

#### CITY BUSINESS & QUALITY OF LIFE COMMITTEE

Market Station at the Railyard 500 Market Station, Suite 200

Round House Conference Room Wednesday, April 8, 2015 11:00 am – 1:00 pm

- I. PROCEDURES
  - A. Roll Call
  - B. Approval of Minutes March11, 2015
  - C. Approval of Agenda
  - D. Approval of Consent Agenda
- II. CONSENT AGENDA (None)
- III. PUBLIC HEARING (None)
- IV. INFORMATIONAL ITEMS
  - A. Presentation of Single-Use Bag Ordinance Implementation Report. (Katherine Mortimer).
- V. ACTION ITEMS
  - A. Request for approval of an ordinance relating to the establishment of a vehicle vendor ordinance; Amending Subsection 18-1.2 to amend the definitions of "Itinerant Food Vendor" and "Itinerant Vendor"; Amending the Title of Section 18-8; Repealing Subsection 18-8.9 "Street Vendors; Permit Requirements" and creating a new subsection 18-8.10 to establish special event vendor fees and vehicle vendor fees; amending subsection 23-5.2 related to special event sponsor licenses; and making such other changes that are necessary to carry out the purpose of this ordinance. (Councilor Lindell, Mayor Gonzales, Councilors Ives, Dominguez and Rivera) (Matthew O'Reilly)
    - 1. Request for approval of a resolution authorizing mobile vehicle vendors within the plaza periphery area at specific locations and at limited times, pursuant to the Vehicle Vendor Ordinance, 18-8.9 SFCC 1987. (Councilor Lindell, Mayor Gonzales, Councilors Ives, Dominguez and Rivera) (Matthew O'Reilly)



# Agenda

- B. Request for approval of an ordinance relating to the Single-Use Carryout Bag Ordinance, Section 21-8 SFCC 1987; Amending Subsection 21-8.1 to modify the legislative findings related to paper grocery bags; Amending Subsection 21-8.4 to establish the requirement that retail establishments collect an environmental service fee for each paper grocery bag provided to customers; Amending Subsection 21-8.6 to establish a 60 day implementation period; and making such other changes as are necessary to carry out the purpose of this ordinance. (Councilors Ives and Lindell) (John Alejandro)
- VI. ITEMS FROM THE PUBLIC
- VII. UNFINISHED BUSINESS (None)
- VIII. ITEMS FROM THE COMMITTEE
  - A. SF Global Trade Initiative Work Group Update (Mayor Pro Tem Ives)
  - B. Friends of the Plaza Work Group Update (Buddy Roybal)
  - C. Business Regulation Work Group Update (Piper Kapin/Zach Quintero)
- IX. ITEMS FROM STAFF
  - A. Update on Santa Fe Young Professionals (Zackary Quintero)
- X. ITEMS FROM THE CHAIR
- XI. NEXT MEETING DATE April 8, 2015

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#### **CITY OF SANTA FE**

# **BUSINESS & QUALITY OF LIFE COMMITTEE**

### **WEDNESDAY, APRIL 8, 2015**

#### I. PROCEDURES

#### **CALL TO ORDER**

A regular meeting of the City of Santa Fe Business and Quality of Life Committee was called to order by Councilor Lindell, chair on the above date at approximately 11:00 a.m. at 500 Market Station, Railyard, Suite 200, Round House Conference Room, City of Santa Fe, New Mexico.

#### A. Roll Call

Roll call indicated a quorum as follows:

#### **Members Present:**

Councilor Signe Lindell, Chair

Miles Dylan Conway

Brad Furry

Diane Karp

Piper Kapin

Kim Kelly

Tony Ortiz

**Buddy Roybal** 

Damian Taggart

#### **Staff Present**

Kate Noble

Fabian Truiillo

Ross Chaney

Zach Quintero

Lucia Morana

Matt O'Reilly

John Alejandro

Jesse Guillen

Katherine Mortimer

#### **Others Present**

Elizabeth Martin for Charmaine Clair, Stenographer

# B. Approval of Minutes-March, 2015

Mr. Roybal moved to approve the minutes of March 2015 as presented. Mr. Taggart seconded the motion which passed by unanimous voice vote.

# **Members Absent:**

Councilor Peter Ives, Vice Chair Dr. Almi Abeyta Bill Sisneros

#### C. Approval of Agenda

Under Action Items, Item 'B' will be heard first.

Mr. Roybal moved to approve the agenda as amended. Mr. Taggart seconded the motion which passed by unanimous voice vote.

- D. Approval of Consent Agenda- None
- II. CONSENT AGENDA None
- III. PUBLIC HEARING (None)

#### IV. INFORMATIONAL ITEMS – (Revised Agenda Order)

A. Presentation of Single-Use Bag Ordinance Implementation Report- Katherine Mortimer

Ms. Mortimer said the Single Bag Report was in the Committee's packet. The original purpose of the ordinance was to cut down the plastic bag litter in the environment and reduce the impact of single-use bags in general. She explained the original ordinance included a fee for the use of paper bags, but the fee was removed before implementation. It was determined that the City had no authority to charge the fee. The ordinance then effectively became a ban on plastic bags with no impact on paper bags.

A summary follows of Ms. Mortimer's review of the data collection results:

- Stores were encouraged to implement their own fee to reduce the use of paper bags, but not many stores did that.
- The original ordinance included a requirement for data collection and an annual report, which this report satisfies.
- Data was collected several times over a period of six months, initially from stores and then
  from customers. The data from the stores showed people made the switch from using plastic to
  paper without a large uptake in the use of reusable bags. A slight increase was shown during
  each data collection period, but consistent use of reusable bags is still single digit percentages.
- Stores that incorporated employee training in the implementation of the ordinance found a higher intake of reusable bag use. There were initially a number of complaints, but they decreased afterwards to no new complaints.
- There were some reports of financial impact from going to thicker plastic bags to meet the
  reusable bag requirement, but on an ongoing basis the financial impact was for stores that use
  a lot of bags, such as grocery stores. It was anticipated that people would use reusable bags at
  a greater rate and offset the increased cost of paper bags. Without a fee on paper bags, that
  increase was not realized.
- A few (less than 20) reports of noncompliance were investigated and in every case cleared up
  with a conversation and was either miscommunication with staff or a misunderstanding about
  the ordinance. No citations have been given.
- A few stores initially charged the paper bag fee, but most dropped the fee citing that it was a competitive disadvantage.
- Of the customers interviewed, 89% were aware of the ordinance and 43% had seen the 'Bag to Differ' logo, which indicates that the outreach was effective in making people aware of the

- ordinance and encouraging people to use reusable bags.
- Barriers for the use of reusable bags was primarily 1) the lack of a reminder, especially in the
  parking lot. People left their bags in the car, or forgot to put them in the car. When asked if
  they cared if there was a fee for paper bags, 62% either said it was a good idea or that it did
  not matter one way or the other.
- Looking at other cities success; the way to realize the kind of reduction experienced by other communities (in the range of 80 percentile who use reusable bags), there needs to be some kind of disincentive for the use of single-use paper bags.

Mr. Roybal said originally the City wanted to implement a fee and did not have the authority. He asked what changed that the City now has the authority.

Ms. Mortimer said Mr. Alejandro could answer that better, but the quick answer is that the fee would be kept by the store and no service was being provided to the customer. In this case, the City is allowed to keep the fee when the fee provides service to the customer.

Mr. Alejandro explained that he had been working with the City Attorney's office to craft acceptable language that would make the fee legal. The original ordinance fee that was to be kept by the retailer was construed under New Mexico State Law as a tax and impermissible.

He said the City Attorney worked on the language and now one penny of the ten cents will be retained by the retailer to cover the administrative cost incurred by the retailer for collecting the fee. The remaining nine cents will be remitted to the City and provide environmental services that benefit the public. The fee is then construed as legal because of the benefit to the public.

Mr. Roybal said as a business owner he has a problem with that. He said now the business will have to do bookkeeping and track and report the fee and the fee will probably have to be reported separately. He doesn't think his computer system is set up for the extra charge. He said, "I can imagine what the grocery stores will have to go through".

Mr. Furry asked if it was determined whether the 10 cents will be taxed.

Mr. Alejandro said the City Attorney is currently looking at whether the Gross Receipts Tax (Gross Receipts Tax) is applicable to the service fee, but thought they do not have a definitive answer.

Mr. Ortiz said he was at a meeting where the Public Utilities Commission recommended the gross receipts not be applied, so there is momentum behind that.

Chair Lindell confirmed Ms. Mortimer's statement that 60% of those surveyed were fine with the ten cents fee, or did not care about the fee. Ms. Mortimer replied it was 62 percent.

Mr. Roybal said the problem is that it is not the customer, but the retailer who will be impacted.

# B. ACTION ITEMS (Revised Agenda Order)

B. Request for approval of an ordinance relating to the Single-Use Carryout Bag Ordinance, Section

21-8 SFCC 1987; Amending Subsection 21-8.1 to modify the legislative findings related to paper grocery bags; Amending Subsection 21-8.4 to establish the requirement that retail establishments collect an environmental service fee for each paper grocery bag provided to customers; Amending Subsection 21-8.6 to establish a 60 day implementation period; and making such other changes as are necessary to carry out the purpose of this ordinance. (Councilors Ives and Lindell) (John Alejandro)

Mr. Alejandro said he is the Renewable Energy Planner for the City of Santa Fe and also works on various sustainability issues related to energy and energy efficiency.

Mr. Conway said the report mentions ongoing education is valuable for people to remember to bring their bags. He asked if that is on the front burner as they implement the ordinance. He added the survey shows that the signage was abysmal.

Mr. Alejandro said the fee collected is maintained by the City and will go into a specific account to use to give additional reusable bags to the public at no cost and for recycling educational programs to remind people to take their bags to the store and additional signage, etc.

Ms. Kapin asked who will deliver the bags and ensure the stores have bags. She asked if that will be part of the fee.

Mr. Alejandro said the Environmental Services Department and Katherine Mortimer procured the reusable bags. He said the bags were given at community events throughout the year. The ordinance was explained to storeowners and what was required and signage was provided to the stores. He said they will continue to provide that educational service.

Ms. Kapin asked if there is a specific budget or staff for that service and how will the stores get the bags.

Mr. Alejandro said they distributed 20,000 bags to individuals throughout the community and he thought that bags were also taken to the stores, but would have to confirm that. He said the process will be similar now, however the fees being collected vis-à-vis the Environmental Services would be used to reimburse the City for the cost of procuring bags and providing bags to the public. He will have to check on whether stores will provide their own reusable bags and sell them.

Chair Lindell said it is not like there would be 20,000 reusable bags given out at stores for people to use in the same way they now use paper bags. She said most stores she goes to sell reusable bags for \$.99 at the checkout.

She said wasn't sure that 10 percent is enough to give to the retailer and thought there would be a conversation about that. She said these monies will go toward environmental education programs *and* services provided to the public *and* provide bags to the public free of charge. She said there are three things there.

Chair Lindell said she will ask that the program be reviewed in one year. She said from the Fiscal Impact Report, she is not interested in adding FTEs (full time employees) into any department at this

point. Chair Lindell said it is a lot of money and she knows there has to be a certain threshold or it will be ineffective and if they tell people it is two cents a bag, that is fine.

She said the program needs to be reviewed in one year to see where they are fiscally. She said the money can be transferred somewhere else to be used for other purposes, in as much as the ordinance does say: 'services provided to the public'.

Mr. Roybal said he is confused as to how it will be reported, who to report it to and how he can keep track of it. He said it doesn't impact his business a lot, but a grocery store with hundreds of bags going out and keeping track of that... He said if not taxed, that is another nightmare. He asked how do you eliminate the tax on the bag.

Ms. Kelly said she has talked with groceries in California and locally about how they track that and was told it just involves scanning an extra PLU number for the bag. That will feed into their existing program and is totaled at the end of the month.

Mr. Alejandro said that aligns with what they have heard from retailers. Many of the large grocery chains have experienced this in their locations throughout the country and the process is not unfamiliar.

He said he has seen that there are initial revenue spikes in other cities implementing the bag fees, but that drops off over six to twelve months as people begin to take their bags. He said in most cities where a nickel fee was implemented the revenues stayed and the city utilized the money to provide additional city services. A case in point is Washington DC., where the revenue has never fallen. He said 10 cents falls within the middle of the fee found to be most effective and that was decided as the best practice.

Mr. Alejandro said Santa Fe compares nicely given their demographics and usage to Boulder Colorado. He said Boulder tracks their plastic and paper bag usage and has a 10 cents fee. He said he calculated the City could collect upwards of \$300,000 annually (at the spike), but the hope is that the amount will drop by 50-70% over 6 to 12 months.

Mr. Ortiz asked at what point the City Attorney thinks this will become a tax. He thought the program would work if retailers could keep a chunk of this [fee] to make it worthwhile, or maybe even be a moneymaking venture.

Mr. Alejandro said that was the focus in determining the fee amount the retailer could keep. He explained if the retailer keeps too much and the fee begins to cover the cost of the procurement of their paper bags, the City falls into a gray area of becoming a municipal tax.

He said the City Attorney arrived at a penny based on best practices in other cities and in the way the New Mexico GRT is collected and reported vis-à-vis the State. He said the Governing Body could choose to make an amendment and increase the fee that the retailer retains.

Mr. Ortiz said he is in support of this, but is trying to figure a way people won't choke on the fee. He thought the City might be taking the most conservative approach. He said for now, he is just asking to recommend this move forward and that there is an assessment of whether additional retention is available for merchants.

Chair Lindell said they would vote with an additional recommendation to look at whether one cent is the maximum amount.

Mr. Alejandro confirmed that the Committee would like the City Attorney to assess the impact of an additional service fee obtained by the retailer. He asked how he should deliver that information. Councilor Lindell suggested he send it by email to the entire Committee.

Mr. Trujillo pointed out that stores do not need permission now to charge a bag fee. He said they currently can collect a fee as part of their cost, but chose not to because of competition. He said some stores do charge a paper bag fee.

Mr. Furry said Ms. Mortimer said only one store does that and some that started have stopped.

Mr. Alejandro said there is more than one store charging ten cents for a paper bag. Some retail chains are charging 10 cents along the Cerrillos corridor on the south side of town and no one reaps the benefit other than the store covering their cost. He said this is being revisited for consistency.

Mr. Furry said if they are charging 10 cents, it is not for profit. They are covering their costs.

Ms. Kelly moved to support the ordinance and move it forward with the recommendation that the City Attorney assess the possibility of allowing merchants to retain more than one cent of the ten cents fee. Mr. Furry seconded the motion.

Ms. Karp said another action in the market is to give a 10 cents credit for each reusable bag you take in. She said you have the option to take the money or donate that to make reusable bags available to others. She said that is another aspect and is clear stores want to make this work.

Mr. Ortiz asked to clarify that his recommendation is that he supports the ordinance in its current form with a one cent fee, if that is the determination of the City Attorney. He is just asking for options.

Chair Lindell asked if there is a definition of a paper grocery bag.

Mr. Alejandro said the definition is in the ordinance and is provided for a standard paper grocery size bag in mills, thickness, size, etc.

Mr. Roybal asked if a year is too long before a review of the ordinance. He said the intent is to prevent paper bag recycling, but if that does not happen because people pay ten cents, then the City will not accomplish much. He said giving credit for bringing a reusable bag makes more sense as far as the intent of recycling and limiting paper and plastic.

Councilor Lindell said there is a motion on the floor. She said she will consider the comments, but will ask that the ordinance be reviewed in a formal manner in a year.

Ms. Kapin said she personally would like to see the educational programming plan that will be used so the Committee knows it supports the stores on the front line and to make sure this has an environmental impact.

The motion to support the bag ordinance amendment and move it forward with recommendations was passed by a majority voice vote. Mr. Roybal and Mr. Taggart voted against.

- A. Making such other changes that are necessary to carry out the purpose of this ordinance. (Councilor Lindell, Mayor Gonzales, Councilors Ives, Dominguez and Rivera) (Matthew O'Reilly)
  - Request for approval of a resolution authorizing mobile vehicle vendors within the plaza periphery area at specific locations and at limited times, pursuant to the Vehicle Vendor Ordinance, 18-8.9 SFCC 1987. (Councilor Lindell, Mayor Gonzales, Councilors Ives, Dominguez and Rivera) (Matthew O'Reilly)

Mr. O'Reilly, Asset Development Director for the City said the Staff Report and Fiscal Report are in the Committee packet.

He said the ordinance tackles the Chapter 18 section of the City Municipal Code that has been neglected and deals with business licenses and business regulations, etc. This section of the Code specifically deals with street vendors and currently limits the City to issuing 10 licenses annually to sell food and beverages and five licenses to sell other things. In addition the ordinance cleans up confusing language in the Code; creates and opens the definition of a street vendor, currently called a *vehicle* vendor; allows vendors to vend in other places than a public street, such as parking lots and on private streets; and greatly expands where the vendors can operate and the number of vendors.

The Code clearly defines 2 different types of vehicle vendors: the first is a *stationary* vehicle vendor where a food truck parks in one spot and stays there. The City ensures compliance with the zoning and parking for the employees and visitors and employee access to bathrooms. These food trucks tend to generate more trash and people complain about their business being blocked by them, etc., but this ordinance does not get into that at this time.

The second vendor created is a category of *mobile vehicle vendors*, which move around; an ice cream truck or food, beverages, merchandise, etc. or there could be mobile services like a manicure truck.

One of the new regulations added is that the mobile vehicle vendor can only be in one spot for a maximum of 3 hours and then has to move at least 300 feet. This also creates a separation between where a mobile vehicle vendor can park and the street level entrance to any restaurant. Part of the ordinance comes out of a similar ordinance in Albuquerque that has a restriction that a vehicle vendor cannot be closer than 100 feet from the entrance to the property on which a restaurant sits. In Santa Fe it is 150 feet and only applies during the restaurant's operating hours. The ordinance also allows them to be in front of a restaurant if they are part of a City sponsored special event where a special permit is issued or if the restaurant owner gives written permission.

Mr. O'Reilly said a resolution accompanies the ordinance. The existing Code and proposed ordinance maintains the restriction to prohibit vehicle vendors to be in the Plaza periphery area (surrounding the Plaza extending on the west to Grant Avenue and Sandoval and to the south down to Alameda and to the east to Paseo de Peralta and to the north of Paseo de Peralta). The ordinance continues that restriction, but allows the Council to waive the restriction if they adopt a resolution. The resolution would allow mobile vehicle vendors to be inside the Plaza periphery area at three locations from 5 p.m. to 1 a.m. and the spaces will be reserved for them for that time.

Councilor Lindell thanked Mr. O'Reilly for leading her through the process and taking the lead. She said Mr. O'Reilly's position with the City changed since starting this and he stayed with this project that no one else wanted to work on. She thanked him for his work.

Ms. Karp thanked Mr. O'Reilly. She said this is long overdue, clear and well organized and she assumes this includes health inspections and facilities removal of trash in a timely fashion, etc.

Mr. O Reilly said yes and no. The current ordinance requires a vehicle vendor who sells food/beverages, to get approval from the Environment Department. He said the food purveyors' permit is required form the Environment Department. He explained that a mobile vendor who is licensed separately by the State will also have to obtain the special licenses that are needed to operate their business out of their vehicle.

He said previously a food truck who wanted to participate in a special event, had to get a second license. Now they will get an annual license that includes all fees and pay all of the fees at once. Then the vendor can attend any special event they want as long as the special event sponsor wants them to participate.

Ms. Kapin said, "A huge thank you. This is well written and will make a huge impact on the entrepreneurs and our night life." She is excited to see this. She asked if the 3 spots would be first come, first serve.

Mr. O'Reilly said for now it is first come first serve because that is how the other vehicle lending locations are throughout the City. However, concerns have been raised about the popularity of these spaces. He said some of the restrictions are waived to allow the vehicles to be there, however the other requirements of the ordinance are not waived; like having to pack out your trash and spaces cannot be reserved by sending someone to park there and pay the meter until your truck gets there.

He said enforcement will be on a trial run. He said they will look for more spaces if 20 mobile vehicles show up to get into these spaces. He said it was suggested that an amendment be added that will allow the City Manager to create administrative rules for those who park in these locations. He said staff will have the ability to assign those spaces, if necessary, if this turns out to be a problem.

Ms. Kapin asked if the ordinance includes anything to provide data for the City on the ordinance.

Councilor Lindell said they will know how many licenses are issued and on an ongoing basis and if people renew their licenses that will tell them that this is working.

Mr. Quintero said it was great work by Councilor Lindell and Mr. O'Reilly on the ordinance. He said this will be awesome for a lot of young people out at night. He added that some cities have a lottery system and draw for the space.

Mr. O'Reilly said he thought an amendment would be added to the resolution to allow the City Manager or staff to develop a system.

Mr. Ortiz asked how the 3 hours will be monitored and measured.

Mr. O'Reilly said in the same way we enforce most of the City's ordinances- on a complaint basis. He said the City does not have mobile police to check on the vendors. He said citations will be issued on a complaint basis.

The Committee discussed the details of the ordinance and enforcement.

Ms. Kelly asked if trucks will now be allowed to park at the Railyard.

Mr. O'Reilly said a mobile vendor can park in any legal public parking space for three hours when there is no event. He said they can park during an event by the Railyard Community Corporation if it is in a legal parking space, but the Corporation can chose to allow food trucks or not, for their events.

Ms. Kelly asked about consideration of recycling on the Plaza. Mr. O'Reilly replied there is no recycling at this time, but recycling might be considered in the future.

Ms. Karp moved that the Committee accept the Ordinance and move it forward. Mr. Taggart seconded the motion which passed by unanimous voice vote.

Ms. Karp moved that the Committee accept the Resolution and move it forward with a recommendation that the City Manager have the prerogative to address solutions to oversee issues raised in terms of the number of spaces on the Plaza. Mr. Roybal seconded the motion.

Mr. Conway suggested a Friendly Amendment to add a recommendation of the Night Time Economy Task Force to extend the hours to 2:30 a.m. for the Plaza trucks.

The friendly amendment was accepted and the motion passed with recommendations, by unanimous voice vote.

- VI. ITEMS FROM THE PUBLIC None
- VII. UNFINISHED BUSINESS None

## VIII. ITEMS FROM THE COMMITTEE

- A. SF Global Trade Initiative Work Group Update (Mayor Pro Tem Ives)- Not Discussed
- B. Friends of the Plaza Work Group Update- Buddy Roybal

Mr. Roybal said the date was moved to May 23<sup>rd</sup> and he will have an email sent out. He said the work has expanded down Alameda and Water Streets. The rails along the river are in terrible shape and will be done, the Plaza will be touched up and the bandstand would be taken care of, which has never been done. He said volunteers would be needed.

Councilor Lindell asked Ms. Noble or Mr. Quintero to be sure Matt Ross gets the information.

Mr. Roybal said he would like to encourage getting City employees involved in this, but wasn't sure how to do that.

Councilor Lindell suggested a press release and to send a release to all City employees. She said she could help with that.

C. Business Regulation Work Group Update - Piper Kapin/Zach Quintero

Ms. Kapin said they have a preliminary set of recommendations that will be finalized, but the group had to reschedule their meeting. They hope to meet at the beginning of next week. She said she thought they would have a report for the next meeting.

Ms. Noble said the process outlined is that the Business Regulation Group is going to give staff, namely in Land Use and IT, a chance to make sure there are no red flags, etc. She said the recommendations will be presented to this Committee and then to City Council.

Councilor Chair asked that they bring that in as quickly as possible.

### IX. ITEMS FROM STAFF

a. Update on Santa Fe Young Professionals (Zackary Quintero)

Mr. Quintero said to date there are 25 young professionals to be placed. He said a lot of this has been within the public sector and the need within our City to find some young talent. He said the private sector has reached out as well. He has put out job descriptions for <a href="Design Trend Magazine">Design Trend Magazine</a> and also partnered with Bio Habitat, Home Wise, <a href="Outdoor Magazine">Outdoor Magazine</a> and Site Santa Fe among others. He said overall he thought there will be a big pool of students and he is working for a goal of 75 students. He said next week there should be about fifty students that have applied to job descriptions and people who are being reviewed in Santa Fe.

#### X. ITEMS FROM THECHAIR

Chair Lindell thanked everyone. She said for people giving their time, it does not go unnoticed. She said we have worked through some issues that make a difference over time and this Committee is really terrific. She said thanked them for giving their time and input to the City and said that keeps us going in the right direction.

NEXT MEETING DATE- May 13th, 2015

#### **ADJOURNED:**

Having no further business to discuss the meeting adjourned at 12:30 p.m.

Approved by:

Signe Lindell, Chair

Submitted by:

Charmaine Clair, Stenographer