

SUMMARY INDEX
 SANTA FE CITY COUNCIL MEETING
 Wednesday, February 10, 2016

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
<u>AFTERNOON SESSION</u>		
CALL TO ORDER AND ROLL CALL	Quorum	1
APPROVAL OF AGENDA	Approved	2
APPROVAL OF CONSENT CALENDAR	Approved [amended]	2
CONSENT CALENDAR LISTING		2-4
APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – JANUARY 27, 2016	Approved	4
<u>PRESENTATIONS</u>		
INTRODUCTION OF JENNIFER PADGETT – DISTRICT ATTORNEY, FIRST JUDICIAL DISTRICT		5
UPDATE ON 2016 NEW MEXICO STATE LEGISLATIVE SESSION		5-7
<u>CONSENT CALENDAR DISCUSSION</u>		
CONSIDERATION OF RESOLUTION NO. 2016-14. A RESOLUTION DIRECTING STAFF TO DESIGN, DEVELOP AND IMPLEMENT A PILOT TEEN RESOURCE CENTER THAT WOULD BENEFIT THE YOUTH OF SANTA FE	Approved	7-

END OF CONSENT CALENDAR DISCUSSION		

PURSUANT TO RESOLUTION NO. 2015-89 – ANALYSIS OF THE CURRENT LAND DEVELOPMENT CODE AS IT RELATES TO SHORT TERM RENTALS AND RECOMMEND AMENDMENTS TO THE CURRENT SHORT TERM RENTAL ORDINANCE	No action – direction to staff	8-17

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
CONSIDERATION OF RESOLUTION 2016-15. A RESOLUTION OPPOSING PROPOSED LEGISLATION, SENATE BILL 226 – PROVIDING THAT ALL RECEIPTS FROM THE SALE OF FINE ART ARE TO BE REPORTED FROM THE PLACE WHERE THE ART IS SOLD; DISTRIBUTION REVENUE ATTRIBUTABLE TO THE SALE OF FINE ART TO THE CULTURAL AFFAIRS DEPARTMENT FOR THREE YEARS	Approved	17-18
FINDINGS OF FACT & CONCLUSIONS OF LAW	Postponed to 03/09/16 [amended]	18-24
CONSIDERATION OF RESOLUTION 2016-16. A RESOLUTION PROVIDING GUIDANCE ON THE STRUCTURE OF THE BUDGET OF THE CITY OF SANTA FE AND CERTAIN REPORTING REQUIREMENTS	Approved	24-27
MATTERS FROM THE CITY MANAGER	Information/discussion	27-29
<u>MATTERS FROM THE CITY ATTORNEY</u>		
EXECUTIVE SESSION	Approved	29
MOTION TO COME OUT OF EXECUTIVE SESSION	Approved	30
REQUEST FOR APPROVAL OF THE PROPOSED BUCKMAN DIRECT DIVERSION BOARD CONTINGENCY FUND POLICY	Approved	30
MATTERS FROM THE CITY CLERK	Information/discussion	31
<u>EVENING SESSION</u>		
CALL TO ORDER AND ROLL CALL	Quorum	32
PETITIONS FROM THE FLOOR		32-33
APPOINTMENTS	None	34

ITEM

ACTION

PAGE

PUBLIC HEARINGS

REQUEST FROM GOLER FINE IMPORTED SHOES FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/ CONSUMPTION OF CHAMPAGNE AT GOLER FINE IMPORTED SHOES, 125 EAST PALACE AVENUE. THIS LOCATION IS WITHIN 300 FEET OF THE CATHEDRAL BASILICA OF ST. FRANCIS OF ASSISI, 131 CATHEDRAL PLACE. THE REQUEST IS FOR THE PRESENTATION OF THE DONALD J. PLINER COMPANY SPRING 2016 SHOE COLLECTION TO BE HELD ON MARCH 19, 2016, FROM 10:00 A.M. TO 6:00 P.M.

Approved

34

CONSIDERATION OF BILL NO. 2016-1: ADOPTION OF ORDINANCE NO. 2016-6. AN ORDINANCE AMENDING SECTION 24-2.6 SFCC 1987, TO EXTEND THE TRUCK AND OTHER LARGE VEHICLES TRAFFIC RESTRICTION ON JAGUAR ROAD FROM NM 599 (VETERANS MEMORIAL HIGHWAY) TO CERRILLOS ROAD

Approved

35-36

CONSIDERATION OF BILL NO. 2016-3: ADOPTION OF ORDINANCE NO. 2016-7. AN ORDINANCE AMENDING SECTION 1-7.7 SFCC 1987, TO PROHIBIT AN ELECTED OFFICIAL FROM ACCEPTING EMPLOYMENT WITH THE CITY OF SANTA FE WITHIN ONE (1) YEAR OF LEAVING OFFICE

Approved

36

CONSIDERATION OF BILL NO. 2016-5: ADOPTION OF ORDINANCE NO. 2016-8. AN ORDINANCE AMENDING SUBSECTION 7-1.1 SFCC 1987, TO ADOPT THE 2012 UNIFORM SWIMMING POOL, SPA AND HOT TUB CODE, THE 2012 UNIFORM MECHANICAL CODE, AND THE 2012 UNIFORM SOLAR CODE; AMENDING SUBSECTION 7-1.1 SFCC 1987, TO ADOPT THE 2012 UNIFORM PLUMBING CODE, AS AMENDED BY THE STATE OF NEW MEXICO AND THE CITY OF SANTA FE

Approved

36

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
CONSIDERATION OF BILL NO. 2016-4: ADOPTION OF ORDINANCE NO. 2016-9). AN ORDINANCE INCLUDING A DEFINITION FOR ALTERNATE MEANS OF COMPLIANCE, AND AMENDING THE DEFINITION OF EXTREME HARDSHIP; AMENDING THE REQUIREMENTS FOR SANTA FE HOMES PROGRAM RENTAL UNITS; AMENDING THE PROCESS BY WHICH A DEVELOPER OF RENTAL HOUSING IS ALLOWED TO PAY A FEE-IN-LIEU INSTEAD OF SEEKING AN ALTERNATE MEANS OF COMPLIANCE WITH THE REQUIREMENTS OF THE SANTA FE HOMES PROGRAM; AND ESTABLISHING AN EFFECTIVE DATE FOR THE AMENDMENTS	Approved	37-46
CONSIDERATION OF BILL NO. 2016-6: ADOPTION OF ORDINANCE NO. 2016-10. AN ORDINANCE ESTABLISHING REQUIREMENTS FOR BICYCLE PARKING FOR NEW DEVELOPMENTS, OR THOSE INCREASING IN INTENSITY BY 25 PERCENT OR MORE	Approved	46-47
COMMUNICATIONS FROM THE GOVERNING BODY	Information/discussion	47-48
ADJOURN		48

**MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
February 10, 2016**

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, February 10, 2016, 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 Bill Dimas
Councilor Carmichael A. Dominguez
Councilor Signe I. Lindell
Councilor Joseph M. Maestas
Councilor Christopher M. Rivera
Councilor Ronald S. Trujillo

Members Excused

Councilor Peter N. Ives, Mayor Pro-Tem
Councilor Patti J. Bushee

Others Attending

Brian K. Snyder, City Manager
Kelley Brennan, City Attorney
Melissa Byers, Assistant City Clerk
Melessia Helberg, Council Stenographer

6. APPROVAL OF AGENDA

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

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

7. APPROVAL OF CONSENT CALENDAR

MOTION: Councilor Dominguez moved, seconded by Councilor Trujillo, 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 Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

10. CONSENT CALENDAR

- a) REQUEST FOR APPROVAL OF AGREEMENT BETWEEN OWNER AND CONTRACTOR – MARY ESTHER GONZALES SENIOR CENTER WAREHOUSE AND COMPUTER LAB ADDITION; CES/FACILITYBUILD, INC. (LeANN VALDEZ)
- b) REQUEST FOR APPROVAL OF AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT – ANNUAL TECHNICAL SOFTWARE SUPPORT, HOSTING FEES FOR WEBSITE PORTAL, FIXED ROUTE AND PARATRANSIT LICENSES AND WIRELESS SERVICE FOR FY 2015/16; ROUTEMATCH SOFTWARE, INC. (JON BULTHUIS)
- c) REQUEST FOR APPROVAL OF A BUDGET ADJUSTMENT IN THE AMOUNT OF \$203,915 FY 2015/16 IN THE WILDLIFE DIVISION TO ACCEPT REIMBURSEMENTS RECEIVED BY STATE OF NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES (EMNR) FOR WILDLAND FIRES. (GREG GALLEGOS)

- d) EAST ALAMEDA PEDESTRIAN IMPROVEMENTS PROJECT, FROM EL ALAMO TO PATRICK SMITH PARK DRIVEWAY. (JAMES MARTINEZ)
- (1) REQUEST FOR APPROVAL OF BID NO. 16/15/B AND CONSTRUCTION AGREEMENT – EAST ALAMEDA PEDESTRIAN IMPROVEMENTS WITH THE BASE BID AND ADDITIVE ALTERNATIVE IN THE AMOUNT OF \$316,822.89; GM EMULSION, LLC.
 - (2) REQUEST FOR APPROVAL OF AMENDMENT NO. 4 TO PROFESSIONAL SERVICES AGREEMENT – CONSTRUCTION ENGINEERING AND MANAGEMENT SERVICES FOR EAST ALAMEDA PEDESTRIAN IMPROVEMENTS PROJECT IN THE AMOUNT OF \$31,144.02; SANTA FE ENGINEERING CONSULTANTS, LLC.
 - (3) REQUEST FOR APPROVAL TO UTILIZE CITY OF SANTA FE TEMPORARY STAFF EMPLOYEES FOR PROJECT MANAGEMENT AND INSPECTION AS REQUIRED PER NEW MEXICO DEPARTMENT OF TRANSPORTATION REQUIREMENTS.
 - (4) REQUEST FOR APPROVAL OF BUDGET ADJUSTMENT IN THE AMOUNT OF \$15,840.
- e) REQUEST FOR APPROVAL OF GRANT AWARD AND SERVICES AGREEMENT – YOUTH CONSERVATION CORPS PROJECT FOR WILDLAND URBAN INTERFACE; STATE OF NEW MEXICO, YOUTH CONSERVATION CORPS COMMISSION. (PORFIRIO CHAVARRIA)
- (1) REQUEST FOR APPROVAL OF BUDGET ADJUSTMENT IN THE AMOUNT OF \$103,608.88
- f) REQUEST FOR APPROVAL OF BUDGET ADJUSTMENT FOR FY 2015/16 BUDGET FOR AN INCREASE TO THE CONVENTION CENTER DEBT SERVICES FUND 5102 AND DECREASE FOR THE PARKING DEBT SERVICE FUND 5153. (HELENE HAUSMAN)
- g) CONSIDERATION OF RESOLUTION NO. 2016-13 (MAYOR GONZALES, COUNCILOR IVES, COUNCILOR MAESTAS AND COUNCILOR TRUJILLO). A RESOLUTION DIRECTING STAFF TO COMPLETE AN ASSESSMENT ON THE BENEFITS AND COSTS OF IMPLEMENTING AN AUTOMATED EXTERNAL DEFIBRILLATOR (AED) PROGRAM AND REPORT BACK TO THE GOVERNING BODY WITHIN 90 DAYS; AND DIRECTING STAFF TO SEEK OUT FUNDING OPPORTUNITIES TO SUPPORT SUCH A PROGRAM. (ERIK LITZENBERG AND BARBARA BOLTREK)
- h) *[Removed for discussion by Councilor Lindell]*

i) REQUEST FOR APPROVAL OF SETTLEMENT AGREEMENT WITH ANASAZI GALLERY TRADING REGARDING ANASAZI GALLERY TRADING BUSINESS LICENSE. (ZACHARY SHANDLER)

j) REQUEST TO PUBLISH NOTICE OF PUBLIC HEARING ON MARCH 9, 2016:

BILL NO. 2016-9. AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A WATER PROJECT FUND LOAN/GRANT AGREEMENT BY AND AMONG THE NEW MEXICO WATER TRUST BOARD ("WATER TRUST BOARD") AND THE NEW MEXICO FINANCE AUTHORITY ("FINANCE AUTHORITY"), AND COLLECTIVELY WITH THE WATER TRUST BOARD, THE ("LENDERS/GRANTORS") AND THE CITY OF SANTA FE, THE ("BORROWER/GRANTEE") IN THE AMOUNT OF \$150,000, EVIDENCING AN OBLIGATION OF THE BORROWER/GRANTEE TO UTILIZE THE LOAN/GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS OF WATERSHED RESTORATION AND MANAGEMENT, AND SOLELY IN THE MANNER DESCRIBED IN THE LOAN/GRANT AGREEMENT; PROVIDING FOR PAYMENT OF THE LOAN AMOUNT AND AN ADMINISTRATIVE FEE SOLELY FROM NET SYSTEM REVENUES OF THE WATER MANAGEMENT FUND; CERTIFYING THAT THE LOAN/GRANT AMOUNT, TOGETHER WITH OTHER FUNDS AVAILABLE TO THE BORROW/GRANTEE, IS SUFFICIENT TO COMPLETE THE PROJECT; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN/GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS RESOLUTION; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN/GRANT AGREEMENT. (COUNCILORS LINDELL, DOMINGUEZ, TRUJILLO AND RIVERA). (ALAN HOOK)

k) PURSUANT TO ORDINANCE NO. 2015-1, REVIEW OF THE PLAZA PUSHCART ORDINANCE. (SEVASTIAN GURULE)

8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – JANUARY 27, 2016

MOTION: Councilor Dominguez moved, seconded by Councilor Rivera, to approve the minutes of the Regular City Council meeting of January 27, 2016, as presented.

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

9. PRESENTATIONS

a) INTRODUCTION OF JENNIFER PADGETT – DISTRICT ATTORNEY, FIRST JUDICIAL DISTRICT.

Jennifer Padgett said she is the new District Attorney, appointed on January 1, 2016, to fill the unexpired term of Angela Spence Pacheco. She previously served in the District Attorney's Office, and served the State as the Deputy Secretary of CYFD, as well as the Administrative Services Director at CYFD, commenting that child welfare, juvenile justice and early childhood initiatives are her passion. She brings administrative experience as well as that of a prosecutor.

Mayor Gonzales noted the City made an investment and has a good partnership with District Attorney Pacheco on the LEAD Program.

Ms. Padgett spoke about her efforts on LEAD which she wholeheartedly supports and the Legislative appropriation before the Legislature for the LEAD Program. She then talked about her priorities, some of which involve improving Magistrate Court, better communications with the Police Department, transparent and candid communications with defense attorneys, and an active domestic violence program.

Councilor Dimas said he is a retired Magistrate Judge, Chief Magistrate Judge for a number of years. He said many cases are already plead-out by the time they get to Magistrate Court, and there isn't a lot of time to determine the background of the defendant. He has always pushed to get drug traffickers off the streets as a Magistrate Judge, a City Councilor and as a father, commenting he has been very involved with the LEAD program. He said what he hasn't seen in past D.A.'s is aggressive prosecution of drug traffickers, many of whom are released back on the streets. He said his question is if she will be aggressively prosecuting drug trafficking cases coming before her, depending on circumstances.

Ms. Padgett said absolutely. She said the LEAD Program is a very tight balancing act, and while she completely supports diversion for first time non-violent offenders, but we have to hold the traffickers accountable, which is the balance to all of that. She said the law provides the ability to go after the traffickers aggressively, noting the 2nd offense is a self-enhancing crime and a 1st degree felony, which she intends to pursue.

Mayor Gonzales thanked her for attending and wished her the best of luck.

b) UPDATE ON 2016 NEW MEXICO STATE LEGISLATIVE SESSION. (MARK DURAN)

Mark Duran noted his report in the packet which was emailed to the Governing Body as well. He said they are working on capital outlay, general obligation bonds, the "My Brother's Keeper" bill. He said it is a tough situation at the Legislature in terms of oil and gas revenues. He said the revenues are fluid and therefore unknown, noting the oil and gas revenues affect the corpus of the Severance Tax Permanent Fund. The interest on that fund is used to fund capital outlay projects which is also being impacted. He said the Santa Fe Delegation is great and they will do as good as possible from a financial point of view.

Councilor Dominguez said local governments are feeling the impact of the State-imposed “hold harmless” legislation and the ability to balance a budget has gotten much tougher because of that action. He asked him to talk about HB-233, the possible impact to the City’s finances, and its status at the Legislature, noting the last he heard it was in the House Ways & Means Committee.

Mr. Duran said the bill was not heard, and Representative Harper withdrew the bill because he had no support, and although he talked about bringing it back in the 60-day Session, he didn’t think it prudent to bring it forward in this session. In short, that bill is going nowhere in this Legislative Session.

Councilor Dominguez said it is a bill that could benefit the State, and asked the impact on local governments.

Mr. Duran said it does a number of things and he doesn’t remember all of those. One thing it does is to try to fix the discrepancy between what the City and County are able to do and the potential for double taxation of residents living in the City. He said that was the primary thing the City could have benefitted. He said a lot of work has to be done in the interim to get the buy-in from both cities and counties on one bill.

Councilor Dominguez said we need to keep it on our radar, because if it isn’t handled properly it could really impact the taxing authority of local government.

Councilor Maestas said on page 3 of the packet there is a general note that *All District priorities have been introduced by respective Legislators*. He asked if all of them are in play, or just the top priorities in each District.

Mr. Duran said all the bills the City approved for capital outlay funding have been introduced – the individual District priorities and our top priority. He said in a better revenue year, once we knew how much the Legislators are receiving, we would approach them for funding of our top priority as well as the District priorities. He said, quite frankly, we have had to shift mostly to the #1 priority to get funds there, and then again ask them to consider any District priority. He said, “And so if I had to characterize it, I would say, out of necessity, we have to pull back a little bit on the District priorities in terms of emphasis and lobby toward the number one priority.”

Councilor Maestas said he noted in the report that some capital outlay funds were reauthorized, where the scope didn’t quite fit what we wanted to do, and asked Mr. Duran if that’s the way he would characterize the reauthorization.

Mr. Duran said that’s a good way to characterize it. He said last year we didn’t have a number one priority, but this year we have the Airport. He said we had 7 under the heading of Health, Safety and Infrastructure, but DFA determined 3 didn’t fit, and we had to authorize. We worked with DFA to get the exact title they would approve, and those 3 reauthorizations are moving forward which were part of our number one priority last year.

Councilor Maestas said then the reauthorization won't count against our overall capital outlay for this session.

Mr. Duran said that is correct. He said the entire Santa Fe Delegation has to sign off the reauthorization. He said he is very optimistic that we will get those reauthorizations.

CONSENT CALENDAR DISCUSSION

10 (h) CONSIDERATION OF RESOLUTION NO. 2016-14 (COUNCILOR DOMINGUEZ AND, COUNCILOR BUSHEE, COUNCILOR TRUJILLO, COUNCILOR DIMAS AND COUNCILOR RIVERA). A RESOLUTION DIRECTING STAFF TO DESIGN, DEVELOP AND IMPLEMENT A PILOT TEEN RESOURCE CENTER THAT WOULD BENEFIT THE YOUTH OF SANTA FE. (CHRIS SANCHEZ)

Councilor Lindell said, "I just want to have it affirmed to me that this approval of this Resolution has no financial impact."

Mr. Sanchez said that is correct.

Councilor Lindell said, "I just don't know. How do we design, develop and implement a Pilot Teen Resource Center without it having any financial impact."

Mr. Sanchez said, "Currently, within the Carlos Ortega Teen Center, we have three full-time staff that are there. The facility itself is not at capacity, so we can utilize existing staff, existing personnel, which we already have an operating budget for, won't cost us anything to do. Because we're going to do it within the working hours that the staff already scheduled. So essentially, what we will be doing is building this program out of our own center with our own staff."

Councilor Lindell asked if we are giving up programming for this staff to be doing new programming.

Mr. Sanchez said, "No. Right now, as it stands, we're averaging maybe 7-10 teens per day and we have a capacity to go up to 50-70 teens. So this gives us an opportunity, number one to continue to develop this Teen Resource Center, and also to recruit more teens to come to our own center."

Councilor Lindell asked if he is saying we have 3 members working with 7-10 teens total.

Mr. Sanchez said, "Currently no, so we also have the Monica Roybal Center that also has kids working within it, so we run about at 1:10 ratio with our kids, so our staff are working in and around with the different kids. I'm talking more about the teenage kids that we have at our facility."

Councilor Lindell asked, "We don't need to purchase anything. The resources already exist."

Mr. Sanchez said, "That's correct. We have an operating budget that's already allocated for the operations there at that center."

MOTION: Councilor Trujillo moved, seconded by Councilor Dominguez, to adopt Resolution No. 2016-14.

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

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

Against: None.

Explaining his vote: Councilor Dominguez said, "Thanks for sticking around while you are sick. Yes."

Explaining his vote: Councilor Rivera said, "Yes, and will you add me as a sponsor as well."

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

Absent for the vote: Councilor Trujillo.

END OF CONSENT CALENDAR DISCUSSION

11. **PURSUANT TO RESOLUTION NO. 2015-89 – ANALYSIS OF THE CURRENT LAND DEVELOPMENT CODE AS IT RELATES TO SHORT TERM RENTALS AND RECOMMEND AMENDMENTS TO THE CURRENT SHORT TERM RENTAL ORDINANCE. (LISA MARTINEZ, RANDY RANDALL AND NOAH BERKE) (Postponed at January 27, 2016 Meeting of the Governing Body.)**

A copy of an Ordinance amending section 14-6.2 of the Land Use Development Code to remove certain limitations on short-term rental dwelling units; amending the fee schedule for a short-term rental permit; and requiring that permit holders pay all applicable taxes or fees subject to certain penalties, is incorporated herewith to these minutes as Exhibit "1."

Lisa Martinez, Director, Land Use Department, presented information from Noah Berke's Memo prepared February 4, 2016 for the February 10, 2016 meeting of the Governing Body. Please see this Memo for specifics of this presentation.

Ms. Martinez said since the last meeting they had two public meetings on January 7 and January 18, 2016, noting there were 150 individuals as well as Council members at the first meeting, and at the second 50 individuals, so there was a lot of input on the proposed changes. She noted they provided 7 new recommendations on pages 8 and 9 of the Memo, Items #22 through #28.

The Governing Body commented and asked questions as follows:

- ◆ Mayor Gonzales asked Ms. Martinez if she is asking for direction to proceed with amending the Ordinance.

Mr. Martinez said yes.

- ◆ Councilor Rivera said he likes most of the changes. He asked the license cost for one short term rental unit.

Ms. Martinez said if it is a primary residence it would \$325 per year plus a \$100 registration fee.

- ◆ Councilor Rivera asked if he lived in the primary residence with 4 rental units around the residence, would it be similar to a gated community fee of \$500 for all 4, or would it be \$325 per unit and a registration fee per unit.

Ms. Martinez said the \$500 fee would be specific to resorts or gated communities which differ from houses adjacent to one another, or rentals adjacent to one another.

- ◆ Councilor Rivera said then they would have to pay the \$325 per year per unit.

Ms. Martinez said that is correct.

- ◆ Councilor Rivera said for a resort or gated community, which are well off areas, we charge \$500 for everything in the community, and Ms. Martinez said, "Yes."

- ◆ Councilor Rivera said, "But if you are a person who has lived here for 50 years and inherited a couple of homes around you, then you have to pay significantly more per unit."

Ms. Martinez said yes. She said, "Part of the reason is in the resorts and gated communities, they offer a lot of amenities that the other properties don't have. They have additional security. Everything is closed off, so it's much more private, and there are a lot more resources in those areas that we wouldn't have with the other rental properties."

- ◆ Councilor Rivera said, "That's one thing I disagree with. I think we should treat both of them the same and be fair to both groups, whether in a resort or.... And again, within a contiguous piece of property you might have 4 or 5 rentals. I think they should be treated the same as the gated communities or the resort unit you talk about."

- ◆ Councilor Rivera asked if Mary Ann Seiderer would have to go to every unit and perform an evaluation and if that includes a Fire Department evaluation as well

Ms. Martinez said yes, they include a Fire inspection. She said in the last year they have been doing only spot inspections in terms of fire, because they don't have the staff to do the inspection on a yearly basis.

- ◆ Councilor Rivera asked the plan for addressing an additional 700 units.

Ms. Martinez said the plan is to expand staffing to include a manager and additional Code Enforcement Officers funded through the increased revenues generated through the program. She said it is not intended to make this a money-making venture, and they estimated what they collect would go for the staffing. She noted that is how the fees were calculated.

- ◆ Councilor Rivera asked if the plan is to hire more than one Code Enforcement Officer, and Ms. Martinez said yes.

- ◆ Councilor Rivera asked how many more.

Ms. Martinez said they are looking at two additional people, in addition to Ms. Seiderer – a new Manager and a new Code Enforcement Officer, for 3 total staff.

- ◆ Councilor Rivera said then the plan is to completely fund the salary and benefits with the fees collected that go specifically to Planning & Land Use.

Ms. Martinez said yes, noting they tried to be very specific in the analysis to include everything from office supplies, and computers. They would use existing vehicles. She said, "We calculated just about everything we could think of in the estimates."

- ◆ Councilor Rivera said then you're confident it will pay for itself.

Ms. Martinez said yes.

- ◆ Councilor Lindell thanked Ms. Martinez and Mr. Randall for this report, and expressed appreciation for all the hours you spent going through the ordinance with her and including her changes, noting things have been added to the Ordinance about which she felt very strongly. For one, the idea that permits don't transfer with the property. She said the idea of renting off-site parking was discussed but that won't work. She said an important part of enforcement is that we published the list of licensed properties. That way if there is a short term rental next to you, you can see if they are duly licensed.

- ◆ Councilor Lindell continued, saying times have changed, noting the Council struggled with this in 2008, and things have changed dramatically since then with Airbnb. Some of it is good and can work to our advantage, and some that will never work to our advantage. She said there is a part that makes her sad because it degrades communities in terms of community, because you don't have neighbors, but different people from different parts of the country who aren't a part of the community. She said it's troublesome. She received a letter from a woman from Denver who wants to live here in a downtown area, but the only rentals she could find were available for 6 months of the year, but starting in May they became short term rentals and the rates changed.
- ◆ Councilor Lindell continued, saying we have a shortage of rentals in Santa Fe and the short term rentals are part of the problem. She knows things have changed and we have to try to move an Ordinance that is to our advantage, as well to provide enforcement of the Ordinance, noting we didn't do well in enforcing the past Ordinance which is a problem. She said in whatever form the Ordinance moves forward, she doesn't think it will take many \$500 fines for people to know we mean business about this. The City deserves its fees and the monies from these short term rentals. She said perhaps we turned a blind eye, or the market changed so quickly we couldn't keep up with it, but the work that has been done has an eye to the future.
- ◆ Councilor Lindell continued, saying there will be an 18 month review after adoption of the Ordinance, commenting she knows we can do better than what we have done in the past. She said she gets letters on both sides of the issue, noting it is a complex issue. She said, "I don't want it to go unknown that short term rentals have changed the face of some neighborhoods."

- ◆ Councilor Dominguez asked if the Ordinance in the packet is the same as the hand-out [Exhibit "1"].

Randy Randall, Director, Department of TOURISM Santa Fe, said there is one discrepancy, noting the fee has been changed to \$100 from \$150.

- ◆ Councilor Dominguez, referring to Exhibit "1," asked the reason the language on page 4, beginning on line 21, strikes the entire Subsection iii.

Mr. Randall said it was stricken and clarified in other parts of the Ordinance. He said there was confusion as to whether a license could be transferred with the property, or if the owner could use a license on other property. He said removing that piece and handling it elsewhere in the Ordinance makes it very clear that when a license is dormant or a house sells, that the license comes back to the City and would have to be reissued.

- ◆ Councilor Dominguez, referring to page 12 of the Ordinance, line 20, Penalties, said as written, the penalties run with the license and not the property.

Ms. Martinez said that is correct, the penalties are attached to the license and aren't transferrable.

- ◆ Councilor Dominguez asked if this language conflicts with the language on page 4, in Subsection iii, commenting he could be wrong. He said in Subsection iii, page 4, you are allowing it to run with the property.

Mr. Randall said, "No. The permit could not run with a property. If a property was penalized, the City would have the right to place a lien on the property for the penalty. And in the event of a sale, the lien would have to be cleared for the sale to take place. The penalty in the event of a sale would go away, because the City would be paid the penalty."

- ◆ Councilor Dominguez apologized, saying he was absent when this was brought to the Council previously, and he hasn't talked with staff about this.
- ◆ Councilor Dominguez, referring to page 5, subsection iii, it provides, 'The Land Use Director may issue rental permits as approved by the Governing Body in an initial quantity of 1,000.' He asked what happens to the 1,001 permit.

Mr. Randall said that is in the next paragraph, line 16, which provides, 'Whenever the demand for short-term rental units permitted in accordance with Item iii above exceeds one thousand, additional permits may be authorized by the Governing Body....' He said this is done so it isn't necessary to change the Ordinance to authorize additional permits, and the Governing Body procedurally can authorize the additional permits to be issued by the Land Use Department.

- ◆ Councilor Dominguez asked Mr. Randall if he is anticipating that the Governing Body will have to approve each of the permits as it comes forward.

Mr. Randall said the concept is that the Governing Body would issue another block of permits, once the demand was determined, perhaps a few hundred at a time.

- ◆ Councilor Dominguez asked if Subsection iv of the Ordinance automatically give that approval.

Mr. Randall said Subsection iii approves the 1,000, and additional permits beyond that would be brought to the Council by the Land Use Director for its approval.

- ◆ Councilor Dominguez said then permits above 1,001 come back to the Governing Body and we have the opportunity to approve or deny at that point.

Mr. Randall said, "Yes. That is to avoid this cap in the original Ordinance, which required an Ordinance change to modify it, and one of the reasons the Ordinance became quickly out of date."

- ◆ Councilor Maestas complimented Ms. Martinez and Mr. Randall of doing a really good job on a difficult subject. He asked how we know it's going to work, noting there is a lot of skepticism among the public that feel we first need to address enforcement. How do you know an additional Code Enforcement Officer and another Manager will be required. He said the program is being managed right now, but thinks we need more Code Enforcement Officers.

Ms. Martinez said they didn't think about that exactly, but in conversations the last few days, we discussed that right now, we have one Code Enforcement Officer for 350 permits, and when we take it to 1,000, we add two additional people, so it will balance out at the same level of enforcement. She said this is a concern they've just begun to discuss over the past few days. She said perhaps the solution is to have just two additional Code Enforcement Officers and in-house people can manage the program.

- ◆ Councilor Maestas said perhaps we need to evaluate the enforcement capabilities under the initial plan, and make needed changes sooner, without the Governing Body "blessing it," only because it's so so important, and would rather leave it to Ms. Martinez to make the necessary changes. He asked if they can factor-in some latitude and discretion to change the additional FTEs that are needed.

Ms. Martinez said they definitely will look at that, and carefully evaluate it.

- ◆ Councilor Maestas asked if a Fire Safety Inspection still will be required on the initial application for the permit, and asked what they have to do for renewals.

Ms. Martinez said they discussed asking them sign an affidavit that everything is to Fire Code, and they would continue to do spot inspections, including for renewals, to see if what they're signing is accurate. She said this is one of the best solutions at this point, given the limited resources. She said at some point, perhaps annual inspections can be done for everyone.

- ◆ Councilor Maestas, referring to the Table on page 6 of the Memorandum, it says, '*The permit applies to all properties in all Zoning Districts,*' but in your recommendations you are saying a full permit is not required in a commercial zoned district, only a registration fee for short term rentals – page 8, Recommendation #24.
- ◆ Mr. Randall said the chart on the fee structure would be changed in the actual Ordinance, and the Ordinance that incorporates the changes clarifies that. He said he thinks the Staff Report changed after the public meetings and the first part might not have been changed. Mr. Randall said, "But a permit of the 1,000 permits will not be required in commercial zones, because the zoning already allows that activity to happen, but they will have to pay the application fee, and they will need to be registered with the City according to the Lodgers' Tax Ordinance, and they'll get a number so we can ensure they actually are registered with the City when we see the advertising going on. We will make sure that is clear in the Ordinance."
- ◆ Councilor Maestas said he looked at the map showing the locations of the permits, noting it affects mostly Districts 1 and 2, and proximity to the Plaza is one of the main draws for this. He said we have to stay abreast on this dynamic market, without degrading the neighborhoods. He likes that there is a limit on density. He said you also are deferring to neighborhood association covenants – the City will defer to the restriction and be a *de facto* enforcer. He encourages the associations to look, and suggested adding language to limit density of short term rentals which is his concern, and that the density doesn't run amok and totally degrade a neighborhood, so people are coming

in and out all the time. He would be happy to sponsor the Resolution as the Councilor from District 2, and to work with his colleagues so it is acceptable, commenting this legislation should have full consensus of the Governing Body.

- ◆ Mayor Gonzales asked Mr. Randall to provide a brief overview of the economic benefit to the City in expanding the number of permits.

Mr. Randall said since we really don't have a firm grip on the number of non-permitted, active short-term rentals, it would be an educated guess. He said a good estimate would be that \$500,000 to \$6000,000 in additional Lodgers' Tax could be generated, an additional \$800,000 GRTs, and \$200,000 in additional permit fees from the licensing and the permit process. He said they are very close to negotiations with Airbnb to do the collections of taxes on behalf of the host, noting Airbnb doesn't represent all short term rentals, but they are the largest.

Mr. Randall said there had been concerns about the ability to collect the GRT. He said we, as the City, will talk to the Tax & Revenue Department to see if the GRTs could be paid to the City, and then the City remit it to the State. He said Airbnb won't remit to the State if they don't have an agreement with the State to collect taxes on its behalf. So we may be able to flow the GRTs through the City to resolve that issue. He said we will get a large share of the collections done when we complete the agreement with Airbnb. It will make our job easier and we then can focus on rental owners not dealing through Airbnb.

- ◆ Mayor Gonzales said this is an industry that is evolving and there are technologies that are disrupting traditional models, and in this case it's a hotel. He said, in essence, going to 1,000 new permits, we're really legalizing 1,000 new rooms coming into the Santa Fe market which is good. He is interested on the impact in the Lodgers' industry with more short term rentals on the market, noting Tourism is one of the top two industries in Santa Fe.

Mr. Randall said it definitely does, but the fact is that they're already here, so the impact already has hit the industry, and one reason occupancies as we measure them through hotels have been a little stagnant. He said the hotels are looking for the short term rentals to play a part in providing the marketing dollars needed to build the overall occupancies for the City. They just want a level playing field and that everybody participates in the marketing efforts.

- ◆ Mayor Gonzales asked if studies have been done with regard to the impact, if any, on tourism, or is this adding another product that won't contribute to an uptick or downtick in tourism.

Mr. Randall said, "Clearly, short term rental density occurs in the more popular tourist destinations. We had a representative of Airbnb here yesterday, and amazing statistics. Airbnb started in 2008, and last year they had 2 million short term rentals listed through the Airbnb website, which handled in excess of 20 million visitors. So they are a huge, huge company. The short term rental business has become huge. He said is a paradigm shift in travel that's come about due to the website, we need to get our arms around it and collect the fees and taxes due to the City.

- ◆ Mayor Gonzales said he knows Airbnb has “thumbed its nose,” to many cities trying to wrap their arms around the presence to make sure the fair share is in place. He agrees with the other Councilors about the protection of the neighborhoods, noting some of the most sought neighborhoods have been here for hundreds of years with quiet way of life. He said we love to showcase our City, but we have to monitor so it doesn't come at the cost of the disruption to the quality of life for people that call Santa Fe home full time. We're in new territory, and we don't want to send the message that we will allow any type of businesses in these neighborhoods where homes are put on Airbnb. He is looking to the Land Use Department to be very strong in Code enforcement and don't disrupt the neighborhood for the sake of earning a profit on their home or bedroom on any given night.

- ◆ Councilor Trujillo said this is good work by Mr. Randall and Ms. Martinez. He said we had the discussion that we want to make this a level playing field, open it and collect revenue. He agrees with Councilor Rivera that he doesn't want to give resort units a break. He said in his opinion it is a resort, a lot more expensive and they can afford it. He said we talk about being fair, but this is not being fair in giving preference to one segment of this community. He wants to see that changed so everybody pays the same.

Mr. Randall said this is a carry-over from the prior Ordinance, and the only place qualifying currently as a resort is Quail Run.

- ◆ Councilor Trujillo said, “Giving a break to Quail Run doesn't fly with me.”

Mr. Randall said in the negotiation done in 2008, it was determined by Land Use that Quail Run, because it provided security services, because it does inspections of the rental units, and replaces many of the services and expenses the City would have in administering short term rentals.

- ◆ Councilor Trujillo asked how we can be sure Quail Run is keeping its word, and doing its due diligence. They're doing our job, and asked if we are just taking their word.
- ◆ Mayor Gonzales said that is a good point. He said it wouldn't be difficult to ask Quail Run to submit list of services to the City that it agrees to provide to get the waiver, so it's documented and verified. If they drop an agreed service, such as security or inspections that the others are paying for, then we should be able to reinstitute the fee or put it in play. There should be some acknowledgment by any of these groups to list what they promise to cover. He doesn't know if that addresses Councilor Trujillo's issues.
- ◆ Councilor Trujillo it really doesn't address the issues. He wants a level playing field, and just because you live in a certain place doesn't mean you don't have to pay the GRTs. He said he wants everybody charged the same. He said this “just doesn't fly with me. I do commend you on the work. It's a level playing field now, something that should have been done a lot time ago when we had this discussion in 2008.”

- ◆ Mayor Gonzales said so we can move forward, “If we all feel like we support what has been presented by staff, let’s allow them to go forward and prepare the Ordinance. I know there is an opportunity for Councilor Trujillo to be able to make a compelling point that could alter the Ordinance at some point. So just because it’s not part of the direction, doesn’t mean that won’t be considered at some point. I just don’t think we have to consider tonight whether or not to exempt them. I think that can come forward in the form of the Ordinance when we actually have the discussions.”
- ◆ Councilor Maestas, referring to page 9 of the Staff Report, #25, said there is not a full exemption. It says, ‘*Short term rentals in gated communities will be required to register with the City and pay an annual \$150 registration fee; however a short term permit will not be required.*’ So there is a requirement to register each and every short term rental, so there isn’t a blanket exemption. He said this is under the heading of public input, so we did due diligence, and Quail Run and/or resorts must have been represented and provided the feedback. He said this is something we can work on as Mayor Gonzales suggested.
- ◆ Mayor Gonzales said that’s correct, and we’re going to move this into the public realm, and the Ordinance as it moves forward will allow the public to weigh in on the Ordinance, and property owners can weigh in as well. He said we need to get this moving forward. He appreciates that they did more than one meeting and allowed the public to be heard. He said we need to settle on it so it’s ready for the summer season.

Mr. Randall said they will try to get the Ordinance on the agenda as soon as possible.

- ◆ Councilor Dominguez said he agrees. He asked, regarding a resort, if we are using the Chapter 14 definition to define what a resort is.

Ms. Martinez yes, that's the definition we're using.

- ◆ Councilor Dominguez said then there could be other properties that meet that definition that wouldn't be subject to this particular Ordinance.

Ms. Martinez said they would have to go through a process as well.

- ◆ Councilor Dominguez would like that definition to be spelled out in the Ordinance, and in this case Quail Run, and the other requirements we have that were articulated by Councilor Trujillo and the Mayor.
- ◆ Councilor Dominguez said then there is a definition in the Resolution, and asked if it matches the same definition that is in Chapter 14, and if not they need to match and he wants to see that citation in the Ordinance. And if we're going to provide that exemption, that exemption needs to be identified in the Ordinance as well.

Ms. Martinez said if they are not exactly the same, "we will make sure that they are."

Councilor Rivera moved to approve the request, with the recommendation that we change the Resolution and/or the Ordinance to treat those individuals that have more than two rentals on contiguous property the same as we do the gated communities and resorts, with regard to application, processing, permit and registration fees, whatever fees are associated with it.

Mayor Gonzales said he doesn't think we need a motion on this, but Councilor Rivera we can provide direction of what you would like to see in it, and as it comes forward, you can introduce the amendments to the Ordinance.

Councilor Rivera said then his direction is to move it forward with the recommendation he previously stated.

Councilor Maestas said additional direction is as follows: "On page 7 of the Staff Report, Recommendation 15 also recommends an amendment to the definition of 'room' in the Lodgers' Tax Ordinance, so he would like to bring both Ordinances in parallel if possible.

12. CONSIDERATION OF RESOLUTION 2016-15 (MAYOR GONZALES AND COUNCILOR MAESTAS). A RESOLUTION OPPOSING PROPOSED LEGISLATION, SENATE BILL 226 – PROVIDING THAT ALL RECEIPTS FROM THE SALE OF FINE ART ARE TO BE REPORTED FROM THE PLACE WHERE THE ART IS SOLD; DISTRIBUTION REVENUE ATTRIBUTABLE TO THE SALE OF FINE ART TO THE CULTURAL AFFAIRS DEPARTMENT FOR THREE YEARS. (ZACKARY QUINTERO)

A copy of Senate Bill 226, introduced by Senator John Arthur Smith, *An Act relating to taxation; providing that all receipts from the sale of fine art are to be reported from the place where the art is sold; distributing revenue attributable to the sale of fine art to the Cultural Affairs Department for three years*, is incorporated herewith to these minutes as Exhibit "2."

Mayor Gonzales said SB 225 was introduced by Senator Smith who was the architect of the Governor's tax cut package, to tax art that is sold and shipped out of state, and Mr. Quintero said this is correct.

Mayor Gonzales said the revenues would be going to the Cultural Affairs Department for 3 years. He read an article in the paper that Senator Smith said he is trying to send a message, but he is unsure to whom the message was sent. He said the message was heard loud and clear by members of our galleries in Santa Fe who are trying to adapt to an ever-changing environment. The art market is changing and it's become more and more difficult for galleries to be able to offer the high quality wonderful art in this changing environment. He said to have a Senator from the south impose a tax that would directly hit the businesses in Santa Fe, and the recipient being the State, doesn't make any sense. He thinks Senator Smith has acknowledged that he doesn't think the bill will pass. He said it's important to stand together as a collective voice on the side of the many small businesses in Santa Fe in opposition to the unfair tax.

Councilor Maestas said this is out of character by the Chair of Senate Finance, commenting it's some kind of political message, and in our case, the timing is terrible. He would like to amend the Resolution to provide we send a copy of this Resolution to Governor Martinez and the Cultural Affairs Department. He would like to work with the Mayor and his championing an effort to authenticate local art, to provide an incentive and exempt from taxation. He talked about what New Orleans did after Katrina in providing a partial gross receipts tax exemption. He said he is dismayed by the bill, and we need to oppose this vigorously, commenting our lobbyist understands clearly how devastating this would be.

Councilor Dominguez asked the status of the bill.

Zackary Quintero said the bill is still with Senator Smith waiting to go to the next Committee, so it hasn't moved through any committees at this time. He said in analyzing the bill, they saw it wasn't just galleries that would be affected. He said the language in the bill on page 2(F) defines Fine Art into a new system for the Tax Code. This means that what is defined as fine art in this Resolution will be subject to a 3.9% tax. He said if you produce a video in your garage and sell it to somebody else, a tax will be levied on you and it would apportioned to the State government. It doesn't impact only galleries, this is all what is defined in this limited scope as fine art.

Mr. Quintero continued, "We were expecting it to be only galleries, and I just want to make it clear for the public record that this actually...Councilor Lindell and both of you sponsored the Meow Wolf Resolution. Think of every product this company is going to be producing for Santa Fe and the local artists that are going to be employed by them. A tax would be levied on each one of their products of 3.9% ."

MOTION: Councilor Maestas moved, seconded by Councilor Dominguez, to adopt Resolution No. 2016-15, with the amendment proposed by Councilor Maestas to send a copy to Governor Martinez and the Cultural Affairs Department Secretary.

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

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

Against: None.

13. FINDINGS OF FACT & CONCLUSIONS OF LAW

A copy of the Findings of Fact and Conclusions of Law in Case #2015-57, Gerhart Apartments General Plan Amendment, and Case #2015-58 Gerhart Apartments Rezoning to R-21, is incorporated herewith to these minutes as Exhibit "3."

Mayor Gonzales said this was postponed to see if additional funds were available to address the issue of the safety of the intersection, and asked the status of that effort.

Councilor Rivera said he has questions of John Romero and Scott Heft. He said it had come to his attention from staff that there had been funding identified that would coincide with the Gerhart Apartment project and when the traffic would be hitting the intersection from the project. He asked Mr. Romero "to fill everybody in on what you've come up with."

John Romero, Director, Traffic Engineering Division, said in the recently approved Capital Budget, funds were allocated for FY 17/18 and FY18/19. The funds in 17/18 would be for design of the intersection improvements to Agua Fria and South Meadows, and the funds in 18/19 would be for the construction to build the improvements. He said in consultation with the developer, their timeline tracks that roughly. He said if the rezoning was to be approved, they would have to go for development approval, recordation and construct the apartments. So, according to their timeline, the apartments would be up and running in early 2019. So, with the funding for the intersection, as approved in the Capital Budget, that intersection should be reconstructed no later than the end of 2019. There would be no more than one year lag time, if that, between the opening of the apartment complex and improvement of the intersection.

Councilor Rivera asked Mr. Hoeft if there were about year lag time, how long it would take to get all of the rental units rented, with people moved in, with the full impact of traffic to the intersection.

Scott Hoeft, Santa Fe Planning Group, Agent for the Applicant, said, "It would easily take a year to fully lease out a project like that."

Councilor Rivera asked, "Would you be willing to, and I hope we can do this, or ask for this, would you be willing to, if construction project were going to be delayed, to maybe rent only one-half of the units, and then wait for the intersection improvements to take place before moving forward. I don't know if that's even been talked about."

Scott Hoeft said, "The issue is, when you have conditions like that imposed on a project, it begins to hurt your financing and getting financing set up for a project early on. So ultimately you start applying for construction financing pretty early on, and they begin to look at the project overall. And so, even though you've got a two-year construction cycle, it hampers your ability to get started. So we would really prefer not to have conditions applied relating to the leasing of the project, on the concern that it would stop the entire project for that period of time. Now knowing how projects go, and the lag with construction, the timeline we provided is aggressive, knowing if we were approved, we would have to go through the Planning Commission again with an entire development plan submittal which would likely take the bulk of this year."

Councilor Rivera asked John Romero, "I understand. John, so between what the project is going to fund toward the intersection and what we already have, how much are we short to actually complete it. How much money are we looking for in the upcoming years."

John Romero said, "We have money programmed, I guess, in our Capital Budget and then we have money budgeted. The money we currently have budgeted is the \$25,000 from Legislative funds. The amount programmed in the Capital Budget, assuming it would be budgeted at that time, would fully fund the project. So anything in addition the developer would give us, would relieve some of those funds for other projects throughout the City."

Councilor Dominguez said, "I want to make sure that I'm clear. So we have \$25,000 budgeted, right now, in our CIP Budget. What is the total cost of the project?"

Mr. Romero said "Our estimate was based off our ICIP. I believe the design was around \$200,000 and construction was \$1 million. I don't have the exact figure, but somewhere in that ballpark, total. And it could be less. It was a planning figure budget."

Councilor Dominguez asked, "Are we planning on programming \$1 million in FY 17/18."

Mr. Romero said, "Yes. There are two. The design money in 17/18, and the construction money in 18/19."

Councilor Dominguez said, "And this is all money that is going to come from our 1/4¢ CIP, our program."

Mr. Romero said, "I think it's some surplus money we have in the Capital Budget. Oscar could answer that."

Councilor Dominguez said, "I just want to make sure, Scott, that we're not going to be eliminating one project for another. I just want to make sure I'm clear and I know exactly where things are coming from and where they're going."

Oscar Rodriguez said, "Yes. That money, the \$200,000 and then the \$1 million after that will be coming from bond sales that were programmed at that time. In fact, there is still \$500,000 unprogrammed we have capacity for, for which there are no projects at this point, so it's clear it's not going to be moving anything out. And the bonds will be sold for the CIP with tax."

Councilor Dominguez said, "So the total cost of the project is \$1.2 million, with \$200,000 in FY 2017/2018, and \$1 million for construction in FY 2018/2019."

Mr. Romero said, "It's a combination of things. They are contributing impact fee dollars. And what we looked to do previously through rezoning, is instead of it going directly into the Impact Fee coffers, that in lieu of that, they give us that money specifically for this project. And we also asked that..."

Councilor Dominguez said, "I don't want to get into the project itself, but that's not the only intersection that this project is going to impact."

Mr. Romero said, "That would be the only intersection that would quantifiably be impacted, of course there are so many throughout the whole City, but just to have all that money toward that project. And we're also going to ask them, as a condition of approval, to pitch in their fair share contribution toward that intersection, actually, how many cars they have at that intersection, figure out that percentage and they contribute that percentage of dollars also."

Councilor Dominguez asked if all of the funds will go toward construction.

Mr. Romero said it can go to design or construction, it just depends on when we receive the funds.

Councilor Dominguez said, "Then in 18/19, whatever the balance is will be picked up by the City."

Mr. Romero said, "Whatever the balance would be. Yes. And if I may, I would think that by the time we were approving a CIP bond sale, we would already have them approved and underway, and we would already have their actual money in the City coffers. And we would be able to get a definitive amount of how much of the \$1 million we need to be funded through the Capital Bond."

Councilor Dominguez said, "I want to be as clear as I can be, that we are actually obligating CIP monies for this, maybe not with this motion, but if this follows through, we're going to be obligating CIP monies for that particular project, before the project is even started."

Mr. Romero said, "I believe it was already programmed through Council's approval of the capital budget, so it's already planned for that way."

Councilor Dominguez said, "It's been programmed, but the money hasn't been allocated for it. In other words, we haven't received the money, we haven't sold the bonds, and we haven't even decided what the budget is going to be in FY 17/18 for capital improvements."

Mr. Snyder said, "You are correct that we haven't sold the bonds, we haven't gone through that process, but the CIP Plan that as approved by Council had this project identified in 17/18 and 18/19, with monies allocated. So this project is going to get funded out of bond sales and a combination of impact fees and a number of...."

Councilor Dominguez said, "And that's all good, but that doesn't concern me, because we're going to be approving a CIP budget every year. So it is not as though those numbers that we have approved now in this budget are solid and true, we can change them. Otherwise, we wouldn't be approving a budget every year."

Mr. Snyder said, "I agree with you. That being said, the purpose of the multi-year CIP, is to plan. So there was a good discussion, because as we move forward on any project that has planning involved, we're going to have to be doing planning one year more likely than not, and then design maybe another year and then maybe another year in construction, so it will be a multi-year project. This is the discussion we had on this, but that being said, that's why we brought forward a multi-year plan. Every year, one year falls off, we've gotten it completed. We bring on a new year list of projects and funding...."

Councilor Dominguez said, "Let me make my point a little bit clearer. Oscar, what's our total CIP budget at the end of the 5 years."

Mr. Rodriguez said, "If I could answer the question in terms of how much we are going to be selling in bonds, \$34 million."

Councilor Dominguez said, "So what we're saying is that of that \$34 million, we're going to be obligating this much, regardless of what year it comes down in."

Mr. Rodriguez said, "Yes sir, but you have to vote on that at that time again. And you can change your mind."

Councilor Dominguez said, "I think the Motion is going to be to reconsider. And I will say that I'll support the motion, but more because I want to see what's cooking there Scott. I want to find out really what's going on. And I want to make sure that the City of Santa Fe understands really the obligations that it's making with regard to capital monies. And of course, I'm going to have the dilemma to.... or I'm going to struggle with the dilemma that we have. And my main purpose in not supporting it in the first place, was not necessarily the road, but more the social impact it potentially could have. But regardless of that Mayor, and aside from that, I would probably support a motion to reconsider, because I would like to see what's cooking. Thank you."

Councilor Rivera said, "I have been given directions by the City Attorney on how to do this, so there are a number of motions that need to be made to keep it in order. I'm doing this specifically, one, is that we need the housing. And we've had discussions about where they are located, and it seems like one part of town is getting all the multi-family dwellings and we can have that discussion, I'm sure, as we go through with every one that comes up. But, I do believe we need this type of housing. I believe it's a good location. My main concern has always been the current failing intersection. And if we can get to point where the project is finished around the same time that we can identify all the funding for the improvements to the intersection, I think it makes sense."

MOTION: Councilor Rivera moved, seconded by Councilor Trujillo, to postpone action on the Findings of Fact and Conclusions of Law in Case #2015-57, Gerhart Apartments General Plan Amendment and Case #2015-58, Gerhart Apartments Rezoning to R-21, so that I can make a motion to reconsider the December 9, 2015 decision of the Governing Body denying the application of Scott Hoefft for Santa Fe Planning Group as agent for Storm River LLC in those cases."

DISCUSSION: Mayor Gonzales asked when the reconsideration of these cases take place, or does that come in the next motion, and Councilor Rivera said yes, in the next motion.

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

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

Against: None

MOTION: Councilor Rivera moved, seconded by Councilor Maestas, to reconsider the December 9, 2015 decision of the Governing Body denying the application of Scott Hoeft for Santa Fe Planning Group as agent for Storm River LLC, in Case #2015-57, Gerhart Apartments General Plan Amendment and in Case #2015-58, Gerhart Apartments Rezoning to R-21, and to place such reconsideration on the agenda of the February 24, 2016 meeting of the Governing Body.

DISCUSSION: Councilor Dominguez asked, "Based on our Code, can we hear this *de novo*."

Mr. Brennan said, "That would really require a rescission vote which would void the previous decision. This really does not even call for a public hearing. It calls for you to reconsider. So you've had the public hearing and you would be going back basically to your deliberations."

Councilor Dominguez said, "Let me ask again. Can we hear it *de novo*."

Ms. Brennan said, "Oh, if you want to, it would be a different motion. Yes. Or I think you could also reopen the public hearing and take new information. In which case, you would probably have to give more notice, so it would fall in the first March meeting."

Councilor Dominguez said, "So *de novo* is different than just opening up the public hearing."

Ms. Brennan said, "*De novo* is hearing it again anew, but it was *de novo* when you heard it before."

FRIENDLY AMENDMENT: Councilor Dominguez said, "I guess what I'm wondering is, if the maker of the motion would agree to allow a public hearing to occur when we reconsider this." Ms. Brennan said, "And the only thing I would say to that, is then the date would have to be the March 9, 2016 meeting. Councilor Dominguez asked, "Would you consider that Councilor Rivera." **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

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

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

Against: None.

MOTION: Councilor Rivera moved, seconded by Councilor Dimas, to postpone action on the Findings of Fact and Conclusions of Law in Case #2015-57, Gerhart Apartments General Plan Amendment and Case #2015-58, Gerhart Apartments Rezoning to R-21, to the March 9, 2016 meeting of the Governing Body.

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

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

Against: None.

14. CONSIDERATION OF RESOLUTION 2016-16 (COUNCILOR DOMINGUEZ AND COUNCILOR IVES). A RESOLUTION PROVIDING GUIDANCE ON THE STRUCTURE OF THE BUDGET OF THE CITY OF SANTA FE AND CERTAIN REPORTING REQUIREMENTS. (OSCAR RODRIGUEZ)

MOTION: Councilor Dominguez moved, seconded by Councilor Lindell, to adopt Resolution No. 2016-16, as presented, with all recommendations of the Finance Committee.

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

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

Against: Councilor Dimas and Councilor Maestas.

Mayor Gonzales thanked the Finance Committee for moving this Resolution to this level and looks forward to how we proceed with deliberations on the budget. He said, "As I told Councilor Maestas, in a private conversation at the last meeting, if there's a way to come forward and present the alternative through this process that allows for the increase in fees and efficiency as proposed, it would be good to have some of your thoughts concurrent with this process so that as much information is available, not only to the Finance Committee, but to the Council to deliberate. Because it would be great to get through all of this without having to necessarily consider the tax fees. But if the fees to the public are so great that in effect it becomes too daunting to them, more so than a potential tax, I think that we have to be able to evaluate both. So I think to the degree we can have the most information available and your thoughts on it through this process. I think that would be important."

Councilor Maestas said, "Mayor, on that point. Although I didn't support this, and I think I gave my reasons yesterday. And I think we need to be consistent in the messages that send. When I proposed the gasoline tax, obviously there was a trust deficit with City Hall. But when I looked at the rate of return of the gas tax, and those that would bear that burden, it's not going to fall entirely on our community. We get 100% rate of return on a municipal gas tax, but the logic was that we had to look at cuts first. And now gross receipts and property taxes are all of a sudden in vogue. And we all know that the gross receipts tax

is one of the most regressive taxes we have. I'm going to do my best Mayor to come up with an alternative to raising taxes. You weren't here, but we had a discussion about some of the finances. I think expenditures were \$3 million under budget, and revenues were \$3 million over budget. That's a \$6 million swing. Some of that is already going to be used for CIP, but we could use those trends to our advantage and possibly avoid a tax increase. So I'm going to work hard on that. It's just unfortunate we allowed so much time to go by we found ourselves against the wall, but I think it's not too late for us to work hard and maybe find an alternative to raising taxes."

Mayor Gonzales said, "I think the framework coming forward, and what I appreciate about it, is that balanced, that the cuts the Finance Committee is targeting is more than any type of tax increase, that it does put pressure on the administration to become more efficient in its operations and drive more revenues out of it. No one likes to vote for raising taxes. And I think this body, whether by people who have been here or those before, have chosen not to raise taxes. And in many respects, we've tried to find that path of raising fees or using any other type of cash that's available. And what it's done, is over time, it's created this structural deficit that exists now. I think no one wants to be in the position to have to take that vote, because it's a hard vote, but we are elected to make the best decision we can, in a way that puts the City in a position of strength. If we can get this solved this year in a manner that is achievable and is reasonable, fair and balanced, I think that allows us to be on solid footing as we move into the subsequent years, so we can begin to put some of the GRT allocations that you've advocated for, to take them out of funding operations and put them to funding capital projects so the public can get the benefit. I appreciate all of the dialogue that has gone on."

Mayor Gonzales continued, "It will be good to evaluate all the information coming forward. But what we have tonight is something I don't think we've ever had this early in the game, which is a structural framework by which we can begin to develop a budget and identify where we're going to cut, where to drive efficiency, how we can show it in a transparent and public way. I think that can be done before we look at filling the gap with any type of tax increase. I think the fact that it's part of the framework gives us maximum flexibility to move it into place if it makes sense, and if so, be sure the public really understands what its going to pay for, and that it's not just going to go into a bureaucracy that isn't delivering results for it. I just wanted to commend you as a Councilor."

Councilor Dominguez said, "To speak to your point. And yes indeed, Councilor Maestas, I'm willing to work with everyone as well. The intent is for this to be as flexible as it can be, with structure of course. So as flexible as we can be during the budget hearing in establishing this budget, we certainly will do that. And as you said, Mayor, people don't like to raise taxes. Well, people also don't like to make the tough choices and make the cuts we've been making over the course of the last 8 years. It has not been easy. It's been very difficult. And I heard you loud and clear last night when you were talking about the difference between our expenditures and revenue, and that's a valid point. However, I would be very reluctant to balance a budget based on those expenditures and revenues. I think they do fit in at some point, definitely they could, depending on what the numbers look like. But we really don't know what the economy is going to do in the next however many months, and we don't know what our expenditures and/or our revenues are going to be eventually at the end. We'll just keeping moving forward Mayor."

Councilor Maestas said, "And Mayor, just for staff direction, if we could, I mean, we should at least look at the potential economic impact to increasing our gross receipts tax. We're already almost top 10. We're near 9 or 10 on the State. Where are we right now, Brian."

Mr. Snyder said currently we are 22nd, and 1/8 would bring this to around the top 10, and 1/4 would bring us in the top 5, ballpark estimate.

Councilor Maestas said, "My direction is it would be good to find out what impact, if any, on the upper echelon cities in the top 5 tax rates, if they have experienced downturn in economic activity, or any kinds of indicators. Because this is something we don't know. We're going into uncharted territory, being one of those top 10. I know we want to stimulate business, but we don't want to stifle business with high gross receipt tax, and then burden our citizens, which all citizens would pay, as opposed to a gas tax.

Mr. Snyder said they will look into that. He said the City was in the top 3. And because we didn't enact the GRT in response to that, Dona Ana and Las Cruces, for example imposed it and they passed Santa Fe, and that's the reason we're at number 22. He said they will look into the impacts.

Councilor Maestas said, "I just want to state for the record that, although I voted no, I did actively participate in the process. I did submit an alternative framework did not have any tax increases, or water fund transfers, or loans to the Water Fund. And I did submit substantial amendments to the Resolution that was being considered at that time. So, I want folks to know that I don't shoot other peoples' initiatives down. I was actively involved in trying to come to some kind of a compromise."

Mayor Gonzales said he appreciates that. He said, "Hopefully, as you bring it forward, we have to take so we can offer good consideration to the numbers on the sheet presented with actual details of where we would drive it. And I bring that up mostly, because the Manager has told me that for every \$1 million in cuts is about 20 positions. So to achieve the \$4 million targeted under this framework, we're looking at trying to drive efficiency, but it's about 75-80 positions your Resolution called for, for some of that to happen already. If we pull in further cuts to fill in whatever gap is in place for any type of tax revenue, that's another \$3.7 to \$4 million, that's another 80 positions, so we're looking at 60 potential positions that would have to be cut to hit the numbers, or fee increases that become so high people stop utilizing some of the City's service in place."

Mayor Gonzales continued, "What I liked about your framework is that the numbers matched, but when it came to understanding exactly where the cuts would be, I'm hoping through this process that if you're going to keep that plan forward, you are able to bring forward the details of which divisions you see the cuts should happen in, which services you see the fees should go, so it's giving fair consideration to the framework that's been passed tonight. That will help all of us. And if it drives to the point where it makes sense, I think that would be a wonderful way to look at it."

Councilor Maestas said, "And I think pending final approval of our budget, I think we ought to just try and refrain from holding any groups harmless. I think everyone is going to have to share the pain in this, programs, divisions, employees. Let's make sure that, hey, we go in there open minded and make sure we all have to share the burden."

Mayor Gonzales said, "\$4 million isn't chump change. \$8 million is a significant move on it. I appreciate all the work. I love the political discourse here. It's being civil and respectful, and truly representing the different concerns of our constituencies. It's what we were all elected to do, and all of you should be proud for at least showing up and being willing to have the debate and the discussion in a constructive way. That's when our City really does well and I'm looking forward to this process."

15. MATTERS FROM THE CITY MANAGER

Mr. Snyder said he has two items. He said he and Mr. Rodriguez started the budget process today with staff, and some of the things said here today is what he expressed to staff. He laid out the tentative outline approved tonight, as approved yesterday at Finance, and expressed that there are a large number of cuts to the General Fund, about 5%. He said the only way we can do this is to work together. He doesn't look at one department or division as being better than another. We need to work together on efficiencies as well as cuts across the board where it makes sense and where we can align services to the needs of the community. This is the direction to staff and he will work on more specifics as set out in the Resolution, and looking at overtime and other things that have arisen in budget discussions and bring that information back to the Governing Body. There is another budget training session on Friday and they are on the schedule approved tonight.

Mr. Snyder said Jon Bulthuis resigned today. He said Transportation is composed of Airport, Parking and Transit Divisions. He said losing Mr. Bulthuis is a loss to the City. He said he will look at this as an opportunity, as he does with any employee that leaves. He said he will be moving forward to restructure the Department as they will see in the budget process. He will move Transportation under the Public Works Department where it was a number of years ago, and looking for efficiencies, noting there already are efficiencies and overlap between Public Works and Transportation in administrative staff. He will look as to how to use those efficiencies.

Mr. Snyder continued, saying he and Mr. Rodriguez reached out to Tony Mortillaro, Executive Director of the NM RTD to see what opportunities there are to help us as we look to right size the transit mixture to meet our community's needs in the transit center, and to provide as a resource and a fallback to provide some help and guidance in moving forward.

Councilor Maestas reiterated his concern about the implementation of Resolution 2015-110 adopted in December, noting a copy is in the Council packet. He asked the issue behind the implementation of it. He said we've been hearing the message that we haven't been giving you any kind of direction. He said when we deliberated the Resolution the logic was sound that we want to look first at efficiencies. He asked Mr. Snyder to explain the status of the Resolution and the reason it hasn't been implemented.

Mr. Snyder said, "When Resolution 2015-110 was approved, we immediately started looking at opportunities and efficiencies. I strongly believe, as City Manager, that for the last 10 years we've been doing cuts to our budgets. The slogan has been do more with less, and we've been doing more with less as we cut staff, cut funding, but we've never scaled back service, and in fact we've done the opposite."

We've expanded services. That being said, I strongly believe as you are well aware, 80% of our budget is staffing. So we're at the point where staffing and services are intertwined. So as you reduce services, you cut staff. If you cut staff you reduce services. They're intertwined."

Mr. Snyder continued, "So moving forward, we're been looking at and exploring all different kinds efficiencies, service reductions and impacts. We're calculating that. But that being said, I was also waiting for priorities. We have priorities now as outlined in the Resolution approved tonight and we will be adapting the things we've been exploring into the priorities that have been addressed in the budget and bringing it forward during the budget process, as outlined in the schedule that was approved."

Mayor Gonzales said, "I wanted to add one more thing on that Councilor Maestas and I think it's a fair question to ask. Our best opportunity to recognize some of the efficiencies called for by the Resolution is to fulfill the investment in technology that will allow us to alter business processes that will drive it. Two cases in point. Our antiquated accounting system requires, on any given day, 4 to 6, sometimes 7 people to process pay roll. For an organization our size and budget, the number checks, that should be no more than 1-2 people if there was a proper accounting system in place. We're making progress, making sure that, through the use of technology, we'll become more efficient."

Mayor Gonzales continued, "In my meeting with Chief Gallagher this week, he indicated there are 13 individuals working in the Records Division at the P.D. who are entering case reports full time. There is technology existing that we could implement that would allow a report to go straight from the Officer's pad into the system without requiring 13 people to implement it. As part of the budget process, we have to look to the departments and see what investments we can make in technology that will allow the efficiencies you're calling for to be recognized."

Mayor Gonzales continued, "I've heard Councilor Dominguez say the issue of the cuts of staffing was meant to be done in the name of efficiency, but what it meant is we kept providing the same level of service with less people and the public began to notice. They said our services aren't being delivered the way we used to be. I think there's incredible opportunity for us to achieve it. I don't know if we get to point now and say here's the efficiency we've hit, because the technologies haven't been procured or implemented in the City, and the businesses processes haven't change. We can certainly get ourselves on a pathway to that within a very short period where that can take place. That's just one example. I'm sure there are other places we can find efficiencies for how we do things. But our technology systems in this City are very outdated and prevent us from being able to rise to a level of operations that maximizing efficiency while optimizing the delivery of service and we need to recognize that."

Councilor Maestas said, "To close, for me, I think this even more fundamental than that. I mean, this Resolution was unanimously adopted by the Governing Body. I worked with the City Manager to write this. He had a lot of input into it, and it's explicit enough. It really doesn't require any kind of prioritization. One of the requests was to review the need to fill vacant positions. If any one position remains vacant after a period of 2 years, it shall be removed. It doesn't take me to say Public Safety is a priority to tell the manager. I think our staff needs to carry out our policy direction."

Councilor Maestas continued, "And this wasn't my initiative, I may have been the sponsor, but I worked very closely with staff on this. And I'm making it an issue because it's integral to this whole budget discussion and whole logic I think our community expects us to have, especially when we talk about revenue enhancements. So I just wanted to go on the record taking great issue with this."

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

IN ACCORDANCE WITH THE NEW MEXICO OPEN MEETINGS ACT §§10-15-1(H)(7) AND (8) NMSA 1978, DISCUSSION REGARDING THREATENED OR PENDING LITIGATION IN WHICH THE CITY OF SANTA FE IS A PARTICIPANT, INCLUDING, WITHOUT LIMITATION, *NEW MEXICO CONSOLIDATED CONSTRUCTION LLC V. CITY COUNCIL OF THE CITY OF SANTA FE*; PROPOSED BUCKMAN DIRECT DIVERSION BOARD CONTINGENCY FUND POLICY; AND UPDATE ON MEDIATION UNDER THE DISPUTE RESOLUTION PROVISION OF THE WATER RESOURCES AGREEMENT BETWEEN THE CITY OF SANTA FE AND SANTA FE COUNTY; AND DISCUSSION OF THE PURCHASE, ACQUISITION OR DISPOSAL OF REAL PROPERTY OR WATER RIGHTS BY THE CITY OF SANTA FE. (KELLEY BRENNAN)

MOTION: Councilor Rivera moved, seconded by Councilor Trujillo, 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, including, without limitation, *New Mexico Consolidated Construction, LLC v. City Council of the City of Santa Fe*; proposed Buckman Direct Diversion Board Contingency Fund Policy; and update on the mediation under the Dispute Resolution Provision of the Water Resources Agreement between the City of Santa Fe and Santa Fe County; and discussion of the purchase, acquisition or disposal of real property or water rights by the City of Santa Fe.

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

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

Against: None.

The Council went into Executive Session at 7:15 p.m.

Mayor Gonzales said the Governing Body should be back in regular session by 7:40 p.m.

MOTION TO COME OUT OF EXECUTIVE SESSION

MOTION: At 7:57, Councilor Rivera moved, seconded by Councilor Trujillo, 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.

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

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

Against: None.

Absent for the vote: Councilor Maestas and Councilor Dimas.

17. REQUEST FOR APPROVAL OF THE PROPOSED BUCKMAN DIRECT DIVERSION BOARD CONTINGENCY FUND POLICY. (KELLEY BRENNAN)

A copy of *Buckman Direct Diversion Board Contingency Fund Policy* as proposed, is incorporated herewith to these minutes as Exhibit "4."

MOTION: Councilor Rivera moved, seconded by Councilor Dominguez, to approve the Buckman Direct Diversion Board Contingency Fund Policy in the form adopted by the BDDDB at its meeting on February 4, 2016.

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

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

Against: None.

Absent for the vote: Councilor Maestas and Councilor Dimas.

18. MATTERS FROM THE CITY CLERK

Melissa Byers, Assistant City Clerk, said Early Voting is being conducted in the Office of the City Clerk, 8:00 a.m. to 5:00 p.m., Monday through Friday, and at the GCCC Tuesday through Saturday, 9:00 a.m. - 6:00, which is a total of 13 days. She said they would like the voters of Santa Fe, if they are interested, to come out and Early Vote.

*Mayor Gonzales, with the consensus of the Governing Body,
moved Item #19 Communications from the Governing Body
to the end of the Evening Agenda*

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 Bill Dimas
- Councilor Carmichael A. Dominguez
- Councilor Signe I. Lindell
- Councilor Joseph M. Maestas
- Councilor Christopher M. Rivera
- Councilor Ronald S. Trujillo

Members Excused

- Councilor Peter N. Ives, Mayor Pro-Tem
- Councilor Patti J. Bushee

Others Attending

- Brian K. Snyder, City Manager
- Kelley Brennan, City Attorney
- Melissa Byers, Assistant City Clerk
- Melessia Helberg, Council Stenographer

F. PETITIONS FROM THE FLOOR

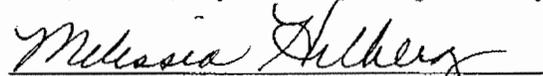
Mayor Gonzales gave each person 2 minutes to speak

**VERBATIM TRANSCRIPT
OF THE REQUESTED PORTION OF PETITIONS FROM THE FLOOR, ITEM #F
CITY COUNCIL MEETING
February 10, 2016**

STEFANIE BENINATO: Stefanie Beninato, P.O. Box 1601, Santa Fe, New Mexico. I'm urging the Council to be careful and not to just think about raising the gross receipts tax and property taxes. It has a huge impact on property taxes, and I really might think you haven't raised property taxes. The people who are paying those, we have limited resources to come up with more. *The Santa Fe Reporter* had an article about impacting property taxes at some level that the City has discussed would be like \$350 a year, which is a lot.

I would really urge the City to look at things like collecting fees that are overdue, even if it's starting with the top 10 of water users, and those kinds of things, parking tickets, try to collect those. Look at the four hundred and some odd funds that the City has and make sure they're all really needed, and they are being used properly. There is one I can share with you that I don't think has used property and needs to have money rotated back into that fund. I think also, if you are going to institute IT changes and improvements, that you also need to let us know what the licensing will cost every year and it is cost effective, and that if it's saving employee hours and what happens to those employees. Because yesterday at Finance Committee what I heard was loss of jobs through attrition and attrition only. Really I think we are a City that has a lot more jobs than we need. When you see two people watching one person watering on the Plaza. I mean, here's a little idea. Get rid of the flowers, the hanging pots on the Plaza. We don't need them, we have a lot of vegetation. We wouldn't need to have 3 people go there every day to water the plants, actually watering the benches, making the Plaza somewhat unusable for a couple of hours. That's just one small way. I'm asking you now that you be [inaudible] but you don't think about raising property taxes or gross receipts taxes. I see people going out of business for 4 or 5 years, and suddenly they just can't make it any more. If you raise these taxes, you are going to drive more of us away, making it harder for us to be here. We are already squeezed as the so-called middle class. I would also suggest you look at commissions, and instead of making more commissions, I know people are volunteers on the commissions, but we have a lot of staff time involved in commissions. So we don't hurt the [inaudible] the commissions, or it's just something new to do with some kind of quality of life that we don't have any money to fund. Maybe it would be better not to start a new commission and save some staff time or comp time. Thank you."

I certify that this is a true and accurate transcript of the requested portion of Petitions from the Floor, Item #F, City Council Meeting, February 10, 2016.


Melessia Helberg, Council Stenographer

Curt Hill, 610 Paseo Corto, said he would like for the City to look into doing something about our bus station across the street. He said he spoke with the staff and the previous Police Chief about it. It's a dangerous spot. He has a 13 year old daughter who runs from the bus station to his office every afternoon. He said it is a scary place. He said, "Just walk down there on your lunch break, you will see it for yourself."

G. APPOINTMENTS

There were no appointments.

H. PUBLIC HEARINGS

- 1) **REQUEST FROM GOLER FINE IMPORTED SHOES FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/ CONSUMPTION OF CHAMPAGNE AT GOLER FINE IMPORTED SHOES, 125 EAST PALACE AVENUE. THIS LOCATION IS WITHIN 300 FEET OF THE CATHEDRAL BASILICA OF ST. FRANCIS OF ASSISI, 131 CATHEDRAL PLACE. THE REQUEST IS FOR THE PRESENTATION OF THE DONALD J. PLINER COMPANY SPRING 2016 SHOE COLLECTION TO BE HELD ON MARCH 19, 2016, FROM 10:00 A.M. TO 6:00 P.M. (YOLANDA Y. VIGIL)**

Public Hearing

Stefanie Beninato said this store has an opening once a year if not more often, when it asks for this alcohol waiver which is always granted. She said 10:00 a.m. to 6:00 p.m. is a long time for alcohol service at an opening, and would like the owner for the detail of how alcohol can be controlled and if it really is going to start at 10:00 a.m.

Julie King, 965 [inaudible], said she is the Events Coordinator for La Casa Sena, who provides the alcohol service for this event, commenting they are their neighbor in Sena Plaza. She said the shoe show starts at 10:00 a.m., and alcohol service won't start until noon. And it's people coming in and having half a glass of champagne, and looking at shoes. There are licensed servers and management on staff, as well as security to watch alcohol consumption.

The Public Hearing was closed

MOTION: Councilor Lindell moved, seconded by Councilor Trujillo, to grant the request for a waiver of the 300 foot location restriction, and approve the dispensing/consumption of champagne at Goler Fine Imported Shoes, 125 East Palace Avenue for the presentation of the Donald J. Pliner Company Spring 2016 Shoe Collection, on March 19, 2016, 10:00 a.m. to 6:00 p.m., with all conditions of approval as recommended by staff.

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

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

Against: None.

- 2) **CONSIDERATION OF BILL NO. 2016-1: ADOPTION OF ORDINANCE NO. 2016-6 (COUNCILOR RIVERA AND, COUNCILOR BUSHEE AND COUNCILOR DIMAS). AN ORDINANCE AMENDING SECTION 24-2.6 SFCC 1987, TO EXTEND THE TRUCK AND OTHER LARGE VEHICLES TRAFFIC RESTRICTION ON JAGUAR ROAD FROM NM 599 (VETERANS MEMORIAL HIGHWAY) TO CERRILLOS ROAD. (JOHN ROMERO)**

Councilor Rivera said this Ordinance extends the current ban, and as Jaguar Road expands to Cerrillos, we wanted to get the ban in place before Jaguar Road goes all the way through to 599.

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

MOTION: Councilor Rivera moved, seconded by Councilor Lindell, to adopt Ordinance No. 2016-6.

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

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

Against: None.

- 3) **CONSIDERATION OF BILL NO. 2016-3: ADOPTION OF ORDINANCE NO. 2016-7 (COUNCILOR LINDELL AND COUNCILOR IVES). AN ORDINANCE AMENDING SUBSECTION 1-7.7 SFCC 1987, TO PROHIBIT AN ELECTED OFFICIAL FROM ACCEPTING EMPLOYMENT WITH THE CITY OF SANTA FE WITHIN ONE (1) YEAR OF LEAVING OFFICE. (ZACHARY SHANDLER)**

Councilor Lindell said she doesn't need to comment on this, noting the Ordinance is self-explanatory and we've discussed it at committee.

Public Hearing

Stefanie Beninato said she applauds the Council for trying to put something in place, noting this happens at the State level quite frequently, and there needs to be some kind of separation between being an elected official and then coming to work for the City. She said, "I think it's something I would support."

The Public Hearing was closed

MOTION: Councilor Dominguez moved, seconded by Councilor Lindell, to adopt Ordinance No. 2016-7.

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

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

Against: None.

- 4) **CONSIDERATION OF BILL NO. 2016-5: ADOPTION OF ORDINANCE NO. 2016-8 (COUNCILOR BUSHEE, COUNCILOR IVES AND COUNCILOR RIVERA). AN ORDINANCE AMENDING SUBSECTION 7-1.1 SFCC 1987, TO ADOPT THE 2012 UNIFORM SWIMMING POOL, SPA AND HOT TUB CODE, THE 2012 UNIFORM MECHANICAL CODE, AND THE 2012 UNIFORM SOLAR CODE; AMENDING SUBSECTION 7-1.1 SFCC 1987, TO ADOPT THE 2012 UNIFORM PLUMBING CODE, AS AMENDED BY THE STATE OF NEW MEXICO AND THE CITY OF SANTA FE.**

Michael Purdy said this bill, if adopted, would keep us in line with State Codes, the Construction Industry Division is on the 2012, so it would put us in sync with the rest of the State. He said criteria has been added for rainwater harvesting and such. He said, "It's pretty simple, straightforward, and we request approval."

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

MOTION: Councilor Trujillo moved, seconded by Councilor Lindell, to adopt Ordinance No. 2016-8.

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

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

Against: None.

- 5) CONSIDERATION OF BILL NO. 2016-4: ADOPTION OF ORDINANCE NO. 2016-9 (MAYOR GONZALES). AN ORDINANCE INCLUDING A DEFINITION FOR ALTERNATE MEANS OF COMPLIANCE, AND AMENDING THE DEFINITION OF EXTREME HARDSHIP; AMENDING THE REQUIREMENTS FOR SANTA FE HOMES PROGRAM RENTAL UNITS; AMENDING THE PROCESS BY WHICH A DEVELOPER OF RENTAL HOUSING IS ALLOWED TO PAY A FEE-IN-LIEU INSTEAD OF SEEKING AN ALTERNATE MEANS OF COMPLIANCE WITH THE REQUIREMENTS OF THE SANTA FE HOMES PROGRAM; AND ESTABLISHING AN EFFECTIVE DATE FOR THE AMENDMENTS. (ALEXANDRA LADD)

A copy of *Santa Fe Association of REALTORS, Santa Fe Homes Program Changes Testimony – February 10, 2016*, entered for the record by Curt Hill, is incorporated herewith to these minutes as Exhibit “5.”

Alexandra Ladd, Manager, Housing Special Projects, Housing & Community Services Department, presented information regarding this matter from the information in the Council packet.

The Governing Body commented and asked questions as follows:

- # Mayor Gonzales asked for a quick example of what such a development would look like, commenting that tonight the Governing Body voted to reconsider the Gerhart Apartment Project, and asked how that project be affected.

Ms. Ladd said it still would come to her for an affordable housing agreement, but rather than agreeing to a pricing schedule and providing the units on site, they would agree to pay the fee or provide another alternate compliance – a donation of a parcel of land – a resource contribution that would serve the interest of affordable housing needs in Santa Fe. She said that was already in the Ordinance, but the proposed compliance needs to address a demonstrated need. And one amendment, based on comments from Public Works, is the demonstrated need would be something the Governing Body would agree as a demonstrated need. So they didn’t try to define it in the Ordinance as much as allow it to be a discussion point among the elected officials.

- # Mayor Gonzales said asked how these fees in lieu would be used.

Ms. Ladd said they will be put into the Affordable Housing Trust Fund, noting the use of these funds has its own Ordinance, pursuant to the New Mexico Affordable Housing Act which allows a governmental entity to contribute resources to benefit affordable housing without violating the Anti-Donation Clause. She described the allocation process for the Trust Fund, commenting the Community Development Commission makes the first recommendation for how the funds will be spent, with the New Mexico Mortgage Finance Authority making the final decision as to whether the use is allowable.

- # Mayor Gonzales said he thought he and Alexandra discussed that it can be used for rental assistance for needy families as well.

Ms. Ladd said that is correct, noting there is a list of allowable uses that are compliant with the New Mexico Affordable Housing Act which governs the way the funds are used. She described the process to provide short term assistance to get people through a rough spot whatever that might be to help them get on their feet, commenting there is a lot of flexibility in the use of funds to pay for utility and rental arrears, down-payment to get into the apartment. The whole idea behind it is that to keep someone housed helps the persons avert crisis, as well as being more cost effective in terms of providing services.

Councilor Maestas said then Ms. Ladd is saying if we use funds that could have gone toward permanent affordable housing to address a temporary housing issue is more cost effective, than opting for the permanent, affordable housing.

Ms. Ladd said no. She said the point she was making is that when someone loses their rental housing for whatever reason and they are on the street, and to get them re-housed is much more difficult than paying their rent for a couple of months until they get back on their feet. The idea of a 100% affordable housing is more of a capital project, and a fairly different use of funds. The point is that both are needed and allowable under the Trust Fund.

Councilor Maestas asked if there is a set amount of uses for the Trust Fund based on priorities. He said he wants to make sure we don't forego permanent, affordable housing to alleviate a temporary situation and not realize the lasting impact from the permanent, affordable housing.

Ms. Ladd said that is an excellent point. The way the Ordinance is written, it has to tie into how the City has defined its needs on its 5-year strategic plan, which the MFA also approves. So it's constantly double-checking that the funding is being used where we say we need it the most, noting the applications are funded as they come forward. So what is needed at the time is what would be funded if it clearly serves a demonstrated purpose.

Councilor Maestas wants to ensure that doesn't become a convenient choice for a developer, to say, "Oh, I'll just pay a fee and not put in the work to try to integrate affordable housing into the development."

Ms. Ladd said, "At this point, and there are people here tonight who will speak during the public hearing on this. And I'll just put this out there, our inclusionary zoning program works very very well on the home ownership side. It does not work in this market in this day and age on the rental side. And I've done research across the country. Inclusionary zoning for rental properties works in very high density, very high value areas where you can truly subsidize the cost of operating those lower rent units."

Ms. Ladd continued, "When a developer comes in for financing for a multi-family project, they are dead in the water with this requirement in place as its written. With that said, I'm beginning the process of rewriting our 5-year strategic plan, and as part of that, I'm going to be working with, I don't know who, but a national inclusionary zoning consultant of some sort who can at least point me in the direction of where the best practices are, and how we might be able to rewrite our rental section so it works."

- # Councilor Maestas said the definition of an extreme hardship has been amended on page 3 of the Ordinance, noting he has heard Ms. Ladd voice her frustration of verifying the extreme hardship. He said the proposed language doesn't seem to add more clarity or help her to verify and confirm an extreme hardship. He asked how this language is better and will help her in the process of confirming an extreme hardship.

Ms. Ladd said they struggled with this language, noting part of the deletion was duplicative language of something that constitutes a taking, which is a given and doesn't need to be there. She said the question from developers was how to demonstrate the extreme hardship, because they aren't going to show her their *pro forma*. She said she was trying to figure out a way to present the concept in a way that there was a burden of documentation that is relevant to the development process – make it more functional, noting there is room to change that language.

- # Councilor Maestas said in his opinion, the language is still problematic, noting it plays an important role in the implementation of this law. He said another suggestion would be to allow the establishment of administrative guidelines to assist employees in implementing the Ordinance.

Ms. Ladd said we do have administrative procedures for the Ordinance.

- # Mayor Gonzales said the end goal of this amendment is to increase the supply and availability of housing for an assortment of Santa Feans. The more we try and to tighten it so it becomes so onerous to a developer, the less supply that will go out there. He said we have to try to find the right balance so a development is reaching the individual who needs access to housing. As we move forward, the idea is to retain as much flexibility as possible. We have to find a way to encourage more rental housing in the community, as well as to generate a source of funds to help individuals needing access to down-payment assistance or they are agreeing to hold on and need rental or payment assistance. He said he believes we can find that now.

Public Hearing

Mayor Gonzales gave each person 3 minutes to speak to the issues

Kurt Hill read a statement into the record from the Santa Fe Association of Realtors in support of the Amendment. Please see Exhibit "5," for specifics of this presentation.

Josh Rogers, said he is the Director of Multi-Family Housing for Titan Development, the largest developer of multi-family housing in New Mexico, having 714 units in the past 3 years. He spoke about what has happened in Santa Fe since 1993 which has grown by 14,500 people. He said their demand analysis indicates that 15% of the population/employment numbers should go to rental housing. He said they come up with a demand of 2,550 units for multi-family housing that should have been built since 1993, commenting that has not happened. He noted a project of 176 housing units was built in 2009, so Santa Fe has a shortage of some 2,500 units of multi-family housing.

Mr. Rogers continued, saying there is the classic case of supply and demand. He said if supply is fixed and demand is increasing from new population/employment, the average rental rates will increase to bring balance to the market. The imbalance has increased rents exponentially at 6.25% last year, which has caused the rental rates in Santa Fe to become not affordable for the average person living in Santa Fe and the decision to commute to Santa Fe from Rio Rancho, Bernalillo and Espanola. He spoke about how, over time, the property ages and has new competition and the rents fall. If the supply had kept up with the demand, the apartments built in the 1990's and earlier would now be considered Class B or C projects and generate rents in the affordable range of \$520 to \$650, compared to the average \$868 for a one bedroom apartment in Santa Fe, which is \$103 more per month than Albuquerque for a smaller apartment with less amenities. He said they are completely behind the Amendment, because without hitting certain margins they can't borrow money and new apartment deals are dead on arrival.

Jennifer Jenkins, JenkinsGavin Design & Development, said she is in support of this Amendment. She said two years ago, Ms. Ladd's office formed a subcommittee of people in Santa Fe composed of people in development as well as service providers such as LifeLink, Community Housing Trust and different organizations to look at this issue. She said it became very clear that the Ordinance, as written requiring every project to have 15% of its units on site, creates an amazing amount of administrative staff time for the City. It costs the City money to monitor those projects to ensure that 15% of the units stay affordable and qualify the buyers. It is expensive and inefficient. She said they learned there are amazing organizations in Santa Fe doing amazing work in dealing with the homeless, transitional housing, people in emergency situations, the disabled. They have a lot of infrastructure in place, and with these fees, those monies can be leveraged with minimal staff time and investment and cost to the City to have a much greater positive impact. She said multi-family housing traditionally is affordable housing, the nature of this type of product, and supply is the key to keeping it that way. She said as long as we create an environment supporting these projects, with the demand numbers, if we're really short 2,400 units, projects would be popping up all over the place if they were financially viable, but they're not. She said one of those reasons is something you're in a position to fix tonight to create more diverse housing options for the Santa Fe community. She said "This is a win-win, and there isn't a lose situation here. I really encourage you to pass this tonight. Thank you."

Rick Martinez, 725 Mesilla Road, said he is here speaking against the Ordinance. He said changing it, changes Santa Fe completely. We are allowing developers to separate the affordable units from one part of town to the others. He thinks this is a wrong approach. He said affordable units and apartments are important because they recycle, and stay in this part of the town. He thinks we are losing our diversity. He said he grew up in Santa Fe where everybody lived together, rich and poor, and got along well. He said this is the wrong approach for the City. It is better to get the affordable units in right away so people can start living in them, commenting people really need these affordable units.

Keith Gorges, 500 Johnson Lane, Partner in Tierra Concepts, which presented the El Rio proposal to the Governing Body last summer. He urged that the Governing Body support this initiative. The last sentence indicated we are losing people to live elsewhere and commute to work in Santa Fe. He said we can't sustain the economic and social impact, commenting that with our budget shortfalls the economic impact is extremely clear right now. He said we also know the Housing Needs Assessment Study done two years ago, showed that the cost of housing is the biggest contributor to the exodus of people from Santa Fe. He said we're experiencing the law of unintended consequences with this Ordinance. It was put in place to improve the housing situation in apartment and rental housing. It did just the opposite. He said since the Ordinance was adopted, only one market rate apartment complex was built in the City, the San Isidro complex, but it doesn't have integrated affordable housing. It has a separated affordable housing, noting it is a tax credit affordable housing project.

Mr. Gorges continued, saying so, nothing has been built at all that has integrated affordable in apartments. It is doing the opposite of what it was intended to do. He said in El Rio, the affordable portion was on a separate piece of land because the bank would not lend them money on that portion. It wasn't they didn't want to integrate the housing, it's because it's not possible economically, noting San Isidro is an R-29 project and feasible economically, but only if it was carved out. It wouldn't have been feasible for the El Rio project – from the banking or economic standpoint. He said this a serious and growing problem in Santa Fe, and this Ordinance would reduce a hurdle and help, but not cure the problem. We can't afford to have half our workers commuting from Rio Rancho, and that's what it may be soon.

Stefanie Beninato said she is not in support of the Amendment, but she can see that it is inevitable. The City hasn't approved many affordable rental housing projects, noting El Rio is an example of a project that wasn't approved. She said people are up in arms, having heard that the affordable housing component on that was going to be separated. She agrees with Mr. Martinez that it will change the character of the socio-economic mix in neighborhoods, as opposed to the past where people of different economic levels lived next to one another and it worked quite well. She understands the financing problem, but she is concerned for the potential to segregate affordable housing in another part of town. She asked how it is better that the developer is making a payment in lieu than building a unit. She wonders if the City and the Affordable Housing get shortchanged because the amount paid in lieu is significantly less than what it would have cost. She doesn't see how this change will help economically. This is just one part of the equation, noting the waiving of the impact fees hasn't had an impact and there was no basis when it was done and reviewed. She thinks this will help, but if not, she would ask to require that information before you make this decision.

Brian Patterson said he works with Josh Rogers at Titan Development. He said there are 3 positives of the situation and what good can come from this. One, the money generated from the fee-in-lieu program allows building new apartments or creating new programs or rental assistance. Two, the natural evolution of apartments in Santa Fe will start causing the rents to fall. Three, and importantly, this program can help reduce the shortfall of 2,400 units. These are the 3 positives that can come from this.

The Public Hearing was closed

The Governing Body commented and asked questions as follows:

Councilor Dominguez said the whole issue of segregation of affordable housing isn't new, and we discussed that when this was at Committee. He asked here to talk about how this won't promote more of that. His concern is opposite of what the public has said is that right now it's already happening, so how is going to help keep that from continuing to happen.

Ms. Ladd there's more of an overall market benefit, because, as everyone has said, the more units that come on line will bring rents that will open more choices in different parts of town for renters who can't afford certain parts of town. Those units will become more affordable when new units come on long. She doesn't think the location of the units will further any kind of segregation, and the low income housing tax credit projects we do have, has a huge *[inaudible]* within those projects.

Councilor Dominguez said he heard her say earlier, and he agrees, that Santa Fe's Inclusionary Ordinance is a great one. However, that may not be so true in the rental market. If he understands what she is saying, we're still going to need to work on the Inclusionary Zoning Ordinance to shift or change the dynamic of segregation of housing. This will help, but it is not the solution.

Ms. Ladd agreed. She said the solution is lots of different things coming from different directions. Rental assistance to someone else gives them a choice in where they can afford to live. She said providing capital for 100% affordable projects offers different choices for different people. She thinks it is opening choice and access even more than looking strictly at geography. She said most of us "in the room can't afford to live in every neighborhood in Santa Fe." She said that ship has almost sailed in terms of home ownership. She appreciates the Councilor's point, which will be part of the upcoming rewrite of this section of the Ordinance making it more flexible and keeping that in mind in expanding choice and access.

Councilor Dominguez asked, speaking of unintended consequences, if Ms. Ladd sees a need to sunset this Ordinance, or an indicator that would trigger a rewrite or an amendment to the Ordinance.

Ms. Ladd said originally, there was a two-year sunset. When we moved the Civic Community Development Commission, many people in the development and service provider communities urged a four-year window, with a year three staff review to see if it is having benefit, and if not, perhaps we need to “change out tactic here.”

Councilor Dominguez asked if the four-year window is consistent throughout the affordable housing market.

Ms. Ladd said she doesn't know, because she hasn't looked at places that have amended the Ordinance to allow this. She said most programs were written to have a fee in lieu as part of a flexible way to comply with the program, commenting they considered all kinds of things in coming to this language. She said it was just a number with which everyone was comfortable.

Councilor Dominguez said he is satisfied with that, but he would really be concerned if there was no threshold.

Councilor Maestas talked briefly about our experience with Las Soleras, where the developer opted to set aside land for multi-unit affordable housing in lieu of having the inclusionary single family units within the development proper, but it still had a feeling of segregation, but the land set aside was in Las Soleras. This is completely an off-site option which is of concern to him. He is concerned that if we accept a payment in lieu of, it will go into a fund to alleviate temporary situations. We are foregoing a permanent benefit of affordable housing for a higher risk alleviation of a temporary situation, which doesn't seem right to him, so he won't put his full faith of how those funds for affordable units will be use. He thinks we're sacrificing too much, although he can see how it helps developers. He thinks the fee will be very popular. He asked how we verify that the fee is equal to a greater than, the inclusionary units that would be on site. He said if they won't share a *pro forma* to prove a financial hardship, how do we verify that the fee represents the cost of the affordable units that would be built normally.

Ms. Ladd said the methodology as written now, it is based on affordability gap, that looks at what the subsidized rent in that project would be and compares it to the fair market rent, established by HUD every year, and the gap is what creates the fee for that unit. She said David Martinez of the Santa Fe Civic Housing Authority and one of the points he was making is that many of their customers use the housing choice voucher which allows them more choice in where they are going to live. And that helps to counter segregation, because there are more and rents come down overall. She said don't know that all of the fees will be spent on temporary rental assistance, and some may go into 100% affordable capital projects, permanently. She stressed th at individual rental assistance also increasing choices of more places you can afford if there is assistance.

Councilor Maestas said finally, he sees the fee as unnecessarily holding down the inventory of rental housing. He said we want to help people in a stressful situation to avoid becoming homeless. He thinks it's all about inventory and doesn't see how this will increase the number of new rental units with the fee in lieu. He asked, “Do you think the fee option will help stimulate inventory.”

Ms. Ladd said, "I do, because that's what I hear from the development community – with the inclusionary requirement in place to make 15% of the units affordable. It isn't just the cost of creating the unit, it is the cost of operating the unit, because it costs the same as the market rate unit but you're collecting half of the rent. There is a hit on the operating budget year after year after year, which is what makes it not financeable from a development point of view. It is more sustainable to work in the fee as a soft cost on the front end of the project."

Councilor Maestas said, in closing, his concern is that we don't design-in the unintended consequences. He still has a lot of questions about this. He realizes this is now at the Council, but after looking at this some more and hearing from the public, he still has reservations about this.

Mayor Gonzales said he is bringing this forward because he thinks, in essence, we have an exclusionary zoning law. We haven't seen any new market rate development for rental housing to go up in years, commenting that 39% of our workforce lives in Santa Fe, and the majority lives outside the City. He the costs to commute to work to Santa Fe from Espanola, Pojoaque and Pecos – wear and tear on the car, the gasoline, the mileage – all digs into their pocket because we can't find a way to incentivize more development coming in. If we want inclusionary zoning to happen in the multi-family developments, we should consider subsidizing it.

Mayor Gonzales continued, "Let's put government cash into this so we can actually make it happen. There is no way the market today, with the cost of land, the requirement to find water outside the City and bring it into the City, the regulatory environment and on and on, there is no way a developer is going touch coming into this community and providing housing. I think we've proven the unintended consequence here. If our goal was to stop multi-family housing from happening, we've succeeded. And the truth is that in Santa Fe, we're small enough a community that no matter where this goes up, I think as long as it's an affordable, clean, safe environment with access to public transportation or close to their work, I think we are meeting the needs of Santa Fe families. And if we want to get serious about making sure people get to live affordably throughout the City, we have the Water Street Parking Lot that can be brought forward, and let's put that in the plan, put housing in the downtown area."

Mayor Gonzales continued, "There are opportunities, so we can't just sit up here and say I wish it was this or I wish it was that, hoping the private sector is going to come forward, because all we'll get is the same old thing. And the definition of insanity is doing the same thing over and over and expecting different results. And if we constantly push to have some kind of inclusionary process inside multi-family housing, we're going to continue to lock out more Santa Feans and developers will find different places to go develop. That might be okay for a whole portion of our community, but for the people who need to work in Santa Fe, and they need to live in Santa Fe, we need to be able to provide at least a regulatory environment that assures there is a supply of housing that is coming out to the market place."

Mayor Gonzales continued, "Later this Spring, we'll have an opportunity to consider overlay zones like St. Michaels or Siler, or other areas, where we can incentivize it even further. This will provide an opportunity to be able to target where we want to increase densities throughout the City through infill. But if we continue to create these barriers hoping someone will come forward and then magically deliver some of the critically needed apartments for our community, it's not going to happen, it's not. So I'm hoping the Council will adopt this. I think the four years gives us the opportunity to evaluate it."

Mayor Gonzales continued, "I don't think people are going to come rushing through the gates and developing like crazy in Santa Fe. That isn't the case, because it's expensive, it's tough and we have to do what we can to make sure that as we move forward, we have the ability for the economy grow. The more people that live in Santa Fe, the more people are going to shop in Santa Fe, and that's going to generate more GRT. The more we create barriers for people where they can't access housing, the more they're going to take their money and spent it elsewhere. This is an opportunity to lower one part and get a fee-in-lieu that can be used for affordable housing and hopefully see a new supply of housing, as well as cash come into play so we can help people that are most needy. I just want us to look at the big picture and not try to socially engineer things we want to see happen in our community through this Ordinance, because it's not going to happen."

MOTION: Councilor Lindell moved, seconded by Councilor Dominguez, to adopt Ordinance No. 2016-9.

DISCUSSION: Councilor Lindell said this is a short time frame. She hopes we get housing within this timeframe, commenting we are in desperate need of it, as well as for money into the agencies that distribute rent subsidies to people.

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

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

Against: Councilor Maestas

Explaining his vote: Councilor Rivera said, "I do have some concerns similar to what was voiced during the public hearing, but I do think we need to try it for a season and see what happens, so I'm going to vote yes."

Explaining his vote: Councilor Trujillo said, "I think we all have reservations. I see everybody out there nodding their heads. If you pass it, they will come – I don't know, that's the question. I guess my concern is if we pass this, you guys are going to come in and build apartments. I don't know where they will be built. I think there are two districts in this town that are sacred. But I realize we have to give the opportunity to people to live in this community. As you Mayor, having been born in this City and seen most of our friends live in Rio Ranch, pretty much for good reason. They can afford a house there. They get more house for what they pay. That has been the trend

since the 1980's. All of our friends are shipping south to Albuquerque and I would like to see if we maybe we can somehow can get those friends back to Santa Fe, to their home town. So we're going to try. I'm going to vote yes. Let's see what happens."

6) CONSIDERATION OF BILL NO. 2016-6: ADOPTION OF ORDINANCE NO. 2016-10 (COUNCILOR BUSHEE AND COUNCILOR IVES). AN ORDINANCE ESTABLISHING REQUIREMENTS FOR BICYCLE PARKING FOR NEW DEVELOPMENTS, OR THOSE INCREASING IN INTENSITY BY 25 PERCENT OR MORE. (MELISSA McDONALD)

Melissa McDonald provided a brief overview of the proposed Ordinance, which she thinks is self-explanatory, noting this was brought forward from BTAC, in an MPO study that was done this summer identified that across the City we had a lack of off street bicycle parking. She said, "So we created this Ordinance and hope you will consider it."

Public Hearing

Stefanie Beninato said she supports the proposed, commenting there are many buildings, especially public buildings, that still don't have bicycle racks, so anything that will help support bicycle use, including rack where needed so you can leave your bicycle wherever you may be going is good.

Jennifer Wellington, 2307 Calle Brocha, said she lives in District 4, and she is here in support of this Ordinance, and would appreciate Governing Body support to require bicycle parking, particularly within a reasonable distance of an entrance to a building, and within a reasonable visual distance. She said bicycles are vulnerable to theft, and spoke of her experience in Greeley, Colorado where her bicycle was stolen from a bicycle rack that that didn't have good visibility. She said, "So it is good design and not just putting a bicycle rack out is really important. This type of infrastructure is important to get people out on bicycles, and it helps to validate bicycling as a legitimate transportation, and feels its really important as Santa Fe gets on a sustainable band wagon."

Gary Schiffmiller, 924 Osage Avenue, representing Bike Santa Fe, a local non-profit bicycle advocacy organization, and they enthusiastically support the Ordinance, and appreciate the efforts of the City to make it a more bicycle-friendly City, and getting people on bicycles to run errands, using bicycles for transportation as well as recreation. It benefits the entire community. Every bicycle on the street is a car that isn't on the street which reduces traffic congestion, etc. He said, "So we thank you very much, and we appreciate this."

The Public Hearing was closed

Councilor Dominguez said in the Airport Road overlay we have a much higher requirement for bike parking than originally required. He asked if this Ordinance is consistent with that requirement, and if not, he would like for this to be included in the overlay.

Ms. McDonald asked Keith Wilson of the MPO to answer this question.

Keith Wilson, Chief Planner, Santa Fe MPO, said he was unaware when they were doing this that there were separate requirements in the overlay. He said, "I would think if the overlay is more restrictive, then those will apply. The way we developed these numbers was to look at various communities across the nation to gage where they were with the numbers."

Councilor Dominguez asked Ms. Brennan what will supercede.

Ms. Brennan said, "Keith is correct about, if is a higher standard, then the higher standard typically applies. I think that the overlay would require a separate amendment to conform to it otherwise."

MOTION: Councilor Dominguez moved, seconded by Councilor Lindell, to adopt Ordinance No. 2016-10.

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

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

Against: None.

Explaining his vote: Council Dominguez said, "I would hope that BTAC would consider those sorts of things whenever they are coming up with Bike-friendly legislation, because it is a part of our community that needs.... it is a part of our community that relies on these alternative modes of transportation and so, maybe BTAC will bring forward an amendment to the overlay zone. Yes."

THE GOVERNING BODY THEN RETURNED TO THE AFTERNOON AGENDA

19. COMMUNICATIONS FROM THE GOVERNING BODY

A copy of "Bills and Resolutions scheduled for introduction by members of the Governing Body," for the Council meeting of February 10, 2016, is incorporated herewith to these minutes as Exhibit "6."

Councilor Dimas

Councilor Dimas had no communications.

Councilor Maestas

Councilor Maestas had no communications.

Mayor Gonzales

Mayor Gonzales introduced a Resolution providing public approval of the Public Finance Authority's Revenue Bonds (St. John's College Project) Series 2016. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "7."

Councilor Dominguez

Councilor Dominguez had no communications.

Councilor Lindell

Councilor Lindell had no communications.

Councilor Trujillo

Councilor Trujillo had no communications.

Councilor Rivera

Councilor Rivera had no communications.

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 9:15 p.m.

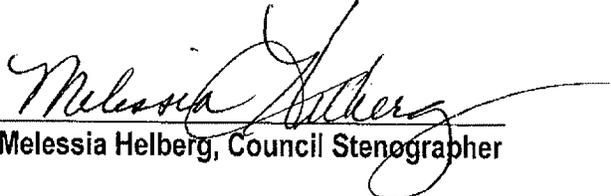
Approved by:

Mayor Javier M. Gonzales

ATTESTED TO:

Yolanda Y. Vigil, City Clerk

Respectfully submitted:


Melessia Helberg, Council Stenographer

**MEETING OF THE GOVERNING BODY
EXECUTIVE SESSION
FEBRUARY 10, 2016**

The Governing Body of the City of Santa Fe met in an executive session duly called on February 10, 2016 beginning at 7:14 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, Including, without Limitation, New Mexico Consolidated Construction, LLC v. City Council of the City of Santa Fe; Proposed Buckman Direct Diversion Board Contingency Fund Policy; and Update on Mediation under the Dispute Resolution Provision of the Water Resources Agreement between the City of Santa Fe and Santa Fe County; and Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights by the City of Santa Fe.

PRESENT

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

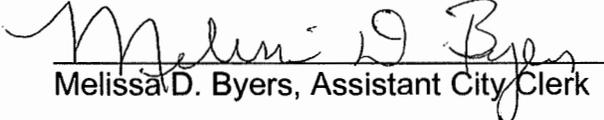
ABSENT

Councilor Bushee
Councilor Ives

STAFF PRESENT

Brian K. Snyder, City Manager
Kelley A. Brennan, City Attorney
Marcos A. Martinez, Assistant City Attorney
Melissa D. Byers, Assistant City Clerk
Matthew O'Reilly, Asset Development Director

There being no further business to discuss, the executive session adjourned at 7:53 p.m.


Melissa D. Byers, Assistant City Clerk