.

Mr. Fitzgerald continued, "Mr. Mayor, I think it needs to be brought up. What we're asking for the Elks Lodge this evening is for reality. Let's face the issue. Let's cast a vote for the best interest as the City Council sees fit, and just keep in mind that the Elks Lodge will continue to be residents here in Santa Fe, and if this plan should fail, we'll come up with alternative plans. If this plan is successful, we will continue to be an excellent neighbor to our neighborhood associations, as we have for the last 53 years."

Mr. Fitzgerald said, "Let's cut down to business, and we definitely would like to see our lot split be removed from the 3 elements that you're considering and voting upon separately this evening. I don't see any merit in why that should be included in this appeal. Thank you."

Questions and Comments from the Governing Body

Mayor Gonzales said, "Again, if I could ask the public to please allow the Governing Body to go ahead and proceed forward with this, and upon conclusion, to hold any dialogue or debate until you step out of the chambers, so we can continue our business. So questions of the staff and then I'll ask the Governing Body what it's wishes are."

Councilor Maestas said, "I know that every time this has been postponed, following the motion to reconsider, the Findings of Fact and Conclusions of Law have been on the agenda, and I don't see them on the Agenda tonight. So without knowing the outcome of the vote, shouldn't the Findings of Fact and Conclusion of Law have been on the agenda tonight as a contingency."

Kelley Brennan, City Attorney, said, "Given that a major consideration is severing the appeals, we thought it better to await the outcome and do that when we know what the result was."

Councilor Maestas said, "Okay. My comment is that we could have settled it all tonight, had we put the Findings of Fact and Conclusions of Law simply as a contingency without knowing the outcome, so I guess I would have preferred that be in here."

Ms. Brennan said, "You wouldn't have been able to unless you hadn't severed the Elks, which is the difference between this agenda and the prior agendas."

Councilor Bushee said, "Kelley or Zack. This is a new wrinkle. I just need to understand it. The separating of the decision of the Lot Split, was that decided separately at the Planning Commission in the first place."

Mr. Shandler said, "At the Planning Commission it was done in one vote. This is in response to an August 11th letter from the Elks."

Councilor Bushee said she has that letter. She said, "I'm just trying to understand what that would mean. Would that need to go back to the Planning Commission. I mean, usually lot splits are dealt with..."

Ms. Brennan said, "I'm sorry. This body also voted on the appeal on one vote, so there are 3 appeals. So you would, by severing it, you would be pulling the appeal on the lot split and voting yes or no on whether they would have the lot split. So it does not need to go back to the Commission."

Councilor Bushee said, "Well, but, it's out of context for me. It's really hard to understand what that would mean, and I understand the Elks' request, but it wasn't even dealt with by the Planning Commission, in terms of just a lot split."

Mr. Shandler said, "Staff has informed me that I was incorrect, that at the Planning Commission, there were 3 separate applications presented."

Councilor Bushee said, "And all were approved."

Mr. Shandler said, "Correct."

Councilor Bushee said, "And so again, not having any of those minutes, as far as that here tonight, I'm just trying to ascertain what that would mean. I can understand the Elks' desire to separate that, but I can't understand what that would mean contextually."

Mayor Gonzales said, "Zack, answer the question if you can. If there is a lot split tonight, what does it mean for the uses of the lot that would be created."

Mr. Shandler said lot splits usually are handled by the Summary Committee, except when they are together with, for example, a development plan. He said, "So that's why it all went to the Planning Commission. The answer to your question is, if you sever it, and if you allow the lot split to go forward, that means there will be two different lots on that property. That's all it means. It doesn't mean you've granted any use. It doesn't mean you granted any development plan. It just means they are now the owners of two lots."

Mayor Gonzales said, "To expand that further, Mr. Shandler, what would be the uses of that separated lot."

Mr. Shandler said the uses would be same as is currently, which is R-1.

Councilor Rivera asked, "Had the lot split been done prior to MorningStar, prior to this whole development being done, the Elks would just have come with the lot split itself, then the initial vote on this would have been just between whoever is the purchaser of the property and potentially the neighbors. The Elks would have been completely out of it, correct."

Mr. Shandler said it sounds like a two part question and asked him to restate the question.

Mayor Gonzales said, "So, the question was, had the Elks come in without a MorningStar request to rezone the property, and submitted for a lot split, that lot split would have been granted through some summary judgment, and that wouldn't have been at the Council level. At that point, when it was a legal lot,

it would have been up to whoever purchased the lot, to come to the Council separately and independently of the Elks Club to ask for uses. Is that right Councilor Rivera.”

Councilor Rivera said yes.

Mr. Shandler said, “Yes.”

Councilor Bushee said, “But Mayor, I never did quite... so why then was it one of the three appeals. I’m just trying to get it in the context of MorningStar, because that’s what we’re dealing with tonight. And maybe Frank can answer the question. I get it, I’m just trying to understand what it means.”

Frank Herdman, Attorney for SENA, said, “The reason that all 3 approvals by the Planning Commission were appealed is because the Planning Commission proceeded with the lot split as a part of the application for the MorningStar project. They were inextricably connected. And we know that to be the case, because if you look at the conditions of approval that are associated with the lot split, as adopted by the Planning Commission, many of them are very specific to the MorningStar project. And in fact, one of the conditions specifically refers to the MorningStar project. For example it says that the BPOE provide overflow parking to the CCF, which is the proposed project.”

Mr. Herdman continued, “And so, the reality here is that the Planning Commission looked at these 3 applications a whole and as an integrated project. And that’s how they adopted the Findings of Fact and the conditions of approval. So we appealed the lot split because there are conditions associated with this lot split approval that are connected to this project, including, for example, the overflow parking which does not comport with the Code requirements. So it’s all intermixed. We do not begrudge the Elks the lawful right to subdivide their property. However, this was done necessarily in conjunction with this particular project, so I have some difficulty attempting to sever this. And I think it would be potentially confusing. Again, we do not begrudge the Elks the right to divide their property. However, there would be conditions of approval associated with this lot split that would refer to this particular project. I don’t represent the Elks, but I wouldn’t want that, because it would create confusion going forward, where you would have a legacy of conditions of approval associated with this project. If the special use permit and the development plan are rejected, you’re going to have a disconnect.”

Councilor Bushee said, “So if maybe I could have Zack back for a moment. They could conceivably, depending on what happens here tonight, come back separately just for a lot split to the Summary Committee of the Planning Commission without any ties to any project. And let the Planning Commission deal with that as far as whatever they want to in terms of what a lot split would mean to that property, without a lot of cost and a lot of effort. It’s difficult for us, because all we have are a couple of letters from Karl Sommer and the Elks, and we have none of the materials that we have dealt with for months.”

Mr. Shandler said, “I think your question was, if there was denial on all parts, could the Elks come back at a future date and propose a lot split to the Summary Committee. The answer is yes.”

Councilor Bushee said, "And separated from... it would just be a matter of going to the Summary Committee and it probably would not be appealed. They could decide what the conditions are for the context of the land. It feels like everything is tied intrinsically here in terms of this case, from what we have been presented."

Mr. Shandler said, "I think Mr. Esquibel could make an eloquent argument that it could be severed out. Staff doesn't necessarily agree with Mr. Herdman's contentions."

Councilor Dominguez said, "Let me ask staff that question, because when I read the minutes back when we heard this in June, there was quite bit of discussion, if I recall from the Planning Commission about the lot split and not all of the discussion was relevant to the Development Plan. I think there was quite a bit of discussion about whether or not the lot split met the minimum requirements for a lot split. Let me just ask staff about, first what the discussion was at the Planning Commission relative to the lot split, and second, why you feel we can sever it."

Mr. Shandler referred the question to the City Attorney, saying she was in attendance at the Planning Commission.

Ms. Brennan said, "I do believe this can be severed. I do believe, depending on the outcome of all your votes, if the project were not approved, any conditions applicable to it would be void, and conditions applicable to the lot split would still apply. They certainly could go back through the process and apply again for a lot split and be heard by the Summary Committee and a new set of conditions be applied. I also disagree with Mr. Herdman's characterization that they are inextricably linked and can't be severed."

Councilor Dominguez said, "Expand on that more, because when I remember reading the Planning Commission meeting minutes, it was specific to the lot split and not to the plan itself. I will admit there was some discussion about it, but I do not believe the decision was made because of the Development Plan but because of the ability to be able to do the lot split."

Ms. Brennan said, "As I recall the discussion, there was concern about setback, based on the plan for the new building and whether it would be appropriately set back. And there were concerns about fire access and parking, and all of those really related to the use of the adjacent property that was being applied for under the Special Use Permit and Development Plan, as I recall. Which is why I say, if the project gets support tonight, then they would still apply, if it doesn't, they would be void."

Councilor Dominguez said the application for the Development Plan complied with all of the setback requirements that the Code provides. He said, "I'm talking setback requirements, height requirements, lighting requirements, all of the things that seem to be of concern with regard to the building – lot coverage and setbacks obviously pertain to the size of the building. And we talked about what Kelley talked about just a little bit. Let me just establish that first."

Mr. Shandler, "We would argue yes, that it was legally sufficient. I'm sure the opponents would disagree, particularly if it got into a discussion about compatibility."

Councilor Dominguez said, "Let me make sure I'm clear, as far as City staff is concerned and as it pertains to every other application in the City, development plan applications, they met setback requirements, height requirements, all those things that come in... I don't know what section it is in Chapter 14, but..."

Ms. Brennan said, "I don't think the Planning Commission would have approved the application if they had not [met requirements], and if there were non-compliance in things like setbacks, I would assume staff would recommend they apply for and receive a variance before they would be permitted to build in those, for instance, within the setback."

Councilor Dominguez asked, "If it is true that the application or the development plan exceeded the applicable requirements in some instances."

Ms. Brennan said, "Yes, it did. I believe the design largely complied with the Highway Corridor requirements, even though the Highway Corridor did not extend to that. What I remember about the discussion, is the Highway Corridor requires a 75 foot setback, I believe. And the permissible setback otherwise is much smaller. I think Dan could probably speak to exactly what that is. But yes they did, although not required to, I believe comply largely with the Corridor requirements."

Councilor Dominguez said, "So you say it's a true statement then that the Development Plan exceeded the legal requirements that the City has imposed on them."

Mr. Shandler said, "That is staff's position, but I acknowledge other parties disagree."

Councilor Dominguez said the reason he asks, as it pertains/relates to the lot split, is if a lot split were granted, they would no longer have to comply with exceeding the legal requirements, and they would actually have to comply with the requirements that are established by law – setbacks, building height. In other words, if they increased the setback in this application with the lot split, whatever development plan comes forward could actually go back to the applicable setback."

Mr. Shandler said that is correct.

Councilor Dominguez said, "So essentially, whatever happens on that vacant piece of property, and I'm guessing maybe this appeal will get approved, someone would have to start from scratch and they would have a separate lot to be able to work with and not necessarily have to tie the lot split to the application as it's been done here. That's a redundant question."

MOTION: Councilor Dominguez moved, seconded by Councilor Trujillo moved, "to consider separately the appeal of Case No. 2015-51 by the Southeast Neighborhood Association (SENA), from the May 7, 2015 decision of the Planning Commission approving the application of the Benevolent and Protective Order of Elks Lodge No. 460, to divide its property at 1615 Old Pecos Trail into two lots in accordance with the Elks' August 11, 2015, written request, and to take a separate vote on the lot split matter."

DISCUSSION: Councilor Dominguez said he think it's appropriate to look at the lot split itself, decide that and then that gives all interested parties basically a brand new start.

Councilor Bushee said, "Maybe Lisa, because I think it's your department, and again, I wasn't here, but it's my understanding that just last Council meeting, you all approved unanimously on consent the Highway Corridor Study for the Old Pecos Trail Corridor. What would that mean for this, in terms of this lot split, or is this precipitous."

Lisa Martinez, Director, Land Use Department, said, "Considering that we're just beginning that study, and considering that we don't have any of the revisions in place specific to that area, I don't know if the lot split would have any affect on that at all. It's going to take some time to sort through. So we don't know."

Councilor Bushee reiterated her question about the impact on the lot split, and Ms. Martinez said, "No, I don't believe it would."

Mayor Gonzales asked Councilor Bushee and members of the Council to address the motion first. He said the motion is to break it into 3, not to grant the lot split.

Councilor Bushee said, "I get it, but I'm trying to understand how I feel about that vote, with regard to what you just approved."

Ms. Martinez said, "I think it would be very dependent on what sort of future proposal would come forward, and we'd have to evaluate to determine what kind of building, the use, and since we don't know that, it's really hard to apply provisions we don't have in place at this time. "

Councilor Bushee reiterated she's just trying to understand.

Councilor Ives said he also is just trying to understand. He said, "Prior to here, we've been told the Planning Commission actually considered each matter separately. And as I look back at our minutes and what was presented at our meeting on July 29th, it was identified as, "*...the Planning Commission's condition to provide a 25 ft. setback between the lots violates City Code regarding fire access and parking issues.*" So he's trying to understand, by separating it out, what capacity does that give us in regards to the lot split issue to examine the conditions that were apparently placed on it by the Planning Commission, or is it all fair game at this point.

Ms. Brennan said, "I'm not sure I understand your question. But I would say again, that those conditions that attach to the development of MorningStar on adjacent property if MorningStar is approved, will continue to apply. If MorningStar is not approved, it would, I believe be void, because the project would have been defeated."

Councilor Ives asked what those conditions were.

Ms. Brennan said she can't answer that, commenting that Mr. Esquibel would speak to that. She said, "That certainly had a large packet, and I thought we asked you to save it, and I know it probably is on line and we can find them."

Mayor Gonzales said, "Dan, I saw you nodding your head, but I'm assuming that the conditions that related to the lot split... do we know how many conditions on the lot split related to the granting of the Special Use Permit, versus conditions that would be on the lot split that might have been imposed because of environmental issues or the Summary Judgment Committee felt like it needed."

Mr. Esquibel said, "From my recollection, the Development Plan for MorningStar was separate from the lot split for the Elks. The Elks Club had to increase their setback at the Planning Commission through a condition, thanks to Fred Herdman who caught that, so that was a condition of approval. So that condition would have to maintain its place if you were to approve the lot split today. Outside of that, the only thing that applies to the lot split and would affect the Elks Club are issues related to water, sewer, terrain management and fire protection in order to support that additional lot as a basic municipal subdivision."

Mayor Gonzales said, "I understand and respect where Mr. Herdman is coming from in terms of conditions on the lot split, and I've heard what the City Attorney has said. But it seems to me that if the Council moves forward to separate and then considers it, is there any way to identify right now that it is in the record that relates specifically to MorningStar versus what does not. I don't want us to be acting on recollection or what we think, because I think this record needs to be very clear, if the Council is going to consider a lot split that is separate and independent of the use, that assumes that there is going to be a different use from what the use was in place. I want, if the Council considers a lot split, to be able to do it independently, with conditions that aren't integrated with some type of special use permit."

Mr. Esquibel said, "One condition that was imposed was the result of the movement of that long 25 ft. from the building, along that portion of the property, the Elks Lodge building, and that was the result of moving that line. It moved it right into the middle of what would have been the fire lane and access to the receptacles that they were both going to share. So the condition was that they had to place easements and maintenance agreements, so that both entities would be able to utilize that particular drive, with regard to those relevant needs of the development for fire access and trash collections."

Mayor Gonzales said, "It could be a residence. If it reverts back and it's just all one, the only thing under the current zoning that could happen would be a residence. Would there be a requirement of that condition to address fire issues surrounding the residence?"

Mr. Esquibel said, "The fire issue was specific to the Development plan if I recall right. With regard to R-1 uses, there are quite a few non-residential uses that are established in the Code that would be allowed on the separate piece of property – schools, churches, the use that was before you and is before you now. There is quite a range of uses that are allowed in an R-1 District."

Mayor Gonzales asked, "If this passes to vote on the 3 independently, then at that point we determine what is next, whether to approve the lot split or not, and then do we want to grant the SENA appeal, or not, or uphold the Planning Commission decision and keep the special use in place. Is that correct?"

Ms. Brennan said, "Mayor, yes. The first vote is to sever the Elk's application from MorningStar. The two MorningStars will remain together."

VOTE: The motion to separate was approved on the following Roll Call Vote:

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

Against: Councilor Bushee and Councilor Maestas.

Explaining her vote: Councilor Bushee said, "Not at this time, no. I feel like there was this urgency before to remand everything to the Planning Commission, and given that there are questions and we don't have any of our minutes and information before us, I feel that this is a logical step, to actually have this lot split back at the Planning Commission afresh."

Explaining his vote: Councilor Maestas said, "Well, I came tonight prepared to vote on the appeal intact, and this motion will not do that, so I vote no."

Councilor Dominguez said, "Just so that I'm clear with regard to the lot split itself, that lot will be zoned R-1 automatically."

Mr. Esquibel said, "That is correct."

Councilor Dominguez said, "Any application that comes forward, if it's not R-1, obviously would have to apply for a rezoning."

Mr. Esquibel said, "That's correct."

Councilor Dominguez said, "And so, really, it provides it would have to go through ENN."

Mr. Esquibel said, "Yes sir."

Councilor Dominguez said, "And really whatever concerns anyone might have with regard to use and/or scale, would have to comply with what has been complied with before, and that is setback requirements, height requirements, all of those things that are part of the Code."

Mr. Esquibel said, "As a separate lot, it would have to comply with all ordinances that are in place, or adopted and in place at the time."

Councilor Dominguez said, "So again, it reverts to R-1 and that is a less dense, or it's a different use obviously than what MorningStar has applied for."

Mr. Esquibel said, "That is correct, but that perception is that it changed. R-1 has never changed. It has always remained R-1 with or without the special use permit, it is R-1."

Councilor Dominguez said, "That's why I'm saying, it's the special use permit and not the underlying zoning. Okay, with that, then I would like to make a motion."

MOTION: Councilor Dominguez moved, seconded by Councilor Trujillo, "allow the Elks to divide the property into two lots and thus move to deny the appeal in Case No. 2015-51 by the Southeast Neighborhood Association from the May 7, 2015 decision of the Planning Commission approving the application of the Elks to divide its property, not necessarily develop it, but to divide its property at 1615 Old Pecos Trail into two lots and to adopt the Planning Commission's Findings of Fact and Conclusions of Law on the matter as our own."

DISCUSSION: Councilor Bushee said, "Thanks. Again, Zack or somebody, since I have very few pages in this packet tonight, and in my memory it goes back pretty far, but there are some details. Were there any conditions that carried with the original vote from the Planning Commission on the lot split. I recall some issues around the fire lane. I recall some issues around egress and ingress. Please, enlighten us."

Mr. Shandler said, "Mr. Herdman has provided me with one copy, but I have it on a phone here."

Councilor Bushee said, "I have it on nowhere, so you've got an advantage."

Mr. Shandler said, "Maria, are you back there. Can we go to the overhead. Okay. While she puts that up there, the conditions that the Planning Commission put on talked about the construction hours for the outside improvements, no parking signs shall be *[inaudible]* on Calle Sebastian. Okay, let me try to beam in."

Councilor Bushee said, "And this is just to do with the lot split."

Mr. Shandler said, "This apparently is all the lot split there *[inaudible because Mr. Shandler was away from the microphone.]*"

Councilor Bushee said, "So still reading out loud for the record please."

Mr. Shandler said, "Sure. That the mid property line dividing the Lot B-1 and Lot B-2, shall provide a 25 foot access for emergency vehicles and for the functioning integrity of the Development Plan. I don't know Dave, if at the Plaza if there's only going to be one building, but I'll let you make that decision."

Councilor Bushee said, "It's not necessarily the case in R-1, it would just be B-1 then, correct Dan."

Mr. Esquibel said, "Depending on what the density is and what that... I think it was a 3 acre lot that they were proposing, so if you think about what 3 acres will provide, that's 1 house per acre. So the Fire Marshal typically likes to see a 20 foot access, a 25 foot access is probably a lot better."

Councilor Bushee said, "That's one lot per acre and then there are accessory buildings."

Mr. Esquibel said, "That's true. There's also a huge drainage in the front of that, that is probably going to take up a lot of space. Which also required them to move back."

Councilor Bushee said, "So would you suggest that this condition again is it... would you read the condition about the 25 feet."

Mr. Shandler said, "The new property line, dividing lots B-1 and B-2, shall provide for a 25 foot setback for existing EPLE property with the easement across Lot 2 to provide access for emergency vehicles and the functioning integrity of the Development Plan."

Councilor Bushee asked, "And this is required by the Fire Marshal and voted on by the Planning Commission. Is that correct."

Mr. Shandler said that is correct.

Mr. Shandler said, "Okay, continuing on. The owners of Lot B-1 and Lot B-2 entered into a shared parking agreement, creating access for use for both drivers. That may not be accessible if there is only one driveway and a new driveway is being formed."

Councilor Bushee said, "Again, this was specific to the lot split, and it was R-1 zoning, and that never changed. I don't see so far in any of these conditions a relegation to MorningStar, so I'm going to assume that those would be good things for any kind of lot split happening there."

Mr. Esquibel said, "Correct."

Mr. Shandler asked, "Do you want me to keep reading aloud for the record."

Councilor Bushee said yes, because it's hard for her to see.

Mr. Shandler continued, "The analysis of drainage going to to the box culvert be performed in order to evaluate the impact off site of the drainage improvements. I believe the box culverts were on the other property. Let me just read it. That's my job here, just to read it. The project building is stucco color, the light reflective, the generator noise not to exceed 50 dB at any time, the bicycle racks be distributed so that one is located at the front and one is located as shown, that the BPOE provide overflow parking to the CCF, that the project and the CCF provide for some sort of water harvesting, the exterior light fixtures, the lamp with LED bulbs, that the...."

Councilor Bushee asked, "Now are we getting into a specific project. Because it felt like the previous list had much more to do with the actual lot split, ingress, egress, fire access... I'm just asking Zack... is it now we're into CCF means MorningStar. Now we're just looking at the City Council meeting. I can't see, so is the rest of it related to the project that is under repeal."

Mr. Shandler said, "That is staff's position that there can be some settlement now. We disagree with Mr. Herdman . The project shall incorporate a right turn, deceleration land for the north driveway."

Councilor Bushee said that sounds more relative to the lot split itself.

Mr. Shandler said, "And, just for full disclosure, I'll show you the next page. And it just goes into some legal language, so I just wanted to show everyone what I didn't read into record."

FRIENDLY AMENDMENT: Councilor Bushee asked for a friendly amendment that "any condition of approval that was put on this lot split by the Planning Commission, is not necessarily the one that mentions anything relative to the MorningStar project in particular.

DISCUSSION ON THE FRIENDLY AMENDMENT: Councilor Dominguez said before he accepts it, those would be conditions that would be made anyway.

Mr. Shandler said, "Mr. Esquibel keeps telling me to tell you, subject to staff conditions, so yes."

Councilor Dominguez said, "Subject to staff conditions, that's specific language, Councilor Bushee."

Councilor Bushee said, "If you want to be specific, you can go back to, again hard to see from here, but there were several around the lots being split that had to do with shared parking, ingress and egress and the fire lane, and then light reflective stucco and noise, that's maybe relative to conditions that could be approved for development in the future in the Development Plan. I don't know, Dan, maybe you can separate them out for us and tell us."

Mr. Esquibel said, "There were a few conditions that were placed on the lot split. Because were severing part of the parking on that side of property, they had to move the parking to the southern part of the Elks Lodge in order to accommodate the size of business they had relative to the use. That was placed as a condition of approval that was adopted by the Planning Commission. We also moved the property line from, I want to say, the north end of that property out because there's a 25 foot setback requirement from the building from that property line. The balance of the conditions addressed many of the development review teams, which our Water Department our Sewer Department our Terrain Management requirement, all of those issues were placed as conditions within the Planning Commission's recommendations."

Councilor Bushee said, "And they were brought forward by staff."

Mr. Esquibel said, "They were brought forward by staff."

Councilor Bushee asked, "Can we just make a motion that says you would add, as a friendly amendment to that motion that the staff conditions approved by the Planning Commission, with regard to this lot split be accepted."

Councilor Dominguez said, "I would accept them, because staff is going to have to look at all of that anyway, ingress, egress and all the things they're talking about, staff is going to have to look at that."

Councilor Bushee said, "But we are essentially approving a lot split tonight."

Councilor Dominguez said, "I'm fine with that Councilor Bushee, I'll accept that as friendly."

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 Maestas said, "I think we've been consistently, unnecessarily confusing. But, I agree with Councilor Bushee that we.... I came here to vote on an all inclusive appeal. I think tonight's actions that are before us are going to separate that appeal. So it would be good to have context. But I do support the Elks' desire to develop that land and I want to make sure that it's.... it's a use in a proposed development, and I realize we're not taking action on that tonight, but that it is really consistent with the character of the neighborhood. It's just difficult for us, because we didn't have anything in our packets. And anytime you're asked to do something like this, I feel it's kind of on the fly. And I felt like, and I'm asking myself, is time of the essence here. Can a lot split be pursued by the Elks independent of this, instead of basically taking 1/3 of the appeal out and proposing to deny it in hopes of getting a lot split. So, I don't like the process, but I do support the Elks' desire to develop this property. I just think this process is very confusing, unnecessarily. That's all I had Mayor."

Councilor Ives said, as he understands from the meeting when we first took this up, the objection that had been raised to the lot split related to the 25 foot setback. And it had been indicated that a condition was added by the Planning Commission, *"...that the new property line dividing Lot B-1 from Lot B-2 shall provide for a 25 foot setback for the existing BPOE building, with an easement across Lot B to provide access for emergency vehicles and the functioning of the Development Plan."*

Councilor Ives said, "In considering this... so that condition clearly, in my mind, involved issues relating to MorningStar. So we're being advised that would effectively nullify that condition. So, if that condition is nullified, what do we have in front of us as to where that property line gets drawn, and presumably, the 25 foot setback that appears in the Code."

Mr. Esquibel said, "The 25 foot setback would just be a projection outward from the building façade in order to meet that setback. If the Development Plan and special use is denied, that 25 foot setback would stay in place. That condition would remain in place and we would require them to have a 25 foot setback when we filed it."

Councilor Ives said, "So that would then comply with our Code and so really, the objection as I understood it, with the approval of the lot split was that there are these multiple uses of an easement and access and again, adjustments to that causes problems with parking, etcetera, etcetera. All those would be eliminated from the consideration as part of looking at doing only the lot split, not considering the other matters that we would then take up. Is that correct."

Mr. Esquibel said, "That is correct. The lot split itself would remain intact, subject to those requirements that were imposed on it in order for it to establish it as a separate lot from the Elks Club."

Councilor Ives said, "And I suppose, just a procedural question.....does it make sense, given that, to consider the lot split last, as opposed to first in this process tonight, now that we have voted to separate them into three distinct issues."

Ms. Brennan said, "You voted to separate them into two. The MorningStar matters are still grouped, and I'm not sure I see the utility in putting it behind the MorningStar. I'm not sure I understand your...."

Councilor Ives said, "Presumably, by acting on the lot split, we effectively decide the MorningStar option, because all of that plan is predicated on the lot split."

Ms. Brennan said, "I don't believe so Councilor. I think if it's separated out, and the MorningStar development is approved, it's simply been voted on separately and the conditions would apply."

Councilor Ives said, "What I'm really saying, is if we do the lot split and eliminate that condition, then MorningStar wouldn't make any sense under the Code or any of the decisions that have been made because we're changing that predicate so significantly. And it's not a big... I'm not going to waste or spend much time on this. That just seems a more logical way to me, to go about our decision making here tonight, but, so...."

CLARIFICATION OF THE MOTION: Mayor Gonzales said the vote is on the motion to grant the lot split with the friendly amendment offered by Councilor Bushee.

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, "Because they accepted the friendly conditions, I will vote yes on this, but I have to say this has been an extraordinary process, not necessarily a good extraordinary process, but it feels fairly manipulated to me."

Explaining his vote: Councilor Dominguez said, "I will say that one of the good things about technology is you have everything from the previous meeting available at your fingertips, and I have been paying quite a bit of attention to this, since it has gone through various iterations, and so I vote yes."

Explaining his vote: Councilor Ives said, "And I apologize for the speechifying, but I will say yes, with the understanding that the objection related to this setback and that that issue specifically is going to be corrected as a part and parcel of the lot split, so that will no longer be the circumstance."

Explaining his vote: Councilor Maestas said, "Reluctantly, yes."

Explaining his vote: Mayor Gonzales said, "Yes. And I will say that from the beginning the one thing that actually, where there has been some commonality has been in a lot split by the Elks. Councilor Maestas, not to belabor the point, but I don't see us doing anything on the fly here. This has been in the process for longer than 5 months. It's been excruciating for all parties to have to go through, this long term process of trying to come to a decision. All of us have had an opportunity to study the facts, to look at the issues and to do what we're supposed to do, when we come tonight to be prepared to act on an array of decisions. So I disagree that there is anything on the fly. If anything, we have delayed this for more than 2 months, so we could assure the full Council has the opportunity to participate in this decision, which gave us all ample time to study the issue, to ask questions of staff, to be able to know whether a lot split, separate or independent of MorningStar would be allowed legally under the Code. And so I just want to be careful on how certainly the message of on the fly, not being prepared, making rasch decisions, is countered with the fact that all of us have been able to consume and digest this information. And I think it's all of our responsibility to show up prepared to act one way or another. So."

STENOGRAPHER'S NOTE: Councilor Maestas spoke after the vote was taken and prior to the introduction of the next item on the agenda and before the results of the Roll Call Vote were announced by the City Clerk. Councilor Maestas said, "I was prepared to act, because I was prepared to act on an intact appeal. And I feel badly for all the folks in that neighborhood association that have been put through this odyssey. It's unfortunate. And yes, we know that making sausage can be boring, but this is like even worse than that. And so, I'm a little embarrassed that we have to really, truly manipulate the process. I don't see the advantage of the lot split being done in this fashion. I support the Elks. I think it could have been done separately from this entire case. And I think it's incumbent on us to keep these cases intact, because all of the information we get has to be the same, it has to have context. And to pull one element out of an appeal I think it's unorthodox and I'm just concerned about the public. For me, I'm fine. I'm fine. I think both parties are going to benefit, but I'm just kind of embarrassed at what we put those residents through, and they're in my district by the way, so I apologize to all of you from SENA, I do."

Mayor Gonzales asked Yolanda Vigil, City Clerk the result of the Roll Call vote.

Ms. Vigil said the motion, as amended, was approved on the Roll Call vote.

c) **CONSIDERATION OF THE APPEALS BY SENA FROM THE MAY 7, 2015 DECISIONS OF THE COMMISSION APPROVING THE APPLICATIONS OF MVG DEVELOPMENT/MORNINGSTAR SENIOR LIVING IN COMMISSION CASES NO. 2015-15 AND NO. 2015-16 FOR, RESPECTIVELY, A SPECIAL USE PERMIT AND A DEVELOPMENT PLAN FOR CERTAIN PROPERTY AT 1615 OLD PECOS TRAIL. (Postponed at October 14, 2015 City Council Meeting)**

Mr. Shandler said, "Mr. Mayor, you now have in front of you the Appeal regarding the Special Use Permit and the Development Plan for your reconsideration."

MOTION: Councilor Maestas moved, seconded by Councilor Bushee, "to disallow the MorningStar project from proceeding and thus I move to grant the appeals by the Southeast Neighborhood Association, in Case No. 2015-51, from the May 7, 2015 decision of the Planning Commission approving the application of MVG Development/MorningStar Senior Living for a special use permit to operate a continuing care facility on a lot at 1615 Old Pecos Trail, and for development plan approval for said facility, and to direct staff to draft Findings of Fact and Conclusions of Law on the matters for the consideration of the Governing Body."

DISCUSSION: Councilor Trujillo asked, "Kelley, I guess this is one of the questions I have, are we setting ourselves up for a lawsuit. And the reason being..."

Mayor Gonzales asked, "Excuse me, once again, please if we can just allow the Council to speak."

Councilor Trujillo continued, "I'm sorry, I'm sick and tired of the City being sued, okay. Maybe you guys like it, I don't. But that is a concern that I have here. We took a vote many weeks ago, and in my opinion, it's a legal vote. Be it... the powers that be, reconsidered and reconsidered. Now I don't know what's going to happen tonight. However it goes, whoever is on the winning/losing side, they have the right to sue don't they. I'm asking. I'm no lawyer. Are we looking at a lawsuit?"

Ms. Brennan said, "Mayor, Councilors, there is the right of appeal from all of your decisions, and someone may appeal, whichever way the vote goes. I would consider the risks to be equal on both sides."

Councilor Trujillo said, "I just wanted that to be stated. Really, what I consider an embarrassment here, that we're here discussing this 4 months later. I said we took a vote. I've been on the side of votes that haven't gone my way. And Mayor, things happen. I know you wanted compromise. You asked for compromise. Did you get compromise. No. There was no compromise. I could see that there was not going to be a compromise. To me, the vote was taken. It didn't go the way that most people wanted it. And we move on. We move on to the next issue. That's the unfortunate thing. It could have been on the south side. There are all these different issues that we've had discussions on. That has been my concern was, to me that's an embarrassment that we take another vote on this 4 months later. That's all I have."

Councilor Dominguez said, "You know, I'm not going to stand in support of the motion either. And I just want to, first of all, thank all 3 parties for being open, for attempting to work in good faith and for at least having some dialogue."

Councilor Dominguez continued, "For me, it really comes down to two things. One is size and scope, which is something everyone has talked about. I believe, and I think staff has articulated very clearly that this particular application has met all the requirements that this Governing Body has imposed on them with regard to setbacks and lot coverage, and all the other things that every other applicant has to comply with. And in fact, staff has admitted that they have exceeded those requirements in some instances. And so we essentially, are treating this one special, and treating it differently than we do everyone else in the community."

Councilor Dominguez continued, "And the other thing is the scope. Well, let me just go back and talk about scope. There are lots of things in this community that I think are too big, that I don't like the color of, that have maybe too much parking. And that may even be the case with this particular application. But the fact is, we have rules and regulations in place that everyone must follow and we're basically saying, in this case, there are people who don't agree. That's okay, that's everyone's prerogative, that's everyone's right. What is concerning to me, is that it all kind of hinges on the word 'and.' I think that's why so many like to do work here in Santa Fe is because we allow them to debate and look at this thing, and in this case, the word 'and.'"

Councilor Dominguez continued, "I do not believe, as I have read the Code, and I think staff agrees, they are attorneys as well, they are professional planners, they are professional people, and I don't always agree, but in this case I do, there is no requirement that the facility has to be by sector that can't be bisected. And so I think it's unfortunate that maybe good attorneys are going to capitalize on the opportunity to debate this word 'and,' and take that to Court. Maybe. I'm not sure where MorningStar is, or what's going to happen with it. I think the primary thing for me was to make sure that the development rights or the land rights of the Elks Club were secured. And now, with that, they're going to have a whole new development plan and we'll see what comes up and whether or not the community or the neighborhood agrees with what comes next. So I won't stand in support of the motion, thank you, respectfully."

Councilor Ives said, "Between the time we first took this up back in July, and this evening, I have not seen anything, having looked back through the proceedings of that evening that changes my position on MorningStar in terms of its appropriateness in this particular location, based upon the special use permit. I still believe the requirements of the special use permit are not being met. And a number of other issues within our Code have been identified that I think we need to spend some time trying to determine whether or not compatibility is simply a matter of, if you will, screening with trees, a number of things. And I do believe that it is very important that we continue, proceed and complete, the Old Pecos Trail planning effort as was, in my estimation, promised to our community man years ago, which was never completed. So I look forward to that process, again, I'm a cosponsor, I believe on Councilor Bushee's measure to get that that done, as well as the planning along the River. I think those are important efforts within the community."

Councilor Ives continued, "And I think, again, if that is a separate lot, it allows the Elks capacity to move forward with whatever it is they are going to do. But we have heard it will remain R-1 zoning as the result of the approach we've taken tonight. And anything done on that lot, presumably will come back through the City's systems as it normally would. So that seems to me a correct result, so I do not stand in favor of allowing this particular development to proceed, so thank you."

Councilor Rivera said, "July 29, 2015, on the Agenda, there was a motion 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 modifications to the design of the proposed continuing care facility will render it more compatible with an adaptable to neighboring property, specifically with respect to adjacent residential properties, including without limitation, modification to height, massing, four setbacks, color and fenestration and the use screening to provide visual buffering. Since the parties came together, and none of this was addressed or agreed upon, why would the initial vote not supercede the motion to remand, I guess. They had a motion specifically to address certain things and none of those were agreed upon."

Ms. Brennan said, "As I recall, Councilor, most of the motions that evening failed, if I'm correct."

Councilor Rivera said, "You're probably right, but the motion to rescind was and did it not include what was on the agenda."

Mr. Brennan said she doesn't understand the question.

Councilor Rivera said, "We did a motion to reconsider, but on the agenda were specific items that needed to be looked at, and none of those items were changed."

Ms. Brennan said, "They were mutually exclusive. I think I understand. In other words they were listed on the agenda. If you voted to reconsider, and you did, and then you started reconsidering and a number of motions were made which failed, so I think that's what happened."

Councilor Rivera asked what was the final motion that was made, and Ms. Brennan said, "The motion just to reconsider."

CLARIFICATION OF THE MOTION: Mayor Gonzales said this is a vote to support the appeal of the SENA Neighborhood Association."

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

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

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

Explaining his vote: Councilor Dimas said, "I had so many calls from so many people, and so many emails to vote no, so I'm going to vote no."

Explaining his vote: Mayor Gonzales said, "So, back when we started in July, thankfully it's 7:15 p.m. and not midnight. I have never struggled so much through a decision and post-decision as I have regarding this issue. Some of the struggle came because of the fact that I want a City where seniors can thrive and be a part of any part of our community. I want a community institution like the Elks to thrive in a day where it becomes more and more challenging to keep members and to assure that you have long term fiscal health. I wanted to support the Planning Commission, our Attorney's staff and certainly their view on what was allowed, and certainly what the Council could do. And from that time, and I think, and hopefully it is a mark of growth for me and hopefully an indicator that you've got to listen to all sides again. And I think Councilor Trujillo, you're right in that there are winners and losers, but I think as Mayor, you hurt when there is that kind of conflict that exists in a community. And when words are used by members of the community and even members of the Governing Body that incite divisions, that hurts too. And I was hoping through this process of the reconsideration that we would be able to overcome it by getting both parties to sit across the table from one another to acknowledge that they are neighbors, that they certainly, long-term in the future have to be able to work together and alongside one another. And I appreciate the time the Council has given in allowing for this to be considered. I disagree this has been confusing. I think this has just been hard because we've had to reconcile our desire to have neighborhoods get along with organizations and be able to meet certain needs in our community. But I do think it's time for us to heal and the only way we're going to be able to heal, we started that process tonight when we granted the Elks their lot split so they can determine what's next for them. But I also think we need to reflect the desires of a broader community to protect corridors into our community to assure that any development that occurs within neighborhoods that there is compatibility both from a density and a use standpoint. And with all that in mind, so hopefully we can start the healing in this community and move forward, I'm going to support the motion and ask that, as a community, that the neighborhoods continue to keep the open door to the Elks to determine what would be appropriate uses now that the lot split has been created and supported and that we as a Governing Body can try and think about ways to use our own words to keep a community united not divided, and that we can work through our challenges we will have in dealing with these type of developments in an open and respectful way, so we can continue to be one community working collectively together. Thank you for being here. Yolanda you can record the vote and then we're going to move on to the next item."

14. MATTERS FROM THE CITY MANAGER

There were no matters from the City Manager.

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

IN ACCORDANCE WITH THE NEW MEXICO OPEN MEETINGS ACT §10-15-1(H)(7) AND (8) NMSA 1978, DISCUSSION REGARDING THREATENED OR PENDING LITIGATION IN WHICH THE CITY OF SANTA FE IS A PARTICIPANT, AND DISCUSSION OF THE PURCHASE, ACQUISITION OR DISPOSAL OF REAL PROPERTY OR WATER RIGHTS BY THE CITY OF SANTA FE, INCLUDING, WITHOUT LIMITATION, LEASE AGREEMENT BETWEEN THE CITY AND CENTURYLINK QC. (KELLEY BRENNAN).

MOTION: Councilor Trujillo moved, seconded by Councilor Dimas, that the Council go into Executive Session, in accordance with the Open Meetings Act §10-15-1(H)(7) and (8) NMSA 1978, as recommended by the City Attorney, for discussion regarding threatened or pending litigation in which the City of Santa Fe is a participant and discussion of the purchase, acquisition or disposal of real property or water rights by the City of Santa Fe, including, without limitation, the Lease Agreement between the City and CenturyLink QC. (Kelley Brennan and Matthew O'Reilly).

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 7:20 p.m.

MOTION TO COME OUT OF EXECUTIVE SESSION

MOTION: At 7:50 p.m., Councilor Rivera moved, seconded by Councilor Maestas, 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 Ives, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

Absent for the vote: Councilor Dominguez, Councilor Bushee and Councilor Lindell.

16. ACTION REGARDING THE LEASE AGREEMENT BETWEEN THE CITY AND CENTURYLINK QC. (KELLEY BRENNAN AND MATTHEW O'REILLY)

MOTION: Councilor Rivera moved, seconded by Councilor Dimas, to approve this Lease between the City of Santa Fe and CenturyLink QC for certain property located off Tano Road to operate a telecommunications facility and for other related purposes in accordance with the discussion held during the Executive Session.

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.

17. MATTERS FROM THE CITY CLERK

There were no matters from the City Clerk

18. COMMUNICATIONS FROM THE GOVERNING BODY

A copy of "Bills and Resolutions scheduled for introduction by members of the Governing Body," for the Council meeting of October 28, 2015, is incorporated herewith to these minutes as Exhibit "2."

Councilor Dimas

Councilor Dimas introduced an Ordinance relating to the City of Santa Fe Uniform Traffic Ordinance; creating Section 12-1-5.1 to establish a definition for "Autocycle;" amending Section 12-1-37 to include "Autocycles" in the definition of "Motorcycles;" amending Section 12-7-6 to exempt Autocycles from the helmet provisions; and creating a new Section 12-7-8.1 to establish that a Motorcycle endorsement is not required for Autocycle operations. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "3."

Councilor Maestas

Councilor Maestas introduced an Ordinance creating a new Article 18-19 SFCC 1987, to establish a Municipal Gasoline Tax pursuant to NMSA 1978§7-24A-10, to become effective ninety (90) days from approval by the voters of the City of Santa Fe at the next regular municipal election. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "4."

Councilor Bushee

Councilor Bushee said she would like to adopt the newest and greatest Plumbing Code so it will include purple pipe which is a nice way to use effluent to flush and we don't have that allowance right now.

Councilor Ives

Councilor Ives introduced the following:

1. An Ordinance amending Section 21-7.1 SFCC 1987, to clarify that nonresidential establishments shall pay a service rate and amending Exhibit B: refuse and recycling rate and fee schedule of Section 21, to increase rates by 4.9 percent for residential curbside collection and by an average of 16 percent for commercial recycling in order to purchase necessary equipment to transition the Residential Recycling Program from manual to automated collection.
2. A Resolution for action beyond prayers, a call for gun purchase reform and support for gun purchase reform from the State Legislature during the 2016 Legislative Session; and in support of Santa Fe Public Schools Resolution 2015/16-11. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "5."

Councilor Ives said he would like to join as a cosponsor on Councilor Maestas's measure.

Mayor Gonzales

Mayor Gonzales had no communications.

Councilor Dominguez

Councilor Dominguez asked Mr. Snyder to extend gratitude to the Parks staff who worked with he and Councilor Rivera with the Sidewalk Angels. He said this is an example of the community working to do work the City normally does, noting they created quite a bit of green waste during this effort.

Councilor Dominguez said Halloween is coming up and asked Mr. Snyder to ensure that the Police Department does whatever PR program it has to ensure the public is safe and that people watch out for all the little Halloween monsters and goblins.

Councilor Dominguez said he wants to cosponsor Councilor Ives' legislation on his call for Gun Purchasing Reform.

Councilor Lindell

Councilor Lindell introduced a Resolution establishing design standards for alterations and new construction at the Santa Fe Airport terminal building; and providing for Historic Preservation Division Design review in consultation with the Chair of the Historic Districts Review Board, noting Councilors Bushee is a cosponsors. A copy of the Resolution is incorporated herewith to these minutes as Exhibit " 6."

Councilor Ives said he would like to cosponsor the Resolution.

Councilor Trujillo

Councilor Trujillo said he would like to cosponsor Councilor Maestas's Ordinance.

Councilor Rivera

Councilor Rivera said he would echoed Councilor Dominguez's remarks in thanking the Parks staff and Sidewalk Angels for working together to make sure the sidewalks in District 3 are passable and safe for all in the neighborhood. He asked Mr. Snyder to extend his thanks to staff for coming out on Sunday and helping the neighbors.

END OF AFTERNOON SESSION AT APPROXIMATELY 8:00 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 8:00 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, on any item that is not before the City Council this evening.

Carolyn Sigstedt, 703 Alto Street, said, "I just want to respond to Monday's Public Works Committee and comments that were made by the Finance Director, indicating he felt there were few choices but to redirect water dollars, and to continue to do that. And we made a commitment, actually, not to do that. These difficult financial times go back to 2008. I would just ask, what have been our hiring practices all this time. You know, when we saw our revenues decrease, shouldn't our hiring practices have reflected that over all these years. I saw the budget happen this year where we raised salaries and increased positions this year. Regarding Councilor Dominguez's comment that there was no plan for the use of that water money, why isn't there a plan. Why isn't there a plan. Rather than using it for the day to day running of the City, isn't the bigger question, the long view, the long term, to say why isn't there a plan. And if there isn't a plan, isn't that absurd. Okay. Then. There is a need actually for that money in the water company. Water in the future is going to be only more expensive. We need to keep our 40 year water plan updated and cutting edge and that takes money, and big money, huge money. So I think we should consider us lucky to have this money supporting that. Then also, we have the.... let me finish because it's truly important information for you. We have the highest, well nearly the highest, water rates

in the country burdening our community. These are the facts that I got from your Water Division. Number of people behind..... wait this is important. Number of people behind on their water bills, 3745. That's 10.6%. Number of low income applicants are 1,111, that's 3.5%. And that group is much larger."

Mayor Gonzales again reminded Ms. Sigstedt she has exceeded her time.

Ms. Sigstedt said the number of accounts due to have their water turned off is another 10.6% . That means 21% of all water users are at risk of using a water resource. It's a human right. Thank you.

**VERBATIM TRANSCRIPT
OF THE REQUESTED PORTION OF PETITIONS FROM THE FLOOR, ITEM #F
CITY COUNCIL MEETING
AFTERNOON SESSION
October 28, 2015**

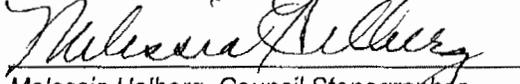
Mayor Gonzales gave each person 2 minutes to speak

STEFANIE BENINATO: I am Stefanie Beninato and I just want to point and again contrast out what happened to me and with the Elks Club and what happened at 600 Galisteo Street. I hear that Councilor Trujillo is concerned about being sued, but he wasn't concerned about being sued over 600 Galisteo. And last year *[inaudible]* it was the duty of the City Attorney did not support your point of view. The City Attorney didn't bring up the non-conforming use statute, and certainly didn't bring up the case law concerning spot zoning. And you know, again here you are trying to solve the community's problems, but really all you needed to do was actually follow the law, which is your sworn constitutional duty and that is making sure that you pursue *[inaudible]* that in making a 5,400 sq. ft. lot that is only benefitting that one family. And again, it doesn't even meet the City rezoning and the lot again clearly requires that the underlying zoning be met and that non-conforming uses cannot be continued. And again, you have *[inaudible]* that it's a historic, non-conforming use. Local law says that is exactly what a non-conforming use. So, to say because it's non-conforming you should allow it to continue, despite the non-conforming ordinance that says after a year, you lose not only the non-conforming use status, but you lose the non-conforming status for the structure as well. So again, we have a site, a 5,700 sq. ft. lot that should't have happened, but none of you are concerned about that. None of you are concerned about having yet another commercial intrusion into our residential area. None of you are concerned about the *[inaudible]*. None of you are concerned about the parking problems. So how is this open transparency equal. You know, I just don't really get that. And the fact

that I'm not a 9th generation Santa Fean shouldn't matter. What should matter is the law. Thank you."

MAYOR GONZALES: Thank you Stefanie.

I certify that this is a true and accurate transcript of the requested portion of Petitions from the Floor, Item #F, City Council Meeting, Afternoon Session, October 28, 2015.


Melissia Helberg, Council Stenographer

G. APPOINTMENTS

Audit Committee.

Mayor Gonzales submitted the following appointments which were made by Judge Ann Yalman, to the Audit Committee:

Clark de Schweinitz – Reappointment – term ending 11/2018; and
Carolyn H. Gonzales – Reappointment – term ending 11/2018.

MOTION: Councilor Lindell moved, seconded by Dimas, 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.

H. PUBLIC HEARINGS

- 1) **REQUEST FROM BLAZING WINGS, INC., FOR A TRANSFER OF OWNERSHIP OF DISPENSER LICENSE #1363 (WITH ON-PREMISE CONSUMPTION ONLY) FROM ALAMOWING SANTA FE, LLC, TO BLAZING WINGS D/B/A BUFFALO WILD WINGS, 3501 ZAFARANO DRIVE. (YOLANDA VIGIL)**

The staff report was presented by Yolanda Y. Vigil, City Clerk, from her Memorandum of October 21, 2015, which is in the Council packet, noting the business is not within 300 feet of a church or school.

The Applicant was in attendance.

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

MOTION: Councilor Bushee moved, seconded by Councilor Dimas, to approve the request from Blazing Wings, Inc., for a transfer of ownership of Dispenser License #1363 (with on-premise consumption only) from Alamowing Santa Fe, LLC, to Blazing Wings d/b/a Buffalo Wild Wings, 3501 Zafarano Drive, with all conditions of approval as recommended by staff.

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

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

Against: None.

2) CHRISTUS ST. VINCENT REGIONAL MEDICAL CENTER

- a) CONSIDERATION OF RESOLUTION NO. 2015- ____ : CASE NO. 2015-47, CHRISTUS ST. VINCENT REGIONAL MEDICAL CENTER MASTER PLAN AMENDMENT. AMENDING THE MASTER PLAN FOR A PARCEL KNOWN AS TRACT A-1, TRACT A-2, TRACT B-1, TRACT B-2-A, TRACT B-2-B, TRACT C AND TRACT D, WITHIN SECTION 36, T17N, R9E, N.M.P.M., COMPRISING AN AREA OF 47.8± ACRES, LOCATED AT THE NORTHEAST CORNER OF HOSPITAL DRIVE AND ST. MICHAEL'S DRIVE. (DANIEL ESQUIBEL)

Items 2(a), 2(b) and 2(c) were combined for purposes of presentation, public hearing and discussion, but were voted upon separately.

A Memorandum dated October 19, 2015, for the October 28, 2015 meeting, with attachments, to the Governing Body, from Dan Esquibel, Land Use Planner Senior, Current Planning Division, regarding Case #2015-47, 455 St. Michaels Drive, Christus St. Vincent Regional Medical Center, is incorporated herewith to these minutes as Exhibit "7."

A Memorandum dated October 21, 2015 for the October 28, 2015 Meeting of the Governing Body, with attachments, to Members of the Governing Body, from Zachary Shandler, Assistant City Attorney, regarding: Appeal of Bob Walsh from the September 3, 2015 Decision of the Planning Commission to approve the Christus St. Vincent Regional Medical Center's request for a Special Use Permit at 455 St. Michaels Drive, Case No. 2015-89; and Appeal of Mr. Bob Walsh from the September 3, Decision of the Planning Commission to approve the Christus St. Vincent Regional Medical Center's request for a Development Plan at 455 St. Michael's Drive, Case No, 2015-96, is incorporated herewith to these minutes as Exhibit "8."

A copy of *Appeals of Case Nos. 2015-75 and 2015-74* submitted for the record by Bob Walsh, is incorporated herewith to these minutes as Exhibit "9."

A copy of *Neighborhood Response to CSV Application, San Mateo Area Society of Homeowners*, submitted for the record by Bob Walsh, is incorporated herewith to these minutes as Exhibit "10."

A copy of *Request for an Order, Cases #2015-47, #4015-74 and #2015-75*, submitted for the record by Lawrence J. Barty, is incorporated herewith to these minutes as Exhibit "11."

A copy of *Additional Conditions of Approval, Master Plan Amendment, Case #2015-47, Christus St. Vincent Regional Medical Center*, submitted for the record by Jennifer Jenkins, is incorporated herewith to these minutes as Exhibit "12."

A copy of a slide presentation, *Christus St. Vincent Regional Medical Center Private Room Project*, entered for the record by Jennifer Jenkins, is incorporated herewith to these minutes as Exhibit "13."

Disclosure: Councilor Maestas said, "I want to state for the record, I recently purchased a parcel of land on Lupita Street in the area of the Hospital. I am not a member of the Neighborhood Association, do not know the Appellant, and I believe I can consider the matters before us tonight, fairly and impartially. As a result, I will not be recusing myself from these matters."

Mayor Gonzales said, "There are 3 items before the Council. What I would like for you to do is to give an overview to the Council on each of the items, and then I'm going to ask the Applicant to address the Council on the issue before us. Shall we stay focused on 2(a) and then address the appeals after we deal with it, or shall we do all 3 at once."

Zachary Shandler, Assistant City Attorney said, "I will explain, Mayor. There are 3 items on the Agenda and I would like yo introduce them all together at the same time. I will talk for 5 minutes on the request from Christus St. Vincent for a Master Plan Amendment, which includes variances and I will talk 5 minutes on the appeal from a citizen, Mr. Bob Walsh on the Special Use Permit and the appeal of the Development Plan."

Mr. Shandler continued, "The City Clerk's Office, for purposes of efficiency has schedule your review of the Planning Commission's positive recommendation on the Master Plan on the same date as your hearing on Mr. Walsh's appeal on the Development Plan and Special Use Permit. There is a logical connection in having a shared discussion at the same meeting, because the Master Plan and the Development Plan must remain consistent with each other. Therefore, if the Council wants to rule in favor of Mr. Walsh on a specific appeal issue, let's make sure the provisions of the Master Plan and the Development remain consistent."

Mr. Shandler continued, "Let me introduce everything this way. Imagine you are a land use consultant and Christus St. Vincent comes to you and says we have an existing campus-wide Master Plan for our property. We have \$40 million in capital and we want to build a two-story addition. The first floor will be an entrance area, maybe to the entire hospital. The second floor will be private rooms, and we want the second floor to wind up with our existing second floor so we can take patients from the surgery rooms to their private rooms. And then lastly, where shall we build this. So your first thought might be to build it to the north side of the property because it will be hidden behind the main campus building, but you quickly realize the north is bounded by a neighborhood, and maybe the neighborhood goes by the acronym SMASH. So why not build it to the south side of the property nearby the St. Michaels Drive entrance. Well there are some hurdles there as well. That area is zoned commercial district and in the South Central Highway Corridor, so therefore maximum height requirements."

Mr. Shandler continued, "So you tell the Christus St. Vincent officials you're going to need to amend your current master plan, you're going to need to submit a building development plan for the addition. And since it's a commercial district, you will need a special use permit and the height variances."

Mr. Shandler continued, "So let's say your next step is outreach and to meet with the neighbors, and let's say the neighbors tell you, the last time the Hospital was here with an expansion, they promised to make a landscape buffer between the properties and that's gone to seed. Let's say the neighbors tell you that the Hospital promised to try to redirect traffic away from the neighborhood, but it's only gotten worse. And let's say the neighbors say the current generators are too loud and they're nervous about any construction project that is going to go from 4:00 a.m. and keep the up until midnight. Wow, you might say to yourself, how will the project ever work."

Mr. Shandler continued, "Well, let's fast forward to tonight, because tonight we're going to hear from Christus about why they want this addition, why they placed it in its proposed location, the purpose of the first and second floors and why they need it due to special hospital requirements, taller floors and thus height variances. You will also hear about their plans to restore the landscape buffer, their plan to better establish the entrance to and from St. Michael's Drive, their contribution to traffic calming on Hospital Drive and planning money for traffic improvements near the hospital in front of E. J. Martinez Elementary School. You will also hear about the Planning Commission's request that the southern entrance on Hospital Drive to the hospital, the one that I've used as a cut-through for many years should be made into a one-way entrance."

Mr. Shandler continued, "You'll also hear their plan to eliminate generators and build structures around them to mitigate noise, the plan to limit construction hours and the plan to have better walking paths. Also you hear that the two items that are on the staff report that are outstanding have now been resolved and there is an agreement between the staff and the Applicant. And you will also hear from the neighbors tonight, and one person told the poignant story last time to the Planning Commission. She spoke in favor of the hospital expansion 10 years ago and she got a bouquet of flowers in the mail."

Mr. Shandler continued, "In my view, what you will hear is the neighbors don't want any more flowers. They made clear to the Planning Commission they want the *[inaudible]* completed. Now one person may want more than that, and that's Mr. Bob Walsh. It's my understanding he is an officer of

SMASH, but he filed two appeals in his individual capacity. Now I must disclose that Mr. Walsh and I play recreational soccer on Sundays, sometimes we're on the same team, sometimes we're opponents. Although I feel soccer is a beautiful game, we have to meet a lot of time and spend watching two people kick each other hard in the shins, just to try to advance the ball down the field. So, Mr. Mayor, if you feel like I've resorted to too much shin kicking, please tell me to save it for Sunday. With that said, the City Attorney's Office is asking for Mr. Walsh's two appeals to be denied. I'm *[inaudible]* from the Planning Commission extensively on these issues."

Mr. Shandler then summarized the 7 issues that were appealed, which are detailed on pages 5 through 12 of Mr. Shandler's Memorandum [Exhibit "8"].

Mr. Shandler said, "Claim 1 is that the construction of private rooms does not meet the criteria for a special use permit. Claim 1 does not fall within any of the three bases for appeal cited and should be denied.

Mr. Shandler continued, "Claim 2. The increase in noise does not meet the criteria for a special use permit. The increasing noise intensity, according to Mr. Walsh, does not meet the criteria for a Special Use Permit because it is not compatible with the residential uses to the north. Christus tonight will talk about how it has addressed the generator noise, has agreed to construction hour limitations, and at the end of the day, once the addition is done, and some rooms in the current building are conveyed from double rooms to single rooms, there will be 6 more patient beds on campus. Sure, that's 6 more families that will be visiting and that is some intensity, but it's not 40, it's not 60 more patients, just 6. The intensity on campus has been mitigated and the noise uses have been mitigated."

Mr. Shandler continued, "Issue #3, the sign variance. In reading the record, Christus and the Land Use Director are going to use the existing master plan language to determine the sign issues. So in fact, the sign issues were taken off the table before the Planning Commission could act. The Commission did not vote on the signs. So there's no way to appeal on the signs at this time."

Mr. Shandler continued, "Issue #4 of #7, the October 5 petition, this is the second appeal, this is on the Development Plan. The argument that Mr. Rasch makes is that the two-story addition is too rectangular and the stone access walls are inconsistent with the current Master Plan. I think you'll hear testimony about the design and process code and it's consistent with the existing Master Plan.

Mr. Shandler continued, "Issues 5, # 6 and #7, are all related to the height variance. We believe that any appeal about variances were due no later than 15 days after the Planning Commission adopted its findings. And anything about variances, including height variances should have been included in the first petition. If Mr. Walsh wanted to appeal the variances or the signs in September, he should have known to appeal the variance of the height at the same time. So we're going to argue that Issues #5, #6 and #7 are untimely filed.

Mr. Shandler continued, "If you do want to talk about the height, you'll hear testimony about aligning the two second floors in the health care sense and a shorter structure is not feasible to Christus. On Issues # 6 and #7 relating to the height if the neighborhood is concerned about the noise, the

[inaudible] is believed that Christus has not done enough to mitigate the impact of the project. Now I won't be surprised if that is *[inaudible]* and expect Mr. Walsh to talk about the notice issues, but under City Code it was his job to notify the parties. And the City Attorney's Office has provided a memorandum in the packet about the steps that's been taken to provide notice."

Mr. Shandler said, "And this is how I propose we go forward. I actually propose that we have Mr. Walsh talk about his issues while they're fresh, and maybe I mischaracterized them. And then we can have Christus make its presentation. It is one consolidated presentation about its Master Plan and it can rebut any allegations that they think are inaccurate. And after that, we can open it to public comment. Staff will be available to answer questions and help craft any potential motions. So with that, I would like to reserve any further argument, and cede the floor to Mr. Welch."

Public Hearing

Statement by the Appellant

Mayor Gonzales gave the Appellant, Bob Walsh, 10 minutes to make his presentation to the Council.

Bob Walsh, Appellant was sworn. Mr. Walsh presented information via power point. Please see Exhibit "9," for specifics of this presentation.

Mayor Gonzales alerted Mr. Walsh that he had 3 minutes left on the 10 minute clock, saying, "I definitely want you be able to get through all of your points if you could." Mayor Gonzales said Mr. Walsh will be able to respond after the presentation.

Mr. Walsh continued his presentation.

Mr. Walsh said, "I should mention that I have another presentation on beh alf of the Neighborhood Association regarding the Master Plan. And I have signed up to speak and I can do it at that time.

Presentation by Applicant

Mayor Gonzales gave the Applicant 10 minutes to make their presentation to the Council.

Jason Adams, Chief Operating Officer, St. Vincent's Hospital was sworn. Mr. Adams presented information via slide presentation. Please see Exhibit "10" for specifics of his presentation.

Jennifer Jenkins, Agent for Applicant, JenkinsGavin Design & Development [previously sworn], continued the slide presentation from Exhibit "10."

Mayor Pro-Tem Ives said he needs to check with the City Clerk in times of timing for all of the presenters, noting he heard a timer go off and asked the status in terms of allocating equal time.

Ms. Vigil said the Applicant has about 2 minutes left.

Ms. Jenkins said, "We are not only addressing the Master Plan Amendment, but also addressing the appeal, so we would ask for a small bit of latitude in terms of timing, but we're going to wrap it up as quickly as we can. Thank you very much."

Ms. Jenkins continued her review of Exhibit "13."

Ms. Jenkins noted Mr. Barty distributed a letter [Exhibit "11"] requesting that the satisfaction of certain conditions of approval be required prior to final inspection and the issuance of a Certificate of Occupancy for the new patient wing. Ms. Jenkins said, "We think that's such a good idea, but we actually suggested it at our July 2015 Planning Commission hearing, so we are in complete agreement with what Mr. Barty is requesting – that the satisfaction of our conditions of approval must be done prior to issuance of the Certificate of Occupancy for the new patient wing. We volunteered it at our July Planning Commission hearing, it is documented in the minutes and we are completely in favor of that. We recognize there has been a deterioration of trust between the Hospital and the neighbors, so we don't need to make this about trust anymore, but about enforcement, that the conditions are document in the Master Plan and Development Plan and in the Building Permit itself. This is easily enforcement."

Ms. Jenkins provided a copy of the additional conditions of approval [Exhibit "12"] noting this will assist when it comes time to make a motion.

Speaking to the Request

Mayor Gonzales gave each person 2 minutes to speak to the request, asking people to offer testimony that is separate from what we have heard this evening, or that might add to our consideration and the decision. He said, "If it is new information we haven't heard, I can be lenient on the time, but if it's information we've already heard and your time comes up, I will ask you to please wind down so the Council can deliberate on this and put in ample time to do so."

Kathy Armijo Etre, Vice-President of [inaudible], Christus St. Vincent was sworn. Ms. Etre said she was on the Board of Directors at the time they entered a partnership with Christus, which was done over a long, two year, due diligence process where they sought a partner who would be consistent with the [inaudible] of the Hospital and was going to allow them to build and strengthen the community hospital so we could remain a community hospital and not be in the position at some point of having to sell out to a for-profit hospital. She said they are now in the 7th year of their partnership and they will be making this \$44 million investment in the Hospital for the health and wellness of the community. This won't take money from anyone. She said the nurses are very excited about the prospect of this new room facility.

Lawrence Barty, 202 West Lupita Road, was sworn, said he lives in a property adjoining the hospital property on the north side. He said he has filed a request for an Order [Exhibit "11"]. He said there was a history between the neighborhood and the property for weeks of distress and it has gotten worse during this process. He said, "We are interested in being sure that the conditions the Planning Commission insisted on be fulfilled, because the Hospital has failed to fulfill conditions in the past, and would like the Council to protect the neighborhood by issuing such an order and I hope you can help us."

Bob Walsh, 1553 Camino Amado, President, of the local Neighborhood Association, previously sworn. He said, "The neighborhood response to the application begins at page #552 of the packet. The neighborhood's supplemental response begins on page #171 of your packet. That is page #552 and page #171, since I'm not going to be able to discuss everything. I'm to skip my presentation up to slide #9, and I'm not going to put it up. We are asking that you table this application because the Hospital has disregarded the City requirements, the staff has failed to enforce requirements [inaudible] for the City to demonstrate good faith and allow to implement a long term plan that includes our stakeholders. Regarding the requirements, the Hospital cited the Regional Master Plan and never completed the things that were required, didn't maintain landscape barrier, neither does it have the main entrance, and exceeded the sign restrictions. Regarding the sign restrictions, on page 33 of the 1984 Master Plan which provides that each sign shall not exceed 20 sq. ft. The Application on page 27 says the existing signs are approximately 80 sq. ft each. And we have a long list of conditions in the 2006 Master Plan that were not met. Those of us that have [inaudible], which is mainly the neighborhoods and not the Hospital management is that the conditions in the 2006 Master Plan were supposed to be [inaudible] by any addition to the [inaudible] and there was an indication that the surgical surgery department and we waited with bated breath for the conditions to be satisfied."

Mayor Gonzales advised Mr. Walsh has exceeded his 2 minutes. He said the Governing Body has received the Neighborhood Presentation [Exhibit "10"], so we have that for the record. He asked Mr. Walsh to wind up his presentation quickly.

Mr. Walsh said, "I summary, we ask you to table the application so that the Hospital can demonstrate good faith and strengthen the requirements, and the City can start enforcing some of those requirements, and we are asking you to strengthen the conditions which I won't go through."

Julia Catron, 205 West Lupita Road was sworn. Ms. Catron said, "I have two things to say. One is I would like to say exactly what Mr. Barty said, and two, that Mr. Shandler and Mr. Walsh will not be taking this out on the soccer field, otherwise they'll get kicked out of the league."

Former Councilor Karen Heldmeyer, 325 E., Berger, was sworn. Former Councilor Heldmeyer said, "I have worked on these issues with the Hospital before I was a Councilor, while I was a Councilor, and now after I was a Councilor. They haven't gone away. The neighborhood, which preceded the Hospital in its location has been, I think more than patient in terms of waiting for some things that they were promised, first in 1997 and then in 20016. And the answer has always been, well we'll get around to

those some day when we finish. I think it's not correct that this is the second phase. The neighborhood did say they understood it was an emergency and that the smaller things that they are asking for would be waived until the second round of construction. The second round of construction occurred, and none of those things happened. And this is this is the third round of construction, and no we're being told that they have to wait for the Certificate of Occupancy, which is going to be 4-5 years down the road."

Former Councilor Heldmeyer continued, "They want these small things, like a buffer, and a path and a gate. These are small things that can be done right now, and don't have to wait until this whole huge building has been built. There are also things, such as the noise from the generator that are not in compliance with our Code, and which the City has turned the other way and the Hospital has turned the other way. This is a large, well funded organization, and it's not like the neighborhood is saying get out or you can't build. They are saying these are very small things that make our lives more livable. And these things have been promised for almost 20 years. Why don't you come across with them now, instead of waiting."

Former Councilor Heldmeyer continued, "I'm going to bring up one procedural point, because I did go to the two Planning Commission meetings, the second one ran 5 ½ hours. It was mostly a conversation between the Chair and the Applicants, and deciding which conditions they were going to approve and which they weren't. There was no negotiation going on. The neighborhood was told that the public comment period closed with the first meeting, but if there was anything new that came up, that they could comment on it. Mr. Walsh must have stood up 20 times, I sat behind him, trying to raise issues as new points were being brought up, as these new negotiations were taking place. Some had taken place before them even and he was called on a grant total of once, right at the end of the meeting."

Former Councilor Heldmeyer continued, "It seems to me that if we're going to tell the neighborhoods to get involved, and get involved in a way that is not obstructionist, that's asking for very small things, the least we can do, is for the promise when they say if anything new comes up you can speak to it. And that wasn't the case here, and I did not think it was really covered in land use cases in Santa Fe and [inaudible] because those things really should have been discussed. And if you haven't read the blue report, that contains a lot of the things, very minor things, that the neighborhood is asking for. Thank you."

Elena Benson, 2225 Calle Alvarado, a Board member of ACSYL, said ACSYL is a neighborhood association that extends from the Hospital down to Rodeo, and from St. Francis to Old Pecos Trail and beyond. She said, "I want to state that I'm a Board member that will support the neighborhood and Bob Walsh. And a couple of points that directly address our neighborhood association is the signage, and to keep it at the current and not allow expansion. Currently, the signs can be seen from I-25 when I'm on the Railrunner coming back from Albuquerque. Not only can I see the current signage, but I can read it, so I don't think any expansion will be necessary."

Ms. Benson continued, "And also, as far as the building itself, it's the largest building in Santa Fe, and it faces our neighborhoods. And the architect designed it to fit into the railroad history of Santa Fe. This is not in the Railroad District. It's in a neighborhood district basically abutting it, and we would prefer it

to be matching to the local architecture. All of the other businesses on St. Michaels and that area have made efforts to fit in. The current design fits in, but as you can see, this is part Fred Flintstone and part high school. So we would appreciate it that the design fit into us. Thank you."

Earl Potter, 7000 Old Santa Fe Trail, Chair of SVH Support [was sworn], said SVH is a local non-profit which owns a 50% interest in the hospital, noting they are partners with Christus, and will co-fund the project that is before the Council. He said he was a land use lawyer in Santa Fe for 25 years, and frequently brought projects before this body. However, he never had the occasion to bring a project that would benefit every single person in this community, personally. He said all of us will benefit from the private rooms and the state of the art facility that will be created for us and our families for the rest of our lives. He said, "In terms of public benefit, I can't think of anything that would measure up. As the Council has heard from each Councilor and staff, there has been a very very extensive process of consultation with the neighborhood and with all of those involved, to deal with the things the hospital has done right and the things the hospital has done wrong, in its development process over the last years. What you have before you is a very comprehensive document that will ensure that all of these past issues get resolved. I urge the Council to act quickly. We need to get this project done, and every day that it waits, the benefits that we are all going to get from it will be delayed. Thank you."

Wrap-up Remarks by Applicant and Appellant

Jennifer Jenkins said, "Just a few key points I would like to touch on. One key point is the staging and the timing of the implementation of these conditions of approval, it's very important. We have a condition of approval that the landscaping and the landscaping buffer is installed this Spring at the beginning of the project. Landscaping is always at the end of the construction project because you have to protect it and it gets damaged through the processing. We are installing that landscape buffer this Spring as soon as weather permits. The other items, converting the access on Hospital Drive to entrance only, addressing the lighting, the generator enclosure. All of that is being staged at the beginning of the project. It is going to take us 18 months to construct the new patient wing to get to a Certificate of Occupancy. These conditions will be in the Building Permit, not to mention the Master Plan, Development Plan and all the other stuff, they are in the Building permit. They are inspected. They have to be there before that building can be occupied, and they are being staged at the beginning of the project, not at the end. That's a very important point. And those are the key things I wanted to touch on. And again, there are conditions that relate to that already in place. Thank you very much."

Mayor Gonzales said, "Mr. Walsh, as the appellant, we gave the Hospital a chance to offer closing points, about 2 minutes, do you, as the Appellant, not from the neighborhood side, would you like to offer anything in closing so we can conclude the Public Hearing and the Applicant testimony."

Mr. Walsh said, "I just want to say, unlike 2006, we want to say that there is nothing urgent about this project. The site studies say this is good, and I think in our documentation cited another study that says some people should have private rooms and some should not, so there's no hurry. Thank you."

The Public Hearing was closed

Councilor Bushee said given she heard the same from Ms. Jenkins as she heard from Former Councilor Heldmeyer, in terms of not finishing things from the 2006 Master Plan, she would like to know what hasn't been done.

Ms. Jenkins said to her knowledge, this has been vetted extensively and nothing has been left out. The landscaping is going to be done at the beginning at the project, so is the generator, commenting everything is being staged in accordance as the construction is ongoing, so everything is complete prior to issuance. Some of the conditions from the 2006 Master Plan were modified, based on new traffic study data and such, but everything has been brought forward and new conditions have been added.

Councilor Bushee asked about the helipad.

Ms. Jenkins said the helipad is not a subject of any of the applications they have submitted.

Councilor Bushee said she knows, but it's an ongoing issue.

Ms. Jenkins said the new patient wing, as explained by Mr. Adams, has no correlation to an increase in helicopter traffic and the new patient wing. It is not anticipated to increase at all. She said the Hospital has been in communication with the operators, in terms of ensure that the approved and proper flight paths are followed, and they have improved their dialogue and communication with the helicopter firm.

Councilor Bushee asked about ingress/egress.

Ms. Jenkins said they are contributing significant dollars to future improvements as well as making improvements to highlight St. Michaels Drive as the main entrance.

Councilor Bushee asked about the sign expansion.

Ms. Jenkins said with the new patient wing there will be some new signage to go along with that. They are removing two signs and replacing them with two signs. The signs are being done strategically to improve wayfinding.

Councilor Bushee said this is a land use case and she won't mix the issues of staffing with this issue.

Councilor Dominguez asked Mr. Shandler how we ensure a building permit until some of these things discussed have been done, such as the generator noise which should have been addressed long ago. He is trying to find a way to tie anything else that happens there to the conditions that were approved previously.

Mr. Shandler said, "I'm on the same wave length as you. In the packet there are some generic motions, but I think it sounds like, from Mr. Barty and Ms. Jenkins, they have concurrence on some language, and probably, as the other questions are going on, I would like to huddle with them and hammer out that language so it can be part of your motion."

Mr. Esquibel said, "On that note as well, once development process has taken place, after the Master Plan is filed, and we start moving forward to getting all the signatures from the development team on the Development Plan so we can file the Development Plan, the Development plan goes through the process. There is a pre-construction meeting that is held with the staff, all the inspectors in order to start addressing some of these issues that are going to come up so they can organize the inspections and organize what is coming first. And in this case, we would be able to organize what needs to be in front as part of permits and what we're going to inspect at the end. So a lot of this discussion at this point in time, typically is going to be handled at that pre-construction meeting to organize it in a way that makes sense for the contractors as well as for our staff who will do the inspections."

Councilor Dominguez said he appreciates that. He said, "I recognize and respect the fact that there is a process in place. Where I'm leaning is more of a different process, but I'm not quite sure whether that process is part of our Land Use law, or how exactly that process is governed and whether or not we can amend the process, but to make sure the process will be favorable to folks who have been expecting some things for quite some time."

Councilor Dominguez continued, "The other question I had, I wanted to say this is the format of this staff report was a little different than what I've seen before, and so I really appreciate all the tabs and tables and everything that is in here. One of the questions I did have, and I think in what you passed out Jennifer, having to do with the height, really the additional condition #2. My question is to you Dan, when I read the staff report, and if you look at page 14, there's two bullets there that are a little concerning to me. One is in quotations that, '*The 2006 Master Plan indicated a 12,000 sq. ft. addition.*' And the second bullet indicates that, '*On September 12, 2011 that the proposed medical-dental addition of 12,000 sq. ft. per floor, 3 stories,*' and those are in quotations. So there seems to be some sort of disconnect there and it's actually part of the first page in the Memo."

Councilor Dominguez continued, "Let me just cut to the question. How did it go from being 12,000 sq. ft. to 36,000 sq. ft. Because in 2006, it said one thing, it wasn't filed until 2011, and in 2011, it says something else."

Mr. Esquibel said, "Toward the end of the review, as we were preparing for the Governing Body, a lot of information came back and forth. And as I continued to research on a lot of these issues that we were struggling with, I was unable to find any application in 2006 that actually addressed more than 12,000 sq ft. I was unable to find any file between 2006 and when the application was filed in 2011, I was unable to find any other public hearings that would have addressed that. All I can say is that in 2006, everything that I have found, identified 12,000 sq. ft. However, when the Master Plan was filed in 2011, there were two floors added, each at 12,000 sq. ft. I could not find any other permits, approvals or public hearings."

Mr. Esquibel continued, "We did meet with the Applicant. The Applicant did agree that they would come back and seek a Development Plan approval before the Planning Commission, and any variances that would be needed as the result of what they did get filed. And I would turn to the Legal Department to find out exactly what they have in terms of that issue that never got vetted through any public hearing process."

Councilor Dominguez said, "So to the Applicant. Was it the intention back in 2006, to have the 36,000 sq. ft."

Ms. Jenkins said, "I was not involved in 2006, and when this issue was brought to light, we also were digging through files, and we don't have an explanation of the shift, but it was always the understanding that it was 12,000 sq. ft. per floor. And so what we have, and what we relied on, is the Master Plan that is recorded and signed by staff in 2011, that was recorded, that shows 12,000 sq. ft. per floor. And so we've all kind of been digging through records and archives to try to explain it. And the one thing I can tell you, is that we're not asking to modify that. We're asking to carry that forward right now into the Master Plan Amendment. We're not asking for any modifications in that regard. But one thing that is important to keep in mind is, the updated traffic study we did for the new patient wing, did include a potential 36,000 sq. ft. addition to the Medical-Dental building. So all the traffic analysis is referenced at that level, and John Romero's Traffic Memo references if there's a future addition. So we did address it."

Councilor Dominguez said, "So two things. One for you Jennifer, number two is your attempt to kind of address that. Correct."

Ms. Jenkins said, "Yes. We met with staff and we worked that out to try to address the discrepancy."

Councilor Dominguez said, "So I will say to management then, that I'm a little concerned about what's gone on. It doesn't seem like it's fair to absolutely the neighborhood. It's not something that's fair to the Applicant even. And it's not fair to the Governing Body to see this missing information, or whatever it is that happened, it happened. And so I guess the message is to management, to do the best we can to make sure we don't have these sorts of situations again. We expect for the City to do it's due diligence, to do things properly, and I certainly can't explain what happened, but nonetheless it happened, and we need to do better. Thank you Mayor."

Councilor Lindell said, "Some of that issue is discussed on page 763 of the packet, for anyone that wants to check on it. First I would like to say, I would very much like to thank the Planning Commission and staff. At over 800 pages, this is a very complete packet. I think if you look at page 27 and page 793, these charts give such an amazing picture of the entire project. I don't know if you did them Dan, but I know they were an astounding amount of work, and putting together an amazing picture of this entire project. I wish I had studied these sooner, rather than later."

Councilor Lindell said, "Just a couple of things I want to mention. Almost everything I wanted to talk about has already been discussed. We know there has been some concern about conditions being completed. And from what I can tell, we've talked about it numerous times tonight, from the 1985 Plan,

from the 2006, we're looking for a barrier fence. A lot of it has to do with the landscape barrier which, unfortunately, I believe was installed and never maintained. Is that true Ms. Jenkins."

Ms. Jenkins indicated it was.

Councilor Lindell said, "Okay. And I'm sure we're going to do better, and also generator noise. As far as the signage is concerned, I sometimes find the signage on site at this point a bit confusing. So when you talk about the signage being clarified, I know it doesn't necessarily mean bigger signs, it just means clarification. And I know that's very important to the hospital. So most of the things I wanted to talk about have been mentioned. These charts in this are just really terrific. They give all the proposed conditions of the approval of the Planning Commission, all 36 of them. It also talks very clearly about conditions, development conditions of approval and the existing Master Plan conditions that have been completed and those that have not been completed. This document pretty much tells the story."

Councilor Lindell continued, "I also am very thankful to the Hospital and to the Foundation folks. To have raised over \$40 million is an astounding feat, and it's just such a very very very indescribably nice thing to do for this community. I am personally very very grateful to the Hospital. Without the hospital, I wouldn't have the opportunity to be here. I know that projects like this are long, can be an annoyance, but the end product is worth it. So thank you to everyone that's worked on this, and I really look forward to what I think you said was about 18 months to complete this project. Thank you very much."

Councilor Rivera said he would like to thank the Hospital, staff and everybody who worked on this project and raised the money for it. He said, "In my job at the College I was recently reading a Canadian Medical Association Journal talking about single bedrooms and improved patient outcomes, patient safety as well as employee safety and then some operational efficiencies as well. I commend you for taking that step and for doing something that I think will really improve outcomes for our patients."

Councilor Rivera continued, "I did have one quick question about the diesel generators. Is this new expansion going to mean an increase in generators, or will it be the same."

Ms. Jenkins said there is no need for an increase in generators. The generator of concern is for the Hospital's campus light IT system, so it isn't being enlarged or increased in any way.

Councilor Rivera asked the location of the generator.

Ms. Jenkins said this generator is on the east side of the campus, the El Norte Building. And there is a centralized generator for hospital systems, and the new patient wing will be tied into the existing, centralized generator.

Councilor Rivera asked if the hospital has looked at different kinds of generators that may be quieter, natural gas.

Ms. Jenkins said, "Yes. The Hospital looked at a million different options with respect to abandoning that generator and tying into the central generator, enlarging the central generator, just everything. And really what came about with respect to the best solution, and frankly the fastest thing to implement, is to enclose the existing generator."

Councilor Rivera said you talked about the current traffic flow off Hospital Drive, and making those entrances only.

Ms. Jenkins said, "The first entrance, when you turn from St. Michaels onto Hospital Drive, the very first entrance you come to if you're heading to the Emergency Room, that is being converted to entrance only. There are a couple more driveways as you continue north on Hospital Drive that will remain full access that are going to Physician's Plaza, the Medical-Dental Building which is a different type of use. The goal is to have the Hospital Drive traffic limited to the Emergency Room and all others coming in will use St. Michael's Drive." She commented the changes will do wonders for the confusion that currently exists.

Councilor Maestas asked, regarding the height restriction, what controls. He said it seems the variance from the 1985 doesn't apply, C-1 doesn't apply, the Highway Corridor District Standards don't apply. He said he understands to meet the floors, and asked about rooflines and matching the existing development.

Ms. Jenkins said, "For the return air flow systems and the mechanical requirements for hospital facilities, it's 14 feet floor to floor, and that is what the existing hospital is built at and we're trying to match up the second floor patient rooms. We have the same structural requirements of the 14 feet floor to floor. And with respect to the Code that governs height, height is to some degree governed by the 1985 Master Plan. There were certain areas or zones that were established that govern height. We also had the C-1 Zoning and we have the Highway Corridor. It has been staffs' interpretation, because the 1985 Master Plan pre-dated the implementation and adoption of the Highway Corridor, the portion of the new wing that exists in area 1 which allows for greater heights, no variance is needed for that portion of the wing. One of the Master Plan amendments is expanding area one to incorporate the wing so we stay consistent with the intent of the Master Plan. It's about 1/3 of the wing that was outside of that, and we needed variances for C-1 and the Highway Corridor."

Councilor Maestas complimented the placement of the wing, commenting it is very compact, on the downhill side which is nice, and it's contiguous. He said they didn't have not many options, but thinks you picked the right location. He echos what other Councilors have said, that we definitely need to do a better job of following up on these conditions. He said the team did a fantastic job in compromising and addressing the primary neighborhood concerns – traffic, noise. He commended everyone for their efforts in raising the some \$40 million for this addition. He said, "We all know that Christus St. Vincent services the entire region and this will help the entire City, so thank you."

Councilor Ives said one of the items of concern to him in the materials, was that these issues that had been raised over time, and the failure to meet various requirements that had been promised in prior planning efforts seems to have fallen to some degree on deaf ears at the City. He realizes we are

complaint driven in how these things are handled, but he is sorry to see there are a number of instances when the neighborhood presented information that complaints had been made on several occasions to the City in regard to those failures without affirmative action being taken by the City. He said this is unfortunate, because it allowed circumstances and feelings to build up that were not conducive to trying to work together into the future between the neighborhood and the hospital. He is hoping we can promise as a City to be more responsive to issues raised here, especially as we move into a very large construction project which always has complications and issues to arise during the process. This is telling the neighborhood hopefully your City will try and do better as these issues are identified to us.

Councilor Ives continued, saying he hopes there will be an opportunity for continued dialogue between the Hospital and the neighborhood. He asked how long is the construction planned for.

Ms. Jenkins said the new patient wing will take about 18 months to construct. She said one of the conditions of approval by the Planning Commission is that they are going back to the Planning Commission in one year to report on the status of the implementation of the conditions of approval. She said, secondly, they have established better communication guidelines between the Hospital and the neighborhood and to meet on a more regular basis, especially during construction. She said they want to mitigate problems and make sure those lines of communications are open.

Councilor Ives said it would be extremely disappointing if that report doesn't cover the times when the Hospital and community have met to talk about these issues.

Councilor Ives said the conditions of approval call for construction hours of 7:00 a.m. to 7:00 p.m., Monday through Friday and 8:00 a.m. to 5:00 p.m. on Saturday and no construction on Sunday. He appreciates the latter. He said the neighborhood had asked about 8:00 a.m. to 5:00 p.m. Monday through Friday. He asked if there is flexibility in the construction hours or what type of noise-generating activities could be engaged in during those hours.

Ms. Jenkins said they spent a lot of time examining this issue. She said the current City Code provides that permissible construction hours at 7:00 a.m. to 9:00 p.m., 7 days a week. She said they are working closely with their general contractor, and they examined the potential impact of reduced construction hours. She said reducing to Monday-Friday, 8:00 a.m. to 5:00 p.m., has a \$1 million impact to the project, and could prolong it an additional 6-8 months. She said, from a fiscal responsibility standpoint, it's a really tough sell. She said certain things happen early in the morning when people are just getting to the site, and you're allowed to make only a certain amount of noise which really is construction activity, so it isn't specific. She said the faster they build the project, the faster it's done. They felt what was agreed to at the Planning Commission was appropriate and as far as they could go.

Councilor Ives said on page 8 of the Neighborhood's submission [Exhibit "10"], there was a reference to, "*Prohibit construction activities in overlay zones 50 feet from residential properties, except regarding the fence and the landscaped buffer.*"

Ms. Jenkins said she doesn't think there is any activity happening within 50 feet of the residential property. She said, "We're hundreds and hundreds of feet away."

Councilor Ives said he lives in Sol y Lomas and frequently hears the helicopters coming and going, and that is a huge generator of noise, but he doesn't know what can be done about that. He asked if we police the designated flight routes in any way, commenting there were many instances years ago where there were flights not following the proper routes.

Mr. Esquibel said, "I did take a look at all of those issues, being a pilot myself. So I contacted the flight service and talked to the FAA personally. And what I found was that the FAA has one area where they have noise corridors and areas where helicopters go through and that is in California. And they were not very eager to place any more of those anywhere else in the United States. So, unfortunately, the FAA governs all of the flight paths associated with the helicopter. What I did suggest to the neighborhood, was that a better relationship develop between the neighborhood and Hospital, so when the Hospital renegotiates for that particular need, that the hospitals themselves can advocate for better flight paths around the neighborhood with the organization with which they are contracting. In terms of what regulatory means we have, we have none."

Councilor Ives asked someone from the Hospital if those flight paths are designated in your contractual agreements, commenting he had understood those were in place.

Jason Adams, St. Vincent Hospital, said, "I am unaware of the specificity of the actual flight path of the helicopter, but there are agreed upon common approaches and common departures. And when the neighborhood brought it to our attention again, as we went through the course of meetings that helicopters were flying over their homes, we did reach out to each of the individual helicopter services that bring patients to us, and asked them to reinforce with their pilots to observe the agreed upon approaches. That being said, it will never be 100% of the time, because the weather conditions will dictate the safest approach for the flight crew and the patients coming in and out of the hospital. So there will be periodic interruptions based on weather conditions, but they have all agreed to reinforce that, and to my knowledge, it has gotten better. I will defer to the neighborhood to opine on that."

Councilor Ives said it's a general plea, just in connection with noise issues, because that is a fairly intense noise when it's happening. He said, "If there are means by which the Hospital in connection with its agreements with the various helicopter services can strengthen those pathways to the greatest extent possible, understanding weather conditions will always dictate from a safety perspective..."

Mr. Adams said he is happy to address that with the helicopter companies as they continue their conversations forum. He said, "I do want to reinforce, let's not forget why the helicopters are there. It's to save lives and provide the most expedient care for patients in emergent needs, and that will always take a priority."

Chair Ives said, "Understood, and I certainly have no dispute with that, although I imagine there are many different types of helicopters providing these types of services, some of which have very different noise characteristics. Those are ways clearly the Hospital can send a message to the neighborhood that their concerns are significant to the hospital which seems to be a lot of what we're discussing and a lot of

what was contained in the material. So really looking for a way to be more sensitive to other people's issues and try and address them within the bounds of reason and practicality. I have no further questions. Thank you Mayor."

Councilor Trujillo said, "I too, thank Christus for making this investment in this community. We are a major player in this community with the Hospital and I want to thank you. I think we all have issues with promises broken, so we can take care of that and get people what they were promised for the past 20 years. Councilor Ives, I've had the same issue with the helicopters. Helicopters fly over my house in Bellamah. I hear them all the time. And the way I think about it, whoever is up there in that helicopter has to get to the hospital for a reason. They're not transporting somebody on a joyride, so that's the way I see it. I get complaints too about the Fire Department making noise in the summertime, the Police Department when they turn on their sirens. It's going to happen, and it's unfortunate some people feel that way. I could see if there was structural damage to a house if the helicopter is flying right over it, then of course, I believe you would have a case. In my opinion, they're trying to get a person to the hospital to save their life and to me that trumps any noise issue any time. So I just wanted to make those comments, and I thank you guys."

Mayor Gonzales asked Mr. Shandler if he needs a couple of minutes to finish working out what you had started working out with the applicant.

Mr. Shandler said, "I want to finish by ten, but I want two minutes of your time to get the two people together, and if I could have a 120 second break, that would be great.

There was a very short break at this time

Mayor Gonzales said, "We're back in session. Zack are we onto the issue of Item H(a). Correct. This request to amend the Master Plan Parcel. Correct."

Mr. Shandler said, "Yes. I think Councilor Rivera was starting to make a motion, but if he does go forward, we it would read something like, *'I move that we adopt the Planning Commission's recommendation of approval of the Master Plan, with all conditions, and adopt the Planning Commission's Findings of Fact and Conclusions of Law as our own, and the Certificate of Occupancy for the new patient wing will not be issued until the conditions of the Development Plan are fulfilled, and the adoption of Applicant's Exhibit 1 labeled, Additional Conditions of approval.'*

Mayor Gonzales asked Councilor Rivera if this is his motion.

Councilor Rivera said, "That's exactly what I was going to say. I don't know if this is in your language, but I would also like to include at the very least, the Hospital take care of the barrier fence, the landscape barrier and the generator noise sooner, rather than later, once construction starts, that that happen at the front end of construction."

MOTION: Councilor Rivera moved, seconded by Councilor Bushee, to adopt the Planning Commission's recommendation of approval of the Master Plan, with all conditions, and adopt the Planning Commission's Findings of Fact and Conclusions of Law as our own, and the Certificate of Occupancy for the new patient wing will not be issued until the conditions of the Development Plan are fulfilled, and the adoption of Applicant's Exhibit 1 labeled, Additional Conditions of approval, and at the very least, the Hospital take care of the barrier fence, the landscape barrier and the generator noise sooner, rather than later, once construction starts, and that happen at the front end of construction.

CLARIFICATION OF THE MOTION: Mayor Gonzales said, "For the record we're going to add to the proposed language in the motion the language Zachary Shandler has brought forward and you want to add additionally what." Councilor Rivera said, "That the hospital take care of the barrier fence, the landscape barrier and the generator noise as soon as possible once construction begins."

DISCUSSION: Councilor Dominguez said, "Just on that point, Councilor Rivera, and maybe for the Applicant and Zack, is there a way for us to make sure that maybe that gets done before Building Permits are even given."

Mr. Shandler said, "The language is now to the satisfaction of the Applicant, so your proposed language might be problematic at this late hour."

Councilor Dominguez said, "You probably need a Building Permit to get that stuff done, but how do we make sure that... I appreciate getting it done as soon as possible, maybe it's separating Building Permits."

Ms. Jenkins said, "So we already have agreed to the condition of approval that the landscape buffer is going to be installed this Spring, that's a weather dependent thing, so we don't want to do it too soon, because then stuff dies. So the landscaping and irrigation work is going to be done this spring. We already have in the staging, the initial... this is a significant project that is going to be staged over an 18 month period. The initial stage, and I'm looking at my team to make sure I'm using good language.... yes, we have a condition that already addresses the landscaping. So I think.... I don't know if we need to augment that, so maybe we focus on the mitigation of generator noise and that would be done in the initial stage construction. On the proposed Master Plan, it's Condition #8, which addresses the landscaping improvements, so I think that's addressed, and maybe we don't need to reiterate that at this point. And maybe focus on the generator noise and that the initial stage of construction that an enclosure for the generator will be constructed."

Councilor Dominguez said, "I don't want to make it too complicated, but I think the message is very clear that it needs to get done."

Mayor Gonzales said, "I don't think we need to restate the motion. I think it is already clear."

Ms. Brennan said, "I would just ask that the Applicant state for the record that they accept the conditions."

Mayor Gonzales asked, "Do you accept the conditions as proposed by Councilor Rivera?"

Ms. Jenkins said, "Yes, we accept the conditions as proposed."

Mayor Gonzales said prior to roll call, and comments by the Council, he would like to say thank you to all the parties involved: "The neighborhood who certainly has endured many years of trying to establish a trustworthy partnership with the Hospital, to the Hospital who has responded it seems appropriately in making sure and recognizing and acknowledging that things haven't necessarily have been done in accordance with representations made in the past, but the commitment to do so going forward. Also to the Foundation for raising the necessary monies to move to private beds."

Mayor Gonzales continued, "Two quick points. Our community has been calling for increasing quality of care. Christus St. Vincent is responding with a \$40 million investment to create single room beds. Early in the year, my daughter was in the hospital for two weeks in Albuquerque, and I've got to say, from a quality of care standpoint, there's nothing like a parent being able to be with their child in a private room as they recover. So I think this going to be a huge benefit for the families of Santa Fe and Northern New Mexico. I also want to acknowledge the staff. I know that there were some discrepancies in terms of what was approved and what was stated, and for the record, state that the staff is the one, through their diligence, to find those discrepancies, kept the parties together talking, and I think this is a great example of what we can do when we come together as a community to try and address some of these issues. Thank you to all parties involved."

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.

- b) **CASE NO. 2015-89. APPEAL BY BOB WALSH FROM THE SEPTEMBER 3, 2015 DECISION OF THE PLANNING COMMISSION TO APPROVE THE CHRISTUS ST. VINCENT REGIONAL MEDICAL CENTER'S REQUEST FOR A SPECIAL USE PERMIT AT 455 ST. MICHAEL'S DRIVE. (ZACHARY SHANDLER)**

Mr. Shandler said, "The City Attorney's Office is asking for dismissal of the appeal."

MOTION: Councilor Rivera moved, seconded by Councilor Trujillo, to dismiss the appeal of Case No. 2015-89.

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: Mayor Gonzales said, "Before I cast my vote, I do want to say thank you to all the Christus St. Vincent employees who are here tonight, for the care that you provide our community on a continuous basis. It is acknowledged tonight. Certainly we don't get to thank you very often, but we do appreciate it. And I vote yes for the motion.

- c) **CASE NO. 2015-96. APPEAL BY BOB WALSH FROM THE SEPTEMBER 3, 2015 DECISION OF THE PLANNING COMMISSION TO APPROVE THE CHRISTUS ST. VINCENT REGIONAL MEDICAL CENTER'S REQUEST FOR A DEVELOPMENT PLAN AT 455 ST. MICHAEL'S DRIVE. (ZACHARY SHANDLER)**

MOTION: Councilor Rivera moved, seconded by Councilor Trujillo, to dismiss the appeal of Case No. 2015-96.

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

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

Against: None.

- 3) **CASE NO. 2015-87. APPEAL BY BRAD PERKINS FROM AUGUST 25, 2015 DECISION OF THE HISTORIC DISTRICT REVIEW BOARD REGARDING GRANTING THE APPLICATION FROM COURTENAY MATHEY FOR CONSTRUCTION WORK AT 2 CAMINO PEQUENO LOCATED IN THE DOWNTOWN AND EASTSIDE HISTORIC DISTRICT. (THERESA GHEEN)**

This item is postponed to the next meeting of the City Council on November , 2015.

I. ADJOURN

The was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 10:10 p.m.

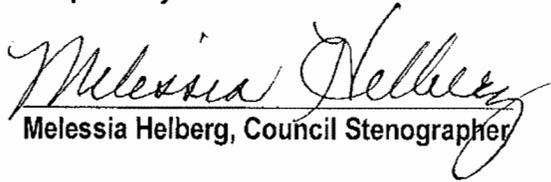
Approved by:

Mayor Javier M. Gonzales

ATTESTED TO:

Yolanda Y. Vigil, City Clerk

Respectfully submitted:


Melessia Helberg, Council Stenographer

CITY COUNCIL MEETING
EXECUTIVE SESSION
October 28, 2015

The Governing Body of the City of Santa Fe met in an executive session duly called on October 28, 2015 beginning at 7:25 p.m.

The following was discussed:

In Accordance with the New Mexico Open Meetings Act §§10-15-1(H)(7) and (8) NMSA 1978, Discussion Regarding Threatened or Pending Litigation in Which the City of Santa Fe is a Participant; and Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights by the City of Santa Fe, Including, Without Limitation, Lease Agreement Between the City and CenturyLink QC.

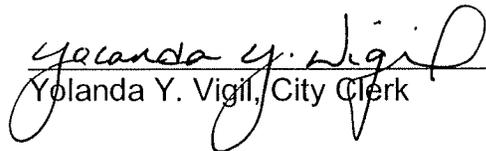
PRESENT

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
Matthew O'Reilly, Asset Development Director

There being no further business to discuss, the executive session adjourned at 7:44 p.m.


Yolanda Y. Vigil, City Clerk