



# City of Santa Fe, New Mexico

## memo

Date: April 24, 2014

To: Governing Body

From: Zachary Shandler, Assistant City Attorney *ZS*  
Melissa D. Byers, Legislative Liaison *mb*

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### **Item & Issue:**

Substitute Bill No. 2014-10. An Ordinance Relating To Street Performers on Public Property; Amending Section 23-8 SFCC 1987.

### **Background:**

The attached bill is a substitute for the bill that was introduced by former Councilor Chris Calvert. The substitute bill focuses on four to six provisions that some or all of the stakeholders (buskers, law enforcement, merchants, plaza art vendors and plaza food vendors) identified that need to be amended immediately. The other proposals, including some offered by Councilor Calvert and stakeholders, may be studied over the next six months.

Amendments to the Street Performers Ordinance (“Buskers Ordinance”) were introduced by Councilor Calvert on January 29, 2014. During the committee review and consideration process a series of concerns were raised by the stakeholders who would be affected by the amendments.

At the March 26, 2014 public hearing on the Buskers Ordinance amendments, the Governing Body postponed action until a public meeting could be held to bring together the stakeholders, members of the Governing Body and staff to work out a consensus for amendments to the Busker Bill.

The public meeting was held on April 10, 2014. As a result of the public meeting and input from the stakeholders, the attached substitute bill amends the Buskers Ordinance as follows:

#### **1. Subsection 23-8.4 – Business License Required:**

- Requires that the business license expressly state the type of performance the street performer will be performing. (See page 1, lines 19-20)
- Eliminates the option for a short term (30 day) business license. (See page 1, lines 24-5)
- Requires the street performer to display the performer’s city-issued business license and city-issued photo identification. (See page 2, lines 3-4)

**2. Subsection 23-8.5 – Regulations**

- Requires a street performer to stay at least 50 fifty away from other street performers, Plaza Park artist/artisan vendors and Plaza pushcart vendors. (See page 2, lines 23-24)
- Mandates that a street performance shall not be plainly audible 50 feet away from the performance site. (See page 3, lines 1-2)
- Allows a street performer to use amplification at any location, except in the Plaza, where amplification may be used between 1:00 p.m. and 3:00 p.m., daily. (See page 3, lines 2-3)
- Prohibits a street performer from using public power sources and portable generators. (See page 3, lines 3-4)
- Requires a street performer to move to another location at least 100 feet away and not return to the original location for two hours. If the location was within the Plaza, then the street performer shall move off the Plaza. (See page 3, lines 5-8)
- Prohibits street performers from performing on the Plaza bandstand. (See page 3, lines 8-9)

**3. Subsection 23-8.7 – Criminal Enforcement; Penalty; Administrative Enforcement**

- Eliminates provision related to issuance of a written warning for a first violation. (See page 3, lines 19-20)
- Eliminates provision related to the issuance of a citation upon second and subsequent violations. (See page 3, lines 21-22)

**4. Subsection 23-8.8 – Review**

- Requires that the Busker Ordinance be reviewed by the Governing Body no later than October 30, 2014. (See page 5, lines 24-25)

**Requested Action:**

Attached for your review and consideration are amendments to the Street Performers Ordinance, Substitute Bill No. 2014-10.

Attachments: Substitute Bill  
FIR  
2/10/14 Minutes – Public Works Committee  
2/17/14 Action Sheet and Minutes – Finance Committee  
2/18/14 Action Sheet and Minutes – Public Safety Committee  
3/26/14 Minutes – City Council  
4/10/14 Minutes – Public Meeting  
4/18/14 Report on Public Meeting by Philip Crump, Contract Facilitator  
Survey Results on 10 Golden Rules

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2014-10

INTRODUCED BY:

Councilor Joseph Maestas

Councilor Signe Lindell

Councilor Ron Trujillo

AN ORDINANCE

RELATING TO STREET PERFORMERS ON PUBLIC PROPERTY; AMENDING SECTION 23-8 SFCC 1987.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 1. Subsection 23-8.4 SFCC 1987 (being Ord. #2009-50, §5) is amended to read:

**23-8.4 Business License Required.**

A. Street performers shall be required to obtain a city business license in accordance with Section 18-1 SFCC 1987, which may be applied for each calendar year. The business license shall expressly state the type of performance the street performer will be performing.

B. Only one (1) member of a street performer group is required to obtain a business license, unless a member or members of the group also perform individually, then that member or those members shall be required to obtain an individual business license.

~~[C. A street performer who performs for no more than one thirty (30) day period per year may obtain a short term business license.]~~

1           ~~[D]~~C. Street performers shall pay license fees in accordance with subsection 18-8.10 SFCC  
2 1987.

3           ~~[E]~~D. At all times street performers shall ~~[have available]~~ display the performer's city-  
4 issued business license and ~~[proof of]~~ city-issued photo identification ~~[for review by the city]~~.

5           **Section 2. Subsection 23-8.5 SFCC 1987 (being Ord. #2009-50, §6, as amended) is**  
6 **amended to read:**

7           **Subsection 23-8.5 Regulations.**

8           Street performers may perform on public property within the city of Santa Fe but shall comply  
9 with the following regulations.

10           A. Street performers shall not block, or cause the blocking of any sidewalk, passageway,  
11 street, or entrance to a building.

12           B. Street performers may accept contributions of money or property at their  
13 performance, in exchange for representations of their own work, except that street performers shall not  
14 exchange any type of food product or vegetation, on public property. Street performers shall not sell  
15 goods or wares on public property at a fixed price except for audio or video recordings.

16           C. Street performers shall not perform on private property unless permission is granted  
17 from the property owner.

18           D. Street performers shall not infringe on events for which a city permit has been issued so  
19 as not to detract from the stated purpose of the permit including, but not limited to, Indian Market, Spanish  
20 Market, Fiesta Arts and Crafts, Fiesta and midday or evening performances at the bandstand on the  
21 Plaza. Any performance at such events shall only be with the written permission of the sponsor.

22           E. Use of fire, spray paint or aerosol in performances is prohibited.

23           F. Street performers shall stay at least ~~[one hundred fifty feet (150')] fifty feet (50')~~ away  
24 from other street performers, Plaza Park artist/artisan vendors and Plaza pushcart vendors.

25           G. ~~[The sound level from street performers shall be kept at such a level that other street~~

1 ~~performances are not disturbed.] Street performers shall not be plainly audible fifty feet (50') away~~  
2 ~~from the performance site. A street performer may use amplification at any location, except in the~~  
3 ~~Plaza, where amplification may be used only between 1:00 p.m. and 3:00 p.m. daily. A street~~  
4 ~~performer may not use public power sources or portable generators.~~

5 H. Street performers shall not remain at any one location [~~no~~] longer than two (2) hours and  
6 then shall move at least one hundred feet (100') feet away from that location and shall not return to that  
7 location for two (2) hours[~~, availability of the location permitting~~]. If the location was within the Plaza,  
8 the street performer shall move off the Plaza.

9 I. Street performers shall not perform on the Plaza bandstand.

10 [H]J. Street performers shall not perform [~~no earlier than~~] before 8:00 a.m. and [~~no later~~  
11 ~~than~~] after 11:00 p.m. Sunday through Thursday and 1:00 a.m. on Friday and Saturday, [~~nights~~] except  
12 at city parks and recreation areas[~~;~~] where the curfew is 10:00 p.m., Sunday through Saturday, in  
13 accordance with subsection 16-13.6 SFCC 1987.

14 **Section 3. Subsection 23-8.7 SFCC 1987 (being Ord. #2009-50, §6, as amended) is**  
15 **amended to read:**

16 **23-8.7 Criminal Enforcement; Penalty; Administrative Enforcement.**

17 A. *Criminal Enforcement:* The police department shall enforce the provisions of Section  
18 23-8 SFCC 1987.

19 ~~[(1) Upon the first violation of the provisions of this section, the police may issue~~  
20 ~~a written warning to the person violating this section.]~~

21 ~~[(2) Upon a second and subsequent violation by the same person, the police shall~~  
22 ~~issue a citation.]~~

23 ~~[(3)]~~Any street performer who violates any provision of Section 23-8 SFCC 1987 or any other city  
24 ordinance shall, upon conviction, be punished in accordance with the provisions of Article 1-3 SFCC  
25 1987.

1           B.     *Administrative Enforcement.*

2           (1)     If a street performer is in violation of any provision of this section or any  
3           provision of the SFCC 1987; or is operating in a manner contrary to the public welfare, then  
4           the city finance director may, in his discretion and upon reasonable evidence:

5                   (a)     Send the street performer a notice of violation specifically stating:

6                           (i)     The nature of the violation;

7                           (ii)    Whether there are past due license fees; and

8                           (iii)  If there are past due license fees, order that the past due  
9                           license fees, plus a penalty that is double the amount due, be paid  
10                          immediately, upon receipt of the notice;

11                          (iv)   If the fee and penalty are not paid, the provisions of this  
12                          section or other provisions of the SFCC 1987 are not complied with and the  
13                          operation contrary to the public welfare is not discontinued within fifteen  
14                          (15) days after receipt of the notice, the street performer shall surrender his  
15                          business license to the finance director and the license shall be placed in  
16                          suspension until a hearing is held before the finance committee for  
17                          consideration of revocation of the business license; or

18                          (b)     If the street performer's action creates an immediate and imminent  
19                          danger, immediately place the business license in suspension until a hearing is held  
20                          before the finance committee for consideration of revocation of the business license.

21                          (c)     Any notice of violation shall specify the date, time and place of the  
22                          hearing by the finance committee in the event the violations are not corrected. The  
23                          street performer shall appear before the finance committee to show cause why the  
24                          business license should not be revoked.

25           (2)     If, at the hearing before the finance committee, the street performer fails to

1 show cause why the business license fee should not be revoked, the finance committee shall  
2 issue a cease and desist order revoking the business license. Such cease and desist order shall  
3 prevent the street performer from performing on public property, for a period of one (1) year  
4 from the date of the hearing.

5 (3) The hearing before the finance committee shall not be less than thirty (30)  
6 days after the notice provided in paragraph B(1), above, is mailed, via certified mail, to the  
7 address listed on the street performer business license application.

8 (4) An appearance may be made by counsel and the street performer charged  
9 with violating this section may present evidence and call witnesses to show cause why his  
10 license should not be revoked.

11 (5) Any street performer aggrieved by the decision of the finance committee may  
12 submit to the governing body a written petition for appeal. Such petition for appeal shall:

13 (a) Be submitted to the city clerk's office within thirty (30) days of the  
14 date the action appealed was taken by the finance committee.

15 (b) Set forth that such proceedings or assessments were in error in whole  
16 or in part, specifying the grounds of the appeal.

17 (c) Be on the agenda of the next regularly scheduled meeting of the  
18 governing body, during the evening session. Verbal or written notice shall be given to  
19 the appellant at least five (5) calendar days prior to the meeting of the governing  
20 body.

21 **Section 4. Subsection 23-8.8 SFCC 1987 (being Ord. #2009-50, §9) is amended to**

22 **read:**

23 **23-8.8 Review.**

24 Section 23-8 SFCC 1987 shall be reviewed by the governing body [~~one (1) year~~] no later than  
25 October 30, 2014 [~~from the date of adoption~~].

1 APPROVED AS TO FORM:

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KELLEY A. BRENNAN, INTERIM CITY ATTORNEY

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M/Melissa/Bills 2014/2014-10 Buskers Rewrite 4-23-14 Substitute

### City of Santa Fe Fiscal Impact Report (FIR)

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

**Section A. General Information**

(Check) Bill: X Resolution: \_\_\_\_\_

(A single FIR may be used for related bills and/or resolutions)

Short Title(s): A BILL RELATING TO STREET PERFORMERS ON PUBLIC PROPERTY; AMENDING SECTION 23-8 SFCC 1987.

Sponsor(s): Councilor Calvert  
Reviewing Department(s): City Attorney's Office  
Persons Completing FIR: Rebecca Seligman Date: 02/03/13 Phone: 955-6501

Reviewed by City Attorney: Kelly A. Brennan Date: 2/3/14  
(Signature)

Reviewed by Finance Director: [Signature] Date: 2/4/14  
(Signature)

**Section B. Summary**

Briefly explain the purpose and major provisions of the bill/resolution:

The purpose of the bill is to support responsible street performances in public spaces and promote harmony among street performers, local businesses, permitted event sponsors, residents and visitors to Santa Fe. Changes to the ordinance would include, addressing public safety concerns; balancing street performances with interests of the local businesses, permitted event sponsors, residents and visitors to Santa Fe; and establish regulation and licensing standards for street performers.

**Section C. Fiscal Impact**

Note: Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

- a. The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
- b. Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
- c. Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)\*

**1. Projected Expenditures:**

- a. Indicate Fiscal Year(s) affected – usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)
- b. Indicate: "A" if current budget and level of staffing will absorb the costs  
"N" if new, additional, or increased budget or staffing will be required
- c. Indicate: "R" – if recurring annual costs  
"NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
- d. Attach additional projection schedules if two years does not adequately project revenue and cost patterns
- e. Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

Finance Director: \_\_\_\_\_

X   Check here if no fiscal impact

Column #:	1	2	3	4	5	6	7	8
	Expenditure Classification	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected

Personnel*	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Fringe**	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Capital Outlay	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Land/ Building	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Professional Services	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
All Other Operating Costs	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Total:	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____

\* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. \*\*For fringe benefits contact the Finance Dept.

**2. Revenue Sources:**

- a. To indicate new revenues and/or
- b. Required for costs for which new expenditure budget is proposed above in item 1.

Column #:	1	2	3	4	5	6
	Type of Revenue	FY _____	"R" Costs Recurring or "NR" Non-recurring	FY _____	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected

_____	\$ _____	_____	\$ _____	_____	_____	_____
_____	\$ _____	_____	\$ _____	_____	_____	_____
_____	\$ _____	_____	\$ _____	_____	_____	_____
Total:	\$ _____	_____	\$ _____	_____	_____	_____

**3. Expenditure/Revenue Narrative:**

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating uses, etc. (Attach supplemental page, if necessary.)

None that staff is aware of

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**Section D. General Narrative**

**1. Conflicts:** Does this proposed bill/resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

None that staff is aware of.

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**2. Consequences of Not Enacting This Bill/Resolution:**

Are there consequences of not enacting this bill/resolution? If so, describe.

**If the street performers bill is not enacted, the potential for public safety issues would be a concern as well as street performers attempting to perform without enforceable guidelines and licenses.**

**3. Technical Issues:**

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

None that staff is aware of

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**4. Community Impact:**

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

**Supporting the changes to the street performers bill would amend and create specific guidelines, including licensing by which street performers would be required to adhere to. This would be a positive change as street performers in turn would be required to follow certain criteria, including licensing and public safety with would be good for our community.**

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Form adopted: 01/12/05; revised 8/24/05; revised 4/17/08

**ACTION SHEET  
ITEM FROM THE  
PUBLIC WORKS/CIP AND LAND USE COMMITTEE MEETING  
OF  
MONDAY, FEBRUARY 10, 2014**

**ITEM 17**

REQUEST FOR APPROVAL OF AN ORDINANCE RELATING TO STREET PERFORMERS ON PUBLIC PROPERTY; AMENDING SECTION 23-8 SFCC 1987 (COUNCILOR CALVERT) (ZACHARY SHANDLER)

**PUBLIC WORKS COMMITTEE ACTION: Approved with Amendment**

**SPECIAL CONDITIONS OR AMENDMENTS:**

**STAFF FOLLOW UP:**

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON WURZBURGER	Excused		
COUNCILOR CALVERT, Acting Chair	X		
COUNCILOR IVES	X		
COUNCILOR RIVERA	X		
COUNCILOR TRUJILLO	Excused		

**15. TRANSIT DIVISION**

- **REQUEST FOR APPROVAL OF NEW MEXICO FINANCE AUTHORITY LOAN APPLICATION, AND REPAYMENT PLAN, FOR THE PROCUREMENT OF SEVEN (7) REPLACEMENT TRANSIT BUSES (JON BULTHUIS)**
- **REQUEST FOR APPROVAL OF A RESOLUTION AUTHORIZING AND APPROVING SUBMISSION OF A COMPLETED APPLICATION FOR FINANCIAL ASSISTANCE AND PROJECT APPROVAL TO THE NEW MEXICO FINANCE AUTHORITY FOR THE PROCUREMENT OF SEVEN HEAVY DUTY TRANSIT BUSES (COUNCILOR CALVERT) (JON BULTHUIS)**

**Committee Review:**

Finance Committee (Scheduled)  
Council (Scheduled)

02/17/14

02/26/14

Councilor Ives said he was basically looking for a description.

Mr. Bulthuis explained that due to a loss in federal funding this was an application to the New Mexico Finance Authority for purchase of buses.

**Councilor Ives moved to approve the request. Councilor Rivera seconded the motion.**

Councilor Calvert voiced his support of this request.

**The motion passed by unanimous voice vote.**

**17. REQUEST FOR APPROVAL OF AN ORDINANCE RELATING TO STREET PERFORMERS ON PUBLIC PROPERTY; AMENDING SECTION 23-8 SFCC 1987 (COUNCILOR CALVERT) (ZACHARY SHANDLER)**

**Committee Review:**

Finance Committee (Scheduled)  
Public Safety Committee (Scheduled)  
Council (Request to Publish)  
Council (Public Hearing)

02/17/14

02/18/14

02/26/14

03/26/14

Councilor Calvert noted that changes were made to make it more workable for everyone involved.

Councilor Ives referred to page 6 of the packet and asked what "infringe" meant. If it was distance, he asked if the City permits provided the detail on that.

Mr. Zach Shandler, Assistant City Attorney, said that specific language did not come up but it probably related to the distance and volume. He thought that interpretation sounded reasonable.

Councilor Ives thought it might come under some dispute. He asked Mr. Shandler to look at when infringement would occur and flesh that section out before Council.

**Councilor Ives moved to approve the request. Councilor Rivera seconded the motion.**

Councilor Calvert proposed an amendment on page 4, line 3, after "A", to insert, "police officer may ask the performer to leave the location if he is in violation of this subsection, however, a..."

Councilor Ives thought "exhausted" was pretty strong language and asked if they wanted an officer to spend that much time. He suggested to soften it to say "to a reasonable length of time" maybe.

**The motion and second with Councilor Calvert's amendment regarding language being looked at passed by unanimous voice vote.**

**18. SANTA FE HOMES PROGRAM (COUNCILOR WURZBURGER) (ALEXANDRA LADD)**

- a) REQUEST FOR APPROVAL OF AN ORDINANCE RELATING TO THE SANTA FE HOMES PROGRAM ("SFHP"); AMENDING SECTION 14-8.11 SFCC 1987 TO MAKE PERMANENT THE CURRENT PERCENTAGE REQUIREMENTS OF THE SFHP; AMENDING SECTION 26-1 SFCC 1987 TO UPDATE THE LEGISLATIVE FINDINGS, TO ESTABLISH THE SCHEDULE FOR PAYMENTS IN LIEU OF CONSTRUCTING UNITS FOR SFHP DEVELOPMENTS WITH TWO THROUGH TEN TOTAL UNITS, TO MAKE PERMANENT THE CURRENT PERCENTAGE REQUIREMENTS OF THE SFHP AND TO MAKE VARIOUS OTHER CHANGES TO THE SFHP ORDINANCE.**

**Committee Review:**

Planning Commission (Approved)	01/09/14
Community Development Commission (No quorum)	01/15/14
Finance Committee (No quorum)	01/21/14
Council (Request to Publish)	01/29/14
Finance Committee (Approved)	02/03/14
Council (Public Hearing)	02/26/14

- b) REQUEST FOR APPROVAL OF A RESOLUTION AMENDING THE ADMINISTRATIVE PROCEDURES FOR THE SANTA FE HOMES PROGRAM ("SFHP") TO REFLECT THE AMENDMENTS APPROVED BY ORDINANCE 2014-\_\_**

**Committee Review:**

Finance Committee (Scheduled)	02/17/14
Council (Scheduled)	02/26/14

**ACTION SHEET**  
**CITY COUNCIL COMMITTEE MEETING OF 02/26/14**  
**ITEM FROM FINANCE COMMITTEE MEETING OF 02/17/14**

**ISSUE:**

23. Request for Approval of an Ordinance Relating to Street Performers on Public Property; Amending Section 23-8 SFCC 1987. (Councilor Calvert) (Zachary Shandler)

**Committee Review:**

Public Works Committee (approved w/amendment)	02/10/14
Public Safety Committee (scheduled)	02/18/14
City Council (request to publish)	02/26/14
City Council (public hearing)	03/26/14

Fiscal Impact – No

**FINANCE COMMITTEE ACTION: APPROVED AS DISCUSSION ITEM**

**SPECIAL CONDITIONS OR AMENDMENTS**

Approved with amendments.

**STAFF FOLLOW-UP:**

VOTE	FOR	AGAINST	ABSTAIN
COUNCILOR BUSHEE	Excused		
COUNCILOR CALVERT	X		
COUNCILOR DIMAS	X		
COUNCILOR IVES	X		
CHAIRPERSON DOMINGUEZ			

3-19-12/FCMissue

Responding to a question, Councilor Dimas said, "I think Kate's already got the idea of what I'm particularly looking for, particularly the liability issues and so forth. I think we need to look a little bit more into it."

**MOTION:** Councilor Dimas moved, seconded by Councilor Ives, to approve this request, with direction to staff to look at the particular liability issues as discussed.

**DISCUSSION:** Councilor Calvert said, "Since the Resolution 'is what it is' and states in the caption 'Supporting efforts to retain younger talent and invigorate Santa Fe's Nighttime Economy...' I would hope that the age of the appointees would be taken into account in that statement, and that we don't have people like me on there making some of these recommendations. I think it would help to take into account the age of the people. I also think taking into account, looking at locations. I've had people talk with me about facilities, maybe a new facility or something like that. I always tell them new facilities are tough. If you can find an existing facility that doesn't have a use at night, or something like that. I'll be honest, if you want to avoid problems..... you do yourself a favor if you look at situations like that so you're not starting out with conflicts with your neighbors and stuff like that. I think that's an appropriate use. If you want to do it in a residential section, hey go for it, but I'm saying you're just asking for more discussion than you probably had intended."

Chair Dominguez said he would add that zoning has a lot to do with that, and Councilor Calvert said he understands, and reiterated that you should pick a place that doesn't cause conflict, so you're starting out on the right path.

Councilor Wurzbarger said, with regard to Councilor Dimas' comment about location, "One of the most fun things I've been to was Saturday night." She said the other best one for her is the Baille de Cascarones, so it seems we could use that space more.

Councilor Dimas said he thinks it's possible to have mixed uses for the space.

**FRIENDLY AMENDMENT:** Chair Dominguez would like to amend the Resolution, page 3, line 19, as follows: "... to the CBQL and the Governing Body." **THE AMENDMENT WAS FRIENDLY TO THE SECOND AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY."**

**VOTE:** The motion, as amended, was approved unanimously on a voice vote.

23. **REQUEST FOR APPROVAL OF AN ORDINANCE RELATING TO STREET PERFORMERS ON PUBLIC PROPERTY; AMENDING SECTION 23-8 SFCC 1987 (COUNCILOR CALVERT). (ZACHARY SHANDLER) Committee Review: Public Works Committee (approved w/amendment) 02/10/14; Public Safety Committee (scheduled) 02/18/14; City Council (request to publish) 02/26/14; and City Council (public hearing) 03/26/14. Financial Impact - No.**

A proposed Amendment to this bill, submitted by Councilor Calvert, is incorporated herewith to these minutes as Exhibit "1."

**MOTION:** Councilor Calvert moved, seconded by Councilor Ives, to approve this request, with the amendments in the packet and the amendments on your desk as well

**DISCUSSION:** Councilor Calvert said the intent of the amendments are to "take an existing Ordinance and tweak it a little so it works better for everybody involved – buskers, merchants, police that have to enforce it. He said one change he would point out specifically is on Ordinance page 3, line 18, "At all times street performers shall have available," and we're adding 'and display' the performer's business license. This makes it easier for everybody and the license owner doesn't get interrupted while they are performing their music, and the police don't have to stop them because it's on display that they are complying and they can move on. It just makes it easier for everybody involved. That's the nature of these amendments. Zach if you want to go over a couple of the other amendments that would be fine."

Mr. Shandler and Councilor Calvert reviewed the proposed amendments which are in the Committee packet and Exhibit "1" which is on the Committee members desks. Please see these documents for specifics of this presentation.

Councilor Calvert said there was discussion about the business license, and the possibility of deleting Section C, Line 14, on Ordinance page 3. He said during certain times of the year there are panhandlers that get a Busker's License for \$15 to solicit funds. Councilor Calvert said they are then competing with people who are here year-round who spend \$45 for a license.

Councilor Dimas asked if there are a limited number of these licenses we authorize, or is it unlimited.

Councilor Calvert said there is no limit on the number of license, but it is somewhat self-limited by the prime location – 150 feet apart, can be there only for 2 hours. He said, "It is somewhat self-limiting because any number of people can have them, but not every place is productive. If you want to go and play to your heart's content where there is nobody located, that's fine."

Councilor Dimas said he things having an unlimited number of licenses, eventually we are start to run into problems with fights out there over who has the select position.

Councilor Calvert said, "To a certain extent, I think it requires some coordination among the buskers themselves. And I'm not going to tell you there haven't been fights, there was one at the Railyard, I believe. But that's something that, what, do we want to legislate all of those things, personal behavior and stuff like that. In all those instances, I'm not sure we want to get into that level of detail. I think for the most part this has been working. I understand that some merchants aren't happy with it, but I think that they are confusing the buskers with the panhandlers. And so I think that's why I had that concern about the temporary license, because I think that makes it easier for the panhandlers to quote, be legitimate. This is the way it is right now, and as we have further discussion, if anybody wants to change that, that's

fine. I think the few changes we've made, will make it work better for everybody. Is everybody happy about everything. No, but I think that's the nature of any legislation and compromises that nobody gets everything they want. So I think this will make it work just a little better, and that's all I can say."

**VOTE:** The motion was approved unanimously on a voice vote.

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**END OF CONSENT CALENDAR DISCUSSION**  
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Chair Dominguez asked that the Committee hear Items #27, #28 and #29, before hearing Item #26.

**MOTION:** Councilor Ives moved, seconded by Councilor Calvert, to reconsider the previous action to approve the agenda, to amend the agenda to hear Items #27, #28 and #29, before hearing Item #26, and to approve the agenda as amended..

**VOTE:** The motion was approved unanimously on a voice vote.

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**DISCUSSION**

**27. STAFF SUMMARY ON PARKS BOND AUDIT. (ISAAC PINO)**

A notebook of information was provided to the Committee by staff. A copy of the notebook is on file in and copies can be obtained from the Public Works Department.

Chair Dominguez said this has been taken to POSAC, and from what he has read, there are still lots of questions.

Isaac Pino said, "You are correct, we are at Finance in November, and subsequent to that, we published the questions POSAC had put together and provided them to all of you. And then subsequent to that, we provided the questions along with our answers, such as they were at that time. We went to the Public Works Committee in January and did a brief presentation there. We've been on the POSAC agenda in December, January and now again in February, so it's a rolling item for additional information, questions that come up, more detail requested. And we were at BTAC in January. We had about a 3 hour meeting that particular evening to vet everything they were interested in."

Mr. Pino continued, "And so we have been available for all of the committee meetings where it made sense to go through those questions, or any associated information. Now the thing that is missing still that apparently is very tedious work, because every single time she's asked for it to be reviewed, is the

**ACTION SHEET**  
**ITEM FROM PUBLIC SAFETY COMMITTEE MEETING OF 02/18/14**

**ISSUE: Proposed bill includes amendments to the regulations and enforcement of the street performers on public property ordinance section 23-8 SFCC 1987**

**PUBLIC SAFETY COMMITTEE ACTION: Recommend approval with additional language**

**SPECIAL CONDITIONS OR AMENDMENTS: (1) add 10 feet from doors (2) dismissal after 15 days if hearing is not conducted**

**STAFF FOLLOW UP: Staff to review no later than 6 months**

<b>VOTE</b>	<b>FOR</b>	<b>AGAINST</b>	<b>ABSTAIN</b>
<b>CHAIRPERSON TRUJILLO</b>	X		
<b>VICE-CHAIRPERSON HARRIS</b>		X	
<b>MEMBER MIKE MIER</b>	X		
<b>MEMBER NANCY OWEN-LEWIS</b>	X		
<b>MEMBER PETER MIZRAHI</b>	X		
<b>MEMBER MIKE BOWEN</b>	ABSENT		
<b>MEMBER CHRIS RIVERA</b>	X		

DISK fc1/fcmissue

4. Old Business  
NONE

5. New Business

- a. Mid Year Adjustment-Decrease from "cash" to increase "Detention Center" line item for jail costs (Nancy Jimenez)

Ms. Jimenez reported that they have been billed for 6 months for the jail and those bills have been paid. They have taken an average for the next 6 months and are about \$230,000 short. As we do more arrests then of course the jail bills increase. There is \$243,000 in cash reserves from fees and services that the court has billed to the individuals and is not tied in to any other expenses. The request is to use the reserve fund balance to pay for the next 6 months jail cost.

Dr. Mier asked what else the cost reserve is used for. Ms. Jimenez said they are not allocated; it actually builds up over the years. It is normally earned at about \$6000-\$7000 a year and this has accumulated in the last 9 years or so and has not been allocated.

*Dr. Mier moved to approve Mid Year Adjustment-Decrease from "cash" to increase "Detention Center" line item for jail costs, second by Mr. Harris, motion carried by unanimous voice vote.*

- b. Proposed ordinance relating to street performers on public property; amending section 23-8 SFCC 1987 (Councilor Calvert, Zachary Shandler)

Major changes:

Page 3-23-8.4-E At all times street performers shall have available and display the performer's business license, and have available proof of identification for review by the city.

Page 3 and 4 23-8.5-A Street performers shall not block, in whole or part or cause the blocking in whole or part of any sidewalk, passageway, street, alley or entrance to building. If a performer attracts a crowd sufficient to obstruct the public way, a police officer may disperse the portion of the crowd that is creating the obstruction. A police officer shall not ask the performer to leave the location unless other reasonable means of restoring the public safety have been exhausted.

Page 4 - D change as stated - and provided the performer has received a special event vendor license [provided that a copy has been filed prior to the event with the police department].

Page 4 regarding distances - G changes as stated - The sound level shall not be plainly audible one hundred (100') feet away from the performance site. A performer or group of performers may use sound battery powered portable amplification as long as this sound level is not exceeded. A performer or group of performers may not use public power sources or portable generators.

Page 5 - I. Time of performance. Street performers shall perform no earlier than 8:00 am and no later than 9:00 pm [11:00 pm Sunday through Thursday and 1:00 am on

~~Friday and Saturday nights except at city parks and recreation areas, where the curfew is 10:00 pm, Sunday through Saturday, in accordance with subsection 16-13.6 SFCC 1987.]~~

It was noted by the City Attorney that the Finance Committee approved the time as midnight.

Criminal Enforcement. The City Attorney stated that there is no such thing as a written warning. There is an oral warning and a written citation. Replaced with:

Page 6 – The Police Department may evaluate whether the street performer:

- (a) Has a valid license
- (b) Is performing according to distance restrictions
- (c) Is abiding by the audible standards; or
- (d) Is abiding by any provision of this section or any provision of the SFCC 1987.

If the Police Department concludes that a verbal warning is not enough to correct the conduct, the police department may issue a criminal citation for municipal court that shall, upon conviction, be punished in accordance with the provisions of Article 1-3 SFCC 1987.

The police department has two options going forward, in this section they can issue a criminal citation or go to Municipal Court. The Municipal Court process will result in a monetary fine, goes in front of the judge but does not address the license issue. Section B, page 6-7-8-9-10 addressed the Administrative License Enforcement by Finance Director.

License Seizure – if license cannot be displayed and they continue to perform without a license and they refuse to stop, the performer will be informed that this is a misdemeanor and subject to arrest. If the street performer has never obtained a license and a verbal warning is issued and they don't come to apply for a license it is a petty misdemeanor and subject to arrest.

City Attorney concludes his presentation.

Discussion:

Dr. Mier: On page 9, line 5, talking about the hearing being held within 15 days, what happens if hearing does not happen in that time frame for some reason.

Mr. Shandler: Mr. Chair, Dr. Mier members of the committee that language is not in this document.

Dr. Mier: In all fairness to street performers, we need language on failure to appear.

Councilor Rivera asked if the Finance Director held a hearing on the 28<sup>th</sup> day would that mean the street performer could not perform for 28 days.

Mr. Shandler: It would depend on the reason for temporary seizure of that license due to danger, in that case they would not be able to perform.

Councilor Rivera said that if they have a license for 3-months and their license is withheld for 30-days you are then hurting the income of this street performer if the city finance director does not have a hearing within the 15 days.

Chief Rael: Suggested 15 days would be an authorization for justification for extension if it hasn't been a hearing. There are circumstances that could prevent the 15 days.

Dr. Mier concurred that the time discussed is a little too long and asked if the Finance Director could appoint a designee to conduct the hearing. 30 days is excessive.

Chief Rael suggested leaving it at 20 days which is reasonable.

Dr. Mier reiterated that 30 days is excessive and recommended that it be 15 days and if there is no hearing the matter should be dismissed.

Mr. Shandler reiterated and clarified that the wording should be 15 days and if the hearing cannot be held that the matter should be dismissed.

Chair Trujillo asked about enforcement, how the police officer will determine allowed radius, will they take out a tape measure.

Councilor Calvert will recommend that a joint discussion be held between the affected groups and city staff, merchants, police department and someone from Land Use to discuss the implementation and use tools as Mr. Shandler has used today to show how the 150 foot radius is determined. We can come up with physical landmarks to help the police officers determine the radius and provide them the tools to be consistent.

The Chair stated the importance to know of the designated areas that will be affected in order to provide strict guidelines on radius for enforcement.

Councilor Calvert said there may not be a map for all designated areas but the understanding of guidelines that will be set and having a meeting with the groups as discussed will provide them an opportunity to work together and get their perspective.

Chief Rael stated that would be helpful to designate areas instead of having a potential overlap. Also concerned that the police department will have a problem enforcing and he would like to have the purpose more clear in order to enforce. In terms of the allocation he would like to have his officers who enforce this and comment on this matter.

Officer Elizabeth Brewer: Understand the laws written up as this will make it easier to enforce the law. Right now we have no law to take care of the issues that they are faced with. When discussing the 15 days to have the hearing, that would be good. It is important to know that even though we talk about their lack of income also keeping in mind that some of these individuals are also threatening lives of the citizens in the community. Talking about space, everyone here is addressing the plaza, what do we do with those on the 4 corners. A lot of them complain because they are trying to talk to customers and the acoustics of downtown even within 150 foot radius bounces off the sound. It is very difficult to be out there measuring 150 feet. This is open space and you are going to hear the performers. The law will be easier to enforce when they are violating. There will be bumps in the road but this is better than not having anything.

Mr. Mizrahi asked what the number of performers is.

It is about 100 at an estimate.

Mr. Mizrahi favors designating a certain spot in support of Chief Rael's comments.

Councilor Calvert made reference to Page 3 of the Ordinance, presented Section C-line 14: the street performer not more than 30 day period and may obtain a short term business license. In Section A - a regular permit is \$30 and in C you can get a short term for \$15 and this could be where the problem comes in the summer time when you get a different type of people who are passing through town and get a \$15 permit. They don't care too much about abiding by the rules as where your year round vendors do care and do abide the rules. This ordinance does not address the panhandlers. The short term people could be those who create the problems and don't cooperate with the local people who do this year long.

Dr. Mier asked Councilor Calvert if he would be opposed to designated spots as suggested. How strictly do you want to regulate? We want to make it easier for the police to enforce.

Councilor Calvert said that he would like to get the input from those who are basically consistent on the plaza and certainly does not want to violate any civil liberty laws.

Dr. Mier commented that there are too many questions that are unanswered before it goes to the city council.

Councilor Calvert clarified that many of the questions and comments are in the ordinance and are not the changes being requested today. He agrees that questions should be answered but in a different forum away from the changes requested today. Councilor Calvert reiterated his appreciation for the questions and discussion today; the designated spaces were part of a previous proposal brought forward and it was voted down.

Public Comments:

Ben Chavez, Vendor on the Plaza

Mr. Chavez introduced himself and has been on the plaza for 30 years. He has worked on the plaza 7 days a week. He likes what is being said today but it doesn't go near enough to what the concerns are. Mr. Chavez stated that his feelings are that this ordinance should not be passed today; it needs a lot of work. The plaza right now is out of control. Police Officers are trying to do their best they can to control what is going on but it doesn't go far enough. Mr. Chavez provided 10 points of concern.

1. It should be required to cover a liability insurance policy because of the guitar cases where they collect money or whatever they have. All the vendors on the plaza are required by the city to carry a liability policy in case someone falls by our stands or whatever.
2. They should have their businesses registered and if they are selling items such as CDs they should be registered with the New Mexico Taxation and Revenue Department. I bring this to your attention because I have had these conversations

and some of these vendors are making \$700-\$800 a day selling CDs, which is more than some of the vendors make, no one says anything about that part.

3. I think the city should limit the amount of licenses that they are issuing. Right now I think there are over 167 licenses and what would happen if they all showed up at the same time. When there is a large amount out there they fight for spaces. I believe that the performers should audition so you can qualify that they are really musicians. There are people out there that will blow a harmonica and put their hat out to collect money and they are not musicians. These individuals have found a great deal to panhandle and pay a cheap price for a license.
4. They should be at least 50' away from any of the vendors on the plaza, food vendors or those across the Palace of the Governors. I have had horrible musicians who have tormented us 10' behind my stand; I can't talk to my customers because their music is so loud.
5. No amplification of any kind on the plaza, we can hear it all the way across over on the other side. The buildings throw the sound around.
6. This license should not be used to sell crafts; right now there are people who are walking around with jewelry and saying they have a right to do that with this limited license?
7. There should be no sharing of licenses. What happens is that someone will come on to the plaza and they won't have a license so someone will lend them their license and they will sit there and start playing and before you know it you have 3-4 different musicians playing under one license. That is a problem.
8. They should have to buy a space during the Arts and Craft shows just like the vendors on the plaza have to do. We have to pay to be on the plaza for any arts and craft shows. Right now the ordinance says for Spanish Market and Indian Market that it should be the same thing as Challenge New Mexico, the Boys and Girls Club, Labor Day...all of the Arts and Craft shows it should be that way.
9. They should also be required to move. Right now the ordinance says that every 2 hours they have to move. I have seen musicians that will move 1 foot over and that counts that they already moved. I think they should be moved, unlike the idea that you can designate where they can play, because 150 feet you can't have more than 2 of them on the plaza at one time otherwise they start a big fight and we have seen it.
10. The city imposes these rules on the vendors on the plaza and I think that they should be imposed on the buskers as well. They are making CDs and selling their expression of music at \$10 a piece and absolutely no revenue for the city whatsoever.

All of us are required to have a license out there. I think this is a good beginning but I think it has a long ways to go before this is settled. What is going on in the plaza is out of control and not only with the buskers but the people that they draw. Sometimes you can be on the plaza and it reeks of marijuana. You call the police and you tell them this is going on, there are ordinances posted all over that indicate all of what can't be done. The cops are there and they say they don't

know how to enforce it? Why are you going to have ordinances if you don't have any intentions of enforcing it? I have pictures if you want to see them.

The Chair expressed his thanks to Mr. Chavez for his comments.

Michael Colms, Street Performer

Mr. Colms said he earns his living downtown and he tries to get something as close to the plaza as he could to live. He travels from Tres Piedras everyday to be able to work. Thank you and I do appreciate the police. I think one of the main weaknesses is that I am hearing people talk in plural, second person saying this and that. The ordinance that has been brought up has been brought up without input from the street performers. I work at the Farmers Market a lot. Just a historical perspective, in 1837 the Santa Fe City Council was meeting to discuss regulating the acrobats that were coming up from Chihuahua so this has been around a while. There will continue to be tweaking the design; there is the difference from high maintenance and low quality or something that is low maintenance and high quality. If you travel around the world you have probably seen a little of both. It is kind of new here, the main problem that I see is that if we could get everyone to follow the few basic rules but what we get is road buskers who come in and I can go in to the corner and they have their amps so loud that you can't perform. We have traditions of respecting each other where this is something we cherish and we work hard to build it up. There are people who come through here and they don't care about Santa Fe, they don't have family here. There have been tens of thousands of positive interaction where people come to visit. I think what is lacking is an on-going dialogue that may have to happen a few times a year where the downtown merchants feel like they can have some representation with the police, the buskers and dialogue about this because a road busker causes problems for everyone and when you can identify who these people are we can tell them that we don't appreciate what they are breaking down. My grandkids live here, my daughter is a teacher here in Santa Fe, so I think that the main thing here is to cooperate with each other. I don't own a firearm. I asked everyone to come together to dialogue so we can support each other.

Mr. John Dressman

The Downtown Merchants Association is looking for two very specific things, one is to not have our entry ways or display areas blocked and two, is to not have the amplification because if you get too much music it becomes noise as other have alluded to. The two things we are looking for is something very specific, something very enforceable using the words No. For instance, no buskers under the portal or no buskers on the sidewalk. Right now the law says they can't block either fully or partially the sidewalk but that has been interpreted by the police and others in the city that they can block as long as a wheel chair can get by but that is not what the ordinance says so we need to interpret it. I have spoken to police officers yesterday and we were talking about that and there is confusion for example the officer said they don't have the right license for amplification. But there is no right license for amplification, there is only one kind of license. We are looking for a way to enjoy the buskers that are there playing good music and I particularly like the cello and the harp. That is the relationship we are looking for; we actually feel that the buskers do contribute something.

#### CLOSED PUBLIC HEARING

Chief Rael stated that this ordinance is a good start; we have long term problems that we have to work on and improve some of the other potential issues. At least this ordinance with the suggested changes that Councilor Calvert has introduced gives us the authority to enforce and address the issues that are there. This will allow us to cite for violations and will allow us the opportunity to arrest those individuals who refuse to cooperate. Although this is not the perfect

solution with the problems we have, it at least gives us that ability to start moving towards that. I appreciate the work that Councilor Calvert has done on this ordinance and my recommendation would be to request approval and that we work towards a longer term solution for some of the problems the vendors have brought up.

Mr. Harris asked if those who hold a 5-year license if they have designated areas.

Mr. Chavez responded that they all have their designated spaces and that is where we set up and they are marked.

Dr. Mier stated that it seems like we are creating laws for a few people. Unfortunately what we have here is we have quite a few things that I would view that perhaps could enhance the ordinance. My question to you is would there be an opportunity to get the stakeholders together, i.e., the police, the vendors, performers and perhaps come to a consensus and focus on what might be improved upon before it is heard by public safety. Based on the conversation today I don't see that the City Council would take action on something that is better than what we have, we would rather forward something that perhaps is even better. Dr. Mier asked Councilor Calvert and Chief Rael if there was a sense of urgency, is this something that could come back in 30 days. Dr. Mier feels that there are too many questions unanswered and too many issues unsolved.

Dr. Mier said he would be ready to make a motion to table this item.

Councilor Calvert stated that they have solicited input and have received comments from various people and have allowed over 30 days for response was helpful and sufficient to reach this point. Councilor Calvert agreed that it would be good to get everyone together in one room.

Councilor Rivera said he knows this has been looked at as to what other cities do and asked to here from Mr. Shandler.

Mr. Shandler responded yes, they have researched and over a dozen other states.

Councilor Rivera asked if we would be able to limit the amount of licenses and if there could be a time limitation for amplification.

Councilor Calvert added that he is aware of the buskers and/or a musician being too close to the entry of the doorways such as Starbucks and it takes a lot of time away from city staff to handle these complaints without any enforcement tools.

Dr. Lewis asked Chief Rael if there was an urgency to pass this ordinance or if we could wait to meet with the stakeholders to discuss the concerns.

Chief Rael stated that the weather is warming up and the officers will lack the ability to enforce. This ordinance would help to enforce and take action.

*Dr. Nancy Owen Lewis moved to approve with the understanding that there be a 6 month review process, with the additional language - Page 3-4 from the proposed ordinance: Street performers shall not block, in whole or part, or cause the blocking, in whole or part of any sidewalk, passageway, street, alley, [new language]and will remain 10' away from any entrance to a building or store, second by Mr. Mizrahi, motion carried by unanimous vote.*

Discussion:

Councilor Calvert stated that there did not need to be a month waiting period to get the stakeholders together to have a discussion on the concerns.

Councilor Rivera asked if the sponsor would accept additional language to the motion, Page 3-4 from the proposed ordinance: Street performers shall not block, in whole or part, or cause the blocking, in whole or part of any sidewalk, passageway, street, alley, *[new language]* and will remain 10' away from any entrance to a building or store. Accepted by Dr. Nancy Owen Lewis.

- c. Proposed resolution directing the Traffic Engineering Division to reconstruct the median at Zia Road and Galisteo Road so as to restrict left turn movements to and from Galisteo Road and to increase the length of Zia's Eastbound dual left turn lane at the St. Francis Drive signalized intersection (Councilor Dimas, John Romero)

Mr. John Romero, Traffic Engineer explained that the intent of this resolution is to improve the efficiency of the signal light at the intersection at Zia and St. Francis for the morning rush hour turning eastbound. It was explained that by closing the median at Galisteo Road and Zia Road, the eastbound dual left on Zia Road at the St. Francis Drive signalized intersection can be extended from approximately 100' to approximately 500', increasing storage capacity from 4 vehicles to 20 vehicles.

Chair Trujillo said that this has been a strong public safety concern.

SFFD Chief Litzenberg stated that they had spoken on this date regarding the concern and it is recommended that the access could be on the Zia side of Galisteo. We are comfortable with the resolution, overall is it somewhat safe.

Chair Trujillo asked if there are any DOT plans for reconstruction.

Mr. Romero stated that DOT has done Phase A corner study with different options. DOT is also doing a traffic study. The House Memorial at the State Legislature is asking the State to do a study to determine if the station should open.

Dr. Lewis asked if a study has been done on the number of accidents at this intersection.

Chief Rael answered that based on the SFPD observations that turn does cause a lot of accidents.

Councilor Rivera asked Chief Litzenberg regarding the electronic medical records program and if data was available.

Chief Litzenberg said that they would need to compile the data.

Mr. Romero said that they could compile a crash data report for the last three years and a compile crash diagram to show how many injuries and fatalities at that intersection.

*Mr. Mizrahi moved to approve the proposed resolution directing the Traffic Engineering Division to reconstruct the median at Zia Road and Galisteo Road so as to restrict left turn movements to and from Galisteo Road and to increase the length of Zia's Eastbound dual left turn lane at the St. Francis Drive signalized intersection, second by Mr. Harris, motion carried by unanimous voice vote.*

She said, "We have had problems keeping our Board filled. It's just a rather stringent requirement. This will bring it in line with many of our other citizen bodies." She said this Commission provides the funding recommendations for the City's Community Development Block Grant, as well as providing guidance on different policy initiatives and issues that come up in the realm of, mostly housing, but also Community Development. The Commission is also responsible for making funding recommendations for the Affordable Housing Trust Fund..

### **Public Hearing**

There was no one speaking for or against this request.

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

Councilor Trujillo said, "I just want a clarification from Kelley. Mayor, being as you appointed me as the Chairman of this Committee, am I allowed to vote on this."

Ms. Brennan said, "Yes Councilor, you are."

**MOTION:** Councilor Dominguez moved, seconded by Councilor Lindell, to adopt Ordinance No. 2014-14.

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

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

**Against:** None.

Councilor Maestas commended the Commission on its allocations of the CDBG funds, which was on the Consent Calendar. He said he looked through those, which was a great allocation of those limited funds. He said kudos to staff and the Commission.

#### **4) CONSIDERATION OF BILL NO. 2014-10: ADOPTION OF ORDINANCE NO. 2014-\_\_\_\_ (COUNCILOR CALVERT). AN ORDINANCE RELATING TO STREET PERFORMERS ON PUBLIC PROPERTY; AMENDING SECTION 23-8 SFCC 1987. (ZACHARY SHANDLER)**

A sheet of proposed amendments to this bill, introduced by Councilor Signe Lindell, is incorporated herewith to these minutes as Exhibit "5."

An email from Robin Martinez Rice dated March 24, 2014, to Melissa D. Byers, regarding Bill 2014-10, is incorporated herewith to these minutes as Exhibit "6."

A series of color photographs with commentary, handwritten notes, entered for the record by Lee Murphy, are incorporated herewith collectively to these minutes as Exhibit "7."

A series of color photographs with commentary, entered for the record by Ben Chavez, are incorporated herewith collectively to these minutes as Exhibit "8."

A statement for the record, entered for the record by Ben Chavez, is incorporated herewith to these minutes as Exhibit "9."

The staff report was presented by Zachary Shandler and Former Councilor Christopher Calvert.

Mr. Shandler said, "We provided a list of possible amendments, based on emails and comments we received from the public, and the public may raise in the public hearing. If they raise it, then we would be happy to discuss the pros and cons and some language about the possible amendments."

Mr. Shandler continued his presentation using the overhead projector. Mr. Shandler said, "There are several different changes I'm going to point to quickly. 'This' would be on page 13 of the packet. I'm going to point to E, noting the underscored language is new, . 'At all times street performers shall have available and display the performer's business license, and have available proof of identification for review by the City.' During the Committee process there were some amendments with handwritten language. It's just the amendments that were added. It should all be in your packet."

Mr. Shandler continued, "See this picture here, I can provide it, we have these two gentlemen here and I'm not sure if they're panhandling or busking. But under a panhandling ordinance you cannot be 20 feet away from an entrance. So at Public Safety Committee, that identical language was added in. So regardless if these people are busking or panhandling, if they're 20 feet from an entrance, that would not be allowed under the amendment there on the top of the page."

Mr. Shandler continued, "Then there's some significant sections here, and I'll go through them."

Mayor Gonzales said, "A real quick question, just so I understand. When you talk about an amendment, you're talking about an amendment that's being presented by staff that's in place. Or, is it an amendment for consideration separately from what's in our packet."

Mr. Shandler said, "Mr Mayor, this particular thing has already been adopted by Committee."

Councilor Calvert said, "Clarification it has been recommended by Committee for adoption by the Council."

Mr. Shandler said, "Item F here [page 4, line 18], I just want to point out has not been changed in this bill, but I'm anticipating there will be public comment about it. *F. Street Performers shall stay at least one hundred fifty feet away from other street performers.* That's not being changed in this bill, but I thought it might be a section people point to. What is being changed is a new sentence being added [page 4, line 21]: The sound level shall not be audible one hundred feet away from the performance site. A performer or group of performers may use sound battery powered portable amplification as long as this sound level is not exceeded. A performer or group of performers may not use public power sources or portable generators.

Mr. Shandler continued, "I just wanted to point out to you, under the current Ordinance, it was kind of a one, two, three strike-out policy, that we heard some feedback about, so in this bill that's going to be changed, and that's what I pointing at to being struck out. And on the next page, under 2 is going to be a new process and I understand there might be an additional amendment tonight that's on your tables as well. Let me check with the Clerk. Is Councilor Lindell's amendment on the peoples table."

Ms. Vigil said yes.

Mr. Shandler continued, "And so I think that language will be changed even further to say, 'upon violation, the police department may issue a criminal citation.' So we don't have to worry about this verbal warning, this written notation of warning that is in the existing Code. Now the Police Department will have authority to issue a criminal citation. What is significant is the Police Department has a second tool, right now if they cite to criminal court, the end result will be a fine. But there's a second part that deals with the license, which may be more valuable to the performers. And so what we tried to do is to streamline this process where, currently, if a Police Officer wants to cite regarding the license, it has to go to Finance Committee, and based on the information I received, I don't believe that's happened recently, nor do I think that's probably the highest priority for the Finance Committee that deals with a multi-million dollar budget. So this changes it to the Finance Director, and makes it a streamlined process with due process protections. So the Police Department always has the option to do the criminal citation, or simultaneously they can file a complaint with the Finance Director, and the Director sends that notice to the busker. There is an opportunity for evidence, there's a hearing within 15 days, so a very timely process. If the City fails to hold a hearing in that time, then the complaint is dismissed, and then there is due process in terms of an appeal to the Council and further."

Mr. Shandler continued, "And the last thing I want to point out in my quick summary is that the Public Safety recommended an amendment that, 'in a public meeting no later than 6 months after the effective date of this Ordinance, the Public Safety Committee shall review and evaluate the effectiveness of the Ordinance. I've tried to go through just the highlights. I know you might have a lot of questions. I want to see if Councilor Calvert wants to say anything in terms of big picture remarks."

Councilor Calvert said this is an existing Ordinance, and these are amendments to the Ordinance to make it work better for all involved – the public, the buskers, merchants, vendors and police who have to enforce it, commenting this was the goal of these amendments.

Councilor Maestas asked if we should allow the public to offer input before we ask questions, or is it easier to have questions first and the public to react to it.

Mayor Gonzales said he will accept questions.

Councilor Maestas asked Councilor Ives, Parliamentarian, "After the public hearing what we have before us is the main piece of legislation which is the existing Ordinance, with some proposed amendments that were just summarized, and there are formal amendments submitted by individual Councilors, and then there is a table with additional possible amendments recommended by stakeholders and staff. I just want a clarification on the process. So the main motion will be on the existing ordinance with proposed amendments, and then any motions to amend will be in the order of formal amendments submitted by individual Councilors, and then we're going to go down the list of the table of possible amendments and entertain motions to amend as well. Just a clarification on that."

Mayor Gonzales said, "I think if there is a motion, it will be on what is in our packet, because this has been amended by the Committee, and adopted. When we move to amend it further, I would assume that all of you have had a chance to look at the table of possible amendments plus you own amendments, and at that time it would be appropriate to work with all amendments at one time, as opposed to going through yours and then going item by item on the table."

Councilor Maestas said, "I would agree and there may not be support for each of the individual amendments in the table, but a lot of work was put into this by staff, there's a lot of feedback by concerned vendors, and we probably have some in the audience. I want to make sure we do everyone justice and proper respect and go through each item. We don't have to read it, to determine if there is any support on the Council in the form of a motion to amend, once we get through the formal amendments submitted by Councilors. I think it's Councilor Lindell, we have the Public Safety Committee."

Mayor Gonzales asked if Councilor Maestas is proposing to go through fifteen motions for amendment, because that's how many suggested amendments there are. He said, "We have been able to make it in our packet, so I'm assuming being able to look at the packet, that there are items in here that you would want to put into play or not. I just don't know about taking the Council's time to go through all fifteen, because then it will set a precedent for every amendment that's going to be proposed out there, that in the future we're going to take every amendment up."

Councilor Ives said, "If I might suggest a process similar to that which we did on the Charter Amendments. We do have the main form of the Resolution which is in our packet. That is often considered sort of 'hat in hand' with written amendments which we receive as part of our consideration here. So I imagine the initial motion would be on the Resolution that is in the packet, and possibly on the proposed amendments submitted by Councilors. In regards to the chart, I think it is certainly open to consideration, and my suggestion is, if there is a Councilor who has a particular item on that chart that they

could like to see addressed after the main motion is made and seconded, as part of the discussion, hopefully we could go quickly through the chart and only add those issue that folks wish to have proposed as amendments to be considered."

Councilor Maestas said, "The only thing, and this will be my last response, is that I think we should go through each one, just by number, to poll the Council for any support on the table, only because this represents, not just feedback from the Plaza vendors, but staff analyzing the suggestions, identifying pros and cons and even providing proposed language to the Ordinance. So again, I don't want to prolong this. And I really would also say that just because that particular Councilor did not take one of the suggested amendments in the table and formally submit it, doesn't mean there isn't support on the Council. So I just want to make sure, out of respect to the vendors and all the feedback provided by the stakeholders that we go through these in the order they are in the table."

Councilor Rivera said in one of the committee meetings, there was a discussion that the hearing process goes the Finance Director, and asked if he is not available, what happens.

Former Councilor Calvert said the Ordinance provides Finance Director or their designee, so there is backup in case he isn't available.

Mr. Shandler said that is on page 9, line 6.

Councilor Rivera said then anywhere in the Ordinance it refers to the Finance Director, it is presumed that is the Finance Director or the designee.

Mr. Shandler said this is correct.

### **Public Hearing**

Mayor Gonzales gave each person two minutes to speak to the issue. He asked people to refrain from repetitive remarks. He suggested that they focus on the issues up front so they are in the record right away, so you don't miss any points you would want to state once the two minutes has expired.

Responding to the Mayor, Ms. Vigil said people speaking don't need to be sworn because they are speaking to legislation.

**Lee Murphy** thanked Former Councilor Calvert and Councilor Trujillo for bringing this important issue before the Council to be heard. She said, "I am asking that you reconsider moving this particular proposal forward and instead please reconsider a new Ordinance that would better serve and better solve the main problems that our City endures with the Busklers. Forbes Magazine has named New Mexico the number one death spiral state in the union, surpassing California and Chicago, Illinois. We have more

takers than makers. We have more people pulling on the economic system than contributing. Many of our good citizens have already probed other economically sound cities to live and thrive. But word has traveled far and wide, are you willing to come to Santa Fe, purchase a \$35 Busker's Permit and begin your performance on and around the historic downtown Santa Fe and the Santa Fe Plaza. Easy money, easy cash and no strings attached, no restrictions on what you say or do or how you do it. No restrictions on [inaudible] or what instruments you want to bang and clang and bang again and how you to make your presentation, or what you want to wear or don't want to wear."

Ms. Murphy continued, "Just this Monday, a busker was heard saying Santa Fe is giving a permit for all the things other cities won't let me do. Amplification, no problem. You can set up with amplifiers, microphones, megaphones and as many amps as you need to make some noise. If you don't have an amplifier, you can just set up under one of the main portals where there is a natural amplification and wow does the sound travel. And if that doesn't suit you, just set up on the Plaza and face any direction and your sound will even penetrate through the store front glass windows and permeate their businesses. Before you know it, you will be performing to the whole Santa Fe and historic downtown area. Nobody will be able to carry on a conversation or think good thoughts."

Ms. Murphy continued, "And because no one is keeping track you could perform like this busker, traveling through Massachusetts on spring break. He roped off an area, put on his Celtic kilt and heckled the crowd with his microphone, and then he proceed up onto his unicycle with his bagpipe. He didn't play a song, but told the crowd, if they didn't put \$20 bills in his hat, he would pee out of his horn on them. And then he proceeded in his performance by taking off his skirt. These are the pictures [Exhibit "7"...."

Mayor Gonzales asked Ms. Murphy to wrap up because she has exceed her allotted time.

Ms. Murphy said, "I did turn in the rest of my notes, and I would really appreciate it if you would just really consider Mayor, that we would just spur on those makers and not the takers and reconsider what is in this proposal."

**Michael Murphy, Lee's husband**, said the Plaza is a limited space, with a limited number of Plaza vendors and food vendors, and we need to limit the number of buskers as well. He said, "Anyone can walk in and get a Busker's License, and it is not necessary to have any real talent to do that – you can be a homeless drifter, an alcohol, a drug addict, a pedophile, and you can be a real musician, which there are some, or you can be a non-musician of which we have plenty that are just worthless. We would just ask that there be no buskers allowed under the portals because the portals act as an amphitheater and it really does project the sound. Also no amplification. This would keep the Buskers from stealing electricity, which many of them do come down and plug in and run their speakers. Some of them have battery powered speakers. We also ask that they not have generators, which many run generators down to run multiple speakers. They also have cords that would be tripping hazards when they run their generators. But, you would limit the Buskers on the Plaza to no more than 2-3."

Mr. Murphy continued, "We had some Buskers that were here this week from Canada, they were actually really good, kind of like a New Orleans style jazz band. But the problem was, with the brass and everything, if you had three Buskers like that on the Plaza it would be a train wreck. So them, by themselves were great, but if you had multiple Buskers on the Plaza, it would have been awful. Also, Buskers should be a minimum of 50 feet from Plaza vendors. A lot of times, I have Buskers set up 15-20 feet from me, which I have the kettle corn stand on the Plaza and I can't hear to do business, especially when they're amplified. It's really a problem, I'm yelling at my customers and trying to figure out what they want."

Mr. Murphy continued, "Okay, one other thing, we have one Busker who supposedly has a permit to sell poetry. What he sells is sage. That's not the only green thing he sells. He's also a drug dealer and most of the Police Officers know him, his name is Thomas the Cat. We'd like to get rid of him from the Plaza from Santa Fe, and also just to give the Police some power so that they have enforcement power. One of the problems down there, is the Police will come, they're standing around leaning up against the cars, but they don't know the Ordinances, they don't know how to enforce them, or maybe they don't know when they can enforce them. We just ask that they be able to do that."

**Elizabeth Perez, Downtown Merchants Association, owns "Things Finer" at La Fonda Hotel.** She thanked the Governing Body and the City Attorneys for their hard work in improving the regulation of activities in the Plaza periphery. We are glad our new Mayor is supporting law enforcement efforts and is helping to ensure that City staff and citizens alike know the law, obey the law and enforce the law. Our Plaza has been a vibrant source of commerce and culture for hundreds of years. It belongs to everyone. Visitors, residents and employees should all feel safe in the Plaza park and surrounding streets. I believe that with sympathy, communication and good will, everyone's legal interests can coexist peacefully and creatively for all of us."

**Bobby Androtti, Downtown Merchants Board,** said he is here to speak on behalf of the Downtown Merchants. He said a lot of hard work went into the modification of this Ordinance, and staff has solicited our opinions and our input and he commends them for that. He said he would emphasize that one of significant reasons this is happening at all is because the original Ordinance wasn't enforced properly. There were a lot of rules in that Ordinance, as Mr. Shandler said earlier. However, the downtown merchants feel they weren't enforced appropriately and it didn't do anything to enhance the Plaza or downtown. He suggested in 6 months there is a review of how this Ordinance is working, and the major benchmark of success will be how significant a topic enforcement is, when talking six months down the road. He said Sgt. McCord met with the Downtown Merchants at our annual meeting this week, we are excited that how the Police Department intends to move forward. He said the Merchants are backing him up, and think he has a good plan. He is asking the Council back up him and his team, because he needs that to work with us and make this Ordinance work. He said, "Thank you, and let's make this a better Plaza."

**John Dressman, Downtown Merchants Association**, said they believe the changes put together by Councilor Calvert and Mr. Shandler are adequate to solve the problems presented by the buskers downtown, saying that enforcement is the big repetition. He feels that if the Governing Body will get behind the Police 100% and the Police really want this, the whole thing can be straightened out so the buskers who really want to busk and do their music can do it, and the merchants can continue selling merchandise and the tourists can choose what they want to do at what time. We are asking that the Governing Body support, as a unit, the police in their efforts.

**Famous Smith, Street Musician**, said he is concerned about changes to the Ordinance, in terms of being 20 feet from the entrance to a building. If he is hired to play on private property, meaning the entrance to a private building on private property, he feels he should be able to play there even if he is within 20 feet to the doorway of their building. He said legitimate buskers bring a lot of joy and enhance the downtown shopping experience, and the 20 foot rule would essentially ban all music on San Francisco Street. He realizes there are problems, and many transients know they can come to Santa Fe and get a cheap licence, and act in inappropriate ways, but they're not busking, they are using it as an excuse to panhandle. He asked if it is to restrict issuing licenses to the first part of the year, do away with the one license, or limit the number of licenses issues, or require a State Tax ID number for gratuities, or increase the license fee to maybe head some of this off. The existing sound level code needs to be enforced. It is 60 decibels. There are hand held devices the Police should have so they actually can see what somebody is playing. He said, "I implore you not to take this action on the 20 foot rule, but if it is applied, I urge you to include the words, "unless otherwise specified by the merchant." He said there are people on the Plaza you can hear 300 feet away, and it is a big mishmash of sound. If the 20 foot rule is applied and nobody can play on San Francisco Street, it will force more people to the Plaza, and make matters worse.

**Ben Chavez, Plaza vendor** for 30 years. He said he has seen everything on the Plaza you can possibly see, from people selling heroin, and sometimes it wafts of marijuana on the Plaza. He said there are Ordinances posted on the Plaza with regard to skateboarding and flying objects. He said when you ask the Police, they don't know there is an Ordinance that exists, but there is. He said a skateboard got away from a skateboarder and it hit a woman and broke her ankle. He would like to see that the Buskers don't play too close to the vendors. Some of them are very loud and belligerent, and if you ask them to move, they think they own the park. When he tries to talk to his customers he can't hear them because they're playing 6 feet of 10 feet behind him. He said, right now, with 150 feet from each other, there is not room for more than 2 buskers on the Plaza, and if you put them on either end they are going to get in each others way and sometimes there are too many of them there. He would like to see the City to designate spaces where the Buskers can play away from everyone else. He said, in some of the pictures [Exhibit "8"] he has "shown you," a lot of the have a lot of instruments and they spread out a lot of cords. He think's its important they carry a liability policy, the way the vendors do in case somebody trips one of their wires, or whatever, and hurts themselves. This is very important. He said these are some of the things I think are really important.

**Jean Smith, wife of a Busker**, said she went through the whole Ordinance and emailed every Councilor and 2 responded, and 2 emails came back. She said she is here tonight to please postpone what you're doing and really revisit the Ordinance, because there is a lot in the Ordinance, and it just needs to be enforced. She said, "And when he just came just now and said I want to put this and then I want to put this. I need to sit and read it, so it's hard for me to look at something new like that. Thank you anyway for your time."

**Michael Combs, member of SF Buskers Alliance**, said he addressed this Council on this issue for the first time in 1995. He said the Alliance agrees there some serious problems. He said they have not seen any meaningful inclusion of the Buskers in the process. If you look at that paper, it says the vendors and the downtown merchants. He said, "We at no time have been invited to participate." He said if he designs his friend's farms, and he isn't a farmer, it wouldn't come out as well. He said among them, they have busked a lot of cities on this planet and seen successful and less successful. He said, "I would like to ask that be postponed for 90 days. I was going to ask Councilor Bushee, if she was here, and I would like to ask Councilor Trujillo to consider sponsoring this because Councilor Calvert's term is up. And we would like to have at least 3 meetings with the police, the vendors, the downtown buskers, City staff and elected officials. In the past when we originally designed this 8 years ago, we had some very good cooperative process in some of the rooms here. I would like to see us identify what the problems are, what are the areas that we agree on, what we disagree on and where we can compromise. And then I think, 90 days from now, we could bring a measure here that the Buskers could support and we would have better support and cohesion amongst us. This is poorly designed, hasty and not democratic because the buskers have not had an opportunity to participate."

**George Robinson**, a 30 year Santa Fe resident, said he has been busking on the Plaza for 6-7 years He said he busks to bring smiles to peoples faces, to see children dance and smile, and people hold hands and hug. It's great to see that. He busks to inspire and to be inspired. He feels the buskers are a benefit to the City, because they bring people to the Plaza and create a sense of community, involvement and participation. He said they aren't in competition with the vendors, and handled correctly, the buskers could be a benefit to the vendors, and the vendors can benefit them as well, a synergetic sort of thing. He has concerns about the bill, which is 10 pages long, but the arguments around the bill are 30 pages long. There were 17 points of request for amendment, 11 by Plaza by Plaza vendors, 3 by City staff, 2 by Plaza merchants and 2 by Councilors, but 0 from the buskers. The buskers have had no input into what is happening to their work. He said they have not been involved in the formulation of the proposed changes. He said this will directly impact more than 200 individuals who have had no input. He said the Bill no longer has a sitting sponsor, and he would like to see a more cooperative effort in building a new Busker law. He can't support the bill as is, and asked for a reformulation, a postponement and a bill brought forward with new sponsors, so we can do this properly.

**Elisha Shaw** said he has lived here for 9 years, and has been, among other things, a professional musician in a number of different venues in the region across many states. She said some of the comments from Plaza vendors about buskers "hurts my heart." She said it is exclusive, xenophobic, and doesn't represent what she knows to be the busking community here. The buskers she knows are professional musicians and artists in Santa Fe who are struggling to make a living here and who are significantly supplementing their income by sharing the Plaza. They add to the vibrancy of the Plaza and the cultures. She would encourage everyone to think about the young artists and musicians who struggle to thrive here as you consider changes to the Ordinance, now and in the future. She said she has never seen any of the bad things people have said about buskers, and has seen only satisfied people, tourists, locals and people being able to supplement their incomes. She thinks there is too much bureaucracy and exclusivity around the arts in Santa Fe and we need to avoid that. She understands the issues about amplification, but she has never performed amplified, noting she has had 3 busking license since 2010 and played with a number of groups in town. She encourages the Council to think about how we can coexist. She didn't know about this meeting until she saw it on Face Book this evening and ran over here. She thinks you need to hear more voices and consider the broader community and how we can coexist. She said cities which have supported buskers, have added to their cultural diversity and made the community more enjoyable.

**Grannia Griffith** said she has been a regular street performer in Santa Fe for many years, and it isn't easy. She is here to stand up for free speech creative expression. She thinks it's unfair to restrict their right to play music in a public space and make people happy. She said, "We are here to inspire people, create magic in peoples' minds, to inspire tourists to enjoy Santa Fe. She said sometimes the Downtown Merchants make her feel Santa Fe is a shopping mall and the only thing to do in Santa Fe is spend money, which makes sense to them because of their reliance on seasonal visitors. She thinks they won't come here if that is the only thing here for them. She understands panhandlers and buskers aren't very joyous at times. She said people who have taken the time to get a Busker's license which proves you are allowed to be in a public place and play music, you should be able to do that. She said if merchants don't allow busking in front of their stores, they should let people know and they should be humane and talking about it like people instead of having to go through this crazy process involving paper and is very bureaucratic. People should communicate with one another and get things done in a way that isn't frustrating and scary.

**Alex McDunnough** said he was born here and lived here most of his life. He would like Santa Fe to be a place for locals as well. He likes buskers and they bring him joy. Many of his friends are buskers and it's a very important thing for them.

**Sean Sutherland**, has lived and busked in Santa Fe for 4 years. He thinks there should be a clear line between people who are "spare changing" and those busking for expression and creativity. He said a photo shown earlier definitely wasn't a performer. He said we're being misrepresented as a dirty

underclass kind of thing and that should stop. He said they are contributing to the culture of Santa Fe by being there along with the many store owners and merchants selling wares, commenting we are selling our music and what we believe in. We are putting money back into the Santa Fe economy when it comes through the tourists, just like those working on the Plaza. We need to be represented correctly and we should be heard about it.

**Luna Redondo** said she busks on the Plaza sometimes. She thinks vendors and buskers should be equal. She said buying a license and sit on the ground aren't really busking. She said like Sean said, being a busker, we fuel the economy just as much as the vendors might, although their jewelry might cost more than a dollar thrown into a hat. She spends the money in Santa Fe, and thinks it's important to keep the money in Santa Fe as long as possible, buying locally. She said busking is fun and a lot of tourists enjoy it as well.

**Jeff Green** said he is here to support buskers who weren't involved in the process of writing the Ordinance which he thinks is unfair and wrong, and doesn't reflect the values of the City and community as being inclusive and involving all of the stakeholders in these important discussions. He isn't a busker, but he does enjoy going to the Plaza or seeing them in other parts of the City. He said we have heard some absurd arguments tonight such as buskers are somehow responsible for the death spiral of New Mexico which he feels is ridiculous. He asked how a busker is supposed to self-enforce the 100 foot requirement. He said, "Maybe they could get a boom box and play an audio projection of themselves at the same volume, where they're performing, get a yardstick and measure 100 feet around the boom box so they know where their sound is going and how loud it is, but that is subjective. Some people hear well and some don't, and asked how this is going to be enforced." He is concerned about the criminalization of music and when did Santa Fe become a community that wants to treat musicians like criminals. He said, "Let's keep Santa Fe funky and not make Santa Fe a passive city."

**Ben Baur** said he represents himself this evening. He is here because he is a musician and has a lot of friends who are musicians, many of whom are buskers, noting he has never busked. He brings his 3 children to the Plaza to hear music, both at the bandstand and the buskers. He said some of his fondest memories are of standing and listening to wonderful music from buskers downtown, commenting he always brings dollars to throw in the basket for good performances. He said this draws people. He said the job of the Governing Body is to balance the interests here, because there are a number of people with really legitimate interests. He has been interested in the Merchants' Association positions and Mr. Dressman's testimony prior to this. He said these people really are trying to make things. He talked about two specific things, one is not have entry ways or display areas blocked, and the other is amplification which can be addressed. He said there needs to be enforcement, the Police need to be educated on this and how to go about doing it. He said, as a lawyer, he is concerned about criminalizing. He said on the very last page, there are parts this makes this a petty misdemeanor where the person is subject to arrest. He said people spend days in jail for these kinds of offenses. It is hard for him to imagine a busker, even a rude busker,

being arrested for this kind of activity. He urged that you not criminalize it, look at the civil penalties, postpone action, and have a meeting, have the buskers represented and come in and talk about this, and he thinks you will find a better resolution.

**Roark Baron** said he is a busker residing in Santa Fe for 40 years, and has 4 children, all born here. He sees the beneficial side of how the music makes people happy. He loves the job he gets to do and for people telling him they were looking for this when they came to Santa Fe and it is part of the magic they were hoping to realize and see here. He said there are conflicts and a need to postpone this measure for a few months. There should be more integration and talking with buskers about what might work. He said, "I find I have problems with some of the situations, too. There's overlap of sound that is too loud sometimes, there's too many, so I wish these could be addressed amongst the buskers themselves. Find ways to make it work. Many other cities have been through this and have designated areas and time by a lottery or some way that when I go down there I don't compete with 4-5 other people for the same spaces." He said he plays a harp and has amplification, but if playing next to a trumpet or saxophone player, unamplified, or a banjo player, they are louder than the amplified people. So it is not strictly amplified or unamplified, it's the camber and the way the instruments relate to the are. He appreciates Michael trying to bring an alliance together. He said he played art festivals around the country 20 years before doing this, and it was finding the balance that creates the ambiance for people to do shopping. It served everyone, so the people playing music were having a beneficial experience as well as those hearing it and selling their wares. He asked for postponement and a chance to talk about it.

**Andreta Caldera** said she sells fajitas on the Plaza. She said many buskers take their business seriously but many don't. She feels we need to have space between vendors and buskers. The amplification has gotten a bit out of hand, and thinks the buskers, vendors and everyone can work together, but it will be difficult. She doesn't think anyone can do this among themselves. She said the problem has been that the ordinance is not written so everyone reads the same intent. She said the Police need to be informed on this. She asked if there should be generators, she doesn't think so. She is not for amplification. She would like at least 50 feet between herself and a busker. She has had situations where buskers get testy when you asked them to tone it down a little bit. The Police comes down to enforce the law, and it's gotten physical. The tourists feel threatened. The Police makes an arrest or they don't and then they hear about it, and "they get taken down by the public." She doesn't think it is fair for the Police to "stand down" to the buskers or a lot of the element that is on the Plaza. She said there is an element that shouldn't be on the Plaza, people feel threatened. She said we need Police presence all day on the Plaza, every day. It's the center of town, where tourists convene. If they're not safe, they won't go downtown and that's going to affect everybody.

**Martha Wright a Plaza vendor for 35 years**, said she is the longest tenured vendor on the Plaza. She said has never seen the Plaza as bad as it is now, and it isn't all buskers. There are very good buskers on the Plaza that bring in people and tourists. However, there are those that buy a license and

take advantage of the Plaza. She said the stage is a fun place for buskers. She is right next to the stage and hears everything that sees and hears everything that happens on the Plaza, she's right next to it. She has never seen it as bad as it is now. Everybody is complaining. The tourists complain about the dogs there with the buskers. Their dogs are urinating on the stage. She said, "It's bad, and I mean it is bad, and I've never seen it this bad until last year and this year. Where are you going to put 200 buskers at one time. I don't know where they're going to fit..... I pay \$1,500 for insurance, and rent, and I have to buy liability insurance. Buskers don't have to buy liability insurance." She thinks Buskers should have to buy insurance is she does, so they can protect themselves as well as the City.

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

*The Governing Body commented and asked questions as follows:*

- Councilor Trujillo said he is hearing from everybody that only certain players were asked to come to the table, and the buskers weren't, and asked Former Councilor Calvert to address that issue.

Former Councilor Calvert said he had numerous conversations with members of the busking community. He said, as one busker told him, part of the problem is that there is no such thing as the Busker's community. In other words, there isn't a cohesive group that can stand together and be represented and to speak as one voice. He has spoken with many individuals through email and on the phone. He said he and Mr. Shandler went to the Plaza in person to talk to the buskers as well as other stakeholders at a public meeting that was advertised. He said some of those to whom he spoke are here tonight. He said they went through the changes, but some of the things have changed based on conversations with individual buskers. He said another busker said, "Yes, I know, with buskers, it's like herding cats."

Former Councilor Calvert said, "With all due respect to the buskers, I've tried to reach out to as many as I can, word of mouth, or whatever. This issue has been in the public for almost a year now. Initially, with my first ill-conceived version that got publicity in the paper and even on a local TV stations. I got a lot of calls and emails from buskers that I communicated with. We changed things, as a result of that, and we've continued to refine with their input as well as everybody else's input, so we haven't just asked certain people. Nobody from the busking community has come forth with their amendments, and why they aren't listed here. The other people did. I think, in all fairness the buskers are probably a little bit on the defensive and so they're just trying to hold their ground, and I understand and appreciate that, and I even support that to a certain extent."

Acting Councilor Calvert continued, "But I do think that what we're trying to propose here tonight, is there is an existing Ordinance and it will continue regardless of what happens here tonight. What we're proposing are some amendments we think will make it work better for everybody. And we certainly went through the analysis, and would be discuss that, on all the other possible amendments that people have proposed. Some I think have merit, some I don't, but that's something we can continue to discuss. But I just wanted to let you that I did reach out the best

way I knew to buskers. And I talked to a fair number of them, and granted, it was individually, but that's the only way I found that I could get the response."

- Councilor Trujillo said he knows Councilor Calvert and he is diligent when it comes to that. He said there is talk about postponing. He said, "This is my question to all the parties. I see you out there. I don't think there's a problem with you at all. It's those buskers that aren't here that create the problem. You've heard from a lot of the vendors that there a lot of good buskers out there. I know a lot you guys, I've seen you perform. But there is a problem on the Plaza there is no doubt. And I've driven by there. I've walked through there. I myself hear amplification that is too loud. When an amplification is drowning-out a car's radio driving next to them, there is a problem there. But my concern is, how do we get all of us, all of you here, into one room to have the discussion, if you want to have a collaboration between the vendors, the Plaza merchants, the buskers. He said Councilor Calvert has said he just reached out. He has, and I know this man has. We need these answers. How can we do this. If we're going to postpone this, I don't know yet, I don't know what the wishes are up here, but, where do we have this meeting. Who is going to show up. And the fact is, after we have these discussions, and we pass the Ordinance, guess what, we're probably going to have the same problem, because you're going to have those buskers that could care less still setting up. And then next year, we're going to be revisiting this thing again and it's going to be an ongoing cycle. And I know it has been, because Councilor Calvert has been doing this for the last 8 years. These are my questions, I guess, to the buskers, the Plaza merchants. How do we come together, how do we collaborate."
- Mayor Gonzales said, "It seems like we've very close, but not quite there. Meaning you have brought us to a level, Councilor Calvert, where there is an Ordinance in place. And I think one of the important things that I heard tonight, it seemed like people are feeling like we're doing away with buskers in Santa Fe. And I think, for myself certainly, I see the value in the presence. As a child, I got the chance to walk on the Plaza. And I didn't know them as buskers, but it's the incredible musicians. I think they are a part of the vibrancy of this community. I think it does send a strong message to the youth about their participation through their music. I do agree with what the Councilor has said, we all know that there are still problems that need to be addressed there, is that balance."

Mayor Gonzales continued, "And I'm wondering if, to answer Councilor Trujillo's point, if we set a firm date, and we made the Council Chambers available for people to come in and have, if you're willing Councilor Calvert to continue this with Zach and any of the Councilors who want to be here, to allow for people to have time to look at the amendments, to take a look at the Ordinance and submit comments, and then come back and answer questions, and allow for some type of participation. Possibly a 30 day postponement with a meeting in between. And if people want to participate in offering input they could show up. If they don't, we're going to be ready 30 days from now to adopt an Ordinance that tries to strike that balance. What I do appreciate about this Ordinance is that it does allow for us to come back 6 months down the road and be able to measure its effectiveness."

- Mayor Gonzales continued, "Hopefully, in its best form, what it is going to do is what everyone has said tonight. It's going to allow for an enforceable Ordinance that promotes a vibrant, and very energetic part of Santa Fe through the voices of many people who want to be a part of it. And does so in a balanced way, because it allows for the removal of individuals who try and take advantage of a situation that is very inexpensive and they can just show up on the Plaza and do what they do, which doesn't necessarily improve or enhance the quality of life for people who are there. And I think there's some confusion out there and maybe possibly some opportunity to discuss the setbacks, the separations maybe a little bit more to allow for an understanding as to how we arrived at the 20 foot separation or the 100 foot separation for the buskers so they can have some type of input into that, understanding the parameters that we still need to make sure that we don't have a Plaza that's full of musicians that are singing over each other and stepping over each other. I understand Councilor where you're going and if the Council does choose to table this issue that there could be a firm date for vendors and buskers to show up to allow input, to have discussion, prior to the next meeting or the next meeting in 30 days, for discussion. This is my two cents."
- Councilor Maestas thanked Former Councilor Calvert for his service to the City and said he doesn't want his work to go into some process that has no conclusion. He would offer to sponsor the Legislation so we have a working draft with a sitting sponsor. He said, "I would suggest that we do what has been suggested, which is to postpone this for 30 days. But what I would like to see in the way of a process is, that we have each and every member of the Governing Body to formally submit amendments from any of the potential amendments in the table. And incorporate those amendments into the bill that is before us. That way we have one piece of legislation which has all amendments suggested by members of the Governing Body, then we can initiate the coordination of public involvement. And particularly consult with the busking community before we take action on this."
- Councilor Maestas asked, "On the table itself, Mr. Shandler, have these cleared any appropriate committees."

Mr. Shandler said, "No. We provided them so you wouldn't be flat footed when you heard all the public testimony. That was the purpose of providing them in advance to you all, and they were provided publicly as well."

- Councilor Maestas asked how long it would take to incorporate these formal amendments, sponsored by a member of the Governing Body, how long would it take for them to go through another round of committee meetings as one piece of legislation with proposed amendments. How long would that take.

Former Councilor Calvert said it would take another two months at least.

- Councilor Maestas said, "My only concern is there are some enforcement-related amendments in this table, that have not been vetted through Committees, and I would hate to not have our Public Safety Committee, our Police Department, our Finance Director who has some role in the enforcement of some of these provisions, to take a look at this. I want to make sure we have an organized process going forward. I saw a lot of common themes. We need a buffer between vendors and buskers, the amplification is an issue. I heard all that and I saw a lot of common themes."
  
- Councilor Maestas continued, "But the thing that hurt me the most was the criticism of our democracy, our process. And if anything, let's make sure we have a robust, democratic process. That way, not everyone may be happy, but they can't criticize the process. And I heard a lot of criticism on that. So I would advocate for a postponement, but I want to make sure that we have an organized process to consider all the work that's been done. The vendors provided a lot of feedback, staff provided a lot of feedback, Mr. Shandler provided some specific language to amend the Ordinance. Let's maybe try and organize the process again, and work from one piece of legislation going forward. That would be my suggestion going forward."
  
- Councilor Dimas said he has spoken to both sides, but he hasn't heard from law enforcement, and he is concerned as to how we are going to enforce this, that is his main question. He said, "I agree with Ben Baur who brought up the point. I don't think this is really a criminal matter. I would like to see this more as a civil matter than a criminal matter. So I think there is still some work to be done on this legislation in a lot of ways. There are a lot of questions to be answered. And I think we need to take a little bit more time to study this issue a little bit more. And I agree with you Councilor, in that I think we need to postpone this. I think it needs to go to committees to get a better idea of what the amendments might be from different committees that are affected by this and to come up with ideas. While I appreciate all the hard work Councilor Calvert has done on this, and I know he spent a long time on it, and it's difficult to get all the parties to come together, but I think it's something that we need to do that has to happen before this Council can actually vote on this particular issue. So I think there are some things that need to happen before that."
  
- Mayor Gonzales thanked Councilor Dimas saying, " I think we're moving to a place where we certainly want to have a clear direction so the public understands the opportunities to participate. Because one of the things we're doing is we're tracking to an updated Ordinance that is in the works. And so it should be very clear that tracking means there will be a definitive date in the future that everyone knows that we will be back as a whole, discussing and then ultimately voting on the process. So can you maybe take a couple of minutes and work through a quick calendar. I think the issue would go to Public Safety and then Public Works and then to the Council. I'm suggesting Public Works because of the Plaza and the Park, and Public Safety. Councilor Ives any other remarks."

- Councilor Ives said; "The issue about criminalization is one I would share concerns about. And I would certainly invite the participation of Police Department to comment on that. As I look at the proposals here, that movement toward criminalization is only after, for instance, a license has been revoked and presumably one is performing without a license, or has failed to comply with the reasonable direction of the Police Department. I think in Santa Fe we don't try to be heavy handed, but we also have to make sure there is enough capacity in our Police Department and enough clarity in the Ordinance to be able to act definitively if folks simply refused to comply with what the law provides. So I would love your participation in the process."
- Councilor Ives continued, "Again, I understand the hesitancy to go toward criminalization, but I'm not sure at some point there is an alternative. So, if there are alternatives, I would love to understand those better. To our officers, I agree, enforcement is always a difficult issue and sometimes I think that part of the problem with our existing Ordinances is that we've never been staff to the point where we can ensure there is a police presence on the Plaza." He said the escalation into conflicts, fight, name-calling, swearing, etc., as we've heard are the issues which really cause significant problems. He will be looking to make sure that whatever we do, the Police Department does have the capacity to enforce, and similarly asking the Police Department for its input as to what you think is difficult in terms of enforcement.

Councilor Ives said, "And I would point just to one item which is page 4 of the Ordinance, all of Section G, "The sound levels and street performers shall be kept at such a level that other street performances are not disturbed. The sound level shall not be plainly audible 100 feet away from the performance site. And I can tell you, if my wife were a police officer and I were a police officer, that would be a different measurement in terms of when it became audible. Her hearing is much better than mine. So that would be an area where, for instance, a contribution from the Police force in terms of, if you are going to be the ones who are called upon to enforce it, what do you think you can enforce. Please help us understand what would make your job easier as we consider this in its entirety. And what we need to and, of course realizing that we do have an Ordinance currently on the books, which again, hopefully is being enforced."

- Councilor Trujillo asked if we will first have the meeting between the 3 parties and then have that discussion, and from that discussion we can rewrite the Ordinance. He asked if we are going to set dates to go to Public Safety, because in his opinion, he doesn't think that will work, and believes we need to have the collaboration listening to all parties involved before we take this to Committees.
- Mayor Gonzales said this is a valid point. He said he doesn't think it will take long to assemble a group of Plaza merchants, vendors, buskers and the Police to sit in a room to see if we can drive to at least a working group's effort. He said we have to be careful though, that it will be limited to the people who choose to participate, so there will be a lot of voices that will be left outside of this. He said, "So I think if we identify a date certain, Zach, you would be available, and if the Councilor could show up that would be great, along with Councilor Maestas and the others. Then, let's try

for what Councilor Trujillo is asking, let's try and find some consensus by allowing for one more meeting here at City Hall, prior to going through the Committee process, to work out the amendments, to identify what can be agreed on by a core group, what's not agreed upon. And those are the things that should make its way through the Public Safety and Public Works Committees." He asked the Councilors if they are okay with that meeting.

- Councilor Rivera said, "I'm not in favor of postponing it. I think Councilor Calvert has worked on this for over a year. I believe he truly does his diligence, and I know he has spoken with many people, both merchants, vendors on the Plaza as well as buskers. It has gone through the process. It went through Public Works on February 10, 2014, through the Finance Committee on February 17, 2014, and went to Public Safety on February 18, 2014. I think if we postpone this and bring it back, you are going to have people on both sides that come in that are fresh and new, that say, 'I haven't had a chance,' 'Nobody asked me.' And where does the process really end. Do you give everybody an opportunity to speak that hasn't had the chance yet. It's not perfect, I don't think it probably will ever be perfect, but I think it's better than what is on the books right now, and that's just my opinion on it, Mr. Mayor, and I'll be voting no if the proposal is for postponement."
- Mayor Gonzales said, "And I appreciate that, because you're right. There has been a lot of public meetings on this. We're so close, that if the issue is just more education and maybe more awareness in a 30-day period, I'm not sure if there's an urgency. If there is an urgency, then I think Zach, you need to let us know or maybe the Police Department needs to let us know. Maybe we don't go back through the committee process, but to allow for more time for the public to review what is in place before we act, I think at a minimum, doesn't hurt the process. Having to go back through and having to take another round, I'll defer and certainly look to the wisdom of the veterans when you have this many amendments, if they've already made it through the committee process, that's fine. But, if 15 amendments have come forward after the committee process, and then we start going through and debating them individually, I think you have the potential to substantially change the bill or have an ordinance that didn't really make it through those rounds. But I don't know when these amendments came forward."

Former Councilor Calvert said all of the suggested amendments in the matrix were not intended to be considered with the same degree of seriousness. He said some of them are "straw men. They were put out there because these are things that came up during the discussion and we wanted the Council to have the benefit of the discussion and the research that was done subsequently to show the pros and cons, and in some cases show they already are covered, that this isn't something new, and is already in the existing Ordinance, and perhaps just needs to be enforced.

- Former Councilor Calvert said he appreciates Councilor Rivera's comments, and said, "Pardon for a second, my impertinence here, that is the rationale for having committee meetings is for these things. And I understand that the three of you up there are new, but when these things go through committee, if you have questions about whether we should have criminalization, that wasn't even

anything new and maybe that's why it was overlooked. But that's in the existing Ordinance. So, if you have these kinds of questions, these are the kinds of things that people should bring up when it goes through the committee, otherwise what's the point."

Former Councilor Calvert continued, "I don't have a problem and it's not my decision anyway, but even if I had a problem, you wouldn't care. But I don't have a problem with postponing it, but I would say to a date certain. I would say that if we consider the proposed amendments in this package as part of the public record, then perhaps we can avoid the renoticing and adding another month to the process. And I would recommend the process you were talking about. You can go back through the Committee in a month, but you also should have a facilitated meeting with all the stakeholders, and you give them a date, and wherever it is going to be, and 'Speak now or forever hold your peace. He said he is fine with erring on the side of getting more people involved. He said he may not be here for the meetings. He said people need to understand it will be a well defined process and not open-ended. This thing has been going on, for a long time and people have had chances to make their voices heard. He said sometimes it takes the eleventh hour to get people to really seriously consider something.

Former Councilor Calvert continued, "I really think you need to honor what has gone on to this point. I don't have any authorship issues or anything like that. Whatever the public and the Council want is fine with me. What I will say is, in the meantime, we do need to concentrate on enforcement, and that will be a constant, whatever we move forward with. And I appreciate the Police Department's efforts of late to get more involved with this, but it isn't just this one, because there are a lot of issues that revolve around the Plaza and various issues, and we can pass Ordinances until we are blue in the face, but if we can't enforce them, then they're meaningless. As some of the people said, the Council needs to support the Police Department in making sure they have the information and support to enforces these, and ask them to enforce them. I'll just leave it at that."

- Mayor Gonzales said he has directed the City Manager to work with the Police Department to present a plan for more police presence on the Plaza, and certainly more enforcement, on a number of the Ordinances that are directed to the Plaza. He said a lot of issues were brought up this evening, outside the buskers that need to be addressed, and we can start working on that once the Manager has drafted the plan and we move forward. He said we are very close to having something like that in place before us. He did want the Councilors to know that this direction has been given to the City Manager and he is waiting to hear back on what the plan is for a more permanent presence of the Police Department on the Plaza, what they need from us as a City to do that. He said this Ordinance is about enhancing the busker presence where it is at quality and continues to show Santa Fe as being a fully vibrant arts community in a way that is receptive to all of us.

Mayor Gonzales continued, "And you've got us there. I think what it is, is 30 more days to allow the public to look at what it is and the Council committing to moving to some action at some point."

- Councilor Dominguez thanked Former Councilor Calvert for all of the work he has done to this point to get this on the table and make sure we have a debate about it. He said, "In some regards, I agree with Councilor Rivera, because I'm ready to have the debate now if we need, and mill through the language and talk about some of the stuff that maybe is arbitrary in the language. But, I think, in all fairness to the new members of the Governing Body, and it sounds like they want to take some ownership of this, that's a good thing I think. In all fairness to them, I think we should give the opportunity to really dive into it and get their hands dirty, for lack of a better way to put it."
- Councilor Dominguez, "Just a couple of other comments real quick, I think what I see and what I've heard, is really that enforcement mechanism, especially in light of the direction you've given the City Manager, I think it would be beneficial for the Police Department, whoever it is going to be, to provide us with a memo about some of their challenges in enforcing it. Again, we're going to have a lot of the same issues if it's not enforced, and so we need to be able to understand that and hopefully address it appropriately, or at least understand that, you know what, there are going to be incidents that happen that aren't enforceable, or whatever the case may be."
- Councilor Dominguez continued, "And I guess the final thing, in order to kind of make sure that we do have that buy-in, or that people have been given the opportunity to speak, that we close the public hearing on this issue tonight. And I'm not sure if we can do that legally, Zach or.... the title.."

Ms. Brennan said, "The question is, can you close the public hearing. Yes. And you can have another public hearing, you can continue the matter to a date certain for debate."

- Councilor Dominguez said, "And I'm not sure if the Governing Body wants to do that. I'm just thinking that in order to get folks to the table that they understand that maybe tonight the public hearing has been closed, and it forces them to engage and participate in whatever process we decide on. That's the only reason I bring that up, is it kind of forces the issue if you will on people. And so, that's it. Thank you Mayor."
- Councilor Trujillo asked Mr. Snyder how quickly can we set up this meeting, or who is going to set up this meeting.
- Mayor Gonzales said, "We're talking about a meeting where we can bring in the interested parties and see if we can work through some consensus – where is the consensus between the Plaza vendors, the community at large and the buskers. Okay, so go ahead."
- Mr. Shandler said, "It could be an informal meeting. We could set it up, Jody could do a press release. We could go down to the Plaza on a certain date, we could use the chambers on a certain date."

- Mayor Gonzales said he wants to do the meeting here at City Hall, and asked when the chambers would be available, so we can make sure we have enough room, and asked if April 16, 2014, is available..

Ms. Vigil said April 16<sup>th</sup> is an off Wednesday for Council, so it should be available.

- Mayor Gonzales would like to do it on April 16<sup>th</sup>, even if Councilor Trujillo can't be here, but one of us will be there, and asked if Councilor Maestas if he can be here.

Mr. Shandler said the "blue" is Public Safety and asked Councilor Dimas if he would like to hear it.

- Mayor Gonzales said, "Well, let's just go back to that question. Councilor Dimas and Councilor Trujillo, being that this has already made a lap through your committees, so you want it to go another lap through your committees to discussion, or are we okay with moving to opening it for review, basically making it available to members of the public, the table that has been presented to us, the updated amendments, starting tonight. People come in on the sixteenth and we'll work to see if we can facilitate consensus between the Downtown Merchants and the buskers, as well as other interested parties, and then come back to the Council on the thirtieth for debate and adoption."

- Councilor Trujillo said, "I would rather it not come to Public Works, and then go directly to the Council."

- Councilor Dimas said, "I agree with that."

- Mayor Gonzales said, "I know we need to do this in the form of a motion, so I'm assuming on the sixteenth, I'm assuming we should probably do it in the evening to allow people to come in."

Ms. Vigil said Melissa Byers is going to her office to get the book to verify that that date is available, and asked him to hold the motion for two minutes.

- Councilor Lindell said, "First of all, I would like to see us move to a date certain, because this issue does need to be addressed before the end of the summer, and these things can have a way of dragging on. Date certain. I would like to see us have the public hearing be closed, have folks meet and talk about this. I did propose an amendment tonight dealing with enforcement, because I know that is a high problematic part of what we have that exists. So, we have started to address some of that, and I think a date certain is extremely important to this, because I think there is some immediacy to it."

- Mayor Gonzales said we are all tracking to a date certain.

Former Councilor Calvert said, "I would add a little more urgency than Councilor Lindell, to say you would want to have this resolved and in place, and working before the Summer starts."

- Mayor Gonzales agreed, saying we understood what she was saying.
- Former Councilor Calvert said, "Whatever you do is going to require education of everybody – staff and the community members involved as well. It's one thing to say we want better enforcement. Where you have to start with that is with the education, in getting everybody understanding and on the same page on what is in the Ordinance, and what it says and doesn't say. And then we can get the enforcement done better."
- Mayor Gonzales said, "I think we can have the meeting on the 16<sup>th</sup>. If I'm here, I'll participate with you Councilor Maestas. We go to the 30<sup>th</sup> and we adopt, and then we go to the education side of it. So we can host a series of either the Downtown Merchants, the buskers, the community at large. We can work with Jody to make sure both through digital media, and being able to answer the 'what if' questions. I had a chance to see the officer the other night. He did a great job with the Downtown Merchants. So I think engagement by the Police officers will help in communicating what is happening."

Former Councilor Calvert said whether or not you close the public hearing, I guess if we are going to err on the side of more inclusion, then I wouldn't, because maybe everybody didn't have the opportunity to see the matrix with all of the proposals. It might be a matter of semantics whether you close it tonight and reopen it again. I would say we're continuing this process and postponing it for a month, so he wouldn't necessarily close the public hearing and just consider everything that's been presented here tonight and what you gather at the meeting is fair game for discussion at that month."

- Mayor Gonzales agreed, saying, "One of the things we want to come out with on the sixteenth is some consensus that can be released to the public, and with that Ordinance, there should be people who would be able to speak to it, or offer some vehicle, but it's your call."
- Councilor Maestas said, "Then we're just going to throw everything in there in the middle of the table of possible amendments, the Resolution that was discussed tonight, and that's where we're going to start from. Because, I want to entertain the possibility that there could be some additional amendments suggested as the result of that meeting. Will staff have enough time to vet those and will we have enough time to come up with specific language to be proposed and considered at the April thirtieth meeting. So I appreciate the need to suspend the Committee process to move this along, but I just want to make sure that we still do have some checks and balances in the event we get some new suggested amendments as the result of this consensus building meeting."

Former Councilor Calvert said, "What I will say to that and Kelley can tell me I'm wrong. If all you are considered is what was offered here tonight, and why I mentioned the matrix of possible amendments. If you start and I'm not saying you shouldn't, but if you offer new things that substantially change it, then you might have to re-notice because you've substantially what the public record is and what will be discussed."

Ms. Brennan said, "What I would say to that, is this has been advertised as an Ordinance relating to street performers on public property, amending the existing Ordinance. And I would also say that it seems to me, that the range of amendments proposed is fairly exhaustive, and it seems that the subject matter of whatever amendments seem desirable will fall within those categories. If there is some surprise out there that someone hasn't raised yet, it might be possible that you would have to re-notice it as a significantly different bill. So, because of its general title and because of the extent of the discussion so far and the numbers, the range of options that you have, I feel that you can postpone to a date certain in order to have further discussion. And, even when public hearings are closed, they can be reopened for comment. I think we've seen that before. I think the thing is to make sure you postpone to a date certain, whatever that is, and I think Yolanda has some information about dates."

Ms. Vigil said, "I want to propose a couple more dates. The first available date would be Thursday, April 10, 2014, that would certainly give staff enough time to prepare any amendments or anything for the April thirtieth meeting. The next available date would be Monday, April 14, 2014. April 16, 2014, currently as BTAC at 5:30 p.m., so that's scheduled in the Chambers. But if you want additional time for the staff to work on it, I would say that maybe we do it then on Thursday, April 10<sup>th</sup>, if that works, here in the Chambers."

- Councilor Maestas said, "I would like to have it early in advance of the April 30<sup>th</sup> meeting. Is April 10<sup>th</sup> enough time to provide sufficient time to provide sufficient public notice, to plan this meeting, to provide notice and such."

Mr. Snyder said, "Mayor, Councilor Maestas, I believe it is."

- Mayor Gonzales said all the discussion that's going to happen on the tenth already is available to the public, starting from here forward in terms of the ability to see information and participate. He agrees, we want to make sure from the point of, hopefully, the tenth being a meeting of consensus that then people are able to see what that means.
- Councilor Ives said, "I'm just trying to follow up the thinking on keeping the public hearing open, if the intent is to have this study session, presumably, to receive public comment. I would probably be more inclined to close the public hearing and then take input from that meeting which presumably is the opportunity we are creating for folks to come in and provide that input, for fear we'll just keep on getting more new input. If we're defining that special opportunity for folks to weigh-in, comment and participate, we should use that as, if you will, the conclusion of the public

comment process, so that by the time it comes back to Council on the thirtieth, we're really looking, hopefully, at simply getting in and taking action on something where there hopefully is great consensus."

**MOTION:** Councilor Trujillo moved, seconded by Councilor Maestas to postpone this item to the City Council meeting of April 30, 2014, with direction to staff to hold a meeting with all parties/stakeholders involved on Thursday, April 10, 2014, at 5:30 p.m. in the Council Chambers to try to find consensus, and with the Mayor's request that Councilors Trujillo and Maestas to serve as this Body's representatives to try and find that consensus.

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

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

**Against:** Councilor Rivera.

Mayor Gonzales said, "And I guess my message, obviously would be to those that are here who have the relationships, April tenth, that's your time to come to the table and trying to work through finding some type of consensus. I have confidence in Councilor Trujillo and Council Maestas to be the muses of bringing people together."

~~5) **CONSIDERATION OF BILL NO. 2014-11: ADOPTION OF ORDINANCE NO. 2014-15 (COUNCILOR WURZBURGER AND COUNCILOR DOMINGUEZ AND COUNCILOR IVES). AN ORDINANCE RELATING TO THE CODE OF ETHICS, SECTION 1-7 SFCC 1987; AMENDING THE CODE OF ETHICS TO ESTABLISH THAT WORKPLACE BULLYING BY GOVERNING BODY MEMBERS WOULD BE A PROHIBITED ACT AND SUBJECT TO A VIOLATION OF THE CODE OF ETHICS. (SANDRA PEREZ)**~~

~~Sandra K. Perez, Interim Human Resources Director, said Former Councilor Wurzbürger is in attendance, and has a few things to say in addressing this particular item.~~

~~Councilor Wurzbürger said, "I wish I wasn't so addicted to this. I actually enjoyed the previous discussion. This is housekeeping, let's call it. It's not as provocative and doesn't engage the public, as the previous discussion or the discussions earlier. But all I want to say about it is that I really appreciate that, in the lame duck session of the last four months as several of us ended our service to the Council, one of the highlights for me was the tremendous work we did on the Charter Commission. And I want to thank Councilor Ives and the Council for moving that forward."~~

**PUBLIC MEETING  
STREET PERFORMERS ORDINANCE  
CITY COUNCIL CHAMBERS  
APRIL 10, 2014  
5:30 P.M.**

A meeting to provide input on the Street Performers Ordinance, was called to order by Councilor Joseph Maestas, at approximately 5:30 p.m., on Thursday, April 10, 2014, in the City Council Chambers, City Hall, 200 Lincoln Avenue.

**COUNCILORS IN ATTENDANCE**

Councilor Joseph Maestas  
Councilor Ron Trujillo  
Councilor Signe Lindell

**STAFF IN ATTENDANCE**

Zachary Shandler, Assistant City Attorney, City of Santa FE

**OTHERS IN ATTENDANCE**

Philip Crump, Mediator and Facilitator  
Elizabeth Martin, Meeting Stenographer

**I. INTRODUCTIONS**

**Philip Crump, Facilitator** for the meeting, said good evening and introduced himself. He said he will be a neutral mediator and facilitator for the meeting. He will ask the Councilors to say a few words, however, they are here to listen. He said this is not a council meeting and no decisions will be made tonight. He said Councilor Maestas will be timing the speakers.

Mr. Crump said he will ask Zachary Shandler to provide a brief overview of the current ordinance and then the proposed ordinance. Then the Director of the Buskers Alliance will speak. After that others can speak for 2 minutes each. He said he would like this portion of the meeting to be complete by 8:30 p.m., and then we will summarize what has been agreed upon and stated tonight.

Mr. Crump said the Councilors are looking for as much consensus as possible between vendors, business owners, buskers and the public. Consensus is not unanimity, it is attained when each participant can say they understand your point of view and you understand their point of view. They might not agree with everything but this is the best alternative at this time and it was arrived at in an open way.

Mr. Crump asked the audience to think through their comments before coming up to speak. Complaints should be clear when sharing them with all of us. When you speak please focus on what is going to work. What would you prefer and what will support the community in a positive fashion and what the police department can enforce

Mr. Crump then introduced the Santa Fe City Councilors who were present and asked them to say a few words.

Councilor Joseph Maestas said, "The reason why we are here is to listen. There is an ordinance currently on the books. We convened the City Council to look at proposed amendments. I want to make sure the this dialogue is shared by everyone who has a stake in this matter. I don't want to divide the community. I want to unify the community and identify our differences. I want you to participate to the fullest extent and contribute to the dialogue. Hopefully we can find consensus on all issues. That may not be possible. There could be issues that require more work. If we need to schedule another time to talk, we will. April 30<sup>th</sup> is the date we have set to compile the amendments and it is my hope that we will have consensus to present. Thank you for coming."

Councilor Maestas noted the Plaza is in Councilor Lindell's District and asked if she has any comments.

Councilor Lindell said, " I think Councilor Maestas has summed up the work we have to do. Thank you for coming. Now lets get down to work."

Councilor Trujillo said, "Thank you for attending this meeting. I Hope we can come to a consensus for a good buskers ordinance.

## II. OVERVIEW

A copy of *Santa Fe Buskers Alliance Position Statement*, dated April 8, 2014, submitted for the record by George Robinson, is incorporated herewith to these minutes as Exhibit "1."

Mr. Crump said in order to prepare for the discussion he would like to call on Zachary Shandler who will give us an overview of the current ordinance and the proposed ordinance.

**Zachary Shandler, Assistant City Attorney**, said there is an ordinance currently on the books now. It includes 5 main points. They are as follows: Street performers must have a license, they cannot perform on private property without permission, they must maintain a 150 foot distance from other performers, they must move every two hours and the penalties for not complying with this ordinance include criminal penalties that are fees or jail, and civil penalties that include revoking their license for one year.

Mr. Shandler said the proposed ordinance changes are as follows: Street performers must display

their license, their sound level cannot be not plainly audible from 100 feet away, they cannot use public power sources or portable generators and the Finance Director (not the Finance Committee as in old ordinance) can take action against their license.

Mr Shandler reported there is one additional recommendation from the Public Safety Committee which is that street performers cannot perform within 20 feet of the entrance to a building.

Mr. Shandler said the City Council can adopt the four proposed changes and/or the fifth recommendation, and any other amendments where there is near uniform consensus, or they can go for the whole thing and rewrite the guts of the ordinance.

**Unidentified** asked for clarification as to the distance from other street performers.

Mr. Shandler said they must perform 150 ft. away from other street performers.

Mr. Crump said the Plaza is a designated historical landmark, a magnet for visitors. The existing ordinance also says street performers enhance the city of Santa Fe and that street performers have the right to perform.

Mr. Crump went on to say that former Councilor Calvert proposed changes to the ordinance. He said, "It is not likely that a perfect ordinance can be created. However, I encourage you to look for areas of agreement, can you live with it, is it okay. Enforcement is important to provide guidance for the Santa Fe Police Department. There are areas of general agreement. Effective and endorsable rules are needed for certain areas. These are universal themes. In addition there is general agreement that the 30 day, \$10 permit should be eliminated. Also, issues of appropriate behavior may already be in other ordinances."

Mr. Crump introduced George Robinson, Santa Fe Buskers Alliance, and asked him to say a few words.

**Mr. George Robinson, Santa Fe Buskers Alliance**, said, "Thank you to everyone who came. I am here for the alliance. We are here to participate and come to an agreement on the Plaza and with the community. We know we need more comfort for the vendors on the Plaza. That is our main objective. We want to build good relationships. We want to bring everyone together for agreement. We have 5 or 6 areas of problems." Mr. Robinson noted he had provided a copy of the Alliance Position Statement for everyone. [Exhibit "1"].

Mr. Robinson continued, "The areas of problems are as follows: volume levels, density, stores and vendors, private property, enforcement, set of guidelines for buskers and minimizing competition. Busking provides vitality to the community. It includes varied forms of expression. I busk for the enjoyment of it and to see the reaction of those passing by. It also will bring people to the Plaza. The Mayor is working on making the Plaza an even more vital place. We support that and we want to cooperate and come to good terms."

### III. PUBLIC INPUT

A copy of the sign-in sheet is incorporated here with to these minutes as Exhibit "2".

A series of black and white photographs, entered for the record by Houshang Youdim, are incorporated collectively herewith to these minutes as Exhibit "3."

A petition containing three pages, entered for the record by Dana Smith, are incorporated collectively herewith to these minutes as Exhibit "4".

A packet of materials entered for the record by Leigh Murphy, is incorporated herewith to these minutes as Exhibit "5."

A map drawn by Michael Murphy, entered for the record by Michael Murphy, is incorporated herewith to these minutes as Exhibit "6."

A copy of *Proposal to Decriminalize City Ordinance on Street Performers* prepared by Ben Baur, entered for the record by Jeff Green, is incorporated herewith to these minutes as Exhibit "7."

A copy of the questionnaire, "*Street Performers 10 Golden Rules*," entered for the record by Zachary Shandler, is incorporated herewith to these minutes as Exhibit "8."

#### Speaking to the issue

*Mr. Crump said each person will be given two minutes each to speak to the issue, so everyone can be given a chance to speak. He said Councilor Maestas will be keeping time for them and he asked that each speaker identify themselves and if they are artists or vendors.*

**Cliff Mills, artist on the Plaza**, said, "I have been performing on the Plaza for almost 20 years, across from the bank. I like the buskers. I have no problems. I like the ordinance Councilor Calvert put together. I appreciate having the ability to share our art forms on the Plaza. We can usually work out things ourselves. One time a guy was too loud. We asked him to turn it down and he did. We are sharing our art forms with the community. This is over blown and has been made into something it is not."

**Houshang Youdim, Gallery owner**, said, "I have been in Santa Fe for 24 years. I want you to look at this and see if it makes you proud." Mr. Youdim provided a series of pictures [Exhibit "3"]. Mr. Youdim said, "I am embarrassed to see cigarette butts, garbage, trash cans full and filthy and broken streets. This place is supposed to be beautiful but now I am sick of it. No one cleans up. The City has nothing to do with it. They do a half ass job cleaning. It is filthy. I travel all over the world, there are muscats all over, but a lot of these people are not muscats they are noise makers. Some are real singers

and guitar players. People love them. I want them to play. I have a private place and will allow them. I want to stop the ones with the backpacks. The homeless, beggars, the dirty and the noise from motor cycles. Stop them. I commend you for working to stop the traffic around the Plaza."

**Michael Combs, musician,** said, "Thank you for being here. I am so grateful that this was set back a month. Everyone is not lovey-dovey but we recognize each other and know the issues. There is no sense in demonizing one another. We all cherish the Plaza and the work and people who work there and all of us cherish this town, where our children grew up and we have our elders. We cherish this town. We are a community tightly woven and we can get through everything. The 20 ft. or 50 ft distance would make busking impossible. I hope we don't go that way. A stable police presence downtown would be great."

**Ben Chavez, jewelry maker and vendor,** said, "I have been on the Plaza making my jewelry since 1984. I am on the Plaza seven days a week. I want to talk about enforcement. No CD sales at all should be allowed on the Plaza. We pay a substantial amount to be on the Plaza. CD sellers should have to get a Vendors Permit. CD selling is not what a busker license is for. The license for CD sales should be more than \$35. That is only ten cents a day. They should be required to carry liability insurance. Every busker should have a CRS number if they are selling CDs. Buskers should have to audition. A lot of people use the busker's license as a panhandling license."

**Unidentified person from the audience** said, "I would just like to play, not to make money. Could you tell me why everyone is here. Why are you are bothered by buskers."

Mr. Chavez answered by saying, "I am bothered because of amplification. Some are professional and some are not. Some just play the same cord over and over. They are extremely irritating."

**Dana Smith, musician** said, "I circulated a petition that I have given to the Councilors [Exhibit "4"]. We ask that the 20 ft. rule from the entrance to businesses be removed from the proposal. We buskers ask that this be at the discretion of the merchant. The petition signatures reflect this support. Councilor Calvert was confused about what is public and what is private property when he drafted this. After I spoke with him about it he understood. I am afraid this will be confusing. It will also drive the buskers to the square. Before we make all these reforms, I ask you to make a few changes and assess the effectiveness. We all agree to eliminate the 30 day license. We need to increase police presence. Maybe buskers could have an ID with them that shows you are the name on the buskers license. I feel blessed to contribute to the vitality of the community."

**Lee Reasoner** said, "I work near the Plaza and I sit in an office all day long. I don't know ordinances and codes but I know when I get a lunch break I go to the Plaza and listen to music. I feel like I have been on a little holiday. There is good and bad. I talk to folks visiting Santa Fe and I learn from

them, give them directions and tell them places in Santa Fe to visit. I think it is one of the best things for workers in the Plaza area.”

**Coad Miller, local photographer**, said, “I love the music scene in Santa Fe. I take lots of pictures of muscats. One of the biggest problems on the Plaza is a problem with enforcement. The officers don’t know anything about the ordinance. The buskers have to tell them. Education would be great. There are a lot of great muscats. Please don’t hurt the buskers. Make rules that are more enforceable. Busking is fun for everyone.”

**Hive** said, “I want to speak about the community recognizing fire on the Plaza. I am a starving artist. Molivar [?] is my art. Fire and juggling. People will go out of their way to see this. People come to see it, kids and all. Locals will come out on the weekend to see me perform. I have been here a week. We are all one organism. All together. I am the lower class. Look at it as a whole. Looked at alternatives, but fire is a balance. I would like the community to reconsider that fire can be done in the Plaza.”

**John Dressman, shop keeper on the Plaza**, said, “1952 was the first time I walked across the Plaza. All the rules and regulations get ignored. The ordinance has to be forward looking, like 20 feet away unless they have permission of the owner. If you are a renter with a sidewalk you directly or indirectly pay for repairs to the sidewalk. Vendors do too. We spend hundreds of thousands of dollars to keep things up. We expect some protection from the City.”

**Steve Perrigo, professional musician and busker**, said, “I live in Pecos and perform on the Plaza. This is blown way out of proportion. Busking brings a great flavor to the City. Aside from a few buskers, people love us all. Tourists love us. People from Italy, Germany, Ireland and all over the world love the music. The Buskers Alliance can work with the vendors to settle issues. Amplification is something we can work out. I would like to see everyone work together and not against each other.”

**George Robinson**, said “I am speaking for myself and not the organization. Regarding the Calvert bill, my personal opinion is to go back to the bill as is and change the way the violations are enforced. I believe there should be no criminal violations. Citations should be used. The Busking Ordinance should include good mechanisms to enforce license requirements. No criminal code within our code. They exist in other places.”

**Logi Miller, pro musician in Santa Fe**, said, “I went to high school here and am planning to busk this summer. I think the rule of not playing within 20 feet of doors makes all locations unavailable. It is not a good idea. I also feel that we need to bring up that Santa Fe is a City that prides itself on the arts. I believe music is part of the arts. Any kind of criminal offences toward artists in this town does not show

support for the arts. I would like to know more about the Finance Director taking direct action. I think we need to take a serious look at order and creativity. With too much order creativity, can be squashed. I invite you all to consider this."

**Michael Chavez, pro musician for 20 years**, said, "I do busking to increase my income. I have a license and have been harassed by the police. Rules work if they are enforced. You should have a citation and a warning. There are a few bad apples that are ruining it for everyone. Things get mixed up between panhandling, homeless and the buskers. If you have a license and are complying you should be left alone, if you are following all the rules and we are. Now there are more rules making criminal penalties. We are talking about making music illegal In Denver, Colorado. They just passed laws legalizing the sale of marijuana We are just trying to make a living. We need to be real here."

**Elizabeth Pettus, business owner**, said, "I am hearing a lot of people who think they can make it work without more regulation. The current law was rewritten with input from the police and buskers. If buskers are not complying, the police do not have the ability to give a warning. That is not in the rules. I follow the rules and have had to pay for a business license. I follow the law. It is not the same to criminalize . No one is trying to criminalize music, or trying to regulate who gets a license. I have to follow the law and expect others to. I thank the city for enforcing the law."

**Gabriel Lyman**, said, "I am a proponent of youth culture and culture in general in Santa Fe. Music is most important to all of us in this room. I am encouraged with this forum and the responsible dialogue. The spirit of this needs to be to look at the particulars that are on going in this dialogue, the 20 foot thing. I would like to refocus the conversation to the amendments proposed. People across the board value music in Santa Fe."

**Francine DeGregorio, music booker in Santa Fe**, said, "I have lived in Santa Fe booking music for fifteen years. I definitely am for not making anything criminal. If the officers were consistent that would be an awesome thing. The officers need to get to know people. When we had the same officers on a regular basis, they got to know the buskers and how things worked. I promote arts and communication."

Ms. DeGregorio continued, "Fire on the Plaza could happen on the little stage. We can figure out how to make this work. Have a bar that people have to measure up to in order to be able to play on the Plaza. Have the people who play in front of the store to clean up. There is a way to work with people who have businesses on the Plaza."

**Greta Griffith, performer and busker**, said, "I have been in Santa Fe for nine years. I am happy this is happening, like a community coming together. Santa Fe is small enough for us to do this, to create solutions. The 20 foot restriction, if you want to play right in front of someone's store, ask them before you

set up. If they did not ask, the owner of the store can talk to them like a person and tell them to move. If they don't and they are rude, only then do you call the police. Don't criminalize it. Revoke the license if it continues or give them a fine. Moving every 2 hours is great. Public power sources are public. If you are selling CDs add it into your contract so it says you are allowed to do it. Busking is important to tourism in this town."

**Leigh Murphy, vendor on the Plaza**, said, "I am one of the four food vendors on the Plaza. I have turned in some information for your review [Exhibit "5"]. If I did all the buskers ask for I would lose my license. I want you to listen to three recordings. These are from the Plaza. One is buskers amplifying 50 feet from us, then 200 feet from us not amplified and the third one is just outside of Goldbergs and I am inside Goldbergs recording." Ms. Murphy played the three recordings from her phone.

**Mr. Crump** said, some people do play too loud without question. It is a question of what is the maximum allowable and how do you enforce it.

**Martha Wright, vendor**, said, "I have been a vendor on the Plaza for twenty five years. I have rules to follow. I cannot have music or display signs. I have to move when the city tells me. I have to follow them. We never said we did not agree with buskers. We do not agree with what they bring with them. The other night the busker behind me was smoking pot. They were not sharing at all. Another thing when there is an event on the Plaza the balloon guy can stay there but I don't get to stay there. We have had problems with buskers taking out guns. One guy named Bobby took out gun when we called the cops. I pay money to be there for a license and insurance. They don't have to pay. We have to pay for everything. Thank you."

**Michael Murphy, vendor**, said, "I am on the Plaza ten hours a day . My wife and I both work on the Plaza. Most of those of you who are buskers here are not the problem. Drifters who come and get a permit and then panhandle or do something else to beg money, those are problems. The program needs to be regulated in some respect. The Plaza is historic and is a city park. New Orleans regulates. Key West regulates. The Plaza is a limited area. The 150 foot rule cannot do it." Mr. Murphy provided a map he drew showing space between buskers [Exhibit "6"].

Mr. Murphy continued, "There are five to six places where buskers typically are. With the 100 foot rule they overlap. I would like to say that two Sundays ago there were five buskers on the Plaza. They all clashed with sound. Too many people there. What is a buskers immediate playing field. Are you playing to the whole Plaza. We have the bandstand for that. You are playing to the circle around you. 100 feet is too big. The amplification exceeds the space. Most are fine when not amplified." Mr. Murphy used a tape measure to demonstrate the size of a circle around the busker and how big 100 feet would be. He said, "A 15 foot circle seems big enough."

**Hive**, from the audience, said, "For fire, I just need 10 inches."

Mr. Murphy said, "You have to apply the rules to all buskers."

**Andrea Takendara, vendor**, said, "We all understand that there is a problem. We need to solve it. I approached George Robinson and said, as a vendor, I would like to come forward and try to resolve this as a community. I sell fajitas on the Plaza. I thank all the vendors that came to the meetings we had. I thank the buskers that went. Mr. Shandler took time to be there. Mr. Crump came and mediated. Thank you to all who went. It is unfortunate that more people did not come. We do need an ordinance that needs to be enforced. I take offence that the police department is having rocks thrown at them. They try as hard as they can. They are going to have a bike team going down to get familiar with vendors and be more visible. The buskers need to step up and introduce themselves to the officers and others. I asked for 50 feet because of amplification problems. Everyone needs to step up. Officers are doing their best. Thank you City."

**Timothy Devore** said, "I am from California and am here house sitting. I want to show my appreciation to the general public. I have never gotten this much support ever as a musician and artist. I sound better with amplification. The noise of life, it's hard to get over that. How do you help a person who is homeless and dirty. The economy, we are still within one centralized economy. Everyone is making money, it is an issue of responsibility. There are some bad apples but that is everywhere. There are kids like me who appreciate what we have."

**Miljan Aljinovic, musician and busker**, said, "I think the idea of having an ordinance and updating it is fantastic. The uproar is on specific things like the 20 foot rule and the criminalization thing. All of these issues can be addressed with a larger consistency of enforcement. Having officers on the Plaza who are members of the Plaza community and informed mediators will be much better. Having people who can recognize who is a busker and who is a trainee would address many issues. We need somewhere to play. No cars on the Plaza would eliminate the need for amplification. More people could walk around on the Plaza and sound proof it. It is a shifting thing. Officers there who can discern what is the issue are necessary."

**Alysha Shaw, musician and busker**, said, "I have lived in Santa Fe for 9 years. I have worked as a percussion musician. I also have had busking licenses with groups. I have always had a positive response. I think some folks confuse panhandling and busking. The homeless problem in this town needs to be addressed in a compassionate way. I am hoping we can find a way to make doing business on the Plaza easier on the whole. A middle ground. Maybe Plaza folks have less restrictions. Get owners permission instead of having the 20 foot rule. Busking is important to our culture."

**Cheryl Odem, theater person,** said, "I have lived here for thirty five years and taught at the College of Santa Fe. I am a theater person. I am here to support muscats and performing artists. The ordinance relates to music. I want to bring you some awareness. I have a twenty-seven year old son. He loves Santa Fe. He comes and gets bored. I want him to stay. The kind of things these young people do as buskers, grows performing arts and supports our youth culture."

**Unidentified Musician,** said, "I want to express compassion to vendors and shop owners. To be on the Plaza is expensive. I do think it would be fair to the vendors to say performers need to get a certain distance away so the vendor is not trying to make a sale and getting blasted out. On the other hand, vendors pay for a real benefit of a spot everyday."

*Too many people talking at the same time here to transcribe*

Unidentified Musician continued, "Another difference between what you are doing and what a busker does, is the busker just plays music. It is fair to have a fee for selling CDs. I guess it is like crowds in a bucket, like crabs."

**Jessie Garcia, former busker,** said, "I used to busk and we sold CDs too. We got complaints from other buskers because we were loud. The permits were confusing at the time. It could be cleared up. The issue is communication. We were entertaining. We always had large crowds around us. We were loud and unapproachable. When you perform by yourself, it takes aggressive energy to put yourself in front of the public. More than a police presence, we need a mediator presence for communication."

**Daniel Sky, musician,** said, "I have lived here for ten years. I sympathize with the vendors. The music is too loud. My main thing that I would appreciate is if the Ordinance would allow amplification. People can't hear me otherwise. Obnoxious people no, amplification yes."

**Craig Allen, vendor, Ortega's,** said, "We do believe that buskers should be allowed on the Plaza. No amplification though. We can hear it in the back of the store and it is hard to do business. I am a musician so I understand the love of music and wanting to perform but we need to have consideration for all. I believe the buskers have a right to get out there and make a living. We need to figure a way to live together. The city needs to take the lead. The city should resolve complaints before issuing another permit. Limit the number of permits issued and have quarterly permits. Thank you for allowing us to be here."

**Hive,** said, "Artists have a creative way to settle issues. We can work it out. An art walk is something to consider. They do it in other states. No cars allowed on the Plaza is desirable."

**Jeff Green, community activist in the art community,** said, "I love the street performers. I would like to read in to the record a proposal to decriminalize the city ordinance on street performers." Please see Exhibit "7" for the complete text of Mr. Green's proposal. Mr. Green said, "I don't want to see any performers arrested."

**Mr. Crump** said that Mr. Green's statement for the record will be the last comment.

**The public comment portion of the meeting was closed.**

#### **IV. WRAP-UP DISCUSSION**

**Mr. Crump** asked Sergeant McCord to come forward. Mr. Crump asked Sergeant McCord, from a police perspective, how he saw this thing going.

**Chris McCord, Sergeant in charge of bike team,** said, "I cannot enforce any law that is not criminal. The buskers that are here, are doing the right thing, but there is a large number who come in and give problems to the Police Department. Fire is allowed at the railyard park. The City ordinance says it is not allowed. It takes away all our enforcement powers. If a permit is issued it makes it hard to enforce when there are several kind of permits. Some permits last year were forged. We did not know which were which."

Sergeant McCord continued, "We are trying to work hard with performers to get one that works for everyone. There are permits for the Plaza and different ones in the railyard. There are complaints about time to move, and I educate them on the Ordinance. All the bike guys have a copy of the Ordinance. We tell them to move and then they move two feet. Under the currant ordinance, it is not addressed about how far they have to move so there is nothing I can do. We don't have warning citations so I cant do that."

Sergeant McCord continued, "A lot can be done through education. We have no choice but to take the next step if they are not compliant. It has to go to something else to enforce. I have talked to lots of you and dealt with you. The ones we deal with on a daily basis are not here. We can work this out, but we need to fix the Ordinance. There needs to be one Ordinance. Not two Ordinances for two sites. We are going to be on the Plaza from 10:00 a.m. to 10:00 p.m., starting Monday. Come to the officers and let us know what you need. We are there to make the Plaza safe for everyone."

**Unidentified audience member** said, "There is a noise ordinance already. Why is that not enforceable. You cannot block a sidewalk. Aren't you able to cite that individual."

**Sergeant McCord** said, "We are unable to cite a street performer."

**Unidentified audience member** asked, "can't you write a ticket."

**Sergeant McCord** said, "Under the ordinance now I cannot. The wording has to be changed."

**Unidentified audience member** asked, "Isn't there already an Ordinance."

**Sergeant McCord** said, "Yes, but street performing is under a different ordinance so we need one consistent one."

**Unidentified audience member** said, "It seems that is a big issue, that they are not the same. "

**Leigh Murphy** said, "I need clarification with the new Ordinance. What is the difference in how it works."

**Mr. Shandler** said, "The question is about the noise. In June 2012 the City Attorneys Office sent a memo regarding amplification on the Plaza. 60 decibels is the general rule. You cannot disturb someone 25 feet away. The confusion is should we go with feet or decibels. There are a lot of questions about the memo. There are two competing standards and that makes it hard for law enforcement to enforce it."

**Mr. Crump** said it is difficult for an officer to enforce a qualitative standard.

**Leigh Murphy** said, "I guess that is where vendors come in. We are not allowed to use amplification. Other places in the country do allow that. I do fine with 5 to 10 feet. Why does a busker need more than that – 25 feet or 50 feet. Who are they performing to. We contribute gross receipts to the City. Buskers don't."

**Mr. Crump** said we are getting into the nitty gritty here. There have been suggestions about distance. What is the appropriate distance related to volume. To buskers do you need to project beyond 25 feet. What seems reasonable for your audience. How does that relate to density. How many performers should be on the Plaza.

**Steve Perrigo** said, "I believe that two buskers on the Plaza is more than enough. Otherwise there is musical chaos. Vendors would be a lot happier if there is less musical noise. This is a good thing to bring up. I believe the Police Department has better things to do than mess with the street performers. Public Safety Aides could do that."

**Mr. Crump** said there has also been discussion about self-regulation.

**Sergeant McCord** said, "I understand about having better stuff to do. I enjoy working on the Plaza but the PSAs are not sworn officers and cannot enforce anything. They can only ask them to abide by the regulations. It would help us a lot with licenses and permits if they state what they are issued for."

**An unidentified audience member** said, "Over the years when you went to renew your license, it always asked what the license was for and what the performer did. The last time I got my license they just gave it to me without stating what I do. They made me a new one, but they are giving them out like candy."

**Karen Heldmeyer, former City Councilor**, said, "There is more than one kind of enforcement in this town. There is code enforcement. There are Land Use Codes. There is a group of people who do that kind of enforcement. Their powers are limited. What can you do to get them out of there if they are violating. Some cooperation between departments would be useful. Permits handed out like candy – maybe some coordination would be useful in limiting the permits."

**Councilor Trujillo** said, "During the discussion I am hearing that as a policeman, you cannot enforce because of two kinds of Ordinances. How can we combine them. Zach, can you please look at this before we, as a Council, have to vote."

**Sergeant McCord** said, "I asked officers what would help. All of them said it would be helpful if the buskers were more identifiable. Maybe a tag on their shirt that they are a street performer. A City issued tag, visible IDs."

**An unidentified audience member** asked, "Can they have a license for both areas."

**Sergeant McCord** said, "Yes, the City can issue a permit for each location. However, the law is different at each location."

**An unidentified audience member** asked, "So you want tags that could be used at both places."

**Sergeant McCord** said, "No. They are a licensed street performer."

**Ben Chavez** said, "A lot of the buskers arrive on skateboards or bikes. Can police enforce rules regarding that. If a skateboard hits our stand it can knock it over."

**Sergeant McCord** said, "The ordinance for bikes and skateboards is enforceable. We requested signs and you will see them. Warning signs. Then we can say it is posted right here. Then we can cite them."

**An unidentified audience member** said, "The signs that say about skateboards and bikes are 20 feet up on top of a pole. How can you see them."

**Sergeant McCord** said, "The other signs were stolen so we had to lift them up."

**Andrea** said, "After speaking with a lot of officers and vendors there is a question – if multiple violations were committed by one busker, would they be still eligible to get a license."

**Sergeant McCord** said, "That goes back to the current Ordinance. Currently, there is no warning. A written warning is what is stated. We document it, write a report, and that goes to the Finance Office. They review it and then they notify them and revoke the license if they want. The busker can hire a lawyer as well."

**Zach Shandler**, said, "There is no certain number of violations."

**Leigh Murphy**, said, "We have to have background checks. Why couldn't we have background checks on buskers I was stalked by a busker who showed up everywhere I was."

**An unidentified audience member** said, "I suggest a background check and an audition for the buskers."

**George Robinson** said, "We have to distinguish violations of the law. Riding a bike on the Plaza, smoking dope whether a busker or not. Violating the law on the Plaza, is it subject to penalty or sanction. Regarding background checks, that would be a bad thing to do. To be stalked by a person is, of course, not good. This is not a busking issue."

**Michael Murphy** said, "I know on the Plaza a busker busks for 2 hours. There is only room for so many. Maybe make allowable time 1 hour. Have less of a time frame on the Plaza. In Florida they have a specific area set aside for buskers."

**Grannia Griffith** said, "A lot of stuff happens on the Plaza that is not busking related that I feel uncomfortable with. Like a random person being rude to you or that makes you feel uncomfortable. What do we do about that? You can't run background checks on random people. It is silly to require background checks just because you want to play music on the Plaza. It is like stereotyping people."

**Mr. Crump** said, I am looking at the clock and there are specific issues that need to be addressed to provide guidance for the Councilors.

**Leigh Murphy** said, "In reference to background checks, it has to do more with the historic nature of the Plaza and an ordinance specific to that area."

**George Robinson** said, "As to background checks, in parity with Plaza vendors, don't use buskers to bring this to light because vendors are unhappy with their own codes and ordinances."

**Craig Allen** said, "Are buskers someone playing music for the love of music or is it their form of supporting themselves. If that is so, then street performers need to go through the same thing street vendors have to do through. If it is for the love of music, then that is a different thing. If they are in business to support themselves, we need to decide."

**Mr. Crump** said, at this point we are looking at those practical issues of what is appropriate and what is doable.

**Leigh Murphy** said, "We sell kettle corn and we need 5 to 10 feet. I don't think a busker needs more than that and they don't need to be amplified."

**George Robinson** said, "Regarding the issue of amplification, there are some instruments that require it like an electric keyboard. I have played both ways. There are reasons for doing both. You can be using amplification to change sound. Getting rid of amplifiers will not change the noise situation. I empathize with the vendors. There are time schedule and volume issues, rotation and fair enforcement."

**Mr. Crump** said, the point you are making is not about amplification but about volume. Also rotation and enforcement.

**Michael Combs** said, "We are in the process of getting the buskers alliance more organized. Ideally, a vendor doesn't have different instruments on each side of their business. I don't know how much we can regulate. On the portal of the Palace of the Governors, they have a very hard set of rules. I believe if the vendors could organize like the buskers did, then we could have a quarterly meeting of all, one buskers, one vendors and all get together we could work this out."

**Mr. Crump** asked speakers to please keep their comments clear. He said Zach is handing out a questionnaire. "*Street Performers 10 Golden Rules.*" [Exhibit "8"]. He asked everyone to please fill out the form and return to us. He said this information will be very helpful to the Councilors and others who are working on these issues.

**Michael Murphy** said, "There are a lot of problems with being amplified such as conflicting music and sounds, two muscats close to each other, too loud for business to be conducted."

**Mr. Crump** said, under the proposed ordinance that would not be allowed. The question is how to regulate the volume.

**Daniel Scott** said, "I sympathize with the vendors because I can hear someone being way too loud. Feet is probably the more practical thing. 50 feet is pretty far. Mostly when I go there it is an hour. An hour is long enough. 20 feet is probably enough."

**Mr. Crump** asked the Councilors if they have questions they would like to discuss, or issues to be brought up.

**Councilor Maestas** said, "I like the idea of requiring the permission of the property owner. The only thing is how can that be enforced. Who is the proper representative to provide that permission. What do the police officers need."

**Councilor Lindell** said, "I am impressed that we have numerous things we agree on. Getting rid of the 30 day license, 20 feet from the entrance, figure out permission, not playing on the stage – most people are in agreement with that. We have not nailed down the distance or noise level yet. Everyone has been respectful of each other and I appreciate that. We are hearing the same issues again and again. We are going to have to wrestle with it. I think the survey will be helpful to us. We have made quite a bit of progress."

**Councilor Trujillo** said, "Consistency. The Ordinances are not consistent. I am hearing a lot about the distance. I am glad we had the tape measure. That was a good visual. What trumps what, regarding permits issues and ordinances. The City law should trump the permit. I have asked Zach to look at that. Consistency is so important to all of this. Thank you all for being respectful."

**Mr. Crump** said, I am going to challenge those of you who want to speak to only speak if you have something new to discuss.

**George Robinson** said, "As to busking on private property and property owners and renters. Who trumps who, in terms of the law. I would prefer that the owner approaches the busker first to tell them it is fine to perform there or to ask them to leave: Enforcement on that does not need to be in the busker code because it is trespassing."

**Leigh Murphy** said, "A lot of the trouble is that is it mostly City property. I would like to ask consideration with the Plaza and vendors program. It took me six years to work on having the privilege to be on the Plaza. The selling of CDs – that hurts the integrity of our program when buskers can just come in to sell CDs. I ask that you think that through."

**An unidentified audience member** said it seems that there are some issues of being too loud, but the distance rule can help figure that out. The issue of how to enforce, we need education on that.

**Gabriel Riling** said, "I am a fan of details when it comes to laws. I would rather avoid putting in laws. If you are have a measurable way to evaluate and set rules then it could be considered. I am into the idea of a maximum noise level. Is there some kind of way to measure the decibel level. Do you have a way to measure the noise."

**Sergeant McCord** said, "We did try last year. We purchased decibel level equipment. However, unless everyone is quiet it is not adequate."

**George Robinson** said, "There are ones that do. Maybe we can do some kind of distance thing."

**Sergeant McCord** said a measurement tool would be best for the Police.

**Mr. Crump** said, I would like to close this off here and summarize some points.

**Michael Murphy** said, regarding the decibel meter, they will just quiet down when you are around.

**Leo Sanchez** said, "We are one of the most famous artistic centers in the world. Busking is part of that. People expect that here. The loud vehicles, the battle with all the beggars insulting people, those make enforcement priority one."

**Mr. Crump** said I am going to cut off here. The original ordinance says that street performers are important and that the city supports buskers. There is general agreement that the volume needs to be limited. One issue which was not touched on is that there are street performers that make no noise, like jugglers. Another piece is the distance between performers. The density of performers in the area. There has been a lot of discussion regarding enforcement. Ordinance conflicts are an issue. Scheduling - rotation of performers, time allowed, locations for performers, designated or not designated, private property and getting permission.

**Mr. Crump** continued, saying this has been a rich conversation. The over arching piece is that people want to see the Plaza as vibrant and alive with appropriate music and group permits, consistency, appropriate spacing and density. Volume is number one. Enforcement is right behind it.

**An unidentified audience member** asked about the surveys and how they are going to be used.

**Mr. Shandler** said, "We handed out the survey. There are no right answers. The facilitator will be writing a report. You are free to bring the surveys to City Hall to turn them in."

**Mr. Crump** said they would like to have the survey brought back to the City Attorney's Office by mid- day Monday. That would be helpful. He asked that they give the survey to others as well.

**George Robinson** asked how to obtain a copy of the report.

**Mr. Crump** said, "I will provide it to the city Attorneys Office."

**Mr. Shandler** said, it will be a public document as soon as it is ready.

**Councilor Trujillo** asked if the survey can be put on the website in the next 3 days.

**Mr. Shandler** said he will do that tomorrow.

**Mr. Crump** asked the Councilors if they have any final comments.

**Councilor Maestas** said, "Thank you to everyone for coming. It has been a civil, productive dialogue. There is strength in unity. You all proved that. This is the essence of Santa Fe. We can get along. From my perspective, I think the safe amendments will be where we think we have consensus. I am not going to present any radical amendments. We have agreed to try the Ordinance for six months and then review. I will not advocate for anything super radical. I cannot guarantee what my colleagues will do. We made this process democratic and objective. Lets get the process out as an issue and focus on the real issues. We have to operate in a short time frame. We intend to take action on April 30<sup>th</sup>. Democracy is messy. There are acceptable amendments. Thank you to city attorney, Zach, the facilitator and others who helped with this process."

**An unidentified member** asked who is sponsoring the Ordinance.

**Councilor Maestas** said, out of respect for Former Councilor Calvert, he agreed to sponsor the Ordinance, which is cosponsored by Councilors Lindell and Trujillo.

**Councilor Trujillo** said, "Thank you for being here. The Plaza is very important. I was born and raised here. It is a focal point. The heart is the people. All of us here only want the best for the Plaza. That is what we want. A Plaza that is for everyone, not a select few. We have our job to do now. Thank you to our facilitator. Take those forms and please get them back. Give them to people you know. The more input we get the better. "

**George Robinson** thanked the Councilors, saying they were very attentive. He thanked everyone who came and participated.

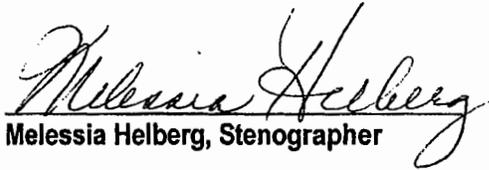
#### **IV. ADJOURNMENT**

The public meeting was adjourned at 8:45pm.

Accepted by:

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Submitted by:

  
Melessia Helberg, Stenographer

**Santa Fe Buskers Alliance  
Position Statement  
April 8, 2014**

In 2006 the Santa Fe City Council enacted legislation that allowed busking on the Plaza. The initial act required no licensure of buskers, and was a test run to see how busking would work out on the plaza. In 2008 the council, deeming the experiment a success rewrote the law to require licensure through the business license process and enacted further legislation to fine tune the ordinance. There may have been further tuning to the law since then.

Because there had been a voicing of complaints from some merchants and vendors, then Councilor Chris Calvert in 2013 sponsored a bill that severely restricted busking activities on the Plaza. Because of public outcry the bill was quickly withdrawn and reworked. In early March 2014 the bill resurfaced in a much better format but with criminal penalties for improper busking built in. The bill was brought to City Council for a vote on March 26, 2014. The 10 page bill was accompanied by 30 pages of commentary and additional provisions that had not yet been integrated into the bill.

Of the 17 additional provisions, none were suggested by the people being affected by the bill – the buskers. Recognizing this, the city council decided to forego a vote and instead call this public meeting where the concerns of all could be heard.

The Santa Fe Busking Alliance recognized that proper resolution of the items either set forth or proposed in the bill could only be accomplished through cooperative effort of the Busking Alliance, Vendors, Merchants, and the city. In the short space of time between March 26th and the meeting on April 10, the Alliance endeavored to bring together as many stakeholders as possible to discuss solutions. After being approached by Andrea Caldera, a plaza food vendor with similar desires to resolve things as a community, two meetings were held. The first on April 2 and the second on April 7. Though these meetings did not have great merchant or vendor participation Andrea did poll the vendors and presented their concerns anonymously at the meetings. The City of Santa Fe was represented at both meetings, the first by Zach Shandler, a City assistant attorney and the second by Philip Crump, a contracted meeting facilitator and mediator. We are thankful to the City for this representation.

At the second meeting a matrix of all concerns gleaned from the proposed bill, the proposed amendments to the bill, the responses collected by Andrea, and the input of the Busker's Alliance was presented. The matrix presented these proposed changes in logical categories, the first and second being items already addressed by the Buskers ordinance, the second considered already addressed by other law enforcement mechanisms, and the third and most important the issues that had created the need for the amended law in the first place - noise, density, proximity, permission, enforcement and competition.

We had hoped to discuss the matrix and come to consensus as to solutions but time did not allow for that.

We present the matrix again here as a possible framework within which we can operate and cooperate as tenants of the commons known as the Plaza and come to consensus and agreement.

*Exhibit "1"*

We recognize the concerns and frustrations of the Plaza merchants and vendors regarding busking and we do empathize with them and in some cases have the same concerns. In the most part we agree as to the types of problems, tho we disagree with the method of solution.

This is our statement of position: We recognize the problems of noise, density, proximity, permission, enforcement, and competition. We believe that we can come to consensus as a community on how to address each and every issue. We believe that busking in and of itself should not lead to criminal prosecution and that Busker's Code does not have to include language specific to citation, arrest, and prosecution other than to state that the other laws apply to a busker as they would to any other citizen. We believe that working together can create a better Plaza experience not only for merchants, vendors and buskers but for the citizens of Santa Fe and the visitors that we host.

Thank you,  
The Santa Fe Busker's Alliance

### Requests Already Covered by Busking Ordinance

Comment	
Busker's license cannot be used to sell arts and crafts	The busker's ordinance already limits sales of goods at fixed prices to those items directly related to the performance.
150 feet from special event unless permit obtained	The busker's ordinance already provides that special events are off limits to buskers. If a busker wishes to participate, the busker should obtain a permit.
Move at least 50 feet every two hours	The two hour rule is already in place. It needs to be understood and adhered to by buskers. Education and agreement will solve this.
No leading of licenses	<ul style="list-style-type: none"> <li>The busker's ordinance already stipulates that one member of a group must be present and hold a valid license. This provides for many impromptu performances and these performances have already attracted several well known performers to play with the buskers.</li> <li>It is a violation of the busker ordinance for a person or group to perform without the presence of the license holder.</li> </ul>

### Requests Already Covered by Existing Law

Comment	
No Drugs	Drug and alcohol use and possession in public is already punishable by law.
Pay event fee to perform at special events	Other laws already provide for this.
Rel Issues	Other laws already provide for this.
Inappropriate behavior	Other laws already provide for this.

## Requests Meant to Improve Busker/Vendor/Merchant relations

	Current Proposals	Suggested Proposals
Noise Levels	<ul style="list-style-type: none"> <li>• Subjective 100 foot audibility maximum</li> <li>• No amplification</li> </ul>	<ul style="list-style-type: none"> <li>• Amplification is necessary for many types of performance and for many reasons. Some instruments are very quiet. Some performances require special effects that can only be provided by amplification.</li> <li>• Some instruments are naturally very loud and even without amplification may exceed any noise tolerance set.</li> <li>• Determine excessive volume objectively as current code now allows. Decibel meters are available that will zero out background noise and determine the true sound output.</li> <li>• Encourage busker/vendor/merchant communication and cooperation to alleviate excess noise.</li> </ul>
Busker Density	<ul style="list-style-type: none"> <li>• Limit number of licenses available</li> <li>• Licenses may only be obtained in January</li> <li>• Licenses expire every 90 days with review for renewal</li> <li>• Licenses restricted to Santa Fe Residents</li> <li>• Require buskers to be juried</li> <li>• Require personal ID to be displayed with license</li> <li>• No lending of licenses</li> <li>• No lending of instruments or equipment</li> <li>• Eliminate 30 day license</li> </ul>	<ul style="list-style-type: none"> <li>• Restrict the number of buskers playing or performing in one general location at any one time to a number agreed upon by merchants/buskers/vendors.</li> <li>• Eliminate the 30 day license. This will reduce the number of people who use a short term busker license as an upgraded panhandler's certificate.</li> <li>• Buskers will abide by the 2-hour per location limit. Moving will require relocation to another venue. For example, if a busker is on the plaza the busker must move off the plaza for the next two hours.</li> </ul>
Proximity to Stores and Vendors	<ul style="list-style-type: none"> <li>• 50 foot distance from vendors</li> <li>• 20 foot distance from doorways</li> <li>• 150 foot distance between buskers</li> <li>• No busking under portals</li> </ul>	<ul style="list-style-type: none"> <li>• Create busker density limits. This will allow busking spots that are amenable to buskers and merchants to develop over time.</li> </ul>

	Current Proposal	Suggested Proposal
<p>Permission to bus on private property</p>		<ul style="list-style-type: none"> <li>• Undesired activity on private property can be considered trespassing and merchants or owners can avail themselves of law enforcement to resolve the issue.</li> <li>• Property owners or merchants should request the offensive party to leave before calling law enforcement.</li> <li>• Some merchants or property owners actually welcome buskers to perform on their property.</li> <li>• Obtaining written permission is the best idea.</li> </ul>
<p>Minimize competition with vendors or otherwise put buskers requirements on par with vendor requirements</p>	<ul style="list-style-type: none"> <li>• No sales of any kind</li> <li>• Tax number and and CRS requirements</li> <li>• No overt solicitations for donations</li> <li>• Require buskers to have loading zone permits</li> <li>• Require buskers to have liability insurance</li> <li>• Require buskers to submit to background checks</li> </ul>	<ul style="list-style-type: none"> <li>• Busking, when properly done as part of a community creates an atmosphere conducive to the marketplace. Developing a community between buskers, vendors, and merchants will create an environment that is symbiotic and not competitive.</li> <li>• Buskers do not engage in commerce and are not naturally in competition with commerce.</li> <li>• Busking should not require overt solicitation.</li> <li>• Buskers/vendors/and merchants should work together to avoid the "tragedy of the commons."</li> </ul>

	Current Proposal	Suggested Proposal
<p>Enforcement of Busker Ordinance</p>	<ul style="list-style-type: none"> <li>• Write code to subject any violator of the Busker's Ordinance to arrest, fine, and/or imprisonment. Additionally, subject the busker to a hearing before the finance committee or director to show cause as to why the busker's license should not be revoked.</li> <li>• The power to enforce the code will be given to the police department.</li> </ul>	<ul style="list-style-type: none"> <li>• Write code that does not criminalize improper busking.</li> <li>• Treat buskers as any other member of the public. Buskers have the same responsibility to adhere to current statute as the general public does.</li> <li>• Allow for citation or arrest only in violation of the myriad laws that already exist, and not for violation of the busking code.</li> <li>• Develop a mechanism to record complaints against a busker and call the busker to a hearing.</li> <li>• Develop a committee to hear complaints and provide sanctions if necessary.</li> </ul>
<p>Development of a set of guidelines for buskers by the combined efforts of buskers, vendors and merchants</p>		<ul style="list-style-type: none"> <li>• This would be a way to introduce the busker to the community in which the busker expects to perform, and state our expectations in a pleasant and friendly form. The guidelines would express our expectations of the busker and would delineate what is and what is not acceptable. They would also state that the busker is in our community and is expected to abide by our norms and standards. The busker would have to sign off that he has read the material and that he understands the terms before his license is issued.</li> <li>• Currently, no such guidelines exist other than the statement of the law.</li> </ul>

Please sign in if you would  
 like to speak 2 min. max time limit

Name	Phone #	Address	organization vendor or buyer
Michael Murphy	505 690 2911	4609 Solestola	Vendor
Leigh Murphy	" "	" "	"
John Dressman	501.52 79	58 Lincoln	ship keeper
Elizabeth Petras	505 983 5552	100 E. San Francisco	Santa Fe Downtown Merchants

Steve Perrigo (505) 509-1983  
 HC 74 Box 402 Pecos NM,

J. Michael Combs  
 P.O. Box 31 Tres Piedras NM  
 05-720-7914 87577

Houshang You Di M  
 50 E SAN FRANCISCO BLVD 87501  
 505-9883322

Exhibit "2"

Dana Smith 986-9981 156 Duran St. SF Buskey

Ben Chavez 681-8374 58 La Joya Plaza Vendor

Martha Wright SF. PLAZA Vendor

COAD MILLER 501 3054 1703 PASO DE PERALTA  
SF SANTA FE Citra

Francine DiGeorgio 469 2766 514 Rafael St. Santa Fe  
NM

Lee Reasoner 795-0514 70 Box 202 - Citizen  
Chai on the Plaza chailighter@spider-agent.com

George Robinson

Michael Chay

Gabriel Rima

Granna Griffith

Tim DeLone

Miljen Aljinovic (505) 603-5079

Alysha Shaw 795-8096

Cheryl Odom cheryldoe@aol.com ARTIST

Daniel Sky	369 Montezuma	603-8101
CRAIG ALLEN	101 W SAN FRANCISCO	988-1866
Jesse Garcia	112 Languera rd Glorieta	920-6625
Jeff Green	509 Camino Lejo	501 5826
KAREN NEUMAYER	325. E. BERGER	982-3968

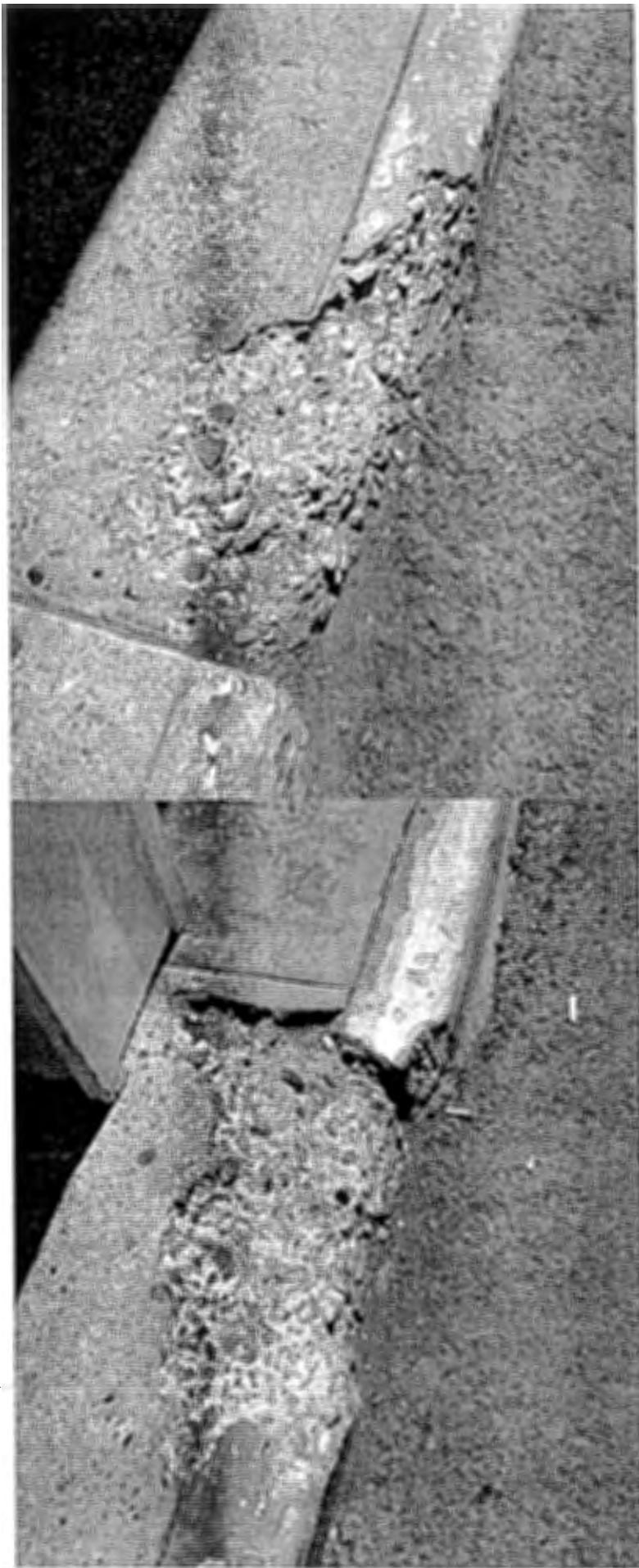
2 minute max time limit

Please sign in if you would like to speak

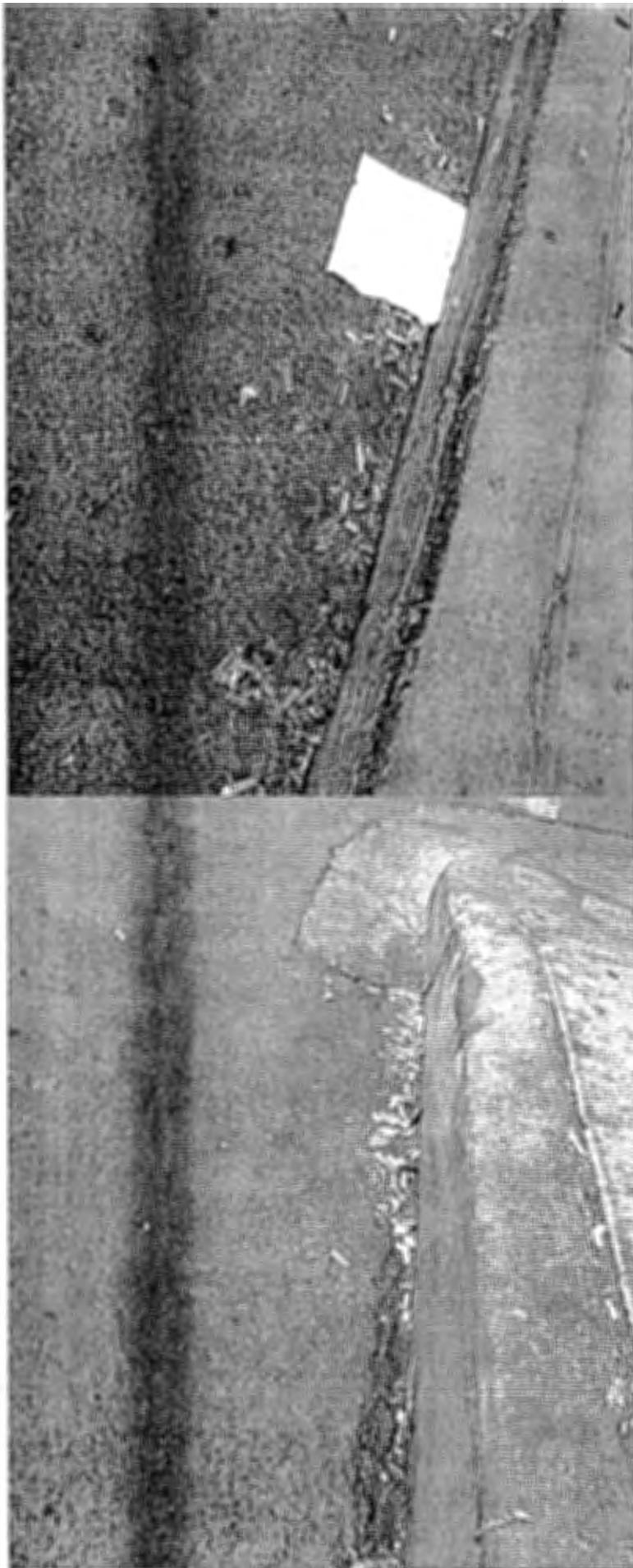
Name	Phone #	Address	Organization Vendor or Busker
Cliff Mills Alohi van Loon	231-5783	1505 5th	Artist/Plaza

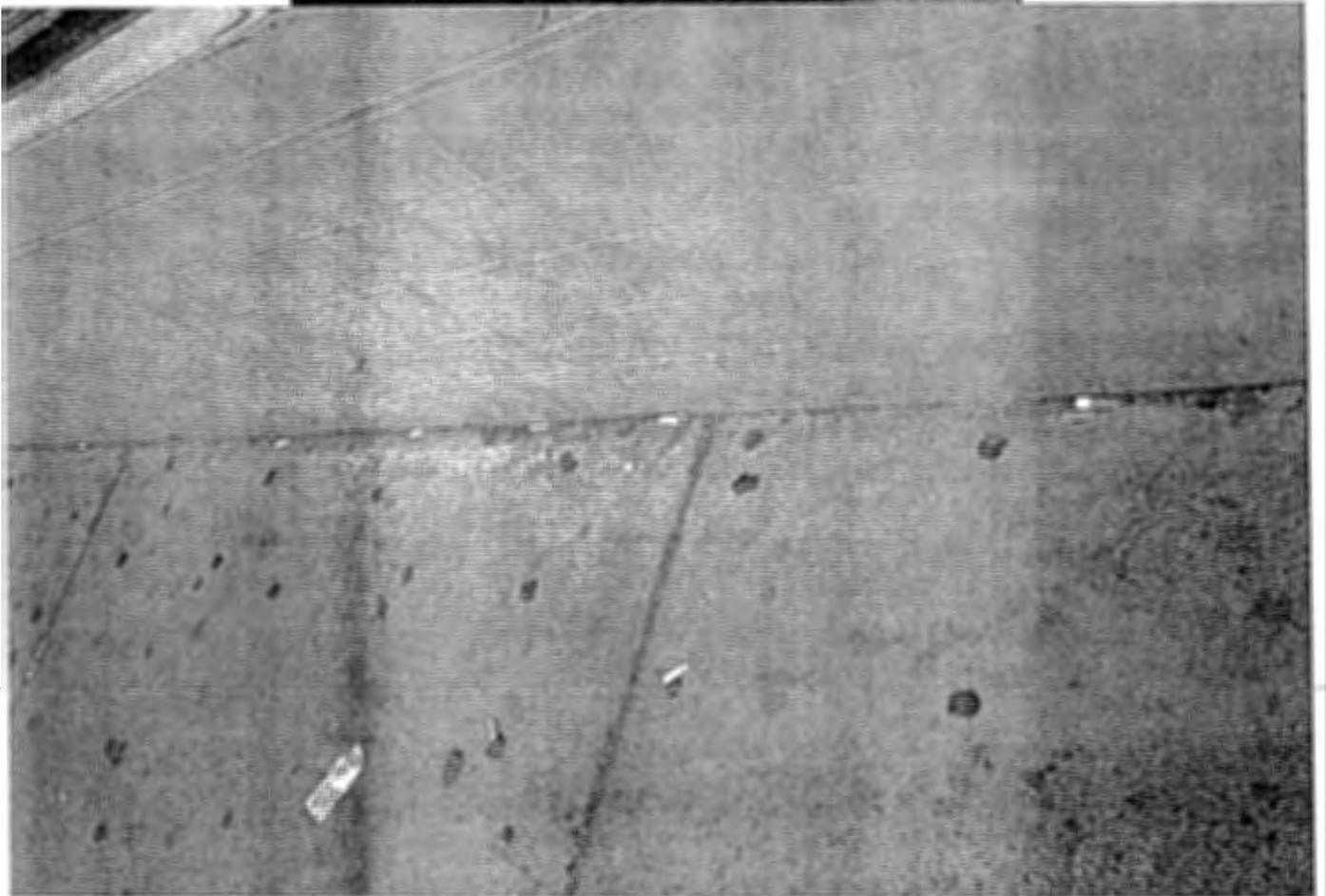


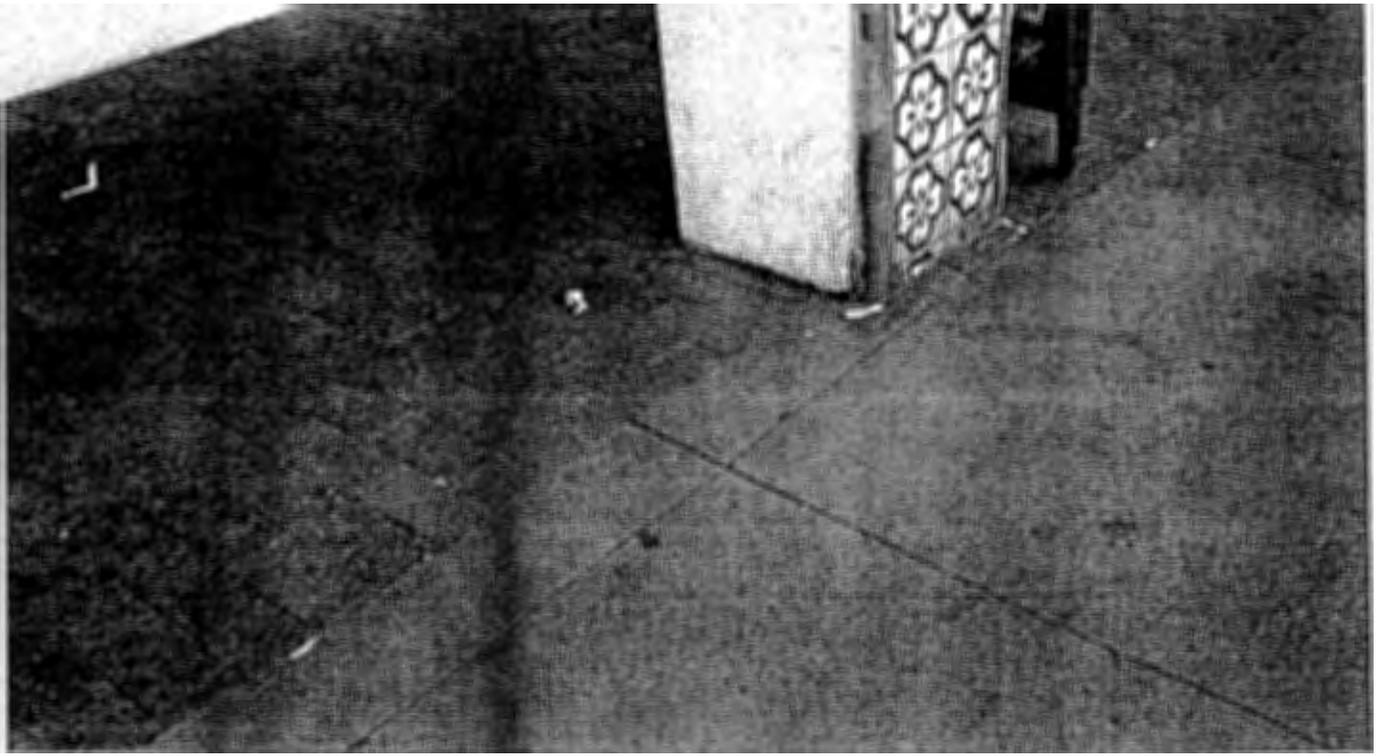


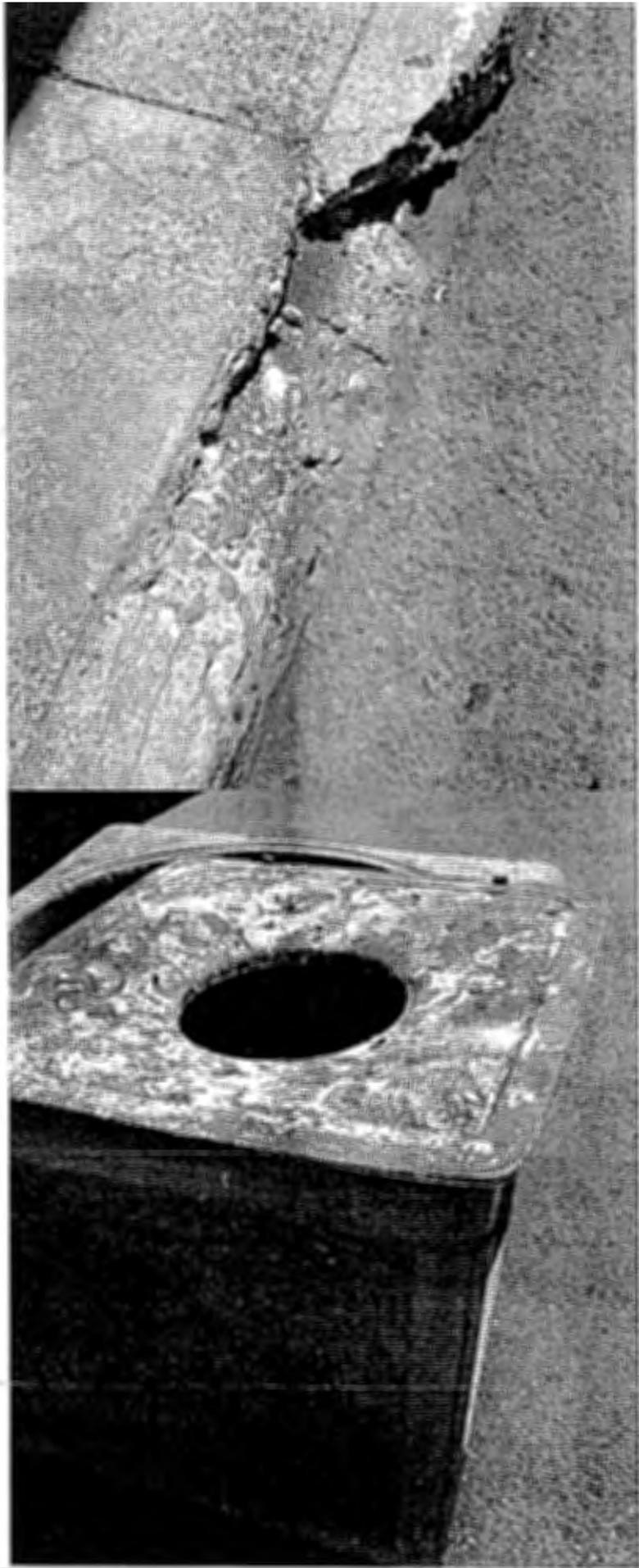












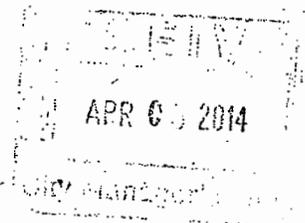
PETITION TO EXCLUDE THE PROPOSED (20 FOOT FROM AN ENTRANCE TO A BUILDING) RULE FROM THE BUSKING ORDINANCE TO BE DISCUSSED AT THE APRIL 10th MEETING

SAN FRANCISCO MERCHANTS THAT SIGNED THE PETITION

1. DEANNA DRAUDT IN TRANSIT LEATHER
2. CHRIS GARCIA BELLA FINE JEWELRY
3. HOUSHANG HOUSHANG'S GALLERY
4. NICHOLAS CARDENOS ETERNITY MEN'S CLOTHING
5. MOLLY JARAMILLO LUNA FELIX DESIGNER
6. JAY FRIES INDEPENDENT ARTIST GALLERY
7. ANDREA FISHER ANDREA FISHER FINE POTTERY
8. MARINES PEREZ FORTH WORLD COTTAGE INDUSTRIES
9. CHARLES ASH CHARLES ASH ALLIED ARTS
10. DAVID YUIGUEZ SAN FRANCISCO ST. BAR AND GRILL

THIS PETITION WAS ALSO SIGNED BY MANY DOWNTOWN BUSINESS EMPLOYEES AS WELL AS OTHER CONCERNED CITIZENS

SUBMITTED BY DANA SMITH  
IF YOU HAVE ANY QUESTION REGARDING THIS MATTER PLEASE FEEL FREE TO CALL ME AT (505)986-9981



*Exhibit "4"*

Many merchants appreciate the unique shopping experience that live music brings to downtown Santa Fe. The Public Safety Committee advanced a proposal to keep musicians 20 feet from the entrance of a building. We wish that this change to the Busking Ordinance be removed from the proposals. We feel this decision should be up to the discretion of the merchant.

Print Name	Signature	Business	Date
Deanna Draudt	D. Draudt	In Transit	3/25/14
Chris Garcia	Ch Garcia	Bella	3/25/14
DONALD WINFIELD	Donald Winfield	Artist	3/25/14
REID ENGSTRON	Reid Engstrom	Artist	3/25/14
SUSAN ENGSTRON	Susan Engstrom	Business	3/25/14
TRACY DOR MURRAY	Tracy Murray	TOUR	3/25/14
Antonio Avila	Antonio Avila	Busker	3/25/14
Houshang	Houshang	art gallery	3-25-14
Alfredo Campos	Alfredo Campos	art gallery	3/25/14
Makayla Branscomb	Makayla Branscomb	Retail	3/25/14
Nicholas Cardenas	Nicholas Cardenas	Eternity	3/25/14
Molly Jaramila	Molly Jaramila	Luna Felix	3/24/14
Angie Keel	Angie Keel	Down Town Employee	3/24/14
Jay Fries	Jay Fries	Independent Artist Gallery	3/25/14
Celia Williams	Celia Williams	Andrea Fisher Pottery	3/25/14
Andrea Fisher	Andrea Fisher	Andrea Fisher Fine	25 March
CYNTHIA HOWARD	Cynthia Howard	SEAMSTRESS	3/25/14
Brian Gurstrom	Brian Gurstrom	Produce	3/25/14

Many merchants appreciate the unique shopping experience that live music brings to downtown Santa Fe. The Public Safety Committee advanced a proposal to keep musicians 20 feet from the entrance of a building. We wish that this change to the Busking Ordinance be removed from the proposals. We feel this decision should be up to the discretion of the merchant.

Print Name	Signature	Business	Date
MARINER PEREZ		FOURTH WORLD	3/26/14
Steve Perrigo		Business	4/2/2014
Will Gordon		Business	4/2/2014
Will Schreitz		Restaurant Worker	4/2/2014
Vince Kadlcek		self-employed	4/2/14
Jeff Green		Real Food Challenge	4/2/14
George Robinson		Business	4/2/14
CHARLES ASH		CHARLES ASH ALLIED ARTS	4.6.14
David Yriguez		San Francisco St. Bar	4/6/14
Dana Smith		Busker	4/7/14
Print Name	Signature	Business	Date
Print Name	Signature	Business	Date
Print Name	Signature	Business	Date
Print Name	Signature	Business	Date
Print Name	Signature	Business	Date
Print Name	Signature	Business	Date
Print Name	Signature	Business	Date

KEY WEST - HISTORIC - TOURISM -  
CRUISE SHIPS - HIGH END : LOW END SHOPPING  
AND EATING - FOOD VENDORS - OPEN ALCOHOL  
ON STREETS - NO BUSKERS - ONLY AT DESIGNATED

SPOT &  
TIME  
WITH  
REGULATION

IT WAS  
OUT OF  
CONTROL

# PANHANDLING

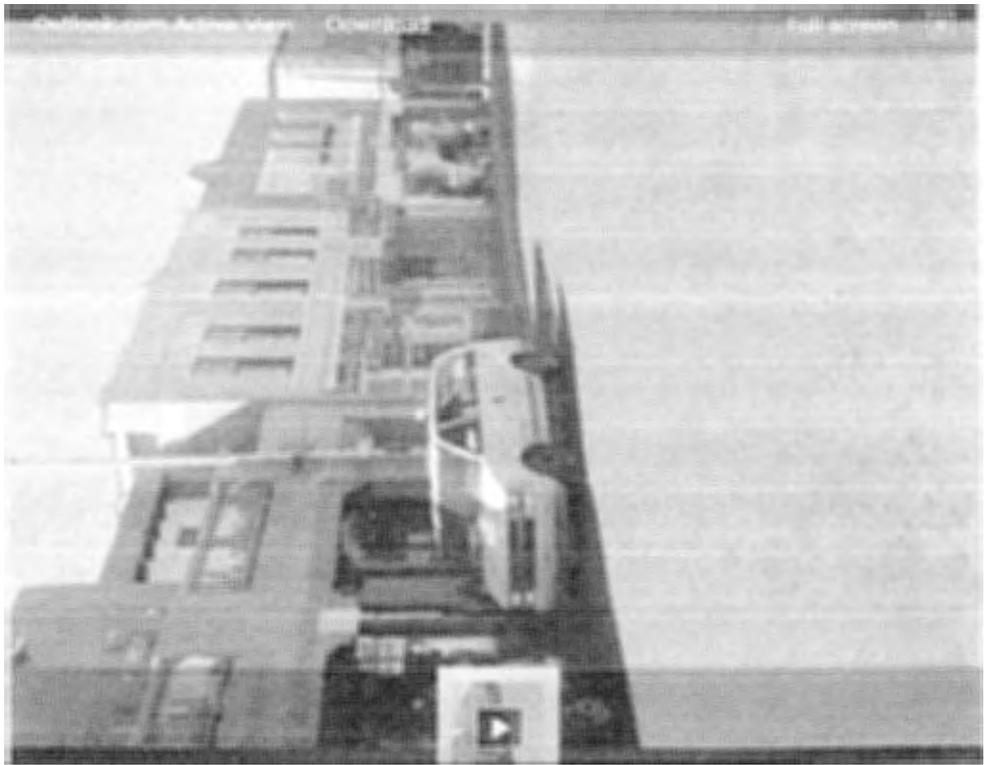


## DON'T CONTRIBUTE TO THE PROBLEM

CONTRIBUTE TO THE SOLUTION  
[WWW.FORTLAUDERDALE.GOV/GIVE](http://WWW.FORTLAUDERDALE.GOV/GIVE)

Florida working hard through out the state  
to stop both panhandling : buskers

Exhibit "5"



ICE CREAM TRUCK SELLING  
NO LABELS/SIGNS ON ONE SIDE  
MENU ON THE OTHER SIDE









PAN HANDLING IN/ NEXT TO  
PARKARDS NOW MOULAU FOL  
YEARS - DRIVES ↑ THEM OUT  
TO THE STREET TO SEND THEM  
AWAY - MOST DAYS

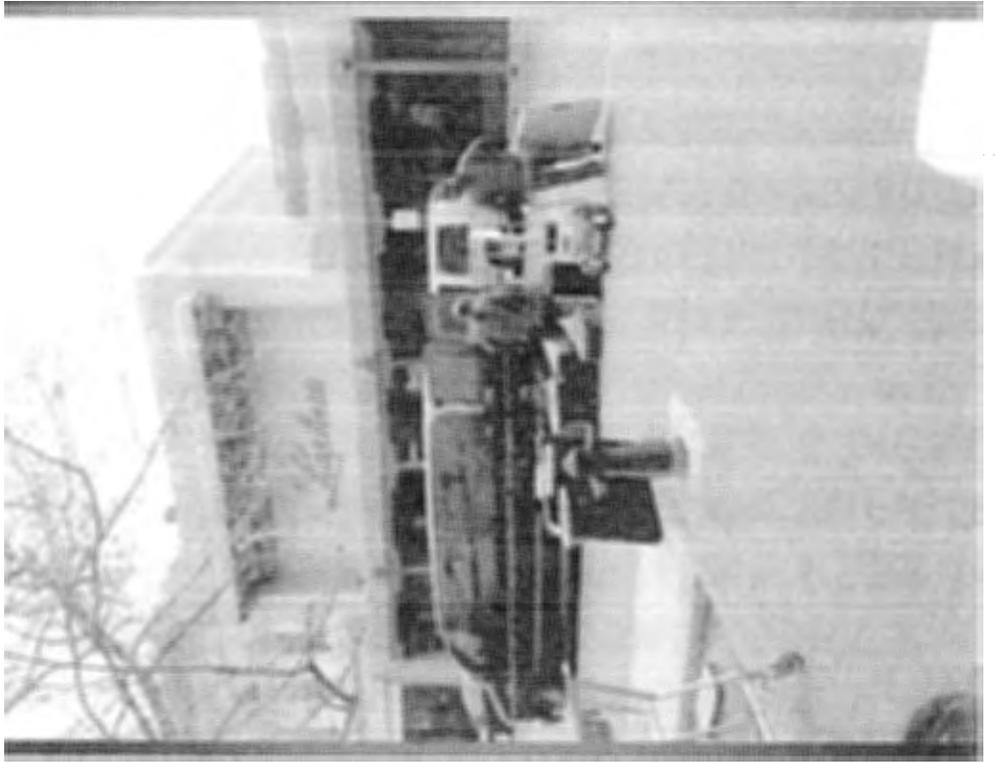
OTHER NATIVES HAVE CONTRACT WITH  
OWNERS SUCH AS DETEGA'S

INKA'S RIGHT NEXT TO FOOD VENDOR : ACROSS  
FROM PACKARDS/MOULAFÉ BUSINESS - LOUD!

DON'T HAVE LOADING PASS

INKA VAN PARKED IN LOADING ZONE





INKA'S LOADING

INKAS GENERATOR - THEY POUR  
THE OIL ONTO THE  
GROUND WITH TREE



wire →





Pedro  
Does Not  
Have "  
Loading"  
Pass  
But  
Has  
Used  
Loading  
Areas  
in  
Parking  
for  
years



N  
LOA  
PA

Pedro uses a foot tambourine to solicit tip money  
A busker hits or taps a tambourine 40 to 60  
times per "minute". Times that by an hour and  
you get 3,600 times per hour and if he stays  
8 hours like Pedro does and plays non stop you  
are tortured by almost 29,000 hits!  
He also brings extra tambourines so others  
can join with him

\* EVEN IN THE  
DAY



PAU HANDLING HIS ART FOR YEARS WHILE  
ANOTHER LOOKS OUT FOR POLICE



CAME TO OUR CART - NOT ASKING  
BUT DEMANDING MONEY OR FOOD  
FOR ART (3) TIMES IN ONE  
DAY AND VERY DRUNK



\* END OF DAY 6:00 ISH  
DROOK & FRIEND STILL LOOKING  
BUT FOR POLICE

POLICE KNOWS HIM WELL BUT  
NOTHING DONE



PAN HANDLING Jewelry  
Feels sick - ABOUT to throw up

Selling Notes LAST WEEK



# Selling WOOD ANGELS



BEEN DOING IT ON THE  
STREET A LONG TIME





BUSKER HEARD ACROSS PLAZA

PUBLIC SAFETY CANNOT ENFORCE  
ANYTHING

Selling Kachumias on Plaza



looks OUT  
FOR POLICE

Selling



CASH

Selling "Poetry" ON ONE SIDE OF  
THE PLAZA MOST OF THE DAY

THIS PAST WEEKEND

POLICE PRESENCE ON PLAZA  
NOTHING DONE

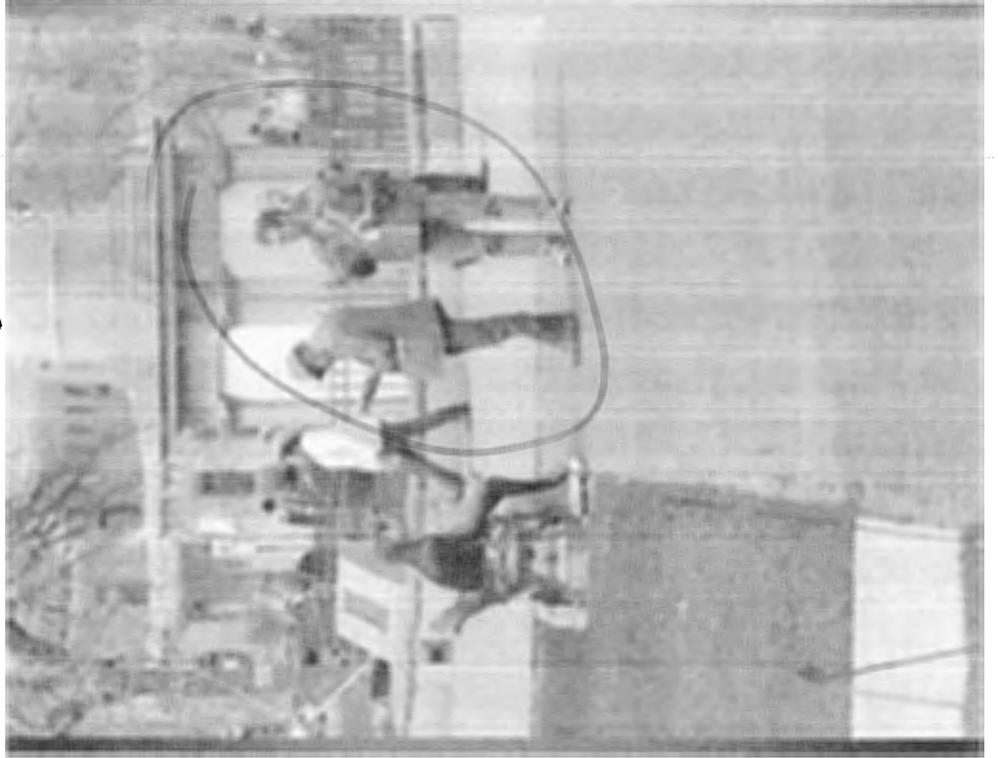


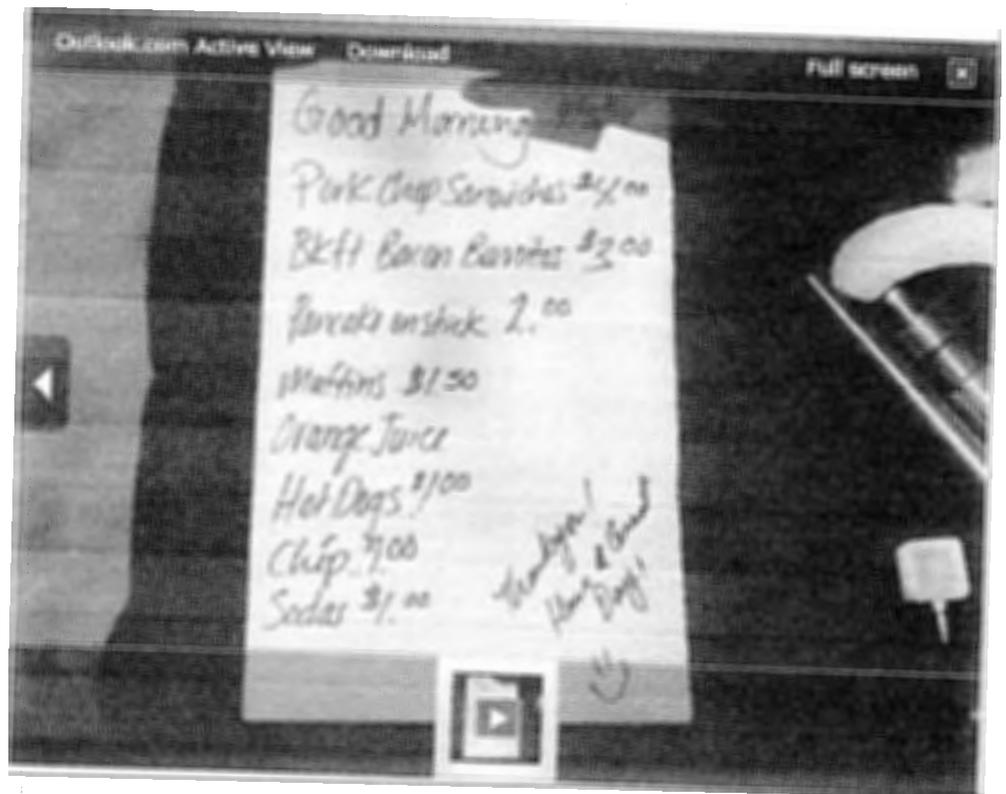












Selling Food on PLAZA IN FRONT  
OF ART VENDORS

Food Selling ...  
HAPPENS A LOT

\* NO ONE TO CALL TO STOP IT





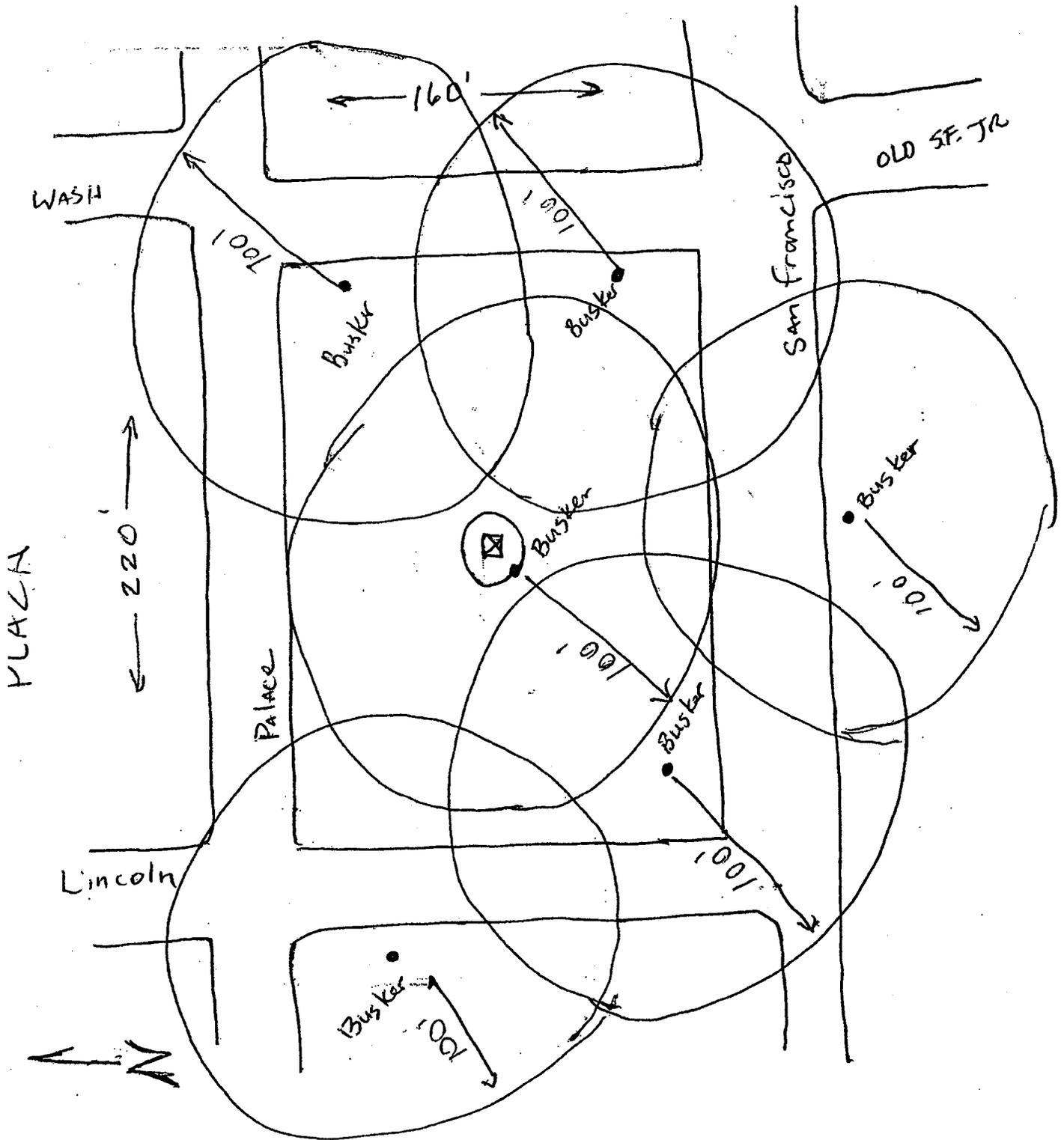


Exhibit "6"

### Proposal to Decriminalize City Ordinance on Street Performers

Across the country, there is a movement away from criminalizing violations of law, and away from arrest and incarceration, especially for minor offenses. Even conservative, "tough on crime" politicians and activists have realized the wisdom of this approach, forming organizations such as "Right on Crime," which sees excessive incarceration as costly and ineffective. Expanding the use of criminal sanctions against street performers in Santa Fe is unwise, unnecessary, and goes against the developing best practices models.

To try and explain my proposals, I have marked up copies of both the current Ordinance and Bill No. 2014-10, which was discussed at the most recent City Council meeting. The idea is to remove any reference to criminal penalties and to Municipal Court, while still providing SFPD with the ability to enforce the Ordinance and to treat street performers as they would any other citizen.

Thus, in the current Ordinance, we would remove reference in Section 23-8.7 to "Criminal Enforcement" and to Article 1-3, which is the General (Criminal) Penalty provision. As a balance to that, we could (but need not) insert into Section 23-8.6 a reference to the law against Resisting, Evading or Obstructing an Officer, which would emphasize that the laws that apply to all citizens apply to street performers as well, and reinforces the role of the SFPD in enforcing the administrative sanctions in this Ordinance.

In the proposed new section, 23-8.7(D), I strongly oppose the language creating a new misdemeanor for violating this Ordinance, and the language that would allow (and I believe even encourage) arrest for an alleged violation. Instead, if any of this proposed section remains to guide the actions of SFPD in confronting an alleged offender, I suggest the language that "the police department may order the performer to Cease." This again emphasizes the right of SFPD to enforce the Ordinance and, at some point, their right to bring into play (as they could with any citizen given a lawful order) the prohibition against Resisting an Officer.

SFPD has, in many areas, taken the lead in thoughtful and progressive law enforcement practices. I would hope that the Department trains its officers on the application of this Ordinance, and emphasizes the use of discussion, education, warning and citations, leaving arrest for any offence as a last resort, to be used only when an individual is seriously disturbing the peace and presents a threat of violence.

Ben Baur

*Exhibit "7"*



**STREET PERFORMERS 10 GOLDEN RULES**  
**Public Hearing – April 10, 2014**  
**City Council Chambers**

Like It	Hate It	Can Live with it Grudgingly	10 Golden Rules:
			<p>1. Street performers shall stay at least one city block away from other street performers.</p> <ul style="list-style-type: none"> <li>a. Street performers shall stay at least fifty feet (50') away from Plaza Park Art and Food vendors on the Plaza Park.</li> <li>b. Street performers shall stay far enough away from other street performers on the Plaza Park or other parks so other street performances are not disturbed.</li> <li>c. There shall be a maximum of five street performers, with a maximum of three of the five performers being musical performers, on the Plaza Park at one time; it shall be determined on a first-come first-serve basis.</li> </ul> <p>Comments:</p>
			<p>2. Street performers shall not exceed 60 dBA as measured from the door of a private property establishment or as measured from any Plaza Park Art and Food vendor location(s).</p> <ul style="list-style-type: none"> <li>a. A performer or group may use battery powered portable amplification, however the performers may not use public power sources or portable generators.</li> <li>b. A performer or group may use amplification at the Plaza Park only between 12:00 p.m. to 1:30 p.m.</li> </ul> <p>Comments:</p>
			<p>3. Street performers, whether an individual, a group or a jam session, shall remain at one location no longer than two (2) hours and shall not return to that location for two (2) hours. When done:</p> <ul style="list-style-type: none"> <li>a. The street performer(s) must move from that location.</li> <li>b. Street performer(s) on a sidewalk in one block must move to another block.</li> <li>c. Street performer(s) who performed on the Plaza Park must move off the Plaza Park.</li> </ul> <p>Comments:</p>
			<p>4. Street performers shall not block in whole or part any sidewalk, passageway, doorway, street, or alley.</p> <ul style="list-style-type: none"> <li>a. Street performers shall not perform on those portions of the sidewalks on San Francisco Street, Palace Avenue, Lincoln Avenue and Old Santa Fe Trail that surround the Plaza Park.</li> </ul> <p>Comments:</p>

*Exhibit "B"*

Like It	Hate It	Can Live with it Grudgingly	10 Golden Rules - continued:
		*	<p>5. Street performers shall have available and <u>display</u> the performer's business license, <u>which identifies their performance medium</u>, and <u>have available</u> proof of identification for review by the City at all times.</p> <p>a. <u>A street performer license issued by another entity is not a substitute for a license issued by the City's Finance Department.</u></p> <p>Comments:</p>
		*	<p>6. Street performers shall be <u>one city block away from the entry or exit points</u> on events for which a city permit has been issued, including, but not limited to Indian Market, Spanish Market, Fiesta Arts and Crafts, Fiesta and midday or evening performances at the bandstand on the Plaza Park.</p> <p>a. A street performer shall perform at such events only with the written permission of the sponsor and provided the performer has <u>received a special event license</u> which is different than the Busker license.</p> <p>Comments:</p>
		*	<p>7. Street performers may accept contributions of money or property; however, they shall not sell food products, goods or wares on public property; except for audio or video recordings, provided the street performer <u>has a CRS tax number.</u></p> <p>Comments:</p>
		*	<p>8. Street performers may not perform on private property unless permission is granted by the property owner.</p> <p>Comments:</p>
		*	<p>9. Street performers may not use fire, stray paint or aerosol in performances as they are prohibited.</p> <p>Comments:</p>
		*	<p>10. Street performers shall perform no earlier than 8:00 a.m. and <u>no later than midnight</u>, except at city parks and recreation areas, including the Plaza Park, where the curfew is 10:00 p.m. in accordance with City Code.</p> <p>Comments:</p>

\*Rules 5-10 use language in CURRENT ordinance (except for underlined areas)

## **Report on Public Meeting: Amendments to Street Performer (Busker) Ordinance, Section 23-8 SFCC 1987**

**Meeting Date/Time:** Thursday 10 April 2014, 5:30-8:30 pm

**Meeting Location:** Santa Fe City Hall Council Chamber

**Date Submitted:** 18 April 2014

**Submitted By:** Philip Crump, Contract Facilitator

**Attendees:** Councilors Josephs Maestas (Dist. 2), Signe Lindell (Dist. 1), Ron Trujillo (Dist. 4); City staff (City Attorney Office, Santa Fe Police Department), Plaza vendors, Plaza merchants, Santa Fe Buskers Alliance representatives, Street performers, Citizens, Visitors

**NOTE:** This report is intended to be a brief summary of the meeting. For greater detail, please refer to the Minutes. Additional commentary on specific issues not delivered verbally at the meeting may be found in the summary of the "Street Performers 10 Golden Rules."

### **Background/Meeting Summary:**

Amendments to the current Street Performer ordinance were introduced in January 2014 by former Councilor Chris Calvert (Bill No. 2014-10). The proposed revision was reviewed by the Public Works, Finance and Public Safety Committees prior to the public hearing at a regular Council meeting on 29 March 2014. Following the public hearing at that meeting, a motion was approved to set a public meeting on 10 April 2014, to allow further public commentary and try to reach consensus on unresolved issues, in advance of the Council meeting on 30 April. A final version of the amended ordinance, now sponsored by Councilors Maestas, Lindell and Trujillo, is scheduled to be introduced for approval by the Council at that meeting on the 30th. The Council has the option of adopting some or all of the four proposed amendments and the recommendation from Public Safety Committee, or craft an entirely new ordinance.

The newly-formed Santa Fe Buskers Alliance convened two public meetings prior to this meeting, to discuss their issues and develop proposals. Their Position Statement was distributed at this meeting and presented by an Alliance representative; the statement provided a brief history of ordinance, a statement reflecting the view that while the performers recognize the problems with performing, they do disagree with some of the proposed solutions. In addition, the Statement provides several tables summarizing issues in the current and proposed ordinances and some alternative proposals.

A steady stream of speakers presented their views regarding the nature of street performances in general as well as specific recommendations for the revised ordinance. Even with divergent opinions as to appropriate revisions, the tone of the meeting was spirited and civil; many of the speakers expressed the view that the Plaza should be for all, that the vendors, merchants and performers should see themselves as a community and that all users and visitors should have positive experiences in that historic park. One speaker summed up the challenge of crafting a suitable ordinance, in noting the desirability (and difficulty) of balancing order and creativity.

Many speakers suggested that even the current ordinance could be adequate if consistently enforced. SFPD Sgt. McCord described challenges of enforcement, especially inadequately-defined standards and conflicting City statutes, among others.

Assistant City Attorney Shandler crafted and distributed near the end of the meeting a questionnaire designed to elicit opinions on the "Street Performers 10 Golden Rules," which outlines the most prominent points in the proposed ordinance, along with some additional proposals.

**Outcome:**

Given the diversity of the audience, complete and clear consensus on the many issues was not reached. At the same time, there was agreement on some of the overarching items, including the proposed changes to the ordinance and other topics brought out in the presentations.

There was agreement that excessive volume is a the most troublesome issue for virtually all users of the Plaza, that use of a decibel standard may be unworkable and that a maximum distance for sound travel would be more useful for enforcement purposes. The proposed ordinance change sets a maximum distance for audible sound level at 100 feet. Several speakers said that sound traveling this distance would be much too great. Proposals for distance range upward from 25 feet. Additionally it is proposed that public power and portable generators be prohibited. Several speakers noted that amplifiers are integral parts of some instruments and could be kept at low volume.

A proposed 20 foot minimum distance from doorways, recommended by the Public Safety Committee, elicited considerable commentary from performers, who suggested that this would severely limit their ability to perform, especially along San Francisco Street. For merchants, this is not only an issue of access for their customers but a safety issue as well. Performers pointed out that there already are ordinances outlawing blockage of sidewalks and public passageways and that permission from owners could be obtained.

The final proposed ordinance change, that violations of the license be referred to the Finance Director rather than the entire Finance Committee, elicited little commentary.

There was little discussion of any prescribed distance between individual performers but rather a set number of performers (density) in the Plaza area at a given time (two to six), a schedule for turnover (one or two hours) and the requirement that a retiring performer move completely out of the Plaza to continue performing.

**Meeting Specifics (Items 1-10 keyed to the 10 Golden Rules questionnaire):****1) Distances between street performers**

- a) The current ordinance specifies a minimum distance of 150 feet between performers
- b) Comments at the meeting did not address specific distances, though the number of performers on the Plaza at a given time was discussed
  - i) It had been earlier proposed that performers be no closer than 50 feet from vendors
    - (1) A vendor said that the distance was less important than the disturbance
    - ii) Proposals included a maximum density of two to six performers at a given time, with the suggestion that locations for performances could be defined

**2) Volume and amplification**

- a) Excess volume seems to make for the greatest public dissatisfaction with music performers, for visitors, vendors and many performers alike
  - i) Several vendors complained that poor-quality and/or repetitive music played too loudly for long periods was extremely distressing; this elicited the greatest number and most strongly-worded complaints on the part of vendors
    - (1) One vendor suggested that there be auditions for performer licenses, to reduce the number of persons who use (poor) performance as a cover for panhandling
- b) The proposed amendment designates a maximum audible distance of 100 feet from a performer
  - i) Many speakers said that the 100 foot distance was too great--

- (1) Any sound heard at 100 feet would be excessive
  - (2) A diagram of the Plaza brought by a vendor showed that the 100 foot distance would allow only two performers at a time
- c) A vendor brought a tape measure and demonstrated the distances of 15, 25 and 50 feet
    - i) There was considerable assent that a performer's audience might extend to 25 feet, though the performer would want to draw an audience from farther away
  - d) Several speakers asked that no amplification be allowed on the Plaza, as they felt all amplification would result in too much volume
    - i) The proposed ordinance specifies that only battery power be allowed — no public power or generators
    - ii) Speakers said that some instruments (e.g., keyboard) require amplification to operate at all, but that amplifiers could be kept at low volume
    - iii) At least one speaker said that some performers use amplifiers already, but at a low volume that is appropriate
      - (1) Other speakers said that any amplification is excessive, while some non-amplified instruments (e.g., accordions) are already too loud, in their opinion
- 3) Turnover in performance locations**
- a) In both the current and proposed ordinance, "Street performers shall remain at one location no longer than two (2) hours and shall not return to that location for two (2) hours, availability of location permitting."
    - i) Sgt. McCord reported that some buskers move a couple of feet and claim they've met the rule; given the lack of specificity in the rule, there is little the police can do
  - b) Performers moving out of the Plaza area would allow different performers to move in and provide a greater range of performance on the Plaza
    - i) A few speakers said that a time limit of one hour would be preferable, to allow even greater turnover
- 4) Distance from doorways, passageways, street entrances**
- a) The current ordinance stipulates that performers shall not block sidewalks, passageways, streets or entrances to buildings, while there is a recommendation from the Public Safety Committee that performers stay at least 20 feet from any doorway.
  - b) A performer presented a petition signed by a number of downtown merchants, in opposition to that recommendation
    - i) A performer suggested that this be up to the discretion of the merchant, while others said this would lead to confusion as to just who (merchant, manager, landlord) would be authorized to give such permission
    - ii) A merchant said that the ordinance should be "forward looking" and that performers stay 20 feet away from doorways unless there is permission from the owner
    - iii) Another performer asserted that the 20-foot rule would make many locations unavailable, while another said that it would move performers from San Francisco Street into the Plaza
- 5) Performer licenses**
- a) There seems to be general agreement that the 30 day/\$10 license should be eliminated
    - i) Both the current and proposed ordinances specify one-year licenses
      - (1) Several speakers have proposed 90-day permits, to allow closer review for renewal

- (2) A vendor proposed that the number of permits be limited, as a means of reducing the pressure on the Plaza
  - b) Insurance and background checks
    - i) Vendors said that they are required to obtain liability insurance and believe performers should be required to do so as well
    - ii) Additionally, due to the occasional presence of unsavory characters, one vendor proposed that there be background checks for performers, as is done with applicants for vendor licenses
    - iii) Asserting that some people are using a performer's license as a cover for panhandling, a vendor suggested that auditions should be required for applicants
  - c) Extending the requirements of the current ordinance, the proposed ordinance requires that licenses be displayed and that proof of identification be available
    - i) SFPD Sgt McCord said that having the license displayed would facilitate enforcement; this was consistent with remarks from others
      - (1) The Sgt asked that the license also state what activity the license is for (playing the banjo, selling CDs, etc.), which would also aid in enforcement
        - (a) A performer said that busker licenses currently are issued without identifying the activity
- 6) Permitted events on the Plaza**
- a) Under the proposed ordinance, performers must obtain both a special license and written permission from sponsors of permitted special events on the Plaza
    - i) While there was no disagreement with this policy, vendors noted that they must vacate their spaces during special events
- 7) Performer sales**
- a) Both the current and proposed ordinances allow sales of audio or video copies -- "representations of their own work"
    - i) An art vendor said that those sales diminish his own sales, for which he has paid significant amounts of license fee and insurance
    - ii) A vendor suggested that the license is not for selling and that a license for CD sales should be greater than \$35; a performer said that a fee for selling CDs would be fair
  - b) A CRS number is required for sales
- 8) Performance on private property**
- a) There was agreement that such performance be allowed
    - i) The question arose as to just who would have authority to give that permission -- whether owner, merchant, store manager -- and how that would be indicated in such a manner that police could quickly determine that the performance was indeed permitted
- 9) Use of fire, spray paint or aerosol**
- a) In the ordinance, "Use of fire, spray paint or aerosol in performances is prohibited"
    - i) A fire performer noted that open fire permitted in Railyard, not on Plaza
      - (1) The performer asked that fire be allowed on the Plaza as well, saying that his performance is safe
- 10) Performer schedule**

- a) The proposed ordinance limits performances to the period from 8 am until 9 pm daily, without specifying limits on any specific days

#### 11) Enforcement of the ordinance

- a) Criminal enforcement is outlined in the ordinance
  - i) A merchant noted that there must be enforcement mechanisms, suggesting that self-regulation would not be effective
- b) Performers complain that transgressions of the Ordinance should result only in administrative, not criminal, sanctions
  - i) Several performers said they believe citations should be issued instead
  - ii) It was noted that SFPD does not have the option of issuing warnings or citations under the current ordinance
    - (1) Sgt McCord noted that he could not enforce any law that is not criminal
- c) Uniform ordinances across the city
  - i) SFPD Sgt McCord said that inconsistency in ordinances and permits makes enforcement difficult
    - (1) There are discrepancies between what is permitted in the Railyard and what is permitted on the Plaza
      - (a) One ordinance for the city would facilitate enforcement
- d) Consistent officers
  - i) One of the performers said that "a stable police presence downtown would be great"
  - ii) Another noted that having consistency in police personnel would give everyone a chance to get to know each other and how things work
  - iii) A food vendor said the police try as hard as they can and that the new consistent bike team getting familiar with vendors and performers would help
- e) Criminality vs Code enforcement
  - i) Former Councilor Heldmeyer noted that there is Code Enforcement for other areas of City regulation (e.g., Land Use Codes)
    - (1) Those provide for limited enforcement
- f) Finance Director rather than Finance Committee
  - i) One amendment proposes that written report by SFPD of license violations go to the Finance Director, rather than the whole Finance Committee, for action

#### 12) Street performers in Santa Fe

- a) The ordinance notes that street performers "enhance the character of the city...and...have a right to perform on public property...."
- b) Many speakers said they appreciate the artistic contribution of street performances, which add to the enjoyment of the Plaza by visitors and other users
  - i) One downtown office worker said that being on the Plaza during a lunch break and hearing music was like a "little holiday"
- c) Speakers from all groups agreed that the problems are caused by a smaller number of performers who do not abide by the letter or spirit of the ordinance—the "bad apples"

- i) SFPD noted that a few performers do not abide by the rules and also utilize the ambiguity of the current ordinance to continue behavior that flaunts the spirit of the law; e.g., saying that stepping two or three feet from one position constitutes "moving" per the ordinance
- ii) Several speakers remarked that many behavior issues are already addressed in other ordinances and need not be part of a performer ordinance
- iii) One speaker said that people sometimes confuse panhandlers and performers
- iv) A merchant noted that music performers should be allowed on the Plaza but that they should have consideration for everyone; "We need to figure a way to live together."

### **13) Ongoing dialogue**

- a) Several presenters—performers and vendors alike—suggested that there be ongoing communication among Plaza users, to foster more harmonious relationships and to help deal with issues as they arise
  - i) Santa Fe Buskers Alliance has proposed that performers, merchants and vendors can create guidelines (expectations) for performers, to be read and acknowledged by performers prior to the issuing of a license
- b) A performer asserted that the Buskers Alliance could work out issues with the vendors
- c) SFPD Sgt McCord noted that officers will be on the Plaza from 10 am until 10 pm every day and that people should tell the officers what they need; "We are there to make the Plaza safe for everyone."

### **14) Other topics**

- a) One Plaza gallery owner provided photographs and complained that the Plaza is not clean. He suggested that while musicians are welcome, others are but noise makers and unwelcome

**Next Steps:** A revised amended ordinance is to be presented at the 30 April 2014 Council meeting, for review and possible passage.



## STREET PERFORMERS 10 GOLDEN RULES

Public Hearing – April 10, 2014

City Council Chambers

Like It	Hate It	Can Live with it Grudgingly	10 Golden Rules:
24	6	8	<p>1. Street performers shall stay at least one city block away from other street performers.</p> <ol style="list-style-type: none"> <li>a. Street performers shall stay at least fifty feet (50') away from Plaza Park Art and Food vendors on the Plaza Park.</li> <li>b. Street performers shall stay far enough away from other street performers on the Plaza Park or other parks so other street performances are not disturbed.</li> <li>c. There shall be a maximum of five street performers, with a maximum of three of the five performers being musical performers, on the Plaza Park at one time; it shall be determined on a first-come first-serve basis.</li> </ol> <p>Comments:</p> <ul style="list-style-type: none"> <li>- Who will enforce this?</li> <li>- Who will regulate performers?</li> <li>- "a" limits performing in the plaza to a small area. Need better ideas</li> <li>- "a" make it thirty (30') feet.</li> <li>- There is no room for more than two (2) performers.</li> <li>- "a" seems too far, do 25 feet</li> <li>- This is a lot of performers and limiting the amount of talent has a negative impact on the community.</li> <li>- "a" 30 is better.</li> <li>- "b" way too subjective and unenforceable</li> <li>- "c" best if combined with rule process for rotating buskers</li> <li>- "c" is easily measurable and enforced (others are restrictive and not easily enforceable).</li> <li>- "a" 75 ft. and no amplification</li> <li>- "c" no more than two – Plaza cannot handle them.</li> </ul>
15	15	5	<p>2. Street performers shall not exceed 60 dBA as measured from the door of a private property establishment or as measured from any Plaza Park Art and Food vendor location(s).</p> <ol style="list-style-type: none"> <li>a. A performer or group may use battery powered portable amplification, however the performers may not use public power sources or portable generators.</li> <li>b. A performer or group may use amplification at the Plaza Park only between 12:00 p.m. to 1:30 p.m.</li> </ol> <p>Comments:</p> <ul style="list-style-type: none"> <li>- Won't work as busker could lower volume when someone is measuring.</li> <li>- No amplification needed at all.</li> <li>- Amplification necessary for many instruments and performances. Amplified does not mean loud. Stick to measurements.</li> <li>- Food vendors are allowed to use portable generators, why not musicians?</li> <li>- No amps – No banging, whaling or shouting.</li> <li>- The issue is not amplification or not, it's noise level.</li> <li>- No amplification on the Plaza or City streets. People can approach them without amplification</li> <li>- Amplification not necessarily a problem but measuring dBA good.</li> </ul>

Like It	Hate It	Can Live with it Grudgingly	10 Golden Rules:
34		6	<p>3. Street performers, whether an individual, a group or a jam session, shall remain at one location no longer than two (2) hours and shall not return to that location for two (2) hours. When done:</p> <ol style="list-style-type: none"> <li>The street performer(s) must move from that location.</li> <li>Street performer(s) on a sidewalk in one block must move to another block.</li> <li>Street performer(s) who performed on the Plaza Park must move off the Plaza Park.</li> </ol> <hr/> <p>Comments: - Limiting time to one hour would allow for more performers, less repetition and more diversity.  - Must specify to performer how far they must move.  - Have performer leave and stop playing for two hours.  - No jam sessions.  - "a" move at least 200 feet and needs to be enforceable.  - Buskers cannot self-regulate. Must have clarity for the officers – laws.  - One hour is sufficient.</p>
26	10	1	<p>4. Street performers shall not block in whole or part any sidewalk, passageway, doorway, street, or alley.</p> <ol style="list-style-type: none"> <li>Street performers shall not perform on those portions of the sidewalks on San Francisco Street, Palace Avenue, Lincoln Avenue and Old Santa Fe Trail that surround the Plaza Park.</li> </ol> <p>Comments: - This restricts busking to the Plaza  - Other streets permissible but excludes plaza streets.  - Good to be mindful of flow of foot traffic  - Want performers on these streets otherwise will get over run with panhandlers.</p>
33	4	* 1	<p>5. Street performers shall have available and <u>display</u> the performer's business license, <u>which identifies their performance medium</u>, and <u>have available</u> proof of identification for review by the City at all times.</p> <ol style="list-style-type: none"> <li><u>A street performer license issued by another entity is not a substitute for a license issued by the City's Finance Department.</u></li> </ol> <p>Comments: - Who will enforce this?  - Needs to be specific with regard to what it is issued for.  - ID showing at all times  - Badges are good – will help police.  - No sharing and officer needs to enforce the complaint beyond checking if a license is valid.  - Police only check to see if license is valid but <u>never</u> enforce noise or other complaints.  - Buskers need a license that cannot be easily reproduced.</p>
27	4	* 5	<p>6. Street performers shall be <u>one city block away from the entry or exit points</u> on events for which a city permit has been issued, including, but not limited to Indian Market, Spanish Market, Fiesta Arts and Crafts, Fiesta and midday or evening performances at the bandstand on the Plaza Park.</p> <ol style="list-style-type: none"> <li>A street performer shall perform at such events only with the written permission of the sponsor and provided the performer has <u>received a special event license</u> which is different than the Busker license.</li> </ol>

Like It	Hate It	Can Live with it Grudgingly	10 Golden Rules:
			Comments: - Buskers should be allowed on Water Street or other parallel streets without interrupting event
22	10	* 5	<p>7. Street performers may accept contributions of money or property; however, they shall not sell food products, goods or wares on public property; except for audio or video recordings, provided the street performer <u>has a CRS tax number</u>.</p> <p>Comments: - Who will be checking for CRS tax numbers.  - Allow items for sale directly related to performance.  - No CD sales as it competes with vendors.  - CRS tax number is complicated, take it out.  - The current law enables performers to sell items related to their performance; not all buskers and musicians and other types of buskers should not be excluded.  - Buskers should not be exempt from the same responsibilities as vendors (taxes).  - No selling of any goods – CD, video <u>on the Plaza</u> and only with written permission in front of stores.</p>
33	3	* 5	<p>8. Street performers may not perform on private property unless permission is granted by the property owner.</p> <p>Comments: - Must have written proof.</p>
23	7	* 2	<p>9. Street performers may not use fire, stray paint or aerosol in performances as they are prohibited.</p> <p>Comments: - Would like to see skilled “fire throwers” who know how to safely perform this art.  - Special license for fire dancers?</p>
31	4	* 5	<p>10. Street performers shall perform no earlier than 8:00 a.m. and <u>no later than midnight</u>, except at city parks and recreation areas, including the Plaza Park, where the curfew is 10:00 p.m. in accordance with City Code.</p> <p>Comments: - No later than 9:00 p.m.  - On Friday and Saturday, extend time to 2:00 a.m.  - Preference is no later than 1:00 a.m.  - Existing ordinance makes no provision for someone who would like quiet time on the Plaza</p>

\*Rules 5-10 use language in CURRENT ordinance (except for underlined areas)

**General Comments:**

- Police should have the authority and consistently enforce all rules. They should have a copy of the rules/laws to present to performers if needed.
- Background checks should be done.
- Concerns about CD sales. Will this lead to other performers wanting to sell other things?
- Buskers should carry liability insurance and loading passes
- Perhaps there should be less limiting provisions for the Plaza and downtown after 5:00 p.m. or when most stores are closed.
- Busking should not be criminalized but license should be revoked if a busker is violating an ordinance.
- Multiple violations should be an automatic revocation of permits and license (perhaps 3 violations)
- Enforcement needs to be kept at a criminal level, not civil – enables PD to cite or arrest a violator
- Any foul language or activity should be banned and cause for license revocation.
- Police are doing fantastic, appreciate all they do.
- As a busker and jeweler and would gladly pay a nominal fee to be granted permission to sell my goods as I busk.
- There are panhandling laws, but the police do not enforce them.
- Get rid of one month license.