

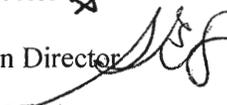
City of Santa Fe, New Mexico

memo

Date: November 7, 2014

To: Governing Body

Via: Jon Bulthuis, Transportation Department Director 

From: Sevastian E. Gurule, Interim Parking Division Director 

Re: Proposal to Repeal and Readopt Article IX of The Uniform Traffic Ordinance

Objectives of Proposal:

This proposed bill repeals and readopts Article IX of the Uniform Traffic Ordinance to establish that parking violations related to parking meters, city parking lots and city parking garages are civil parking violations and subject to administrative adjudication which would also include the use of a collection agency.

The primary goals of enacting the proposed bill are two-fold:

1. To enable the Parking Division to more effectively and efficiently reconcile and account for all parking violations. In March 2013, the Parking Division underwent a thorough forensic audit of its internal and administrative processes regarding the issuance, disposition, financial accountability and overall tracking of parking citations. The audit findings were presented to the Governing Body by Moss Adams at the May 8, 2013. This proposed Bill and corresponding attached Fiscal Impact Report is a direct result of the recommendations from Moss Adams and the directives provided by the Governing Body in Resolution 2013-064.
2. To improve the collection rate on citations resulting in increased revenue and, very likely, improved compliance with parking regulations.

Current Policies and Procedures

Currently, all parking violations are considered petty misdemeanors which require collection and adjudication through Municipal Court. The Parking Division follows the following collection process for parking violations:

1. After 15 days of non-payment, the Parking Division sends a penalty assessment notice to the vehicle's registered owner (the violator) notifying them that the fee has doubled. (The issuance of this notice is dependent upon the Parking Division having the current registered owner's name and address for the vehicle that received the citation.)
2. After 30 days of non-payment (and 15 days after the penalty assessment is issued), the Parking Division sends a summons to appear in Municipal Court on a specific date and time to answer for the outstanding fine.
3. The Municipal Court sends a criminal summons to those violators who did not appear as summonsed by the Parking Division.
4. If the violator does not appear as criminally summonsed, the Municipal Court follows up with a Failure to Appear Notice and, potentially, a bench warrant.
5. Note that under existing policies and procedures, the parking Division has accrued approximately seven million six hundred ninety two thousand five hundred thirty dollars (\$7,692,530) in uncollectable debt between 2000 and July 7, 2013.

Proposed Policies and Procedures

In the proposed code amendment the registered owner has fifteen (15) days from the date of issuance of the parking fine notification to make payment or request a hearing on all violations related to parking meters, city parking lots and city parking garages. The code amendment also establishes the following procedures for nuisance parking fines that are unpaid:

1. If, after fifteen (15) days from the date of the parking fine notification, the city has not received payment for the fine or received a request for a hearing, the registered owner is in default. A default results in an additional penalty of twenty-five dollars (\$25.00). The PVB will mail the notice of default to the defaulting party.
2. If after fifteen (15) days from the date the notice of default is mailed and payment has not been received, the city will pursue all remedies for collection of the unpaid debt to include services from a contracted collection agency. Collection fees will be assessed to the defaulting party.
3. The defaulting party may still make payment after the fifteen (15) days from the date of mailing of the notice of default by making payment in full plus penalties, provided that the payment is made before the unpaid parking fine and penalty is sent to a contracted collection agency.
4. Once the parking fine and penalty has been sent to a collection agency payment can only be made to the collection agency.

Forecasted Revenue Increase:

Having staff dedicated to parking violations, as well as contracting with a collections agency, will allow the Parking Division to more swiftly and efficiently collect on outstanding parking violation revenue. The revenue increase will depend on many factors. However, I am conservatively projecting a revenue increase of \$105,388 through the collection of unpaid citations in the current FY and more than \$210,777 for FY15/16 to be collected through an administrative adjudication process and collection services.

Staffing Requirements:

A Parking Violations Bureau (PVB) section will be established dedicated to the collection, adjudication and reconciliation of all parking violations – criminalized violations heard in Municipal Court and civil parking violations (parking meter, city parking lots and city parking garages) heard by a Hearing Officer.

- Establish a new non-union supervisory position to be responsible for executing procedures in the section and managing personnel. This position will establish an annual salary/benefit amount of \$90,500.
- Reclassify an existing position to schedule and attend hearings and court proceedings and reconcile the parking violation accounts. This reclassification will have a fiscal impact of approximately \$8,500.
- Establish two temporary full-time support staff:
 1. Account technician position to accept payments, provide customer service, reconcile parking violation accounts and maintain electronic and hardcopy records, at approximately \$25,000
 2. Clerk Typist position, to complete data entry and assist in the maintenance of electronic and hardcopy records, at approximately \$23,500

In the current FY, I am requesting to establish the supervisor and the account technician positions and to reclassify a current position. Hiring of the full-time clerk position would be delayed until FY15/16 keeping personnel expenses under \$60,000 in FY14/15, and under \$150,000 in future years. Note that \$39,000 is also budgeted, per year, to contract for a hearings officer.

Implementation Plan:

The proposed effective date of this ordinance is July 1, 2015, which should allow sufficient time for parking management to:

- Establish the Parking Violations Bureau as a separate entity from Parking's Accounting section;
- Transfer / Hire Parking Violations Bureau personnel;
- Revise and develop new standard operating procedures and provide training to staff;
- Order additional supplies as needed;
- Develop a strategic public relations campaign
- Contract with a collections agency
- Hire a Hearing Officer to begin in FY2015/16

Requested Action:

Staff is recommending approval of this code amendment, the establishment of the Parking Violations Bureau and the proposed staffing plan.

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2014-35

INTRODUCED BY:

Councilor Bill Dimas

AN ORDINANCE

REPEALING AND READOPTING ARTICLE IX OF THE UNIFORM TRAFFIC ORDINANCE TO ESTABLISH THAT PARKING VIOLATIONS RELATED TO PARKING METERS, CITY PARKING LOTS AND CITY PARKING GARAGES ARE CIVIL PARKING VIOLATIONS AND SUBJECT TO ADMINISTRATIVE ADJUDICATION AND COLLECTION FROM AN EXTERNAL COLLECTION AGENCY; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY TO MEET THE PURPOSES OF THIS ORDINANCE.

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

Section 1. [REPEAL] Article 12-9, of the City of Santa Fe Uniform Traffic Ordinance, (being Ord. #2006-34, as amended) is repealed.

Section 2. A new Article 12-9 of the City of Santa Fe Uniform Traffic Ordinance is ordained to read:

ARTICLE IX [NEW MATERIAL] PARKING

12-9-1 ADMINISTRATION. The parking division director has the authority to administer

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1 the provisions of Article 12-9.*

2 **12-9-2 DEFINITIONS.** As used in this Article:

3 *Civil parking violation* means the act of parking a vehicle in violation of Section 12-9-3 of
4 the Uniform Traffic Ordinance.

5 *Default* means the failure to pay a fine or to timely pay a fine pursuant to a decision of a
6 hearing officer under Section 12-9-4 of the Uniform Traffic Ordinance.

7 *Hearing officer* means a person appointed by the city manager to resolve disputes under
8 Section 12-9-4 in an administrative hearing.*

9 *Law enforcement officer* means a person who has successfully completed the New Mexico
10 department of public safety training and recruiting division accredited satellite program and passes
11 the law enforcement officer certification examination. (10-29.5.11 NMAC)

12 *Parking enforcement officer* means a city of Santa Fe employee who is commissioned to
13 issues parking fine notifications and citations.*

14 *Parking fine notification*, as used in Section 12-9-4, includes the following:

15 (1) *City parking lot or garage insufficient payment notice* means a written notice
16 affixed to the windshield of the vehicle or handed to the patron upon exiting a city parking lot
17 or garage by a city of Santa Fe parking attendant or other person authorized by the city of
18 Santa Fe, for failure to provide sufficient payment for the mandatory parking fees at a city
19 parking lot or garage.

20 (2) *City parking meter violation notice* means a written notice affixed to the
21 windshield of the vehicle by a city of Santa Fe parking enforcement officer, parking
22 attendant, police officer or other person authorized by the city of Santa Fe, for failure to pay
23 the mandatory parking fees at a city parking meter.

24 *Parking division director* means the director of the city of Santa Fe parking division and
25 parking violations bureau or his or her designee.

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1 *Parking meter* means:

2 (1) Multi-space parking meter, including a pay and display machine that is a type
3 of ticket machine used for regulating parking in city parking lots or garages for one or more
4 spaces; and

5 (2) Single-space parking meter that regulates on street parking for one space.

6 *Parking violations bureau* means the entity of the city of Santa Fe that is charged with the
7 administration of parking violations.*

8 **12-9-3 PARKING REGULATIONS**

9 **12-9-3.1 AUTHORITY TO ESTABLISH PARKING METER ZONES (formerly 12-9-1).**

10 A. The parking division director may establish parking meter zones in which the parking
11 of vehicles upon streets or parts of streets shall be regulated by parking meters between the hours of
12 8:00 a.m. and 6:00 p.m. of any day except Sunday and public holidays.

13 B. The parking division director may limit the period of time for which parking is
14 lawfully permitted in any parking meter zone in which meters are located regardless of the number of
15 coins deposited in a meter.

16 C. The parking meter zone may be diminished or extended and enlarged, or other
17 parking meter zones may be created.*

18 **12-9-3.2 INSTALLATION OF PARKING METERS (formerly 12-9-2).**

19 A. The parking division director shall install parking meters in established parking meter
20 zones.

21 B. Parking meters shall be placed on the curb immediately adjacent to each designated
22 parking space.

23 C. Parking meters shall be capable of being operated, either automatically or
24 mechanically. Payment shall be made upon the deposit of a twenty-five cent coin, ten-cent coin or
25 five-cent coin. The parking division director may implement other methods of payment, such as cash,

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1 smart cards, keys, credit cards and debit cards.

2 D. Each parking meter shall be designed, constructed, installed and set so that an
3 appropriate signal will indicate expiration of the lawful parking meter period which was registered by
4 the deposit of payment as provided herein.

5 E. During the lawful parking meter period registered by the deposit of payment and
6 prior to the expiration of the lawful parking meter period, the meter shall indicate the interval of time
7 which remains of such period.

8 F. Each parking meter shall bear a legend indicating the days and hours when the
9 requirement to deposit payment shall apply, the value of the coins or payment to be deposited and the
10 limited period of time for which parking is lawfully permitted in the parking meter zone in which
11 such meter is located.*

12 **12-9-3.3 PARKING METER SPACES (formerly 12-9-3).**

13 A. The parking division director shall designate the parking space adjacent to each
14 parking meter for which the meter is to be used by appropriate markings, including signage, upon the
15 curb or the pavement of the street or both.

16 B. Designated parking meter spaces shall be of appropriate length and width so as to be
17 accessible from the traffic lanes of the street.

18 C. No person shall park a vehicle in any designated parking meter space during the
19 restricted or regulated time applicable to the parking meter zone in which the meter is located so that
20 any part of the vehicle occupies more than one space or protrudes beyond the markings designating
21 the space. However, a vehicle which is of a size too large to be parked within a single designated
22 parking meter zone shall be permitted to occupy two adjoining parking meter spaces when coins of
23 the appropriate denominations have been deposited in the parking meter for each space so
24 occupied.(*)

25 **12-9-3.4 PARKING TIME LIMITS (formerly 12-9-4).** Parking or standing a vehicle in a

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1 designated space in parking meter zones shall be lawful upon the deposit of legal coins as indicated
2 on each parking meter.(*)

3 **12-9-3.5 DEPOSIT OF COINS OR OTHER METHOD OF PAYMENT** *(formerly 12-9-*
4 *5).*

5 A. No person shall park a vehicle in any parking space regulated by a parking meter
6 between the hours 8:00 a.m. and 6:00 p.m. on any day except Sundays and public holidays unless a
7 coin or coins of the appropriate denomination or other method of payment as provided in this
8 ordinance have been deposited therein and the meter has been placed in operation.

9 B. No person shall permit a vehicle within his control to be parked in any space
10 regulated by a parking meter between the hours of 8 a.m. and 6 p.m. on any day except Sundays and
11 public holidays while the parking meter for the space indicates by signal that the lawful parking time
12 in the space has expired. This provision does not apply to the act of parking or the necessary time
13 which is required to deposit immediately thereafter a coin or coins in the meter.

14 C. No person shall park a vehicle in any parking meter space for a consecutive period of
15 time longer than the limited period of time for which parking is lawfully permitted in the parking
16 meter zone in which the meter is located, irrespective of the number or amounts of coins or other
17 payment method as provided in this ordinance deposited in the meter.

18 D. Failure to deposit proper coin or coins or other payment method as provided in this
19 ordinance constitutes a violation of this ordinance.

20 E. Upon expiration of the legal parking time, it is the duty of the owner or driver of the
21 vehicle to remove the vehicle from the parking space.

22 F. It is unlawful for any person to cause, allow, permit or suffer a vehicle registered in
23 his name to be parked or to stand overtime or remain in the parking space beyond the specified
24 parking time limit.

25 G. The provisions of this section shall not apply in a period of emergency determined by

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1 an officer of the fire department or the police department or in compliance with the directions of a
2 police officer or traffic-control device.

3 H. The provisions of this section shall not relieve any person from the duty to observe
4 other and more restrictive provisions of this ordinance prohibiting or limiting the stopping, standing
5 or parking of vehicles in specified places or at specified times.(*)

6 **12-9-3.6 USE OF SLUGS PROHIBITED (formerly 12-9-6).** No person shall deposit or
7 attempt to deposit in any parking meter any slug, button or any other device or substance as
8 substitutes for coins of United States currency or other method of payment as provided in this
9 ordinance.(*)

10 **12-9-3.7 TAMPERING WITH METER (formerly 12-9-7).** No person shall deface, injure,
11 tamper with, open or willfully break, destroy or impair the usefulness of any parking meter. A
12 violation of this section shall be considered a civil parking violation and shall be abated by the
13 payment to the city of the fine set forth in 12-9-4.5 and, at the election of the city, the city's actual
14 damages.(*)

15 **12-9-3.8 PRESUMPTION OF UNLAWFUL PARKING (formerly 12-9-8).**

16 A. When the "violation" indicator is showing on a parking meter to indicate the
17 expiration of the lawful parking meter period for which coins or other method of payment as provided
18 in this ordinance have been deposited, it shall be presumptive evidence that any vehicle found in a
19 regulated parking space is parked in violation.

20 B. It is unlawful and an offense for any person to deposit or cause to be deposited in a
21 parking meter covering a metered parking stall which he has already occupied for the meter specified
22 time limit any coins or other method of payment as provided in this ordinance for the purpose of
23 extending parking time beyond the total lawful parking period designated for the parking meter zone
24 in which the meter is located.(*)

25 **12-9-3.9 PARKING IN DESIGNATED ACCESSIBLE PARKING SPACES (formerly 12-**

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1 9-9).

2 A. It is unlawful for any person to park a motor vehicle not carrying registration plates
3 or a placard indicating disability in accordance with Section 66-3-16 NMSA 1978 and Section 3-51-
4 46 NMSA 1978 in a designated accessible parking space for persons with significant mobility
5 limitation or in such a manner as to block access to any part of a curb cut designed for access by
6 persons with significant mobility limitations. Any person who violates this section shall be subject to
7 a mandatory court appearance and a fine, of not less than two hundred fifty dollars (\$250) or more
8 than five hundred dollars (500). Failure to properly display a parking placard or special registration
9 plate issued pursuant to Section 66-3-16 NMSA 1978 is not a defense against a charge of violation of
10 Subsection A of this section (66-7-352.5 NMSA 1978)

11 B. It is unlawful for any person to stand or stop a motor vehicle not carrying registration
12 plates or a placard indicating disability in accordance with Section 66-3-16 NMSA 1978 and Section
13 3-51-46 NMSA 1978 in a designated accessible parking space for persons with significant mobility
14 limitation. Any person who violates this section shall be subject to a mandatory court appearance and
15 a fine, of not less than two hundred fifty dollars (\$250) or more than five hundred dollars (500).
16 Failure to properly display a parking placard or special registration plate issued pursuant to Section
17 66-3-16 NMSA 1978 is not a defense against a charge of violation of Subsection A of this section
18 (66-7-352.5 NMSA 1978).

19 C. It is unlawful for any person to use a designated accessible parking space for persons
20 with significant mobility limitation for the purpose of receiving or discharging passengers or for
21 loading or unloading if the vehicle receiving or discharging the passengers or loading or unloading
22 does not carry registration plates or a placard indicating disability in accordance with Section 66-3-16
23 NMSA 1978 and Section 3-51-46 NMSA 1978. Any person who violates this section shall be subject
24 to a mandatory court appearance and a fine, of not less than two hundred fifty dollars (\$250) or more
25 than five hundred dollars (500). Failure to properly display a parking placard or special registration

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1 plate issued pursuant to Section 66-3-16 NMSA 1978 is not a defense against a charge of violation of
2 Subsection A of this section (66-7-352.5 NMSA 1978).

3 D. As used in this section, "designated accessible parking space" means any space
4 including an access aisle, marked and reserved for the parking of a vehicle that carries registration
5 plates or a parking placard indicating disability in accordance with Section 66-3-16 NMSA 1978 and
6 Section 3-51-46 NMSA 1978, and designated by a conspicuously posted sign bearing the
7 international symbol of accessibility and if paved, by a clearly visible depiction of this symbol
8 painted white on blue on the pavement of the space, except where the total number of parking spaces
9 is four or less. Temporary accessible parking spaces may be designated by a blue hood labeled as
10 accessible parking or in such other manner as to clearly indicate the space is for accessible parking
11 only. "Curb cut" means a short ramp through a curb or built up to the curb designed for access by
12 persons with disabilities. (66-7-352.5 NMSA 1978).

13 E. Any vehicle parked in violation of Subsections A., B. or C. of this section is subject
14 to being towed at the expense of the vehicle owner upon authorization by law enforcement personnel
15 or by the property owner or manager of a parking lot.

16 F. State, county and municipal law enforcement personnel, including city of Santa Fe
17 parking enforcement officers, have the authority to issue citations for violations of §12-9-3.9 in their
18 respective jurisdictions, whether the violation occurs on public property or private property (Section
19 3-51-46 NMSA 1978).

20 G. A law enforcement officer may issue a citation or authorize towing of a vehicle for a
21 violation of Section A of this section regardless of the presence of the driver (66-7-352.5 NMSA
22 1978). (Ord. No. 2006-34, Ord. No. 2007-49, Ord. No. 2009-11)

23 **12-9-3.10 SPECIAL REGISTRATION PLATE OR PARKING PLACARD INDICATING**
24 **DISABILITY (formerly 12-9-10).**

25 A. Vehicles displaying a valid special registration plate or parking placard pursuant to

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1 Section 66-3-16 (1999) NMSA 1978 and Section 3-51-46 NMSA 1978 are exempt from the payment
2 of any parking fee imposed by the city of Santa Fe but shall not be exempt from any penalty or other
3 provisions of the Santa Fe City Code or of this Ordinance.

4 B. Vehicles displaying a valid special registration plate or parking placard pursuant to
5 Section 66-3-16 (1999) NMSA 1978 and Section 3-51-46 NMSA 1978 shall be permitted to park for
6 unlimited periods of time in parking zones where the length of time for parking is normally restricted
7 and no penalty shall be imposed for such parking subject, however, to the following limitations. The
8 provisions of this section do not pertain to zones where stopping, standing or parking is prohibited,
9 zones reserved for special types of vehicles, zones where parking is prohibited during certain hours of
10 the day in order to facilitate traffic, during those hours when parking is prohibited, and zones subject
11 to similar regulation because parking presents a traffic hazard.

12 C. All special registration plate or parking placard issued pursuant to Section 66-3-16
13 (1999) NMSA 1978 shall expire on the same date as the person's driver's license or identification
14 card issued pursuant to Section 66-5-401 NMSA 1978.

15 D. A special registration plate or parking placard displayed on a vehicle parked in a
16 designated accessible parking space in the absence of the holder of that plate or placard, is subject to
17 immediate seizure by a law enforcement official and if seized shall be delivered to the division within
18 72 hours. Failure to surrender the parking placard on demand of a law enforcement officer is a petty
19 misdemeanor and punishable by a fine not to exceed \$100.00.*

20 **12-9.3.11 CITY PARKING LOTS AND GARAGES.**

21 A. It is unlawful for any person to park a vehicle in a city parking lot or garage without
22 providing sufficient payment for the period of time the vehicle was parked.

23 B. It is unlawful for any person to deposit or attempt to deposit in any parking meter
24 located in a city parking lot or garage, any slug, button or any other device or substance as substitutes
25 for coins of United States currency or other method of payment as provided in this ordinance.

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1 C. It is unlawful for any person to deface, injure, tamper with, open or willfully break,
2 destroy or impair the usefulness of any parking meter. This civil parking violation shall be abated by
3 payment of the city's actual damages plus the fine set forth in 12-9-4.5. A violation of this section
4 shall be considered a civil parking violation and shall be abated by the payment to the city of the fine
5 set forth in 12-9-4.5 and, at the election of the city, the city's actual damages.

6 D. The provisions of this section shall not apply in a period of emergency determined by
7 an officer of the fire department or the police department or in compliance with the directions of a
8 police officer or traffic-control device.

9 E. The provisions of this section shall not relieve any person from the duty to observe
10 other and more restrictive provisions of this ordinance prohibiting or limiting the stopping, standing
11 or parking of vehicles in specified places or at specified times.*

12 **12-9-4 CIVIL PARKING VIOLATION**

13 **12-9-4.1 AUTHORITY; TITLE.**

14 Section 12-9-4 is adopted pursuant to the statutory grant of authority contained in Sections 3-17-1 and
15 3-18-17A NMSA 1978 and shall be referred to as the "Civil Parking Violation Ordinance". This
16 Section shall be effective and enforced within the geographical boundaries of the city of Santa Fe.*

17 **12-9-4.2 PURPOSE AND INTENT.**

18 A. It is the intent of the governing body by adopting this Section to abate the following
19 civil parking violations:

20 (1) Civil parking violations caused by persons who park in city-owned metered
21 spaces or city parking lots and garages and fail to make the required payments or remain
22 parked after the paid period of time has expired; and

23 (2) Civil parking violations caused by persons who aggregate numerous parking
24 fine notifications and fail to pay fines assessed by the parking violations bureau.

25 B. The governing body declares that this section is a civil parking violation abatement

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1 measure enacted pursuant to the city's inherent authority under state law and that the remedies are
 2 purely civil and not criminal in nature.*

3 **12-9-4.3 CIVIL PARKING VIOLATIONS.**

4 It is a civil parking violation for any person to park a vehicle in violation of the following sections of
 5 the Uniform Traffic Ordinance:

- 6 A. 12-9-3.3 – Parking Meter Spaces;
- 7 B. 12-9-3.4 – Parking Time Limits;
- 8 C. 12-9-3.5 – Deposit of Coins or Other Method of Payment;
- 9 D. 12-9-3.6 – Use of Slugs Prohibited;
- 10 E. 12-9-3.7 – Tampering with Meter;
- 11 F. 12-9-3.8 – Presumption of Unlawful Parking; and
- 12 G. 12-9-3.11 – City Parking Lots and Garages.*

13 **12-9-4.5 Fines.**

14 A. The fines for civil parking violations shall be:

<u>Civil Parking Violations</u>	<u>UTO Section</u>	<u>Fine</u>
Occupying more than one parking meter space	12-9-3.3(C)	\$27.00
Parking time limits	12-9-3.4	\$16.00
Deposit of coins or other method of payment	12-9-3.5	\$16.00
Use of slugs	12-9-3.6	\$16.00
Tampering with meter	12-9-3.7	\$16.00
Unlawful parking – violation indicator is showing	12-9-3.8(A)	[\$16.00] <u>\$10.00</u>
Unlawful parking – covered parking meter	12-9-3.8(B)	\$27.00
City parking lot and garage civil parking violations	12-9-3.11	\$10.00

25 B. Fines are subject to a \$25.00 additional penalty if the fine is not paid within fifteen

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1 (15) days from receipt of the fine.

2 C. Fines shall be paid to the city:

3 (a) by mailing a check or money order to city of Santa Fe parking violations
4 bureau P.O. Box 909 Santa Fe New Mexico 87504-0909; or

5 (b) by depositing a check, money order or cash in a yellow collection box
6 located on parking meters around the down town area; or

7 (c) by telephone with a city-accepted form of credit card; or

8 (d) online, on the city of Santa Fe website; or

9 (e) in person at locations designated by the city.

10 Upon receipt, the parking violations bureau shall issue a receipt for payment of the fine.

11 **12-9-4.6 Enforcement.**

12 A. *Parking Fine Notification.*

13 (1) **Form and contents.** The parking fine notification shall state and contain the
14 license plate number, the date and time of the parking fine notification; the type of violation,
15 the location of the violation, the amount of the fine, the due date and address of the parking
16 violations bureau. The parking fine notification shall conspicuously and in bold face type
17 state; "Failure to pay this fine on time may lead to serious legal consequences including the
18 assessment of additional fines and monies due." The parking fine notification shall inform the
19 registered owner that within fifteen (15) days of the date of the parking fine notification, the
20 owner may either pay the fine or submit a request for hearing to the parking violations bureau
21 on a form provided by the parking violations bureau, in accordance with Subsection 12-9-
22 4.6(B)(2) SFCC 1987.

23 (2) **Delivery.** Correspondence from the city regarding parking fine notifications
24 shall be delivered to the address of the registered owner according to the address registered
25 with the department of motor vehicles (DMV). The registered owner has a duty to timely

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1 notify DMV of a change of address or if vehicle was stolen. The failure to do so does not
2 entitle the registered owner to assert the defense of inadequate notice. The mailing of a
3 parking fine notification to the address of the registered owner of a vehicle according to the
4 records of DMV is constructive notice of a parking fine notification.

5 B. *Response to a Parking Fine Notification.* Within fifteen (15) days from the date of
6 issuance of the parking fine notification, the registered owner shall pay the fine or submit a request
7 for a hearing.

8 (1) *Payment of the parking fine.* Upon receipt of the parking fine notification, the
9 recipient may elect to admit the violation and pay the fine. To proceed under this paragraph,
10 the recipient shall admit the violation by signing and dating the parking fine notification on a
11 space provided and returning the parking fine notification with payment to the parking
12 violations bureau within fifteen (15) days. The city may, but is not required to, adopt
13 procedures for alternative methods of payment of fines using the internet or other on-line
14 services. There shall be a fifty dollar (\$50.00) penalty for any payment tendered that is not
15 honored or is returned for any reason.

16 (2) *Request for hearing.* The recipient of a parking fine notification may submit
17 a request for hearing on a form provided by the parking violations bureau by so indicating
18 and returning the parking fine notification to the parking violations bureau within fifteen(15)
19 days of the date of the parking fine notification. There is no fee for a hearing. The hearing
20 officer shall schedule a hearing.

21 C. *Default with forfeit of hearing on the merits.* If the city does not receive payment of
22 the fine or a request for a hearing within fifteen (15) days from the date of the parking fine
23 notification, the registered owner is in default. Default automatically results in liability to the
24 registered owner of the vehicle for the violation and the registered owner is barred from requesting or
25 obtaining any hearing on the merits of the parking fine after the date of the default. A default results

An asterisk () at the end of a paragraph indicates that there are no comparable provisions in the State Code.
A reference includes any unreferenced paragraphs that precede it.

1 in an additional penalty of twenty-five dollars (\$25.00). The parking violations bureau shall mail the
2 notice of default to the defaulting party. The notice of default shall inform the recipient that they have
3 fifteen (15) days from the date of mailing of the notice of default to pay the fine and default penalty..
4 If the default is not cured within 15 days, the city may pursue all remedies for collection of a debt and
5 is entitled to an award of reasonable attorney's fees incurred. An uncured notice of default shall be
6 entered into the records of the parking violations bureau and, at the City's discretion, the default may
7 be cured even after 15 days from the mailing of the notice of default by payment in full plus penalties
8 but only if the payment is made before being sent to a contracted collection agency, or the default
9 may be promptly sent to a contracted collection agency, and once sent to a collection agency the
10 default may only be cured by payment to the collection agency.

11 D. *Hearing on the Merits.* The recipient of a parking fine notification may request that a
12 hearing be scheduled before a hearing officer.

13 (1) The hearing on the merits shall be held within fifteen (15) city business days
14 of receipt of the request unless the hearing is continued with agreement of the parties.

15 (2) The hearing on the merits shall be informal and not bound by the technical
16 rules of evidence.

17 (3) The hearing officer shall only determine whether there was a violation of
18 Section 12-9-3 of the Uniform Traffic Ordinance.

19 (4) The hearing officer shall mail or deliver written notice of his or her decision
20 to the owner within fifteen (15) city business days of the hearing.

21 (5) The registered owner is strictly and vicariously liable for the violation unless
22 one (1) of the exceptions herein applies. If there is more than one (1) registered owner, all
23 registered owners shall be jointly and severally liable.

24 E. *Defenses.* The respondent may present the following defenses in addition to any other
25 defenses available under law and has the burden of proof concerning the defenses:

An asterisk () at the end of a paragraph indicates that there are no comparable provisions in the State Code.
A reference includes any unreferenced paragraphs that precede it.

1 (1) The vehicle was stolen or otherwise being driven without the registered
2 owner's knowledge or permission at the time of the alleged violation. The registered owner
3 shall have a police report pertaining to the theft to avail the owner of this defense.

4 (2) The ownership of the vehicle had lawfully been transferred and conveyed
5 from the registered owner to another person before the time of the alleged violation. To assert
6 this defense, the registered owner shall identify the transferee and provide proof of
7 conveyance.

8 (3) The evidence does not show that a parking violation was committed
9 involving the subject vehicle.

10 F. *Revenue.* The revenue generated through parking violations fines, hearings and
11 collections shall be retained and distributed by the parking violations bureau. Each month, the
12 parking violations bureau shall retain the gross total amount of penalties, fines, fees and costs
13 assessed and collected that month and the parking violations bureau shall be responsible for paying all
14 costs associated with the hearing officer, or a collection contract or other contractors that assist the
15 city in imposing and collecting penalties or fines and costs or fees.

16 **Section 3. Section 12-11-3 of City of Santa Fe Uniform Traffic Ordinance (being**
17 **Ordinance No. 2006-34) is amended to read:**

18 **12-11-3 WHEN PERSON CHARGED MAY ELECT TO APPEAR AT BUREAU OR**
19 **BEFORE MUNICIPAL JUDGE.**

20 A. This section applies to all violations of the Uniform Traffic Ordinance except for
21 civil parking violations (parking meter violations and city parking lot and garage violations) as set
22 forth in Section 12-9-3 and 12-9-4 of the Uniform Traffic Ordinance.

23 B. Any person charged with an offense for which payment of a fine may be made to the
24 traffic violations bureau under the foregoing provisions shall have the option of:

25 (1) paying the fine within the time specified in the citation/notice of arrest at the

An asterisk () at the end of a paragraph indicates that there are no comparable provisions in the State Code.
A reference includes any unreferenced paragraphs that precede it.

1 traffic violations bureau upon entering a plea of guilty and upon waiving appearance in court;
2 or

3 (2) upon a plea of not guilty shall be entitled to a trial as authorized by law and
4 depositing any bail required as provided in the Rules of Procedure for the Municipal Courts,
5 adopted by the New Mexico Supreme Court, as amended.

6 [B]C. For the purpose of this ordinance, the payment of a fine to the traffic violations
7 bureau shall be deemed an acknowledgment of conviction of the alleged offense. The traffic
8 violations bureau, upon accepting the prescribed fine, shall issue a receipt to the violator
9 acknowledging payment of the fine.(*)

10 **Section 4. Section 12-12-1 of City of Santa Fe Uniform Traffic Ordinance (being**
11 **Ordinance No. 2006-34) is amended to read:**

12 **12-12-1 PENALTIES.**

13 The following provisions in Article 12-12 of the Uniform Traffic Ordinance shall not apply to parking
14 meter violations or city parking lot and garage violations as fines for these violations are covered in
15 12-9-3 and 12-9-4 of the Uniform Traffic Ordinance.

16 **Section 5. Schedule B, Parking Violation Fines Schedule of City of Santa Fe**
17 **Uniform Traffic Ordinance (being Ordinance No. 2006-34, as amended) is amended to read:**

18 **SCHEDULE B**

19 **PARKING VIOLATION FINES SCHEDULE**

20 ADOPTED: July 12, 2006

21 AMENDED: March 25, 2009 – Ord. #2009-11

22 _____, 2014 – Ord. #2014-

23 **SECTION 1.**

24 This Exhibit may be cited as the city of Santa Fe parking violation fines schedule.

25 **SECTION 2.**

An asterisk () at the end of a paragraph indicates that there are no comparable provisions in the State Code. A reference includes any unreferenced paragraphs that precede it.

1 "Parking violation" means violation of the following listed sections of the city of Santa Fe Uniform
 2 Traffic Code for which the listed fine is established. The term "parking violation" does not include
 3 any violation which has caused or contributed to the cause of an accident resulting in injury or death
 4 to any person.

5	COMMON NAME OF OFFENSE	SECTION VIOLATED	FINE
6	Stopping, Standing or Parking Prohibited	12-6-6.1	\$27
7	Additional Parking Regulations	12-6-6.2	\$21
8	Stopped/Parked Vehicles		
9	Interferes with other Traffic	12-6-6.3	\$35
10	Parking <u>in</u> Alleys Prohibited	12-6-6.4	\$27
11	All-Night Parking <u>in</u> Prohibited	12-6-6.5	\$27
12	Parking for Certain Purposes Prohibited	12-6-6.6	\$27
13	Parking Adjacent to Schools Prohibited	12-6-6.7	\$27
14	Parking Prohibited on Narrow Streets	12-6-6.8	\$27
15	Standing or Parking on One-Way Streets	12-6-6.9	\$27
16	Standing or Parking on Divided Streets	12-6-6.10	\$27
17	Stopping Standing or Parking/Hazardous Places	12-6-6.11	\$27
18	Stopping, Standing or Parking/Certain streets	12-6-6.12	\$27
19	Stopping, Standing or		
20	Parking/Business/Residence distr.	12-6-6.14	\$27
21	Parking in a Special Parking Area Without a Permit	12-6-6.15	\$32
22	Stopping, Standing or Parking/Freight		
23	Loading Zones	12-6-8.4	\$37
24	Parking of Buses and Taxicabs	12-6-9.3	\$37
25	Restricted Use of Bus and Taxicab Stands	12-6-9.4	\$27

An asterisk () at the end of a paragraph indicates that there are no comparable provisions in the State Code. A reference includes any unreferenced paragraphs that precede it.

1	[Parking Meter Space	12-9-3	\$27
2	Parking Time Limits	12-9-4	\$16
3	Presumption of Unlawful Parking	12-9-8	\$27]
4	Abandoned vehicles on private property	12-12-18	\$15

5 **SECTION 3. MUNICIPAL COURT FEES**

6 The municipal court fees set forth in Section 1-3.2 Section SFCC 1987 shall not apply to parking
7 violations set forth in Section 2 above.

8 **SECTION 4. PAYMENT OF FINES**

9 Fines shall be paid to the city:

10 (a) by mailing a check or money order to city of Santa Fe parking violations bureau P.O.
11 Box 909 Santa Fe New Mexico 87504-0909; or

12 (b) by depositing a check, money order or cash in a yellow collection box located on
13 parking meters around the down town area; or

14 (c) by telephone with a city-accepted form of credit card; or

15 (d) online, on the city of Santa Fe website; or

16 (e) in person at locations designated by the city.

17 Upon receipt, the parking violations bureau shall issue a receipt for payment of the fine.

18 Payment shall be received within 15 days of the date of citation otherwise, the fine shall double.

19 Failure to pay the fine may result in the booting of the vehicle as set forth in section 12-12-20 of the
20 city of Santa Fe uniform traffic code adopted in section 24-1.1 SFCC 1987. An alleged violator may
21 protest the charge of violation by filing the proper form to protest the violation with the municipal
22 judge located at 2511 Camino Entrada within 30 days of the charge of violation. No fine imposed
23 upon later conviction shall exceed the fine established for the particular parking violation.

24 **SECTION 5. MANDATORY COURT APPEARANCE.**

25 This parking violations fines schedule and the fines set forth in 12-9-4.5 do not apply to the following

An asterisk () at the end of a paragraph indicates that there are no comparable provisions in the State Code.
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1 parking violations which requires a mandatory court appearance and a fine no less than two hundred
2 fifty dollars (\$250) and no more than five hundred dollars (\$500):

3 Parking in Designated Accessible Parking Space [12-9-9] 12-9-3.9

4 Special Registration Plate or Parking Placard Indicating Disability 12-9-3.10

5 **Section 6. Effective Date.** This Ordinance shall become effective on July 1, 2015.

6 APPROVED AS TO FORM:

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9 KELLEY A. BRENNAN, CITY ATTORNEY

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M/Melissa/Bills 2013/Parking UTO Changes(11_06_14)

An asterisk () at the end of a paragraph indicates that there are no comparable provisions in the State Code. A reference includes any unreferenced paragraphs that precede it.

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): An Ordinance Repealing and Readopting Article IX of the Uniform Traffic Ordinance to Establish That Parking Violations Related to Parking Meters, City Parking Lots and City Parking Garages Are Civil Parking Violations and Subject to Administrative Adjudication and Collection From an External Collection Agency; and Making Such Other Changes as are Necessary to Meet the Purposes of This Ordinance.

Sponsor(s): Councilor Dimas

Reviewing Department(s): Transportation Department

Persons Completing FIR: Sevastian Gurule Date: 11/04/14 Phone: /ex: 6611

Reviewed by City Attorney: *Willy A. Brennan* Date: 11/7/14
(Signature)

Reviewed by Finance Director: *Jerosthina Garcia* Date: 11/7/14
(Signature)

Section B. Summary

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

The purpose of this bill is to decriminalize parking violations related to parking meters, city parking lots and city parking garages; to establish them as civil parking violations and subject to administrative adjudication and collection services.

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: _____

_____ Check here if no fiscal impact

Column #:	1	2	3	4	5	6	7	8
	Expenditure Classification	FY <u>14/15</u>	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY <u>15/16</u>	"A" Costs Absorbed or "N" New Budget Required	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected

Personnel* (Includes Benefits)	\$ <u>57,734</u>	<u>N</u>	<u>R</u>	\$ <u>147,930</u>	<u>N</u>	<u>R</u>	<u>05150</u>
Fringe**	\$ _____	_____	_____	\$ _____	_____	_____	_____
Capital Outlay	\$ <u>20,000</u>	<u>N</u>	<u>NR</u>	\$ _____	_____	_____	<u>05150</u>
Land/ Building	\$ _____	_____	_____	\$ _____	_____	_____	_____
Professional Services	\$ <u>0</u>	<u>N</u>	<u>R</u>	\$ <u>39,750</u>	<u>N</u>	<u>R</u>	<u>05150</u>
All Other Operating Costs	\$ <u>5,000</u>	<u>N</u>	<u>R</u>	\$ <u>5,000</u>	<u>N</u>	<u>R</u>	<u>05150</u>
Total:	\$ <u>82,734</u>			\$ <u>192,680</u>			

* 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 <u>14/15</u>	"R" Costs Recurring or "NR" Non-recurring	FY <u>15/16</u>	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected

<u>Fees/Penalties</u>	\$ <u>105,388</u>	<u>R</u>	\$ <u>210,777</u>	<u>R</u>	<u>05150.51150.450610</u>
<u>Online Pymt</u>	\$ <u>57,294</u>	<u>R</u>	\$ <u>114,588</u>	<u>R</u>	<u>05150.51150.450610</u>
_____	\$ _____	_____	\$ _____	_____	_____
Total:	\$ <u>162,683</u>		\$ <u>325,365</u>		

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.)

Please see attached cover memo

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.

No

2. Consequences of Not Enacting This Bill/Resolution:

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

The consequences of not enacting this bill would be that we will continue to have a large number of parking violations that are unpaid.

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.

No

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.

The positive effects of this bill are that we will have an opportunity, through a hearing officer, to hold hearings more frequently (one per week if needed); we will also have an opportunity to contract with a collection agency that specializes in the collection of parking violations. Furthermore, we have the opportunity to effectively and efficiently staff an official Parking Violations Bureau which will focus on the collection and adjudication of all civil parking violations/citations and not be distracted by additional job duties; we are expecting our overall collection rate to increase to approximately 75%. In addition, we have an opportunity to further strengthen our internal controls and ensure a thorough accountability of all civil parking violations/citations issued, adjudicated and/or paid.

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

**ACTION SHEET
ITEM FROM PUBLIC SAFETY COMMITTEE MEETING OF 06/17/14**

ISSUE: Proposed ordinance relating to the City of Santa Fe Uniform Traffic Ordinance; amending the provisions regarding in a call while driving and texting while driving; and amending the traffic violation penalty schedule to double the penalty assessment for using a mobile communication device while driving and to triple the penalty assessment for using a mobile device while driving in a school zone. .

PUBLIC SAFETY COMMITTEE ACTION: Recommended approval

SPECIAL CONDITIONS OR AMENDMENTS:

STAFF FOLLOW UP:

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON DIMAS	X		
VICE-CHAIRPERSON HARRIS	X		
MEMBER MIKE MIER	ABSENT		
MEMBER NANCY OWEN-LEWIS	X		
MEMBER PETER MIZRAHI	X		
MEMBER MIKE BOWEN	X		
MEMBER ERIC JOHNSON	ABSENT		
MEMBER DAVID TRUJILLO	X		

DISK fc1/fcmissue

~~in a school zone and moving it forward, second by Mr. Trajillo, motion carried by unanimous voice vote.~~

- C. Proposed ordinance repealing and readopting article IX of the Uniform Traffic Ordinance to establish that parking violations related to parking meters, city parking lots and city parking garages are nuisances and subject to administrative adjudication; and making such other changes as are necessary to meet the purposes of this ordinance (Councilor Dimas, Sevastian Gurule)

Mr. Gurule outlined the objective from the proposed ordinance and provided the Public Safety Committee with a summary of citations and payment status for 2013. (Exhibit A)

Dr. Lewis asked how the Municipal Judge feels about this change.

Mr. Gurule said the Judge is very supportive. The effective date would be the beginning of 2015 to allow us educational time with the public and additional training in the administrative offices.

Dr. Lewis asked what is the advantage vs. what we have now?

Mr. Gurule said that the benefit is to go through a collection agency. There are many municipalities that have done this in other states.

Councilor Dimas, Chair for PSC said that there is approximately \$6 million dollars that have not been collected in parking fines. It was discussed instead of criminal fines, through discussion with the City Attorney and other members of city staff, it was recommended to make this a civil violation. It isn't known how many bench warrants are out but it is an exorbitant amount. Parking meters are one of the minor reasons. Judge Yalman is in favor of this but she is also concerned on how you get this message out to inform the public how it is going to work. The citations will be color coded with instructions on where to go to get them taken care of.

City Attorney – Judy Amer: The proposed measure – hypothetically say for an expired meter you would have 15 days to pay your fine or request a hearing before a hearing officer. If you do nothing within 15 days you will have an additional \$25 added on to the fine. The way it works now if you don't pay within 30 days it doubles. Additional information was provided on the process if you request a hearing. If you don't request a hearing, in addition to the fine and then added \$25, it would then go to collections. It would be just like any other bad debt, it would be reported to a collection agency. There are approximately 4,000 unpaid per year. If the math is done on what is recovered from the collection agency back to the city could be a substantial amount of revenue.

The Chair also said that the collection agency could also send notices to the out of state holders of a NM citation.

Mr. Arellano asked how much is outstanding to date.

Mr. Gurule said that the amount not collected to date is approximately \$7.8 million dollars. The oldest citation on record is 2003. We have had discussion on statute of limitation.

Judy Amer, City Attorney: We can only collect in cases that have been filed 1 year from the date the citation has been issued. It is safe to say we can collect on the citations that have been issued this year, which is \$324,000. Over that you would have to go case by case.

Mr. Harris asked if this is retroactive?

Ms. Amer: That is correct, we would start collecting moving forward.

Dr. Lewis asked if Municipal Court has sent out any bench warrants.

Mr. Gurule said that to his knowledge bench warrants have not been issued.

The Chair said there is a difference between criminal summons and bench warrants.

Mr. Gurule said there were about 11 cities that did administrative adjudication. More information would be available from the City Attorney.

Mr. Trujillo moved to approve the proposed ordinance repealing and readopting article IX of the Uniform Traffic Ordinance to establish that parking violations related to parking meters, city parking lots and city parking garages are nuisances and subject to administrative adjudication; and making such other changes as are necessary to meet the purposes of this ordinance, second by Mr. Harris, motion carried, 4 in favor, 1 against.

~~D. Proposed resolution declaring the Governing Body's intention to bring people to the Santa Fe Plaza by providing a safer environment and increased economic development opportunities (Mayor Gonzales, Isaac Pino, Kate Noble)~~

~~Modifications: Mr. Pino stated that staff has been working to develop a logistics and programming plan to accompany the "People to the Plaza" resolution. (*Exhibit B – Memo to Finance Committee, June 5, 2014*)~~

~~Revisions:~~

- ~~- There will be tables and chairs on Lincoln Street.~~
- ~~- San Francisco St. would be left open for the same period.~~
- ~~- It would only affect Lincoln, Old Santa Fe Trail.~~
- ~~- ADA parking is increased.~~
- ~~- Unloading will remain untouched.~~

~~Significant change: The three things people wanted were music, food and cruising. There will be an introduction of cruise night; the plaza will be open~~

**ACTION SHEET
ITEM FROM THE
PUBLIC WORKS/CIP AND LAND USE COMMITTEE MEETING
OF
MONDAY, JULY 28, 2014**

ITEM 15

REQUEST FOR APPROVAL OF AN ORDINANCE REPEALING AND READOPTING ARTICLE IX OF THE UNIFORM TRAFFIC ORDINANCE TO ESTABLISH THAT PARKING VIOLATIONS RELATED TO PARKING METERS, CITY PARKING LOTS AND CITY PARKING GARAGES ARE NUISANCES AND SUBJECT TO ADMINISTRATIVE ADJUDICATION; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY TO MEET THE PURPOSES OF THIS ORDINANCE (COUNCILOR DIMAS) (SEVASTIAN GURULE)

PUBLIC WORKS COMMITTEE ACTION: Approved

FUNDING SOURCE:

SPECIAL CONDITIONS / AMENDMENTS / STAFF FOLLOW UP:

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON TRUJILLO	X		
COUNCILOR BUSHEE	X		
COUNCILOR DIMAS	X		
COUNCILOR DOMINGUEZ	X		
COUNCILOR RIVERA	X		

Mr. Pino said he didn't attend the POSAC meeting, but it's not like the Chair to approach a project that way. He would have to check the record to find the exact decision.

Councilor Dominguez said his concern is that people living adjacent to the Park need to be notified of what they may or may not be getting. There was a public process to get it to conceptual design or master plan. He feels they should have the opportunity to comment on the priority of things to be pulled from the project. He said there hasn't been public vetting on this by the users.

Mr. Pino said the intent is to seek impact fees, noting it's not that much money and the funds are available. He said our energy would be better spent getting impact money and finish the project.

Councilor Rivera asked if there are funds left from the Legislative funding for shade structures.

Mr. Pino said those haven't been bid, so he is hesitant to say funds are left over.

Councilor Rivera asked if we can we include this area for shade structure in the bid process.

Mr. Pino said we have to careful not to add too many things, because we know what the estimate is, but staff can take a look at it.

Councilor Rivera said that would be good. He said he agrees with Councilor Dominguez, and asked, if for some reason the impact fees are not available, that this go back through the process to allow users to have input.

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

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

15. **REQUEST FOR APPROVAL OF AN ORDINANCE REPEALING AND READOPTING ARTICLE IX OF THE UNIFORM TRAFFIC ORDINANCE TO ESTABLISH THAT PARKING VIOLATIONS RELATED TO PARKING METERS, CITY PARKING LOTS AND CITY PARKING GARAGES ARE NUISANCES AND SUBJECT TO ADMINISTRATIVE ADJUDICATION; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY TO MEET THE PURPOSES OF THIS ORDINANCE (COUNCILOR DIMAS). (SEVASTIAN GURULE) Committee Review; Public Safety Committee (Approved) 06/17/14; Finance Committee (Scheduled) 08/04/14; Council (Request to publish) 08/13/14; and Council (Public Hearing) 09/10/14.**

Councilor Bushee said she favors the concept, but on page 5, it says Judge Yalman has concerns that there is no appeal, or there could be confusion as to how appeals would operate. She said on the same page in the next paragraph, "Judy Amer says that we can only collect on cases that have been that have been filed, one year from the date the citation was issued." And following it says, an uncollectible debt, she assumes it would be civil rather than criminal, of \$7,692,530 that we would lose in parking violation fines issued between 2000 and 2013. She assumes those were uncollectable, or that the Judge

hasn't been in office long enough to make the effort to collect those. She wants to be sure it isn't confusing to the public. She asked the advantages and disadvantages, commenting she sees the loss of funds as a disadvantage.

Mr. Gurule said the \$7.6 million total outstanding revenue is from the beginning of time to July 7, 2013. He said these have been uncollectible for a significant amount of time for various reasons. He said there are a significant number without registered owner information. He said until recently we did not have an automated system which could capture the registered owner information from the DMV. He said without registered owner information, there is no one to whom to send notice regarding the citation, therefore they stay uncollectible. He said the majority of the outstanding funds are prior to 2011.

Mr. Gurule said he met with Judge Yalman several times, and her main concern is that there is no confusion as to what citations need to be heard in Municipal Court, versus a hearing officer. He said, working with Councilor Dimas, Ms. Byers and others, the plan to distinguish the different citations is to have a very different type of citation so it is very clear what is a nuisance violation.

Councilor Bushee asked what is a nuisance violation.

Mr. Gurule said, "According to the proposal here, all citations that have to do with parking meters or parking lot facilities are going to be considered to be a nuisance. And primarily, my understanding is these citations do not have State statutes governing them, and are governed directly by the City of Santa Fe." He said federal law governs ADA spaces. Fire, no parking zones and such are governed by State Statute which would have to be amended for those to be considered to be nuisances. He said, "The proposal right now are all citations governed by the City of Santa Fe and do not have supporting statutes with them. This is the biggest distinction between the two." He said the Citation Notice will make it very clear as to what is a citation which would be heard in Municipal Court as compared to a nuisance violation. He said the language will very clearly explain the process to be followed by the patron.

Councilor Bushee said there are 3 options: the City pays full price for collection services, T2 will keep a percentage of the collected amount; or T2 Systems will pass the collection fee to the violator. She said it seems he is favoring the third option, passing the collection fee to the violator. She asked does this mean a change in our Ordinance, and what is the current fee.

Mr. Gurule said currently, if a citation is not paid within 15 days of issues, under the Uniform Traffic Code, the amount doubles. He said now there will be a summons 30 days after issuance and no further fees are increased. He said the benefit of the proposal is if the citation isn't paid within 15 days, there is an automatic \$25 penalty assessment to that. If it is not paid, or a request for hearing is not made within 15 days, the citation continues and the collection agency will be responsible for collecting that. He said there will be an increase in revenue.

Mr. Gurule said we do not have a current contract with any collection agency, but we have made inquiries of other agencies, and our software developers have a branch of their business that handles collection agencies specifically specializes in parking violations, the T2 system. He said T2 has the 3-tier. However, without negotiations, he doesn't know what its cost would be, but the benefit to the City is we would be able to collect 100% of the amount owed to the City.

Councilor Bushee asked if the City's communication with the DMV has improved.

Mr. Gurule said yes, it has improved by leaps and bounds. We don't have the number of scofflaws we once did. With the new proposal, there is a different approach in being able to address the scofflaws.

Councilor Bushee said they aren't scofflaws, and it is incumbent on the City to have follow-up.

Mr. Gurule said prior to the interface with the DMV, there was no system in place to gather registered owner information, noting it was done manually. He said more than 80 of the citations issued are to New Mexico plates and we can capture that registered owner information.

Councilor Bushee asked what is the statute of limitations on the \$7.7 million for violations.

Mr. Gurule said Ms. Amer told him before she left the City that citations as they currently exist are petty misdemeanors, and under State law there is a statute of limitation of one year from date of issuance.

Councilor Bushee said then we need to write off that amount, and asked if that is correct.

Mr. Gurule said, "I say we need to start focusing on the good things that are happening in parking and we are in the process of implementing greater payment options which would allow a customer to pay on line, and we are trying to be more pro active than punitive. However, when citations are valid and not paid and they have not had a hearing, then we have a collection process to help collect the debt."

Councilor Bushee said the other proposal from the transition team was to write nice notes to visitors and say, 'Thanks for visiting our town, I'm sorry you didn't pay for the parking.' She is seeing that the locals will be paying more money if they have a parking violation. She asked if this idea is legal.

Mr. Gurule said there was a direction from this Governing Body asking that parking be a little more hospitable for visitors and we have been doing that. If there is an out-of-state plate which is illegally parked and has an expired meter, and if we don't have their vehicle owner information on file, we place a warning on the windshield – "Welcome to the City of Santa Fe, we appreciate you visiting our City, you have parked in violation, the good news is we don't have your registered owner information on file, this is a warning. However, the next time you park in violation, we will issue a citation."

Councilor Bushee said she thinks we should do that with the locals as well and that shouldn't be just for visitors. She didn't think we should put a meter everyplace in the Railyard. She thinks there should be amnesty days. She doesn't want to discourage locals from coming downtown and parking where we have meters.

Mr. Gurule said there are citations that are warranted, and they do the best they can to be visible and pro-active. The number of citations issued have decreased.

Councilor Bushee said, "Okay, so you're in favor of this new system."

Mr. Gurule said, "Yes ma'am."

Councilor Dimas thanked Mr. Gurule, Ms. Byers and Ms. Amer for the time spent on this Ordinance, noting they have been working on the Ordinance for about a year. He said this is our way of changing the violations from criminal to civil, and he believes it will work a whole lot better since we are able to use a collections agency. He said it makes it much easier for the judges than issuing bench warrants for parking meter violations. He agrees that the tourists should be paying like everybody else in the City of Santa Fe. However, the advantage of this is we now have a mechanism to get registered owner information, even out-of-state, because there are reciprocal agreements with most other states to get that information, and those also can be sent to a collection agency. He is happy to be welcoming to all of our tourists, but they understand as well as our citizens that the parking meters are there to generate revenues for our economy. He thanked Mr. Gurule for all of the research he has done, and for providing requested information in this process. He thinks we are well on our way to increasing our revenues.

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

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

18. IMPACT FEES:

- A. REQUEST FOR APPROVAL OF A RESOLUTION ADOPTING THE "IMPACT FEE CAPITAL IMPROVEMENTS PLAN 2020 FOR ROADS, PARKS, FIRE/EMS AND POLICE," TO MEET THE STATE REQUIRED IMPACT FEE PROGRAM 5-YEAR UPDATE, AS CALLED FOR IN THE STATE DEVELOPMENT FEES ACTION (5-8-30 NMSA 1988) (COUNCILOR BUSHEE). (REED LIMING) Committee Review: Capital Improvements Advisory Committee (CIAC) (Approved) 06/12/14; Finance Committee (Scheduled) 08/04/14 and Council (Scheduled) 08/13/14.**
- B. REQUEST FOR APPROVAL OF AN ORDINANCE RELATING TO IMPACT FEES – AMENDING SECTION 14-8.14(C), (E) AND (F), TO REMOVE THE 50 PERCENT REDUCTION OF RESIDENTIAL IMPACT FEES, ADOPT A NEW IMPACT FEE SCHEDULE AND INCORPORATE DEFINITIONS RELATED TO LAND USE TYPES; AND RELATING TO PARK DEDICATIONS – AMENDING SECTION 14-8.15(C)(2) SFCC 1987 THE PARK DEDICATION SECTION; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY (COUNCILOR BUSHEE). (REED LIMING) Committee Review: CIAC (Approved with amendment) 06/12/14; Planning Commission (Approved) 07/10/14; Council (Request to publish) 07/30/14; Finance Committee (Scheduled) 08/04/14 and Council (Public hearing) 08/27/14.**

ACTION SHEET
CITY COUNCIL COMMITTEE MEETING OF 08/13/14
ITEM FROM FINANCE COMMITTEE MEETING OF 08/04/14

ISSUE:

21. Request for Approval of an Ordinance Repealing and Readopting Article IX of the Uniform Traffic Ordinance to Establish that Parking Violations Related to Parking Meters, City Parking Lots and City Parking Garages are Nuisances and Subject to Administrative Adjudication; and Making such Other Changes as are Necessary to Meet the Purposes of this Ordinance. (Councilor Dimas) (Sevastian Gurule)

Committee Review:

Public Safety Committee (approved)	06/17/14
Public Works Committee (approved)	07/28/14
City Council (request to publish)	08/13/14
City Council (public hearing)	09/10/14

Fiscal Impact – Yes

FINANCE COMMITTEE ACTION: APPROVED AS DISCUSSION ITEM

FUNDING SOURCE:

SPECIAL CONDITIONS OR AMENDMENTS

STAFF FOLLOW-UP:

Reconciliation and detail of the financial impact of the changes.

VOTE	FOR	AGAINST	ABSTAIN
COUNCILOR TRUJILLO	X		
COUNCILOR RIVERA	X		
COUNCILOR LINDELL		X	
COUNCILOR MAESTAS	X		
CHAIRPERSON DOMINGUEZ			

3-17-14

Councilor Maestas thanked Mr. Pino for adding the Canyon Road lighting.

Councilor Maestas on page 14, you added City of Santa Fe welcome signing, but it's not quite what he had in mind. He said what he had meant was gateways at all entry points to the City of Santa Fe and the Airport. He would like funds programmed for planning and design initially and the construction funds in the out years of the ICIP. He feels strongly when people enter the City from any quadrant they should be met with an "appropriate, context sensitive, gateway."

Chair Dominguez asked if it is a welcome sign, and Councilor Maestas said, "Right. It's more than signage."

Mr. Pino said he doesn't understand what he means by gateways.

Chair Dominguez said, "I think what he's talking about is when you're coming into the City of Santa Fe, a monument that says you're coming into the City of Santa Fe. Not only is the monument beautiful, but the City is beautiful as well."

Councilor Trujillo asked if it is like the ones at Colorado Springs on exits from the Interstate, and Councilor Maestas said yes.

Chair Dominguez said this is a wish list and we need to make sure that anything like this is somehow articulated in this list, so if a Legislator wants to push that initiative forward, then it's on our list and in some cases, we become the fiscal agent. He said changing the title is in order.

FRIENDLY AMENDMENT: Councilor Maestas would like to amend the motion to change #45 on the list to change it to a request for City of Santa Fe Gateways, and change the requested amount to \$100,000. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE COMMITTEE.**

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

21. **REQUEST FOR APPROVAL OF AN ORDINANCE REPEALING AND READOPTING ARTICLE IX OF THE UNIFORM TRAFFIC ORDINANCE TO ESTABLISH THAT PARKING VIOLATIONS RELATED TO PARKING METERS, CITY PARKING LOTS AND CITY PARKING GARAGES ARE NUISANCES AND SUBJECT TO ADMINISTRATIVE ADJUDICATION; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY TO MEET THE PURPOSES OF THIS ORDINANCE (COUNCILOR DIMAS). (SEVASTIAN GURULE) Committee Review: Public Safety Committee (Approved) 06/17/14; Public Works Committee (Approved) 07/28/14; Council (Request to publish) 08/13/14; and Council (Public Hearing) 09/10/14. Fiscal Impact – Yes.**

A copy of City of Santa Fe Fiscal Impact Report No. 2551, in this matter, is incorporated herewith to these minutes as Exhibit "2."

Councilor Maestas said he believes everyone received an email from a tourist who was cited for parking in a handicap spot by mistake, and the fee was \$500. He said the Ordinance itself indicates a range, "not less than \$250 and not more than \$500." He asked the reason for the range for the fee for parking in a handicapped spot.

Sevastian Gurule said the fees are established by the federal government. The maximum fee is \$500, so our citations just reflect the maximum amount. It is the Judge's discretion to determine what she will assess. He can do research to find out the reason for the minimum and maximum established by the federal government.

Councilor Maestas said he isn't reactive, but this person is a tourist. He said one of the transition teams or committees that met that looked at tourism, and one of the recommendations was not to cite certain people for minor nuisance violations. The intent was to not discourage tourists from coming to Santa Fe. He thinks a \$500 ticket might do that as it did this person who sent an email to everyone. He asked if we can cap the fee at \$250 for any violation. He said he isn't trying to be insensitive to people with disabilities, but the tourist had a compelling case. She sent pictures showing the signage and it wasn't apparent she was parking in a handicapped spot. However, he feels \$500 is quite high. He said the tourist cited other comparisons, and none are as high as this. He asked again if this can be capped at \$250.

Mr. Gurule said it is not a fee that is governed by the City of Santa Fe. It is a federal and a State fee. He said, "I think there may be some flexibility in what we print on the citation, however the fee itself is governed by the federal government. And that is something that is outside of our purview to change. And if I may, we have been trying to be more diligent for more than 4 years for guests that have parked illegally, and just to give them a warning – welcome to our beautiful City, this is a warning issued to you. And we've been doing that for a number of years already. And we work really closely with folks that are calling our office and giving a reason as to what transpired. And the Judge has been very responsive and considerate for those who are out-of-state. We basically take some required documentation and information and present it to the Judge on their behalf, and that has been pretty effective and we've had pretty good success with that. I would defer to Legal more to determine whether or not we can cap it, being that it is a federal or state fee."

Ms. Brennan said, "I believe that we need to comply with the ranges set in State and federal law. We can check into it, but I think that it is within the discretion of the Judge. And the story needs to be told to the Judge and that's the person that needs convincing, typically, but we'll look into it."

Councilor Maestas asked if they are cited and they choose to pay without going before a judge are they charged \$250, the lowest amount. He said we have a range here, and asked what is the fee.

Mr. Gurule said the fee assessed to them is \$500. It is up to the Judge to reduce that to the minimum of \$250.

Ms. Brennan said, "The Ordinance provides, 'Any person who violates this section shall be subject to a mandatory court appearance and a fine of not less than \$250 or more than \$500.' So the court appearance is mandatory and the decision would be by the Judge. We can verify that that tracks applicable law. I think it probably does, or it wouldn't be in there. I think that handicapped parking areas are regulated strongly as a deterrent to people who are not authorized to park in those spaces."

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

DISCUSSION: Councilor Lindell noted the handout on our desks tonight addressing this [Exhibit "2"]. She said, "Mr. Gurule, you're the Interim Parking Division Director. Correct."

Mr. Gurule said yes.

Councilor Lindell said, "My question on this, I'm wondering if this is something that we should just postpone a short amount of time until we have a Parking Director.... perhaps the Director would want to have some other input on this. I don't know."

Chair Dominguez said, "I think, for all intents and purposes, Mr. Gurule is that Director. Without the City Manager being here and indicating otherwise, even if he would do that, I think that as far as we're concerned the Director is here."

Councilor Lindell said, "The question I have with this, in looking at the numbers with it, is this proposal has with it an annual cost of staffing and other costs of \$227,000 per year. Is that correct?"

Mr. Gurule said yes.

Councilor Lindell said, "So that's a recurring cost of \$227,000 per year. The handout shows an offset on this of \$301,000. Correct."

Mr. Gurule said yes.

Councilor Lindell said, "These numbers are a little misleading to me, and I have some other numbers here, because the \$301,000 already includes.... I mean we collect.... we don't collect that entire amount now."

Mr. Gurule said, "No, we do not. If I may, Councilor, the \$301,000 represents the total base fee for the citations that would be considered a nuisance. We are looking at, with the proposal present here, to be able to collect up to 95%. We have a 75% collection rate on these types of citations. And with the use of a hearing officer and a collection agency, we feel very confident that we can get up to 95% collections just on those citations that are affected by this Code amendment."

Councilor Lindell said, "Yes, but we're basically saying that we are willing to spend.... and I can't find the numbers, I'm just doing some quick math in my head now, we're basically saying here that we are willing to spend \$227,000 on an annual basis to collect really about \$61,000."

Mr. Gurule said, "It's more than that. And if I may further explain, with the personnel and expenses here, we are creating an office that is specifically designed to address citation adjudication. And it's not just for citations that would be considered a nuisance, but also those citations that are heard in Municipal Court. And with a staff of four that I am proposing here, the overall collection of all citations is noted in the last paragraph on Item 4 of the Fiscal Impact Report, we have an ability and an opportunity to possibly collect up to 75% of the overall outstanding parking citations, which equals \$637,000. It gives an opportunity to be more effective, more efficient. It gives us a chance to strengthen our internal controls, which was the subject of a forensic audit last year. There were several recommendations that were made by the forensic auditors that was supported by a Resolution sponsored by Councilor Ives. It allows an opportunity to have staff that are specifically focused on addressing citation adjudication. With the current staff right now, that's just one fraction of the job functions which they carry right now."

Councilor Lindell said, "We're talking though about adding 4 new employees which would be there forever, at a cost of \$227,000 per year. We currently, on the citations reported here, in 2013 of essentially \$300,000. We currently collect 75% of those, which is \$225,000. I'm just having a really hard time wanting to add on 4 new employees at a cost of \$227,000 to collect that other 25% that sits out there that in 2013 equaled \$61,000. I'm having a tough time wanting to spend over \$220,000 to collect \$60,000."

Responding to Mr. Gurule, Councilor Lindell said, "I took the math that says in 2013 we had essentially 21,000 citations with a value of \$301,000. And then I took the percent that '5340' was of '2938,' so it's essentially 75%. So of the \$301,000, the 75%, the 25% remaining is.... I just can't make these numbers work. We're doing 75% collection now. I don't know why we would want to spend \$227,000 to collect the other 25%, which is only \$61,000. I can't fiscally make that work. So those are my comments on this. I can't justify spending that much money, almost 400% of what we would be collecting. So those numbers don't work for me."

Mr. Gurule said, "I would like to also state again, the office itself is not going to be solely focused on the adjudication of nuisance citations. It is going to be all citations that are issued through an entire year which is roughly 30,000 citations. And the base value of the full amount is over \$800,000. And with this personnel, again we have an ability to collect up to 75%, not only just with... again keep in mind, I'm not just referencing nuisance violations. I'm talking about all citations that have been issued in the course of a year."

Councilor Lindell asked what are the other citations he's speaking about.

Mr. Gurule said, "Other citations having to do with ADA violations, with parking in a fire zone, parking in a no-parking zone, parking too close to a fire hydrant, parking too close to an intersection, all the other parking violations that have State Statutes supporting them."

Councilor Lindell asked if these currently are being collected through the Court.

Mr. Gurule said, "That's the biggest challenge we're facing right now. And I think Councilor Dimas's intent for this Code amendment was the collection rate itself is very very low going through the Municipal Court process. And it is primarily for several reasons. Once a citation has been issued, if there is no registered

owner information, then that citation sits on our books as an outstanding debt. When there is registered owner information, the patron is issued two different notices. One is a notice letting them know that the penalty has doubled. The second notice is summoning them to court. If they do not appear in Court, there currently was no system in place to do any deferred to collect. We have been working with Judge Yalman to try to see how, through the Court, we can get more motivation. And the idea that came about in late to mid-2012, was Parking would issue a list of patron who were issued a summons that did not appear in Court. The Court would then issue a criminal summons, summoning them into Court, thinking we would get more attention from that standpoint. That has not proven to be as effective as we thought. The next step would be the Judge would issue a Failure to Appear, and ultimately end up with a Bench Warrant. With the proposal here for the citations that are considered nuisances, we have the ability to have court once a month, which means we can have court more frequently, and moreso, we have the ability to use a collection agency, which in my experience and in talking to others that have gone through an administrative adjudication, it seemed to be more effective in trying to collect when you are receiving a notice from a collection agency, rather than a summons from the Municipal Court."

Councilor Trujillo said, "In listening to Councilor Lindell, she has different statistics that you have for that fiscal year. I'm just wondering can you get how much we actually had in fines. The number she is showing is three hundred and some thousand, and you're saying eight hundred and some thousand for that one year. There's a big difference that. I think if she had that information, you could clarify how much the City could be receiving. I think that would be very helpful, and if you can get that information when it goes to Council for a vote. Would that help you Councilor."

Councilor Lindell said absolutely, commenting she's working with the numbers she has, reiterating that she can't make them work.

Councilor Maestas said, "I agree with the concept, I do like it. And I think it will be a better process. And not only is it going to affect our own Parking Division, it's going to streamline the operations of our Municipal Court. My concern is, I know Councilor Lindell is asking about FTE's and all the resources, well those actions are yet to come – hire a hearing officer, establish the bureau and appropriate funds for so many FTE's, revise internal SOP, order additional supplies, develop a public relations campaign. That's a lot to do in 5 months, because the effective date of this is January of next year, I'm a little concerned that we are pushing the edge on doing all these things by January. Would you consider maybe delaying the effective date to give us more time to do all those things, and assess whether we need 4 FTE's for this bureau. And educating the public. I do feel there is going to be some confusion about this. One comment that I have. The other is, are there any cities that have done this, that have decriminalized nuisance parking citations, and have they done it successfully. Can you at least speak to that briefly."

Mr. Gurule said, "Yes there are several cities back east, and I think Denver is going through this administrative adjudication. And the City of Chicago, and I forgot the other city, their collections rate went up to a complete 95%, but they decriminalized all citations. For us to do that here, we would have to go to the State Legislature and have some of those citations that reference State law to be changed. To answer your question, yes, there are several cities that have been very successful going to this process."

Councilor Maestas said if we approve this, can we start collecting sooner relative to the date of the citation, or do we still have to wait one year to collect.

Mr. Gurule said, "We can start collecting immediately. What the statute of limitation does, and with the new process in place, is that we can toll the statute of limitations, they're considered to be uncollectable after one year. So, once we meet certain criteria, whether it's a hearing officer or with a Municipal Court Judge, then that process tolls the statute of limitations and we can collect on it from there. And I think most cities have been most successful using a collection agency, rather than going through the court process."

Councilor Maestas said he is concerned with the implementation. There is still a lot that needs to happen and a lot of actions that need to come to the Governing Body. He said, "I'm not saying it wasn't well thought-out, but it seems like a lot of things need to happen before this goes live. That's my only concern."

Chair Dominguez pointed out that Councilor Maestas made the motion and Councilor Rivera seconded it.

Councilor Maestas asked, "Mr. Gurule, is that enough time. Can you guys get all these done by January 2015."

Mr. Gurule said, "If it is desire of the Governing Body, we definitely can. If you would like to delay it a couple of months, we can work on it too. I agree, the public education is going to be key, and we've been working on developing what that P.R. campaign is going to look like. And it is going to be more on how law enforcement officers are out on the beat and what the information consists of on the citation or notice of violation." It will help them to know whether they go through a hearing officer or the Municipal Court.

Councilor Maestas said everything else has to happen before we launch the P.R. campaign. He doesn't want to be arbitrary, but he feels 5 months isn't sufficient time to get everything done and then launch the P.R. campaign which needs to happen before the effective date.

Mr. Gurule said there will be a 30 day public notice, with all the media available to use. They also are thinking of purchasing time at the theater and work with multi-media to do a 30 second education spot. He said primarily, it would be the design of the notices that are issued to vehicles parked in violation to guide the patron on the correct process to follow.

Chair Dominguez said, "So why don't we do this Councilor Maestas. Why don't we go ahead and let the motion stand. I think that's more of a conversation you need to have with the City Manager. Because, as far as I'm concerned, if Mr. Gurule says he can do something, he's been proven to do it. And if not, he gives it one helluva effort. I think you have some valid concerns. 30 days for a public education campaign, who's to say that maybe we need 60 days. So why don't we go ahead and let the motion stand as is, and you let the City Manager know that he is confident it can happen."

Councilor Maestas said he is okay with this.

VOTE: The motion was approved on a voice vote with Councilor Trujillo, Councilor Rivera and Councilor Maestas voting in favor of the motion, and Councilor Lindell voting against.

Mayor Gonzales said, "To the credit of the staff, Councilor, they went out and pulled this off without a fiscal cost to the City. They were able to deal with the scheduling so there wasn't a cost in terms of the bottom line for transportation, correct me if I'm wrong."

Mr. Bulthuis said that is correct.

Councilor Lindell said then there was no fiscal impact from this program.

Mr. Bulthuis said, "We reassigned staff, so it was all existing resources."

Mayor Gonzales said, "I think I know where the Council is going, and potentially, we know it's not hitting the mark, being able to pull the plug if you need is something you ought to do. Right. And not feel like you have to go through it just because it says it's going to be in place for a period of time. Right. And I think you have to use your judgment and discretion, although it's not in the resolution, I don't know that the Council would have a lot of heartburn if you pulled the plug on it because there was no one showing up to the bus in the nighttime side of it."

Mr. Bulthuis said, "I'll certainly stand for any direction from the Council related to that."

Councilor Maestas said, "On the positive side, I think I interpreted the data correctly, we were concerned about the early termination of the pilot shuttle, and we thought we would strand or leave folks partying downtown on the weekends without a way to get back after 11:00 p.m. As I look at the numbers, at least on the busiest night, we almost had balance in terms of those departing the University and those coming back within that time period. I think there was a deficit of maybe 5. When you analyze this, maybe look at this issue, one of his top issues which is taking people on a one-way trip, and they are there to party downtown, and they have no means of getting back." He hopes they won't drive and will get somebody else to drive them if they've been drinking.

10(o) REQUEST TO PUBLISH NOTICE OF PUBLIC HEARING FOR DECEMBER 10, 2014:

BILL NO. 2014-35: AN ORDINANCE REPEALING AND READOPTING ARTICLE IX OF THE UNIFORM TRAFFIC ORDINANCE TO ESTABLISH THAT PARKING VIOLATIONS RELATED TO PARKING METERS, CITY PARKING LOTS AND CITY PARKING GARAGES ARE CIVIL PARKING VIOLATIONS AND SUBJECT TO ADMINISTRATIVE ADJUDICATION AND COLLECTION FROM AN EXTERNAL COLLECTION AGENCY; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY TO MEET THE PURPOSE OF THIS ORDINANCE (COUNCILOR DIMAS). (SEVASTIAN GURULE)

Councilor Ives thanked Councilor Dimas for bringing this forward, noting it has been discussed for several years. He said, "In some of the preliminary discussions about going to the civil side for collections there was a feeling that a particular State Statute would require 50% of amounts collected to be directed to the State. What is the circumstance there."

Mr. Gurule said it is his understanding that decriminalizing these citations would not require us to pay 50% of our revenue to the State, and said Mr. Walker will elaborate on that.

Alfred Walker, Assistant City Attorney said, "That statute refers specifically to speed vans and red light cameras. It does not apply to other nuisance or civil violations the municipality might come up with."

Councilor Ives said he is very glad to hear that, because it was something that shut down all the discussions two years ago when we first initiated them.

Councilor Ives said on page 2 of the Memorandum, under Proposed Policies and Procedures, #2 provides that "the City will pursue all remedies for collection of the unpaid debt," and then #4 provides that once it "... Has been sent to a collection agency payment can only be made to the collection agency." He asked, "Do we not intend, and I will be honest, I don't know the extent to which collection agencies can pursue things other than through phone calls and those various types of mechanisms. And as I recall, there are some offenders in our parking system who had not insignificant numbers of tickets and therefore fines applicable. Is there no other circumstance where we would not want to pursue them through other means. What's the intent, the thought there."

Mr. Gurule said, "My understanding of this section is that we will accept payment up and through the point in which that citation has been funneled over to a collection agency. At that point in time, and only at that time, can a payment directly through the collection agency. We will try to pursue collection on any outstanding citations that we possibly can."

Councilor Ives said, "Civil citations presumably could be pursued in court. Where do you see the Municipal Court fitting into this process."

Mr. Gurule said, "With the citations that are decriminalized, I don't feel that we are going to have a relationship with the Municipal Court to adjudicate those, unless there is a suit that is filed against the City, in which case I believe that would end up going through District Court. The other citations that are not decriminalized will continue working through the Municipal Court process."

Councilor Ives asked the statute of limitations for a parking violation under the terms of the Ordinance.

Mr. Gurule said, "During the presentation to Public Safety, former Assistant Judy Amer had report that in her research, the statute of limitations was one year from date of issuance."

Councilor Ives said he thought that was because they were criminal matters, misdemeanor matters and therefore not enforceable after that one year statute.

Mr. Gurule said, "That is correct for those that are still criminalized. For the decriminalized citations, my understanding is, and you can correct me, I don't think there is a statute of limitations on the decriminalized ones."

Mr. Walker said, "Yes, there is a statute of limitations, I'm not exactly sure what it would be, but it's certainly longer than a year. And I haven't looked at which statute would apply. And there is a catch-all statute as I recall in the civil limitations permit, and I don't remember what that is. Yes, it's certainly going to be much longer than a year."

Councilor Ives said he would be curious to know. He said, "One of the reasons we racked up that \$7 million from 2000 to 2013, was so much of it was no longer collectible except by impassioned request, which didn't seem to be a terribly effective mechanism."

Mr. Walker said, "That's correct. I think with these procedures, part of the difficulty was just the way things were set up and the capacity of the Municipal Court. There were a number of citations that just never made it over to Municipal Court. As I read this, as I take a look at this, these are all going to be in the system. They are all going to be pursued, and if legal action needs to be taken, it's going to be taken at least relatively quickly, so I wouldn't think we would have the limitations issue."

Councilor Ives said if there were large amounts of fines racked-up under this Ordinance, he presumes we still have the possibility of going to Municipal Court and asking for redress, because the Statute of Limitations on a judgment would be 14 years, thus much longer.

Mr. Walker said, "Municipal Court would not have jurisdiction over any of our civil infractions. We could presumably, if it was below the threshold amount, we would file in Magistrate Court or even in District Court to pursue those, but we wouldn't be going through Municipal Court for that. But there would be a way to collect on the debt."

Councilor Ives said he would love for Mr. Walker to enlighten him on the reason the Municipal Court would not have jurisdiction, but that can be done off-line.

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

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

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

Against: Councilor Bushee

Absent for the vote: Councilor Rivera.

Explaining her vote: Councilor Bushee said, "You know, I have concerns about the costs of the additional staff, and so I'm going to vote no for this one. Sorry."