

City of Santa Fe, New Mexico

memo

DATE: October 30, 2015

TO: Governing Body

FROM:


Matthew O'Reilly, P.E.
Asset Development Director

ITEM

Review of Resolution 2015-55, "A RESOLUTION AUTHORIZING MOBILE VEHICLE VENDORS WITHIN THE PLAZA PERIPHERY AREA AT SPECIFIC LOCATIONS AND AT LIMITED TIMES, PURSUANT TO THE VEHICLE VENDOR ORDINANCE, 18-8.9 SFCC 1987", as directed by the Governing Body at their meeting of May 27, 2015.

BACKGROUND

On May 13, 2015 the Governing Body adopted the "Vehicle Vendor Ordinance" (Ordinance 2015-13). The ordinance renamed and amended the so-called "Street Vendor Ordinance" which had been in place for many years. Among a number of amendments, the Vehicle Vendor Ordinance retained the existing provision prohibiting Vehicle Vendors within the Plaza Periphery area¹ but added the option for the Governing Body to authorize Vehicle Vendors within the Plaza Periphery area by adopting a Resolution.

On May 27, 2015, in accordance with the provisions of the Vehicle Vendor Ordinance, the Governing Body adopted Resolution 2015-55 authorizing Mobile Vehicle Vendors at three specific locations within the Plaza Periphery area (see attached) beginning on June 8, 2015. The Governing Body also directed staff to report back on the operation of the Resolution after the conclusion of the 2015 Albuquerque International Balloon Fiesta.²

MOBILE VEHICLE VENDOR LICENSES

Under the previous "Street Vendor" ordinance a maximum of fifteen (15) street vendor permits could be issued per calendar year; ten (10) licenses for vending food and five (5) for vending non-food items.

¹ As defined by §23-5.1(V) SFCC 1987, "Plaza periphery area means an area outside the Plaza Park, not including the Plaza Park, bounded by Sandoval and Grant Streets on the west, Alameda Street on the south, Paseo de Peralta on the east and Marcy Street on the north. This area includes both sides of the boundary streets." (See Exhibit B).

² This memorandum addresses Resolution 2015-55 as directed by the Governing Body; it is not a review of the Vehicle Vendor Ordinance.

To date, a total of fifteen (15) annual Mobile Vehicle Vendor licenses have been issued during the 2015 calendar year. Nine (9) of these licenses were issued prior to the adoption of the new Vehicle Vendor Ordinance and Resolution. Six (6) were issued after adoption of the Ordinance and Resolution; four (4) of these six licensees also chose to pay the \$150 "Supplemental Fee" required to vend within the Plaza Periphery area. Of the fifteen total Mobile Vehicle Vendors licensed to date, thirteen (13) were food vendors and two (2) were non-food vendors.

OBSERVATIONS

Parking

Concerns were expressed prior to adoption of the Resolution that conflicts would arise between competing Mobile Vehicle Vendors (MVVs) over the three authorized parking spaces; these conflicts have not materialized. The most significant problem related to parking actually involved other types of vehicles parking (or attempting to park) in the three spaces reserved for MVVs after 6:00 p.m. Staff observed that in many instances drivers were having trouble seeing the restricted parking signs that were installed because the signs much higher than the driver's eye level. Staff informed the Parking Division and subsequently additional smaller signs were added closer to driver eye level; these signs also contain some typos that should to be corrected.

Staff also believes that the general perception of the public is that the city does not enforce parking regulations after 6:00 p.m.; several drivers expressed this belief and surprise while being asked to move their vehicles.

Staff did not observe MVV parking at these three locations late into the evening as the Resolution allows. During the summer months the MVV that was most frequently present usually stopped vending and left the area soon after the plaza band stand event ended.

Trash

Concerns were expressed prior to adoption of the Resolution that MVVs would leave trash and mess on the street; no problems have materialized.

Supplemental Fee

The adopted \$150 Supplemental Fee charged to park in the three locations authorized by the Resolution did not appear to be a problem. One MVV reported that he made between \$100 to \$250 (on a good night) and that that essentially paid for the Supplemental Fee.

Complaints

Staff did receive some complaints about the MVVs in the Plaza Periphery area. One MVV was found to be playing music from his vehicle and putting signs out on the sidewalk. On at least one occasion this same MVV was found to be arriving too early (prior to 6:00 p.m.) in an attempt to reserve one of the three parking locations. This MVV was contacted by staff and immediately

corrected these violations. Another MVV apparently chose to park backward on the street (a violation of the Traffic Code), presumably because the customer service window of their vehicle was on the wrong side. Staff also observed that not all MVVs were displaying both their city-issued Vehicle Vendor License and their state-issued Food Establishment Permit on the outside of the vehicle as required.

As a result of these early problems, the city Business License Office now hands out copies of the Vehicle Vendor Ordinance and Plaza Periphery Resolution when it issues the licenses. Regular follow-up by code enforcement (or other assigned staff) is recommended.

Some confusion may also exist over whether Mobile Vehicle Vendors are allowed with the Plaza Periphery if they are part of an approved Special Event permitted by the city. This could be clarified by a minor amendment to the Resolution.

Inquiries

Staff did receive inquiries from the public regarding the provisions of the Resolution (and related Ordinance provisions). Some inquiries came from MVV operators wanting to take up more than one parking space, presumably because their particular vending vehicles were larger than normal. Staff also met with a business owner with a physical address who was contemplating creating a vending vehicle without a sidewalk-side customer service window – instead this potential MVV inquired whether it would be allowed to serve customers who would stand in the street at the back of the vehicle or whether the vehicle operator could stand on the sidewalk and sell.

REQUESTED ACTION

Please discuss this memorandum and provide staff with direction regarding this Resolution.

Exhibits: A – Resolution 2015-55;
 B – Map of Plaza Periphery area;
 C – Minutes of the May 27, 2015 City Council meeting.

1 **CITY OF SANTA FE, NEW MEXICO**

2 **RESOLUTION NO. 2015-55**

3 **INTRODUCED BY:**

4
5 Councilor Signe Lindell

6 Mayor Javier Gonzales

7 Councilor Peter Ives

8 Councilor Carmichael Dominguez

9 Councilor Chris Rivera

10 **A RESOLUTION**

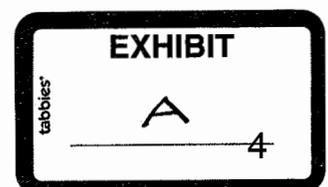
11 **AUTHORIZING MOBILE VEHICLE VENDORS WITHIN THE PLAZA PERIPHERY**
12 **AREA AT SPECIFIC LOCATIONS AND AT LIMITED TIMES, PURSUANT TO THE**
13 **VEHICLE VENDOR ORDINANCE, 18-8.9 SFCC 1987,**

14
15 **WHEREAS**, on June 25, 2014, the Governing Body adopted Resolution No. 2014-49 to
16 declare its desire to bring people to the Santa Fe Plaza, to provide increased economic development
17 opportunities, and to provide for creative and evolving usage of the Santa Fe Plaza; and

18 **WHEREAS**, Resolution No. 2014-49 directed city staff to analyze current city ordinances
19 related to food sales on the Plaza and to recommend ordinance amendments if necessary, and to bring
20 forward additional recommendations that would enhance the experience of the Plaza for residents and
21 visitors and ultimately bring people to the Plaza; and

22 **WHEREAS**, on June 10, 2015, the Governing Body adopted Ordinance No. 2015-13 which
23 established the Vehicle Vendor Ordinance, 18-8.9 SFCC 1987; and

24 **WHEREAS**, the Vehicle Vendor Ordinance prohibits vehicle vendors within the Plaza
25 Periphery Area, prohibits mobile vehicle vendors from parking for more than three (3) hours at any



1 location, and prohibits mobile vehicle vendors from parking within one hundred fifty (150) feet of the
2 street-level entrance to any restaurant, unless such prohibited activities are authorized by a resolution
3 of the Governing Body.

4 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
5 **CITY OF SANTA FE** that pursuant to the provisions of 18-8.9(C)(7), 18-8.9(D)(3), and 18-
6 8.9(D)(4) SFCC 1987, effective June 8, 2015 mobile vehicle vendors are authorized within the Plaza
7 Periphery Area at the following locations and at the following times:

8 Locations: Three (3) on-street parking spaces identified on the “PLAZA PERIPHERY
9 AREA – VEHICLE VENDOR MAP” below.

10 Times: 6:00pm to 2:30am.

11 Exceptions: Mobile vehicle vendors are not authorized at the above locations during the
12 permit period, or twenty-four (24) hours prior to the commencement of the
13 permit period, of any major commercial event permitted by the city pursuant
14 to §23-5.2 SFCC 1987 or any other special event permitted by the city within
15 the Plaza Periphery area that requires the use of the above locations by the
16 special event sponsor.

17 **BE IT FURTHER RESOLVED** that:

18 (1) City staff shall install parking signs at the locations identified by this resolution. The
19 signs shall state that parking is prohibited by vehicles, other than mobile vehicle vendors, during the
20 times identified above; and

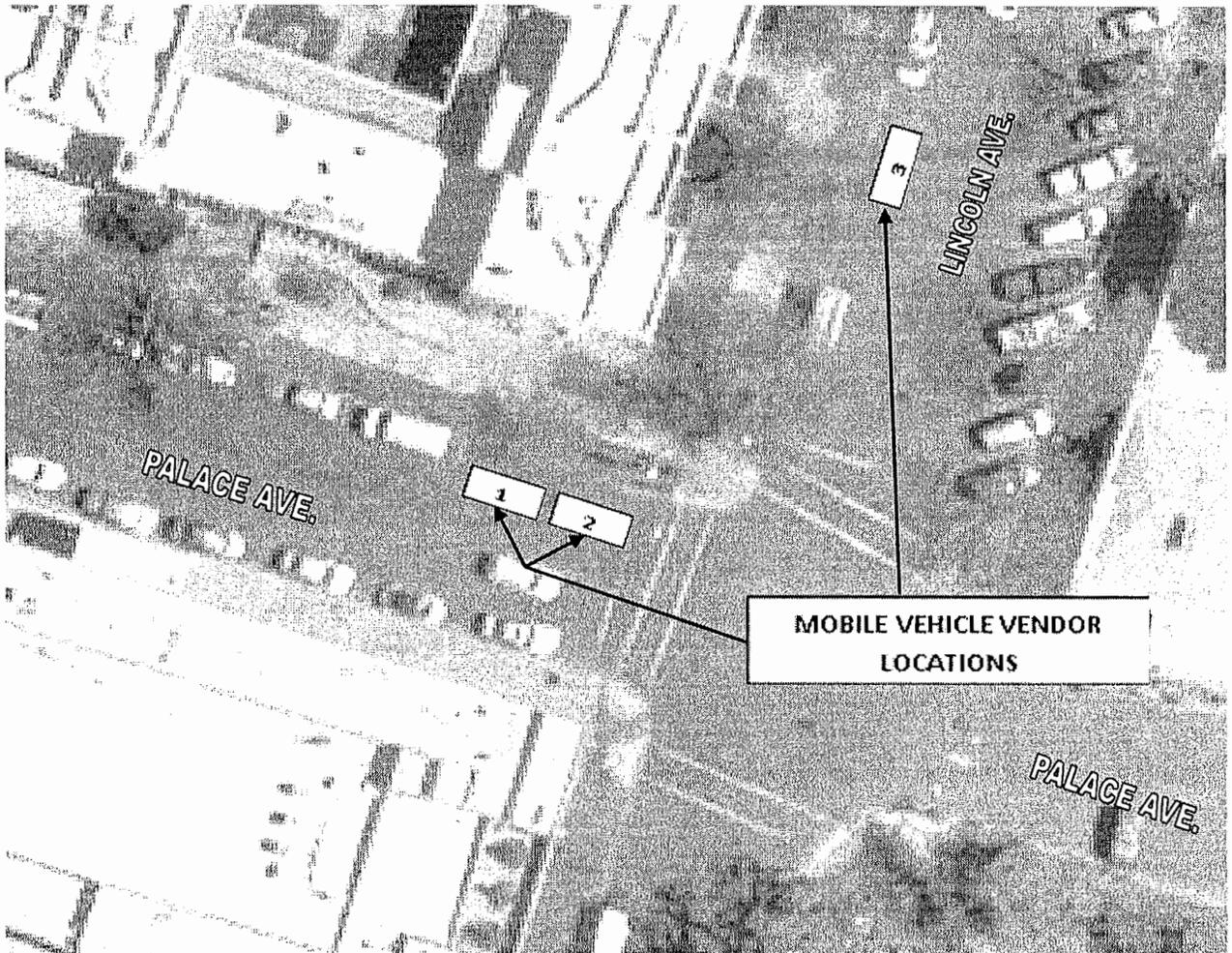
21 (2) Mobile vehicle vendors parked at these locations shall remain in compliance with the
22 Vehicle Vendor Ordinance at all times.

23 (3) Licensed Mobile Vehicle Vendors shall pay a “Supplemental Plaza Periphery Fee” of
24 \$150.00 to vend at the above locations

25 (4) The city manager is authorized to adopt administrative procedures for the

1 management and enforcement of the use of the above locations should the need arise.

2 **PLAZA PERIPHERY AREA – VEHICLE VENDOR MAP**



18 PASSED, APPROVED, and ADOPTED this 27th day of May, 2015.

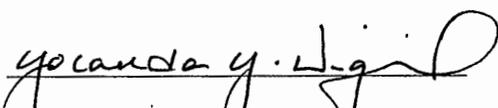
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JAVIER M. GONZALES, MAYOR

22 ATTEST:

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YOLANDA Y. VIGIL, CITY CLERK

1 APPROVED AS TO FORM:

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4 KELLEY A. BRENNAN, CITY ATTORNEY

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M: Legislation/Resolutions 2015/2015-55 Vehicle Vendors Plaza Periphery

Mayor Gonzales said he agrees, it has taken a while.

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

H. PUBLIC HEARINGS

- 1) **REQUEST FROM ESTEVAN, LLC, FOR A RESTAURANT LIQUOR LICENSE (BEER AND WINE, WITH ON-PREMISE CONSUMPTION ONLY) TO BE LOCATED AT ESTEVAN, 125 WASHINGTON AVENUE. (MELISSA BYERS)**

The Staff Report was presented by Melissa Byers.

Public Hearing

There was no one speaking to this request.

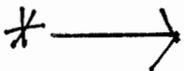
The Public Hearing was closed

MOTION: Councilor Bushee moved, seconded by Councilor Lindell, to approve the request for a Restaurant Liquor License (Beer and Wine, with on-premise consumption only) to be located at Estevan, 125 Washington Avenue, with all conditions of approval as recommended by staff.

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

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

Against: None.



- 2) **CONSIDERATION OF RESOLUTION NO. 2015-55 (COUNCILOR LINDELL, MAYOR GONZALES, COUNCILOR IVES, COUNCILOR DOMINGUEZ AND COUNCILOR RIVERA). A RESOLUTION AUTHORIZING MOBILE VEHICLE VENDORS WITHIN THE PLAZA PERIPHERY AREA AT SPECIFIC LOCATIONS AND AT LIMITED TIMES, PURSUANT TO THE VEHICLE VENDOR ORDINANCE, 18-8.9 SFCC 1987. (MATTHEW O'REILLY). (Postponed at May 13, 2015 City Council meeting)**

Matthew O'Reilly said two weeks ago the Council heard this item and postponed it, and two additional amendments have been proposed since that time, one by Councilor Lindell and one by

Councilor Maestas. Mr. O'Reilly said some of the original provisions in Councilor Lindell's first Resolution are incorporated to make the Resolution more clear, and those are in the packet. He said #8 of Councilor Maestas's amendment references a map which should be the same one as proposed as an amendment by Councilor Lindell.

Councilor Lindell asked Mr. O'Reilly to clarify the last point, the truck locations in the amendment.

Mr. O'Reilly said to make it clear, Councilor Lindell's original amendment contained a map that assigned 3 locations for the mobile vehicle vendors and the amendment in the packet proposed by Councilor Maestas also references the same map, intending for the locations to be exactly the same as those in Councilor Lindell's amendment. However, the map didn't make it into this packet.

Councilor Lindell said, "I'm going to clarify. Councilor Maestas is suggesting the same locations that I had suggested in the original amendment. So there's two spaces that sit on Palace and one space that sits on Lincoln."

Mr. O'Reilly said that is correct, noting there are slight differences between Councilor Maestas's proposal and Councilor Lindell's proposal. "Councilor Lindell's amendment sets the time for the mobile vehicle vendors to be present, from 6:00 p.m. to 2:30 a.m. Councilor Maestas has proposed that the time be 6:00 p.m. to 1:00 a.m., so slightly less time. Councilor Maestas's amendment proposes that the Resolution be in place from June 8th to October 12th, essentially as a pilot period, and then the Resolution expires. So it would not continue unless the Governing Body reviewed it afterward and decided to continue it the following year.

Mr. O'Reilly continued saying, "Another change proposed by Councilor Maestas is that any licensed mobile vehicle vendor that wants to park at one of these 3 spaces would pay an additional supplemental Plaza Periphery Fee of \$150, in addition to the normal fee they charge to license the vehicle vendor. That was in response to some of the discussion at the last Council meeting about the perceived disparity between what the Plaza Pushcart Vendors are charge in relation to what the mobile vehicle vendors parked at these 3 locations are charged. Those are the differences between what Councilor Maestas has proposed and what Councilor Lindell has proposed as amendments."

Mayor Gonzales asked if that is \$150 per day.

Mr. O'Reilly said no, it is a one time, one year fee of \$150.

Councilor Lindell said she would insert that she also had one other amendment.

Mr. O'Reilly said, "Councilor Lindell also suggests an amendment on packet page 6, that states, 'Be It Further Resolved that the Governing Body shall review this Resolution in October 2015, after the Albuquerque International Balloon Fiesta (October 12, 2015).'

Councilor Rivera said he has two maps in his packet, one of which has all 3 vendors on Palace Avenue, and the other has 2 on Palace Avenue across from the bank and one further down on Lincoln.

Mr. O'Reilly said the second map is the one that is proposed, noting the first was the originally proposed map which Councilor Lindell proposes to amend.

Councilor Rivera said the third location will be behind the Tour services that are provided now.

Mr. O'Reilly said that is correct, and this would be the metered parking directly behind the two spaces for tour services.

Public Hearing

Robert Andriatti, Director, Santa Fe Downtown Merchants Association, said he is speaking on behalf of that organization. He said the Association believes there are issues in the vendor ordinance that have been insufficiently vetted. First, they believe the incremental cost of additional food vendors in the Plaza at this time of the evening is greater than zero, and believe there will be additional trash cost, security cost, and the unresolved issue of restrooms. He said two weeks ago when the Council heard the previous ordinance, several representatives of First National Bank told the Council that their parking lot is the Plaza restroom at this time. He doesn't think there's any real argument to that. Second, they believe the food vendor trucks at these locations will interfere with other existing businesses. They understand that the Museum of Fine Arts wasn't consulted for its input regarding the impact of the trucks on their business, and they believe it would be an interference and would also interfere with the Chamber Music Festival. They are unaware of any give and take with regard to that. Third, they believe that the food vendor trucks will be unfair to the existing restaurants in the Plaza and surrounding area. He said competition is okay, but competition for its own sake is not. Competition is a means not an end.

Mr. Andriatti continued, saying each of the restaurants and each of the businesses set up shop where they are, and had a certain outlook over the surrounding area already. And now the City is unilaterally changing that and that's not fair to the restaurants.

Daniel Werwath, 1726 Agua Fria Street, said he is here to speak in favor of Councilor Lindell's amendments to the mobile vehicle vendor ordinance to allow for vendors in the Plaza periphery. He thinks it's important that they are at the least, a key part of this. They aren't interfering with any existing business by being open late. And in fact, it provides more safety for people on the street exiting bars and other things that close at 2:00 a.m., and also a key source of revenue. In a lot of places, the food trucks just set up when the bars empty. He thinks it is very critical and thinks "it's a poison pill" if you don't include the later time deadline. He thinks it's good to try new things, and this is a new thing, and you want to look back on it and judge how it's worked. He believes we need to create more opportunities to bring new businesses onto the Plaza at a lower cost. He said we've seen great examples of businesses using pop-ups to turn into very viable restaurants, Dr. Field Goods is a great example. He said he thinks *[inaudible]*

the winner last year. Good people are going to start these businesses and turn into bigger businesses as they grow and this gives them a foothold to do that. Lastly, he thinks we need to bring new people and locals to the Plaza and this is a good way to do this. He said if you're walking down the Street thinking you're going to dinner at *[inaudible]*, you're not going to peel off and get a taco in front of the Museum. It's not a competition thing. We need to stop protecting things like this. He would love for the City to close off the entire Plaza to rent to existing restaurants for table seating in the lanes. There is tons of wasted space there, and you could create revenue and create more things to bring locals downtown which he believes is really key.

Shannon Murphy, 106 Mesa Vista, representing the Nighttime Economy Task Force, which has been organized by the BQL. She is here to express the Task Force's and her personal support for this Resolution. She said lots of people think nightlife is about young people, but through the 6 months they've been meeting, the Task Force is aligned around the belief it is perhaps even more about tourism and presenting a vibrant and exciting experience to visitors to Santa Fe. Food trucks are burgeoning national and international trends. Anyone that has been downtown at night has run into tourists stumbling around looking for something to eat and to do, especially after the restaurants are closed when people are getting out of the bars and they are hungry. She sees this about providing tourists and locals with an excellent experience of downtown and bringing the vibrancy into the streets so people can experience Santa Fe as a historic destination as well as a 21st Century destination for tourism. The task force learned a lot of people work downtown that can't afford to eat at restaurants for the nighttime meal, and they either pack lunches or just don't eat. She thinks there is the potential to generate more gross receipts from locals working downtown who spend money at a food truck to get something cheaper for their dinner break or after their shift is over.

Stefanie Beninato said she works downtown and feels empathy for the downtown restaurant owners. She understands food trucks provide something different, but sees the restaurants as supporting the City with actual gross receipts which might be a little harder to track in a food truck, and they pay utilities which contributes to infrastructure development, so they contribute more in a sense. She has seen vacancies downtown with alarming frequency. She is happy this is proposed but has a review period. Her suggestion is to start the food trucks later. She said having the food trucks later tonight is a great opportunity and they don't compete directly with the restaurants. She said if they started at 8:00 p.m., they would still get traffic and the restaurants will close at 9:00 to 10:00 p.m. She appreciates that you thought through this and that there is a review period on it and hopes there is a way to track sales in these trucks so everybody can benefit from it.

Former Councilor Frank Montano said he has nothing against the trucks *per se*, but has observations. He said last week we had the Food Channel competitors for the Truck Reality Show coming to Santa Fe. He said his observation was that the food trucks were busier during the day, from lunch until about 4:00 to 5:00 p.m. He said those that were there after 6:00 p.m. didn't make any money. He said

perhaps it will work at 10:00 p.m. to 1:30 a.m. He said we have nice restaurants downtown and people want to go to the nice restaurants we have. He said the other thing he hopes for the artisans on the Plaza and other food vendors on the Plaza and for those that provide tourist services on the Plaza through out tour companies is that you lower our fees to \$125 a year.

The Public Hearing was closed

Councilor Lindell thanked staff for the work they have done on this. She said we are trying something new and she has included language in the Resolution that we will review this at the end of October which will give time to see how it works. She said, regarding Councilor Montano's comments, if no one comes late at night, she is sure the food trucks won't be there late at night. She is asking that we try something new.

MOTION: Councilor Lindell moved, seconded by Councilor Rivera, to approve Resolution 2015-55, with the two amendments she has put into the packet.

DISCUSSION: Responding to the Mayor, Councilor Lindell said the amendments are on pages 4 and 6 of the packet. She understands that staff spoke with the Museum and asked Mr. O'Reilly to report on that.

Mr. O'Reilly said he spoke with the Museum of Art Director last week, and once he explained the proposal, she was entirely in favor of this. She appreciated that the mobile vendors weren't going to be in front of the Museum until it closes. She acknowledged that on Friday, the Museum stays open until 8:00 p.m. for various reasons.

MOTION TO AMEND: Councilor Maestas moved, seconded by Councilor Bushee for purposes of discussion, to add his proposed amendments on packet page 7.

DISCUSSION ON THE MOTION TO AMEND. Mayor Gonzales said the amendment would replace Councilor Lindell's amendments and asked if this is correct.

Councilor Maestas said there are some changes, but in general, "I do want to state that these amendments are consistent with the discussion we had in Finance in response to a lot of the feedback we got from representatives of the bank. There was some concern by a lot of the Plaza vendors that we weren't upholding the exclusivity of the Plaza and the Plaza periphery and the reason he is proposing adding the supplemental Plaza Periphery fee. There was some concern about jumping all the way to 2:30 a.m. He thinks taking it back to the original ending time of 1:00 a.m., would satisfy some of the concerns of some of the downtown merchants and give opportunity during the pilot to see how it works. And at the end of the pilot period we can extend it to 2:30 a.m. He noted the downtown merchants who were at the Finance Committee meeting were very concerned about the very late hour of the vendor trucks.

Councilor Bushee she has been trying to get Councilor Maestas to go back to 2:30 a.m. She asked if there is compromise in terms of what would be friendly. The fee is minimal and she asked, "Could we just start there and then stick with your hours. I want to give this a shot. If it's not going to have business, the truck is not going to stay, so I don't have a problem with the hours.

Mayor Gonzales asked if we could go to the Motion which was made and then we can start working on friendly amendments.

FRIENDLY AMENDMENT: Councilor Bushee said she seconded the motion, but she thinks it should just be the 2:30 a.m. time, so we have the opportunity to see if it will work or not, and it's a short pilot project. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

Mayor Gonzales said so the difference between the two now would be the fee.

Mr. O'Reilly said, "Today is May 27 , 2015, and the original Resolution was to go into effect on May 28, 2015. The reason we inserted into Councilor Maestas's amendment that this not start until June 8, 2015, is we had been told by our Traffic Engineering Division that has to manufacture the signs for these space that they would like to have until June 8, 2015 to have signs made up so they can be properly installed at these locations. So one of the amendments that Councilor Maestas has proposed with regard to when this commences, I think it's important to include that in the Resolution that this begin on June 8, 2015. So staff would ask that this become effective June 8, 2015, regardless of whether it is decided that the Council wants it to end in October or whether it simply wants it to continue in October and there will be a review after it continues."

Mayor Gonzales said, "Regardless of what is approved tonight, we need a start date of June 8, 2015."

Mr. O'Reilly said that is correct.

Responding to the Mayor, Councilor Maestas said he didn't withdraw his amendment, he accepted the proposal to change it back to 2:30 a.m. as friendly. So it is a motion to amend with an amendment to extend it back to 2:30 a.m.

Councilor Maestas said his amendment designated the pilot period as well in his amendment.

Mr. O'Reilly said yes, his amendment makes it clear that this Resolution is only in effect for a limited period of time, from June 8, 2015 to October 12, 2015. After that point, the Council could decide to start it up again or change it for the next year. "But your amendment, Councilor, essentially makes this a pilot program, whereas Councilor Lindell's amendment and Resolution has the staff to study the effect of the Resolution after Balloon Fiesta, but doesn't stop the parking of the vehicles in these locations."

Councilor Maestas said Matt didn't explain the basis for the supplemental fee. He said Mr. O'Reilly took the Plaza Vendor Fee and pro-rated the fee to apply to the mobile trucks and then factored in the odds of getting a space.

Mayor Gonzales asked if there are barriers that prevents it. He hopes through the review period we could determine and spend more time seeing what an appropriate fee would be. This is brand new. It's costly to get a food truck up and moving, noting most of them are entrepreneurs who are putting in an enormous amount of their own personal wealth at risk to do this. If we're limiting the hours or creating more costs at a time when we want to see an industry grow that sends a very mixed message to the food truck industry. His hope is to make the barriers as low as possible, but build in a review period to address how it worked. He's concerned about including a hard sunset date, noting it will be hard to get someone to invest in a truck knowing this ends in the Fall, and not knowing if it is going to continue or not. The goal is to get more culinary experiences on the Plaza in addition to the food carts that are there. I'm not trying to create such a difficult Resolution that we don't ultimately achieve our objective, because we tried to address everyone's concern.

Councilor Maestas said there is still a designated time frame and it's not wide open.

Mr. Reilly said, "To be clear, the Ordinance the Council passed two weeks ago was the Vehicle Vendor Ordinance, which opened it City-wide to have an unlimited number of vehicle vendors and a much greater range of places where they could park. This Resolution doesn't impact someone's ability to buy a food truck or a mobile vending vehicle and use it anywhere else in the City. This Resolution is just about the 3 spaces downtown. So the time limits in terms of times of day are called out in the Resolution."

Councilor Maestas said the limitation is 6:00 p.m. to 2:30 a.m.

Mr. Reilly said that is correct or 1:00 a.m., depending on the Council's pleasure tonight, reiterating Councilor Maestas's amendment is the only one that imposes a calendar limitation on the effective date of the Ordinance and when it ends.

Councilor Maestas said on that point a review is called for in Councilor Lindell's amendment on page 6, and Councilor Bushee said that is in October after the Balloon Fiesta.

Mr. O'Reilly said that is correct. The difference is that Councilor Maestas's amendment requires that the allowance ceases in October and Councilor Lindell's Resolution and amendments allow it to continue through October and until and unless the Council, after it's review, decides to change it.

Councilor Maestas said his amendment cites the authorization of the City Manager to adopt administrative rules as well. So, would the continuation be addressed in the administrative procedures. He said in crafting the amendment it was under the guise of having a pilot evaluation and making a determination at that point if we should continue. So without his amendment, we will have a pilot period, but there is no hard and fast date to stop this. He doesn't see the difference.

Mr. O'Reilly said, "Without your amendment Councilor Maestas, if we were to adopt Councilor Lindell's two amendments, the Governing Body would review how this went from its inception until October. While the Governing Body was reviewing that, the practice would still be allowed. Your amendment would cease the practice on October 12, 2015, and at that point the Governing Body could call for staff to present a report on how it went. So there's a fine difference there, but it is an actual difference. With regard to the City Manager, both amendments proposed are exactly the same in that regard. It allows the City Manager to adopt administrative procedures for the management and enforcement of the use of the locations should the need arise. And the reason for that particular provision is there was some discussion about what happens if 10 mobile vehicle vendors all show up at once wanting to park in these 3 spaces. If that causes problems, this provision will allow the City Manager to develop some rules for how to handle that. We don't know that's going to happen, but it give us flexibility to deal with that at the City Manager level while this is being tested out."

WITHDRAWAL OF SECOND TO MOTION TO AMEND. Councilor Bushee withdrew her second to the Motion to Amend, noting she appreciates the work everyone has put into this, in particular Councilor Lindell who's really given it a shot. She said, "I raised concerns at the last meeting that I think you tried to address. I would like to ask that there are friendly amendments on part of your work, which would be the \$150, but if it was a non-profit, I wouldn't have a fee at all, but that's up to the main sponsor to accept."

THE MOTION TO AMEND FAILED FOR LACK OF A SECOND.

FRIENDLY AMENDMENT: Councilor Bushee would like to offer a friendly amendment for an effective date of June 8, 2015, **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

FRIENDLY AMENDMENT: Councilor Bushee would like to offer a friendly amendment make the fee \$150 **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

Councilor Rivera believes we can implement the fee at the review point, but to move it along, he is okay with it as well.

Mr. O'Reilly said the only other significant difference between the two sets of amendments is one calls for the time of day, that they can be there from 6:00 p.m. until 2:30 a.m., and the other is 6:00 p.m., to 1:00 a.m.

Mayor Gonzales said Councilor Lindell's original motion included the hours to 2:30 a.m.

VOTE ON THE MOTION AS AMENDED. The motion was approved on the following Roll Call vote:

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

Against: None.

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- 3) **REQUEST FRM THE ELKS BPOE LODGE #460 FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/ CONSUMPTION OF BEER AND WINE AT THE ELKS LODGE (OUTDOOR PATIO), 1615 OLD PECOS TRAIL, WHICH IS WITHIN 300 FEET OF THE CHRIST LUTHERAN CHURCH, 1701 ARROYO CHAMISO. THE REQUEST IS FOR A BENEFIT CAR SHOW TO BE HELD ON SATURDAY, MAY 30, 2015, FROM 9:00 A.M. TO 4:00 P.M. (MELISSA D. BYERS)**

A copy of a letter from the Elks BPOE Lodge #460, to Mayor Javier Gonzales, with attached letter from Sally Ritch, Council President, Christ Lutheran Church, in support of the requested waiver, is incorporated herewith to these minutes as Exhibit "10."

The Staff Report was presented by Melissa Byers.

Public Hearing

There was no one speaking to this request.

The Public Hearing was closed

MOTION: Councilor Lindell moved, seconded by Councilor Bushee, to grant the waiver of the 300 foot location restriction and allow the dispensing/consumption of beer and wine at the Elks Lodge (outdoor patio) for a Benefit Car Show to be held on Saturday, May 30, 2015 from 9:00 a.m. to 4:00 p.m., with all conditions of approval as recommended by staff.

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

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

Against: None.