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**SANTA FE CITY COUNCIL MEETING**  
**April 30, 2014**

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Approved

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REQUEST FOR APPROVAL OF COOPERATIVE AGREEMENT – PEDESTRIAN IMPROVEMENTS TO EAST ALAMEDA AND SANTA FE TRAIL; NEW MEXICO DEPARTMENT OF TRANSPORTATION

Approved

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REQUEST FOR APPROVAL OF BUDGET ADJUSTMENT – PROJECT FUND

Approved

7

CONSIDERATION OF RESOLUTION NO. 2014-30. A RESOLUTION DIRECTING THE CITY MANAGER TO ESTABLISH A CITY OF SANTA FE INTERNSHIP PROGRAM TO PROVIDE AN OPPORTUNITY FOR COLLEGE STUDENTS TO BE EMPLOYED BY THE CITY DURING SEMESTER BREAKS FROM COLLEGE

Approved a/amended

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PUBLIC HEARINGS

REQUEST FROM MURPHY OIL USA, INC., FOR A TRANSFER OF OWNERSHIP OF DISPENSER LICENSE WITH PACKAGE SALES FROM MURPHY OIL CORPORATION TO MURPHY OIL USA, INC. THIS LICENSE WILL REMAIN AT MURPHY EXPRESS #8609 LAS SOLERAS DRIVE

Approved

22-23

REQUEST FROM ALAMOWING SANTA FE, LLC, FOR A TRANSFER OF OWNERSHIP AND LOCATION OF DISPENSER (CANOPY) LICENSE #1363 (ON PREMISE CONSUMPTION ONLY), FROM CITY HALL, INC., D/B/A ROUGE CAT, 101 W. MARCY STREET, SUITE 5, SANTA FE, TO ALAMOWING SANTA FE, LLC, D/B/A BUFFALO WILD WINGS, 3501 ZAFARANO DRIVE

Approved

23-24

REQUEST FROM GREGORY NEIL MENKE FOR A RESTAURANT LIQUOR LICENSE (BEER AND WINE ON-PREMISE CONSUMPTION ONLY) TO BE LOCATED AT THE BEESTRO, 101 W. MARCY STREET

Approved

24-25

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Approved

25

REQUEST FROM EL MUSEO CULTURAL DE SANTA FE FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/ CONSUMPTION OF BEER AND WINE AT EL MUSEO CULTURAL DE SANTA FE, 555 CAMINO DE LA FAMILIA, WHICH IS WITHIN 300 FEET OF TIERRA ENCANTADA CHARTER SCHOOL @ ALVORD, 551 ALARID STREET. THIS REQUEST IS FOR THE EVENT "ARTS, CULTURE AND COMMUNITY," WHICH IS A FUNDRAISER FOR EL MUSEO CULTURAL AND ESPERANZA SHELTER FOR BATTERED FAMILIES TO BE HELD ON MAY 3, 2014, FROM 5:30 P.M. TO 8:00 P.M.

Approved

26-28

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<p>REQUEST FROM NEW MEXICO SCHOOL FOR THE ARTS (NMSA) FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/ CONSUMPTION OF ALCOHOLIC BEVERAGES IN THE GEORGIA O'KEEFFE MUSEUM EDUCATION ANNEX PARKING LOT, 123 GRANT AVENUE, WHICH IS WITHIN 300 FEET OF THE FIRST PRESBYTERIAN CHURCH, 208 GRANT AVENUE. THIS REQUEST IS FOR NMSA'S ANNUAL FUNDRAISING GALA "ARTSPRING" TO BE HELD ON FRIDAY, MAY 9, 2014 FROM 7:00 P.M. TO 9:00 P.M.</p>	Approved	29
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**MINUTES OF THE  
REGULAR MEETING OF THE  
GOVERNING BODY  
Santa Fe, New Mexico  
April 30, 2014**

**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, April 30, 2014, at approximately 5:00 p.m., in the City Hall Council Chambers. Following the Pledge of Allegiance, Salute to the New Mexico flag, and the Invocation, roll call indicated the presence of a quorum, as follows:

**Members Present**

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

**Others Attending**

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

**6. APPROVAL OF AGENDA**

Brian Snyder asked to remove Item #10(i) from the Afternoon Agenda.

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

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

**7. APPROVAL OF CONSENT CALENDAR**

Councilor Lindell said she will recuse herself from voting on Item 10(c). She said she will be recusing herself on Items H(11) and H(12) on the Evening Calendar, because she heard both of these cases as a Planning Commissioner.

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

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

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

**Against:** None.

**10. CONSENT CALENDAR**

A copy of an Action Sheet from the Public Works/CIP and Land Use Committee meeting of Monday, April 28, 2014, regarding Item 10(h) is incorporated herewith to these minutes as Exhibit "1."

- a) **BID NO. 12/23/B AND BID NO. 12/24/B RENEWALS – POLYELECTROLYTE CHEMICALS FOR FY 2014-2015 WASTEWATER TREATMENT PLANT AND COMPOST DEWATERING FACILITY; POLYDYNE, INC. (LUIS OROZCO)**
- b) **REQUEST FOR APPROVAL OF CHANGE ORDER NO. 2 – POLICE STATION IMPROVEMENTS PHASE III; SARCON CONSTRUCTION CORPORATION. (LeANN VALDEZ)**
- c) *[Removed for discussion by Councilor Dimas]*
- d) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER COOPERATIVE PRICE AGREEMENT – PROFESSIONAL CONSULTING SERVICES – PERFORM EMPLOYMENT TESTING FOR POLICE AND FIRE DEPARTMENTS; DONNOE & ASSOCIATES, INC. (JAN SNYDER)**
- e) **REQUEST FOR APPROVAL OF EARLY REPAYMENT OF NINE (9) NEW MEXICO FINANCE AUTHORITY (NMFA) WATER DIVISION LOANS. (NICK SCHIAVO)**

- f) REQUEST FOR APPROVAL OF CHANGE ORDER NO. 3 UNDER THE ALTERNATE A – OWNERS CONTINGENCY – SANTA FE RESERVOIRS INFRASTRUCTURE IMPROVEMENT PROJECT; RMCI, INC. (ROBERT JORGENSEN )
- g) REQUEST FOR APPROVAL OF AMENDMENT NO. 2 TO LEGAL SERVICES AGREEMENT – LEGAL SERVICES FOR THE CITY’S APPLICATION TO RE-PERMIT THE CITY’S NORTHWEST WELL AND RETURN FLOW/DISCHARGE CREDIT; STEIN & BROCKMANN, P.A. (MARCOS MARTINEZ AND NICK SCHIAVO)
  - 1) REQUEST FOR APPROVAL OF BUDGET INCREASE – WATER FUND.
- h) REQUEST FOR APPROVAL OF BUDGET TRANSFER FROM BICENTENNIAL POOL FUND TO MUNICIPAL FACILITY REPAIR FUND FOR FORT MARCY ROOF AND SKYLIGHT REPLACEMENT. (DAVID PFEIFER)
- i) REQUEST FOR APPROVAL OF ANNUAL CITY OF SANTA FE INVESTMENT POLICY. (HELENE HAUSMAN) This item was removed from the Consent Agenda
- j) CONSIDERATION OF RESOLUTION NO. 2014-28 (COUNCILOR TRUJILLO AND COUNCILOR BUSHEE). A RESOLUTION DIRECTING STAFF TO STUDY THE FEASIBILITY OF HOLDING, ON AN ANNUAL BASIS, AT LEAST ONE CITY COUNCIL MEETING IN EACH OF THE FOUR COUNCIL DISTRICTS TO ENCOURAGE INVOLVEMENT AND PARTICIPATION BY RESIDENTS OF THE COUNCIL DISTRICTS. (JODI PORTER AND YOLANDA Y. VIGIL)
- k) *[Removed for discussion by Councilor Trujillo]*
- l) *[Removed for discussion by Councilor Trujillo]*
- m) *[Removed for discussion by Councilor Bushee]*
- n) CONSIDERATION OF RESOLUTION NO. 2014-\_\_\_\_ (COUNCILOR DIMAS, COUNCILOR BUSHEE AND COUNCILOR LINDELL). A RESOLUTION AUTHORIZING THE ESTABLISHMENT OF A LEAD POLICY COMMITTEE AND LEAD CASE COORDINATION SUBCOMMITTEE TO ENSURE THE EFFICIENT AND ETHICAL OPERATIONS OF THE LEAD SANTA FE PROGRAM. (TERRIE RODRIGUEZ). (Postponed at April 9, 2014 City Council Meeting). (Postponed to May 14, 2014 City Council Meeting)

**8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – APRIL 9, 2014.**

**MOTION:** Councilor Dominguez moved, seconded by Councilor Trujillo, to approve the minutes of the Regular City Council meeting of April 9, 2014, as presented.

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

## 9. PRESENTATIONS

### a) **EMPLOYEE OF THE MONTH FOR APRIL 2014 – DONALD E. BELL, SENIOR SERVICES VAN DRIVER.**

Councilor Bushee read the letter of nomination into the record and presented a plaque and a check for \$100 from the Employee Benefit Committee to Donald Bell, Senior Services Van Driver, Employee of the month for April 2014.

Mr. Bell talked about his experience in working with the City, and said you get back what you're willing to put in. He said his father taught him if he was doing a job for somebody, always to do a little bit more than what the person is paying for, and what they expect, and he would always get along and he will never have any problems coming back to him.

### b) **MUCHAS GRACIAS – SANTA FE TRAILS STAFF**

Councilor Dominguez presented Muchas Gracias certificates to Santa Fe Trails Staff for their outstanding assistance during the recent Rail Runner emergency.

Mayor Gonzales congratulated and thanked all of those who responded on this very difficult day during the tragedy that occurred at the Rail Runner crossing, and transporting people during that time. He said, "You did it safely and you represented the City quite well, and our gratitude is more than what you are holding in your hands, and it is a small way of thanking you for what you did and for comforting many people during that time."

### c) **11<sup>TH</sup> ANNUAL CHILDREN'S WATER CONSERVATION POSTER CONTEST WINNERS (CARYN GROSSE, WATER CONSERVATION SPECIALIST)**

Councilor Ives presented the winners with plaques and canvass bags, assisted by Caryn Grosse, Water Conservation Specialist, and Alan Hook, Water Division. Mayor Gonzales congratulated each of the winners.

Councilor Ives said the poster of the grand prize winner, Mali Murphey, will be on a City bus for one year, and the posters of all of the other winners will be featured in the annual calendar.

**d) SANTA FE HIGH CHEER TEAM – OVERALL CHAMPS AND STATE CHAMPS**

Councilor Trujillo presented a trophy to the Santa Fe High Cheer Team, who were the overall champions and 2014 State Champions, and congratulated them on their championship. He said this is the first 4-A State Champion Cheer Team in the history of Santa Fe High School

The Coach said she is very proud of this Team, commenting she has been working with them since they were very little, beginning with practice at the Boys & Girls Club. She said two members of the Team will be cheering for the NMSU Aggies next season.

**e) ST. MIKE'S PONY EXPRESS DANCE TEAM – STATE CHAMPS.**

Councilor Rivera presented a trophy to the St. Michael's Pony Express Dance Team, the 2014 State Champions. He said the Team is coached by Lydia Sanchez, who has coached 15 State Championship teams during her 25 years of coaching.

The Team Captain thanked the Governing Body for this honor, noting the Pony Express has won 23 State Championships. She said they work very hard, and without Coach Sanchez they wouldn't have this legacy.

Mayor Gonzales congratulated the Pony Express on their success. He thanked the Police and Firefighters who escorted the champions from their high schools to the City Hall this afternoon.

**f) PROCLAMATION – CELEBRATE SANTA FE TOURISM. (RANDY RANDALL AND SIMON BRACKLEY)**

A statement for the record by Randy Randall and Simon Brackley, submitted for the record by Randy Randall, is incorporated herewith to these minutes as Exhibit "2."

Randy Randall introduced Monique Jacobsen, New Mexico Secretary of Tourism, noting she also was a member of the St. Michael's Pony Express and they were State champions as well. He introduced Simon Brackley, Executive Director, Santa Fe Chamber of Commerce.

Mr. Randall and Mr. Brackley read their statement into the record. Please see Exhibit "2" for specifics of their statement.

Mr. Randall invited everyone to join them in Celebrating Tourism in Santa Fe, opening ceremonies at 10:00 a.m., at the Santa Fe Community Convention Center, and to participate in the day's activities, including the exposition at the Convention Center 10:30 a.m. to 5:00 p.m.

Mayor Gonzales thanked Mr. Randall and Mr. Bradley for the presentation, and welcomed Secretary Jacobsen, and asked for her to speak about her ideas on how to collaborate and support tourism mutually between the State and City.

Secretary Jacobsen said there is incredible momentum right now in tourism in New Mexico, with a record-breaking number of tourists and spending a record number of dollars. This is the perfect time to take that momentum "and really blow the doors out," and by getting tourism operating at the highest level, change the economy significantly. She said in collaboration, one of the biggest pushes is to speak with one voice in the marketplace. She said two years ago the State put \$2.5 million against this message, last year \$2.5 million and the same this year – \$7 million – plus \$2 million for advertising for a total of \$9 million. She said this is the perfect time to work together, because it means tax dollars and jobs. She has visited with Randy Randall over a weekend to go through all of the ways we can work together.

Mr. Brackley said this is a collaborative effort and thanked his staff at the Chamber, the staff at the CVB and the Chamber's Tourism Committee, volunteers, who gave their time to put Tourism Day together. He thanked *The Santa Fe New Mexican* for being a collaborator as well.

Mr. Randall said he will be working with Secretary Jacobsen in her efforts to be at the forefront of those efforts.

Mayor Gonzales said he will read the Proclamation into the record tomorrow at the opening ceremonies.

#### **CONSENT CALENDAR DISCUSSION**

- 10(c) **REQUEST FOR APPROVAL OF VACATION OF EXISTING CITY ALLEY WITHIN THE BOUNDS OF SIERRA VISTA ADDITION ADJOINING THE BOUNDARIES OF LOTS 10 (A PORTION), 11, 12, 13, 14, 25 (A PORTION), 26, 27, 28 AND TRACT A OF THE SIERRA VISTA ADDITION, A/K/A 816, 818, 830, 832 CAMINO SIERRA VISTA AND 901 AND 903 MERCER STREET; DAVID SCHUTZ, AGENT FOR TWO DOC PROPERTIES, LLC. (EDWARD VIGIL)**

Councilor Lindell and Councilor Dimas recused themselves from participating on this item.

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

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

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

**Against:** None.

**Recused:** Councilor Dimas and Councilor Lindell.

- 10(k) CONSIDERATION OF RESOLUTION NO. 2014-29 (COUNCILOR BUSHEE). A RESOLUTION SUPPORTING PEDESTRIAN IMPROVEMENTS ALONG EAST ALAMEDA AND THE SANTA FE RIVER WITH FUNDING SUPPORT PROVIDED THROUGH A COOPERATIVE AGREEMENT WITH THE NEW MEXICO DEPARTMENT OF TRANSPORTATION. (BRIAN DRYPOLCHER)**
- 1) REQUEST FOR APPROVAL OF COOPERATIVE AGREEMENT – PEDESTRIAN IMPROVEMENTS TO EAST ALAMEDA AND SANTA FE TRAIL; NEW MEXICO DEPARTMENT OF TRANSPORTATION.**
  - 2) REQUEST FOR APPROVAL OF BUDGET ADJUSTMENT – PROJECT FUND.**

A copy of an Action Sheet from the Public Works/CIP and Land Use Committee meeting of Monday, April 28, 2014, regarding Item 10(k) is incorporated herewith to these minutes as Exhibit "3."

Councilor Trujillo said, "As with anything dealing with the New Mexico Department of Transportation, I do pull it off. I am employed by the New Mexico Department of Transportation. I used to oversee these cooperative agreements. I no longer oversee them. There is no conflict of interest."

**MOTION:** Councilor Trujillo moved, seconded by Councilor Rivera, to adopt Resolution No. 2014-29, approving Item 10(k) and Items 10(k)(1) and (2).

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

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

**Against:** None.

- 10(l) CONSIDERATION OF RESOLUTION NO. 2014-30 (COUNCILOR TRUJILLO COUNCILOR BUSHEE, COUNCILOR RIVERA AND COUNCILOR DIMAS). A RESOLUTION DIRECTING THE CITY MANAGER TO ESTABLISH A CITY OF SANTA FE INTERNSHIP PROGRAM TO PROVIDE AN OPPORTUNITY FOR COLLEGE STUDENTS TO BE EMPLOYED BY THE CITY DURING SEMESTER BREAKS FROM COLLEGE. (SANDRA PEREZ)**

Councilor Trujillo said he pulled this item to make sure that the amendment he proposed is in the packet, because it wasn't stated in the caption.

Yolanda Vigil said the amendment is in the packet and he can move for approval as amended.

Councilor Bushee asked to be added as a cosponsor.

**MOTION:** Councilor Trujillo moved, seconded by Councilor Bushee, to adopt Resolution No. 2014-30, as amended.

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

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

**Against:** None.

**Explaining his vote:** Councilor Rivera said, "Yes, and sign me on as a sponsor as well."

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

**10(m) UPDATE ON THE McCLURE/NICHOLS RESERVOIRS. (ALEX PUGLISI AND ROBERT JORGENSEN). (INFORMATIONAL ONLY)**

A copy of *McClure Reservoir Restoration Project Updates*, entered for the record by Alex Puglisi, is incorporated herewith to these minutes as Exhibit "4."

Councilor Bushee said she likes having water in the River, but she hears from people daily asking why we are sending all our water down the Rivera. She asked if there will be some kind of "explanatory column." She said this is about how we educate the public because she's tired of trying to do it one-on-one with people who call her.

Alex Puglisi, Public Utilities, said they have been providing updates to the press and have been called several times by the press, and they have released information. He said there is information posted on the website. He said they started briefing the Public Utilities Committee in March and this is a follow-up to that briefing – the memo in the Council packet which was presented to the PUC on March 26, 2014 – and it was current as of that date.

Mr. Puglisi said a lot has been happening since March 26<sup>th</sup>, so he has provided some bullets and some pictures of the status of the tower intake reconstruction project, and the status of releases from McClure Reservoir [Exhibit "4"]. He said staff will continue to try to issue press releases as often as possible in this regard. He noted there have been articles in the newspaper. And information has been spread through the Water Conservation Committee. He said they have made an effort to get this information out there and they can step up that effort if needed.

Councilor Bushee suggested they step up the effort, and asked that they get Joe Abeyta involved in that effort.

Mr. Puglisi said they will do a press release on the information handed out today. They are coming to conclusion on the Nichols tower rehabilitation project and will begin filling Nichols in mid-may. As a result, they have to shut down releases from McClure. There will be a period of time when releases from McClure will be shut down so we can train all of the water out of Nichols and put a stop log in to block the outlet from the dam. At that point, they will start filling Nichols. They project Nichols will be filled to 80% by the end of May.

Mr. Puglisi said, "Because of our releases, we're actually recommending, Councilor Trujillo, that we hold our Fishing Derby sometime in the week of June 14, 2014, starting on June 14<sup>th</sup> because we want to have guaranteed flows in the River while we are filling Nichols and providing irrigation water to the various irrigation canals around the City." They are ramping up the treatment at the Treatment Plant to 6.5 million gallons, and plan to bring it to 7 million. So you will see decreases in the River over time. We want to ensure we utilize the water in the best way, to ensure there is sufficient water in the River for the Fish Derby.

Mr. Puglisi said, "In preparation, we are increasing releases to the River during the times water would be released under the Living River Ordinance. We won't count some of the releases toward the Living River Ordinance until we do post flows in June and August. We are trying to stretch our releases to basically meet the requirements of the Living River Ordinance and empty the dam at the same time."

Brian Snyder said the Water Division staff will be on the radio tomorrow to talk about this and will be on upcoming TV show.

Councilor Trujillo said it has been wonderful to see the water running down the River, and would like to see if we can get the Park crews to thin the vegetation near Sandoval Street to make it accessible to the public.

Councilor Maestas said he checked the snapshot of total water use, and just over 70% was being utilized from Buckman and 20% from Canyon Road. This means we are virtually resting our wells and not mining groundwater. He would like this information to get to the public so they will know that we aren't having to seek water from other sources such as groundwater, while making these releases.

Mr. Puglisi said the Canyon Road treatment plant is providing about 70% of the water supply for the City, and they are maximizing use of the water released to the River, noting we are totally resting the well field right now.

Councilor Maestas asked if they also can show total percentages from all sources, so they have an idea of the big picture.

Councilor Dominguez said this is most water he has seen in the River on the south side for a long time. He thanked Mr. Puglisi for all of his work.

Mr. Puglisi said there is also an irrigation return to the River.

Councilor Rivera thanked him for his hard work. He suggested he speak with Jodi Porter to look at different ways to get out the message, and he would like report on different media sources you are considering at the next PUC meeting.

Mr. Puglisi said he will do so, noting they sent packet information for the meeting, but he will develop a handout for the Committee at the meeting.

**11. REQUEST FOR RATIFICATION OF PROCUREMENT OF NEW OFFICE FURNITURE FOR POLICE DEPARTMENT BUILDING EXPANSION – BID NO. 13/12/B; CREATIVE INTERIORS. (ROBERT RODARTE)**

David Pfeiffer said Robert Rodarte had to leave, so he is stepping in, and will stand for questions.

Councilor Rivera said he has a problem with the way this whole thing came about. He said this was discussed a Committee meeting last month, but it was pulled at the last minute, because the money already had been spent. He said he was told the purchase was done under the definition of an emergency procurement. He said the emergency conditions are "something that would threaten the function of government, the preservation or protection of property or the health and safety of any person." He doesn't see this purchase as meeting that emergency definition. He asked when construction on the Police Department started.

Mr. Pfeiffer said it started in March 2014.

Councilor Rivera asked, "Before that when they were doing design, the whole process of trying to figure out what they were doing to do and need, didn't they know they were going to need furniture at that time."

Mr. Pfeiffer said, "Yes they knew they needed furniture. I think it was in hindsight, so we had to get it ordered so we would have it there on time."

Councilor Rivera said, then this was an oversight which has now turned into an emergency procurement.

Deputy Chief Schaeferl said, "I don't classify it as an oversight, but I can't speak to the specifics of the procurement code. I know that we couldn't get Creative Interiors to give us a formal quote until the finalization and approval of the plans as submitted by the award win to Sarcon. Once Sarcon won the award and the plans were finalized, then we had Creative Interiors and develop a quote based on the final approved draft. So the kick-off date of getting the approval of the Creative Interiors proposal was approved after the approval of the construction project, so it had to play catch up a little bit. And they did take some time getting us the finalized quote based on the itemized description of each office. I know

there was a lag in getting that quote finalized. I can't comment or speak on the classification of that request at this time."

Councilor Rivera noted Mr. Snyder approved it as an emergency purchase, and asked him to elaborate on that.

Mr. Snyder said, "I had the City Attorney's Office and the City Procurement.... I got their recommendation in reviewing it. And based on their review, I felt comfortable signing off on it. I didn't necessarily understand it to be an emergency as you described it, as a need to furnish a building. And there was adequate coverage in the Procurement Manual that we could procure it in this manner, and then come back to the Governing Body and formally seek approval from the Governing Body for this item."

Councilor Rivera said it went through the bid process, which is another reason he doesn't understand why it couldn't wait 2-3 weeks to go through the entire process and be heard by the entire Governing Body and be in approved in the appropriate manner. He said, "I believe the money has already been sent, a purchase order cut, and probably a portion of it sent to Creative Interiors. Is that true."

Mr. Snyder said, "That is true. A purchase order has been issued. The furniture has been ordered. My understanding is, from a timing standpoint, if it had gone through the entire City committee approval process, we would have had a vacant building without any furniture in it, similar to the Courthouse. With that in mind, it was reviewed on how we could expedite that. And basically, the furniture lead time was such that we had to get it ordered in a timely and why we went through the process we went through.

Councilor Rivera asked how much has been procured, and if it is the entire \$150,000.

Mr. Snyder said his understanding is all the furniture has been procured and is on order.

Councilor Rivera said he hopes they were the low bidder.

Mr. Snyder said he understands it went through the bid process and it was awarded to the low bidder.

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

**DISCUSSION:** Councilor Ives said the most compelling part of this is that the Police were experiencing overcrowding in secure and sensitive areas of the existing building, along with having to relocate several employees to other locations, such as Market Station. "And I recognize there are many secure and sensitive areas within the Police Department, so it seemed an appropriate use in the instance based on that, and certainly we always want to avoid these circumstances where we can, but occasionally it will happen, and that reference seemed appropriate to me."

Deputy Chief Schaerfl said, "That is correct. Currently, due to the displacement of several of the specialty teams, most notably the Criminal Investigation Team, specifically for the construction. Right now I have 8 people working out of a space originally designated for 3 or 4. So there is that concern for the day to day operations. We're making do and everybody is greatly anticipating the finish date of the new building. You are correct if this process lingered any longer, it would have caused disruption of day to day operations."

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

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

**Against:** Councilor Rivera.

**Explaining his vote:** Councilor Dominguez said, "I'm going to vote yes, but I just hope that we have an open process as we move forward *[the balance of his remarks are inaudible because his microphone was turned off]*."

**12. MATTERS FROM THE CITY MANAGER**

There were no matters from the City Manager.

**13. MATTERS FROM THE CITY ATTORNEY**

**EXECUTIVE SESSION**

**IN ACCORDANCE WITH THE NEW MEXICO OPEN MEETINGS ACT §10-15-1(H)(7), NMSA 1978, DISCUSSION REGARDING PENDING LITIGATION IN WHICH THE CITY OF SANTA FE IS A PARTICIPANT:**

- a) **HIGH SUMMIT CORP.; SUMMIT SOUTH CO. AND RALPH BRUTSCHE V. CITY OF SANTA FE, CASE NO. D-101-CV-2009-03914 IN THE FIRST JUDICIAL DISTRICT COURT FOR THE STATE OF NEW MEXICO;**
- b) **CITY OF SANTA FE'S INTERVENTION IN UTILITY CASE NO. 13-0390-UT BEFORE THE PUBLIC REGULATION COMMISSION; AND**
- c) **QWEST CORP. V. CITY OF SANTA FE, CASE NO. 14-2008 IN THE TENTH CIRCUIT COURT OF APPEALS.**

Councilor Ives said he would recuse himself from discussion of Items 13(a) and 13(c). He said, "In the past I have represented Mr. Brutsche, actually the party who sold water rights to Mr. Brutsche, in connection with Summit South. And then, also everybody is familiar with my relationship to the Qwest Corporation Case. I just wanted to get that on the record."

**MOTION:** Councilor Bushee moved, seconded by Councilor Dimas, that the Council go into Executive Session for discussion of pending litigation in which the City of Santa Fe is a participant, in accordance with §10-15-1(H)(7) NMSA 1978, as indicated in 13(a), (b) and (c).

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

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

**Against:** None.

**Abstain:** Councilor Ives.

The Council went into Executive Session at 6:15 p.m.

#### **MOTION TO COME OUT OF EXECUTIVE SESSION**

**MOTION:** At 7:00 p.m., Councilor Dominguez moved, seconded by Councilor Maestas, that the City Council come out of Executive Session and stated that the only items which were discussed in executive session were those items which were on the agenda, and no action was taken.

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

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

**Against:** None.

**Abstain:** Councilor Ives.

**Absent for the vote:** Councilor Bushee.

#### **14. ACTION REGARDING HIGH SUMMIT CORP., SUMMIT SOUTH CO. AND RALPH BRUTSCHE V. CITY OF SANTA FE, CASE NO. D-101-CV-2009-03914.**

**MOTION:** Councilor Dominguez moved, seconded by Councilor Trujillo, that "we direct staff to move in accordance with the discussion that we had in executive session."

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

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

**Against:** None.

**Abstain:** Councilor Ives.

**15. ACTION REGARDING CITY OF SANTA FE'S INTERVENTION IN UTILITY CASE NO. 13-0390-UT. (MARCOS MARTINEZ)**

**MOTION:** Councilor Dominguez moved, seconded by Councilor Rivera, that "we direct staff to move in accordance with the direction that was given in Executive Session."

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

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

**Against:** None.

**16. MATTERS FROM THE CITY CLERK**

There were no matters from the City Clerk.

**17. COMMUNICATIONS FROM THE GOVERNING BODY**

A copy of "Bills and Resolutions scheduled for introduction by members of the Governing Body," for the Council meeting of April 30, 2014, is incorporated herewith to these minutes as Exhibit "5."

**Councilor Dimas**

Councilor Dimas introduced an Ordinance repealing and readopting Article IX of the Uniform Traffic Ordinance to establish that parking violations related to parking meters, parking lots and parking garages are nuisances and subject to administrative adjudication; and making such other changes as are necessary to meet the purposes of this Ordinance. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "6."

### **Councilor Maestas**

Councilor Maestas introduced a Resolution adopting the City of Santa Fe Investment Policy to formalize the City policy related to investment of City Funds. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "7."

### **Councilor Bushee**

Councilor Bushee introduced the following:

1. A Resolution endorsing the North Central Regional Transit District's FY 2015 budget proposal, approving the FY 2015 City of Santa Fe Regional Transit Plan and directing staff to submit the City of Santa Fe Regional Transit Plan for FY 2015 to the North Central Regional Transit District Board of Directors for consideration and approval. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "8."
2. An Ordinance authorizing the execution and delivery of a loan agreement by and among the City of Santa Fe (the "Governmental Unit") and the New Mexico Finance Authority, evidencing a special limited obligation of the City to pay a principal amount of \$3,500,000, for the acquisition of transit buses for the governmental unit's public transportation system; providing for the payment of the loan agreement from certain gross receipts tax revenues distributed to the City; providing for the distributions of gross receipts tax revenues from the Taxation and Revenue Department to be redirected to the New Mexico Finance Authority or its assigns pursuant to an Intercept Agreement for the payment of principal and interest due on the loan agreement; specifying details of the Loan Agreement, including the net effective interest rate; ratifying actions heretofore taken; repealing all action inconsistent with this ordinance; and authorizing the taking of other actions in connection with the execution and delivery of the Loan Agreement and Intercept Agreement. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "9."

### **Councilor Ives**

Councilor Ives introduced the following:

1. A Resolution endorsing the Green Lodging Initiative; and directing staff to explore ways to continue, fund and extend the Green Lodging Initiative to all lodging facilities in the City of Santa Fe. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "10."

2. A Resolution authorizing Public Utilities Department staff to apply for a U.S. Bureau of Reclamation (BOR) funding opportunity to evaluate the feasibility of utilizing reclaimed water for alternative non-potable and potable uses. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "11."
3. A Resolution establishing funding priorities for ITT, Land Use and City Attorney expansion requests identified in the 2014/2015 budget hearings that are not incorporated into the budget, in the event additional funding is identified. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "12."

Councilor Lindell she would like to cosponsor the Resolution.

### **Councilor Dominguez**

Dominguez thanked staff and Mr. Snyder for the budget hearings for the past two days, and those members of the Governing Body in attendance. He said there will be one last budget hearing on May 5, 2014, and talk about the expansion items brought up during the budget hearings and generally wrap things up. He said the Governing Body members are welcome to attend.

Councilor Dominguez introduced the following, commenting that they came from the City's bond counsel:

1. A Resolution of the Governing Body of the City of Santa Fe, New Mexico declaring its official intent to reimburse itself with the proceeds of a future tax-exempt borrowing for capital expenditures paid to 1) acquire land, plan, design, equip, renovate and improve public parks, bike-pedestrian trails and related infrastructure projects, and 2) acquire, install, construct, upgrade and improve sustainable environment projects; identifying the capital expenditures and the funds to be used for such payment; and providing certain other matters in connection therewith. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "13." Councilor Dominguez said this Resolution needs to go to Public Works as well as the Bicycle & Trail Advisory Committee
2. A Resolution of the Governing Body of the City of Santa Fe, New Mexico declaring its official intent to reimburse itself with the proceeds of a future tax-exempt borrowing for certain capital expenditures undertaken or to be undertaken by the City; identifying the capital expenditures and the funds to be used for such payment; and providing certain other matters in connection therewith. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "14." Councilor Dominguez said this Resolution also needs to go to Public Works as well as the Bicycle & Trail Advisory Committee

### **Councilor Lindell**

Councilor Lindell had no communications.

### **Councilor Trujillo**

Councilor Trujillo asked Mr. Snyder to check on Marc Brandt Park to see that it is getting watered.

Councilor Trujillo said he is honored to introduce Bill Moore, Coach of the Santa Fe Fuego, and Beau Brumble the voice of the Fuegos.

Bill Moore said he is pleased and honored to come back for a third season. He thanked everyone for the use of the ball park. He said in the interim he was transferred to a different City, and asked the Commissioner to reassign him to Santa Fe, which he did. He said they start Spring Training in Taos this weekend with two other League teams, so we can play exhibition games without a lot of travel. He hopes we can host a couple of teams in Santa Fe next year for training to do the same thing. He said the season opens two weeks from today, and he is excited at his team this year – “we’re going to be very very fast.” He invited everyone to come out to the games.

Mr. Brumble said Ft. Marcy is a great place to play, and it is in the heart of Santa Fe. He said this is a great team that gives 100%. He said he is now the announcer for the Santa Fuego, so he will be attending all 44 teams. He said they will have a booth at the Convention Center tomorrow, and asked everyone to come by and say hello. He thanked the Governing Body for giving them the opportunity to play at Ft. Marcy.

### **Councilor Rivera**

Councilor Rivera said over the weekend he participated in the Great American Clean-up Day – and thanked his wife and 4 daughters for their assistance in this efforts. He said there are lots of volunteers whom he would like to thank as well, including Gilda Montano and her crew and other City staff that participated.

Councilor Rivera introduced a Resolution proclaiming severe or extreme drought conditions in the City of Santa Fe and restricting the sale or use of fireworks within the City of Santa Fe and prohibiting other fire hazard activities. He said Councilor Trujillo would like this Resolution to go to the Public Works Committee. A copy of the Resolution is incorporated herewith to these minutes as Exhibit “15.”

### **Mayor Gonzales**

Mayor Gonzales had no communications.

Mayor Gonzales said there will be a short break, and then the evening session will be called to order.

**END OF AFTERNOON SESSION AT APPROXIMATELY 7:15 P.M.**

## EVENING SESSION

### A. CALL TO ORDER AND ROLL CALL

The Evening Session was called to order by Mayor Javier M. Gonzales, at approximately 7:25 p.m. Following the Pledge of Allegiance, salute to the New Mexico Flag, and Invocation, Roll Call indicated the presence of a quorum as follows:

#### Members Present

Mayor Javier M. Gonzales  
Councilor Patti J. Bushee  
Councilor Bill Dimas  
Councilor Carmichael A. Dominguez  
Councilor Peter N. Ives  
Councilor Signe I. Lindell  
Councilor Joseph M. Maestas  
Councilor Christopher M. Rivera

#### Others Attending

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

### F. PETITIONS FROM THE FLOOR

A Memorandum dated April 22, 2014, to the Governing Body, from Dave McQuarie, MCD Plan Review Sub-Committee Chair, regarding 2013 ADA Curb Ramp Improvement Project for Street Overlays, entered for the record by David McQuarie, is incorporated herewith to these minutes as Exhibit "16."

A letter dated April 25, 2014, To Whom It May Concern, from Miriam Leth-Espensen, entered for the record by Miriam Leth-Espensen, is incorporated herewith to these minutes as Exhibit "17."

*Mayor Gonzales gave each person two minutes to petition the Governing Body*

**David McQuarie** thanked Mayor Gonzales for directing City staff to address questions from constituents. He said maybe this will assist in ADA complaints to the U.S. Department of Justice. He said he distributed a Memo to the Governing Body where a review was done for the overlay. This is the second, the first was on February 20, 2013. At that time it was recommended not to spend public funds because the plans were incomplete. He said he is reiterating that you do not use public funds because it is "nothing more than discrimination." He said a curb is a barrier to him, while it is only an inconvenience to you. He said the Federal law, the Americans with Disabilities Act, said we should all be reasonably equal in access. There are a few in the City that don't seem to get this message, and haven't for 12 years. They

still don't understand. He said when we were children, our parents trained them to cross the street at the corner after looking both ways. We can't do that. Where is our dignity.

Mr. McQuarie said secondly, you are having budget hearings. He asked if anybody on staff mentioned that you need to fund the transition plan that was passed years ago, and was supposed to be done 2011-2015. He said there is no budget because staff has never asked for one. He said perhaps if staff asks they will get a budget. He said "Councilor Dimas, maybe you'll finally get an area where you can see the audience and they can see you."

**Miriam Leth-Espensen**, said she is an American citizen and she stands before you under the protection under the First Amendment of the Constitution of the United States of America. Ms. Leth-Espensen said she is concerned about the systematic destruction of her historic neighborhood, Castillo Place two blocks from here. Please see Exhibit "17," for the complete text of Ms. Leth-Espensen's statement.

Ms. Leth-Espensen said, "I respectfully request that you review the material that I have submitted, clean out the City Attorney's Office, and if necessary, ask for Federal Assistance to do so."

#### **G. APPOINTMENTS**

A Memorandum dated April 30, 2014, replacing the Memorandum in the Council packet, to the City Council from Mayor Javier M. Gonzales, regarding Appointments, entered for the record by Mayor Gonzales, is incorporated herewith to these minutes as Exhibit "18."

Mayor Gonzales said hopefully these appointments represent the Governing Body's requests for each of the positions being appointed.

Councilor Rivera said he has no problem with these appointments, but he wants to make it clear that after speaking with the Chair of the Bicycles and Trails Advisory Committee, he would like to see someone who represents the South side on that Committee. He wants to be sure we continue to keep a position open for that person.

Councilor Bushee said, for clarification, the two members to be appointed this evening, live on the South side, we're just specifically looking for District No. 3 in the missing positions.

Mayor Gonzales said he directed staff to issue a press release to communicate to the public the upcoming positions to be appointed, and individuals interested in serving on a City committee should submit their resume and information.

Mayor Gonzales asked if there can be a blanket approval of all appointments.

Ms. Vigil said yes, noting the substitute Memorandum needs to be added for the record [Exhibit "18."

Mayor Gonzales made the following appointments:

**Bicycle and Trail Advisory Committee**

Joseph A. Abbatacola – Reappointment – term ending 06/2015;  
John W. Longworth – Reappointment – term ending 06/2015;  
James Ronald Pacheco – Reappointment – term ending 06/2015; and  
Shelly Robinson – Reappointment – term ending 06/2015.

**Marty Sanchez Links de Santa Fe Advisory Committee**

Linda Zingle – to fill unexpired term ending 12/2015.

**Public Safety Committee**

Joe H. Arellano – to fill unexpired term ending 10/2015

**Santa Fe Regional Juvenile Justice Board**

Ted A. Lovato – to fill unexpired term ending 10/2015.

**City Business and Quality of Life Committee**

Bradford "Brad" Dean Furry – to fill unexpired term ending 03/2015; and  
Piper Kapin – Reappointment – term ending 03/2016.

**Sister Cities Committee**

Carol Robertson Lopez – Chair Appointment.

### **Park Bond Audit Task Force**

Lisa Kerr – Internal Auditor;  
Teresita Garcia – Finance Department;  
Eric Martinez – Public Works Department;  
Anna Hansen, Chair, Parks and Open Space Advisory Commission;  
Councilor Bushee – Chair, Bicycle and Trail Advisory Committee;  
Hazelidine Romero – Audit Committee; and  
Marc Tupler – Audit Committee.

**MOTION:** Councilor Maestas moved, seconded by Councilor Dimas, to approve all the recommended appointments as outlined in the Memorandum in our packet [Exhibit "18"]

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

### **H. PUBLIC HEARINGS**

Councilor Maestas said, "Prior to beginning the public hearings, I would like to make a statement. I disclosed at a prior meeting that I have an interest in a family business that owns an inter-local dispenser liquor license in Espanola that currently is for sale. And I stated on the record that I will be recusing myself, until the family license is sold, from voting on any inter-local license transfer request and from any discussion this body may have about inter-local transfer licenses, generally. I have asked the Interim City Attorney whether she believes that the family licenses raises any conflict with respect to tonight's agenda items, specifically Agenda Items H(1) through H(7), and she advised me that she does not believe there is a real or apparent conflict. As a result, I will be voting on these items, again Items H(1) through H(1) tonight."

- 1) **REQUEST FROM MURPHY OIL USA, INC., FOR A TRANSFER OF OWNERSHIP OF DISPENSER LICENSE #0649 WITH PACKAGE SALES FROM MURPHY OIL CORPORATION TO MURPHY OIL USA, INC. THIS LICENSE WILL REMAIN AT MURPHY EXPRESS #8609 LAS SOLERAS DRIVE. (YOLANDA Y. VIGIL)**

The staff report was presented by Yolanda Vigil, City Clerk, from her memorandum of April 24, 2014, with attachments, to Mayor Gonzales and City Councilors, which is in the Council packet, noting this location is not within 300 feet of a church or school. She said there are staff reports in the packet regarding litter, noise and traffic, and staff recommends that this business be required to comply with all City ordinances. She noted the applicant is in the audience if there are questions.

## Public Hearing

Mayor Gonzales asked the applicant if he would like to address the Governing Body, and he said no, and there were no questions by the Governing body of the applicant.

There were no persons speaking to this request.

## The Public Hearing was closed

**MOTION:** Councilor Rivera moved, seconded by Councilor Dimas, to approve the request from Murphy Oil USA, Inc., for a transfer of ownership of Dispenser License #0649 with package sales from Murphy Oil Corporation to Murphy Oil USA, Inc., with the license to remain at Murphy Express #8609, 5301 Las Soleras Drive.

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

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

**Against:** None.

- 2) **REQUEST FROM ALAMOWING SANTA FE, LLC, FOR A TRANSFER OF OWNERSHIP AND LOCATION OF DISPENSER (CANOPY) LICENSE #1363 (ON PREMISE CONSUMPTION ONLY), FROM CITY HALL, INC., D/B/A ROUGE CAT, 101 W. MARCY STREET, SUITE 5, SANTA FE, TO ALAMOWING SANTA FE, LLC, D/B/A BUFFALO WILD WINGS, 3501 ZAFARANO DRIVE. (YOLANDA Y. VIGIL)**

The staff report was presented by Yolanda Vigil, City Clerk, from her memorandum of April 24, 2014, with attachments, to Mayor Gonzales and City Councilors, which is in the Council packet, noting the location is not within 300 feet of a church or school. She said, "So you understand, we do have a liquor license presently at Buffalo Wild Wings. This license is going to transfer to the Buffalo Wild Wings in Farmington. So the dispenser license that is coming from Rouge Cat, would then transfer over to the Buffalo Wild Wings on Zafarano Drive." She said there are staff reports in the packet regarding litter, noise and traffic, and staff recommends that this business be required to comply with all City ordinances. She said the applicant is in the audience if you have questions.

Councilor Dominguez asked if this means that we actually are losing one license from the City limits.

Ms. Vigil said this is correct, as one will be transferring to Farmington.

Councilor Dominguez said, "That one is transferring to Farmington, but they're just moving the one from one location in the City to another location in the City."

Ms. Vigil said this is correct.

**Public Hearing**

There was no one speaking to this request.

**The Public Hearing was closed**

**MOTION:** Councilor Dominguez moved, seconded by Councilor Ives, to approve the request from Alamowing Santa Fe, LLC, for a transfer of ownership and location of Dispenser (Canopy) License #1363 (on-premise consumption only, from City Hall, Inc., d/b/a Rouge Cat, 101 W. Marcy Street, Suite 5, Santa Fe to Alamowing Santa Fe, LLC, d/b/a Buffalo Wild Wings, 3501 Zafarano Drive.

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

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

**Against:** None.

**3) REQUEST FROM GREGORY NEIL MENKE FOR A RESTAURANT LIQUOR LICENSE (BEER AND WINE ON-PREMISE CONSUMPTION ONLY) TO BE LOCATED AT THE BEESTRO, 101 W. MARCY STREET.**

The staff report was presented by Yolanda Y. Vigil, from her memorandum of , April 24, 2014, with attachments, to Mayor Gonzales and City Councilors, which is in the Council packet, noting the location is not within 300 feet of a church or school. She said there are staff reports in the packet regarding litter, noise and traffic, and staff recommends that this business be required to comply with all City ordinances. She said, as a condition of approval, items in front of the business that are on the City sidewalk and any seating must be removed, as it is in violation of City Code §23-4-8 SFCC 1987, so no kind of seating can be in the sidewalk area.

**Public Hearing**

There was no one speaking to this request.

**The Public Hearing was closed**

**MOTION:** Councilor Trujillo moved, seconded by Councilor Rivera, to approve the request from Gregory Neil Menke for a Restaurant Liquor License (beer and wine on-premise consumption only), to be located at the Beestro, 101 West Marcy Street, with conditions of approval as recommended by staff.

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

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

**Against:** None.

**4) REQUEST FROM VALENTINA'S RESTAURANT, LLC, FOR A RESTAURANT LIQUOR LICENSE (BEER AND WINE ON-PREMISE CONSUMPTION ONLY) TO BE LOCATED VALENTINO'S RESTAURANT, 945 W. ALAMEDA**

The staff report was presented by Yolanda Y. Vigil, from her memorandum of April 24, 2014, with attachments, to Mayor Gonzales and City Councilors, which is in the Council packet, noting the location is not within 300 feet of a church or school. She said there are staff reports in the packet regarding litter, noise and traffic, and staff recommends that this business be required to comply with all City ordinances.

**Public Hearing**

There was no one speaking to this request.

**The Public Hearing was closed**

**MOTION:** Councilor Lindell moved, seconded by Councilor Dimas, to approve the request from Gregory Neil Menke for a Restaurant Liquor License (beer and wine on-premise consumption only), to be located at the Beestro, 101 West Marcy Street, with conditions of approval as recommended by staff.

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

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

**Against:** None.

- 5) **REQUEST FROM EL MUSEO CULTURAL DE SANTA FE FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/ CONSUMPTION OF BEER AND WINE AT EL MUSEO CULTURAL DE SANTA FE, 555 CAMINO DE LA FAMILIA, WHICH IS WITHIN 300 FEET OF TIERRA ENCANTADA CHARTER SCHOOL @ ALVORD, 551 ALARID STREET. THIS REQUEST IS FOR THE EVENT "ARTS, CULTURE AND COMMUNITY," WHICH IS A FUNDRAISER FOR EL MUSEO CULTURAL AND ESPERANZA SHELTER FOR BATTERED FAMILIES TO BE HELD ON MAY 3, 2014, FROM 5:30 P.M. TO 8:00 P.M. (YOLANDA Y. VIGIL)**

The staff report was presented by Yolanda Y. Vigil, from her memorandum of April 24, 2014, with attachments, to Mayor Gonzales and City Councilors, which is in the Council packet. She noted there is a letter in the Council packet from Carl Gruenler, Chief Business Officer, Santa Fe Public Schools stating that the School District will refrain from issuing a decision regarding opposition or non-opposition to this request.

### **Public Hearing**

**Thomas Romero, El Museo Board Treasurer, was sworn.** Mr. Romero said he would like to invite the Governing Body to the event, noting he put a flyer on their desks. He said the part where the liquor will be served is a small part of the entire weekend. He said, "Following this, there will be a dance and there will be no alcohol. We invite you to come. We have invited the Mayor on Sunday which is a free celebration and we invite all of you as well, if you would to come and enjoy the entertainment and the people of Santa Fe in enjoying Cinco de Mayo."

### **The Public Hearing was closed**

**MOTION:** Councilor Dimas moved, seconded by Councilor Dominguez, for discussion purposes, to grant the request for a waiver of the 300 foot location to allow the dispensing/consumption of beer and wine at El Museo Cultural de Santa Fe for the event "Arts, Culture and Community," a fundraiser for El Museo Cultural and Esperanza Shelter for Battered Families, on May 3, 2014 from 5:30 p.m. to 8:00 p.m., with conditions of approval as recommended by staff.

**DISCUSSION:** Councilor Dominguez asked who the letter in the packet is from.

Ms. Vigil said the letter is from Paul Gruenler, Santa Fe Public Schools, and this is the standard letter they have been submitting, stating they are not taking a position on any of these requests.

Councilor Dominguez asked if Paul Gruenler is Principal of the Charter Schools.

Ms. Vigil said this is coming to you from the Santa Fe Public Schools Administration.

Councilor Dominguez said the letter it isn't coming from the Public Schools legal counsel, and Ms. Vigil said no, it is from Carl Gruenler.

Mr. Snyder said Carl Gruenler is the Chief Business Officer for the Santa Fe Public Schools.

Councilor Rivera asked if Charter Schools are under the same governance as the Public Schools.

Ms. Vigil said she believes so, noting when the requests come from the Charter Schools, they are funneled through the Santa Fe Public Schools Administration.

Councilor Rivera said it is understanding that are separate from the Public Schools in terms of governance. He asked Ms. Vigil to look into this for such future requests.

Councilor Dominguez said he is going to support this request. He said, "I almost feel like we should require them to give us their approval or not, instead of just passing the buck, if you will, onto the Governing Body, not that we would necessarily not agree with them, but we should get some position from those about an issue that we have, not only in this community, but in the State. And so, I'll just make that as a comment. I'm not sure that I will propose a piece of legislation. They are just as much a part of this community as everyone else, and I think that would only be fair. So, I'll just say that."

Ms. Vigil said, "I just want to remind you that this event will be on a Saturday, and in the evenings from 5:30 to 8:00 p.m., so the school will not be in session, if that helps."

Councilor Dominguez said, "Well it does, and that's why I'm probably going to support this, but that's their standard response to pretty much everything, and they need to take a stand."

Councilor Maestas said, "I would only make the point, if you read the letter, it is a canned letter from the schools. It would be hypocritical... it would probably be against their own policy, their alcohol free zone policy, to take a position on any liquor license, action or event. So I think, if we make that a condition, whether they say yes or no, then we could have a serious backlog of these kinds of requests. I doubt they would be willing, because I think they state it right there, because we have this policy, it would be hypocritical of us or we would go against our own policy if we took a position either yes or no against these actions. So I would just caution against requiring a specific position from the schools. Maybe if they came before us and talked about the circumstances around the school, maybe to hear from them directly, I would like to see that if need be. But requiring them to take a solid position would be problematic for them and as a result it could really affect future requests."

Councilor Dominguez said, "I agree, but I think their policies, in talking with their wellness folks, is really contradictory to what they have indicated in many other forums and many other policies, and so that policy could still be changed. And I'm not necessarily taking a position on it, I just think that they really need to think about what they're not promoting, or promoting. It's just a comment. Again, I'm not sure I'm ready to produce any piece of legislation, but they need to be aware that some of those decisions they are making us make, are decisions that could have an impact on this community in general. So I just make that observation.

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

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

**Against:** None.

- 6) **REQUEST FROM JOE WADE FINE ART, FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/ CONSUMPTION OF WINE AT JOE WADE FINE ART, 102 E. WATER STREET, FOR THE FOLLOWING EVENTS/DATES, WHICH WILL BE HELD FROM 5:00 P.M. TO 7:00 P.M.: May 7, 2014 – Private Gallery Opening; July 4, 2014 – Jon Oteri Solo Exhibition; August 22, 2014 – Annual Indian Market Show; August 29, 2014 – Roger Williams Solo Exhibition; and October 3, 2014 – Manfred Rapp Solo Exhibition.**  
YOLANDA Y. VIGIL)

The staff report was presented by Yolanda Y. Vigil, from her memorandum of April 24, 2014, with attachments, to Mayor Gonzales and City Councilors, which is in the Council packet. She noted there is a letter in the packet from Rev. Daniel P. Dangaran, Pastor and Bishop, the Church of Antioch at Santa Fe, stating they give their permission and support for this request.

### **Public Hearing**

There was no one speaking to this request.

### **The Public Hearing was closed**

**MOTION:** Councilor Ives moved, seconded by Councilor Bushee, to grant the request for a waiver of the 300 foot location to allow the dispensing/consumption of wine at Joe Wade Fine Arts, 5:00 p.m. to 7:00 p.m., for the following events/dates: May 7, 2014 – Private Gallery Opening; July 4, 2014 – Jon Oteri Solo Exhibition; August 22, 2014 – Annual Indian Market Show; August 29, 2014 – Roger Williams Solo Exhibition; and October 3, 2014 – Manfred Rapp Solo Exhibition.

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

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

**Against:** None.

- 7) **REQUEST FROM NEW MEXICO SCHOOL FOR THE ARTS (NMSA) FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/ CONSUMPTION OF ALCOHOLIC BEVERAGES IN THE GEORGIA O'KEEFFE MUSEUM EDUCATION ANNEX PARKING LOT, 123 GRANT AVENUE, WHICH IS WITHIN 300 FEET OF THE FIRST PRESBYTERIAN CHURCH, 208 GRANT AVENUE. THIS REQUEST IS FOR NMSA'S ANNUAL FUNDRAISING GALA "ARTSPRING" TO BE HELD ON FRIDAY, MAY 9, 2014 FROM 7:00 P.M. TO 9:00 P.M. (YOLANDA Y. VIGIL)**

A letter dated April 27, 2014, from David Grayson, President, First Presbyterian Church, saying they agreed to this event, is incorporated herewith to these minutes as Exhibit "19."

The staff report was presented by Yolanda Y. Vigil, from her memorandum of April 24, 2014, with attachments, to Mayor Gonzales and City Councilors, which is in the Council packet, noting there was a letter on the Councilor's desk this evening, from David Grayson, President, First Presbyterian Church Santa Fe, stating they are okay with this request.

### **Public Hearing**

There was no one speaking to this request.

### **The Public Hearing was closed**

**MOTION:** Councilor Ives moved, seconded by Councilor Dimas, to grant the request for a waiver of the 300 foot location to allow the dispensing/consumption of alcoholic beverages at the Georgia O'Keeffe Fe Museum Education Annex Parking Lot, 124 Grant Avenue for the New Mexico School for the Art's Annual Fundraising Gala "ArtSpring," on Friday, May 9, 2014 from 7:00 p.m. to 9:30 p.m., with conditions of approval as recommended by staff.

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

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

**Against:** None.

**8) REQUEST FOR APPROVAL OF DRAFT AFFORDABLE HOUSING 2014/2015 ANNUAL ACTION PLAN. (ALEXANDRA LADD)**

The staff report was presented by Alexandra Ladd from her Memorandum of April 22, 2014, which is in the packet. She said this is done every year as a condition of our entitlement from HUD for our CDBG funds. She said, "Because of the way the HUD approval process works, and that we want to get our allocations made and the contract in place by the beginning of the fiscal year, we often start the process before we know what the final allocation amount is. This year we estimated it to be \$500,000, which is reflected in the plan before you. And then we got good news from HUD that they are giving \$526,000, so this is good news and we will allocate the \$26,000 at a later date and do an amendment to the plan.

Ms. Ladd introduced the new CDBG planner, Margaret. She said after this evening she will be turning over the reins to Margaret, and she will be finishing the rest of this fiscal year and will start the next fiscal year with you.

Ms. Ladd said Councilor Ives spoke with her earlier with regard to the Memo which shows the amounts of funding and how they have declined over the past few years. She said it never occurred to her that the reduced funding is because of budget cuts on the federal level and not because we haven't expended our money in a timely or appropriate fashion.

Councilor Ives said he is painfully aware of federal budget cuts, and the impact on programs such as this one. He asked if it would be worthwhile to see if there are any other communities who have seen an increase in funding rather than a decrease – look at what others are doing differently to garner the greatest possible support– and do we need to do anything differently based on others who are having success. He said he frankly doesn't know whether or not there are other cities, and would hope we are tracking that as part of the process.

Councilor Maestas asked how the unexpected additional funds from HUD will be allocated.

Ms. Ladd said last week the CDBG Commission, who is responsible for making the initial funding recommendations, considered that issue, and made the decision that the \$26,000 will go toward down-payment assistance, given this year's funding priority to support some of the projects that don't have other sources of funding. She said that will be brought forward to the Governing Body at the appropriate time to amend the plan.

Councilor Maestas asked if it should be amended this evening to add the additional funding.

Ms. Ladd said the smoothest way in terms of HUD's perspective is to follow all the protocols to do the amendment later.

Councilor Dominguez noted 20% is allowed for administration of the CDBG at \$100,000. He asked if it the \$100,000 the 20% or if it is 20% of the \$100,000.

Ms. Ladd said the \$100,000 is the 20% allowed, and it is used to fund a staff position, to pay for training expenses for the staff position, and any advertising required to notify the public of the various plans and reports that go out for public review.

Councilor Dominguez asked if the City has a definition of "decent housing," or if it is based on the federal definition, and are they consistent.

Ms. Ladd said she is unsure how the City Code addresses "decent housing, noting this definitely is HUD lingo, and has been the standard used for all sorts of HUD programs for years and years.

Councilor Dominguez asked Ms. Brennan if we need to have that definition.

Ms. Brennan said, "No Councilor, I don't, but I would assume that the HUD definition would control, based on my experience in housing in Boston."

### **Public Hearing**

**Kathryn** said she was the guardian for Matthew Solano who was a veteran and "he went to heaven December 2012." She said he had schizophrenia and was homeless. She is on Section 8 Housing, she is very grateful to God she is on Section 8 Housing, and on disability and have a place to live. She said the management there is awful and she doesn't know where to go to get help. She said, "I'm in Alcoholics Anonymous and I know that I can either be part of the solution or part of the problem. And I really want to be part of the solution. It's run by Monarch properties, and they don't do diddly-squat. The manager doesn't do diddly-squat, and Matthew, being a veteran with schizophrenia, there was no place in Santa Fe for him to live."

Kathryn continued, "And when God put him in my life, I was so grateful when I was with him for about 7 years and I was able to get him on Section 8 Housing. It was open for one day and I sent away for him to get his birth certificate and I got him into Las Palomas where he was ripped off every almost, for cigarettes and blah blah blah. It was the only place I knew where he could live, because he stayed with everybody else and then he got tasered by the Police. The Police here don't know how to handle people with mental illness. That's another thing I could go on about. So he ended up going to Albuquerque with other people with mental illness from the veterans department. And that's what I'm so passionate about, is having a place in Santa Fe for veterans that have mental illness. There is no place here. And also there's no place here for the homeless with alcoholism. I'm in AA and there needs to be places here for alcoholics to get well. There's one place for a 30 day program. There's no halfway houses here and Santa Fe is so backwards, and I've lived here for 22 years. And the Section 8 Housing, it's somehow that we're left in and we're not."

Kathryn continued, "I was raised in an upper middle class home and we deserve the same as everybody else. Like when this says "decent housing," I don't know what that word means. We deserve the same as everybody else. Somehow we're looked down, looked down, and we deserve the same, and so do veterans with schizophrenia. And I really want to be part of helping people live in a better place. If I didn't make sense, I really need to make sense."

Mayor Gonzales said she made sense and spoke from her heart.

**The Public Hearing was closed**

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

**DISCUSSION:** Councilor Bushee thanked staff, saying she thinks the funds are well apportioned, and welcomed Margaret to the City. She is grateful they continue to pursue rental assistance, which is a significant need in Santa Fe. She is grateful it is back in the loop. She said she would like to talk to Kathryn, the woman who just spoke, about some of what she discussed. She said some of it has to do with the oversight of public housing which is not part of this plan, and that's where we could have a little more influence that we do currently.

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

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

**Against:** None.

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Mayor Gonzales said, "Before we go to Item 9, as we prepare for the consideration of the Ordinance relating to street performers on public property, I just want to send out a message to buskers, one of two choices. You all can come individually and be part of the time allotment, or you can determine if there is an individual to whom you would like to transfer your time that we can allow more time. It's something to consider while we're discussing the next Ordinance. If you decide it will be a single individual at that point, we'll make a determination of how much time you would need, but one of the two. So I just want to make sure you guys have the opportunity to decide what you would prefer."

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- 9) **CONSIDERATION OF BILL NO. 2014-12: ADOPTION OF ORDINANCE NO. 2014-18 (COUNCILOR TRUJILLO AND COUNCILOR RIVERA). AN ORDINANCE RELATING TO TOURNAMENT FEES AND ADULT LEAGUE FEES AT THE MRC AND CITY SPORTS FIELDS; AMEND THE ADULT LEAGUE FEES AND TO INCLUDE YOUTH LEAGUE REQUIREMENTS TO BE CONSISTENT WITH SUBSECTION 23-7.5 SFCC 1987; AMENDING SECTION 23-7.5 SFCC 1987 TO ESTABLISH TOURNAMENT FEES AND TO AMEND THE ADULT LEAGUE FEES; AND MAKING SUCH OTHER STYLISTIC AND GRAMMATICAL CHANGES THAT ARE NECESSARY. (JENNIFER ROMERO)**

The staff report was presented by Jennifer Romero, noting she will stand for questions.

Councilor Trujillo said we're looking at reducing some of the fees. He said we are trying to create economic development in this community. And we haven't seen good tournaments in a long time like we had back in the 1980's. He said by doing this we want to get some big tournaments into the community and get people coming to Santa Fe for some fun activities. The Santa Fe Softball Association has a new President with a positive vision of what he wants to do. He sees something good coming out of this, and what we're not charging will come back to is even greater – having big tournaments and people coming to Santa Fe and spending money in the community.

Councilor Bushee said the FIR indicates a revenue loss of \$269,000 and \$130,000, and asked if this is accurate.

Ms. Romero said those are the estimated expenses for overtime, salary and operating expenses. She has a breakdown of how they came up with the FIR and she can provide that to her.

Councilor Bushee said that would be great. She asked, "The genesis of this. Was this brought to someone's attention because we charge more than other communities and that's keeping us from having these tournaments, and why would we need additional... I thought it said somewhere, and I read a lot of minutes that we were going to seek an additional position, or is that just all overtime."

Ms. Romero said that is the overtime and salary for our supervisor and maintenance workers to cover the maintenance costs.

Councilor Bushee asked if there was an additional position, or if this is all overtime.

Ms. Romero said, "It is all overtime."

Councilor Bushee asked Councilor Trujillo what brought this to his attention, and how we can we be assured that we will get additional tournaments here.

Councilor Trujillo said, "Staff brought this. You know Councilor, I can't assure you, I can't say that we're going to get 10,000 tournaments or 100,000 tournaments. I think, looking at what's happening with this league and around Santa Fe, we haven't had the opportunity to look at other towns here in New Mexico. Look at Las Cruces, they have The Whole Enchilada Tournament which brings teams from Arizona, Texas, Colorado, New Mexico. It's these kinds of things we don't have here in the City."

Councilor Bushee said, "What I mean, is what prompted you or staff to pursue the streamlining you might say, or reduction of our current fee structure."

Councilor Trujillo asked Ms. Romero to explain.

Ms. Romero said, "This is a subject that was brought to us by the Leagues for the past several years. We looked other municipalities, like Las Cruces, Ruidoso, Roswell and a few other communities to see what fees they charge and found that the fees we charge are more than the other fee structures. This was a way for us to reduce the fee, and to enable us to easily administer the fee structure we have as well as attract more teams, in working with our softball league, soccer league and rugby league that utilize that MRC sports complex."

Councilor Bushee said her only concern is that we seem to, every year, come budget time, lament that we are short staffed in the maintenance world and that needs to be increased as we add new parks and new possibilities, and "I don't like the idea of overtime, as much as I like the idea of having adequate staff." She wants to be line and to make sure we are encouraging, but "I'm really remiss to let go of almost \$300,000."

Ms. Romero said at the last Finance Committee meeting where the proposal was approved, there was a request to have in an amendment in place to look at how we do this year. She said they are tracking all of their expenses as well as salary costs for the Sports Complex as we go into the season League activity. She said in a year she will bring this back to see if it has been beneficial to the City and to meet the needs of the facility.

Councilor Dominguez said, "I can tell you that I stand in support of this. I understand how tight the monies are, and I understand Councilor Bushee's comments and her concerns. I have all the confidence in the world that the, I guess, the League will do what they can to see that there are opportunities to promote that economic development if possible. But one of the questions I do have, when you say leagues, does this apply to soccer as well."

Ms. Romero said yes.

Councilor Dominguez said, "So I think that's something that might help because there are a lot of opportunities, even in bringing some soccer tournaments to Santa Fe, so it's not just on the backs of the softball league, but it's also an opportunity for soccer to promote their sport and economic development in the community. And, quite frankly, if we want to make the changes that some people have talked about at

the MRC we need to give them the opportunity to generate the revenues they think they can make to offset the impacts to the General Fund, so I stand in support of this.”

Councilor Lindell asked during a year, how many tournament teams that we have.

Ms. Romero said, typically, within a year, we have had approximately 10 softball tournaments, 1 rugby tournament and 1 soccer tournament. She said, “For example, for rugby and soccer, it’s their end of year championship tournament. And throughout the season the league has had.... what we found again and this was the previous seasons, the softball league tournament events have declined. Again, in speaking with them and the other league presidents, the goal is to increase tournament play, increase league play, gathering more teams to participate in the leagues, and then promoting tournaments to them so they can participate in those as well.”

Councilor Lindell said we have to bring a lot of teams in to match what we’re spending to bring in that kind of income and asked how this will be funded this year.

Ms. Romero said, “Again the expense for the maintenance, specifically at the MRC, had never been able to match the revenue. So again, this is just another way for us to promote the facility and entice the leagues that use it to join us in these efforts. The funding source.... we do receive funding from the Parks Division for maintenance, salaries and operating expenses. And this is an estimate. The FIR that you received in your packet is an estimate of those anticipated costs, should there be an increase in tournaments and an increase in activity.”

Councilor Rivera said, “I also am in support of this Resolution. Looking at the FIR, it shows that we paid in, and it says fiscal year 12/13, we paid \$208,250 in personnel and all other operating costs. Is that correct?”

Ms. Romero said that is correct.

Councilor Rivera asked if it is for fiscal year 12/13, and Ms. Romero said yes.

Councilor Rivera asked if we know the cost for this fiscal year.

Ms. Romero said, “Because we aren’t at the end of our fiscal year, I don’t have those calculations yet. However, Mr. Mayor, Councilor Rivera, we will put that together for you.”

Councilor Rivera said, “Based on just averages, do you think it’s close to same, or probably a little bit higher because costs go up from year to year.”

Ms. Romero said, “Yes, that is correct. What we see is an increase in our fertilizer, our seed and lots of those things to, again, maintain the facility.”

Councilor Rivera said, "The total fiscal impact is not \$269,00, because we pay almost \$208,000, \$210,000 or even \$220,000 this fiscal year, so it would be the difference between the two. Correct."

Ms. Romero said, "That is correct."

Councilor Rivera said, "Then the total impact of this program would be closer to \$40,000, for this coming fiscal year."

Ms. Romero said, "Councilor Rivera, yes sir."

Councilor Rivera asked, "Are we passing this soon enough to take effect this year. Have the Leagues already started to sign up."

Ms. Romero said, "Yes, that is correct. We have met with the leagues that have already started and begun to provide them information on the implementation of this fee structure. I collect the fees for this fiscal year now, until June, before June thirtieth, and we will put those in our City revenue. And again, the fee structure will continue into, for example, the season for soccer that starts in July and other leagues that utilize the facility."

Councilor Rivera said we have an annual review on this Ordinance to see how well it has done, and Ms. Romero said that is correct.

Councilor Dimas said, "I wholeheartedly support this Resolution and I love the idea that we're lowering the fee so we can get more activity going at the MRC. It strikes me that our mens and womens softball leagues have been dwindling over the years, I think because it's been so expensive to join and to be a part of those leagues. I think a lot of the reasoning in this, and I think Councilor Trujillo knows this is true, that it is going to bring about a lot more teams that will come into the League and participate. Is that the feelings of the leagues and the people you have been talking to."

Ms. Romero said, "Yes. In speaking with all the league presidents in the previous meetings we have had, that is our goal and the hope for the facility, and what we're encouraging as well as the information they are putting out for registration and gathering the leagues, and starting the league activity now that it started in April."

Councilor Dimas asked what percentage of teams we have lost over the years. He said, "I remember, years back, that the leagues were functioning well and there were a lot of different teams, and in fact, you couldn't get a team in after a while. Do you know what percentage of teams we have lost over the years. Do you have any idea."

Ms. Romero said, "At this time, I don't have that information, but I can gather our historical data and provide that to you if you like."

Councilor Dimas said, "I think that would be very important to know for the future. And that might be something we want to compare at the end of the year. Also, how many teams we actually increased by lowering these fees. I think that will be very important to know." He reiterated that he is wholeheartedly in favor of this and believes it will bring something to Santa Fe we've need for a long time, and allow a lot more teams to join and participate."

Councilor Maestas said, "Tell us what you think would represent success."

Ms. Romero said her goal "is an increase of 10-15% in the league number of players and 5% in tournaments. This is just my estimate. I believe working with the new League President, this is definitely a possibility. Again, for us, it's a pilot program. If it doesn't work, we'll bring it back to you to make recommendations as you see fit."

Councilor Lindell said when this comes back in a year, she wants very very specific information about the increase in the number of teams and a really clear picture of the revenues on this. She said, "When I look at the revenue sources we have on this right now, it is less than \$21,000, at a cost of over \$200,000. It's carrying 10% of its cost. So, I would very much like to see a detailed analysis of it next year and see if it's carrying more of its cost with a new, lower fee structure. It puts a lot of pressure on the staff to get more teams to play in these tournaments."

Councilor Ives asked the number of adult leagues currently.

Ms. Romero said there are 5 adult leagues, and in addition there are 3 youth leagues, and then we have the high schools that utilize the facility. She said, "Throughout the season, we're at capacity in terms of availability during the week. Weekends is when we have our softball tournaments, and any special events that may come up."

Councilor Ives asked, on average, how many teams there are within each of the adult leagues.

Ms. Romero said, "Off the top of my head, I don't want to give you an answer, but I do have that information from past years, and next week, I will be meeting with our softball leagues, because they are continuing registration at this time for this season, and I can provide that to you as well."

Councilor Ives said he was trying to assess the impact of a 10-15% increase with presumably 10 players a team, at \$25 each, \$250 for each new team play, for 5 leagues each with 10 teams, that would be about \$1,250 coming back in.

Ms. Romero said, "Previously, for example in softball, we've had anywhere from 70-80 teams for adult baseball. It's been 10-12 teams. They play on the weekend. Rugby is one team, and soccer ranges from 10-20 teams."

Councilor Ives said it would be fascinating to hear the actual impacts in terms of the changes we're considering. "Looking back 2-3 years, in terms of numbers of teams, numbers of leagues and what the increases are. And it sounds like, even more importantly, the question about the increase in tournaments and what the impacts are there would be relevant. Presumably with a tournament, if it's a league that's holding the tournament, it's a \$25 permit fee under the new scheme and that's it."

Ms. Romero said, "If I may correct you. For the tournament fee structure, it's \$25 per team, so a flat fee. The way I deal with that is to make the tournament fee easier to administer as opposed to having all these different fees. The bottom line with that, is it comes out to about even to what we have been previously charging, so there's not a large impact there. It's moreso when we'll see it on the \$100 team fee for the League season."

Councilor Trujillo, "I'm going to wait for the public hearing, but I do know the President of the League, Mr. Rodriguez is here, and I know he has been addressing some of the ideas he has. I have had conversations with Ray Sandoval of Kiwanis, and they're looking at a collaboration, I can say this for the softball league, like Las Cruces, and possibly having a Zozobra Classic, a 24-hour tournament. Any of you who have ever played softball, if you've ever been to the Whole Enchilada, you see the impact it has on the community. I remember the time when I was down at State, the tournament used to be held during the Whole Enchilada Fiesta and they had to moved it back to a week before because of how many teams they were getting, and not being able to accommodate all the teams. I see the vision Mr. Rodriguez has and I'm hoping, I can't guarantee, but I'm hoping that we see this kind of impact in this community. People want to come to Santa Fe. And I'm hoping while they're here playing softball they're staying in our hotels, eating in our restaurants and spending money here in Santa Fe. I'll just yield it at that and wait for the numbers."

Councilor Dominguez asked if we have State capital monies for this.

Ms. Romero said, "I believe we received ICIP funding for shade structures for all different areas within the Parks Division. To my knowledge, that's the only money that we have received recently. I'll defer the question to City Manager Snyder.

Mr. Snyder said he is unaware of any recent funding we're received for the MRC in the last two years.

Councilor Dominguez recalls, "We were given State money at one time, and part of the reason we were given the State money was to promote the MRC for these sorts of activities, for much larger kinds of tournaments. And so, again, the intent is to allow the MRC to operate like a true enterprise and make those decision they think, and I'm hearing Jennifer say that she thinks that there may be an increase, to generate the revenues you need to generate, to not only operate, but to offset transfers in from the General Fund."

Councilor Dominguez continued, "One of the questions I had was.... so are you prepared, Jennifer, to really to track the progress, not only in terms of leagues, in terms of participants and the finances in and out, but there is an economic development impact just kind of generally speaking. I'm not sure where this is going to go, but if there is a motion in support of this, I would like to see direction to the City Manager to work with the CVB and other departments or divisions to track the potential revenues as well as to, I think, host the tournaments. Again, I'm not sure where this is going to go, but that is where I would like to see things go."

### **Public Hearing**

**Paul Rodriguez, Acting President, Santa Fe Softball Association**, said they are here to answer any questions you might have regarding the softball league and our vision. We do plan on having more tournaments here, and bring more teams to Santa Fe to spend money in our hotels and restaurants.

**Gilbert Garcia, Commissioner**, said, "We've put a Board together. We've just taken the League over. Paul Rodriguez is the present, Laverne Ulibarri is the Treasurer and then we have 5 commissioners. I'm one of them. Our vision and mission is to bring these teams back into Santa Fe. I'm going to be honest, we were losing a lot of people going to White Rock because their fees were lower. We have said we are going to put this together and start working with the City, and lower some fees to see how it would work. And we would put in our time to help clean the fields, help keep the trash out, just help the City workers so there isn't a lot overtime and expense by us doing this, so we see how it works. If we're asking you to lower the fees, we're going to have to put in our time to help so you don't have that overtime and expense. We're also trying to bring more tournaments in, because that's where the City makes money. We're trying to bring big tournaments, as Councilor Trujillo mentioned. Las Cruces has the Whole Enchilada. I've been going to the Whole Enchilada since I started softball many years ago. And we're the Capitol City of New Mexico, and we should represent the Zozobra Blowout or Zozobra Class and have a 24 hour tournament that brings money into the City. We can tell you already, we've had great feedback. We've increased the teams, not a lot, but probably 20%. So word got out that we've lowered the fees so we've got more teams, so that's nice. The biggest thing is to bring more tournaments and bring money to the City."

### **The Public Hearing was closed**

Councilor Bushee said she is hopeful this brings more teams to play and use our fields, and understands that it's subsidized. "I'm still referring to the overall figure of the subsidy right now. I used to coach soccer and play soccer, but I sat up here and got unathletic. But we had tournaments at the polo grounds for years, and then they built a bunch of complexes in Albuquerque and all the tournaments went there. And I also know that women's softball has tournaments in Chama weekends. Aside from softball wanting to generate more activity, what other leagues are even looking at doing this."

Ms. Romero said, The President of La Liga Soccer League is responsible for adult and youth soccer. They've come to us and they have interest also in promoting more tournaments at soccer valley. We haven't sat with rugby with regard to an increase in tournaments, but that's definitely something we will do. They use the facility quite a bit throughout the season, including Saturdays and Sundays when they have their games. This weekend, they'll be hosting the High School Rugby Tournament at the Sports Complex."

Councilor Bushee said she sees where this is going. She said, "My concern is that once we implement something like this, we never turn back. This is where this is going to stay. I've never seen us do something like that. I just want everybody to be very thoughtful about what this might mean. And my only big concern is that it's emphasizing overtime. And, even though there are offerings of help from volunteers, staff never builds that into their program. Even if it means hiring someone rather than paying the overtime, I think that makes more sense. So, those are my concerns."

Councilor Dominguez said, "I hear what you're saying Councilor Bushee. I think that certainly is a concern, because it's not just something we have to deal with at the MRC, it's really across the Board. But this is an opportunity to ask to staff to pay attention to some of those details so that we can measure some of those things. And that's what I'm hopeful for, is that we're able to measure some of those opportunities and so. And it's not going to be all Jennifer. It's going to be other City staff members that hopefully will help in that endeavor. So I hear what you're saying."

Councilor Rivera said, "Paul said some of those teams are going to White Rock. Have those teams stated that they would be willing to come back if the fees were not the same."

Mr. Rodriguez said, "We have spoken with some of the teams from the northern areas, and there's an agreement we would get them here because our fees have been reduced, and would provide double headers for them, and have a week off and a week on. But yes, they have stated that they do intend to come down and play in our league in the future. This year we have 84 teams over the 64 teams last year, so that's a 20 team jump, and we haven't started yet. So what you're going to approve hopefully, is going to be beneficial for our League and for the City of Santa Fe, but they have expectations of actually coming here again. So, I'm optimistic that we'll break 100 next year."

Councilor Rivera said, "Jennifer, a one year evaluation I know is going to be tough. But you're there, you're going through it, so look at some of those intangibles." He said the money is important, but we've been subsidizing for a long time. He wants to see how many more people are using the field than before, and how many families are coming. He wants to look at things that bring in local people.

Mayor Gonzales said, rather than waiting a year to see if this works, to build on what Councilor Dominguez talked about, we need to sit with the CVB, our economic development group and others and all the people interested in seeing outdoor recreation to go to the next level in terms of tourism. and develop a plan to identify tournaments around special events – Fiestas, Indian Market or whatever makes sense. He said, to the credit of this Council and the Councils before, the MRC is one of best in the State if not

nationally, and we aren't using it to its full potential in bringing people into Santa Fe. However, it means we need a plan to identify tournaments and solicit money from OTAB so we have real dollars in marketing coming to Santa Fe. We could then create the measurements, so next year when this comes back to us, we can identify where there was success and where we need to do more. He doesn't want to set "you guys up for failure, and come back and tell the Council, well we didn't hit the marks we wanted," because you didn't necessarily get the help that you would have."

Mayor Gonzales said, "This doesn't have to go in the Ordinance, but I would say from the Public Works perspective that there should be a plan brought to you and maybe even financed that has a holistic approach for how we're going to market the MRC with these reduced fees, with the tournaments that we can bring in, set some goals for how many room nights we want to tie to that, how much money we want to have spent in the community. I think to Councilor Rivera's point, enhancing the quality of life means more participation. And being able to track an increase in the number of people from Santa Fe that are playing on those fields, bring their kids, those are all things we can do because we have baseline data today. But with this, use it as a tool to create a plan and then get out there and do the great things that we can do."

**MOTION:** Councilor Trujillo moved, seconded by Councilor Dimas, to adopt Ordinance No. 2014-18, with the amendment in the Council packet, with direction to staff to work with the Leagues and our CVB as to how we can promote these tournaments to the rest of New Mexico, and outlying states as well, and to come up with an actionable plan, with metrics and resources that are going to go into it.

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

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

**Against:** None.

**Explaining his vote:** Councilor Rivera said, "Yes, and sign me up as a cosponsor."

**Explaining her vote:** Councilor Bushee said, "I'm going to give it a shot, but I am concerned about overtime still. So I guess... so a reluctant yes."

**10) CONSIDERATION OF BILL NO. 2014-10: ADOPTION OF ORDINANCE NO. 2014-19 (COUNCILOR CALVERT). AN ORDINANCE RELATING TO STREET PERFORMERS ON PUBLIC PROPERTY; AMENDING SECTION 23-8 SFCC 1987. (ZACHARY SHANDLER) (Postponed at March 26, 2014 City Council Meeting)**

A copy of a letter dated April 28, 2014, from Talia Kosh, Esq., attorney for Santa Fe Buskers Alliance, and the Santa Fe Buskers Alliance, in this matter, is incorporated herewith to these minutes as Exhibit "20."

A copy of the statement for the record, dated April 29, 2014 to Esteemed Councilors, Mayor and City Attorney, from Talia Kosh, Esq., attorney for Santa Fe Buskers Alliance, in this matter, is incorporated herewith to these minutes as Exhibit "21."

A letter dated April 30, 2014, to Zachary Shandler, Assistant City Attorney, from Peter Simonson, Executive Director, American Civil Liberties Union of New Mexico, submitted for the record by Zachary Shandler, is incorporated herewith to these minutes as Exhibit "22."

Mayor Gonzales said Councilor Maestas indicated that I had not extended the same offer to the vendors from the Plaza who would like to approach. He said, "If you would like to have a single spokesperson to be able to speak specifically to the Ordinance, we can grant more time. If not, then again it is the one minute allotment that is granted to each speaker. So consider that before you come up and if you want to combine your speakers we can go ahead and do so."

The staff report was presented by Zachary Shandler. Mr. Shandler said, "The Plaza for hundreds of years has been the center of commerce. People have been unloading saddle bags and carts and buying and selling goods for hundreds of years. And when a previous Council designated the Plaza as a park it found that the Plaza and the Plaza Park are the heart of the City. Standards for its use should encourage variety, equity, usage and regulations in respect for the important role the Plaza and the Plaza Park play in the live of Santa Fe. One could also say these standards should encourage the celebration of the historic and esthetics incident to the oldest Capitol in the United States."

Mr. Shandler continued, "Citizens, however, are complaining it's too loud in the Plaza. It's loud and I can't hear the person I'm talking right next to. Too loud, I can't hear what my customer is ordering. So let me provide a hopefully humorous analogy. What if Councilor Maestas and I are engaged in commerce, and what if Councilor Dimas, who I understand sings in a rock and roll band, starts singing next to us loudly, *Rock Around the Clock*. What if Councilor Dimas sings that song for two straight hours. Where do Councilor Dimas's First Amendment Rights intersect with others abilities to peaceably conduct commerce. And how do you, as policymakers write or rewrite an Ordinance to deal with this intersection. And to build the record and frame the issue, I'm going to speak about five minutes about the legal and constitutional issues."

Mr. Shandler continued, "The U.S. Supreme Court has stated, 'Our cases make clear that even in a public forum, the government may impose reasonable restrictions on the time, place or manner of protected speech, provided the restrictions are justified without reference to the content of the regulated speech, they are narrowly tailored to serve a significant government interest, and that they leave open ample, alternative channels for communication of information.' So, let's go through that analysis. Number one. Content neutral. The content based restriction on performance is valid only if it fits within the category of speech that the First Amendment does not protect, like obscenity. You can do something about that. But it means you cannot amend the Busker Ordinance to pick and choose between preferred content, such as Councilor Dimas's band, or my band, which might be an attorney rap group."

Mr. Shandler continued, "Number two. Narrowly tailored to serve a significant government interest. Government has a substantial interest in protecting its citizens from unwelcome noise. This interest is perhaps at its greatest when the government seeks to protect the well being, tranquility and the privacy of the home, but it is by no means limited to that context. For the government may act to protect even such traditional public forums as city streets and parks from excessive noise. That's from the *Ward v. Rock against Racism* case. So the requirements of narrowly tailoring, so long as the means chosen are not substantially broader than necessary to achieve the government's interest. This means that you can amend the Busker Ordinance regarding the time of performance, the place of performance and the manner of performance if you enter a finding tonight that the change serves a significant interest, and if a change is narrowly tailored or specifically focused on the issue."

Mr. Shandler continued, "And number three, the alternative channels of communication. In *Madison, Wisconsin* the Court ruled that a daily, fixed amplification time period was permissible, because speakers wishing to use amplification devices could speak between twelve and one thirty or five to seven. And so, under the *Stokes v. City of Madison* case, there were alternative channels for communication and that was permissible. I anticipate during the public hearing that's coming up, some parties will ask you to table everything tonight. This will leave the *status quo*, so what are the current laws. A street performer, currently cannot perform within 150 feet of another street performer. A street performer cannot be louder than 60 decibels as measured for a period of ten minutes, at least one foot inside the property line of the affected property. A person using amplification devices cannot be heard from more than 25 feet. A street performer must move every two hours and the City's Busker License controls or supersedes other entity's busker license"

Mr. Shandler continued, "So again, that's the *status quo* today if this bill is tabled or failed, those laws remain on the books. But what if you, tonight want to try to write a change. My legal advice to you is the City Council may amend the Busker Ordinance regarding time, place and manner, while honoring the street performer's First Amendment rights. So where should you start in your language. First, there's Councilor Calvert's bill. There's also the facilitator's report which is in your packet, which summarized the 3 hour public community meeting and was set up to take the dispute over process off the table. And there was your previous public hearing on this issue. There has been approximately 30 ideas offered to address how time, place and manner requirements can be applied. My advice to you is to focus on 4-6 ideas tonight based on Councilor Calvert's bill and from the ideas presented during the public meetings. That

might be the most effective and narrowly tailored to deal with the issues. And in fact, that's what tonight's substitute bill does. It has 4-6 ideas, and it has a clause requiring staff to report back to you on all other issues before October 30, 2014. So let me introduce the 4-6 ideas in the Substitute Bill."

Mr. Shandler continued, "First, the bill starts by amending Section 23-8.4. In legislative speak, that means the current sections up to Section 8.4 are left untouched. Those sections as written now, remain as is. I know Councilor Calvert wanted to change some wording in the [inaudible] section, but those ideas will have to wait until the October 30<sup>th</sup> report. So the first idea tries to make it more clear what a licensed performer is doing. The government has a significant interest in protecting the safety and the public, and providing due care for the safety of the public. So, for example, a previous council has stated that no person can operate a unicycle or have fire in the Plaza Park. A new requirement on the Busker License with a single line, stating the type of performance, is narrowly tailored to ensure that the busker and the Finance Department do not approve a license for an already prohibited activity. And the categories can be broad, music, dance, juggling. It has been represented to me that recently a busker was on a unicycle on the Plaza. If there had been this one line requirement, that would have been caught in the front end."

Mr. Shandler continued, "The second idea, eliminates the \$10 thirty-day license. That means there will be one uniform fee of \$35 per calendar year. This idea appeared to have unanimous support from the stakeholders at the public meeting, so it might be one of the few items that everyone is agreed upon. We'll find out tonight. The third idea is to require buskers to have their license displayed and a City produced photo ID. Right now, the requirement is to have the license and identification available. The government has a substantial interest in making sure licenses are not fraudulently used and shared among non-licensees. There have been stories of buskers sharing or passing a license between performers. However, it is possible that some of the speakers tonight will argue about the legal concerns of photo ID requirements. They may raise the arguments that allegations, absent specific proof of fraud, does not represent the significant government interest in requiring one group on the Plaza as opposed to others to have photo ID is not a narrowly tailored tool. Perhaps you will feel that the current requirements that the buskers have available, their own photo ID suffices to meet the government interest."

Mr. Shandler continued, "The fourth idea jumps to Section 23-8.5, which creates a 50 foot zone around Plaza Park artisans and art vendors, and pushcart vendors from the street performers. Going back to our example, this would require Councilor Dimas to perform his excellent singing 50 feet away from Councilor Maestas. And, as the Plaza is laid out, about every 25 feet there is a bench. This would mean that Councilor Dimas could sit on the second bench away from Councilor Maestas."

Mr. Shandler continued, "The government has significant interest in providing a peaceful opportunity for commerce to occur on the Historic Plaza. As the previous Council found, the standards for Plaza use should encourage equity in usage and regulations. There also is a significant government interest since the City license juries and the City Manager than instructs these vendors exactly where they

can work on the Plaza. Since these vendors are in fixed locations, it would be easy to draw a map of where the 50 feet falls and include it in the busker application packet. However, again it is possible that speakers tonight will argue that two benches away limits the other places where they can perform on the Plaza. Perhaps they will argue too, that 25 feet or one bench away is a more narrowly tailored solution."

Mr. Shandler continued, "The fourth idea came from the Plaza vendors, so I'll be interested to hear if they feel the 25 or 50 foot solution are equally preferable. It is also possible that the downtown merchants will similarly advocate for some type of zone. Now they do have a difference in that they can step into their store. They may raise the issue about buskers blocking their display windows as a problem. My advice to you is the issue of blocking displaying windows and where street performers can stand on streets is challenging. Where is the boundary between private and public streets. What if one merchant likes a musician and his immediate neighbor does not. What if by limiting people on streets they are all forced to the Plaza Park. It is my advice to you that these issues need more study. This idea also incorporates a requirement that street performers themselves should stay 50 feet apart from each other. The government has a significant interest in providing a peaceful opportunity for street performers to perform on the Historic Plaza, and for the combined sound of all the performers not to be disruptive to the community. As stated above, standards for the Plaza use should encourage variety, equity and usage in regulations."

Mr. Shandler continued, "The current *status quo* is 150 feet, and as documented in the facilitator's report, this means that only 1 or 2 buskers should be on the Plaza right now. It is possible that speakers tonight will argue that 2 benches away between street performers, limits the places where they can perform. Perhaps they feel 25 feet is a more narrowly tailored solution. I'll be interested to hear from the representative of the Busker's Alliance, because this is an issue about how close they want to be with each other. Perhaps they are ready to offer other solutions that they think are narrowly tailored. Perhaps they think that a distance requirement is not prudent, but a cap of 3 musicians and 2 non-musicians on the Plaza and portals at one time, and let the performers and the dancers and balloon makers figure out, on a day to day basis where they should stand in relation to each other. I'll be interested to hear what their solutions are."

Mr. Shandler continued, "The fifth idea states that street performers shall not be plainly audible 50 feet away from the performance site. Please know that 'where plainly audible,' is language from the current noise ordinance and it is used in current City Code regarding noise ordinance about radio and music between neighbors. 'Plainly audible' is already in Code. The government has significant interest in providing a peaceful opportunity for commerce to occur on the Historic Plaza. The 50 foot measurement is narrowly tailored as is consistent with the 50 foot requirement as mentioned above. However, again, it is possible that speakers will argue tonight that the 50 foot, or the two benches away is too close. Perhaps you will feel a different distance is more of a narrowly tailored solution. Perhaps the speakers will argue that 'plainly audible' is maybe too subjective to the listener, and may advocate for a numeric figure like 60 decibels. If so, those speakers should be prepared to explain where the measurement should be taken, perhaps 20 feet, 25 feet away and how long to make it an effective tool."

Mr. Shandler continued, "The fifth idea also includes a fixed time each day when amplification can be used. The government has a significant interest in providing a peaceful opportunity for commerce to occur on the Historic Plaza. Amplification also impacts the merchants around the Plaza. With amplification, they can't hear their customers within their stores. They can't conduct meetings with their clients. But the fixed time is narrowly tailored, because it still allows amplification on a daily, fixed basis, during a portion of the lunch hour and afternoon where there is likely larger crowds of people, and it is during the standard two-hour period that is currently in the Code. It is also similar to the narrowly tailored solution that survived legal challenge in Madison, Wisconsin."

Mr. Shandler continued, "The sixth idea is that buskers will have to stay off the band stand and really move when their two hours is complete. If on the Plaza, they have to move off the Plaza. If somewhere else, they have to move 100 feet. The government has a significant interest in providing an opportunity for a multiple of buskers to perform and a peaceable opportunity for commerce to occur on the Plaza. This is narrowly tailored, because moving needs some level of quantification. For example, Councilor Dimas can't just jump into Councilor Bushee's seat right now and claim that he has moved and play for another two hours next to Councilor Maestas. There needs to be some numeric quantification to make it effective."

Mr. Shandler continued, "The final idea in Section 8.7 was meant as a cleanup measure. My overall advice to you is not to touch Section 8.7, the Enforcement Section, for two reasons, tonight. First there has been much debate about the so-called criminalization or recriminalization and if you leave Section 8.7 alone, you can say, we're not changing anything about that tonight, and let's study during the next 6 months in advance of the October presentation. The Police, Finance Department staff and the City Attorney's Office are ready to start a pilot project to track data. How many people actual get warnings. Is it the same 3 people every day. How many people get criminal citations. How are those handled and adjudicated. In comparison, how many people get citations for skateboarding on the Plaza. Do they pay fines. This will provide a 6 month window of the learning experience, an assessment of how the parties act in their involvement and really the success of the community at policing and the People at the Plaza Initiative. At the end of the 6 months, we can have hard data, we can sit with the stakeholders and figure out what the best practices are for enforcement."

Mr. Shandler continued, "But of course, in conclusion, I couldn't help myself, and I suggested to the cosponsors to delete a portion regarding written warnings in Section 8.7(a)(1) and (2), because the Police on the Plaza do not have a written warning system. How the ACLU has contact the City Attorney's Office and interpreted this housekeeping deletion, as a change to delete an officer's opportunity to provide a warning. That was not my intent. So my advice to you is to restore the change to Section 8.7, and let's handle all the enforcement issues after the pilot project is complete and can be reported to you at the October thirtieth date. Now while we were preparing for this, the Police had a good compromise suggestion. Again, the issue is there's no written warning. Again the issue is that for skateboarders there is just a warning. So my advice to you in Section 8.7 is to restore all of the deletions except for the word 'written.' That means it would read, 'Upon first violation of the provisions of this Section, the Police may issue a warning to the person violating the Section. I believe this would address the ACLU's concern

about progressive discipline and enforcement. And just by striking the word 'written,' would resolve the Police's concern and also make it consistent with the existing ordinance about skateboarders."

Mr. Shandler continued, "And, in overall conclusion, my advice to you is the City Council may amend the Busker Ordinance regarding time, place and manner, while honoring the street performers First Amendment Speech Rights, and I stand for any questions."

Mayor Gonzales said he appreciates Councilors Maestas, Lindell and Trujillo spending time on this on behalf of the Council. "Our goal last month was to drive to a decision tonight, and to put in the time and effort to make sure that there was ample public participation. I believe we hired a facilitator to participate in that. Briefly, before we go on, one of you 3 can offer the Council a perspective on the process if the mandates that the Council directed during the past 30 days was met and if you feel like we are prepared to go ahead and consider the Ordinance tonight."

Councilor Maestas said he won't restate what Mr. Shandler said. He said we are here on April 30<sup>th</sup>, and you asked us to make this time specific and to ensure we took the steps necessary to ensure that the process was correct. He said the three Councilors sat in the middle of the floor for 3 hours and listened to all sides of the issue. It was a facilitated meeting. He said, "I think these amendments represent compromise." We completely backed off adding additional provisions in the criminal section to make the penalties more harsh. We believe the changes will be measured and we will evaluate this on October 30, 2014. We feel this is the best approach, and considers the bill to be consensus among the buskers, vendors and law enforcement, because the existing ordinance was difficult to enforce and these changes will aid in the improving the enforceability of the Ordinance. We addressed the process, the changes are measured, represent compromise, we enhanced enforcement. We have to bear in mind that the Plaza is for a lot of folks and not just the vendors and buskers – tourists, residents of Santa Fe, merchants and their customers. As decision makers we need to consider everyone that comes to the Plaza, and asks that you consider our broad constituency in addition to the constituency here tonight. He said Councilor Calvert did a lot of work, and this preserves a lot of that work, addresses the immediate concerns, and we have consensus among the primary stakeholders on this issue.

### **Public Hearing**

**Ben Baur** said he would ask a compromise from what you propose. Ms. Talia Kosh can address some legal issues, but the buskers are more in the position of responding to the City, as opposed to as on a par with the vendors and other groups, because this affects their time on the Plaza. We would ask if Ms. Kosh can address you for 10-12 minutes, noting many buskers have agreed not to address the issues, but there are other vendors that would like to speak and haven't been part of the process.

Mayor Gonzales said he will give Ms. Kosh 7 minutes to speak to the issue. He asked those who want to speak to line up and prepare their comments for the one minute they will be allotted.

**Talia Kosh, Esq.**, said she represents the Santa Fe Buskers Alliance tonight, and they called her and asked her to be a part of these conversations. She said she comes as an advocate on this issue, she also comes as a friend of the Council. She expressed sincere gratitude and thanks for all of your patience and time you put into this. She grew up in Santa Fe and practices law here, and is the founder and co-president of New Mexico Lawyers for the Arts which is a *pro bono* organization, as well as being an educator. She has dedicated her life in very large part to helping artists navigate the laws that control their work. Her interest is in bridging worlds and finding where things connect and meet, because the collaborative and connective economy is upon us. She said sometimes laying out the big picture and comparative models is the most effective way to lend perspective. And that is the intent of the documents they submitted to you.

Ms. Kosh said, "I appreciate Mr. Shandler's very thorough presentation. It was very useful. I would just like to reiterate a few of the definitions and purpose of the section at issue. The purpose that still exists and hasn't been changed is to ensure the ability of street performers to perform in public spaces and to promote harmony among street performers, local businesses, residents and visitors to Santa Fe. Many of the proposed changes on the table right now, in our opinion, do not do that. As Councilor Maestas asserted, this proposed legislation was a compromise among all parties. I will state very frankly, we had a recent meeting last week with Mr. Shandler and the Buskers Alliance. And we came out of that meeting feeling very positive, and he listened, he was patient, and we felt very positively during that meeting. But then the proposed legislative that came out of that was very surprising to us on several points. There are new issues, new legislation here that has never been discussed. I wasn't at the 3 hour mediation and community meeting, but even if I was, these issues wouldn't have been discussed there. So I feel compelled to talk about those as briefly as possible here."

Ms. Kosh continued, "I would like to reiterate, in the definitions section, Street Performer includes reciting or singing, acting, dancing, miming, playing a musical instrument, perform a theatrical or literary work. Street performer means an individual who performs. So a performer is really another word for an artist, so that's how I'm going to refer to them here, as street artists. We speak a lot about creative economy here which is built on artists that are not only defined to a gallery or concert hall, many live and breathe that get these performances on the street."

Ms. Kosh said, "It's a very slippery slope when you start to define what art shall be regulated and what art shall not be regulated. Under this definition, your use of these sorts of archaic delineations are concerning. And increasingly younger artists are operating and working in multiple mediums, not only in visual arts, but in performance art incorporating music, multi-media experiences, technology. The breaking down of these barriers of creative mediums means that street artists restrictions, as written affect every artist. So when you regulate artistic speech, by requiring these artists to be licensed for a particular type of speech, as the new proposed legislation does, this legislation demands that certain artists specify or write down what type of performance they are getting a license for. This is a content restriction. As Mr. Shandler discussed, the strictest of scrutiny applies when this is an issue. These are our concerns. What if the street artist lists are getting a license for music, but they actually have performance or visual elements in their work. What if the work they do is difficult to define. Does that mean public safety is going to make a

determination about what's on their license about whether or not their performance falls into what is specified on the license. I understand the purpose of why this is in here, but it's not specified in the legislation, and so we can only look at in terms of the effect."

Ms. Kosh continued, "When you limit the licensing scheme to categories in a world where these categories are falling apart, there is going to be confusion. There is no time to go into every single objection, an issue we have laid out in our documents to you. So, over all, I respectfully ask that we have more time to be able to discuss these matters in some private meetings with you, with some of the sponsors of the bill. Because I do feel that there is, somewhere along the way, a breakdown of communication."

Ms. Kosh continued, "So currently, the proposed legislation, the issues we object to, is, number one, the 50 foot requirement between buskers and any vendor. So, the ACLU wrote a letter to you today, and in the letter they said, 'Between the fifty-foot buffers, and new limits on performing in the Plaza, the amended ordinance may create such a web of intersection restrictions that it all but eliminates possibilities for street performers to occupy the Plaza and long stretches of nearby public property...' So we have to look at the effects of these things. This legislation, in effect creates a ban on street performances, in the Plaza and downtown."

Ms. Kosh continued, "The Santa Fe Busker Alliance has taken to measuring the Plaza and found that the 50 foot requirement denies all but the center of the Plaza to busking activities, street performing activities, even those that don't have any sound. The effect of this rule is to allow only one busker on the Plaza at any given time, including those that lack sound. Additionally, the provision would be invalid because it floats. So what is not considered in this provision is many performances, such as acting, pantomime, our ladies of mariachi who are here tonight. These performances float, they move. And because the area of performance may be in constant flux, the 50 foot buffer zone is vague and unpredictable and risks burdening more speech than intended. So it's that narrowly tailored question that comes into effect here,"

Ms. Kosh continued, "The other element of this that we take issue with, is the 'not plainly audible beyond 50 feet.' Perhaps it's the most concerning element. I know this is a difficult issue. It's difficult, no matter how you cut it. It was initially proposed at 100 feet and reduced by half. However, we have fundamental issues with this objectively, plainly audible standard. This term is not defined anywhere. Even if it were, it has the practical effect of silencing speech throughout virtually the entire community. Plainly audible from 50 feet could be a simple conversation if the wind blows in the right direction. If you had said on this point, street performers will have difficulty ascertaining whether or not their speech violates the law and subjects them to penalties. It is confusing what this means to everyone. Further, it gives public officials and the public discretion over such decisions. This type of discretion has been prohibited by our Supreme Court in *Shuttlesworth*."

Ms. Kosh continued, "One more problem with this, the identification issue, again, there's a less restrictive means, which means making the identification available. The amplification issue is a new issue. Amplified is not synonymous with made louder. This would all but limit certain types of speech, including electronic music which requires amplification and synthesizers, so it actually is a content restriction speech. So overall, this vision of the Plaza that is painted through this proposed Ordinance is one of severely restricted speech. The effect is a dangerous and unconstitutional restriction on speech. And I believe that if this is tabled, and we have a little bit more time, along with the other interested parties, to have a sit-down with the sponsors of this bill, we can solve these issues together. And we respectfully request this."

**Ricky Rodriguez** said he is a break dancer who has been dancing on the Plaza for 17 years. He said he comes with a group of kids. He said it seems we are "put into a bind to have confrontation with everybody else, including the police, because this rule, mathematically, does not make sense. If you did 2 hours a day, 12 hours a day of daylight, you would only get 6 people there a day. So you get 6 people hanging out there all day long. I'm thinking shorter time. If you can't make your money in half hour or perform and let everybody love what you are doing – if half an hour is not enough, even his mom doesn't want to see him break dance for 2 hours. He said half hour would be logical – to share. A simple kindergarten math problem. There's not enough time in the day for 2 hours. "And I know you guys already have 150 people or so to pay for it, that's \$35 a pop. That's a lot of money invested in the City."

**Curtis Hutchinson** said he is a busker, a composer, an entrepreneur and a businessman. He played piano at the Eldorado Hotel for 17 years, and has played notable venues around the world, and has worked with many of the best known musical artists alive, and many who have passed. He said with regard to not being able to share licenses, he has some artists to join him. He said Jerry Fried brings his saxophone and comes and plays with him. He has to use a keyboard and amplification. He moved to Santa Fe in 1980 from Vail, Colorado, where he founded the West Media Group and did global marketing for Vail Mount and the Vail Resorts Association. He has experience in what brings tourists to a place. He said these restrictions on busking aren't a very good idea as far as our visitors are concerned.

**Philip Gutierrez** said he is a flautist and a traveling busker, coming to Santa Fe a year ago for one week, where he and his girlfriend made their first \$100. He said a year later they are a lot better and making more money, and "we like it the way it is." He said a one month permit is nice, and to renew it annually is good and he wouldn't like to see that go away.

**Joanna Valdez-Reyes, leader and member of Mariachi Bona Ventura**, said they play on the Plaza every year. They buy a buskers permit in the Spring every year, and it comes with a paper with regulations and restrictions, and they read it thoroughly and have always followed it and so far it's worked out okay. She they try to work and get along with the other buskers. She said with regard to the 50 feet, "as far as my group is concerned, without this microphone, I could sing the whole room out right now."

That's just one person and there are 7-8 at times. She said all of the girls can't always be there all the time, because of emergencies and illnesses and such.

**Angel Kinkowski, Director, Make a Difference in New Mexico**, said she also is a busker, playing a guitar and singing Christian music. She said, "This amendment is another step toward turning Santa Fe into just another "sterile, money centered old town. What makes Santa Fe unique and brings people here is its unique inclusive culture. This amendment will strike that out." She said she is going to address the "elephant in the room," the homeless. She said she has experienced homelessness. She said this is an opportunity that is unique in Santa Fe that you can't find any place. Busking isn't an elite occupation, and "you can't expect to have Carlos Santana playing in the middle of the Plaza. The Plaza is meant for musicians just starting out, traveling musicians and people learning their craft." She asked about the bandstand, saying you can hear them a block away, but this amendment doesn't seek to ban the bandstand from performances. She would ask that you reconsider the amendments and what Santa Fe really is. Is it a commerce center or is it a center of cultural inclusivity.

**Ben Baur** said he is a lawyer by day. He likes the proposed change to provide for a warning and if the Police do this, it is acceptable. They appreciate the conversations about this issue and the give and take that has happened. He said as a criminal defense lawyer, he has tried to keep an eye on where things are going to break down and someone is in court. He sees this with the type of performance, and asked how you are going to give a license for a particular type of performance, how do you define that. He thinks it's unnecessary, and thinks a unicycle could be covered under something else, and suggested that provision be stricken this evening which would be good for the bill. He said you are going to have to create a new kind of photo-license for this. It is unnecessary and something you could delete from the bill. He would ask that the Police avoid making any arrests under the Ordinance.

**Unidentified** said he is here to give thanks to the sponsors, Councilors Lindell, Maestas and Trujillo who were great at the public meeting, commenting he had never seen such dedication. He said it has been a quick one month and a lot of work, but the Buskers have formed relationships with the vendors and some of the Plaza merchants. He said Craig Allen, Ortega's has been really good to work with, and there is more to come in the future. He said Andrea Caldera has the fajita cart on the Plaza, and it has been great talking with her, and they have come to some understandings. He said if we had more time, the group is forming, and relationships are going, and they want to continue that, and want a bill that could be a model for the entire USA. He is hoping you will postpone the bill, because we can exist under the current bill for a short time.

**Stephen Kinkowski, Make a Difference New Mexico**, said he walks down the street every day as he's coming from work, noting he is working at the old St. Vincent Hospital, usually after the buskers are gone. He said it seems desolate and peaceable, but dead. When he walks through on the weekends, there is a joyful noise and hundreds of people walking through the square and it seems like Santa Fe is alive. He said, "I don't know. You make the decision."

**Ellen Vasquez** said she lives next door and she has talked to a lot of her neighbors, and "as I may be so bold as to represent the community of people. Everyone wants the buskers that I asked, and I've asked people from all different walks of life and status. And we love our City different. Let's keep it that way.

Mayor Gonzales asked if the vendors want to speak individually, or if they are going to ask for time. They said they will be speaking individually. He gave each person one minute to speak to the issue.

**Ben Chavez** said he is a Plaza vendor. He thanked Zach Shandler, the City Attorney for all of the work he has done on this. He thinks the proposed Ordinance is great, a great start. There are still some issues that probably will have to be addressed later on, but for right now, he encouraged the Council to go ahead and pass the Ordinance. He thinks it addresses a lot of the issues about which vendors are concerned. He appreciates the Police presence on the Plaza. He said there is a great feeling on the Plaza as to how things are going, and "we're really ecstatic about it. It's a great place to work again, and I just encourage you guys to pass it. We love it, and it's a great beginning."

**Leigh Murphey** thanked the staff and the Governing Body for changes you have made to the Ordinance. She thanked them for hearing their concerns and for considering them. She said, "It is good, very good to be an American. I have truly appreciated this process. Thank you Zach, very much. I don't think any of us can say thank you enough. We truly respect the time that you've put into this. And I've learned a lot by listening to the things you have brought forward. Thank you." She said all of this work would be for nothing unless the Police have a better ability to be able to enforce the Ordinance. She said it is still a mystery to her that, apart from the Buskers, everyone else must have a permit specifically for the Plaza, and pay a Plaza user fee. She said the Buskers are the only people who do not have to adhere to these rules and standards with regard to the Plaza, which remains a mystery to her. She said this is 300 people who have had access to the Plaza to generate tips and an income, and only twenty-some of them have participated in this process. She has not heard one of them come up here and honestly say that perhaps that is not right. This is a mystery to her. She said, "Having said that, we are very appreciative of the Ordinance and hopeful that it will make a difference."

**Michael Murphy** said he wants to say, maybe we should just get rid of all the vendors and just have buskers on the Plaza and see how that goes for a while. He said it isn't a great idea, but we can try that. He said we have a new Council that wants to bring new arguments, some are legitimate, and lot of them are not, because if this Council had been a lot of our meetings a lot of that has been discussed. So it's very frustrating when you have people come at the middle of the end and now are trying to drag it out more and more. We have spent a lot of time of this, and "I would like for you guys to honor that if you would please." We want to make sure there is enforcement. If Police are just giving warnings, people have been tearing up warnings in their face and throwing them on the ground. Is that what we are going to continue to do. There is a problem. These buskers, most of them aren't the problem. The problem is with the buskers who are not here, and this is the point that we've made. And so when you have people who don't want to adhere to the busker rules, and the police can't do anything about it, it frustrates buskers, vendors, shop owners, so that's why something needs to be done. The reason, for example to specify a type of license, is because we have a busker with a license for silent poetry. He's selling weeds, drugs. Is that what buskers should be doing on the Plaza. These buskers would say he's not a busker, and they're right. And something needs to be done about those things.

**Valerie Fairchild, Santa Fe Downtown Merchants Association**, said she would like to recommend that you pass this, because it is a step in the right direction and you're going to review it in 6 months anyway. All sides have brought up good points, but she thinks if we get this going, it's like Obamacare, one step at a time. She thanked the Police for being on the Plaza. She supports the Ordinance, and sees points from different sides, reiterating it is a good step in the right direction. She thanked everyone for all of their hard work.

**Andrea Caldera** thanked everybody – Mr. Crump, Mr. Shandler, the buskers that have come to all of the meetings and given input, and George who has done so much. She thanked everybody who has been involved in the whole thing, and to bring a sense of community, and not to separate people and bring animosity. She is hoping this will bring togetherness, fellowship and community. She said, "Please keep the Police Department on the Plaza, because without them, it's terrible. So please support the Police Department on the Plaza. Keep them there. I'll be here again if they leave."

### **The Public Hearing was closed**

**MOTION:** Councilor Maestas moved, seconded by Councilor Bushee, to adopt Ordinance No. 2014-19, "with the following amendment, restore the language stricken in Section 23-8.7(a) parts (1) and (2), with the exception of the word written."

**DISCUSSION:** Mayor Gonzales said there is specificity in the Ordinance, and asked how we regulate that without stifling the great music or the great performance that might be happening on the Plaza. He said, "What I worry about, is if there is this buffer that exists, we're going to have people that literally one, two, three and then calling Code Enforcement saying you've got to get down here. How do we keep it from becoming an enforcement nightmare and still be able to support and promote great buskers that are spending time on the Plaza."

Mr. Shandler said, "I think you can argue that it is problematic as is, and to create a 150 foot buffer between 3 performers, if properly enforced today, there would be a very limited number of street performers. The goal that the City Attorney's Office and the Finance Department and the Police Department are, we're going to have some educational sessions. And we're going to work on education and training, and re-training. And then, in 6 months we can come back to you with an assessment of how the parties have worked this out, and maybe there will be a need for modification. And that's why we look forward to coming back to you with some specific data."

Mayor Gonzales said, "But in the meantime, we're about to go to the highest season for street performers, and about to go to a more strict, highly regulated Ordinance. And I understand the point. And what I'm a little bit worried about, was it the few bad apples that drove this. Or do we know, based on other Ordinances around the country where the street performers were moving toward a best practice-type model that really assures that there is proper regulation, good quality, opportunity to express oneself. I guess my question, more specifically is did this Ordinance come about to get rid of a few of the bad seeds, or did it come about to be able to enhance the experience for not just the buskers, but for visitors, merchants and others."

Mr. Shandler said, "The genesis of the project came about from complaints that it is too loud. That, as much as Councilor Dimas is an excellent singer, business cannot be conducted and how can we figure out how to resolve that issue. We looked at Ordinances throughout the country and that's where we came up with over 30 very good ideas. But the advice I'm giving the Council tonight, these are maybe the most effective tools based on case law and practices in other cities."

Mayor Gonzales said, "Well, I want to thank the Council, certainly for their leadership in this area and driving consensus. I do, though, want to pay close attention. I remember as a kid, sitting with my grandfather listening to, at the time I didn't know they were buskers, but there were street performers out there. And I just don't want for it to become so regulated that it is difficult for people to go out and practice their craft or enhance the experience for people who are walking through the Plaza. I think we have to err on the side of being flexible, and not so much on the side of being super strict. And I think that's going to be the difference in how we deal with this and try and regulate it effectively."

Councilor Rivera thanked everyone for being here tonight, commenting it is great to hear from everybody. He especially thanks the Councilors who took the time to meet with everybody. He said this looks like pretty good work, and a good starting point, and thanked everybody for taking their time to get this done.

Councilor Rivera asked Mr. Shandler, "On page 2 of the Ordinance, on line 23, it says, 'F. Street performers shall stay at least fifty feet away,' and you scratched out 150 feet, so it's making the Plaza area more inviting to buskers. That's the way I read it. It's giving more opportunity to get more in there. Is that true, is that correct."

Mr. Shandler said, "That's right. The zone between 3 performers is being shrunk which in theory would allow a greater number of performers than is the *status quo* Ordinance."

Councilor Rivera said, "I wasn't quite sure from hearing some of the comments. I felt like they thought we were trying to push them out, when really it is encouraging more to be on there."

Councilor Rivera said, "The second thing was on what you had recommended with regards to 23-8.7, really number 2, 'On a second and subsequent violation by the same person, the police shall issue a citation.' So they would give, basically a verbal warning first and then jump to a citation."

Mr. Shandler said, "Yes. That would be the progressive discipline. This is an area we would like to study and come back to, about what would be the effective technique, should it be decriminalized, should it just be a licensure penalty. But what you've stated is correct."

Councilor Rivera said, "If I could hear from one of our Police Officers there. Is this going to make it easier for you to enforce, or is it going to be *status quo*."

Sergeant McCoy said, "The changes would help us. We worked with the City Attorney's office as well. The problem that we are running into currently, the Ordinance we currently have is not enforceable by use, other than to give numerous verbal warnings. The reason being, it states that we shall issue a written warning on the first violation. We don't have written warnings. We cannot issue a written warning, other than a traffic citation. We would basically have to redesign our non-traffic citations with added cost to the City to add that feature. We have used that same book for a long period of time. So we feel that just changing the first part would make it very user friendly, more [inaudible] for the current officers, not only the bicycle team, but our patrol officers as well, to also understand more of what the enforcement is. Instead of leaving it to suggestion, as to how it was written and there is a lot of confusion. So I think that change would definitely help us out, and allow us to give verbal warnings. We don't want to go straight to a written citation. We want to make it educational. We want to keep it more community policing, instead of just bringing the hammer down. That's not what we're here to do."

Councilor Rivera said, "And if you did have to issue a citation, you talked about your book. Is there adequate check-box areas in the citation book to issue a citation for something under this Ordinance?"

Sergeant McCoy said, "Yes, there is." He said if he issues a non-traffic citation, he would follow it with a narrative/report he would prepare about the reason he issued the citation.

Councilor Rivera thanked him for being here tonight, and for his work on the Plaza, commenting it is much appreciated by all, and said, "Keep up the good work."

Councilor Dominguez said on Page 2 of the Memo it says, " less than 50 feet from other street performers, and then there is a comma, and that's it."

Mr. Shandler provided the correct copy for Councilor Dominguez.

Mayor Gonzales asked, "For the record, could you verify the Councilor's question."

Mr. Shandler said, "For the record, Mr. Mayor, the bill as proposed is 50 feet from street performer to street performer, and street performers to Plaza Park Artisan vendors and Plaza push cart vendors."

Councilor Bushee said, "I read the minutes from the facilitated meeting. I'm still not quite sure I understand the need to identify exactly the type of performance and also for the photo identification."

Mr. Shandler said, "The reason for the one line addition to the current Busker's License would assist the Finance Department, on the front end, if someone is going to perform on a unicycle or with fire, which currently are prohibited in other Ordinances that the Finance Department and the busker would understand that performance is prohibited, so the busker wouldn't go the Plaza and run into an enforcement issue."

Councilor Bushee said, "I'm trying to track all of what we're doing with the Plaza these days, and it's ironic that we're kind of clamping down on street performers, when we're really trying to open the Plaza, at least that's an effort that has been put out there. So I want them to track. If the streets are now going to be the expanded Plaza, or some streets, I would really like to have this track. If there is someone who can be on a unicycle and play an instrument, then all the power to them, from my perspective, that's if we have that expanded Plaza. I want our Police Officers to be really clear about what the Ordinance is and everybody to feel like this a reasonable effort. But the whole idea about the photo ID, again, some of this effort feels it does not go with.... I don't know where the whole closing the streets to traffic is going to go. Even if we were to utilize the street that is currently closed as an experiment and there were efforts made.... I'm a little concerned about a couple of those new sections. In particular, I was very empathetic, especially the Mariachi group. They may not know which performers are going to come. They are a group. Do we have to be that strict about who shows up that day. And the same for the collaborative effort, if there is good music. And I get... and I know there were a couple of folks just passing through town that were real problematic for everybody and that's why we started this discussion."

Councilor Bushee continued, "I am trying to track the whole, 'we want people down on the Plaza, we want vitality, vibrancy, variety,' and I also want to.... if the plan is to close the streets to traffic, have more food trucks and more performances and street art, we need to redirect that. Then there needs to be equity. If we're going to treat the buskers this way, how is that going to work for.... are we going to have different permits for people who actually.... I don't know. I've been tracking the busking for a long time. I worked with folks, Michael Crews and others, to put the first Ordinance in place, because people were having their

own problems. I'm having a hard time trying to fit together the changes that may come to the Plaza and how we're now regulating this, and why we wouldn't want to track the two."

Mr. Shandler said, "The current Ordinance does allow a band, and just one person, the lead band member can get the names. I'm not sure why there was confusion that if some of the people didn't show up, that was problematic."

Councilor Bushee said then they all don't have to be there.

Mr. Shandler said, "That's my understanding. And in terms of the other questions, I believe those are more policy questions of the full Council."

Councilor Bushee said, "But again, the whole photo ID thing. What was the point of that?"

Mr. Shandler said that was to make sure there isn't abuse or fraud in the licensing process. "But, in my opening remarks, I provided the pros and cons of that legal argument, and I'll leave it to you as a policymaker which one you find is more persuasive."

Councilor Bushee said, "We require the same licensing amount, \$35. I get my business permit through the mail, and you don't actually ask me much to get that license, so I'm not sure I understand the point of that."

Councilor Bushee said, "I'm also suggesting that... maybe that's happening on a regular basis, and that's a concern, but I don't know that... I don't know, I'm always sensitive to the whole photo ID requirement thing, when it comes to a lot of things. So again, those are things that stood out to me, and then also, just the where are we going with the Plaza in terms of its expansiveness, and for opportunities and how we would then track, follow that new activity if that's where we're going. And so that may allow for new places. And I know this is just for the Plaza, but everybody wants to be on the Plaza. That's why we started to regulate that in the first place."

Councilor Bushee continued, "I'm not trying to discount the efforts that have been made to date either. And I was also pretty empathetic to the gentleman that plays the piano. I also don't want to see giant generators and long extension cords like we've had on the Plaza. I think that was just wrong, and my answer to that was no free electricity on the Plaza either. But the gentleman, if he is going to... and the collaboration, if he's going to play a piano and there are other musicians he wants to invite in, how do you say no to that."

Mr. Shandler said, "That has been a discussion in previous meetings. The *status quo* right now is you can get an individual license or you can get a license for your band. The *status quo* right now is that if two licensed members are playing together they should be 150 feet apart. And whether that's realistic or not, and whether there is a better result, is something we can study in the next 6 months, and it's not one of the 4-6 ideas that I'm ready to advise is ready."

Councilor Bushee said then the gentleman who wants to collaborate on occasion, if he would get a band license he could gig with different people with different types of instruments. "It could be a little bit more flexible. Is there an option that is flexible."

Mr. Shandler said, "Under the *status quo* right now, they would have to get a band license and list the members. So I acknowledge your point that if someone flew in from Los Angeles, they might have to get some other license. I acknowledge your point, I would like the opportunity to....."

Councilor Bushee asked if that license exists that allows that flexibility.

Mr. Shandler said, "Not under the current *status quo*, but that's something that needs to be studied and presented back to the Council."

Mayor Gonzales said, "Councilor Bushee, when you say under the current *status quo*, are you talking about the existing ordinance or what is proposed in front of us right now.

Mr. Shandler said, "By *status quo*, I mean what's on the books right now, presuming you...."

Mayor Gonzales said, "So if this passed, as amended, to Councilor Bushee's point, would somebody be able to collaborate without having to bring all the members that they were collaborating with to get a license to be able to perform."

Mr. Shandler said, "Mr. Mayor, if Councilor Bushee wants to offer an amendment like that, we could try to work through the language right now. Or whether she would want to specifically direct staff to specifically study that and provide some language."

Mayor Gonzales said he understands the point. "So that issue wasn't offered in any of the amendments. It is going to stay as a *status quo* issue if it's adopted, as is, without any amendments."

Mr. Shandler said this is correct.

Councilor Bushee said, "Maybe you can guide me, Zach, when you have a minute."

Councilor Dimas said he has concerns about enforcement. He asked, "I till have a hard time figuring out exactly how, having been in law enforcement for as many years as I was, how you go about enforcing all of this. There is so much in here, and so many rules and regulations. And I know you're going to be going through a training period and so forth. I guess, the question I have is, do you know how many citations have been issued over the last year to buskers, and what the outcome of those citations were in Municipal Report. Do you have any idea."

Sergeant McCoy said, "Last year... I was just recently appointed supervisor over the Bike Team. Last year I was a member of the team, so I can tell you how many I wrote last year, which is about 8 busker violations and they were repeat offenders. A lot of them currently have warrants for their arrest, because they failed to appear in Court, and that would be 3 of those. And that is part of the problem we have with not allowing enforcement, or not having it, is you get the repeat offenders, and none of those repeat offenders are here today. It is a small chunk that we keep dealing with over and over and over that don't follow this policy or Ordinance. That's the only way I can answer. I can look at the staff and bring those and get those to Council and the Mayor and Council as soon as possible, but I can only speak of how many I wrote."

Councilor Dimas said, "I think that this isn't a criminal offense. I don't see it as a criminal offense. And what I would like to see is, actually, us go in a different direction and make it a civil violation rather than a criminal offense. We just can't be issuing bench warrants all the time. This is what we've been doing with the parking situation, parking meters and such. This is the reason I am proposing a new Resolution and Ordinance to make that civil, rather than criminal. Not only that, we aren't able to collect the fines, a lot of people don't pay the fines, they don't have the money to pay the fines and that is the reason a lot of them they don't show up in Court. They would rather deal with the bench warrant and take the chance of going to jail or whatever it might be. If we look at the aspect of making it a civil violation, rather than criminal, we would actually have an opportunity to collect those fines more easily than issuing bench warrants and making it a criminal offense." This will take effort by our Code enforcement people, because Police Officers don't have the jurisdiction to write Code enforcement citations. That's another aspect that might be difficult. We need to look at this in the future. He is in support of this Ordinance and looks forward to seeing how it works out at the end of October. He thanked Mr. Shandler for his hard work on this.

Councilor Maestas said on pages 133-136 of the Council packet, entitled Street Performers Ten Golden Rules. He said Mr. Shandler took it upon himself to do a poll of all the attendees. He said, "I just want to reiterate that the nature of these amendments are not new, in fact, if you look at page 134, one of the questions was, 'Street performers shall have available and display the performer's business license which identifies their performance medium and have available proof of identification for review by the City at all times.' Out of 38 respondents, 33 liked it. Is this scientific. Maybe not, but this proves these aren't new issues and that we really did present them in an organized manner, we polled folks. I would like to yield the floor to Zach if you want to say anything more briefly about the Ten Golden Rules."

Mr. Shandler said he has spoken enough and will stand for questions.

Councilor Lindell thanked everyone who participated in this project, noting there has been back and forth communication between lots of people who probably would not have communicated with one another otherwise. She appreciates that. She also appreciates how respectful it has been.

**FRIENDLY AMENDMENT:** Councilor Lindell asked to amend the Ordinance regarding photo identification in Section 23-8.4(D), page 2 line 3 so that it reads as follows: 'At all times street performers shall have available the performer's City-issued business license and a photo identification.' **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

**CONTINUATION OF DISCUSSION ON THE MOTION AS AMENDED:** Mayor Gonzales said he understands the issue of protecting from fraud. But if the license has, for example, mariachi performers and there is no photo ID, but you have someone who is juggling, would you be able to determine that the license is being held by the appropriate individual without having to see a photo, so we don't have to go down that route. He asked if the vendors, including those under the portal, are required to have photo ID's.

Sergeant McCoy said, "I do know they have to have a photo ID with them. The purpose of the photo ID was several things. Not only did it help law enforcement when it came to checking a permit. If they had an ID we would be able to tell they are one and the same, they're holding their own permit and not giving vendors have to have a photo identification. Helped in checking to verify it is their permit and not giving it to someone else. As well as, what they're performing.... we had some people that were using their license on the Plaza and would go from music or playing an instrument to doing something different when their time was up to move. We would go up and say, hey you need to move. And they were well, I'm not playing music any more, I'm going to do this, and that would prevent that from happening."

Mayor Gonzales said then the license won't have a photo, it will have their name, and under the proposed amendment they could provide any kind of photo identification which would be appropriate.

Mr. Shandler said this is correct.

Councilor Trujillo thanked everyone who participated. He said this isn't a perfect Ordinance, commenting we've never passed a perfect Ordinance in the life of the City. There will always be somebody that likes it, and somebody that doesn't like it. It's not perfect, but it's a beginning and it's workable. It will come back to this Council in 6 months for review. He said he enjoys going to the Plaza and enjoys listening to some of the music. There are some types of busking he doesn't consider busking. He said when he sees somebody in a clown outfit standing there asking for money to scare you to make you yell, he doesn't consider that busking and in his opinion, something he doesn't want on the Plaza. He does respect the musicians, the street performers who do this. At the same time, he has respect for the vendors who have been there all these years, and pay taxes on what they sell, yet we have some buskers who sell C.D.'s and they're not paying GRTs on that. He said these are issues, "over the course of the 6 months, and maybe into next year, that I think we will review." He said we sat before you, we listened to you. He said he will give kudos to Councilor Maestas because he "took the bull by the horns and ran with. And Councilor for

being on the Council a very short time, you really took the leadership on this, and I think you've done a helluva job, what you've written. And Councilor Lindell as well. In the short time you've been here you took, in my opinion, a serious and ran with it, and you both did an outstanding job, so I commend you for that. And, we'll see you in 6 months to review what happened."

Councilor Ives thanked the Councilors who have worked on this. He said, "I know it's been a significant amount of effort and I would include former Councilor Calvert in that for his time spent bring this before this body. I think the measure we're considering tonight is in response in what came to be perceived flaws in the existing Ordinance. I think many of the comments people have made where they've said let's keep the Ordinance in place, may not mean let's keep the current Ordinance in place, but rather, let's not enforce it. I must admit I'm always frustrated by the circumstance where we have Ordinances or other items on our books that are not enforced. They are there for a reason to begin with."

Councilor Ives continued, "We've heard a good deal of discussion about the distance provision. And clearly, the existing Ordinance provision requires 150 feet between street performers. That proposal is to be changed to be 50 feet, not only between street performers, but also other vendors on the Plaza. To me, that is a change that makes sense, because it recognizes that the Plaza is not just there for buskers, it's not just there for Plaza vendors, it's really there for all the people of the City. So, really what we're looking for something is something that balances those interests in a sensible way that allows all of us to be there without being unduly interfering with other peoples' use of the Plaza. The reduction of the distance from 150 feet to 50 feet, I think clearly favors a greater busker presence on the Plaza, looking at only buskers, as opposed to others who might be using it. But again, I do think it's reasonable to account for others' uses of the Plaza as well. To me, this issue has always come down in significant measure to questions of enforcement. And I applaud the efforts within the City to create a permanent Police presence on the Plaza, and to promote that presence as a community policing presence, as opposed to a more stern and/or militaristic presence, similar to those we've read about in some of the papers recently."

Councilor Ives continued, "I agree with all those who have said there is nothing, and there likely never will be something that certainly is going to please everybody or something that's going to be perfect. And often, with these types of measures, I think we go through a process of working toward something that is better. When I look at our old Ordinance, versus what is proposed here, my own feeling is that what is proposed is better than what was on the books currently. So I am in favor of this. I would certainly not want that to be a statement that the discussions don't continue, and that we don't continue to strive for ways to improve it. The greatest thing that can be said about this effort coming forward, is that fact that it has brought people together into a valid discussion about these uses of the plaza. And at some point in time, we have to act, but that does not mean that act is the final act and that the discussions don't continue."

Councilor Ives continued, "While we've been sitting here, I've been wondering about language to address that sort of multiple performer circumstance of two street performers coming together, if they come together in concert in terms of their performance, that that might be considered a band type of circumstance. I'm not satisfied with that language yet, but that could be an example of the types of continued improvement we can try and bring to the language of the Ordinance. So, I look forward to continuing the discussions, and I hope we are able to do that. Again, I applaud everybody's efforts to date and the hard work that everybody has put in toward bringing this to the point that it is at currently. As I said, I consider this measure to be an improvement on the measure that existed before, and in that sense, I'm in favor of it. I acknowledge that there are still challenges within the Ordinance that we should continue to try and address. And I think reviewing it in October, if not before if improvements can be suggested, makes entire sense. And I really am anxious to see how, again that community policing presence on the Plaza, what effect that will have on people's perceptions of the Plaza, people's use of the Plaza over what is soon to be our very busy outdoor on the Plaza time of year. So thank you all."

Councilor Bushee said, "I don't see where in the Ordinance, Zach, that you say that a band has to list its members. Is that in your administrative, sort of."

Mr. Shandler said, "I don't know if you have a copy of 8.4. That's something that's not part of the Committee Substitute. I would be happy to approach with a full version of the current one."

Councilor Bushee said, "It just says, 'only one member of a street performer group is required to obtain a business license, unless a member also performs individually.' But it doesn't say they have to list the band members individually."

Mr. Shandler said, "In talking to the Finance Department, that is how the application is written"

Councilor Bushee said, "I see. That's what I meant. Is it administrative procedure. So I was back to that collaborative thing, and I don't want to open up the whole thing. And I'm sure you'll maybe entertain this in 6 months. But I was looking for like each license holder would be allow a guest a guest artist 3 times a year, or something like that, where they had a collaboration. So I didn't know if that could be added as like (c). (c) has been eliminated and you re-lettered."

Mayor Gonzales said, "I think that would be hard, even more difficult to enforce wouldn't it."

Councilor Bushee said, "I know. All right. This is just... and I know we're trying to anticipate all circumstances and I think you can't do that. I think there has to be a little bit more fluidity built into this. All right. I give up on that."

Mayor Gonzales said, "A for effort Councilor, you're going in the right direction. Before we go to call for a roll call vote, I do want to also echo the thanks that have been given. A couple of things. George, way to go. You pulled the buskers together. You got an alliance, you voice is strong, it's being heard. And you're an active participant in the continuation of this Ordinance. So, well done on that part. Tonight, this may

not have been tabled. Maybe it's going to be voted on and pass. It doesn't mean, as has been indicated tonight, that this is the end. It really gives us a starting point to monitor, to work through to refine. So please convey all of our thanks to the buskers who spent the time on this, and to let them know that their voices were heard, and it's not being eliminated out of this process."

Mayor Gonzales continued, "And then, of course, out of all of this, Zach and Sergeant, it really is for our officers that are on the Plaza who are going to set the tone for how this Ordinance is going to be in effect. I think it's important that it used the way you told us, that's it's going to be a tool to get rid of the people who really are just trying to mask as buskers to do something other what they were doing, and not to be used as a tool to try and regulate incredibly talented people who are wanting to be there. And so, I think equally important in monitoring this, is that the tone, administration and enforcement has to come from the side of flexibility and education and tolerance, moreso than, let's quickly move to get this citation, because you are within 40 feet of the next entertainer. I know that's a hard thing to ask, because so much is driven by subjectivity, but I have faith and confidence in you and your team to be able to figure that out. And if you need support from us, we're ready to do that. Okay."

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

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

**Against:** None.

**Explaining his vote:** Councilor Dominguez said, "They say the road to hell is paved with good intentions, I vote yes."

**Explaining her vote:** Councilor Bushee said, "Yes, but I do look forward to a continued dialogue."

Mr. Shandler noted the effective date of the Ordinance will be May 12, 2014.

- 11) **CONSIDERATION OF RESOLUTION NO. 2014-31. CASE #2013-101. 2791 AND 2797 AGUA FRIA ROAD (RIVERA) GENERAL PLAN AMENDMENT. JAMES W. SIEBERT, AGENT FOR STELLA RIVERA, REQUESTS GENERAL PLAN FUTURE LAND USE MAP AMENDMENT TO CHANGE THE DESIGNATION OF 4.65± ACRES FROM THE RURAL/MOUNTAIN/CORRIDOR (1 DWELLING UNIT PER ACRE) TO GENERAL COMMERCIAL. (DAN ESQUIBEL)**

*Items #H(11) and #H(12), were combined for purposes of presentation, discussion and public hearing, but were voted upon separately.*

A Memorandum dated April 30, 2014, with attachments, to the Governing Body, from Daniel A. Esquibel, Land Use Planner Senior, Current Planning Division, regarding Case 2013-101 and Case #2013-102, is incorporated herewith to these minutes as Exhibit "23."

Councilor Lindell has recused herself from participating on this Agenda Item.

Dan Esquibel presented information regarding this matter from his Memorandum of April 20, 2014. Please see Exhibit "23" for specifics of this presentation.

## Public Hearing

### Presentation by the Applicant

**James W. Siebert, 915 Mercer, agent for the Applicant Stella Rivera was sworn.** Mr. Siebert said he is the planning consultant representing Stella and George Rivera, both of whom are here tonight. He said, "And let me say, for the record, I think Councilor Dimas should be able to sing any time he wants."

Mr. Siebert said, "Let me talk about two things tonight. One is just kind of the history of the property. You probably all know this property more as Club Alegria that existed at one time on Agua Fria. The history is that is George's father, George, Sr., started this business back in the mid-fifties. And at that time, it was kind of a dance and social club. Also, at the same time, he built his house there. And, in talking to George, Jr., at that time along Agua Fria, that was kind of what people did. They built their house and they built their business kind of on the same lot. And that's what happened over a period of time. It did evolve and it grow."

Mr. Siebert continued, "Jurisdictionally, it has had a very complicated history. Initially, it was in the County, and the business license was issued by the Count, which he always had his business license during those years. And then in the nineties, the extraterritorial regulations came in, and it was a joint jurisdiction between the City and County. But because the County had greater authority, the County continued to issue business licenses during that period of time. And when they adopted the regulations, what happened is, because this was pre-existing to any zoning regulations, it became a legal, nonconforming use, and that continued on during this period of time it was under County and extraterritorial jurisdiction. And then, in 2009 the City, through a joint City-County Settlement Agreement, assumed total unilateral jurisdiction over land use issues in this particular area. And it was at that time, that this property was zoned R-1, single family residential."

Mr. Siebert continued, "In approximately, 2011, the business, the Club Alegria and the package liquor ceased to exist. But what happened, and the confusion was, that during that time, between 2009 and 2011, the County kept issuing business licenses. So the Riveras thought, well, we must still be under County jurisdiction, therefore. And this wasn't uncommon. It took place throughout the extra-territorial

area. But when they stopped the business, they stopped receiving business licenses on an annual basis. So after a year, they were no longer a legal non-conforming use. They were a non-conforming use that couldn't come back and ask to continue that use that had been in existence for about the last 60 years."

Mr. Siebert then demonstrated the subject site with an enlarged drawing. Mr. Siebert said, "The other part of this is how does this relate to other commercial zoning in the area. I'm going to be real brief here. I know it's been a long night. 'This' is the property. 'This' is existing C-2 PUD zoning. What's right adjacent to them is Ulibarri's Landscaping, which probably has been in existence about as long as I have as well. And the (inaudible) in here, which is a combination of home occupation and a residential unit. Ms. Rivera does live here on the property right now."

Mr. Siebert continued, "The other thing that is taking place in the area of gray is I-2, which is heavy industry, which is the heaviest zoning district that we have in the City of Santa Fe. And, as was mentioned by staff, the buffer for the residential neighborhood to the north is provided by the Santa Fe River. So as you can see, commercial zoning in this area is consistent with the various zoning districts that surrounding it.

Mr. Siebert continued, "So, to be brief, what we are requesting with the C-2 zoning is you simply recognize the uses that have existed on that property for the last 60 year. So with that, I'll answer any questions you may have."

Councilor Ives said, "I'm just curious about the north side of the property, which appears to abut the Santa Fe River. And in terms of the various trails and other uses that we're trying to see the City and the County promote along the Santa Fe River, are there allowances for any type of trails or public use, and Dan you may know better through that area, what those possibilities are. But I'm certainly curious about that, because I wouldn't want to prevent that from happening. And if this was an opportunity to promote that, would certainly want to do that."

Mr. Siebert said, "Actually, we did look into that particular issue. The County is actually in charge of the trail system in that particular area along the Santa Fe River. And it's on the north side of the River, it's not on the south side of the River. It's not on this property. It doesn't relate to this property at all."

Councilor Ives said he just wanted to make sure that was not an issue.

### **Speaking to the Request**

There was no one speaking for or against this request.

### **Public Hearing was closed**

**MOTION:** Councilor Ives moved, seconded by Councilor Dominguez, to adopt Resolution No. 2014-31, approving Case #2013-101, 2791 and 2797 Agua Fria Road (Rivera) General Plan Amendment, and adopting the Findings of Fact and Conclusions of Law of the Planning Commission as the Findings of the City Council.

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

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

**Against:** None.

**Recused:** Councilor Lindell.

**Absent for the vote:** Councilor Bushee.

- 12) **CONSIDERATION OF BILL NO. 2014-15: ADOPTION OF ORDINANCE NO. 2014-20. CASE #2013-102. 2791 AND 2797 AGUA FRIA ROAD (RIVERA) REZONING. JAMES W. SIEBERT, AGENT FOR STELLA RIVERA, REQUESTS REZONING OF 4.65± ACRES FROM R-1 (RESIDENTIAL, 1 DWELLING UNIT PER ACRE) TO C-2 (GENERAL COMMERCIAL). THE APPLICATION INCLUDES A DEVELOPMENT PLAN FOR EXISTING RESIDENTIAL AND NONRESIDENTIAL USES OF THE PROPERTY. (DAN ESQUIBEL)**

Councilor Lindell has recused herself from participating on this Agenda Item.

**MOTION:** Councilor Ives moved, seconded by Councilor Rivera, to adopt Ordinance No. 2014-20, approving Case #2013-102, 2791 and 2797 Agua Fria Road (Rivera) Rezoning, and adopting the Findings of Fact and Conclusions of Law of the Planning Commission as the Findings of the City Council.

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

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

**Against:** None.

**Recused:** Councilor Lindell.

**Absent for the vote:** Councilor Bushee.

**I. ADJOURN**

The was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 10:40 p.m.

**Approved by:**

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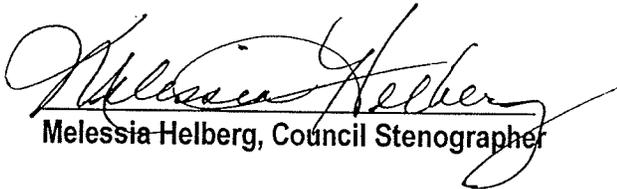
**Mayor Javier M. Gonzales**

**ATTESTED TO:**

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**Yolanda Y. Vigil, City Clerk**

**Respectfully submitted:**



**Melessia Helberg, Council Stenographer**

CITY COUNCIL MEETING  
EXECUTIVE SESSION  
April 30, 2014

The governing body of the City of Santa Fe met in an executive session duly called on April 30, 2014 beginning at 6:22 p.m.

**The following was discussed:**

- 1) In Accordance with the New Mexico Open Meetings Act §10-15-1(H)(7) NMSA 1978, Discussion Regarding Pending Litigation in Which the City of Santa Fe is a Participant; City of Santa Fe's Intervention in Utility Case No. 13-0390-UT Before the Public Regulation Commission.

PRESENT

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

STAFF PRESENT

Brian K. Snyder, City Manager  
Kelley Brennan, Interim City Attorney  
Yolanda Y. Vigil, City Clerk  
Marcos Martinez, Assistant City Attorney

- 2) In Accordance with the New Mexico Open Meetings Act §10-15-1(H)(7) NMSA 1978, Discussion Regarding Pending Litigation in Which the City of Santa Fe is a Participant; High Summit Corp.; Summit South Co; and Ralph Brutsche v. City of Santa Fe, Case No. D-101-CV-2009-03914 in the First Judicial District Court for the State New Mexico.

PRESENT

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

ABSENT

Councilor Ives (Recused)

STAFF PRESENT

Brian K. Snyder, City Manager  
Kelley Brennan, Interim City Attorney  
Yolanda Y. Vigil, City Clerk  
Marcos Martinez, Assistant City Attorney

- 3) In Accordance with the New Mexico Open Meetings Act §10-15-1(H)(7) NMSA 1978, Discussion Regarding Pending Litigation in Which the City of Santa Fe is a Participant; Qwest Corp. v. City of Santa Fe, Case No. 14-2008 in the Tenth Circuit Court of Appeals.

PRESENT

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

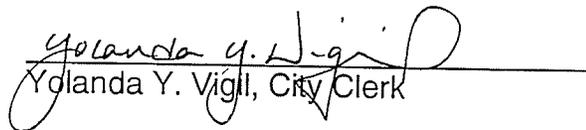
ABSENT

Councilor Ives (Recused)

STAFF PRESENT

Brian K. Snyder, City Manager  
Kelley Brennan, Interim City Attorney  
Yolanda Y. Vigil, City Clerk  
Marcos Martinez, Assistant City Attorney

There being no further business to discuss, the executive session adjourned at 6:55 p.m.

  
Yolanda Y. Vigil, City Clerk